

**HIGH COURT (CIVIL PROCEDURE) (AMENDMENT) (No. 2)  
RULES, 2016**

IN EXERCISE of the power conferred on the Rules of Court Committee by clause (10) of article 187 of the Constitution, these Rules are made this 22nd day of September, 2016.

**Amendment of C.I. 47**

1. The High Court (Civil Procedure) Rules, 2004 (C.I. 47) as amended are further amended by the insertion after Order 54 of the following new Order:

*“Disallowance and Surcharge Appeals*

**ORDER 54A**

**Surcharge appeals to the High Court**

1. (1) Where the Auditor-General makes a disallowance and surcharge under clause (7) of article 187 of the Constitution, the person aggrieved by the surcharge may appeal to the High Court in accordance with the Rules contained in this Order.

(2) The High Court may, before proceeding to determine an appeal, request the appellant to pay into Court, security that the Court may determine.

**Notice and grounds of appeal**

2. (1) The appeal shall be commenced by the filing with the Registrar, within fourteen days of the surcharge by the Auditor-General, of five copies of the notice and grounds of appeal together with five copies of all of the documents relevant to the appeal, in the possession of the person aggrieved.

(2) Where the person aggrieved is not able to file the notice and grounds of appeal within the time prescribed in subrule (1), the person may apply for an extension of time to do so within fourteen days from the date of the expiry fixed in subrule (1).

(3) The Court may, if satisfied that the delay in filing the notice and grounds of appeal was due to the absence of the person aggrieved from the country, sickness or any other reasonable cause and that the delay is not unreasonable, grant the extension of time to file the notice and grounds of appeal.

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(4) An application for extension of time shall not be entertained after the time specified in subrule (2).

(5) The grounds of appeal shall set out concisely and under distinct heads the grounds on which the person aggrieved relies without an argument or a narrative and shall be numbered consecutively.

(6) A ground of appeal which is vague or general in terms or which does not disclose a reasonable ground of appeal is not permitted and shall be struck out by the Court.

(7) For the purposes of the appeal, the Auditor-General is the Respondent.

(8) The notice of appeal shall be titled as follows:

“In the matter of an appeal against disallowance and surcharge by the Auditor-General

X.....Appellant

Vs.

The Auditor-General Respondent”

**Filing by agent**

3. Where the person aggrieved is a body corporate or where the Judge permits the appeal to be made by an agent, a document required to be filed or signed by the person aggrieved may be filed or signed by the agent of the person aggrieved.

**Registration of surcharge appeals and service on the Auditor-General**

4. (1) The Registrar shall, upon the receipt of the notice and grounds of appeal, endorse the date of receipt on it and shall enter the appeal in a register of disallowance and surcharge appeals which the Registrar shall keep for that purpose.

(2) The Registrar shall, immediately after the endorsement on the notice and grounds of appeal, serve a copy on the Auditor-General.

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**Action by the Auditor-General**

5. (1) The Auditor-General shall, within fourteen days after the receipt of the notice and grounds of appeal, file with the Registrar

- (a) five copies of all of the documents used by the Auditor-General in the disallowance and surcharge in respect of which the appeal has been lodged, and
- (b) the reply to the notice and grounds of appeal which shall set out consecutively and under distinct heads a concise statement of the facts and points of law on which the Auditor-General intends to rely.

(2) The failure by the Auditor-General to file the required documents within the time prescribed under subrule (1) constitutes a contempt of the High Court.

(3) The Registrar shall cause a copy of the reply of the Auditor-General and copies of all of the documents used in respect of the disallowance and surcharge to be served on the person aggrieved not later than fifteen days from the filing of the Auditor-General's reply.

**Exemption of Auditor-General from payment of filing fee**

6. The Auditor-General is exempt from the payment of a filing fee.

**Registrar to give notice of date of hearing**

7. (1) The Registrar shall, within seven days after the service of the Auditor-General's reply on the person aggrieved, fix a date for the hearing of the appeal and serve the notice of hearing on the parties not later than twenty-one days from the hearing of the appeal.

(2) The hearing date shall not exceed four weeks from the date of service of the Auditor-General's reply on the person aggrieved.

**Decision of the Court**

8. The Court in determining an appeal under this Order may take evidence or seek expert assistance and may confirm, reduce, increase or annul a disallowance on which the surcharge is based and may in all cases take an appropriate decision.

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**Application of other rules**

9. (1) Except as otherwise provided in this Order, the rules on appeals provided in these Rules shall apply to disallowance and surcharge appeals with the modifications that are necessary.

(2) The record of appeal is the relevant documents with the notice and grounds of appeal and the reply submitted by the parties to the Registrar and put together in a folder by the Registrar and submitted to the Court.

**Interpretation**

10. For the purposes of this Order,

“Auditor-General” includes a body or person appointed by the Auditor-General to audit the respective accounts for the purposes of clause (2) of article 187 of the Constitution, and an auditor appointed by Parliament under clause (15) of article 187 of the Constitution, from whose decision on a matter relating to disallowance and surcharge an appeal lies to the High Court; and

“relevant documents” include all documents used by both the person aggrieved which led to the disallowance and surcharge and the documents used by the Auditor-General in the disallowance and surcharge.”.

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.....  
The Hon. Mrs. Georgina Wood  
*Chief Justice*

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The Hon. Mrs. Marietta Brew Appiah-Opong  
*Attorney-General and Minister for Justice*

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The Hon. Mrs. Sophia O.A. Adinyira  
*Justice of the Supreme Court*

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The Hon. Mr. S. E. Kanyoke  
*Justice of the Court of Appeal*

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Ms. Joyce N. N. Oku  
*Ag. Editor, Council for Law Reporting*

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The Hon. Mrs. Elizabeth Ankumah  
*Justice of the High Court*

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Brig Gen. Edward Fiawoo  
*Armed Forces Burma Camp, Accra*

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Vincent Kizito Beyuo, Esqr.  
*Ghana Bar Association*

.....  
Ms. Mellisa Amarteifio  
*Ghana Bar Association*

Date of *Gazette* notification: 12th October, 2016.

Entry into force: