

Statutory Instrument No. 21 of 1982

HIGH COURT ACT
(Cap. 04:02)
RULES OF THE HIGH COURT (AMENDMENT) RULES, 1982
(Published on 12th March, 1982)
ARRANGEMENT OF RULES

RULE

1. Citation and commencement
2. Amendment of Order 4 of S.I. 117 of 1969
3. Amendment of Order 5 of principal Rules
4. Amendment of Schedule to principal Rules

IN EXERCISE of the powers conferred on the Chief Justice by section 26 of the High Court Act, the following Rules are hereby made –

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| Citation and commencement | 1. These Rules may be cited as the Rules of the High Court (Amendment) Rules, 1982, and shall come into operation on 1st April, 1982. |
| Amendment of Order 4 of S.I. 117 of 1969 | 2. Order 4 of the Rules of the High Court (hereinafter referred to as "the principal Rules") is amended by substituting –
(a) for rules 1 and 2 thereof the following new rules –
"1. Every action, other than process of arrest of the defendant, shall, where service is to be effected within the jurisdiction, be commenced by a summons signed by the Registrar.
2. (1) The summons shall, where service is to be effected within the jurisdiction, command the defendant that he cause an appearance to be entered within the period prescribed in the summons to answer the plaintiff's claim.
(2) The summons shall require the person so serving it to serve on the defendant at the same time a copy of the summons and immediately thereafter to return to the High Court the summons duly endorsed with whatsoever he has done concerning it.
(3) Any person may serve such a summons."; and
(b) for rules 15 and 16 thereof the following new rules –
"15 A Sheriff or Deputy Sheriff, who is party to an action, may be served with a summons in the manner in which any person is served and the fact of his such holding office shall be immaterial.
16. (1) Every summons shall be made returnable to the High Court at the place where it was signed by the Registrar and the summons shall be endorsed and returned thereto by the person who served the summons after service thereof has been effected.
(2) The endorsement of service shall be made on the summons within 3 days of the service thereof and the summons so endorsed returned to the High Court as soon as possible thereafter." |
| Amendment of Order 5 of principal Rules | 3. Order 5 of the principal Rules is amended –
(a) by substituting for rule 1 thereof the following new rule –
"1. (1) Personal service of a petition, notice, summons, order or other document, of which service is required, may be made by any person.
(2) Except in the case of arrest, petitions, notices, summonses, orders and other documents shall not be served on a Sunday or |

between 7 p.m. and 7 a.m. and no such service shall be valid.”; and
(b) in rule 3 (2) thereof, by deleting the words “by the Sheriff”, which appear therein.

4. The Schedule to the principal Rules is amended by substituting for Form 2 (Summons) therein set out the following new form –

“FORM 2

Amendment
of Schedule
to principal
Rules

SUMMONS

In the High Court of
the Republic of Botswana

Civil Case No.....

In the matter between:

.....Plaintiff
and
.....Defendant

TO:.....of.....
name, occupation and sex address
hereinafter called “the Defendant”

You are commanded that within days after the service of this Summons on you, inclusive of the day of such service, you do cause an appearance to be entered for you in an action at the suit of:

.....of.....
name, occupation and sex address
hereinafter called “the Plaintiff”, in which action the Plaintiff claims the relief, and on the grounds set out; in the particulars in the Annexure hereto.

And take notice that in default of your so doing the Plaintiff may proceed therein, and judgment may be given in your absence.

MEMORANDUM TO BE SUBSCRIBED ON THE SUMMONS

You are informed that you should: –

- (i) within . . . days of the service upon you of this summons enter appearance to defend. An appearance is entered by properly completing and delivering a memorandum of appearance to the Registrar and to the Plaintiff. Delivery to the Plaintiff may be effected by sending by post to the Plaintiff if the Plaintiff sues in person, but otherwise to the Plaintiff’s attorney at the Plaintiff’s address for service, a copy of the memorandum of appearance on the day it is delivered to the Registrar. The memorandum of appearance shall state an address within the jurisdiction at or to which documents for you may be delivered or sent;
- (ii) thereafter, and within 14 days after filing and serving notice of intention to defend as aforesaid, file with the Registrar and serve upon the Plaintiff a plea, exception or notice to strike out, with or without a counter-claim.

FURTHER if you fail to file and serve notice as aforesaid, judgment as claimed may be given against you without further notice to you, or if,

having filed and served such memorandum of appearance you fail to plead, except, make application to strike out or counter-claim, judgment may be given against you.

ANNEXURE

ENDORSEMENT TO BE MADE ON THE SUMMONS BEFORE
ISSUE THEREOF PARTICULARS OF PLAINTIFF'S CLAIM

The Plaintiff's claim is for.....
.....
.....
.....

Plaintiff's Attorney

This Summons was issued by
whose address for service is
..... and whose postal address for service is at
.....Attorney for the
Plaintiff who resides at

ENDORSEMENT TO BE MADE WITHIN THREE DAYS AFTER
SERVICE

This Summons was served by me at
..... at.....a.m./p.m. on the.....day of.....19.....
ENDORSED the.....day of.....19.....

Signed:

Address:

Occupation:

MADE this 26th day of February, 1982.

J.A. O'BRIEN QUINN,
Chief Justice.