

STATUTORY INSTRUMENTS SUPPLEMENT

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S T A T U T O R Y I N S T R U M E N T S

2016 No. 26.

THE JUDICATURE (VISUAL-AUDIO LINK) RULES, 2016

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# S T A T U T O R Y I N S T R U M E N T S

2016 No. 26.

## **The Judicature (Visual-Audio Link) Rules, 2016**

*(Under Section 41(1) and (2) (y) of the Judicature Act, Cap. 13)*

IN EXERCISE of the powers conferred upon the Rules Committee by section 41(1) and (2)(y) of the Judicature Act, these Rules are made this 9th day of March, 2016.

### PART I—PRELIMINARY

#### **1. Title.**

These Rules may be cited as the Judicature (Visual - Audio Link) Rules, 2016.

#### **2. Application.**

These Rules, apply to all the courts of judicature, in both civil and criminal matters.

#### **3. Interpretation.**

In these Rules, unless the context otherwise requires—

“Court” means a court of Judicature established by or under the authority of the Constitution;

“court location” means the location where the presiding judicial officer sits;

“document conferencing” means simultaneous access to a document by participants in visual-audio link proceedings by projecting the document on a screen with a view to considering it in evidence;

“location” means the location of the visual-audio link conferencing facilities;

“presiding judicial officer” means the judicial officer presiding over a case which is the subject of the proceedings;

“visual-audio link” refers to the facility enabling the giving or receiving of evidence through electronic means without a person physically appearing in court.

#### **4. Objectives.**

The objectives of these Rules are—

- (a) to provide for the taking of evidence in court by visual-audio link;
- (b) to make it easier for witnesses to give evidence without physically appearing in court;
- (c) to enable parties, advocates and accused persons to address court without physically appearing in court;
- (d) to facilitate speedy trials;
- (e) to provide for relief from the anxiety of giving evidence in open court;
- (f) to reduce the cost of litigation; and
- (g) to promote witness protection.

### PART II—VISUAL-AUDIO LINK

#### **5. Circumstances for visual-audio link evidence.**

A court may hear a case by visual-audio link in the following circumstances—

- (a) where a witness lives outside Uganda;
- (b) where proceedings relate to sexual or violent offences;
- (c) for security reasons;
- (d) for the safety of witnesses;
- (e) for infirmity or health reasons; or

- (f) for any other reason that the Court deems necessary and appropriate for a witness to give evidence through the visual-audio link.

**6. Approval of court for use of visual-audio link.**

(1) Where a party seeks to proceed by visual-audio link, he or she shall apply to court, for approval of the venue, time and person or institution to facilitate or assist in the proceedings away from the Court in accordance with these Rules.

(2) The court may approve any of the institutions specified in the First Schedule as a location for visual audio link proceedings.

**7. Suitability of visual-audio conference facilities.**

(1) Where, at any stage of the proceedings, a court finds that a facility approved under rule 6 does not meet the requisite standards, the court may discontinue proceedings and direct the facility approved, to make the necessary improvements.

(2) Where the facility fails to make the necessary improvements under subrule (1), the presiding judicial officer shall make orders for an alternative method of hearing the case.

**8. Time zones.**

Subject to section 19(1) of the Judicature Act, where the location is outside Uganda, the court shall take into account the different time zones and hold the proceedings at a time convenient to court and the parties.

**9. Commencement of proceedings.**

(1) A party to the proceedings may, subject to rule 5, apply to use the visual-audio link in the form set out in the First Schedule.

(2) Upon receipt of the application, the court shall, before the commencement of the hearing, appoint a person to coordinate the proceedings at the location, and confirm the availability and suitability of the visual-audio link facility and report back to the court and applicant on whether the case can proceed in the facility.

(3) Where the court grants the application, it shall determine the course of the proceedings in respect of—

- (a) the party that shall bear the applicable costs;
- (b) the positioning of the interpreters;
- (c) the conduct of oath; and
- (d) other details necessary for the proper conduct of the proceedings.

(4) The court may give directions in respect of—

- (a) the witness to give evidence by visual audio link;
- (b) whether the evidence in chief of the witness at any subsequent visual-audio link shall be confined to the witness statement;
- (c) the date and time of the hearing; and
- (d) any other matter that the court may deem necessary.

#### **10. Objection to proceedings.**

(1) Where any party objects to visual-audio link proceedings, he or she shall, within five days after receipt of notice of the application for visual-audio proceedings, file an objection by letter stating the reasons for the objection and shall serve a copy on the opposite party.

(2) The opposite party served with the objection shall, within five days of receipt of the objection, file a reply.

(3) Upon the filing of the reply in sub rule (2), the court shall give its decision on the matter without undue delay.

#### **11. Documentary evidence.**

(1) Where documents are to be relied upon in the visual-audio proceedings, the court shall hold document conferencing.

(2) Where a document is to be adduced by either party, the party adducing the document shall serve the other party and the court before the proceedings.

(3) Where a document is adduced in the course of the proceedings, a document camera scan, email, or fax may be used by the court to transmit the document between the court location and the facility.

(4) Subject to sub rules (1) and (2), during document conferencing the parties may edit or revise the document using keyboard commands, a mouse, a light pen, or any other means as court may approve.

## **12. Hearing.**

Subject to rule 6, a judicial officer shall require that all parties taking part in the proceedings are introduced to one another and shall determine—

- (a) the procedure and mode of conducting proceedings;
- (b) the person who shall control the cameras, transmission and the person at the court location; and
- (c) the seating arrangement of both parties.

## **13. Examination of witnesses.**

(1) The order of examination of witnesses shall be in accordance with the Evidence Act.

(2) During examination in chief, cross examination and re-examination, a witness must be able to see the person asking the question and any other person making statements in regard to the evidence of the witness, and the court should be able to hear and observe the demeanour of the witness.

## **14. Fees.**

A party applying to adduce evidence by use of visual-audio link facility shall—

- (a) book the approved facility and provide evidence of the booking in the form set out in the Second Schedule; and
- (b) provide an undertaking that he or she will meet the costs of the communication link in the form set out in the Third Schedule and where the witness is a state witness, the costs of the visual audio facility shall be paid by the State.

**15. Evidence of a child.**

(1) The court shall adopt child friendly procedures when obtaining evidence from a child and may decide that the examination be done through an intermediary.

(2) Subject to sub rule (1), the court may direct that examination of a child witness be done in a manner that is appropriate for the age and mental ability of the child.

**16. Evidence of persons with disability.**

Where evidence is obtained from a person with a disability, the court shall take into account the nature of the disability and make appropriate orders.

**SCHEDULE 1**  
**FIRST SCHEDULE**

*Rule 6, 9*

**THE JUDICATURE (VISUAL-AUDIO LINK) RULES, 2016**

**APPLICATION FORM**

**APPLICATION FOR USE OF VISUAL-AUDIO LINK**

**PART I**

*Complete this form to apply to use VAL in a court proceeding*

1. The Applicant makes the application.
2. This Application shall be considered by a judicial office
3. Applicants shall ascertain if parties consent to the application.
4. Application shall be filled in court and served on all parties before the hearing date.
5. Applicant may be liable for costs.

**Nature of hearing: Please tick one**

- Civil hearing (including a Family Court hearing)  
 Criminal hearing

Case name (parties)
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Case reference number
-----------------------

**Applicant Information**

Name	
Role in the case e.g. Plaintiff, witness, counsel	
Email address	
Daytime contact phone number ( )	Mobile No.
Likely duration of the Audio-Visual Link procedure	

### Appearance information

Court location e.g. Kampala High Court

Proposed VAL DATE

Name of person to appear from a remote location

### Consent

- Yes  
 No

### If no, name the parties that do not consent

Parties' names

### Role

- Witness and number of witnesses if more than one  
 Prosecutor  
 Plaintiff  
 Defendant/Accused person  
 Counsel  
 Other (specify)  
 Applicant  
 Respondent  
 Proposed time at away location and time at local court (where the person will be)

## PART II

### NAME OF RESPONDENT TO THE APPLICATION

#### If no, was it for the following reasons?

- The ability to assess the credibility of witness  
 The reliability of evidence presented to the court  
 The level of contact with other participants  
 Applicant is overseas  
 Other (please specify)

**OFFICE USE ONLY**

- Technology available at court of hearing (specify)
- Technology available at remote location (specify)

Date of receipt:

**Referred to Judicial Officer**

**Office use only**

**Date received (affix stamp)**

**List of Institutions**

- (a) Uganda Diplomatic missions abroad;
- (b) Correctional Facilities;
- (c) Educational institutions;
- (d) Recognised places of worship;
- (e) Community Facilities;
- (f) Notary Public; or
- (g) any other institution or place court may deem fit.

## SECOND SCHEDULE

*Rule 14(a)*

### THE JUDICATURE (VISUAL-AUDIO LINK) RULES, 2016

#### BOOKING FORM

Case Ref. No. \_\_\_\_\_

Parties: \_\_\_\_\_

Accused/Defendant's Name: \_\_\_\_\_

Particulars of Advocate: \_\_\_\_\_

Particulars of State Prosecutor: \_\_\_\_\_

Email Address/Fax: \_\_\_\_\_

Preferred Date for AVL: \_\_\_\_\_

Your client's next date of appearance: \_\_\_\_\_

**Please select preferred Uganda time (GMT +3)**

**(First choice):**

A.M	P.M
8:30**	12:00
8:45**	12:15
9:00**	1:30
9:15**	1:45
11:15	3:45
11:30	4:00
11:45	

**Second choice:** \_\_\_\_\_

**Third Choice:** \_\_\_\_\_

**Coordinator use only**

**Approved?**

Yes

No

**Confirmation to Advocate/Prosecutor:**

Yes

No

*Date:* ..... day of..... 20.....

Once completed please email to [coordinator@judicature.go.ug](mailto:coordinator@judicature.go.ug)

**THIRD SCHEDULE**

*rule 14(b)*

**THE JUDICATURE (VISUAL-AUDIO LINK) RULES, 2016**

**UNDERTAKING**

Case Ref. No. \_\_\_\_\_

Parties: \_\_\_\_\_

Accused/Defendant's Name: \_\_\_\_\_

Particulars of Advocate: \_\_\_\_\_

Particulars of State Prosecutor: \_\_\_\_\_

Email Address/Fax: \_\_\_\_\_

Preferred Date for VAL: \_\_\_\_\_

I ..... of the above stated particulars and accused/defendant/prosecutor/advocate do undertake that on behalf of the state/My client/accused/defendant, that I will meet the costs of the visual-audio link.

**Signed:** ..... *Accused/Defendant*

..... *Prosecutor*

..... *Advocate*

HON. BART M. KATUREEBE,  
*Chief Justice.*