

**HIGH COURT ACT
(Cap. 04:02)**

**RULES OF THE HIGH COURT (AMENDMENT) RULES, 1991
(Published on 1st February, 1991)**

ARRANGEMENT OF RULES

RULE

1. Citation
2. Amendment of Cap. 04:02 (Sub. Leg.)

IN EXERCISE of the powers conferred on the Chief Justice by section 28 of the High Court Act, the following Rules are hereby made —

1. These Rules may be cited as the Rules of the High Court (Amendment) Rules, 1991, and shall come into operation on 1st February, 1991. Citation

2. The Rules of the High Court are hereby amended as follows —

(a) by substituting for Order 60 the following new Order —

Amendment
of Cap. 04:02
(Sub. Leg)

“ORDER 60

**APPEALS IN CRIMINAL CASES FROM SUBORDINATE COURTS
TO THE HIGH COURT**

1. (1) An accused person wishing to appeal against any conviction, sentence or order in a criminal case shall note his appeal within 14 days after such conviction, sentence or order by lodging with the clerk of the court at the place of conviction, sentence or order, a notice of appeal in Form H1 in the Third Schedule setting out clearly and specifically the grounds on which the appeal is based, or a written statement setting out clearly and specifically the grounds on which the appeal is based.

(2) Every notice of appeal or written statement shall be signed by the person giving it or by the legal practitioner representing him.

(3) If the accused person is unable, owing to illiteracy or to any physical defect to complete the notice of appeal or to write out the statement, the clerk of the court shall, upon request, do so, and the accused person shall affix his mark thereto in the presence of a witness.

2.(1) Upon an appeal being noted the judicial officer who tried the case shall within seven days deliver to the clerk of the court a statement in writing showing —

(a) the facts he found to be proved;

(b) the grounds upon which he arrived at any finding of fact specified in the appellant's notice of appeal or statement as appealed against; and

(c) his reasons for any ruling of law or as to the admission or rejection of evidence so specified as appealed against:

Provided that if the judicial officer is of the opinion that the written judgment delivered by him in terms of section 290 of the Criminal Procedure and Evidence Act contains the information required by this rule, he shall so advise the clerk of the court in writing, which shall be deemed to be a sufficient compliance with this rule.

(2) The statement referred to in rule 2(c) of this Order shall become part of the record.

3. (1) The appellant may, within the time limited for the noting of an appeal, by notice to the clerk of the court amend his grounds of appeal, and the judicial officer concerned may

in his discretion, within seven days thereafter, deliver to the clerk of the court a further statement of reasons for judgment.

(2) The appellant may at any time after the time limited for the noting of an appeal, amend his grounds of appeal with the leave of the court.

4. (1) The clerk of the court shall immediately upon receipt of the notice of appeal or statement impress the date stamp provided for that purpose on the notice of appeal or statement and shall append his signature below the date impressed by the date stamp, and shall also enter particulars of the notice of appeal or statement in a register provided for that purpose.

(2) The clerk of the court shall within five days of the noting of an appeal forward the original notice of appeal or statement together with two certified or photo copies thereof to the Registrar. The clerk of court shall retain two certified or photo copies of the notice of appeal or statement.

(3) The clerk of the court shall within 10 days after receiving the judicial officer's statement or further statement, transmit the same, together with the record of the case, to the Registrar. He shall at the same time forward four copies of the record and the judicial officer's statement or further statement for the use of the court.

(4) If for any reason the clerk of court finds it impracticable to comply with sub-rule (2) within the prescribed time, he shall inform the Registrar, who may in his discretion grant him extension of time within which to comply with the sub-rule. Such extension of time shall be stated in writing specifying the period of extension, and shall be communicated to the clerk of court, and a copy filed in the relevant appeal case file.

5. Within 10 days after the preparation of the record of appeal is complete the Registrar shall inform the appellant of the legal practitioner representing him and the respondent in writing that the record is ready for collection.

6. An appeal against a conviction, sentence or order made by a subordinate court in any criminal matter shall be set down by the Registrar on notice to all parties in accordance with such general or special directions as he may receive from the Chief Justice from time to time.

7. The ultimate responsibility in ensuring that copies of the complete record of appeal and all other relevant documents and materials are in all respects properly before the court shall rest on the Registrar.

8. These Rules shall apply *mutatis mutandis* to an appeal by the Attorney-General against dismissal of a summons or charge or other decision of a subordinate court, and to appeals from a court martial and the customary court of appeal."; and

(b) by inserting, immediately after the second Schedule, the following new Schedule —

“THIRD SCHEDULE

Criminal Form H1

**IN THE HIGH COURT OF THE REPUBLIC OF BOTSWANA
NOTICE OF APPEAL FROM DECISIONS OF SUBORDINATE COURTS
TO THE HIGH COURT**

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TO: The Registrar of the High Court

I, having been convicted of the offence of

and being now a prisoner in prison at or whose address for service is
.....
do hereby give notice of appeal against my conviction/sentence/the order (particulars of
which hereinafter appear) to the Court on the following grounds —
.....
.....
.....

.....
Signature or mark of Appellant.

Witness to mark:

Name

Signature

Address

DATED this day of 19....

Particulars of Trial and Conviction

1. Date of trial
2. In what court tried
3. Sentence
4. Order

.....
Signature or mark of Appellant.

MADE this 16th day of January, 1991.

E.L. LUKE,
Chief Justice.

L2/7/136 II