

GOVERNMENT NOTICE No. 82 published on 9/3/2018

THE URBAN PLANNING ACT, 2007  
(CAP.355)

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**REGULATIONS**

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*(Made under sections 77(1)(q))*

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THE URBAN PLANNING (APPEALS) REGULATIONS, 2018

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ARRANGEMENT OF REGULATIONS

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SCHEDULE

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THE URBAN PLANNING ACT, 2007  
(CAP.355)

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THE URBAN PLANNING (APPEALS) REGULATIONS, 2018

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ARRANGEMENT OF REGULATIONS

Citation	1. These Regulations may be cited as the Urban Planning (Appeals) Regulations, 2018
Application	2. These Regulations apply to appeals made under; (a) section 47(4) of the Act; (b) section 55(1) of the Act; or (c) any other enabling provision of the Act.
Interpretation	3. In these Regulations:-
Cap.355	“Act” means the Urban Planning Act; “appellant” means a person who gives notice of appeal under sections 47(4) and 55(1) of the Act or any other enabling provision of the Act; “Decision notice” means the notice given by the Authority of its decision on the application to which the appeal relates; “Court” means any court with competent jurisdictions; “Inquiry sessions” means a local inquiry held or to be held by the court under regulation 7 into matters specified in a procedure notice given under rule 1(1) of the Inquiry Session Rules (the Schedule). “Authority” means planning authority as per section 7 of the Act, local government authority, director appointed under the Act, and related planning authority and committees.

Procedures for  
filing appeals

4. Any person aggrieved by the decision of the Authority as per sections 47(4) and 55 (1) of the Act or any other enabling provision of the Act who wishes to appeal against such decision shall:-

- (a) within fourteen (14) working days of the notification of the decision or such further period as the court may in any particular case allow, give notice in writing to the Authority which made the decision of his intention to appeal; and
- (b) within forty five (45) working days from the date of order or notification of the decision, as the case may be, file a written memorandum of appeal to the court, and send to the Authority:-
  - (i) a copy of memorandum of appeal;
  - (ii) a list of all documents, materials and evidence which the appellant intends to rely on the appeal and which accompanied the memorandum of appeal; and
  - (iii) copies of all documents, materials and evidence specified on such list which the appellant has not already provided to the authority in connection with the application to which the appeal relates.

Service of  
memorandum  
of appeal

5.-(1) As soon as is practicable after a memorandum of appeal is filed, the Authority against which the appeal is filed shall be served with a copy of the memorandum of appeal by the court.

(2) The court shall be required to submit to it its reply in three copies setting out the reasons for their decision accompanied by copies of such plans as in the opinion of the Authority are necessary, and

(3) The Authority shall within twenty one days comply with such requirement under sub-regulation (2).

*Urban Planning (Appeals)*

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Service of  
reply or plans  
to the  
appellant                      6. Upon receipt of the reply and plans mentioned in  
regulation 5 the court shall serve one copy thereof to the  
appellant.

Determination  
of appeals                      7.-(1) The court shall determine how the appeal is to  
be conducted:  
  Provided that the court shall opt to dispose the appeal  
by one of the following procedures by:-  
  (a) means of written submissions; or  
  (b) the holding of one or more hearing sessions; or  
  (c) the holding of one or more inquiry sessions as per  
  procedures provided under the Schedule.

(2) In case the court is of the views that a proper way  
to settle the matter is by holding an inquiry, the court shall  
after consultation with the parties, constitute itself as such.

(3) In holding such inquiry, the court shall be guided  
by the *Inquiry Session Rules*) as well as other regulations of  
the court.

(4) The court shall, in every appeal, inspect the land  
to which the appeal relates in the presence of the parties.

Application of  
Court's  
Regulations                      8. The Land Disputes Courts (District Land and  
Housing Tribunal) Regulations 2003 shall apply *mutatis  
mutandis*.

Decision of  
the Court                        9. As soon as possible after hearing all parties to the  
proceedings or submission of written submissions or  
conclusion of the inquiry by consideration of evidence  
tendered, the court shall within ninety working days, make  
decision and communicate the same in writing together with  
the reasons thereof to the parties to the appeal.

Revocation  
G. N. No. 362  
of 1961                        10. The Town and Country Planning (Appeals)  
Regulations, 1961 are hereby revoked.

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SCHEDULE  
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INQUIRY SESSION RULES

*(Made under regulation 2)*

1. In this rule

“Inquiry statement” means, and is comprised of

- (a) a written or oral statement or submission which contains particulars of the case relating to the specified matters which a person proposes to put forward to an inquiry session;
- (b) A list of documents (if any) which the person putting forward such case intends to refer to, rely on or put in evidence; and
- (c) a list of witnesses specifying the persons who are to give, or be called to give, evidence at the inquiry session, the matters in respect of which such persons are to give evidence and the relevant qualifications of such persons to do so; and

“precognition” means a written statement of the evidence which it is proposed that a witness shall give to the inquiry session.

2.-(1) Where the court has determined that an inquiry session is to be held the court is to give written notice to that effect to-

- (a) the appellant;
- (b) the authority
- (c) any interested party who made representations in relation to specified matters; and
- (d) anybody or person who the Court wishes to make further representations or to provide further information on specified matters at the inquiry session.

(2) The notice given under subparagraph (1) is to set out the matters to be considered at the inquiry session.

(3) Only specified matters are to be considered at the inquiry session.

(4) A body or person given notice under subparagraph (1) to appear at the inquiry session must appear to the inquiry unless within fourteen days of the date of such notice inform the court in writing that he may fail to appear based on sufficient grounds.

3. The persons entitled to appear at the inquiry session includes:-

- (a) the appellant;
- (b) the authority;
- (c) any other person so required by notice; and
- (d) any person or body who has informed the court of their intention to appear at the inquiry session.

## *Urban Planning (Appeals)*

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4.-(1) The date, time and place for the holding of the inquiry session is to be fixed (and may subsequently be varied) by the Court.

(2) The court shall give to the persons entitled to appear at the inquiry session such notice of the date, time and place fixed for the holding of the inquiry session (and of any subsequent variation thereof) as may appear to the court to be reasonable in the circumstances.

(3) The Court may require the authority to take one or more of the following steps;

- (a) not less than fourteen days before the date fixed for the holding of the inquiry session, to publish;
- (b) in one or more local newspapers circulating in the locality in which the land is situated; and
- (c) on a website (if any), such notices of the inquiry session as the court may direct; or
- (d) to serve notice of the inquiry session in such form and on such persons or classes of persons as the court may specify.

5. Where required to do so by notice given by the Court, a person entitled to appear at the inquiry session must, by such date as is specified in the notice, send to:-

- (a) the court;
  - (i) an inquiry statement;
  - (ii) a copy of every document (or the relevant part of a document) on the list of such documents comprised in that inquiry statement; and
  - (iii) a precognition in respect of any evidence to be given to the inquiry session by a person included on the list of witnesses comprised in that inquiry statement; and
- (b) the appellant, authority and to such other persons entitled to appear at the hearing session as the Court may specify in such notice-
  - (i) an inquiry statement; and
  - (ii) a copy of every document (or the relevant part of a document) and precognition sent to the court under paragraph (a)(ii) or (iii) and which is not already available for inspection under regulation 4 and 5;
- (c) the authority shall afford, until such time as the appeal is determined, to any person who so requests a reasonable opportunity to inspect and, where practicable, take copies of any inquiry statement, precognition or other document (or any part hereof) which, or a copy of which, has been sent to them in accordance with this rule;
- (d) a precognition shall not, unless the court otherwise so agrees, contain more than two thousand words;
- (e) different dates and different persons may be specified for the purposes of this rule.

## *Urban Planning (Appeals)*

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6.-(1) Except as otherwise provided in these Inquiry Session Rules, the procedure at the inquiry session shall be as such as the court may determine.

(2) The court shall, having considered any submission by the persons entitled to appear at the inquiry session, to state at or before the commencement of the inquiry session the procedure which the court proposes to adopt and in particular is to state-

- (a) the order in which the specified matters are to be considered at the inquiry session; and
- (b) the order in which the persons entitled to appear at the inquiry session are to be heard in relation to a specified matter (a different order may be chosen for different specified matters).

(3) Where there are two or more persons having a similar interest in the matter under inquiry, the court may allow one or more persons to appear for the benefit of some or all persons so interested.

(4) Any person entitled to appear may do so on that person's own behalf or be represented by another person.

(5) Subject to paragraph (7), any person entitled to appear at the inquiry session is entitled to call evidence and to cross-examine persons giving evidence and to make closing statements.

(6) The court may refuse to permit:-

- (a) the giving or production of further evidence;
- (b) the cross-examination of persons giving evidence; or
- (c) the presentation of any other matter, which the court considers to be irrelevant or repetitious.

(7) If any person entitled to appear at the inquiry session fails to do so, the Court may proceed with the inquiry session at the Court's discretion.

(8) The court may from time to time adjourn the inquiry session and, if the date, time and place of the adjourned inquiry session are announced before the adjournment, no further notice is required, otherwise rule 3 shall apply as it applies to the variation of the date, time or place at which an inquiry session is to be held.

Dodoma,  
14<sup>th</sup> February, 2018

WILLIAM V. LUKUVI  
*Minister for Land, Housing and  
Human Settlement Development*