



HIGHLIGHTS OF THE NEW HIGH COURT OF LAGOS STATE (CIVIL PROCEDURE) RULES 2019

The Lagos State judiciary has again blazed a trail for others to follow. Already associated with many “firsts”, the introduction of the new High Court of Lagos (Civil Procedure) Rules 2019 (“2019 Rules”) is no doubt a welcome development for diligent-minded and result-oriented lawyers.

The 2019 Rules was signed and launched by the Honourable Chief Judge of the Lagos State judiciary, Honourable Justice Opeyemi Oke, on 14th January 2019. Effective from 31st January 2019, the High Court of Lagos Civil Procedure Rules 2012 (“2012 Rules”) ceases to apply to all new and part-heard civil matters within the state and full implementation of the new 2019 Rules shall commence.

For the Chief Judge, the principal aim of the new Rules of Court is to facilitate total justice delivery by ensuring speedy dispensation of justice and the restoration of public confidence in our judicial system. Of particular interest are the Expeditious Disposal of Civil Cases Practice Direction No. 1 of 2019 whose main focus is timely disposal of backlog cases of the Lagos State Judiciary; and the Practice Direction No 2 of 2019 (Pre-Action Protocol) which embodies Pre-Action requirements, forms and directions on all fresh actions instituted at Lagos State High Courts effective from the commencement date of the 2019 Rules.

The 2019 Rules amends the provisions of the 2012 Rules and introduces certain new provisions of its own. Below are some major highlights of the changes made in the 2019 Rules.



1. Order 2 – Overriding objective

The overriding objective of the 2012 Rules, which hitherto was contained in the preamble of the 2012 Rules is now incorporated into the main 2019 Rules as Order 2. The new overriding objective is to deal with every civil proceeding in ways that are proportionate, considering the nature and importance of each case, complexity of the issues, the amount of money involved and the financial position of each party. The court also has a duty to allot to every civil proceeding an appropriate share of the Court’s resources while taking into account the need to allot resources to other cases.

In doing this, the court has a duty to mandate parties to explore the ADR option where it is considered appropriate. Failure to comply with the directives of the court will attract appropriate sanctions as the court deems fit.

2. Order 5 Rule (1) 3: Failure to comply with Commencement of Action Requirements

To make an action filed by a Writ of Summons competent, a Statement of Claim, list of witnesses to be called at the trial, written statements on oath of the witnesses except witnesses on subpoena, copies of every document to be relied on at the trial and the pre-action Protocol Form 01 must be filed along with the Writ of Summons. Erstwhile failure to comply with this provision merely entitles the Registry to refuse to accept the processes for filing, however the new 2019 Rules now provide that failure to comply with this requirement totally nullifies the suit.

This amendment has effectively laid to rest the conflicting view of some judges on the failure of counsel to file all accompanying processes particularly the Pre Action Form 01. While some judges would strike out an action for the absence of the Pre-action Form 01 in originating processes, others held the view that so far the processes had been accepted for filing by the Registry, the mandatory rule has been waived.

By virtue of the 2019 Rules, any action irregularly commenced from 31st January 2019 amounts to a nullity ab initio.



3. Order 5 Rule 5 – Originating Summons

An action instituted by Originating Summons now has to not only be accompanied with a Pre-action Protocol Form 01 but also with necessary documents as prescribed by the Practice Direction No 1 of 2019.

Failure to comply with this requirement nullifies the action.

4. Order 6 Rule 6 – Indorsement of Address by Claimant or Legal Practitioner

It is now mandatory for every Claimant who sues in person to include his telephone number and email address on the originating processes.

Same applies for legal practitioners who enters appearance for a litigant.

5. Order 9 Rule 5 (1) – Substituted Service

Where personal service of an originating process cannot be effected, service by electronic mails is now an option under substituted service.

6. Order 11 (5) – Late Appearance

Late appearance now attracts a daily default fee of N1000.00 as against N200.00 in the 2012 Rules.

7. Order 17 Rule 18 – Close of Pleadings

Pleadings is deemed closed where a defendant fails to file his defence within 42 days of service of the originating processes.

8. Order 28 – Alternative Dispute Resolution (ADR) Proceedings

Order 28 of the 2019 Rules is dedicated to ADR proceedings and applies to cases screened suitable for ADR, matters referred to ADR under appropriate Rules of court and applications and procedure for enforcement of arbitral awards.

9. Order 30 - Issues, Inquiries, Accounts and References to Referees

Order 30 of the 2019 Rules deal with Issues, Inquiries, Accounts and References to Referees.

As against the provision of the 2012 Rules which allows parties 7 days to define and file their issues, the new 2019 Rules allows a period of 14 days after close of pleadings.

10. Order 34 – Diligent Prosecution

The entire Order 34 of the 2019 Rules is dedicated to ensuring that all parties in a suit conduct the case diligently and do not occasion undue delay.

Rule 3(1) and (2) allows the judge having conduct of a case to expedite proceedings where it appears to him that there has been laxity in the prosecution of the case.

Counsel and litigants may be summoned by the judge to explain the delay and thereafter, the judge may make any order as he deems fit and as the circumstances of the case may require.

Order 34 Rule 3 (3) confers a mandatory duty on a judge to strike out a case in which no proceedings has been held or application filed for a period of 12 (twelve) months.

11. Order 35 – Written Address

By the provision of Order 35 Rule 3 (3), all written addresses shall not exceed 20 (twenty) pages and a Reply on points of law can no longer exceed 5 pages; except with the leave of Court.

12. Order 48 – Computation of time

Another contentious provision has been effectively interpreted in the 2019 Rules. Order 48 (1) (c) now makes it clear that for acts which are required by order of the court to be done within a period of 6 days, Saturdays and public holidays (including Sundays) shall be left out of time computation.

Rule 4 of the order also makes it clear that for each day of default, a defaulting party is liable to pay N1000.00 into court.

No doubt, the 2019 Rules may take some time to get used to but with dedicated cooperation from both the members of the bar and the bench in Lagos state, it will achieve its aim and justice will be served for all... on time!



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