

Legal Notice No.....

**Kenya Information and Communications Act
(No. 2 of 1998)**

IN EXERCISE of the Powers conferred by section 27 of the Kenya Information and Communications Act, No. 2 of 1998, the Cabinet Secretary for the time being responsible for information, communication and technology, makes the following Rules;

Communications and Multimedia Appeals Tribunal Rules, 2019

Part I- Preliminary

Citation.	1. These Rules may be cited as the Communications and Multimedia Appeals Tribunal Rules, 2019.
Interpretation.	2. In these Rules, unless the context otherwise requires— "Act" means the Kenya Information and Communication Act, No. 2 of 1998; "Authority" means the Communications Authority of Kenya established under section 3 of the Act; "appointing Authority" means the Commission and the Ministry for the time being responsible for matters relating to information, communication and technology; "Chairperson" means the chairperson of the Tribunal appointed under section 102 (1) (a) of the Act; "Commission" means the Judicial Service Commission established under the Judicial Service Act, No. 1 of 2011; "parties" includes the complainant, respondent and any other interested party; "Council" means the Media Council of Kenya established under section 5 of the Media Council Act, No. 46 of 2013; "Secretary" means a person appointed as the Secretary to the Tribunal under Rule 4 of these Rules; and "Tribunal" means the Communication and Multimedia Appeals Tribunal established under section 102 of the Act.
Guiding principles.	3. The Tribunal shall strive to observe the national values and principles set out in Articles 10, 159(2) and 232 of the Constitution and for the avoidance of doubt, shall ensure— (a) that parties are accorded equal opportunities to prosecute their case;

	<p>(b) that the complaint is dealt with expeditiously and fairly; and</p> <p>(c) compliance with these Rules, any practice direction issued under the Rules and any order or direction of the Tribunal.</p>
Part II- Administration of the Tribunal	
Secretary to the Tribunal.	<p>4. (1) There shall be a Secretary of the Tribunal appointed by the Judicial Service Commission.</p> <p>(2) The Secretary shall be a person with knowledge and competence on matters relating to any of the following disciplines—</p> <p>(a) law;</p> <p>(b) management;</p> <p>(c) public administration; or</p> <p>(d) information, communication and technology.</p>
Functions of the Secretary.	<p>5. The Secretary shall be responsible for—</p> <p>(a) the day-to-day administration of the Tribunal;</p> <p>(b) implementation of the programs and plans of the Tribunal;</p> <p>(c) the establishment and maintenance of a registry;</p> <p>(d) the acceptance, transmission and service of documents in accordance with these Rules; and</p> <p>(e) the implementation of the decisions of the Tribunal.</p>
Staff of the Tribunal.	<p>6. The appointing Authority may second such number of staff to the Tribunal to enable it effectively discharge its functions under the Act and these Rules.</p>
Quorum.	<p>7. The Tribunal, shall pursuant to section 102C(3) of the Act, be properly constituted for purposes of any proceedings before it, if it comprise of four members and the chairperson.</p>
Part III- Processing of Complaints	
Complaint.	<p>8. (1) A person may lodge a complaint to the Tribunal either orally or in writing on any of the grounds set out in section 102A(1) of the Act, stating the complaint, the breach or omission complained of and the remedies sought, and accompanied by such relevant supporting documents.</p> <p>(2) Where a person lodges a complaint orally, the Secretary shall cause the complaint to be reduced in writing in Form CAMAT 1 prescribed in the First Schedule to these Rules.</p>

	<p>(3) A person may lodge an anonymous complaint with the Tribunal on any issue of public interest.</p> <p>(4) Where an anonymous complaint is filed with the Tribunal pursuant to sub Rule (3), the Tribunal may direct the Council or Authority as the case may be, to investigate and file a report with the Tribunal within 21 days failure to which the Tribunal may make appropriate orders.</p> <p>(5) Where the Council or Authority files a complaint on a matter of public interest under section 102A(8) of the Act, the Tribunal may adopt such special procedures for determination of the complaint.</p>
Service of the Complaint.	<p>9. (1) The complainant shall upon lodging the complaint with the Tribunal, and the same having been reduced into writing by the Secretary, in case of an oral complaint, serve the parties with the complaint together with such relevant supporting documents.</p> <p>(2) The complaint may with leave of the Tribunal, be served either electronically, directly to the parties or through a registered post or an advertisement in a newspaper of national circulation.</p> <p>(3) The complainant shall upon effecting the service under sub Rule (1), file an affidavit of service in Form CAMAT 2 prescribed in the First Schedule to these Rules, stating the time and manner in which the document was served and the name and address of the person, if any, witnessing the delivery.</p>
Response to the Complaint.	<p>10. (1) Upon being served with the complaint, the Respondent or interested party may, within 7 days from the date of the service, file and serve a response.</p> <p>(2) There shall be as many copies to the response filed as there are persons to be served, and eight copies to the Tribunal.</p> <p>(3) Where a respondent or interested party does not file a response, the Tribunal shall make appropriate orders.</p>
Preliminary Assessment.	<p>11. (1) Subject to Rule 12, the Tribunal shall after the close of the pleadings, conduct a preliminary assessment of a complaint to determine the admissibility or otherwise of the complaint filed.</p> <p>(2) The Tribunal may upon conducting an assessment of a complaint under sub Rule (1), reject any complaint if it determines that it is;</p> <p>(a) not within the mandate of the Tribunal;</p> <p>(b) similar to an ongoing court proceedings;</p>

	<ul style="list-style-type: none"> (c) vexatious, frivolous, or otherwise an abuse of the procedures for dealing with complaints; (d) substantially the same as a previous complaint, <ul style="list-style-type: none"> (i) whether made by or on behalf of the same or a different complainant, or it concerns the same subject as previous complaint; (ii) no fresh evidence, being evidence which was not reasonably available at the time a previous complaint was made, is tendered to support it; or (iii) the complaint has already been dealt with by the Tribunal. (e) more than twelve months since the matter which is the subject of the complaint occurred and no sufficient cause has been shown for the delay in making the complaint.
Pre-trial conference.	<p>12. (1) After close of the pleadings and upon conducting a preliminary assessment, the Tribunal may hold a pre-trial conference involving the parties to the complaint to—</p> <ul style="list-style-type: none"> (a) determine the possibility of alternative dispute resolution; (b) determine whether there is any document that the Tribunal may order to be produced before or during the hearing; (c) consider compliance with these Rules; (d) identify the contested and uncontested issues; (e) create a timetable for the proceedings; (f) consider consolidation of complaints; (g) consider admission of the interested parties; (h) consider the need for an expert on the subject matter; or (i) consider any other form of settlement. <p>(2) Where the parties reach a settlement on the matter in issue, the Tribunal shall record that settlement and deliver it as its own decision.</p>
Hearing.	<p>13. (1) Where the parties fail to reach a settlement after the pre-trial conference and alternative dispute resolution is not an option, the Tribunal shall within 7 days from the close of the pre-trial</p>

	<p>conference, issue a hearing notice to the parties in Form CAMAT 3 prescribed in the First Schedule to these Rules.</p> <p>(2) The notice referred to under sub Rule (1), shall specify the date on which the complaint is to be heard.</p> <p>(3) The parties may during the hearing, proceed by way of oral evidence, written submission or both.</p> <p>(4) On the hearing date, if the matter proceeds by way of oral evidence, the complainant and his or her witnesses shall be heard first followed by the Respondent and his or her witnesses and any interested party.</p> <p>(5) Proceedings before the Tribunal shall be conducted in English or Kiswahili and where deemed necessary by the Tribunal, an interpreter shall be made available.</p>
Summons.	<p>14. (1) The Tribunal may, at any time, either on its own initiative or at the request of any party, issue summons in Form CAMAT 4 prescribed in the First Schedule to these Rules, requiring any person to appear before it within 7 days, to do any of the following;</p> <p>(a) attend as a witness before the Tribunal, at the time and place set out in the summons; and</p> <p>(b) answer any questions or produce any documents or other material in his possession or under his control which relate to any matter in question in the proceedings.</p> <p>(2) A request by a party for the issuance of a summon under sub Rule (1) shall state with reasons;</p> <p>(a) upon which facts the witness is to be questioned and the reasons for the examination; or</p> <p>(b) the document or documents the witness is required to produce.</p>
Decision of the Tribunal.	<p>15. (1) The decision of the Tribunal shall be in writing, determined by the majority and read out in open court, within 60 days from the date of the close of the pleadings.</p> <p>(2) A unanimous or majority decision of the Tribunal shall be adopted by the Tribunal, provided that any dissenting opinion shall be recorded.</p> <p>(3) The Tribunal may make any or combination of orders provided under Section 102E of the Act.</p> <p>(4) The Tribunal shall on delivery of its decision sign such decision</p>

	and inform the parties of their right of appeal under section 102G of the Act.
Application for Review.	<p>16. (1) A person who is aggrieved by a decision of the Tribunal under these Rules, may apply in writing for a review of such decision within 7 days of the delivery of the decision.</p> <p>(2) An application for review shall—</p> <p>(a) set out the grounds for the application;</p> <p>(b) be made upon the discovery of new and important matter or evidence which was not within the knowledge of the applicant when the decision was made by the Tribunal; and</p> <p>(c) be made on account of some mistake or error apparent on the face of the record or for any other sufficient reason.</p>
Part IV- Appeal Process	
Lodging of the Appeal. No. 27 of 2015.	<p>17. (1) Any person aggrieved by a decision or order of the Tribunal may, within 30 days of such a decision or order, appeal against such decision or order to the High Court pursuant to the provisions of the High Court (Organization and Administration) Act.</p> <p>(2) No decision or order of the Tribunal shall be enforced until the time for lodging an appeal has expired or, where the appeal has been commenced until the appeal has been determined.</p> <p>(3) The decision of the High Court on any Appeal under these Rules and Act shall be final.</p>
Part V- Miscellaneous	
Register.	<p>18. (1) The Secretary shall keep a register of the complaints received and filed before the Tribunal.</p> <p>(2) The register shall contain the name and address of the complainant, the person complained against and the particulars of the complaint.</p>
Conflict of interest.	19. Where a member of the Tribunal has an interest in any matter subject of a dispute before the Tribunal, that member shall declare the interest in the matter and the member may not participate in the hearing or decision making process of that case.
Compliance.	<p>20. The Tribunal shall have the power, generally to penalise a person who—</p> <p>(a) refuses or fails to comply with any applicable direction of the Tribunal; or</p> <p>(b) objects or hinders the Tribunal in the exercise of its powers</p>

	<p>under the Act and these Rules; or</p> <p>(c) furnishes misleading information or statement to the Tribunal.</p>
Applications	<p>21. The Tribunal may accept and determine such applications as may be made by the parties to the proceedings.</p>
Fees.	<p>22. (1) A fee shall be paid to the Tribunal on filing any document by a party subject to the proceedings under this Act and Rules.</p> <p>(2) The fee referred to in sub Rule (1), shall be as prescribed in the Second schedule to these Rules.</p>

FIRST SCHEDULE

**FORM CAMAT 1
r. 8(2)**



COMPLAINT/ APPEAL

In the matter of Communications and Multimedia Appeals Tribunal at.....

Between

.....Complainant/ Appellant

And

.....Respondent

Complaint/ Appeal

Name of Complainant/ Appellant.....

Physical address.....

Postal address.....

Tel. No.....

Cell Phone No.....

Email.....

Name of Respondent.....

Physical address.....

Postal address.....

Tel. No.....

Cell Phone No.....

Email.....

Nature of Complaint/Appeal.....

Breach thereof.....

Act or omission complained of.....

Remedy sought.....

Signed.....

Complainant

N/B Please delete as applicable

FORM CAMAT 2

r. 9 (3)



PROOF OF SERVICE

In the matter of Communications and Multimedia Appeals Tribunal at.....

Between

.....Complainant/ Appellant

And

.....Respondent

I.....of.....(Address) make oath and say as follows:

1. Onday of.....20.....at I served upon..... the summons in this case on at(place) by tendering a copy thereof to him/her and requiring a signature on the original. He/ She signed/refused to sign the summons. He/ She was personally known to me/was identified to me byand admitted that he/she was the respondent/interested party.
2. Not being able to find the respondent/interested party on.....20..... at(time), I served the summons on.....(name) who was residing with him/her.
3. Not being able to find the defendant or any person on whom service could be made, on.....20..... at..... (time), I affixed a copy of the summons to the outer door ofbeing the house in which he/she ordinarily resides/carries on business/personally works for gain. I was accompanied by who identified the house to me.
4. (Otherwise specify the manner in which the summons was served).

Sworn by the saidthisday of20.....

Before Me
Commissioner of Oaths.

FORM CAMAT 3
r. 13(1)



HEARING NOTICE

In the matter of Communications and Multimedia Appeals Tribunal at.....

Between

.....Complainant/ Appellant

And

.....Respondent

TO:

1.....

2.....

3.....

TAKE NOTICE that the above matter has been scheduled for Hearing/ Mention/ Judgment on theday of..... 20.....at.....o'clock at

If you fail to appear, the Tribunal may proceed with the matter and a determination shall be made in your absence.

Dated on(day of) 20.....

FORM CAMAT 4
r. 14(1)



SUMMONS

In the matter of Communications and Multimedia Appeals Tribunal at.....

Between

.....Complainant/ Appellant

And

.....Respondent

To.....(Witness)

TAKE NOTICE that an Appeal/Application has been filed in the Tribunal at

.....in Tribunal Complaint/Appeal Noof
20.....

in which you are required to

TAKE FURTHER NOTICE that unless you appear as required,on

day.....of.....9 o'clock, the Tribunal shall issue orders against you in

accordance with the law.

Issued by the Communications And Multimedia Appeals Tribunal on this..... day
of.....20.....

Signed:

Chairperson:

SECOND SCHEDULE

R. 22.



FEES

<i>SNO.</i>	<i>Filing Fees</i>	<i>Fees Ksh.</i>
1	Complaint/ Appeal (Liquidated claims)	1% subject to a maximum of 100,000
2	Complaint/ Appeal (Unliquidated claims)	1,500 per prayer
3	Notification of complaint/ appeal	200
4	Notice/ Memorandum of appearance	200
5	Response to Complaint/ appeal	200
6	Counter claim	1% subject to a maximum of 100,000
7	Reply to response	200
8	Notice to act in person	200
9	Notice of appointment of advocate	200
10	Notice of appointment of representative	200
11	Notice of change of advocate/ representative	200
12	Notice of withdrawal	200
13	Other Notices	200
14	Letters	200
15	Application for review	5000
16	Other applications	1000
17	Certificate of urgency	200
18	Affidavits	200
19	Orders	500
20	Notice of preliminary objection	200
21	Grounds of opposition	200
22	List of documents	200
23	List of witnesses	200
24	Witness summons	200
25	Witness statements	200
26	List of authorities	200
27	Request for judgement	500
28	Consent order	500
29	Submissions	200
30	Tribunal adjournment	1000
31	File perusal (per file)	200
32	Copying charges (per page)	10
33	Certification of proceedings	100

	(per page)	
34	Certification of documents (per document)	50
35	Decree	500
36	Bill of cost	500
37	Certificate of cost	500