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<i>S. I. No.</i>	<i>Short Title</i>	<i>Page</i>
40	Court of Appeal (Fast Track) Practice Directions 2014	B517-524

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COURT OF APPEAL (FAST TRACK) PRACTICE DIRECTIONS 2014



ARRANGEMENT OF CONTENTS

Contents :

1. Definitions.
2. Interpretation and Application.
3. Fundamental Objective.
4. Active Case Management.
5. Parties to keep Abreast of Proceedings and Filings.
6. Court may Exercise Powers of own Initiative.
7. Court may Impose Terms.
8. Briefs to Dominate Fast-Track Appeals.
9. Court to Resolve Applications Swiftly.
10. Adjournments.
11. Change of Counsel.
12. Registry to Fix Appeal Urgently.
13. Compilation and Transmission of Record.
14. Electronic Service and Signatures.

S. I. No. 40 of 2014

COURT OF APPEAL (FAST TRACK) PRACTICE DIRECTIONS 2014

[8th Day of December, 2014]

Commence-
ment.

Definitions.

In the exercise of powers conferred on me by Section 248 of the Constitution of the Federal Republic of Nigeria, Section 8(2) of the Court of Appeal Act, and all the other powers of my Office, I, ZAINAB A. BULKACHUWA, CFR, President of the Court of Appeal, issue the following Practice Directions.

1. Unless the context dictates otherwise, the following terms have the meanings respectively assigned to them—

“*appeal*” includes interlocutory appeal ;

“*appellant*” means the party who brings the appeal and includes a Legal Practitioner acting on his behalf ;

“*brief*” includes written address and written submissions ;

“*case management conference*” means a meeting convened by the Court of its own initiative or at the request of a party to agree on how best to speed up the appeal or any part of it ;

“*Court*” means the Court of Appeal ;

“*court document*” means a document issued by the Court or filed or generated by the parties relative to proceedings, and includes affidavits, applications, briefs, bundles, charges, exhibits, information, judgments, notices, orders, pleadings, proofs of evidence, records, summonses and witness statements ;

“*debt appeal*” means an appeal to the Court by or against a debt resolution agency in connection with the agency’s statutory duties, functions, objects, operations, powers or transactions ;

“*debt resolution agency*” includes the Asset Management Corporation of Nigeria ;

“*division*” means Judicial Division of the Court ;

“*document*” means Court document, and includes anything in which information of any description is recorded or stored, including information held in an electronic format ;

“*fast-track appeal*” means any of the following :

- Debt appeals
- Appeals pertaining to or connected with :
 - Corruption :
 - Human Trafficking
 - Kidnapping
 - Money Laundering

- Rape
- Terrorism

* Appeals by or against such national human rights, intelligence, law enforcement, prosecutorial or security agencies such as the Economic and Financial Crimes Commission, Independent Corrupt Practices Commission, National Human Rights Commission, the State Security Service.

“*it*” (pronoun) includes ‘he’, ‘she’, ‘him’ and ‘her’ ;

“*its*” (possessive pronoun) includes ‘his’ and ‘hers’ ;

“*matter*” includes interim appeal or interlocutory application ;

“*of own initiative*” means without application or request ;

“*President*” means the President of the Court of Appeal and includes an Acting President ;

“*Registry*” means registry of the Court of Appeal ;

“*respondent*” means a party against whom an appeal or application is filed ;

“*Rules*” means the Court of Appeal Rules ;

“*several*” means two or more, plural ;

“*signature*” includes name, initials or mark whether handwritten, printed typed or computer-generated ;

“*trial court*” includes the Federal High Court, the High Court of a State, and any Court or Tribunal from which appeals lie to the Court.

Interpretation
and
Application.

2.—(a) The Court must administer, apply, construe, and interpret these directions purposively and holistically to secure the efficient and speedy determination of every fast-track appeal.

(b) The Rules are the default procedural template for fast-track appeals. Thus :

(i) Where no provision, or only inadequate provision, is made in this Practice Directions, the Rules should guide the Court and parties.

(ii) The Court may abridge timeframes stipulated in the Rules to align with the fundamental objective and tenor of this Practice Direction.

(c) When the Court is empowered to exercise any power or discretion or do anything “on just terms”, or to stipulate costs or other terms, the Court may exercise that power or discretion as it deems fit.

(d) References to a party or parties mean or include references to its or their Counsel, depending on the context.

(e) This Practice Direction applies to all fast-track appeals.

(f) The Registrar must give priority listing to fast-track appeals on the Court’s docket.

3.—(a) This Practice Direction is a set of directions with the fundamental objective of enabling the Court to deal with fast-track appeals quickly and efficiently. Fundamental Objective.

(b) The Court must give effect to the fundamental objective :-

- (i) at every stage of a fast-track appeal ;
- (ii) when exercising any power given by the Act, the Rules, or this Practice Directions.
- (iii) when exercising its inherent jurisdiction ;
- (iv) when exercising a discretion ; and
- (v) when applying or interpreting any rule or direction.

(c) The parties must help the Court to further the fundamental objective.

(d) The Court must further the fundamental objective by actively managing cases.

4. Active Case Management includes :

Active Case Management.

- (a) encouraging the parties to co-operate with each other in the conduct of the proceedings ;
- (b) fixing timetables and otherwise controlling the progress of the case ;
- (c) considering whether the likely benefits of taking a particular step justify the cost in taking it ;
- (d) dealing with as many aspects of the case as possible on the same occasion even when not scheduled ;
- (e) discouraging interlocutory appeals and requiring parties, except in the most deserving cases, to subsume their interlocutory matters under a final appeal or under the substantive suit at the trial court ;
- (f) dealing swiftly with applications and objections to minimize their interruption of main proceedings ;
- (g) using technology ;
- (h) penalizing delay tactics with heavy costs ; and
- (i) giving directions to ensure that the appeal proceeds expeditiously.

5.—(1) Parties are to attend Court everyday in any matter scheduled, however the Court may proceed in their absence, if satisfied that the matter is scheduled for that day.

Parties to keep Abreast of Proceedings and Filing.

(2) Parties must keep abreast of developments, documents, filings and scheduling in the proceedings by actively liaising with the Registry.

(3) When the Court issues hearing notice on any matter in the proceedings, it serves as a hearing notice for all ripe matters in the file.

Court may
Exercise
Powers of
own
Initiative

6. The Court may exercise these case-management powers of its own initiative :

(a) shorten the time for compliance with any rule, practice direction or Court order ;

(b) bring forward a proceeding ;

(c) stay the whole or part of any proceedings or execution of the judgment, the subject matter of the appeal, either generally or until a specified date or event ;

(d) consolidate proceedings ;

(e) convene a case-management conference, the Court need not issue formal notices to the parties but may call the meeting by phone, fax or email through a clerk, registrar or other assistant ; and

(f) take any other step or make any other order to manage the case and further the fundamental objective.

Court may
Impose
Terms.

7. In making an order or before proceeding with an appeal, the Court may :

(a) Impose conditions, including a condition to pay a judgment debt or other sum of money into Court ; and

(b) Specify the consequence(s) of failure to comply with the order or condition.

Briefs to
dominate
Fast-Track
Appeals.

8.—(1) The Court will not entertain any *amicus* briefs unless the Court has invited them.

(2) Briefs must be brief :

(a) In an interlocutory appeal, a brief must not exceed 15 pages on A4 paper, with Times New Roman 14, single-spaced.

(b) In a final appeal, a brief must not exceed 25 pages on A4 paper, with Times New Roman 14, single-spaced.

(c) List of authorities, table of contents and any schedules are excluded in the page count.

(d) A schedule may contain or include only unreported or foreign authorities that may not be available to the Court.

(3) The appellant must file and serve its brief within 14 days from the transmission of the record of appeal.

(4) On default of the filing of the appellant's brief within time, the Court may dismiss the appeal for want of diligent prosecution.

(5) The respondent must file and serve its brief 10 days from service of the appellant's brief.

(6) On default of the respondent filing its brief within time, the Court may proceed with the hearing.

(7) If the appellant wishes to file a reply on points of law, it must do so within 5 days from service of the respondent's brief.

(8) No oral elaboration of briefs is allowed, but the Court may request clarification from a party.

(9) Briefs, once filed and served, are deemed adopted on the date set down for hearing and the Court should proceed to decision without further recourse to the parties.

(10) Briefs are deemed closed on the 8th day after the service of the respondent's brief, whether or not a reply on points of law has been filed or is forthcoming.

(11) Once briefs are closed or deemed closed, the Court should proceed to set down the appeal for hearing.

9.—(1) The Court will process and determine applications swiftly.

Court to
Resolve
Applications
Swiftly.

(2) The Court should resolve applications within 21 days of the service of the last document in the application.

10. No adjournments may be allowed—

Adjournments.

(1) because of the absence of one or more parties or tardiness in filing any document ;

(2) to enable any party who had sufficient notice of the proceedings it wishes adjourned ;

(3) To enable a party comply with costs or similar order ;

4. On the hearing date of the matter.

11.—(1) A party may change its counsel at any time without the Court's prior permission, without the outgoing counsel's co-operation, and without giving reasons.

Change of
Counsel.

(2) Change of counsel may not be a basis for adjournment.

12. The Registry must list fast-track appeals for hearing on a date within 10 days of service of the respondent's brief, and issue hearing notices accordingly.

Registry to
fix Appeal
urgently

13.—(1) In any appeal in respect of cases listed in 1 above, the registrar of the Court below shall, not later than 30 days after the filing of a notice of appeal, with the assistance of the appellant, compile and transmit the record of appeal to the Court ;

Compilation
and
Transmission
of Record.

(2) In pursuit of 13(1) above, the registrar shall, within 15 days summon the parties before him to :

- (a) settle the documents to be included in the record of appeal ; and
- (b) fix the amount to be deposited by the appellant to cover the estimated cost of making up and forwarding the record of appeal.

(3) Where at the expiration of 30 days after the filing of the notice of appeal the registrar has failed and or neglected to compile and transmit the record of appeal to the Court, it shall become mandatory for the appellant to compile the record consisting of all documents and exhibits necessary for his appeal and transmit same to the Court within 15 days after the registrar's failure or neglect ;

(4) Such records compiled by the appellant shall be served on the respondent or respondents within 15 days ;

(5) Where the respondent considers that there are additional records which may be necessary in disposing of the appeal, he shall be at liberty to, within 7 days of the service on him of the record, in accordance with 13(4) compile and transmit to the Court such record to be known as the additional record of appeal ;

(6) Every record or additional record of appeal compiled by a party to an appeal must be certified by the registrar of the Court below. Provided that it shall not be necessary for copies of individual documents to be separately certified but the registrar of the Court below shall certify as correct each copy of the record transmitted in accordance with this Practice Directions ;

(7) If the registrar has failed to compile and transmit the records under 13(1) above and the appellant has also failed to compile and transmit the records in accordance with 13(3), the respondent may by notice of motion move the Court to dismiss the appeal.

14.—(1) A requirement that a document should be signed is satisfied if the signature is printed by computer or other mechanical means.

(2) A document served by electronic means is deemed to have been signed by the person who owns or subscribes to the electronic source account if its signature appears on the document or its cover message as the sender.

(3) Examples of electronic source accounts are email addresses and fax numbers:

MADE at Abuja this 8th day of December, 2014.

HON. JUSTICE ZAINAB ADAMU BULKACHUWA, CFR
President, Court of Appeal

**COURT OF APPEAL
ORDER NO. 3, 2007**

COURT OF APPEAL RULES, 2007

PRACTICE DIRECTION

[2nd Day of August, 2007]

Commence-
ment.

In the exercise of powers conferred on me by Section 248 of the Constitution of the Federal Republic of Nigeria, 1999, by virtue of all other powers enabling me in that behalf, I hereby issue the following Practice Direction for the Court of Appeal.

With effect from the 2nd day of August, 2007 the cost to be awarded by the Court of Appeal in a civil appeal and in an application in a civil appeal are hereby fixed as follows—

- | | N |
|---|-----------|
| (1) Costs to be awarded to a successful party in a civil appeal not less than | 30,000.00 |
| (2) Costs to be awarded for delaying the hearing of a civil appeal by a party on the fixed date for the hearing of the appeal not less than | 20,000.00 |
| (3) Costs to be awarded in an application in a civil appeal being heard in Court not less than | 10,000.00 |
| (4) Costs in any other application or matter not less than .. | 5,000.00 |

Without prejudice to the above provisions, the Court shall be at liberty to award reduced costs or no costs at all, having regard to the peculiar or exceptional nature and circumstances of the appeal or the application concerned.

This Order may be cited as the Practice Direction Order No.3.....of 2007, and the Practice Direction Order No. 10 of 2002 is hereby revoked.

MADE at Abuja this 2nd day of August, 2007.

UMARU FARUK ABDULLAHI (CON)
President. Court of Appeal

COURT OF APPEAL ACT

COURT OF APPEAL ACT



ARRANGEMENT OF SECTIONS

Section :

1. Number of Justices of the Court of Appeal.
2. Salaries and allowances of President and Justices of the Court of Appeal.
3. Precedence.
4. Retiring Age.
5. Officers of the Court of Appeal.
6. Seal of the Court of Appeal.
7. Process of the Court of Appeal.
8. Practice and Procedure.
9. Minimum number of Justices to constitute Court of Appeal.
10. Reserved judgements.
11. Costs.
12. Right of audience.

PART II—APPEALS IN CIVIL CASES

13. Application of Part II.
14. Appeal from Interlocutory Orders and Decisions.
15. General Powers of Court of Appeal.
16. Wrong Ruling as to sufficiency of stamp.
17. Stay of Execution.

PART III—APPEALS IN CRIMINAL CASES FROM A COURT SITTING AS A COURT OF FIRST INSTANCE

18. Application of Part III.
19. Determination of Appeal.
20. Powers of Court of Appeal in special cases.
21. Suspension of order for restoration or payment of compensation or expenses.

Court of Appeal Act, 2004

PART IV—APPEALS IN CRIMINAL CASES FROM A COURT SITTING
IN ITS APPELLATE JURISDICTION

- 22. Application of Part IV.
- 23. Determination of an Appeal.

PART V—PROCEDURE

- 24. Time for Appealing.
- 25. Legal assistance to Appellant.
- 26. Supplemental Powers of Court of Appeal.
- 27. Right of Appellant to be present.
- 28. Admission of Appellant to bail and date of sentence.
- 29. Procedure with respect to frivolous or vexatious appeals on questions of law.

PART VI—SUPPLEMENTAL

- 30. Interpretation.
- 31. Short title.

COURT OF APPEAL ACT

[1st Day of October, 1

Commence-
ment.

AN ACT TO ESTABLISH THE COURT OF APPEAL AS AN INTERMEDIATE COURT
BETWEEN THE HIGH COURT AND OTHER SUBORDINATE COURTS AND THE SUPREME
COURT AND MATTERS ANCILLARY THERETO

[1976 No. 43, 2005 No. 23]

PART I—GENERAL

1. The number of Justices of the Court of Appeal, including the President, shall be seventy.

Number of
Justices of
the Court of
Appeal.

[2005 No. 23]

2.—(1) There shall be paid to the President of the Court of Appeal and to each Justice of the Court of Appeal such remuneration, salaries and allowances as may be prescribed by the National Assembly, but not exceeding the amounts which shall have been determined by the Revenue Mobilisation Allocation and Fiscal Commission.

Salaries and
Allowances
of President
and Justices
of the Court
of Appeal.

(2) There shall be also be paid to each Justice on account of expenses incurred in connection with his office or otherwise, such allowances as considered reasonable by the Federal Government and comparable with similar appointments.

(3) The amounts payable under this section shall be charged on and paid out of the Consolidated Revenue Fund of the Federation.

3.—(1) The President shall take precedence of all other Justices of the Court of Appeal, and the other Justices shall take precedence after the President in accordance with such directions as may be given by the President of the Federal Republic of Nigeria.

Precedence.

(2) The President shall rank equal to a Justice of the Supreme Court and the other Justices of the Court of Appeal rank next to the Justices of the Supreme Court and equal to the Chief Judge of the Federal High Court.

4. Subject to section 291 of the Constitution of the Federal Republic of Nigeria 1999, a person holding the office of President or Justice of the Court of Appeal shall vacate his office when he attains the age of seventy years.

Retiring Age.

5.—(1) There shall be appointed for the Court of Appeal, a Chief Registrar and such number of registrars and other officers in the respective grades as may be deemed necessary.

Officers of
the Court of
Appeal.

(2) The Chief Registrar and other officers appointed under this section of this Act shall exercise such powers and perform such duties as may be conferred or imposed upon them by this Act or rules of court and subject thereto, by any direction of the President.

Seal of the
Court of
Appeal.

6.—(1) The Court of Appeal shall have and use, as occasion may require, a seal having a device or impression approved by the President and bearing the inscription "*The Court of Appeal*".

(2) The seal of the Court of Appeal shall be kept by the President who may entrust it or a duplicate thereof to such officers of the Court of Appeal as he may think fit.

Process of
the Court of
Appeal.

7.—(1) The Process of the Court of Appeal shall run throughout the Federation.

(2) Any judgment of the Court of Appeal shall have full force and effect throughout the Federation and shall be enforceable by all courts and authorities in any part of the Federation in like manner as if it were a judgment of the High Court of that part of Nigeria.

Practice and
Procedure.

8.—(1) The practice and procedure of the Court of Appeal shall be in accordance with this Act and, subject to this Act, in accordance with rules of court.

(2) The President may make rules regulating the practice and procedure of the Court of Appeal.

9. For the purpose of exercising any jurisdiction conferred upon it by this Act, the Court of Appeal shall be duly constituted if it consists of not less than three Justices of the Court of Appeal and in the case of appeals from—

(a) a Sharia Court of Appeal, if it consists of not less than three Justices of the Court of Appeal learned in Islamic personal law ; and

(b) a Customary Court of Appeal, If it consists of not less than three Justices of the Court of Appeal learned in customary law.

Reserved
judgments.

10. When, after an appeal in any cause or matter has been fully heard before the Court of Appeal, judgment is reserved for delivery on another day, then, on the day appointed for delivery of the judgment, it shall not be necessary for all those Justices before whom the appeal in the cause or matter was heard to be present together in court, and it shall be lawful for the opinion of any of them to be reduced into writing and to be read by any other Justice, and in any such case the judgment of the Court of Appeal shall have the same force and effect as if the Justice whose opinion is so read had been present in Court of Appeal and had declared his opinion in person.

Court of Appeal Act, 2004

11. The Court of Appeal shall have power to award costs in all civil proceedings in the Court of Appeal and subject to the provisions of any other law and to rules of court, it shall be in the discretion of the Court of Appeal to determine by whom and to what extent the costs shall be paid.

Costs.

12. Subject to the provisions of any other enactment, in all proceedings before the Court of Appeal, the parties may appear in person or be represented by legal practitioners.

PART II—APPEALS IN CIVIL CASES

13. This Part of this Act shall apply to the exercise of the jurisdiction of the Court of Appeal to hear appeals in civil causes or matters.

Application of Part II.

14.—(1) Where, in the exercise by the High Court of a State or, as the case may be, the Federal High Court of its original jurisdiction, an interlocutory order or decision is made in the course of any suit or matter, an appeal shall, leave of that court or of the Court Appeal, lie to the Court of Appeal ; but no appeal shall lie from any order made *ex parte*, or by consent of the parties, or relating only to costs.

Appeal from interlocutory orders and decisions.

(2) Nothing in subsection (1) of this section, shall be construed so as to authorise an application to the Court of Appeal in the first instance for leave to appeal from an interlocutory order or decision made in the course of any suit or matter brought in the High Court of a State or the Federal High Court.

15. The Court of Appeal may, from time to time, make any order necessary for determining the real question in controversy in the appeal, and may amend any defect or error in the record of appeal, and may direct the court below to inquire into and certify its findings on any question which the Court of Appeal thinks fit to determine before final judgment in the appeal, and may make an interim order or grant any injunction which the court below is authorised to make or grant and may direct any necessary inquiries or accounts to be made or taken, and, generally shall have full jurisdiction over the whole proceedings as if the proceedings had been instituted in the Court of Appeal as court of first instance and may re-hear the case in whole or in part or may remit it to the court below for the purposes of such re-hearing or may give such other directions as to the manner in which the court below shall deal with the case in accordance with the powers of that court, or, in the case of an appeal from the court below, in that court's appellate jurisdiction, order the case to be re-heard by a court of competent jurisdiction.

General Powers of Court of Appeal.

16. The Court of Appeal shall not grant a new trial or reverse any judgment Wrong ruling by reason of the ruling of any court that the stamp upon any document is as ,to sufficient or that the document does not require a stamp.

Wrong ruling as to sufficiency of stamp.

Stay of
Execution.

17. An appeal under this Part of this Act shall not operate as a stay of execution, but the Court of Appeal may order a stay of execution either unconditionally or Upon the pelfonnance of such conditions as may be imposed in accordance with rules of cour.

**PART III—APPEALS IN CRIMINAL CASES FROM A COURT SITTING AS A
COURT OF FIRST INSTANCE**

Application
of Part III.

18. This Pan of this Act shall apply to the exersice of the jurisdiction of the Court of Appeal to hear appeals in criminal causes or matters from decisions of the court below sitting at first instance.

Determination
of Appeal.

19.—(1) The Court of Appeal on any appeal under this Part of this Act against conviction or against an order of acquittal. discharge or dismissal, shall allow the appeal if it thinks that the verdict should be set aside on the ground that it is unreasonable or cannot be supported having regard to the evidence, or that the judgment of the court below should be set aside on the ground of a wrong decision on any question of Law or that on any ground there was a miscarriage of justice and in any other case, the Court of Appeal shall, subject to the Provisions of subsection (3) of this section and section 20 of this Act, dismiss the appeal :

Provided that the Court of Appeal may, notwithstanding that it is of opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if it considers that no substantial miscarriage of justice has actually occurred.

(2) Subject to the provisions of this Act. the Court of Appeal shall, if it allows an appeal against conviction, quash the conviction and direct a judgment and verdict of aquittal to be entered or order the appellant to be re-tried by a court of competent jUrisdiction.

(3) On an appeal against sentence or, subject to the provisions of this Act, or on an appeal against conviction, the Court of Appeal shall, if it thinks that a different sentence should have been passed, quash the sentence passed at the trial and pass such other sentence warranted in law (whether more or less severe) in substitution therefor as it thinks ought to have been passed, and if not of that opinion shall, in the case of an appeal against sentence, dismiss the appeal.

(4) Subject to the provisions of this Act, the Court of Appeal shall, if it allows an appeal against acquital, discharge or dismissal, direct a judgment and verdict of conviction to be entered and pass Such sentences as the court below could have passed, or order the appellant to be re-tried by a court of compentent jurisdiction.

Court of Appeal Act, 2004

Powers of
Court of
Appeal in
special
cases.

20.—(1) If it appears to the Court of Appeal that an appellant, though not properly convicted on some count or part of the information or charge, has been properly convicted on some other count or part of the information or charge, the Court of Appeal may either affirm the sentence passed on the appellant at the trial, or pass such sentence in substitution therefor as it thinks proper, and as may be warranted in law by the verdict on the count or part of the information or charge on which the Court of Appeal considers that the appellant has been properly convicted.

(2) Where an appellant has been convicted of an offence and the court which tried him could on the information or charge have found him guilty of some other offence, and, on the finding of the trial court, it appears to the Court of Appeal that that court must have been satisfied of facts which proved him guilty of that other offence, the Court of Appeal may, instead of allowing or dismissing the appeal, substitute for the verdict found by such court, a verdict of guilty of that other offence and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law for that other offence, not being a sentence of greater severity.

(3) If on any appeal it appears to the Court of Appeal that, although the appellant was guilty of the act or omission charged against him, he was insane at the time the act was done or omission made so as not to be responsible according to law for his action, the Court of Appeal may quash the sentence passed at the trial and order the appellant to be kept in custody as a person of unsound mind in such place and in such manner as the Court of Appeal may direct until the pleasure of the President of the Federal Republic of Nigeria be known, and the President of the Federal Republic of Nigeria may thereupon and from time to time, give such order for the safe custody of the appellant during pleasure in such place and in such manner as the President of the Federal Republic of Nigeria may see fit.

21.—(1) Where any law in force in the State from which an appeal is brought has suspended the operation of any order made on conviction by the court before which the appellant was convicted, for the payment of compensation or of any of the expenses of the prosecution, or for the imprisonment or other punishment imposed on the person convicted or for the restoration of any property to any person, and the re-vesting in case of any such conviction in the original owner or his personal representative of the property in stolen goods, such order shall continue to be suspended until the determination of the appeal if notice of appeal, or notice of application for leave to appeal, is given within thirty days of the date of the conviction.

Suspension
of order for
restoration
or payment
of
compensation
or expenses.

(2) In cases where the operation of an order is suspended until the determination of the appeal, the order shall not take effect if the conviction is quashed on appeal.

(3) The Court of Appeal may by order annul or vary any order made by the court before which the appellant was convicted for the payment of compensation or of any other expenses of the prosecution or for the imprisonment or other punishment imposed on the person convicted or for the restoration of any property to any person although the conviction is not quashed, and the order, if annulled, shall not take effect, and, if varied, shall take effect as so varied.

PART IV—APPEALS IN CRIMINAL CASES FROM A COURT SITTING IN ITS APPELLATE JURISDICTION

Application
of Part IV.

22. This Part of this Act shall apply to the exercise of the jurisdiction of the Court of Appeal to hear appeals from decisions of the court below in criminal causes or matters in which an appeal has been brought to the court below from some other court.

Determination
of an
Appeal.

23. On the hearing of an appeal under this Part of this Act, the Court of Appeal may exercise any power that could have been exercised by the court below or may order the case to be re-tried by a court of competent jurisdiction.

PART V—PROCEDURE

Time for
Appealing.

24.—(1) Where a person desires to appeal to the Court of Appeal, he shall give notice of appeal or notice of his application for leave to appeal in such manner as may be directed by rules of court within the period ; prescribed by the provision of sub-section (2) of this section that is applicable to the case.

(2) The periods for the giving of notice of appeal or notice of application for leave to appeal are—

(a) in an appeal in a civil cause or matter, fourteen days where the appeal is against an interlocutory decision and three months where the appeal is against a final decision ;

(b) in an appeal in a criminal cause or matter, ninety days from the date of the decision appealed against.

(3) Where an application for leave to appeal is made in the first instance to the court below, a person making such application shall, in addition to the period prescribed by subsection (2) of this section, be allowed a further period of fifteen days, from the date of the determination of the application by the court below, to make another application to the Court of Appeal.

Court of Appeal Act, 2004

(4) The Court of Appeal may extend the periods prescribed in subsections (2) and (3) of this section.

25. The Court of Appeal may, at any time assign counsel to an appellant Legal in an appeal or proceedings preliminary or incidental to an appeal, in which, in assistance to the opinion of the Court of Appeal, it appears desirable in the interest of justice that the appellant should have legal assistance, and that he has not sufficient means to enable him to obtain that assistance.

Legal
assistance
to
appellant.

26. In the exercise of its jurisdiction, the Court of Appeal may, if it thinks it necessary or expedient in the interest of justice—

Supplemental
Powers of
Court of
Appeal.

(a) order the production of any document, exhibit, or other thing connected with the proceedings, the production of which appears to it necessary for the determination of the case ;

(b) order any witnesses who would have been compellable witnesses at the trial to attend and be examined before the Court of Appeal, whether they were or were not called at the trial, or order the examination of any such witnesses to be conducted in a manner provided by rules of court, or, in the absence of rules of court making provision in that behalf, as it may direct, before any Justice of the Court of Appeal or before any officer of the Court of Appeal or other person appointed by the Court of Appeal for the purpose, and allow the admission of any depositions so taken as evidence before the Court of Appeal ;

(c) receive the evidence, if tendered, of any witness (including the appellant) who is a competent but not compellable witness, and, if the appellant makes an application for the purpose, of the husband or wife of the appellant, in cases where the evidence of the husband or wife could not have been given at the trial except on such an application ; and

(d) where any question arising on the appeal involves prolonged examination of documents or accounts, or any scientific or local investigation, which can not, in the opinion of the Court of Appeal, conveniently be conducted before the Court of Appeal, order the reference of the question in the manner provided by rules of court, or in the absence of rules of court making provision in that behalf, as it may direct, for enquiry and report, to a special commissioner appointed by the Court of Appeal, and act upon the report of any such commissioner so far as it thinks fit to adopt it ; and exercise in relation to the proceedings of the Court of Appeal, any other powers which may for the time being be prescribed by rules of court, and issue by any warrants necessary for enforcing the orders or sentences of the Court of Appeal :

Provided that, in no case shall a sentence be increased by reason of or in consideration of any evidence that was not given at the trial.

Right of
appellant to
be present.

27.—(1) On the hearing of an appeal in a criminal cause or matter, an appellant, notwithstanding that he is in custody, shall be entitled to be present, if he so desires, except where the appeal is on some ground involving a question of law alone, but in that case, and on an application for leave to appeal and on any proceedings preliminary or incidental to an appeal, he shall not be entitled to be present, unless where rules of court provide that he shall have the right to be present or where the Court of Appeal gives him leave to be present.

(2) The power of the Court of Appeal to pass any sentence under this Act may be exercised notwithstanding that the appellant is for any reason not present.

(3) The right of an appellant who is in custody to be present at the hearing of his appeal shall be subject to his paying all expenses of and incidental to his transfer to and from the place where the Court of Appeal sits for the determination of his appeal :

Provided that the Court of Appeal may direct that he be brought before the Court of Appeal in any case where, in the opinion of the Court of Appeal, his presence is advisable for the due determination of the appeal, in which event such expenses as aforesaid shall be defrayed out of general revenue.

(4) An appellant who does not appear at the hearing of his appeal or application for leave to appeal by counsel, may present his appeal or argument in writing and any appeal or argument so presented shall be considered by the Court of Appeal.

Admission
of appellant
to bail and
date of
sentence.

28.—(1) The Court of Appeal may, if it thinks fit, on the application of an appellant, admit the appellant to bail pending the determination of his appeal.

(2) The time during which an appellant, pending the determination of his appeal, is admitted to bail shall not count as part of any term of imprisonment under his sentence and, any imprisonment under the sentence of an appellant, whether it is the sentence passed by the trial court or the sentence passed by the court below on appeal or the sentence of the Court of Appeal, shall, subject to any direction which may be given by the Court of Appeal, be deemed to be resumed or to begin to run, as the case requires, from the day on which he is received into prison under the sentence.

(3) In any case in which the appellant has received special treatment pending the hearing of his appeal in accordance with the provisions of any law

Court of Appeal Act, 2004

relating to prisons, the Court of Appeal shall fix the day from which the sentences shall be deemed to begin to run.

29. If it appears to the Registrar that any notice of appeal against a conviction purporting to be on a ground of appeal which involves a question of law alone does not show any substantial ground of appeal, the Registrar may refer the appeal to any Justice of the Court of Appeal and such Justice may, If he is of the same opinion, direct the Registrar to refer the appeal to the Court of Appeal for summary determination, and, when the case is so referred, the court of Appeal may, if it considers that the appeal is frivolous or vexatious, and can be determined without adjourning the same for a full hearing, dismiss the appeal summarily without calling on any persons to attend the hearing or to appear for the State thereon.

PART VI-SUPPLEMENTAL

30. In this Act, unless the content otherwise requires—

“*appear*” includes an application for leave to appeal ;

“*appellant*” means any person who desires to appeal or appeals from a decision of the court below or who applies for leave to so appeal, and includes a legal practitioner representing such a person in that behalf ;

“*cause*” includes any action, suit or other original proceeding between a plaintiff and a defendant or an applicant and a respondent and any criminal proceeding ;

“*Court of Appeal*” means the Court of Appeal established by section 237 (1) of the Constitution of the Federal Republic of Nigeria ;

“*court below*” means the court from which an appeal is brought ;

“*Justice*” means a Justice of the Court of Appeal and includes the President of that Court ;

“*judgment*” includes a decision or order ;

“*matter*” includes any proceeding in a court not in a cause; “*President*” means the President of the Court of Appeal ;

“*Registrar*” means the Chief Registrar of the Court of Appeal, any Senior Registrar of the Court of Appeal or any other officer of the Court of Appeal by whatever title called exercising functions analogous to those of a Registrar of the Court of Appeal ;

“*rules of court*” means rules of court made or deemed to have been made under this Act ;

“*sentence*” includes a recommendation; “*suit*” includes action ;

“*verdict*” includes the decision of a judge or court as to whether or not the accused person is guilty in cases where such decision rests with the judge or court.

Short Title.

31. This Act may be cited as the Court of Appeal Act.

COURT OF APPEAL
(AMENDMENT)

ACT, 2005

ACT NO. 15