

If you successfully filed your notice of appeal in response to the Registrar's Notice that he will strike you off the voters roll READ ON – to the end!

Advice from Zimbabwe Lawyers for Human Rights

You WILL be called to the magistrates court. The notices of hearing are usually delivered the day before you are to appear – sometimes as late as 6:30pm for an appearance at 8:30 the following day!

You are welcome to use the draft statements prepared by ZLHR for your hearing, or to contact your own lawyer. Either way, please prepare yourself in advance by reading the enclosed information.

Our forms are relevant only to persons who have been resident in the country since 31 December 1985.

They are based on the argument that "permanent residence" is an implicit part of citizenship. Prior to renunciation of Zimbabwean citizenship, you would have been a de facto permanent resident. If you use our forms please try to familiarise yourself with the points of law contained in them, so that if you are questioned you mention the stated points.

There are 4 different forms depending on whether:

a) you were a permanent resident before you became a Zimbabwe citizen
b) you were born in Zimbabwe **or** acquired citizenship without having gone through the official status of permanent residence

also

1) whether you agree to have your case referred to the High Court; or
2) whether you want to have it resolved at the Magistrates Court.

These latter 2 options are .

1) Referral of your case to the High Court. **Our lawyers advise this course of action**, since the prospects of success are much higher. But, please be aware that ZLHR cannot guarantee to provide legal representation for you in the High Court and you may need to instruct your own lawyer or act for yourself (with the aid of forms we will distribute). However, your matter may not, in fact, reach the High Court, because several test cases and class actions are already before the courts and the outcome of these may result in your case being unnecessary.

2) If you do not want to run the risk of having to pay for a lawyer or representing yourself in the High Court, you can choose the second option where your case is heard by the magistrate. **You will almost certainly fail if you take this route and immediately be struck off the roll** unless you appeal to the High Court against the magistrates decision – a time-consuming and lengthy process. If you do choose this route and lose, we enclose below information about the appeal process from the magistrates decision should you want to do this.

Form 1. Permanent resident before you became a Zimbabwe citizen and want to refer your matter to the High Court - use attachment resHC.

Form 2 Permanent resident before you became a Zimbabwe citizen and choose to settle your matter in the Magistrate's Court - use attachment resMC.

Form 3. Zimbabwe Citizenship without permanent residence certificate and choose to refer your matter to the High Court - use attachment citHC.

Form 4. Zimbabwe Citizenship without permanent residence certificate and choose to settle your matter in the Magistrate's Court - use attachment citMC.

Again, for people who were not born in Zimbabwe, but became citizens without going through the stage of permanent resident (eg arrived when a child), please use the forms 3 or 4, and remember to change the wording of the following section to suit your details: On both forms amend para 4 of 'Statement' to suit - eg, born in UK in 1940, arrived in Zimbabwe in 1945, became a citizen in 1958.

In each of these scenarios, we have attempted to include all the relevant points of law to which the magistrate should apply his mind. You must read them thoroughly and complete the forms intelligently – deleting or changing what is not appropriate.

For readers from outside the constituencies of Harare Central and Harare East, you will need to alter the form accordingly where reference is made to the irregularities concerning the Constituency Registrar for these areas.

For those who appeared at the magistrates court and LOST their case and want to appeal: Please download/ask for the information on the appeal procedure ie, if your matter was resolved by the magistrate and you DID NOT ask for a referral to the High Court.

The process is tedious and time-consuming. Please read all the attachments and chose one of the two attached notices of appeal depending on whether you

a) had a permanent residence certificate BEFORE you became a citizen;

b) if you were born in Zimbabwe or acquired citizenship WITHOUT having the formal status of permanent resident.

For those who appeared at the magistrates court and were SUCCESSFUL in having their case referred to the High Court: The various magistrates have handled these matters differently. Some have asked the appellants to come back for some 'certification' process, others have just dismissed the appellants. It is incumbent upon the magistrate to forward the matter to the High Court - so you should not have to appear before them again. However, if the magistrate asked you to do so, please comply. Let us know URGENTLY if you receive any notification about the next stage from the court or the constituency registrar.

For those who appeared at the magistrates court and were NOT SUCCESSFUL in having their case referred to the High Court (after using our forms): This is not legally permissible. Let us know urgently if this happened to you and we will take the matter up with the Regional Magistrate.

For those who were subjected to unpleasant cross-examination by the magistrate: If the magistrate questioned you on subjects like 'why did you give up your Zimbabwe citizenship' please send us details and we will write a letter of complaint on your behalf. Please give us the details of the questioning as well as any names (of magistrate or prosecutor) and courtroom details you have.

Queries about failure to note an appeal against being struck off the voters roll: We regret that we cannot give you any further information on this issue. If you did not meet the stipulated time limits, for whatever reason, you will just have to wait and see what happens or pay for a lawyer to take your case. If you want to vote, go to your polling station and check if you are on the roll on voting days. If ZLHR has any further information to give you, it will be by way of email or public notices.

Copies of the forms are available on the website www.kubatana.net, via various email subscription services and will also be made available at the magistrates court at 8:30 each day that the hearings are scheduled – **provided we can find volunteers to do this**. Additionally, copies can be collected from the law firms of Kantor & Immerman and Gollop & Blank in Harare. More collection places will be notified in due course.

We very much regret that we cannot reply to you individually, but hope you that you will be able to assist yourself by use of these forms and any subsequent advice we will be circulating.

Give us feedback please:

We ask your co-operation in submitting to us the details of the **outcome** of your hearing at the magistrates court – ie, whether the magistrate agreed to postpone your hearing, or whether he agreed to refer it to the High Court, or whether he made a ruling in the matter and what that was. If you send back this information, we can track the decisions being made at these hearings and also try to provide further information, advice and possibly assistance for the first few matters which come before the High Court.

We cannot speak to each and every one of you and give individual advice – we are already swamped! Please therefore simply state the relevant information (eg name, case number, contact phone and date of hearing and outcome) and send this to us via fax on Harare 251468, or by mail to P O Box CY 1393 Causeway. If you have email, please submit this information to zlhr@icon.co.zw.