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SUBSIDIARY LEGISLATION

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THE JUDICATURE AND APPLICATION OF LAWS ACT,
(CAP. 358)

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COURT RULES
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(Made under section 4)
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THE COURT BROKERS AND PROCESS SERVERS (APPOINTMENT, REMUNERATION
AND DISCIPLINARY) (AMENDMENT) RULES, 2019

ARRANGEMENT OF RULES

1. Citation.
2. Amendment of rule 9.
3. Amendment of rule 25.
4. Addition of rule 28A.

*Court Brokers and Process Servers (Appointment, Remuneration and
Disciplinary)(Amendment)*

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THE COURT BROKERS AND PROCESS SERVERS (APPOINTMENT, REMUNERATION
AND DISCIPLINARY) (AMENDMENT) RULES, 2019

Citation

1. These Rules may be cited as the Court Brokers and Process Servers (Appointment, Remuneration and Disciplinary) (Amendment) Rules, 2019 and shall be read as one with the Court Brokers and Process Servers (Appointment, Remuneration and Disciplinary) Rules, 2017 hereinafter referred to as the “principal Rules”.

GN No. 363 of
2017

Amendment of
rule 9

2. The principal Rules are amended by deleting rule 9 and substituting for it the following-

“Court’s
account

9. The Chief Court Administrator or any person who is for the time being an accounting officer of the Judiciary of Tanzania, shall open and maintain a distinct bank account into which all moneys paid in the execution of court decrees, order or warrant shall be deposited.”

Amendment of
rule 25

3. The principal Rules are amended by deleting rule 25 and substituting for it the following-

“Deposit of
money paid in

25.-(1) A person declared as the winner, at the auction shall immediately

*Court Brokers and Process Servers (Appointment, Remuneration and
Disciplinary)(Amendment)*

Gn. No. 106 (Contd)

execution

after the fall of the hammer, deposit into the court's account twenty-five percent of the sum of money which is the price of the property sold in execution.

(2) Where the date of auction referred to under sub-rule (1) is not a working day or the auction was conducted and concluded after bank closing hours, the amount due shall be deposited in the court's account on the next working day.

(3) The remaining seventy-five percent of the sum referred to in sub-rule (1) shall be paid before the fifteenth day from the date of auction.

(4) Proof of every deposit under this rule shall be submitted to the executing court without delay.

(5) A person declared to be a winner at the auction-

(a) who fails to deposit into the court's account twenty five percent of the purchase price on the date of auction or on the following working day if the auction was conducted and concluded after bank closing hours or on a *dies non*; or

(b) who after having deposited the said twenty-five percent, fails or neglects to deposit the remaining balance into the court's account, by the fifteenth day from the date of auction,

shall be deemed to have defaulted and the executing officer shall

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Disciplinary)(Amendment)*

Gn. No. 106 (Contd)

conduct another auction in accordance with the law.

(6) The court broker shall not sell any attached property until he obtains an order for proclamation of sale.

(7) Every sale in execution of a court order shall be by public auction.

(8) A court broker shall not take cash or deposit into his account any amount which is the proceeds of sale or which is realized during the execution process.

(9) Any court broker who contravenes the provisions of this rule shall be subjected to disciplinary proceedings or to criminal proceedings or to both.”

Addition of
rule 28A

5. The principal Rules are amended by adding immediately after rule 28 the following new rule-

“Proceeds of
execution

28A. The executing court shall apply the proceeds of execution deposited into the court’s account for-

- (a) paying the executing officer’s costs and expenses which have been taxed;
- (b) paying the decree holder as per the decree;

*Court Brokers and Process Servers (Appointment, Remuneration and
Disciplinary)(Amendment)*

GN. No. 106 (Contd)

- (c) paying the court's commission, if any;
- (d) remitting the balance, if any, to the judgment debtor; or
- (e) doing anything incidental as the court may direct:

Provided that, money realized by the sale of property shall not be paid out until after the expiry of thirty days from the date of the auction.”

Dar es Salaam,
22nd January, 2019

IBRAHIM HAMIS JUMA
Chief Justice