

to attend the court may impose penalties similar to those imposed by the High Court and may issue an order for the arrest of the defaulting party/attorney and set a date in which the attorney will show cause to the Magistrate why he cannot be put in prison.

What about if a judge becomes unable to manage or continue to manage a case?

The Register or Clerk of Court in the case of Magistrates Court as soon as he gets to know about that he/she allocates the case to another judge and inform all parties in writing about this allocation.

What happens then after a case is registered?

After indication that the other party is going to defend or oppose the case, the judge will schedule the case to a specified date for a roll-call to be attended by both counsel and the party or parties to a case where they are unrepresented.

At the roll call:

(a.) The time, date and venue of the conference of the parties must be set.

(b.) The time and date of the initial case management conference is set

(c.) The judge may give directions on the future conduct of the case.

NB:

Roll-call simply means formerly mentioning the case before the judge on a specified date.

At that meeting the parties and attorneys must discuss the nature and basis of their claims and defences and the possibilities of a settlement or resolution of the case.

- The parties must then prepare a joint case management report covering their discussions. The plaintiff must prepare the first draft and submit it to the judge at least 3 court days before the initial case management conference.
- An initial case management conference is then scheduled to discuss the report
- 14 days after the initial case management conference the judge must issue a case management order. The case management order must govern the manner in which the case is going to be conducted.

- The judge or the parties may schedule some additional case management conferences to facilitate the continuing judicial control of the case.
- Prior to the trial the judge will call for a final pre-trial conference to be attended by the parties and lawyers participating in the case. This conference addresses issues related to a fair and efficient trial.
- 4 days before the final pre trial conference, the parties must jointly submit to the judge a proposed final pre trial order. The plaintiff must prepare a first draft of the proposed final pre trial order.
- After completion of the final pre trial conference, not more than 14 days, that judge will issue a final pre trial order basing it on the parties proposed final pre trial order. The order shall set a firm date for the trial as will be agreed by the parties.

For further details contact

REGISTRAR & MASTER

Private Bag 00220 Gaborone
Tel : 3718000 Fax: 3915119

website: www.justice.gov.bw

TOLL FREE NUMBERS

0800 600 922
0800 600 947
0800 601 027



Administration of Justice

JUDICIAL CASE MANAGEMENT

Introduction

The Judiciary in line with its mandate and vision of Justice for all by 2016 has introduced reforms aimed at promoting delivery of justice in the Country. Amongst others is Judicial Case Management System (JCM). The introduction of Judicial Case Management System has been hailed by the Courts as a criminal cases and in speeding up the progress through the courts of current cases.

What is Judicial Management System?

Judicial Case Management system is a system used by the courts to manage the progress of cases from the time they are registered until they are disposed of by the Court. *Cases are serious business and they must be approached that way.* This system empowers Officers at all levels to take control of the cases from the time they are registered to the time they are completed in court. Thus it removes the supervision of the progress of the cases from the hands of the party's lawyers, and places it in the hands of the judge allocated the case. Once registered every case properly belongs to the court and not to the parties or their attorneys.

When did JCM start in the Courts?

JCM was introduced in the High Court on the 19th May 2008 and in the Magistrates Courts on 4th March 2011. It was rolled out to the Magistrates Courts after its successful implementation in the High Court.

Why did we introduce JCM in the Courts?

The Judiciary introduced JCM in order to address a number of challenges relating to the management of cases, their progression through the Courts, delays in completion of the cases etc.

How did we know that JCM had succeeded in the High Court?

When we started implementing JCM we took stock of all our existing workload to determine the status of every case in our registries. We then assigned all the cases to Judges equally and each Judge had a sizeable (over 2500 cases each) number of cases. Every case was therefore accounted for unlike in the past where cases could be handled by different Judges without anyone of them taking personal responsibility for them.

What are the advantages of JCM?

(a.) JCM was introduced to manage the heavy load of cases resulting from the rise in litigation in the country.

(b.) It has reversed the old system where the attorneys or parties to the case determined the pace of litigation and

gave that power to judges. Thus cases are now judge driven instead of attorney or litigant driven.

(c.) Time limits of cases are now strictly controlled and complied with

(d.) There has been a reduction in the costs of litigation in most cases upon registration through an automated system.

(e.) It takes a short period for the cases to be heard.

(f.) All cases are automatically assigned to a judicial officer upon registration through an automated system.

A judge can only get out of case if there is a conflict of interest or a likely hood of a conflict of interest.

(g.) A judge determines the schedule of a case in the presence of the parties and manages the case until it is completed.

(h.) No case is idle and the instances of missing records has drastically been reduced.

(i.) Firm and credible dates are assigned to the cases in the presence of the parties to a case.

(j.) Parties become certain about the duration their cases will take to be completed.

(k.) Cases are completed quickly some settled out of court thus saving the courts time and costs

(l.) Postponements are discouraged and can only be allowed under exceptional circumstances.

(m.) Parties can agree on the issues they want the court to deal with in advance and notify the court during pre-trial conferences.

It is compulsory for that to happen.

How was the old system like?

(a.) Pleadings ie. exchanging of documents by parties took a long time to complete.

(b.) Parties or attorneys were in control of the cases and therefore determined the pace of the case.

(c.) There were many unregulated postponements of cases.

(d.) Some cases went to trial without agreement on the issues.

(e.) Huge backlog created by non-attendance of parties to cases.

(f.) Filing of court documents not done on time.

(g.) There were a lot of cases which lay dormant either because the parties had settled out of court but never bothered to advise the court or parties were no longer interested to pursue with their cases. Such cases remained recorded as pending before the courts

What happens after registration of a case?

From registration, the court takes over the case and bears

the responsibility of dealing with the matter expeditiously and fairly by setting out what the parties are required to do, and when they must do it.

Pre-trial conferences

The Rules of Court provide that following registration of a case the Judicial Officer assigned the case must call a pre-trial conference for all the parties to the case. A pre-trial conference is a conference where the judge meets with the parties to a case to discuss the case and agree on the schedule for that case.

NB. It is important that parties and their representatives attend the conferences.

What role do parties and their representatives play at that conference?

JCM requires 'the full participation of the parties at all material stages of the process between registration and trial. They must therefore attend meetings scheduled for them to prepare case management reports and propose final pre-trial orders. In these meetings they are able to agree on a lot of issues relating to their case and further agree on the evidence that must be led before court, provide witnesses summary of evidence and exhibits that are going to be tendered. Finally they must agree on the date or dates of the trial. Defaulting to attend these meetings would result in delays in the case. These processes enable cases to be conducted quickly.

Defaulting to attend scheduled conferences or meetings set by Judicial Officers may have the following consequences:

1. High Court

The court may impose an order that is just including:

(a.) Refusing to allow the party who failed to comply with the orders of court to support or oppose some claims or defences or refusing him to introduce some issues in evidence.

(b.) Stricking out pleadings or some parts of it including any defence, exception or special plea.

(c.) Dismissing a claim or entering final judgement

(d.) Ordering the party or his counsel to pay the costs of the opponent caused by non compliance

2. Magistrates Courts

The Rules (Order 42) makes it compulsory for the parties to attend the schedules of the courts. If any of the parties fail