

THE NATIONAL CONSTRUCTION AUTHORITY ACT

(No. 41 of 2011)

THE NATIONAL CONSTRUCTION APPEALS BOARD RULES, 2021

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THE NATIONAL CONSTRUCTION AUTHORITY ACT

(No. 41 of 2011)

IN EXERCISE of the powers conferred by section 28 of the National Construction Authority Act, the National Construction Appeals Board makes the following Rules —

**THE NATIONAL CONSTRUCTION APPEALS BOARD RULES,
2021**

PART I—PRELIMINARIES

1. These Rules may be cited as the National Construction Appeals Board Rules, 2021.

Citation.

2. In these Rules, unless the context otherwise requires —

Interpretation.

“appeal” means a suit filed with the Appeals Board;

“Appeals Board” means the National Construction Appeals Board established under section 27 of the Act;

“application” means a notice of motion that is filed with the Appeals Board in accordance with these Rules;

“appellant” means a person who has filed an appeal or a cross appeal;

“applicant” means a person who has filed an application;

“chairperson” means the chairperson of the Appeals Board appointed under section 27(2)(a) of the Act;

“decision of the Appeals Board” includes an award, direction, interim relief, judgement, order, and a ruling, made by the Appeals Board;

“hearing” means a stage in the proceedings of an appeal or application, where the Appeals Board—

- (a) records evidence;
- (b) hears submissions;
- (c) delivers a decision of the Appeal Board; or
- (d) does anything that is lawfully required of it,

in the presence of the parties, to enable a decision of the Appeals Board to be made;

“interested party” means a county government, government agency, state organ, or any other entity, who is directly involved or affected, by an appeal or an application;

“party” means an appellant, applicant, respondent or an interested party;

“pleading” includes a statement of appeal, a statement of response, a cross appeal, a preliminary objection, grounds of opposition, a notice of motion and a replying affidavit;

“Register” means the Register of the Appeals Board, maintained in accordance with rule 7;

“Registrar” means the Registrar of the Appeals Board, appointed in accordance with rule 6;

“respondent” means a person who is required to file a response to an appeal or an application, and includes the Board;

“return of service” means a document indicating that service of a pleading, or any other document required to be served, was duly conducted by its maker, in accordance with these Rules; and

“summons” means a notice requesting a party or a witness to appear for a hearing.

3. (1) The overriding objective of these Rules shall be to facilitate the just, expeditious, proportionate and affordable resolution of appeals and applications.

Overriding objective of these Rules.

(2) A party shall assist the Appeals Board to achieve the overriding objective in sub rule (1) and to comply with the decisions of the Appeals Board.

4. (1) The Appeals Board shall determine an appeal against a decision of the Board to—

Jurisdiction of the Appeals Board.

- (a) refuse to register a contractor;
- (b) delete a contractor’s name from the register; or
- (c) suspend a contractor.

(2) An appeal referred to in sub rule (1) shall be filed within thirty days from the date of the decision of the Board that is being appealed against.

(3) The Appeals Board may make such decisions as may be necessary for the ends of justice or to prevent abuse of the process.

(4) Notwithstanding sub rule (3), the Appeals Board may—

- (a) suspend, in whole or part, any decision of the Board that is the subject matter of an appeal; or
- (b) grant any remedy which the Appeals Board would have granted in the final determination of an appeal.

PART II—CHAIRPERSON AND REGISTRAR OF THE APPEALS BOARD

5. (1) The chairperson shall preside over every hearing.

Role of the chairperson.

(2) The chairperson may assign a role of another member of the Appeals Board under these Rules, to another member of the Appeals Board.

6. (1) There shall be a Registrar of the Appeals Board who shall be appointed by the Appeals Board, for the proper and efficient

Role of the Registrar.

discharge of the functions of the Appeals Board, on such terms and conditions of service as it may determine.

(2) The role of the Registrar shall be to —

- (a) maintain the Register;
- (b) receive and keep custody of pleadings in accordance with these Rules;
- (c) certify a decision of the Appeals Board;
- (d) keep a record of the proceedings of the Appeals Board and such other records of the Appeals Board;
- (e) assess the costs awarded by the Appeals Board; and
- (f) undertake any other duties assigned to him by the Appeals Board.

(2) The Registrar may, with the approval of the Appeals Board, dispose of a procedural or administrative matter of the Appeals Board in accordance to these Rules.

7. (1) The Registrar shall keep a register of the Appeals Board.

Particulars to be recorded in the Register.

(2) The Register shall contain the following particulars —

- (a) the identity of the parties;
- (b) the serial number of the appeal or application;
- (c) the date of an appeal or application;
- (d) the relief sought by an appellant or applicant;
- (e) the nature of an appeal or an application;
- (f) the decisions of the Appeals Board.

PART III—PROCEEDINGS OF THE APPEALS BOARD

8. (1) A party may file an appeal or an application, and appear at the hearing thereof, in person.

Representation of parties.

(2) A party may appoint an advocate to represent that person, in the filing of an appeal or an application, and appear at the hearing thereof.

(3) An appointment under sub rule (2) shall be made by filing a notice of appointment in Form NCAB1 set out in the Schedule.

(4) A party may substitute the person appointed under sub rule (2), to another person, or opt to proceed with an appeal or application in person.

(5) A substitution of an appointment under sub rule (4) shall be made by filing a notice of substitution of appointment in Form NCAB 1 set out in the Schedule.

(6) The party who files a notice, shall ensure that there are sufficient copies of the notice to be served on every party of that appeal or application.

(7) The party referred to in sub rule (6), shall within three days of service of the notice, file a return a service in Form NCAB 2 set out in the Schedule.

(8) In this rule, "notice" means a notice of appointment filed in accordance with sub rule (2) or a notice of substitution of appointment filed in accordance with sub rule (4).

9. (1) The languages of the Appeals Board shall be English and Kiswahili.

Languages of the Appeals Board.

(2) Despite sub rule (1), a party may make an application for an order allowing it to make a representation in a hearing in another language, in accordance with rule 23.

(3) An application made under sub rule (2) shall be filed at least seven days before the hearing.

(4) The Appeals Board may, on its own motion, or on an application made under sub rule (2), avail an interpreter, during the hearing.

10.(1) A person shall institute an appeal by filing a Statement of Appeal that is signed by the appellant or the appellant's advocate, in Form NCAB 3 set out in the Schedule.

Statement of Appeal.

(2) The Statement of Appeal filed in accordance with sub rule (1) shall contain —

- (a) the names and addresses of the parties;
- (b) the name and address of the appellant's advocates, if any;
- (c) the facts and grounds on which the appellant relies, specifying the issues which are alleged to have been wrongly decided and the nature of the decision appealed against;
- (d) the reliefs sought;
- (e) a list of all the documents that the appellant intends to rely on at the hearing(if any);
- (f) any principle of policy, law or construction registration procedure that is relied on in the appeal; and
- (g) a list of witnesses the appellant intends to rely on at the hearing(if any).

(3) An appellant shall annex to a Statement of Appeal —

- (a) a copy of the decision being appealed against, if any;
- (b) the documents specified in the list referred to in sub rule (2) (e);

- (c) witness statements of the witnesses specified in the list referred to in sub rule (2) (g);
 - (d) a case summary;
 - (e) an affidavit by the appellant verifying the facts contained in the Statement of Appeal; and
 - (f) the minutes of meetings, reports or proceedings, if any, which arrived at the decision being appealed against.
- (4) An appellant shall ensure that there are sufficient copies of the Statement of Appeal to be served on every party when filing it.
- (5) On receipt of the Statement of Appeal, the Registrar shall —
- (a) acknowledge receipt by stamping on the face of the Statement of Appeal the date of receipt, which date must be the date of filing;
 - (b) record the particulars of the appeal in the register of appeals;
 - (c) assign a case number to the appeal and inform the parties of the case number of the appeal; and
 - (d) advise the appellant of any other matter which the Registrar deems fit.
- (6) An appellant shall, within seven days of filing a Statement of Appeal, serve the Statement of Appeal and the annexed documents on all the respondents.
- (7) An appellant shall, within three days of service of the Statement of Appeal and its annexures, file a return a service in Form NCAB 2 set out in the Schedule.

11.(1) A person may respond to an appeal by filing —

- (a) a Statement of Response in Form NCAB 4 set out in the Schedule;
 - (b) a Statement of Cross-Appeal in Form NCAB 3 set out in the Schedule,
 - (c) grounds of opposition; or
 - (d) a notice of preliminary objections.
- (2) The person shall file the pleadings referred to in sub rule (1) within fourteen days from the date of service of a Statement of Appeal.
- (3) The pleadings referred to in sub rule (1), shall contain —
- (a) the names and addresses of the parties;
 - (b) the name and address of the respondent's advocate, if any;
 - (c) a summary of the arguments of fact and law on which the respondent intends to rely;

Responses to a
Statement of
Appeal.

- (d) a list of all the documents the respondent intends to rely on at the hearing(if any);
- (e) a list of witnesses the respondent intends to rely on at the hearing (if any);
- (f) the reliefs sought.

(4) A respondent shall ensure that there are sufficient copies of the pleadings referred to in sub rule (1) to be served on every party when filing it.

(5) A respondent shall annex to the pleadings referred to in sub rule (1)—

- (a) the documents specified in the list referred to in sub rule (3) (d);
- (b) witness statements of the witnesses specified in the list referred to in sub rule (3) (e);
- (c) a case summary; and
- (d) an affidavit by the respondent verifying the facts contained in the pleading.

(6) On receipt of a pleading referred to in sub rule (1), the Registrar shall—

- (a) acknowledge receipt by stamping on the face of the pleading the date of receipt, which date must be the date of filing;
- (b) record the particulars of the pleading in the register of appeals; and
- (c) advise the respondent of any other matter which the Registrar deems fit.

(7) A respondent shall, within seven days of filing a pleading referred to in sub rule (1), serve the pleading and the annexures thereto on all the parties of the appeal.

(8) A respondent shall ensure that, within three days of service of a pleading referred to in sub rule (1) and the annexures thereto, file a return a service in Form NCAB 2 set out in the Schedule.

(9) Where a respondent does not file any of the pleadings referred to in sub rule (1) in accordance with this rule, the Appeals Board may set a date for the hearing of the appeal or issue such orders or directions as it may deem appropriate in the circumstances.

12.(1) The Appeals Board may dismiss an application or an appeal if the Appeals Board determines that —

- (a) the subject matter for determination is not within its jurisdiction;
- (b) the appeal or application is an abuse of the process of the Appeals Board; or

Dismissal of
appeals and
applications.

(c) the appeal or application was made in bad faith.

(2) The Appeals Board may make a decision under sub rule (1) on an application made in accordance with rule 23, or on its own motion.

(3) Where the Appeals Board dismisses an appeal or an application on its own motion, the Appeals Board shall notify the parties in writing and state the reasons for its decision, within seven days of its decision.

(4) If an appellant does not set the appeal down for a case management conference within a period of thirty days being served with the pleadings in response to an appeal, the respondent may —

- (a) apply for the appeal to be dismissed for want of prosecution; or
- (b) set the appeal down for a case management conference.

13.(1) The Appeals Board may grant leave to a party to rely on documents or call up witness that were not specified in the party's pleadings.

Additional documents and additional witnesses.

(2) A party who intends to obtain leave under sub rule (1) may make an application in accordance with rule 23.

14.(1) A party who intends to rely on grounds not stated in their pleadings that were not stated in the pleadings because the information was not within the knowledge of the party at the time of lodging their pleadings may make an application for leave to amend their pleadings in accordance with rule 23.

Amendment of pleadings.

(2) A party who intends to obtain leave under sub rule (1) may make an application, in Form NCAB 3 set out in the Schedule.

(3) The Appeals Board may, if it is satisfied, grant leave to a party to amend their pleadings.

15.(1) Where it appears to the Appeals Board that it is necessary that a person becomes a party to an appeal or an application, the Appeals Board may order that person to be enjoined as a party and may give directions for the delivery and service of the pleadings to the person.

Joinder of parties.

(2) The Appeals Board may make a decision under sub rule (1), on an application for leave to be enjoined as a party made in accordance with rule 23, or on its own motion.

(3) An application made under sub rule (2) shall be—

- (a) by a person who has interest in the outcome of an appeal or application; and
- (b) made prior to the commencing of the hearing thereof.

16.(1) Where it appears to the Appeals Board that it is necessary, the Appeals Board may consolidate two or more appeals or applications.

Consolidation of appeals.

(2) The Appeals Board may make a decision under sub rule (1), on an application for consolidation made in accordance with rule 23, or on its own motion.

(3) The Appeals Board may make a decision under sub rule (1) where—

- (a) the appeals involve the same or similar issues of fact or law; or
- (b) the Appeals Board considers it practical and appropriate to proceed with the issues raised in the appeals or applications simultaneously.

17.(1) Where no pleadings in response to an appeal has been filed, an appellant may, at any time before the determination of an appeal, give an oral or written notice to the Appeals Board of their intention to withdraw an appeal.

Withdrawal of an appeal.

(2) An appeal against which a response has been filed shall not be withdrawn except by consent of both parties and an order made by the Appeals Board.

18.(1) The Appeals Board shall set an appeal down for a case management conference within thirty days after all the parties have filed their pleadings.

Case management conference.

(2) The Appeals Board shall issue a notice to all the parties of the date sets for the case management conference in accordance with sub rule (1).

(3) While conducting a case management conference, the Appeals Board may—

- (a) enquire from the parties on the contents of their pleadings;
- (b) direct that the parties make written or oral submissions on certain aspects of the appeal;
- (c) direct that documents be availed to a party who requires them;
- (d) give directions on the hearing of an application;
- (e) give directions on the hearing of a preliminary objection;
- (f) give directions on the hearing of the appeal;
- (g) give directions on whether the appeal can be heard on a priority basis;
- (h) issue summons to a party or a party's advocate to appear before the Appeals Board; or
- (i) give any other direction which the Appeals Board deems necessary.

19.(1) The quorum of the Appeals Board at a hearing shall be the three members of the Appeals Board.

Quorum of the Appeals Board.

(2) The chairperson shall preside at every hearing.

20.(1) The testimony of a party's witness may be adduced at a hearing of an appeal orally or by adopting the witness' statement.

Conducting a hearing.

(2) The opposing party may cross examine the testimony adduced in accordance with sub rule (1).

(3) If a witness, for no justifiable reason, a witness does not avail himself to adduce his testimony in accordance with sub rule (1), a party may make an application to the Appeals Board to issue summons that witness in accordance with rule 23.

(4) A party who intends to rely on an expert shall make an application to the Appeals Board to issue summons that expert in accordance with rule 23.

(5) The summons issued by the Appeals Board pursuant to the application made under sub rule (4) may require the expert to personally attend or to produce a document or exhibit at a hearing.

(6) Unless the Appeals Board determines otherwise, an applicant under sub rule (4) shall pay the witness fees, travel and subsistence allowances, to a person summoned at a reasonable rate determined by the Appeals Board.

(7) The Appeals Board, on an application made pursuant to sub rule (3) or (4), or on its own motion, may issue a summons in Form NCAB 5 set out in the Schedule.

(8) The summons issued under sub rule (7) shall be signed by the chairperson and shall —

- (a) require the person named therein to appear before the Appeals Board;
- (b) state the date and time when the person named therein shall appear; and
- (c) sufficiently identify any document or exhibit that is required to be produced by the person named therein.

(9) The Appeals Board shall administer an oath, or accept an affirmation, from a person adducing oral testimony before it.

(10) The Appeals Board may conduct a hearing presence of all the parties unless a party has notified the Appeals Board, with justifiable reasons, that the party would not be available to attend the hearing.

(11) The Appeals Board may conduct a hearing in the absence of a party or a person who was served with summons under this rule, if —

- (a) the party fails to appear for the hearing without providing any reasons; or
- (b) the Appeals Board is satisfied that, the reasons stated in accordance with sub rule (8) do not constitute a justifiable reason that prevents the attendance of the party.

(12) Where an item is produced at a hearing as evidence, it shall be marked for identification and shall remain in the custody of the Appeals Board until the determination of the appeal.

(13) Upon the conclusion of a hearing of an appeal, the Appeals Board may direct that the parties file written submissions.

(14) A party who files written submissions in accordance with sub rule (13), shall ensure that there are sufficient copies of the written submissions to serve all the parties of the appeal.

(15) A party who serves summons or written submissions in accordance with sub rule (12), shall file a return of service in Form NCAB 2 set out in the Schedule within three days of serving the written submissions.

21.(1) At any time before the determination of an appeal, the parties may opt to engage in alternative dispute resolution mechanisms to determine an appeal or application.

Alternative
dispute resolution
mechanisms.

(2) Where the parties exercise their rights under sub rule (1), either of the parties shall file the decision made pursuant to the mechanism, with the Appeals Board within seven days after the decision is made.

(3) The decision filed in accordance with sub rule (2), shall be adopted as the decision of the Appeals Board.

(4) Where the Appeals Board makes a decision under this rule, it shall issue an Order in Form NCAB 7 set out in the Schedule.

22.(1) The Registrar shall keep a record of proceedings and decisions of the Appeals Board in all appeals and applications.

Record of
proceedings and
decisions.

(2) A party to an appeal or an application may make an application to the Registrar for a copy of the record of proceedings or a decision of the Appeals Board in accordance with rule 23.

23.(1) All applications made under these rules shall be in Form NCAB 6 set out in the Schedule.

Applications
generally.

(2) An application shall contain—

- (a) the names of the parties to which that application relates;
- (b) the grounds the applicant relies on;
- (c) a list of every document on which the applicant intends to rely on at the hearing; and
- (d) the reliefs sought.

(3) An applicant shall annex a supporting affidavit attesting to the grounds on which the orders in the application are sought.

(4) An applicant shall annex a certified copy of each of the documents referred to in sub rule (2) (c) to the supporting affidavit.

(5) An applicant under sub rule (2) shall, within seven days from the date of filing, serve a copy of the application on every party to which that application relates.

(6) A party who serves an application shall file a return of service in Form NCAB 2 set out in the Schedule, within three days of serving the application.

(7) A party who has been served with an application may, within three days of service of the application, file—

- (a) a replying affidavit;
- (b) grounds of opposition; or
- (c) a notice of preliminary objections

(8) The pleadings referred to in sub rule (7), shall contain—

- (a) the names of the parties to which that application relates;
- (b) the grounds the party relies on;
- (c) a list of every document on which the party intends to rely on at the hearing; and
- (d) the reliefs sought.

(9) A party shall annex a certified copy of each of the documents referred to in sub rule (8) (c) to the pleading referred to in sub rule (7), filed by the party.

(10) A party who has filed any of the pleadings referred to in sub rule (7), shall, within seven days from the date of filing the pleading, serve a copy of the pleading on every party to which that application relates.

(11) A party who serves any of the pleadings referred to in sub rule (7), shall file a return of service in Form NCAB 2 set out in the Schedule, within three days of serving the pleading.

(12) The Appeals Board may consider the representations of a party to an application who has not filed any of the pleadings referred to in sub rule (7) if the Appeals Board deems it just.

(13) An application shall be heard by all members of the Appeals Board.

(14) Despite sub rule (13), where the Appeals Board considers it necessary, it may conduct a hearing of an application in the absence of another party to which the application relates.

(15) Where the Appeals Board conducts a hearing in accordance with sub rule (14), the quorum shall be at least two members of the Appeals Board.

(16) The Appeals Board may direct that the parties file written submissions of their arguments and serve a copy thereof on the other parties to the application.

(17) A party shall ensure that, within three days of service of the pleadings or written submissions under sub rule (16), shall file a return a service in Form NCAB 2 set out in the Schedule.

(18) An order made by the Appeals Board pursuant to an application shall be in Form NCAB 7 set out in the Schedule.

PART IV—DECISIONS OF THE APPEALS BOARD

24.(1) Where the parties of an appeal agree to settle an appeal or application, out of court, either wholly or in part, a party make an application for adoption of consent orders to the Appeals Board in accordance with rule 23.

Determination of an appeal by consent.

(2) A party who makes an application under sub rule (1) shall annex to the application —

- (a) a draft consent order; and
- (b) a statement that is signed by all the parties to the appeal containing the agreement that was reached by all the parties to the Appeal.

(3) The Appeals Board may, after ensuring that the consent is within the law, adopt the consent order as a decision of the Appeals Board.

(4) The Appeals Board shall issue an order made under sub rule (3) be in Form NCAB 7 set out in the Schedule.

25.(1) A decision of the Appeals Board shall be by a majority of the votes of its members.

Decisions of the Appeals Board.

(2) The Appeals Board may make the following determinations in an appeal —

- (c) affirm the decision of the Board;
- (d) direct the Board to undertake an action or decision with regard to the appeal or an application; or
- (e) quash the decision of the Board.

(3) A decision of the Appeals Board shall contain a statement of reasons for the decision and shall be signed and dated by the Chairperson.

(4) A decision of the Appeals Board may be delivered orally to the parties.

(5) Where the Appeals Board makes a decision under this rule, it shall issue an Order in Form NCAB 7 set out in the Schedule.

26.(1) Where the Appeals Board considers it necessary, on its own motion or pursuant to an application, and before the determination of an appeal, it shall order or direct, as it considers appropriate to—

Interim decisions of the Appeals Board.

- (a) prevent substantial loss or irreparable damage to a person;
- (b) prevent an abuse of process of the Appeals Board;
- (c) in the interests of justice; or
- (d) protect the public interest.

(2) When making a decision under sub rule (1), the Appeals Board shall consider all the relevant circumstances, including—

- (a) the urgency of the matter;
- (b) the possible effect on the applicant if the relief sought is not granted; and
- (c) the possible effect on any other person if the relief is granted.

(3) A decision of the Appeals Board made in accordance with sub rule (1) may be made against a person who is not a party.

(4) A decision of the Appeals Board made in accordance with sub rule (3), that decision shall specify that the person be enjoined as an interested party.

(5) A decision of the Appeals Board made in accordance with sub rule (3) that is made in the absence of a respondent shall be for a period not exceeding fourteen days.

(6) Despite sub rule (4), the Appeals Board may —

- (a) extend the period;
- (b) give directions as to costs, security for costs or an undertaking on the applicant, to and; and
- (c) grant such further orders and directions as it deems just.

(7) An Order made by the Appeals Board under this rule shall be in Form NCAB 7 set out in the Schedule.

27.(1) The Appeals Board may, at any stage of the hearing of an appeal or an application, make an order for the payment of security for costs.

Costs.

(2) The Appeals Board may, in the determination of an appeal or an application, make an order for the payment of costs.

(3) The Appeals Board may, in the order made under sub rule (1) or (2), direct that the sum be paid as a lump sum or in such portions as it deems just.

(4) The Registrar shall assess the costs awarded under this rule.

(5) An Order made by the Appeals Board under this rule shall be in Form NCAB 7 set out in the Schedule.

28. A party who is aggrieved by a decision of the Appeals Board may appeal to the High Court within thirty days from the date of that decision.

Further appeals.

SCHEDULE

FORMS

Form NCAB 1
8(5))

(r.

(Heading)

REPUBLIC OF KENYA

IN THE NATIONAL CONSTRUCTION APPEALS BOARD

APPEAL/APPLICATION* No OF 20.....

.....APPELLANT/APPLICANT

-VERSUS -

.....RESPONDENT

AND (where applicable)

.....INTERESTED PARTY

APPOINTMENT/SUBSTITUTION* OF APPOINTMENT OF AN ADVOCATE

I.....being the Appellant/Applicant/Respondent/Interested Party*
 authoriseas my Advocate in the above Appeal/Application.
 I authorise that service of all pleadings shall be effected upon me/my advocate*.

SIGNED

.....

ON THIS.....DAY OF.....20.....

.....
 APPELLANT/APPLICANT/RESPONDENT/INTERESTED PARTY*.....
 ADVOCATE'S NAME AND ADDRESSTO BE SERVED UPON:

Insert the names and address of the other parties to the Appeal/Application.

Note

*Delete whichever is not applicable.

Form NCAB 2 (r. 8(7), 10(7), 11(8), 15(6), 20(15), 23 (6), (11), (17),
26(18))*(Insert heading as in Form NCAB 1)*RETURN OF SERVICE

I (insert name of person who served) of P. O. Box..... being
 an Appellant/Applicant/Respondent/Interested Party/Advocate/Process Server* make
 oath and state as follows:

1. THAT..... (insert name of party being served) was known to

me/identified* for me by..... (insert name of person who identified the party) and admitted that he/she/they* were the..... (insert the party being served).

2. THAT on the day of.....20.....at..... (insert time of service) I served the..... (insert the name of the pleading/summons/written submissions being served*) by tendering a copy of the same to (insert name of party being served) and required an acknowledgment of receipt from the..... (insert the party being served) on the original of the (insert the name of the pleading/summons/written submissions being served*).
3. THAT (insert name of party being served) acknowledged/denied* receipt of the (insert the name of the pleading/summons/written submissions being served*) by stamping/signing* on the face of the original copy thereof and annexed herewith is a copy of the stamped/signed (insert the name of the pleading/summons/written submissions being served*).
4. THAT not being able to find the (insert name of party being served), on..... day of20.....at..... (insert time of attempted service), I served the (insert the name of the pleading/summons/written submissions being served*) on (insert name of the served person) being an adult family member residing with/authorised officer/employee* of the (insert the party being served) who acknowledged/denied* receipt of the (insert the name of the pleading/summons/written submissions being served*) by stamping/signing* on the face of the original copy thereof and annexed herewith is a copy of the stamped/signed (insert the name of the pleading/summons/written submissions being served*).

(Insert this paragraph if necessary)

5. THAT not being able to find the (insert name of party being served), on..... day of20.....at..... (insert time of attempted service), or an adult family member residing with/authorised officer/employee* of the (insert the party being served), I affixed a copy of the (insert the name of the pleading/summons/written submissions being served*) to the outer door/conspicuous place* of (insert name of party being served) being the house on which the (insert the party being served) ordinarily resides/carries on business/works for gain and which was identified to me by..... (insert name of person who identified the party).

(Insert this paragraph if necessary)

6. THAT the averments in this Affidavit are true.

Sworn by

.....

(insert name of the person who served)

.....

(insert signature of the person who served)

On this..... day of..... 20.....

In the presence of

.....

Commissioner for Oaths

Note

*Delete whichever is not applicable.

Form NCAB 3
11(1)(b))

(r. 10(1),

(Insert heading as in Form NCAB 1)

STATEMENT OF APPEAL/CROSS-APPEAL*

**IN THE MATTER OF AN APPEAL UNDER SECTION ... OF THE NATIONAL
CONSTRUCTION AUTHORITY ACT**

1. TAKE NOTICE that the Appellant/Respondent/Interested Party appeals against the decision of the Board of the National Construction Authority made on the..... day of.....20.....
2. The Appeal/Cross-Appeal* relates to:
.....
3. The decision appealed against is:
.....
4. The Appeal/Cross-Appeal* is based on the following grounds:
(set out each ground concisely):
 - a.
 - b.
 - c.
5. The principle of policy, law or construction registration procedure that is relied on in the appeal:
 - a.
 - b.
 - c.
6. The documents the Appellant/Respondent* intends to rely on in the Appeal:
 - a.
 - b.
 - c.
7. The witnesses the Appellant/Respondent intends to call up at the hearing of the Appeal:
 - a.

- b.
 - c.
8. The reliefs sought in this Appeal/Cross-Appeal* are as follows:
(set out each relief concisely)
- a.
 - b.
 - c.

SIGNED

ON THIS.....DAY OF.....20.....

APPELLANT/APPLICANT/RESPONDENT/INTERESTED PARTY*

ADVOCATE'S NAME AND ADDRESS

TO BE SERVED UPON:

Insert the names and address of the other parties to the Appeal/Application.

Note

*Delete whichever is not applicable.

Form NCAB 4

(r. 11(1)(a))

(Insert heading as in Form NCAB 1)

STATEMENT OF RESPONSE

IN THE MATTER OF AN APPEAL UNDER SECTION ...OF THE NATIONAL CONSTRUCTION AUTHORITY ACT

1. TAKE NOTICE that the Respondent opposes the appeal against the decision of the Board of the National Construction Authority made on the..... day of.....20.....
2. A summary of the arguments of fact and law on which the Respondent intends to rely on:
 - a.
 - b.
 - c.
3. The documents the Respondent intends to rely on in the Appeal:
 - a.
 - b.
 - c.

4. The witnesses the Respondent intends to call up at the hearing of the Appeal:

- a.
- b.
- c.

5. The reliefs sought in this Appeal are as follows:

(set out each relief concisely)

- a.
- b.
- c.

SIGNED

.....

ON THIS.....DAY OF.....20.....

.....

RESPONDENT

.....

ADVOCATE'S NAME AND ADDRESS

TO BE SERVED UPON:

Insert the names and address of the other parties to the Appeal/Application.

Form NCAB 5

(r. 20(7))

(Insert heading as in Form NCAB 1)

SUMMONS

TO:

.....
.....
.....
.....

(Insert the Name and Address of the person being served)

YOU ARE SUMMONED to appear in person before the National Construction Appeals Board at on day of for the hearing of the appeal/application* and thereafter to remain in attendance until excused by the Appeals Board regarding all matters within your knowledge relating to the appeal/application*.

YOU ARE REQUIRED to bring and produce to the Appeals Board the following; *(Insert the document to be produced)*

- a.

- b.
- c.
- d.

TAKE NOTE that if you do not comply with this Summons the National Construction Appeals Board you will be subject to Contempt of National Construction Appeals Board proceedings.

THIS.....DAY OF.....20.....

REGISTRAR,
NATIONAL CONSTRUCTION
APPEALS BOARD.

CHAIRPERSON,
NATIONAL CONSTRUCTION
APPEALS BOARD.

Note

*Delete whichever is not applicable.

Form NCAB 6

(r. 23 (1))

(Insert heading as in Form NCAB 1)

NOTICE OF MOTION

(r.)

(Insert rule(s) relied on to make the application)

TAKE NOTICE that on the..... day of.....20.....at.....in the morning/afternoon*, the Applicant intends to move the National Construction Appeals Board for the following Orders:

- a.
- b.
- c.

THIS APPLICATION is based on the following grounds:

- a.
- b.
- c.

THIS APPLICATION is supported by the affidavit of sworn on the day of.....20.....

SIGNED

.....

ON THIS.....DAY OF.....20.....

APPELLANT/APPLCANT/RESPONDENT/INTERESTED PARTY*

.....
 ADVOCATE'S NAME AND ADDRESS

TO BE SERVED UPON:

Insert the names and address of the other parties to the Appeal/Application.

Note

*Delete whichever is not applicable.

Form NCAB 7

(r. 21(4), 23(18), 24(4), 25(5), 26(7), 27(5)

(Insert heading as in Form NCAB 1)

ORDER

In the Appeal/Application/on its Own Motion*, The National Construction Appeal Board, on hearing the appeal/application* on the (insert final date of hearing) and determined by the Appeals Board on the (insert the date of the decision of the Appeals Board)

It is ORDERED that:

1.
2.
3.

Made this..... day of.....20.....

.....
 REGISTRAR,
 NATIONAL CONSTRUCTION
 APPEALS BOARD.

.....
 CHAIRPERSON,
 NATIONAL CONSTRUCTION
 APPEALS BOARD.

Note

*Delete whichever is not applicable.

Made this 21st January, 2021.

JANE WANJIRU MICHUKI,
Chairperson,
National Construction Appeals Board.