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COURT OF APPEAL RULES, 2016



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S. I. No. 17 of 2016

COURT OF APPEAL RULES, 2016

[1st Day of December, 2016]

Commence-
ment.

In exercise of the powers conferred upon me by Section 248 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and by virtue of all powers enabling me in that behalf, I, ZAINAB ADAME BULKACHUWA, (CFR) President, Court of Appeal, hereby make the following Rules—

PART I

ORDE I—GENERAL

1. These Rules may be cited as the Court of Appeal Rules, 2016 and shall come into force on the 1st day of December, 2016. Short Title.

2. The Court of Appeal Rules, 2011 is hereby repealed. Repeal.

3. The practice and procedure of the Court shall be as prescribed by these Rules notwithstanding any written law or rule of practice to the contrary obtaining in any of the States. Conflict
with State
Law or
Rules.

4. The forms set out in the First and Second Schedules to these Rules, or forms as near thereto as circumstances permit, shall be used in all cases to which such forms are applicable. Forms.

5. In these Rules, unless it is otherwise expressly provided or required by the context— Interpretations.

“*The Act*” means the Court of Appeal Act ;

“*ADR*” means Alternative Dispute Resolution ;

“*Appeal*” means the filing of notice of appeal, and includes an application for leave to appeal ;

“*Appellant*” means any person who appeals from a decision of the court below and includes a Legal Practitioner representing such a person in that behalf ;

“*Cause*” includes any action, suit or other proceedings between an Appellant and a Respondent or any Applicant and a Respondent ;

“*Chief Registrar*” means the Chief Registrar of the Court ;

“*CAMP*” means the Court of Appeal Mediation Programme ;

“*The Committee*” means the Rules of Court Advisory Committee established under these Rules ;

“*The Constitution*” means the Constitution of the Federal Republic of Nigeria ;

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

“*court below*” or “*lower court*” means any Court, General Court Martial or Tribunal from which appeal is brought ;

"Electronic devices" includes, flash drives, compact disks, media card or such similar devices used in the typing, or production of the record of appeal ;

"Justice" means Justice of the Court of Appeal including the President ;

"Legal representative" means a person admitted to practise in the Supreme Court who has been retained by or assigned to a party to represent him in the proceedings before the Court ;

"Non-Contentious motion" means a motion against which the Respondent has filed a notice of intention not to contest ;

"President" means the President of the Court ;

"Presiding Justice" means any Justice of the Court duly designated by the President to take charge of a Judicial Division of the Court ;

"Record" means the aggregate of papers relating to an appeal including the pleadings, proceedings, evidence and judgments proper to be laid before the Court on the hearing of the appeal ;

"registrar" or *"registrar of the court below"* means the registrar or other administrative staff (anyhow so called) of the court below ;

"Registrar" means the Chief Registrar, Deputy Chief Registrar, Assistant Chief Registrar, Principal Registrar, Senior Registrar, Registrar of the Court or any other officer of the Court by whatever title called exercising functions analogous to those of a Registrar of the Court ;

"Respondent" in a civil appeal means, any party (other than the Appellant) directly affected by the appeal ; and in a criminal appeal means the person who undertakes the defence of the judgment appealed against and includes a legal practitioner representing such a person in the proceedings before the Court ;

"Rules" means these Rules or any amendment thereto or any other additional Rules made under the Constitution of the Federal Republic of Nigeria, and include the Fees and Forms as contained in the Schedules to these Rules ;

"Supreme Court" means the Supreme Court of Nigeria.

ORDER 2—SERVICE

Personal
service of
notice of
appeal.

1.—(a) Every Notice of Appeal shall, subject to the provisions of Order 2 Rules 7, 8 and 9, be served personally; Provided that if the Court is satisfied that the notice of appeal has in fact been communicated to the Respondent, no objection to the hearing of the appeal shall lie on the ground that the notice of appeal was not served personally.

(b) Except as may be otherwise provided in these Rules or in any other written law, it shall not be mandatory for notices, orders, summonses, warrants or other processes of the Court to be served personally.

2. The registry of the court below shall, after the notice of appeal has been filed, cause to be served a true copy thereof upon each of the parties mentioned in the notice of appeal but it shall not be necessary to serve any party not directly affected :

Service of
Notice on
Parties
mentioned.

Provided that the Court may, of its own motion, or on the application of any person claiming to be affected, direct notice to be served on all or any parties to the action or other proceeding or upon any person not a party and in the meantime may postpone or adjourn the hearing of the appeal upon such terms as may be just and make such order(s) as might have been made if the persons served without notice had been originally parties to the appeal.

3. Where in any proceeding in the court below a party has given an address for service, notice of appeal from any decision made under such proceeding may be served on such party at such address for service, and notice of any application preparatory or incidental to any such appeal, may be served in like manner at any time before the date on which the Respondent gives notice of his address for service in accordance with the immediately following Rule.

Notice of
Appeal and
Address of
Service.

4.—(1) Every person who by virtue of service on him of a notice of appeal becomes a Respondent to any appeal or intended appeal shall within thirty days after service on him of the notice of appeal file twenty copies with the registrar of the court below notice of a full and sufficient address for service in such number of copies as the said registrar shall require. The registrar of the court below shall forthwith send a copy of the notice of address to the Registrar and shall cause a copy thereof to be served on the Appellant.

Respondent's
Notice of
Address for
Service.

(2) Such notice may be signed by the Respondent or his legal representative.

(3) If any Respondent fails or omits to file such notice of address for service it shall not be necessary to serve on him any other proceeding in the appeal or any notice of hearing thereof.

5. Any reference in these Rules to an address for service means a physical or postal address within the Federal Republic of Nigeria or an electronic mail address or a facsimile number or telephone number or any other mode of communication as may become available to where notices and other processes, which are not required to be served personally, may be left or sent or posted or transmitted.

Address of
Service.

6. Where under these Rules, any notice or other process is required to have an address for service endorsed on it; it shall not be deemed to have been properly filed unless such address has been endorsed on it.

Endorsement
of Address
of Service.

Directions as to Service of Notice of Appeal.

7. The Court may in any case direct that the notice of appeal be served on any party to the proceedings in the court below on whom it has not been served, or on any person not party to those proceedings.

Directions as to service of Respondent's Notice.

8. In any case in which the Court directs that the notice of appeal shall be served on any party or person, the Court may also direct that any Respondent's notice shall be served on him.

Effect of direction as to Service.

9. The Court may in any appeal where it gives a direction under Rules 12 and 13 of this Order—

(a) postpone or adjourn hearing of the appeal for such period and on such terms as may be just ; and

(b) give such judgment and make such order on the appeal as might have been given or made if the persons served in pursuance of the direction had originally been parties.

Mode of Service.

10. Where under these Rules any person has given an address for service, any notice or other process, which is not required to be served personally, shall be sufficiently served upon him if:

(a) left at that address, or

(b) sent by registered post to that address and in which case if the date of service by post is material, Section 26 of the Interpretation Act shall apply, or

(c) transmitted by electronic means to the electronic mail address or facsimile number or telephone number or any other mode of electronic communication.

Change of Address of Party.

11. Any party to an appeal or intended appeal may change his address for service at any time, by filing and serving on all other parties to the appeal or intended appeal, notice of such change.

Notification of Change of Address.

12. Any person desiring to change his address for service shall notify the Registrar and shall also communicate the new address to all other parties to the appeal.

Address of Legal Practitioner.

13. Where any person has given the address of a Legal Practitioner as his address for service and the Legal Practitioner is not, or has ceased to be instructed by him for the purpose of the proceedings concerned, it shall be the duty of the Legal Practitioner to inform the Registrar as soon as may be practicable that he is not or no longer authorised to accept service on behalf of such person, and if he omits to do so he may be ordered to personally pay any costs occasioned thereby.

14. Where a Minister or Commissioner, or the Attorney-General, or the Director of Public Prosecutions, or any other public officer of the Federal Republic of Nigeria or of a State thereof is a party ex-officio or as representing the Federal or a State Government, as the case may be, in any proceedings in the Court, whether civil or criminal, any notice or other document may be served on him by leaving it at or by sending it by registered post to his chambers or office and service in this manner shall be as effective as if it were personal service.

Ex-Officio
Service.

15. Where any document is required by these Rules to be served personally, it shall be sufficiently served if it is served in the manner prescribed by law for the personal service of a writ of summons issued by the High court having jurisdiction in the State in which service is to be effected and if it appears to the Court that for any reason personal service cannot be conveniently effected, the Court shall have the same power as that High court to direct that service be effected in some other way.

Service in
accordance
with State
Law.

16.—(1) Where any person out of the jurisdiction of the Court is a necessary or proper party to an appeal before the Court and it is necessary to serve him with the notice of appeal or other document relating to the appeal, the Court may allow service of the notice of appeal or such other document out of the jurisdiction.

Service
outside
Jurisdiction.

(2) Every application for an order for leave to serve a notice of appeal or other document on a person out of the jurisdiction shall be supported by affidavit or otherwise showing in what place or country such a person is or probably may be found, and the grounds upon which the application is made.

(3) Any order granting leave to effect service out of the jurisdiction shall prescribe the mode of service, and shall limit a time within which such party may acknowledge such a service, such a time to depend on the place or country where or within which the notice or document is to be served, and the Court may receive an affidavit or statutory declaration of such service having been effected as prima facie evidence thereof.

ORDER 3—REGISTRARS, REGISTRIES AND SESSIONS

1. The Chief Registrar shall have the custody of the records of the Court and shall exercise such other functions as are assigned to him by these Rules and by such directions as the President may give from time to time.

Chief
Registrar.

2. The President may assign, and the Chief Registrar may, with the approval of the President, delegate to the Deputy Chief Registrar or to any Registrar of the Court any function required by these Rules to be exercised by the Chief Registrar.

Other
Registrars.

Seal of the Court.

3. The Seal of the Court shall be kept in the custody of the President who may entrust same or a duplicate thereof to such officers of the Court as he may think fit.

Powers of the Chief Registrar.

4. Except as may be otherwise provided in the Constitution, or in any other enactment, the Chief Registrar shall have powers and duties as are given him by these Rules or such further powers and duties as the President may direct.

Books to be kept by Registrar.

5.—(1) The Registrar shall keep—
 (a) A Criminal Appeal Book ;
 (b) A Civil Appeal Book ;
 each of which shall contain an index in alphabetical order.

(2) The following particulars shall be entered in the Criminal Appeal and the Civil Appeal Books—

- (a) The number of the appeal or application ;
- (b) The names of the Appellant or Applicant and the Respondent ;
- (c) The Court from which the appeal is brought ;
- (d) The date and place of hearing of the Appeal ;
- (e) The names of Counsel ;
- (f) The subject matter of the Appeal or application ;
- (g) The judgment of the Court ;
- (h) Any subsequent proceedings and remarks.

Files of Documents.

6. As soon as notice of appeal is delivered the Registrar shall prepare a file in which documents relating to the appeal shall be filed, and on the front page thereof shall be recorded particulars of such documents, date and time on which they are received.

Setting aside or varying Orders of Registrar.

7. Any person aggrieved by anything done by the Registrar may apply to the Court to have the act or order complained of set aside or varied and the Court may give such directions or make such order thereon as the Court thinks fit Such applications shall be made by notice of motion supported by affidavit setting out the complaint, the ground for the complaint and the relief sought.

Registries and Filing of Process.

8.—(1) The Registry of each Judicial Division of the Court shall be situate in a town within the Judicial Division of the Court to be established:

(2) Except when otherwise expressly provided, all documents and proceedings shall be filed in the appropriate Registry; Provided that whilst the Court is sitting in any Judicial Division or other place of session any documents or proceedings in connection with a matter to be dealt with at such Division or other place of session may be filed with the Registrar of the Court at such a place.

(3) A document may be filed in the appropriate Registry of the Court or such other place of session either by being delivered there by the party or his legal representative or agent in person or by registered post or by electronic means.

9. The Registries of the Court shall, subject to the directions of the President, be open to the public everyday in the year from eight o' clock in the forenoon to two o' clock in the afternoon, except on Saturdays and Sundays or on any day declared a public holiday under any written law.

Hours of
Opening of
Registry.

10. Sessions of the Court may be convened and constituted, and the time, venue and forum for all sessions and for hearing interlocutory applications shall be settled in accordance with general or specific directions to be given by the President.

Sessions.

11. The Registrar may post up every Friday a weekly cause list, which shall set out the arrangement of fixture of causes for hearing on each day during the following week ; Provided that not more than 25 causes may be fixed for hearing each day.

Publication
of Cause
List.

12. The Presiding Justice of a Division of the Court may direct that a certain day of the week be reserved in the weekly cause list for rulings and judgments.

Reservation
of days for
Judgment.

13. The sittings of the Court and the matters to be disposed of at such sittings shall be advertised and notified in such manner as the President may direct ; Provided that the Court may in its discretion hear any appeal and deal with any other matter whether or not the same has been advertised.

Notification
of Sittings.

14. The Court may, at any time on application or of its own motion, adjourn any proceedings pending before it from time to time and from place to place.

Adjourn-
ments.

ORDER 4—POWERS OF THE COURT

1. In relation to an appeal, the Court shall have all the powers and duties as to amendment and otherwise of the court below, including without prejudice to the generality of the foregoing words, in civil matters, the powers of the High Court in civil matters to refer any question or issue of fact arising on the appeal for trial before or inquiry and report by, an official or special referee. In relation to a reference made to an official or special referee, anything, which can be required or authorised to be done by, to or before the court below, shall be done by, to, or before the Court.

General.

2. The Court shall have power to receive further evidence on questions of fact, either by oral examination in Court, by affidavit, or by deposition taken before an Examiner or Commissioner as the Court may direct, but, in the case of an appeal from a judgment after trial or hearing of any cause or matter on

Further
Evidence.

the merits, no such further evidence (other than evidence as to matters which have occurred after the date of the trial or hearing) shall be admitted except on special grounds.

Inference of
Fact.

3. The Court shall have power to draw inferences of fact and to give any judgment and make any order, which ought to have been given or made, and to make such further or other order(s) as the case may require, including any order as to Costs.

Powers not
limited by
Notice of
Appeal.

4. The powers of the Court under the foregoing provisions of this Rule may be exercised notwithstanding that no notice of appeal or Respondent's notice has been given in respect of any particular part of the decision of the court below, or by any particular party to the proceedings in that court, or that any ground for allowing the appeal or for affirming or varying the decision of that court is not specified in such a notice; and the Court may make any order, on such terms as the Court thinks just, to ensure the determination of the merits of the real question in controversy between the parties.

Powers not
limited by
Interlocutory
Order.

5. The powers of the Court in respect of an appeal shall not be restricted by reason of any interlocutory order from which there has been no appeal.

Powers to
make Order
of
Injunction.

6. The Court shall have power to make orders by way of injunctions or the appointment of a Receiver or Manager, and such other necessary orders for the protection of property or person, pending the determination of an appeal to it even though no application for such an order was made in the court below.

Impounded
Documents.

7. Documents impounded by order of the Court shall not be delivered out of the custody of the Court, except in compliance with an order of the Court; Provided that where the Attorney-General of the Federation or of a State or the Director of Public Prosecutions of the Federation or of a State makes a written request in that behalf, documents so impounded may be delivered into his custody.

Inspection
of
Impounded
Documents.

8. Documents impounded by order of the Court, while in the custody of the Court, shall not be inspected except by a person authorised to do so by an order of the Court.

Powers of
the Court as
to new Trial.

9.—(1) On the hearing of any appeal, the Court may, if it thinks fit, make any such order(s) as could be made in pursuance of an application for a new trial or to set aside a verdict, finding or judgment of the court below.

(2) The Court shall not be bound to order a new trial on the ground of misdirection, or of the improper admission or rejection of evidence, unless in the opinion of the Court some substantial wrong or miscarriage of justice has been thereby occasioned.

(3) A new trial may be ordered on any question without interfering with the finding or decision on any other question; and if it appears to the Court that any such wrong or miscarriage of justice as is mentioned in sub-rule (2) of this Rule affects part only of the matter in controversy or one or some only of the parties, the Court may order a new trial as to the party only, or as to that party or those parties only, and give final judgment as to the remainder.

(4) In any case where the Court has power to order a new trial on the ground that damages awarded by the court below are excessive or inadequate, the Court may in lieu of ordering a new trial—

(a) substitute for the sum awarded by the court below such sum as appears to the Court to be proper ;

(b) reduce or increase the sum awarded by the court below by such amount as appears to the Court to be proper in respect of any distinct head of damages erroneously included or excluded from the sum so awarded. But except as aforesaid, the Court shall not have power to reduce or increase the damages awarded by the court below.

(5) A new trial shall not be ordered by reason of the ruling of any Judge of the court below that a document is sufficiently stamped or does not require to be stamped.

10. An appeal shall be deemed to have been entered in the Court when the Record of Proceedings in the court below has been received in the Registry of the Court within the time prescribed by the Rules.

When an Appeal is deemed to have been entered.

11. After an appeal has been entered and until it has been finally disposed of, the Court shall be seised of the whole of the proceedings as between the parties thereto. Except as may be otherwise provided in these Rules, every application therein shall be made to the Court and not to the court below.

Control of proceedings during pendency of Appeal.

ORDER 5—REFERENCES AS TO CONSTITUTION AND RESERVED POINTS OF LAW

1. When a lower court refers any question as to the interpretation of the Constitution under the relevant provisions of the Constitution, or reserves any question of law for the consideration of the Court in accordance with any written law, the lower court referring or reserving the question of law, as the case may be, shall state a case in Form 1 or 2 in the First Schedule to these Rules, whichever may be appropriate, and the registrar of the lower court shall forward ten copies directly to the Registrar.

Stating a Case Forms (1 and 2).

2.—(a) When the lower court making an application consists of three or more Judges, the case shall be stated on behalf of the lower court by a majority of those Judges.

Signature of Case stated.

(b) Where a question is referred or reserved by the lower court, the question shall be signed by all or by a majority of the Judges of the lower court referring or reserving the question.

Contents of
Case Stated.

3.—(a) A case stated under this Order shall be divided into paragraphs, contents of which as near as may be, shall be confined to distinct portions of the subject case stated whether facts, point of law or document and every paragraph shall be numbered serially.

(b) It shall state such of the findings of fact as are necessary to explain the question on which the decision of the Court is sought except where in a criminal matter, the question is whether there is any evidence to support any decision, or whether the evidence for the prosecution disclosed a case for the accused person to answer, it shall not contain a statement of the evidence.

(c) It shall also state the contentions of the parties, the opinion or decision (if any) of the court stating the case and the questions of law for the determination of the Court.

(d) In cases to which section 243A of the Criminal Procedure Act (or similar provision in any State law) applies, the case shall state whether the hearing has been adjourned or the verdict has been postponed or sentence has been passed and whether the person accused or convicted has been committed to prison or admitted to bail.

Right of
Audience.

4.—(1) Subject to the provisions of this Rule, the following persons shall be entitled as of right to appear in person or by a legal practitioner at the hearing of any case stated under this Order—

(a) the parties to the proceedings in which the question of law arose ;

(b) in any case stated involving a substantial question of law as to the validity of any law enacted by the National Assembly, the Attorney-General of the Federation ; and

(c) where the case involves the validity or constitutionality of a law within the competence of a State, the Attorney-General of the particular State where the law is or purport to be in force.

(2) The following persons may by leave of the Court, appear in person or by a Legal Practitioner at the hearing of any case stated on the reference to the Court of any question as to the interpretation of the Constitution or any section of the Constitution pertaining to a State as the case may be—

(a) where he is not entitled to appear as of right under sub-rule (1) (b) of this Rule, the Attorney-General of the Federation ; and

(b) the Attorney-General of the State.

(3) The Registrar shall forward to the Attorney-General of the Federation or of a State, as the case may be, a copy of any case stated to which this Rule applies. Any other person who is entitled as of right to appear, and any person who may appear by leave of the Court, may obtain a copy of the case stated from the Registrar of the lower court on payment of such fee as may be prescribed.

ORDER 6—APPLICATIONS TO COURT

1. Every application to the Court shall be by notice of motion supported by affidavit and shall state the Rule under which it is brought and the ground for the relief sought. Form of application (Form 4).
2. Any application to the Court for leave to appeal (other than an application made after the expiration of the time for appealing) shall be by notice of motion, which shall be served on the party or parties, affected. Application for Leave.
3. Where an application has been refused by the court below, an application for a similar purpose may be made to the Court within fifteen days after the date of the refusal. Application refused in Lower Court.
4. Wherever under these Rules an application may be made either to the court below or to the Court it shall not be made in the first instance to the Court except where there are special circumstances, which make it impossible or impracticable to apply to the court below. Applications, where first made.
5. Where leave to appeal is granted by the Court or by the court below, the Appellant shall file a notice of appeal within the time prescribed by the Court of Appeal Act. Filing of Notice of Appeal after leave.
6. Where an application for leave to appeal from a decision of the court below has been brought within the time prescribed by the Court of Appeal Act but has not been heard within that period, the Court, if satisfied that there has not been an unreasonable delay in bringing the application, may extend time to appeal and in proper case grant leave to appeal. Extension of time for timely application.
7. The application for leave to appeal from a decision of a lower court shall contain copies of the following items, namely—
 - (a) notice of motion for leave to appeal (Form 5) ;
 - (b) a certified true copy of the decision of the court below sought to be appealed against ;
 - (c) a copy of the proposed grounds of appeal ; and
 - (d) where leave has been refused by the lower court, a copy of the order refusing leave.Requirement of application for leave (Form 5).

Time to
argue
motion.

8.—(1) Except with the leave of the Court, a maximum of fifteen minutes on each side will be allowed for oral argument on any application.

(2) Where the Court, in respect of an application had ordered the filing of written addresses, and the parties have duly filed their addresses, but on the day of the hearing of the application, any of the parties or Legal Practitioner does not appear to present oral argument in respect of the application, the application will be treated as having been duly argued.

Enlargement
of Time.

9.—(1) The Court may enlarge the time provided by these Rules for the doing of anything to which these Rules apply except as it relates to the taking of any step or action under Order 16.

(2) Every application for an enlargement of time within which to appeal, shall be supported by an affidavit setting forth good and substantial reasons for failure to appeal within the prescribed period, and by grounds of appeal which prima facie show good cause why the appeal should be heard. When time is so enlarged a copy of the Order granting such enlargement shall be annexed to the notice of appeal.

Appeal
when
brought.

10. An appeal shall be deemed to have been brought when the notice of appeal has been filed in the registry of the court below.

When to
bring an
application
to set aside a
judgment or
ruling.

12. An application to set aside any judgment or ruling shall not be brought unless it is filed within fourteen days from the date of delivery of such judgment or ruling or such longer period as the Court may allow for good cause.

PART 2—CIVIL APPEALS

ORDER 7—NOTICE AND GROUNDS OF CIVIL APPEAL

Applications.

1. Part 2 of this Rule shall apply to appeals to the Court from any court or tribunal acting either in its original or its appellate jurisdiction in civil cases, and to matters related thereto.

Contents
and
requirements
of Notice
(Form 3).

2.—(1) All appeals shall be by way of rehearing and shall be brought by notice (hereinafter called “the notice of appeal”) to be filed in the registry of the court below which shall set forth the grounds of appeal, stating whether the whole or part only of the decision of the court below is complained of (in the latter case specifying such part) and shall state also the exact nature of the relief sought and the names and addresses of all parties directly affected by the appeal, which shall be accompanied by a sufficient number of copies for on such parties.

(2) Where a ground of appeal alleges misdirection or error in law, the particulars and the nature of the misdirection or error shall be clearly stated.

(3) The notice of appeal shall set forth concisely and under distinct heads the grounds upon which the Appellant intends to rely at the hearing of the appeal without any argument or narrative and shall be numbered consecutively.

(4) The notice of appeal shall be signed by the Appellant or his legal representative.

3. Any ground which is vague or general in terms or which discloses no reasonable ground of appeal shall not be permitted, save the general ground that the judgment is against the weight of the evidence, and ground of appeal or any part thereof which is not permitted under this Rule may be struck out by the Court of its own motion or on application by the Respondent.

Vague
Grounds.

4. The Appellant shall not without the leave of the Court urge or be heard in support of any ground of appeal not mentioned in the notice of appeal, but the Court may in its discretion allow the Appellant to amend the grounds of appeal upon payment of fees prescribed for making such amendment and upon such terms as the Court may deem just.

Grounds
outside
Notice.

5. Notwithstanding the foregoing provisions the Court in deciding the appeal shall not be confined to the grounds set forth by the Appellant; Provided that the Court shall not if it allows the appeal, rest its decision on any ground not set forth by the Appellant unless the Respondent has had sufficient opportunity of contesting the case on that ground.

Court not
restricted by
Grounds

6. The Court shall have the power to strike out a notice of appeal when an appeal is not competent or for any other sufficient reason.

Striking out
Notice.

7. The registrar of the court below shall endorse on the notice of appeal or application the fees paid thereon, receipt number and the date of payment.

Endorsement
as to fees.

8. A notice of appeal may be amended by or with the leave of the Court at any time.

Amendment
of Notice of
Appeal.

ORDER 8—COMPILATION AND TRANSMISSION OF RECORDS

1. The registrar of the court below shall within sixty days after the filing of a notice of appeal compile and transmit the Record of Appeal to the Court.

Compilation
by Registrar.

2. In pursuit of Rule 1 above, the registrar shall within fourteen (14) days summon the parties before him to—

Summons to
settle
Records
(Form 7).

(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.

Settlement
in absence
of parties.

3. The said registrar shall whether any of the parties attend or not, provided the notice has been duly served on the parties to the appeal, proceed to settle and determine those matters in accordance with the provisions of Rules 2 (a) and (b) of this Order.

Mandatory
compilation
by
Appellant.

4. Where at the expiration of 60 days after the filing of the notice of appeal the registrar has failed and or neglected to compile and transmit the Records of Appeal in accordance with the preceding provisions of this Rule, it shall become mandatory for the Appellant to compile the records of all documents and exhibits necessary for his appeal and transmit to the Court within 30 days after the registrar's failure or neglect.

Service of
Record on
Respondent.

5. Such Record compiled by the Appellant, shall be served on the Respondent or Respondents within the time stipulated for transmitting such records to the Court, which is 30 days.

Filing
additional
Record.

6. Where any party to the appeal considers that there are additional records which may be necessary in disposing of the appeal, he shall be at liberty, within 15 days of the service on him of the records, to compile and transmit to the Court such records to be known as the additional records of appeal.

Contents of
Record of
Appeal.

7. Every Record of Appeal shall contain the following documents in the order set out—

(a) the index ;

(b) a statement giving brief particulars of the case and including a schedule of the fees paid ;

(c) copies of the documents settled and compiled for inclusion in the record of appeal ;

(d) a copy of the notice of appeal and other relevant documents filed in connection with the appeal.

Exclusion of
irrelevant
Records.

8. The registrar or the Appellant in compiling the record shall endeavour to exclude from the record all documents (more particularly such as are merely formal) that are not relevant to the subject matter of the appeal and generally to reduce the bulk of the record as far as practicable, taking special care to avoid duplications of documents and unnecessary repetition of headings and other merely formal parts of documents; but the documents omitted to be copied shall be enumerated in a list at the end of the record, but where part or parts only of any lengthy document are directly relevant to the subject matter of the appeal it shall be permissible to omit to copy such part of the document as are irrelevant to the subject matter of the appeal nor necessary for the proper understanding of the part or parts that are so relevant.

9. Every record or additional Record of Appeal compiled by a party to an appeal must be certified by the registrar of the lower court. 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 these Rules.

Certification
of Records.

10.—(1) Where the record is compiled by the registrar under Rule 1 of this Order, he shall transmit the record within the time stipulated for compilation and transmission under Rule 1. The record shall be transmitted together with—

Transmission
of Records
(Forms 8
and 8A).

(a) a certificate of service of the notice of appeal ;

(b) ten copies of the record and two copies of the electronic device used for the production of the records, duly and carefully preserved ;

(c) the docket or file of the case in the court below containing all papers or documents filed by the parties in connection therewith, to the Registrar of the Court.

(2) Where the record is compiled by the Appellant under Rule 4 of this Order, he shall transmit the record within the time stipulated for compilation and transmission by an Appellant under Rule 4. The record shall be transmitted in compliance with Rule 10(1).

(3) The registrar of the court below or the Appellant as the case may be, shall within seven (days) of the transmission of the record to the Court, cause to be served on all parties mentioned in the notice of appeal, a notice that the record has been transmitted to the Registrar of the Court who shall in due course enter the appeal in the cause list.

11.—(a). Upon the transmission of the Record of Appeal, whether by the registrar or by the Appellant, the Appellant shall within such time as the Registrar of the Court shall direct, deposit such sum as shall be determined by the Registrar for the due prosecution of the appeal and for the payment of any costs which may be ordered to be paid by the Appellant; Provided that no deposit shall be required where the deposit would be payable by the Government of the Federal Republic of Nigeria or of a State, or by any Government department.

Deposit
against
Costs.

(b) Where the sum deposited in accordance with the preceding sub-rule is depleted in the course of the prosecution of the appeal, the Registrar shall summon the Appellant to replenish the deposit.

12.—(a) Where the Registrar fails to direct any deposit against costs or where the sum he directed is inadequate or for any other reason the Court upon application may order that deposit or additional deposit be made.

Additional
Deposit
against
Costs.

(b) Where the Court deems appropriate, it may upon application order deposit against cost to be made by a Respondent.

Production
of
Documentary
Exhibits.

13. Subject as hereinafter provided, each party shall, immediately after an appeal becomes pending before the Court, deliver to the Court, all documents (being exhibits in the case or which were tendered as exhibits, admitted or rejected) which are in his custody or were produced or put in by him at the trial.

Production
of Non-
Documentary
evidence.

14. Subject as hereinafter provided, each party to an appeal shall be prepared to produce at the hearing of the appeal all exhibits, other than documents, which are in his custody or were produced or put in by him at the trial.

Registrar's
directive
where
exhibit not
produced.

15. In case any party finds it difficult to comply with the provisions of Rules 13 and 14 of this Order, owing to the nature of documents or other exhibit or owing to its being in the possession of a third party or for any other reason ; he may apply to the Registrar of the Court for directions.

Directive of
Registrar in
Respect of
Exhibits.

16. The Registrar of the Court may, either of his own motion or upon application, give any directions he sees fit, whether dispensing with the provisions of Rules 13 and 14 or modifying its application in any way or for securing compliance with it.

Custody of
Exhibits.

17. All original documents delivered to the Court under this Rule shall remain in the custody of the Court until the determination of the appeal ;
Provided that the Court or Registrar may allow the return of any document to any party pending hearing of the appeal and subject to such conditions as it or he may impose.

Failure to
compile and
Transmit
Records
(Form 9).

18.—(1) If the registrar has failed to compile and transmit the Records under Rule 1 and the appellant has also failed to compile and transmit the Records in accordance with Rule 4, the Respondent may by notice of motion move the Court to dismiss the appeal.

(2) Where the Appellant has not deposited the amount fixed by the registrar to cover the cost of compilation and transmission of the record of Appeal as provided in Rule 2(b) of this Order, the registrar of the court below shall certify such fact to the Court, which may suo motu order that the appeal be dismissed either with or without costs, and shall cause the parties to be notified of the terms of the order ;

Provided that the Court shall only act on the certification by the registrar at the expiration of the thirty days allowed for the appellant to compile record of Appeal prescribed by Rule 4 of this Order.

ORDER 9—RESPONDENT'S NOTICE OF CONTENTION

1. A Respondent who not having appealed from the decision of the court below, desires to contend on the appeal that the decision of that court should be varied, either in any event or in the event of the appeal being allowed in whole or in part, must give notice to that effect, specifying the grounds of that contention and the precise form of the order which he proposes to ask the Court to make, or to make in that event, as the case may be.

Respondent's
Notice to
Vary (Form
10A).

2. A Respondent who desires to contend on the appeal that the decision of the court below should be affirmed on grounds, other than those relied upon by that court, must give notice to that effect specifying the grounds of that contention.

Respondent's
Notice to
Affirm
(Form 10B).

3. Except with the leave of the Court, a Respondent shall not be entitled on the hearing of the appeal to contend that the decision of the court below should be varied upon grounds not specified in a notice given under this Rule, to apply for any relief not so specified or to support the decision of the court below upon any grounds not relied upon by that court or specified in such a notice.

Respondent's
Notice
Limited by
Grounds.

4. Any notice given, by a Respondent under this Order must be served on the Appellant and on all parties to the proceedings in the court below who are directly affected by the contentions of the Respondent and must be served—

Time within
which to
serve
Respondent's
Notice.

(a) in the case of an appeal against an interlocutory order, within fifteen days after the service of the notice of appeal on the Respondent ; and

(b) in any other case within thirty days, after the service of the notice of appeal on the Respondent.

5. A party by whom a Respondent's notice is given shall file with the registry twenty copies of such notice of which one shall be included in the record and the other copies provided for the use of the Justices.

Copies of
Respondent's
Notice.

6. Omission to give such notice shall not diminish any powers of the Court but may in the discretion of the Court be a ground for postponement or adjournment of the appeal upon such terms as to cost or otherwise as may be just.

Powers of
Court not
Restricted
by Absence
of Notice.

7. A Respondent's notice may be amended by or with the leave of the Court at any time.

Amendment
of
Respondent's
Notice.

ORDER 10—NOTICE OF PRELIMINARY OBJECTION

1. A Respondent intending to rely upon a preliminary objection to the hearing of the appeal, shall give the Appellant three clear days notice thereof before the hearing, setting out the grounds of objection, and shall file such notice together with twenty copies thereof with the registry within the same time.

Filing of
preliminary
objection
(Form 11).

Matters
exempted
from
objection.

Effect of
Non-
Compliance.

2. No objection shall be taken on the hearing of an appeal on the ground that the amount fixed by the registrar of the court below under Order 8 Rule 2(b) of these Rules were incorrectly assessed.

3. Where the Respondent fails to comply with this Rule, the Court may refuse to entertain the objection or may adjourn the hearing thereof at the costs of the Respondent or may make such other order as it thinks fit.

ORDER 11—WITHDRAWAL OF APPEAL

Unilateral
withdrawal
of Appeal
(Form 12).

1. An Appellant may at any time before the appeal is called on for hearing, serve on the parties to the appeal and file with the Registrar, a notice to the effect that he does not intend to prosecute the appeal any further.

Withdrawal
of Appeal
by Consent
(Form 13).

2. If all parties to the appeal consent to the withdrawal of the appeal without an order of the Court, the Appellant may file in the Registry the document or documents signifying such consent and signed by the parties or by their legal representatives and the appeal shall thereupon be deemed to have been withdrawn and shall be struck out of the list of appeals by the Registrar and in such event any sum deposited against costs shall be paid out to the Appellant.

Effect of
withdrawal
by consent.

3. The withdrawal of an appeal with the consent of the parties under Rule 2 of this Order shall be a bar to further proceedings on application made by the Respondent under Order 9.

Effect of
Withdrawal
without
Consent.

4. If all the parties do not consent to the withdrawal of an appeal as aforesaid, the appeal shall remain on the list, and shall come on for the hearing of any issue as to costs or otherwise remaining outstanding between the parties, including any application made by the Respondent under Order 9, and for the making of an order as to the disposal of any sum deposited against cost.

Appeal
Withdrawn
Deemed
Dismissed.

5. An appeal which has been withdrawn under this Order, whether with or without an order of the Court, shall be deemed to have been dismissed.

Appeal by
Respondent
after
Withdrawal.

6. Where an appeal is withdrawn under this Order, any Respondent who has not given a notice under Order 9, may give notice of appeal and proceed therewith in the manner prescribed by the foregoing Rules, and in such case the time limited for giving notice of appeal, for depositing the sum estimated to cover the cost of the record and for making deposit against costs may, on application to the Court, be extended so far as is reasonably necessary in all the circumstances of the case.

ORDER 12—FEES

1. Save as hereinafter provided, the fees prescribed in the Third Schedule hereto shall be charged in respect of the matters which they are respectively assigned and shall be paid to the Registry of the court below or of the Court as the case may be.

Schedule
of Fees.

2. No fee shall be payable in respect of any matter where such fee would be payable by the Government of the Federal Republic of Nigeria or of a State or Local Government of any Government Department :

Exemption
from Fees
for
Government.

Provided that when any person is ordered to pay the costs of the Government of the Federal Republic of Nigeria or of a State or of any Government Department in any case all fees which would have been payable but for the provisions of this Rule shall be taken as having been paid and shall be recoverable from such person.

3. The court below or the Court may, on account of the want of means of any party (although such party may not have been formally permitted to proceed as a person without means under Order 13) or for other sufficient reason dispense, if it seems fit, with payment of any fees if the circumstances of the case so require: Provided that if such party succeeds in any appeal which results in an order for payment to him of any costs the Court may order that such fees shall be a first charge on any moneys recovered or to be recovered under such order.

Exemption
from Fees
for poor
people.

ORDER 13—PROCEEDINGS BY PERSONS WITHOUT MEANS

1. Any party may apply to the Court for leave to prosecute or defend an appeal as a person without means. Such application shall be by notice of motion, supported by affidavit, and shall be served on the other parties to the proceedings. No fee shall be payable on filing any such order.

Application
for Leave.

2. No party shall be permitted to proceed as a person without means unless he satisfies the Court that he has reasonable probability of success.

Conditions
for Leave.

3. A person permitted to proceed as a person without means shall not be liable to pay any of the Court fees prescribed by these Rules or be required to make the deposit against costs as prescribed by Order 8 Rule 11.

Effect of
Leave.

4. The Court may for good cause shown review, rescind or vary an order permitting any person to proceed as a person without means.

Review of
Leave.

5.—(1) Leave to proceed as a person without means shall not exempt such person from liability to an order for costs in favour of his opponent.

Costs in
Proceedings
by Person
Without
Means.

(2) Where a person without means is not awarded costs in the proceedings, no fees shall be taken from him by a legal representative assigned to him.

(3) Where a person without means is awarded costs against his opponent he shall be entitled to include and receive in such costs the fees of any legal representative assigned to him and all other fees and costs remitted by his admission to proceed as a person without means.

ORDER 14—SERVICE OF RECORD OF APPEAL TO THE SUPREME COURT

Duties of
Registrar in
respect of
Service.

1. Where there is a further appeal to the Supreme Court, the Registrar shall as soon as possible after the compilation of the Record of Appeal serve upon every Appellant who was duly given a notice of appeal and paid the fees fixed by the Registrar to cover the cost of record of appeal, a copy of the record.

Manner of
Service.

2. Such Record of Appeal may be served upon the Appellant in any manner prescribed by these Rules for the service of notice or other documents relating to the appeal.

Notice of
Compilation.

3. The Registrar shall thereafter cause to be served upon every Respondent in the appeal who has filed an address for service a notice that the record has been compiled. It shall be the duty of each Respondent to pay for and collect a copy of the Record.

Certificate of
Service of
Record to
Appellant
(Form 14A).

4.—(1) Within fourteen days after a Record has been served upon an Appellant, the Registrar shall certify under his hand that he served the Record of Appeal upon every such Appellant. The certificate of service shall be in Form 14 or to like effect.

Certificate of
Service of
Record to
Appellant
(Form 14B).

(2) In addition to the requirements of the Supreme Court Rules, the Registrar shall as soon as the record and notice of compilation of the Record of Appeal to the Supreme Court have been served on the Appellant and the Respondent, as the case may be, transmit to the Supreme Court—

(a) a certificate that a copy of the Record of Appeal to the Supreme Court has been served on the Appellant(s); and

(b) a certificate that notice of compilation of the Record of Appeal to the Supreme Court has been given to the Respondent(s). (Form 14B).

ORDER 15—DEATH OF PARTY TO AN APPEAL

Duty to
Counsel.

1. It shall be the duty of Counsel representing a party to an appeal to give immediate notice of the death of that party to the registrar of the court below or to the Registrar of the Court (as the case may require) and to all other parties affected by the appeal as soon as he becomes aware of the fact.

Addition or
Substitution
of party.

2. Where it is necessary to add or substitute a new party for the deceased, an application shall, subject to the provisions of Order 4 Rule 10, be made in that behalf to the court below or to the Court either by any existing party to the appeal or by any person who wishes to be added or substituted.

3. Where an appeal has been set down for hearing and the Court is or becomes aware that a necessary party to the appeal is dead the appeal shall be struck off the hearing list.

Power of Court to strike out Appeal.

ORDER 16—COURT OF APPEAL MEDIATION PROGRAMME

1.—(1) Only Civil appeals in respect of breach of contract, liquidated money demand, matrimonial causes, child custody, parental actions, inheritance, chieftaincy or personal actions in tort are, at any time before an appeal is set for hearing, eligible for reference to the Court of Appeal Mediation Programme.

Eligibility and Request for Alternative Dispute Resolution (ADR) (Form 15).

(2) In all cases eligible for appellate mediation programme, the appellant or the respondent to the appeal, desiring mediation, shall file with the Registrar of the Court within twenty-one days of the entering of the appeal and serve on all the parties to the appeal a request for Alternative Dispute Resolution as in Form 15 in the First Schedule to the Rules.

(3) Any party served with a request for Alternative Dispute Resolution may, within 7 days, file a response.

(4) Pursuant to sub rules (1), (2) and (3) of this Rule, the Court may refer the appeal to the Court of Appeal Mediation Programme (CAMP).

2.—(1) The party making the request for Alternative Dispute Resolution shall accompany his request with an Information Statement and a concise summary of the case of not more than 10 pages.

Contents of Request.

(2) The Registrar shall upon receipt of the Request for Alternative Dispute Resolution refer the Request and the accompanying documents to the Court.

3.—(1) Where the Court refers an appeal to the Court of Appeal Mediation Programme, the Appeal shall be adjourned to a definite date not more than 3 months for the outcome of the mediation between the parties.

Adjournment of Appeal.

(2) The Court shall, on making a reference to the Court of Appeal Mediation Programme, direct the Registrar to provide copies of the Record of Appeal and Exhibits to the Court of Appeal Mediation Programme.

4. Where the Alternative Dispute Resolution Mechanism pursued under this Order is successful, the Court shall adopt the agreement reached by the parties as the judgment of the Court, but where the Alternative Dispute Resolution Mechanism fails, the appeal shall be set down for hearing or make such Orders as it deems fit.

Outcome of Proceedings.

5. The time stipulated under these Rules for filing of Briefs shall not begin to run but shall abide with the outcome of either events in Rule 4.

Time, not to run for Filing Briefs during Appeal Mediation Programme.

Cost of Fees
of
Alternative
Dispute
Mechanism.

6. Pursuant to the provisions of this Order, the parties shall take joint responsibility for all administrative costs, including mediation or arbitration fees associated with the resolution of the dispute: Provided always that such fees shall be equally shared between the parties unless otherwise agreed by the parties or directed by the Court.

PART III

ORDER 17—CRIMINAL APPEALS

Appeals to
which Order
applies
(Criminal
Forms 1, 2,
3, 4, 5 or 7).

1. This Order shall apply to appeals to the Court from any court or tribunal acting either in its original or in its appellate jurisdiction in criminal cases, other than a court-martial, and to matters related thereto.

Applications
not
specifically
provided for.

2. Except where otherwise provided in these Rules any application to the Court may be made by the Appellant or Respondent or by a Legal Representative on his behalf orally or in writing, but in regard to such applications if the Appellant is unrepresented and in custody and is not entitled or has not obtained leave to be present before the Court, he shall make any such application by forwarding the same in writing to the Registrar who shall take the appropriate steps to obtain the decision of the Court thereon.

Notice of
Appeal,
application
for leave,
etc.

3.—(1) A person desiring to appeal to the Court against any judgment, sentence or order of the court below, whether in the exercise of its original or of its appellate jurisdiction, shall commence his appeal by sending to the registrar of the court below a notice of appeal or notice of application for leave to appeal or notice of application for extension of time within which such notice shall be given, as the case may be, in the form of such notice respectively set forth as forms 1, 2, 3, 4, 5 or 7 in the Second Schedule to these Rules.

(2) A person sending any notice or notices under this Rule shall answer the questions and comply with the requirements set forth therein.

(3) The Court may of its own motion or on the application of the Appellant amend the notice or grounds of appeal and may grant leave to the Appellant to argue additional or amended grounds of appeal: Provided that, if, in the opinion of the Court, due notice of such amended or additional grounds of appeal to the Respondent is necessary but had not been given the Court may adjourn the appeal or make such order(s) as it may deem fit in the circumstance.

Signing of
Notice of
Appeal.

4.—(1) Every notice of appeal or notice of application for leave to appeal or notice of application for extension of time within which such notice shall be given, shall be signed by the Appellant himself or by his legal representative except under the provision of sub-rules (5) and (6) of this Rule.

(2) Any other notice required or authorised to be given shall be in writing and signed by the person giving the same or by his legal representative. All notices required or authorised to be given shall be addressed to the registrar of the court below to be forwarded by him to the Registrar; Provided that, notwithstanding that the provisions of Rules 3(1) and (2) and 4 (1) of this Order have not been strictly complied with, the Court may, in the interest of justice and for good and sufficient cause shown, entertain an appeal if satisfied that the intending appellant has exhibited a clear intention to appeal to the Court against the decision of the lower court.

(3) Any notice or other document which is required or authorised to be given or sent shall be deemed to be duly given or sent if forwarded by registered post addressed to the person to whom such notice or other document is so required or authorised to be given or sent.

(4) Where an Appellant any other person authorised or required to give or send any notice of appeal or notice of any application is unable to write, he may affix his mark thereto in the presence of a witness who shall attest the same and thereupon such notice shall be deemed to be duly signed by such Appellant.

(5) Where on the trial of a person entitled to appeal it has been contended that he was not responsible according to law for his actions on the ground that he was insane at the time the act was done or the omission made by him or that at the time of the trial he was of unsound mind and consequently incapable of making his defence, any notice required to be given and signed by the Appellant himself may be given and signed by his legal representative.

(6) In the case of a body corporate where any notice or other document is required to be signed by the Appellant himself, it shall be sufficient compliance therewith if such notice or other document is signed by the secretary, clerk, manager or legal representative of such body corporate.

(7) An appeal shall be deemed to have been brought when the notice of appeal has been filed in the registry of the court below.

5. An application to the Court for an extension of time within which notices may be given shall be in Form 7 in the Second Schedule to these Rules. Every person making an application for such extension Of time shall send to the registrar of the court below, together with the proper form of such application, a form duly filled up, of notice of appeal, or of notice of application for leave to appeal, appropriate to the ground or grounds upon which he desires to question his conviction or sentence, as the case may be.

Application
for
Extension of
Time
(Criminal
Form 7).

Notice of
Application
for leave to
Appeal
(Criminal
Form 6).

6.—(1) Where the Court or the court below has on a notice of application for leave to appeal duly sent and in the form provided under these Rules, given an Appellant leave to appeal, it shall not be necessary for such Appellant to give any notice of appeal but the notice of application for leave to appeal shall in such a case be deemed to be a notice of appeal.

(2) Where an application for leave to appeal has been made to the court below, the registrar of that court shall send to the Registrar of the Court notification of the result of the application in Form 6 in the Second Schedule to these Rules together with the original of the application for leave to appeal and the case shall thereafter be dealt with by the Court.

7.—(1) When—

(a) the registrar of the court below has received a notice of appeal or a notice of application to the court for leave to appeal or for extension of the time within which such notice shall be given ; or

(b) the court below has granted leave to appeal, the registrar of the court below shall, within 60 days of filing the notice of appeal, prepare the Record of Appeal in the manner hereinafter prescribed and forward to the Registrar either seven copies thereof together with a copy of the electronic device where the Record of Appeal was produced by means of computer, a copy of the electronic device duly and carefully preserved, or twenty copies of the record. He shall also forward the original exhibits in the case as far as practicable and any original depositions, information, inquisition, plea, or other documents usually kept by him or forming part of the record of the court below together with the originals of any recognisances entered into or any other documents filed in connection with the appeal or application.

(2) Subject to the provisions of Rule 9 of this Order, the registrar of the court below shall forward to the Appellant and to the Director of Public Prosecutions of the State from which the appeal emanated a copy of the record : Provided that if the Appellant is not in custody a copy of the record shall only be supplied to him on request.

(3) The Court may allow the return of any document to any party pending the hearing of the appeal and subject to such conditions as it may impose.

Fees.

. 8.—(1) The fees set out in the Third Schedule shall be taken and paid upon every appeal under this Order.

(2) The Court or the court below may waive in whole or in part the payment of any fees or the making of any deposit.

(3) Fees shall not be payable in appeals in capital cases or where an Appellant is granted legal aid.

9.—(1) The Record of Appeal in appeals or applications relating to appeals from the court below acting in its original jurisdiction in criminal cases shall contain legible typed, stenciled and cyclostyled, or printed, copies of the following items arranged in this order—

Record in
Criminal
Appeals
from court
below in
Original
Jurisdiction.

(a) the index ;

(b) the charge or information ;

(c) the Judge's notes of the evidence and minutes of the proceedings ;
Provided that if a shorthand note of the hearing has been taken, a copy of the transcript thereof may be included, either in addition to or in substitution of the Judge's notes, as he may direct ;

(d) the judgment or any additional ground or explanation thereof ;

(e) the proceedings on or after sentence in so far as not included in the notes of hearing or minutes of proceedings ;

(f) all documentary exhibits put in at the trial including depositions read in consequence of the absence of a witness : Provided that in the cases of books of accounts or other documents of great length, extracts of the relevant portions thereof only shall be included ;

(g) the notice of appeal or notice of application for leave to appeal or notice of application for extension of time in which such notice shall be given.

(2) It shall not be necessary for the Record of Appeal to contain copies of any recognisances entered into or documents filed in connection with the appeal or application other than those set out in sub-rule (1) of this Rule unless the Court or a Judge of the court below shall otherwise direct.

10.—(1) The Record of Appeal in appeals or applications relating to appeals from the court below acting in its appellate jurisdiction in criminal matters shall contain legible typed, stenciled and cyclostyled, or printed copies of the following items arranged in this order :

Record in
Criminal
Appeals
from Court
below in
Appellate
jurisdiction.

(a) the index which shall include the particulars of the record of proceedings from the lower court ;

(b) the record of proceedings from the lower court as submitted to the court below ;

(c) the notice of appeal and all other relevant documents filed in connection with the appeal in the court below ;

(d) the notes of the Judges on the hearing of the appeal and minutes of the proceedings ;

(e) the judgment of the court below ;

(f) the notice of appeal to the Court or notice of application for leave to appeal to the court, or notice of application to the court for extension of time in which such notice shall be given ;

(g) where leave to appeal has been granted by the court below, a copy of the order granting leave.

(2) It shall not be necessary for the Record of Appeal to contain copies of any recognisances entered into for the purposes of the appeal in the court below or of the appeal or application to the Court, unless the Court or a Judge of the court below shall otherwise direct.

(3) In this Rule "lower court" includes the court of trial and any court, other than the court below which may have heard the matter on appeal.

Report of
Judge of the
Trial Court.

11.—(1) The Registrar shall, if in relation to any appeal the Court directs him so to do, request the trial Judge to furnish him with a report in writing giving his opinion upon the case generally or upon any point arising upon the case of the Appellant, and the trial Judge shall furnish the same to the Registrar.

(2) The report of the Judge shall be made to the Court and, the Registrar shall on request, furnish a copy thereof to the Appellant and Respondent.

Furnishing
Judge of
Trial court
with
materials for
Report.

12. When a Registrar request the trial Judge to furnish a report under these Rules, he shall send to such Judge a copy of the notice of appeal or notice of application for leave to appeal or any other document or information which he shall consider material, or which the Court at any time shall direct him to send or with which such Judge may request to be furnished by the Registrar to enable such Judge to deal in his reports with the Appellant's case generally or with any point arising thereon.

Bail
(Criminal
Forms 8, 9
and 10).

13.—(1) Where the Court or the court below admits an Appellant to bail pending the determination of his appeal on an application by him duly made, such court shall specify the amounts in which the Appellant and his surety or sureties (unless such Court directs that no surety is required) shall be bound by recognisances, and shall direct, if it thinks fit so to do, before whom the recognisances of the Appellant and his surety or sureties (if any) may be taken.

(2) In the event of the court below not making any special order or giving any special directions under this Rule, the recognisances of the Appellant and of his surety or sureties (if any) may be taken before the Registrar.

(3) The recognisances provided for in this Rule shall be in Forms 8 and 9 in this Second Schedule to these Rules.

(4) The registrar of the court below, shall forward the recognisances of the Appellant and his surety or sureties to the Registrar.

(5) An Appellant who has been admitted to bail shall be personally present at each and every hearing of his appeal and at the final determination thereof. The Court may in the event of such Appellant not being present at any hearing of his appeal, if it thinks right so to do, decline to consider the appeal, and may

proceed summarily to dismiss the same and may issue a warrant for the apprehension of the Appellant in Form 10 in the Second Schedule ; Provided that the Court may consider the appeal in his absence, or make such other order as it deems fit.

(6) When an Appellant is present before the Court, the Court may, on an application, made by any person or, if it thinks right so to do without any application, make an order admitting the Appellant to bail, or revoke or vary, any such order previously made, or enlarge from time to time, the recognisances of the Appellant or of his sureties or substitute any other surety for surety previously bound as it thinks right.

(7) At any time after an Appellant has been admitted to bail, the Court or where the Appellant was released on bail by the court below that Court may, if satisfied that it is in the interest of justice so to do, revoke the order admitting to bail, and issue a warrant in Form 10 in the Second Schedule of these Rules.

14.—(1) Where a person has, on his conviction, been sentenced to payment of a fine, and in default of payment to imprisonment, and such person remains in custody in default of payment of the fine, he shall be deemed, for purposes of appeal, to be a person sentenced to imprisonment. Fines.

(2) An Appellant who has been sentenced to payment of a fine and has paid the same or part thereof in accordance with sentence, shall, in the event of his appeal being successful, be entitled, subject to any order of the Court, to the refund of the sum or any part thereof so paid by him.

15. Where upon, the trial of a person entitled to appeal against his conviction, an order of restitution of any property to any person has been made by the Court, the person in whose favour or against whom the order of restitution has been made, and' with the leave of the Court, any other person, shall, on the final hearing by the Court of an appeal against his conviction on which such order of restitution was made, be entitled to be heard by the Court before any order annulling or varying such order of restitution is made. Varying
Order of
Restitution
of property.

16. Where the Judge of the court below is of opinion that the title to any property the subject of an order of restitution made on a conviction of a person before him is not in dispute, he, if he is of opinion that such property or a sample or portion or facsimile representation thereof is reasonably necessary to be produced for use at the hearing of any appeal shall give such direction to or impose such terms upon the person in whose favour the order of restitution is made, as he shall think right in order to secure the production of such sample, portion or facsimile representation for use at the hearing of any such appeal. Non-
Suspension
of Order of
Restitution.

Non-
issuance of
Certificate of
Conviction.

17. The registrar of the court below shall not issue, under any law authorising him so to do, a certificate of conviction of any person on the court below if notice of appeal or notice of application for leave is given, until the determination or abandonment thereof.

Notice of
Abandonment
of Appeal
(Criminal
Form 11A,
11B and 12).

18.—(1) An Appellant at any time after he has duly served a notice of appeal or application for leave to appeal, or of application for extension of time within which such notice shall be given, may abandon his appeal giving notice of abandonment thereof to the Registrar, and upon such being given, the appeal shall be deemed to have been dismissed by the Notice of abandonment of an appeal as in Criminal Form 11.

(2) Upon receipt of a notice of abandonment duly completed and or marked by the Appellant or the party authorised to sign notice under this Order, the Registrar shall give notices thereof in Form 12 in the Schedule to the Respondent, the prison authority and the registrar of the court below, and in the case of an appeal against a conviction involving a sentence of death, shall in like manner give notice to the Permanent Secretary of the appropriate Federal or State Ministry, for the information of the authority responsible for advising the President of the Federal Republic of Nigeria, the Governor of a State, as the case may be, on the exercise of the prerogative of mercy, and the Registrar shall also return to the registrar of the court below any original documents and exhibits received from him.

Withdrawal
of Notice of
Abandonment
of Appeal
(Criminal
Forms 13
and 13A).

19. An Appellant who has abandoned his appeal may, in special cases with the leave of the Court, withdraw his notice of abandonment by duly completing Form 13 or 13A, as the case may be, in the Second Schedule (together with Form 7—Notice of Application for extension of time within which to appeal) and sending them to the Registrar.

Attendance
of witness
before the
Court
(Criminal
Forms 14,
15, 16 and
17).

20.—(1) An appellant before the Court may, where necessary, apply to the Court that a necessary witness attends and be examined by the Court on his behalf as in Form 15 in the Second Schedule.

(2) Where the Court grants the above application, an Order as in Form 14 in the Second Schedule shall be served upon such witness specifying the time and place at which to attend for such purpose.

(3) Such Order may be made on the application at any time by the Appellant or Respondent, but if the Appellant is in custody and not legally represented the application shall be made by him in Form 15 in the Second Schedule.

(4) Where the Court orders the examination of any witness conducted otherwise than before the Court itself, such Order shall specify the person appointed as examiner to take and the place of taking such examination and the witness or witnesses to be examined thereat.

(5) The Registrar shall furnish to the person appointed to take such examination any documents or exhibits and any other material relating to the said appeal as and when requested to do so. Such documents, exhibits and other material shall after examination has been concluded be returned by the examiner, together with any deposition taken by him under this Rule to the Registrar.

(6) When the examiner has appointed the day and time for the examination he shall request the Registrar to give notice thereof to the Appellant and Respondent and their Legal Representatives, if any, and when the Appellant is in prison, to the prison authority. The Registrar shall cause to be served on every witness to be examined a notice as in Form 16 in the Second Schedule.

(7) Every witness examined before an Examiner under this Rule shall give his evidence upon oath or affirmation to be administered by such Examiner, except where any such witness if giving evidence as a witness at a trial on information need not be sworn.

(8) The examination of every such witness shall be taken in the form of a deposition and unless otherwise ordered shall be taken in private. The caption in Form 17 in the Second Schedule shall be attached to any such deposition.

(9) Where any witness shall receive an order or notice to attend before the Court or an Examiner, the Registrar may, if it appears, to him necessary so to do pay to such witness a reasonable sum for his expenses.

(10) The Appellant and Respondent, or their Legal Representatives, shall, unless the Court otherwise directs, be entitled to be present at and take part in any examination of any witness to which this Rule relates.

21. When an order of reference is made by the Court to a special commissioner, the question to be referred, and the person to whom as special commissioner the same shall be referred, shall be specified in such order. The Court may in such order or by giving directions as and when they from time to time shall think right, specify whether the Appellant or Respondent or any person on their behalf may be present at any examination or investigation or at any stage thereof as may be ordered, and specify any and what powers of the Court may be delegated to such special commissioner, and may require him from time to time to make interim reports to the Court upon the question referred to him, and may, if the Appellant is in custody, give leave to him to be present at any stage of such examination or investigation and give the necessary directions to the prison authority accordingly, and may give directions to the Registrar that copies of any report made by such special commissioner shall be furnished to the Appellant and Respondent.

Proceeding
on
Reference.

Notice of
Final
determination
(Criminal
Forms 18,
19, 20 or
21).

22.—(1) On the final determination of any appeal or, of any application to the Court, the Registrar shall give to the Appellant, if he be in custody and has not been present at such final determination, and to the Respondent and the prison authority, notice of such determination in Form 18, 19, 20 or 21 in the Second Schedule, as the case may be.

(2) In any case of an appeal in relation to a conviction involving sentence of death, the Registrar shall on receiving notice of appeal, send copies thereof to the Permanent Secretary to the appropriate Federal or State Ministry, for the information of the authority responsible for advising the President or the Governor of a State, as the case may be, on the exercise of the prerogative of mercy, to the Respondent and to the prison authority.

Notification
of Results of
Appeal to
court below.

23.—(1) The Registrar at the final determination of an appeal shall notify in such manner as he thinks most convenient to the registrar of the court below the decision of the Court in relation thereto, and also any orders or directions made or given by the Court in relation to such appeal or any matter connected therewith.

(2) The registrar of the court below shall on receiving notification referred to in this Rule, enter the particulars thereof on the records of such court.

Return of
Original
Deposition,
etc.

24. Upon the final determination of an appeal by the Court for the purposes of which the Registrar has obtained from the registrar of the court below any original depositions, exhibits, information, inquisition, plea or other documents, usually kept by the said registrar or forming part of the record of the court below, the Registrar shall, after five (5) years, cause the same to be returned to the registrar of the court below.

Service of
Record of
appeal to the
Supreme
Court.

25.—(1) Where there is a further appeal to the Supreme Court, the Registrar shall as soon as possible after the compilation of the Record of Appeal serve upon every Appellant who has duly given a notice of appeal and paid the fees fixed by the Registrar to cover the cost of Record of the Appeal, a copy of the record.

(2) The Record of Appeal may be served upon the Appellant in any manner prescribed by these Rules for the service of notice or other documents relating to an appeal.

(3) The Registrar shall thereafter cause to be served upon every Respondent in the appeal who has filed an address for service a copy of the Record of Appeal.

26.—(1) Within fourteen days after a record has been served upon an Appellant, the Registrar shall certify under his hand that he has served the Record of Appeal upon every such Appellant. The certificate of service shall be in Criminal Form 22 or to like effect.

Certification
of Service
and
Transmission
of Record to
Supreme
Court
(Criminal
Form 22).

(2) In addition to the requirements of Order 7 Rule 4 of the Supreme Court Rules, the Registrar shall as soon as the record and notice of compilation of the Record of Appeal to the Supreme Court have been served on the Appellant and the Respondent, as the case may be, transmit to the Supreme Court—

a certificate that a copy of the Record of Appeal to the Supreme Court has been served on the parties to the Appeal.

PART IV

ORDER 18—APPEALS FROM COURTS MARTIAL AND TRIBUNALS

1.—(1) A person desiring to appeal to the Court against any decision of the court below shall commence his appeal by or sending to the registrar of the court below or other person or body imbued with or who performs such functions and powers as the registrar of a regular court a notice of appeal or notice of application for leave to appeal or notice of application for extension of time within which such notice shall be given, as the case may be, in the form of such notice respectively set forth as forms 1, 2, 3, 4, 5 or 7 in the Second Schedule to these Rules.

Notice of
Appeal and
other
Notices.

(2) A person sending any notice or notices under this Order shall answer the questions and comply with the requirements set forth therein.

(3) The Court may of its own motion or on the application of the Appellant amend the notice or grounds of appeal and may grant leave to the Appellant to argue additional or amended grounds of appeal: Provided that, if, in the opinion of the Court, due notice of such amended or additional grounds of appeal to the Respondent is necessary but had not been given, the Court may adjourn the appeal or make such order(s) as it may deem fit in the circumstances.

2.—(1) Every notice of appeal or notice of application for leave to appeal or notice of application for extension of time within which such notice shall be given, shall be signed by the Appellant himself or his Legal Representative, except as stipulated under sub-rule (3) of this rule.

Signing of
Notice of
Appeal and
other
Notices.

(2) Any notice or other document which is required or authorised to be given or sent shall be deemed to be duly given or sent if forwarded by registered post or electronic means addressed to the person to whom such notice or other document is so required or authorised to be given or sent.

(3) Where an Appellant or any other person authorised or required to give or send any notice of appeal or notice of any application is unable to

write, he may affix his mark thereto in the presence of a witness who shall attest the same and thereupon such notice shall be deemed to be duly signed by such Appellant.

When
Appeal is
brought.

3. An appeal shall be deemed to have been brought when the notice of appeal has been filed in the registry of the court below or the Registry of this Court.

Applications
for
Extension
of Time.

4.—(1) An application to the Court for an extension of time within which notices may be given shall be in Form 7 in the Second Schedule to these Rules. Every person making an application for such extension of time shall send to the Registrar of the Court, together with the proper Form of such application, a Form duly filled, of notice of appeal, or of notice of application for leave to appeal, or of notice of application for extension of time to appeal, appropriate to the ground or grounds upon which he desires to question his conviction or sentence, as the case may be.

(2) Where the Court has, on a notice of application for leave or extension of time to appeal duly sent and in the Form provided under these Rules, given an Appellant leave to appeal, it shall not be necessary for such Appellant to give any notice of appeal but the notice of application for leave to appeal shall in such a case be deemed to be a notice of appeal.

Certificate of
Conviction :
When
Registrar not
to issue.

5. The registrar of the court below shall not issue, under any law authorising him so to do, a certificate of conviction of any person convicted in the court below if a notice of appeal or notice of application for leave to appeal or notice of extension of time to appeal is given, until the determination or abandonment of such notice.

Record of
Appeal.

6.—(1) When—

(a) the registrar of the court below has received a notice of appeal or a notice of application to the Court for leave to appeal or for extension of time within which such notice shall be given ; or

(b) the Court has granted leave to appeal,

the registrar of the court below shall, within 60 days of the filing of the notice of appeal, prepare the Record of Appeal in the manner hereinafter prescribed and forward to the Registrar either seven copies thereof together with, where electronic devices were used for the production of the record, a copy of such electronic device used duly and carefully preserved, or twenty copies of the record. He shall also forward the original exhibits in the case as far as practicable and any original depositions, information, inquisition, plea, or other documents usually kept by him, or forming part of the record of the court below together with the originals of any recognisances entered into or any other documents filed in connection with the appeal or application.

(2) The Court may allow the return of any document to any party pending the hearing of the appeal and subject to such conditions as it may impose.

(3) The Record of Appeal in appeals or applications relating to appeals from the court below shall contain legibly typed or printed copies of the following items arranged in this order—

(a) the index ;

(b) the charge or information ;

(c) proof of evidence ;

(d) notes of evidence and minutes of the proceedings: Provided that if a shorthand note of the hearing has been taken, a copy of the transcript thereof may be included, either in addition to or in substitution of the Judge's notes, as he may direct ;

(e) the judgment or any additional ground or explanation thereof ;

(f) the proceedings on or after sentence in so far as not included in the notes of hearing or minutes of proceedings ;

(g) all documentary exhibits put in at the trial including depositions read in consequence of the absence of a witness: Provided that in the cases of books of accounts or other documents of great length, extracts of the relevant portions thereof only shall be included ;

(h) the notice of appeal or notice of application for leave to appeal or notice of application for extension of time in which such notice shall be given.

(4) It shall not be necessary for the Record of Appeal to contain copies of any recognisances entered into or documents filed in connection with the appeal or application other than those set out in sub-rule (1) of this Rule unless the court below shall otherwise direct.

7.—(1) The fees set out in the Third Schedule shall be taken and paid Fees upon every appeal under this order.

(2) The Court or the court below may waive in whole or in part the payment of any fees or the making of any deposit.

(3) Fees shall not be payable in appeals against death sentences, capital offences or where an Appellant is granted legal aid.

8.—(1) Where the Court or the court below admits an Appellant to bail pending the determination of his appeal on an application by him duly made, such Court shall specify the amounts in which the Appellant and his surety or sureties (unless such Court directs that no surety is required) shall be bound by recognisance and shall direct, if it thinks fit so to do, before whom the recognisance of the Appellant and his surety or sureties (if any) may be taken.

Bail,
Fines and
Restitution.

(2) In the event of the court below not making any special Order or giving any special directions under this Rule, the recognisance of the Appellant and of his surety or sureties (if any) may be taken before the Registrar.

(3) The recognisance provided for in this Rule shall be in Forms 8 and 9 in the Second Schedule to these Rules.

(4) The registrar of the court below shall forward the recognisance of the Appellant and his surety or sureties to the Registrar.

(5) An Appellant who has been admitted to bail shall be personally present at each and every hearing of his appeal and at the final determination thereof. The Court may in the event of such Appellant not being present at any hearing of his appeal, if it thinks right so to do, decline to consider the appeal, and may proceed summarily to dismiss the same and may issue a warrant for the apprehension of the Appellant in Form 10 in the Second Schedule : Provided that the Court may in its discretion, given the circumstances of each given case, consider the appeal in his absence, or make such other Order as it deems fit.

(6) When an Appellant is present before the Court, the Court may, on an application made by any person or, if it thinks right so to do without any application, make an order admitting the Appellant to bail, or revoke or vary any such order previously made, or enlarge from time to time the recognisance of the Appellant or of his sureties or substitute any other surety for a surety previously bound as it thinks right.

(7) At any time after an Appellant has been admitted on bail, the Court, or where the Appellant was released on bail by the court below, the Court may, if satisfied that it is in the interest of justice so to do, revoke the order admitting him to bail and issue a warrant in Form 10 in the Second Schedule of these Rules.

Fines.

9.—(1) Where a person has, on his conviction, been sentenced to payment of a fine, and in default of payment to imprisonment, and such person remains in custody in default of payment of the fine, he shall be deemed, for purposes of appeal, to be a person sentenced to imprisonment.

(2) An Appellant who has been sentenced to payment of a fine, and has paid the same or part thereof in accordance with sentence, shall, in the event of his appeal being successful, be entitled, subject to any order of the Court, to the refund of the sum or any part thereof so paid by him.

Restitution.

10.—(1) Where, upon the trial of a person entitled to appeal against his conviction, an order of restitution of any property to any person has been made by the Court, the person in whose favour or against whom the order of restitution has been made, and with the leave of the Court, any other person, shall, on the final hearing by the Court of an appeal against his conviction on

which such order of restitution was made, be entitled to be heard by the Court before any order annulling or varying such order of restitution is made.

(2) Where the court below is of the opinion that the title to any property the subject of an order of restitution made on a conviction of a person before it is not in dispute, it, if it is of the opinion that such property or a sample or portion or facsimile representation thereof is reasonably necessary to be produced for use at the hearing of any appeal, shall give such direction to or impose such terms upon the person in whose favour the order of restitution is made, as it deems fit in order to secure the production of such sample, portion or facsimile representation for use at the hearing of any such appeal.

11.—(1) An Appellant at any time after he has duly served notice of appeal or application for leave to appeal, or of application for extension of time within which such notice shall be given, may abandon his appeal by giving notice of abandonment thereof to the Registrar, and upon such notice being given, the appeal shall be deemed to have been dismissed by the Court. Notice of abandonment of an appeal shall be in Criminal Form 11 or 11A, as the case may be. Abandonment of Appeal.

(2) Upon receipt of a notice of abandonment duly completed and signed or marked by the Appellant or the party authorised to sign notice under Rule 4 of this Order, the Registrar shall give notices thereof in Form 12 in the Second Schedule to the Respondent, the prison or military authority and the registrar of the court below, and in the case of an appeal against conviction involving a sentence of death, shall in like manner give notice to the Permanent Secretary of the Ministry of Defence (anyhow so called), for the information of the authority responsible for advising the President of the Federal Republic of Nigeria on the exercise of the prerogative of mercy, and the Registrar shall also return to the Registrar of the court below any original documents and exhibits received from him.

(3) An Appellant who has abandoned his appeal may, in special cases, with the leave of the Court, withdraw his notice of abandonment by duly completing Form 13 or 13A, as the case may be, in the Second Schedule together with Form 7 (Notice of Application for extension of time within which to appeal) and sending them to the Registrar. Withdrawal of Abandonment of Appeal.

12.—(1) Upon the final determination of any appeal or of any application to the Court, the Registrar shall give to the Appellant, if he is in custody and has not been present at such final determination, and to the Respondent and the prison or military authorities, notice of such determination in Form 18, 19, 20 or 21 in the Second Schedule, as the case may be. Procedure after Determination of Appeal.

(2) In any case of an appeal in relation to a conviction involving sentence of death, the Registrar shall on receiving the notice of appeal, send copies thereof to the administrative head of the appropriate Ministry or department

of government for the information of the authority responsible for advising the President on the exercise of the prerogative of mercy, to the Respondent and to the prison or military authorities.

(3) The Registrar shall, upon the final determination of an appeal, notify in such manner as he thinks most convenient the registrar of the court below the decision of the Court in relation thereto, and also any orders or directions made or given by the Court in relation to such appeal or any matter connected therewith.

(4) The registrar of the court below shall on receiving the notification referred to in this Rule, enter the particulars thereof on the records of such court.

(5) Upon the final determination of an appeal for the purpose of which the Registrar has obtained from the registrar of the court below any original depositions, exhibits, information, inquisition, plea or other documents, usually kept by the said registrar, or forming part of the record of the court below, the Registrar shall, where practicable, cause the same to be returned to the registrar of the court below.

Service of
Record of
Appeal.

13.—(1) Where there is a further appeal to the Supreme Court, the Registrar shall as soon as possible after the compilation of the Record of Appeal serve upon every Appellant who has duly given a notice of appeal and paid the fees fixed by the Registrar to cover the cost of Record of the Appeal, or whose fees have been waived in accordance with these Rules, a copy of the record.

(2) The Record of Appeal may be served upon the Appellant in any manner prescribed by these Rules for the service of notice or other documents relating to an appeal.

(3) The Registrar shall thereafter cause to be served upon every Respondent in the appeal who has filed an address for service a copy of the Record of Appeal.

(4) Within fourteen days after a Record has been served upon an Appellant, the Registrar shall certify under his hand that he has served the Record of Appeal upon every such Appellant. The certificate of service shall be in Criminal Form 22, or to like effect.

(5) In addition to the requirements of any relevant provision of the Supreme Court Rules, the Registrar shall as soon as the record and notice of compilation of the Record of Appeal to the Supreme Court have been served on the Appellant and the Respondent, as the case may be, transmit to the Supreme Court a certificate that a copy of the Record of Appeal to the Supreme Court has been served on either or both parties in the Appeal thereto.

14.—(1) No pending appeal from the decision of a Court Martial or other Military Tribunal or the process or proceedings of the Court, wholly or in part, shall become incompetent merely on account of non-compliance with the provisions of this Order; but upon the Rules coming into force, all such appeals, processes or proceedings shall stand modified to conform with the Rules: Provided that on the coming into force of these Rules, all fresh appeals, processes and proceedings shall comply therewith.

(2) In any situation where there are no provisions or no sufficient provisions in this Order on any matter, recourse could be had to any relevant provisions of the Court of Appeal Act or any Rules of Practice of the Court for the time being in force and same shall apply to the situation with such modifications that are necessary.

PART V

ORDER 19—BRIEFS OF ARGUMENT

1. This Order shall apply to all appeals coming from any court or tribunal from which an appeal lies to this Court.

Application.

2. The Appellant shall within forty-five days of the receipt of the Record of Appeal from the court below file in the Court a written brief, being a succinct statement of his argument in the appeal.

Filing of
Appellant's
Brief.

3.—(1) The brief, which may be settled by Counsel, shall contain an address or addresses for service and shall contain what are, in the Appellant's view, the issues arising in the appeal as well as amended or additional grounds of appeal.

Forms and
Contents of
a Brief.

(2) Where possible or necessary, the reasons in the brief shall also be supported by particulars of the titles, dates and pages of cases reported in the Law Reports or elsewhere including the summary of the decisions in such cases, which the parties propose to rely upon. Where it is necessary, reference shall also be made to relevant statutory instruments, law books, and other legal journals.

(3) The parties shall assume that briefs will be read and considered in conjunction with the documents admitted in evidence as exhibits during the proceedings in the court below, and, wherever necessary, reference shall also be made to all relevant documents or exhibits on which they propose to rely in argument.

(4) All briefs shall be concluded with a numbered summary of the points to raise and the reasons upon which the argument is founded.

(5) Except to such extent as may be necessary to the development of the argument, briefs need not set out or summarise judgments of the lower court, nor set out statutory provisions, nor contain an account of the proceedings below nor of the facts of the case.

(6)(a) Except where the Court directs otherwise, every brief to be filed in the Court shall not exceed 35 (thirty five) pages.

(b) The brief must be prepared in 210mm by 297mm paper size (A4) and typed in clear typographic character. The typeset shall be in Arial, Times New Roman or Tahoma of 14 font size with at least single spaces in-between.

(c) Every brief which does not comply with the page limit and page size requirements of this Order shall not be accepted by the Registry for filing.

Filing of
Respondent's
Brief.

4.—(1) The Respondent shall also within thirty days of the service of the brief for the Appellant on him file the Respondent's brief which shall be duly endorsed with an address or addresses for service.

(2) The Respondent's brief shall answer all material points of substance contained in the Appellant's brief and contain all points raised therein which the Respondent wishes to concede as well as reasons why the appeal ought to be dismissed. It shall mutatis mutandis, also conform to Rule 3(1), (2), (3), (4) (5) and (6) of this Order.

Filing of
Reply Brief.

5.—(1) The Appellant may also, if necessary, within fourteen days of the service on him of the Respondent's brief, file and serve or cause to be served on the Respondent a reply brief which shall deal with all new points arising from the Respondent's brief.

(2) Except where the Court directs otherwise, every Reply brief to be filed in Court shall not exceed 15 (fifteen) pages, and shall conform with Rule 3 (2), (4), (5), (6 (b) and (c) of this Order.

Joint and
Several
Briefs.

6. All parties whose interests are identical or joint shall file joint briefs, and separate briefs may be filed only by those parties whose interests are separate or are in conflict.

Cross
Appeal or
Respondent's
Notice.

7. A Respondent may, without leave, include arguments in respect of a cross-appeal or a Respondent's notice in his brief for the original appeal and the cross-appeal or Respondent's notice.

Number and
Service of
Documents.

8. Ten copies of all briefs in respect of the appeal and two copies of the electronic device used for the production of the briefs, duly and carefully preserved shall be filed in Court. All such copies shall be duly endorsed for service on the other side, which shall also be duly paid for by the party filing the same.

Oral
Argument.

9.—(1) Oral argument will be allowed at the hearing of appeal to emphasize and clarify the written argument appearing in the briefs already filed in Court.

(2) The Appellant shall be entitled to open and conclude the argument. Where there is a cross-appeal or a Respondent's notice, the appeal and such cross-appeal or Respondent's notice shall be argued together with the appeal as one case and within the time allotted for one case, and the Court may, having regard to the nature of the appeal, inform the parties which one is to open and close the argument.

(3) Unless otherwise directed, fifteen minutes on each side will be allowed for argument.

(4) When an appeal is called and the parties have been duly served with the notice of hearing, but if any party or any Legal Practitioner appearing for him does not appear to present oral argument even though briefs have been filed by all the parties concerned in the appeal, the appeal will be treated as having been duly argued.

10.—(1) Where an Appellant fails to file his brief within the time provided for in Rule 2 of this Order, or within the time as extended by the Court, the Respondent may apply to the Court for the appeal to be dismissed for want of prosecution. If the Respondent fails to file his brief, he will not be heard in oral argument. Where an Appellant fails to file a reply brief within the time specified in Rule 5, he shall be deemed to have conceded all the new points or issues arising from the Respondent's brief.

Consequences
of Failure to
File Brief.

(2) Where an Appellant fails to file his brief within the time provided for in Rule 2 of this Order, or within the time as extended by the Court, the Court may *suomotu* dismiss the appeal for want of prosecution.

11. The Court may, where it considers the circumstances of an appeal to be exceptional, or where the hearing of an appeal ought to be accelerated in the interest of justice, waive compliance with the provisions of this Order in so far as they relate to the preparation and filing of briefs of argument either wholly or in part or reduce the time limits specified in this Order, to such extent as the Court may deem reasonable in the circumstances of the case.

Accelerated
Hearing.

ORDER 19—JUDGMENT

1. The judgment of the Court shall be pronounced in open court either on the hearing of the appeal or at any subsequent time of which notice shall be given by the Registrar to the parties to the appeal.

Delivery of
Judgment.

2. Whenever a reserved judgment is to be given and the Counsel concerned are duly notified in that behalf the presence of such Counsel or their juniors is required in Court when judgment is being delivered. Failure to observe this will be regarded as an act of disrespect to the Court.

Notice to
Counsel of
Reserved
Judgment.

Enrolment of
Judgment.

3.—(1) Every judgment of the Court shall be embodied in an Order.

(2) A sealed or certified copy of the Order shall be sent by the Registrar to the court below.

(3) Interlocutory order shall be prepared in like manner.

Review of
Judgment.

4. The Court shall not review any judgment once given and delivered by it, save to correct any clerical mistake or some error arising from any accidental slip or omission, or to vary the judgment or order so as to give effect to its meaning or intention. A judgment or order shall not be varied when it correctly represents what the Court decided nor shall the operative substantive part of it be varied and a different form substituted.

Enforcement
of Judgment.

5. Any judgment given by the Court may be enforced by the Court or by the court below or by any other court, which has been seized of the matter, as the Court may direct.

Execution of
Judgment by
Lower
Court.

6. When the Court directs any judgment to be enforced by another court, a certificate under the seal of the Court and the hand of the Presiding Justice setting forth the judgment shall be transmitted by the Registrar to such other court, and the latter shall enforce such judgment in terms of the certificate.

7. Where the costs of an appeal are allowed, they may either be fixed by the Court at the time when the judgment is given or may be ordered to be taxed.

Notification
of Judgment.

8.—(1) The Registrar at the final determination of an appeal shall notify, in such manner as he thinks most convenient to the registrar of the court below, the decision of the Court in relation thereto, and also any orders or directions made or given by the Court in relation to such appeal or any matter connected therewith.

(2) The registrar of the court below shall on receiving the notification referred to in this Rule, enter the particulars thereof on the records of such court.

Final
disposal of
Exhibits,
Documents,
etc.

9. Upon the final determination of an appeal for the purposes of which the Registrar has obtained, from the registrar of the court below any original depositions, exhibits, information, inquisition, plea or other documents usually kept by the said Registrar, or forming part of the record of the court below, the Registrar, shall, where practicable, cause the same to be returned to the registrar of the court below.

Interlocutory
Judgment
not to
prejudice
Appeal.

10. No interlocutory judgment or order from which there has been no appeal shall operate so as to bar or prejudice the Court from giving such decision upon the appeal as may seem just.

11.—(1) The Court shall have power to give any judgment or make any order that ought to have been made, and to make such further order as the case may require including any order as to costs.

Power of
Court to
give any
Judgment
or Order.

(2) The powers contained in sub-rule (1) of this Rule may be exercised by the Court, notwithstanding that the Appellant may have asked that part only of a decision may be reversed or varied, and may also be exercised in favour of all or any of the Respondents or parties, although such Respondents or parties may not have appealed from or complained of the decision.

ORDER 20—MISCELLANEOUS

1.—(1) Records of Appeal from the Sharia Court of Appeal or the Customary Court of Appeal intended for use in the Court, shall be compiled in English language as well as the language used in the proceedings before the court.

Records of
Appeal from
Customary
and Sharia
Courts of
Appeal.

(2) Tencertified true copies of the Record of Appeal in English language, two copies of the electronic device used for its production and three copies in the other language shall be forwarded to the Court.

2. The Court may direct a departure from these Rules in anywhere this is required in the interest of justice.

Departure
from Rules.

3.—(1) The Court may, in an exceptional circumstance, and where it considers it in the interest of justice so to do, waive compliance by the parties with these Rules or any part thereof.

Waiver of
Non-
compliance.

(2) Where there is such waiver of compliance with the Rules, the Court may, in such manner as it thinks right, direct the Appellant or the Respondent as the case may be, to remedy such non-compliance or may, notwithstanding, order the appeal to proceed or give such directions as it considers necessary in the circumstance.

(3) The Registrar shall forthwith notify the Appellant or the Respondent as the case may be of such order or directions given by the Court under this Rule where the Appellant or the Respondent was not present at the time when such order was made or directions were given.

4. As early as possible before the date set down for hearing of any appeal before the Court and in any event not later than two clear days before such date, all the parties or the Legal Practitioners representing them shall forward to the Registrar a list of the law reports, text books, and other authorities which parties or legal practitioners representing them intend to cite at the hearing of the appeal.

List of Law
Reports,
Textbooks,
etc.

Application
to Strike
Out, etc.

5.—(1) An application to strike out or set aside for noncompliance with these Rules, or any other irregularity arising from the Rules of Practice and Procedure in this Court, any proceedings or any document, judgment or order therein shall only be entertained by the Court if it is made within a reasonable time and before the party applying has taken any fresh step after becoming aware of the irregularity.

(2) An application under this Rule may be made by motion on notice and the grounds of objection must be stated therein.

Rules of
Court
Advisory
Committee.

6.—(1) There shall be constituted a body to be known as the Rules of Court Advisory Committee comprising of—

(a) Not less than five Justices of the Court one of whom shall be the Chairman ; and

(b) Not less than three members of the Bar to be appointed by the President.

(2) It shall be the duty of the Committee to advise the President from time to time in the exercise of the powers conferred upon him by the Constitution or by or under any law, to make Rules for regulation or making provision with respect to practice and procedure in the Court.

(3) Every member of the Committee shall remain a member thereof for such period as the President may in his discretion prescribe, either at the time of the appointment of the member or at any time thereafter.

Practice
Direction.

7. The President may at any time, by notice, declare a practice of the Court as practice direction, and whenever the declaration is made, such practice direction shall be regarded as part of these Rules.

FIRST SCHEDULE
FORM 1
IN THE COURT OF APPEAL
REFERENCE AS TO CONSTITUTION
ORDER 5—RULE 1

Between:.....
.....Plaintiff

And

.....Defendant.

1. This is an action¹.....

2. The plaintiff alleged².....

3. The defendant answered³.....

4. The plaintiff replied⁴.....

After hearing the parties and evidence adduced on each side the court found that the following matters were established as facts⁵:

First that.....

The following question as to the interpretation of the Constitution arose in these proceedings, namely.....

The above stated question of law⁶ is referred for the decision of the Court of Appeal.....

DATED at.....this.....day of.....20.....

.....
Judge

¹State nature of action.

²State as concisely as possible the substantive averments of the plaintiff but not any part of the evidence.

³State in like manner the defendant's answer and also any further allegation or counter claim made by the defendant.

⁴State reply, if any.

⁵State the facts found

⁶Here state question of law.

FORM 2
IN THE COURT OF APPEAL
RESERVED POINT OF LAW
ORDER 5—RULE 1

Between:.....

.....Plaintiff.

And

.....

.....Defendant.

This is an action¹

The plaintiff alleged².....

The defendant answers

The Plaintiff reply

After hearing the parties and evidence adduced on each side the court found
that the following matters were established as facts³ :

First that.....

.....

The following question(s) of law⁴ are reserved for the decision of the Court
of Appeal:

First whether

DATED at.....this.....day of.....20.....

.....
Judge

¹ State nature of action

² State as concisely as possible the substantive averments of the Plaintiff but
not any part of the evidence.

³ State in like manner the defendant's answer and also any further allegations
or counter claim made by the defendant.

⁴ State reply, if any.

⁵ State the facts found.

⁶ State questions of law on which a decision is required.

FORM 3
IN THE COURT OF APPEAL
NOTICE OF APPEAL
ORDER 7 RULE 2

Between.....

..... Appellant

And

.....

..... Respondent

TAKE NOTICE that the Appellant being dissatisfied with the decision that part of the decision more particularly stated in paragraph 2* of the..... court contained in the judgment/order of.....dated the.....day of20.....doth hereby appeal to the Court of Appeal upon the grounds set out in paragraph 3 and will at the hearing of the appeal seek the relief set out in paragraph 4. And the Appellant further states that the names and addresses of the persons directly affected by the Appeal are those set out in paragraph 5.

2. Part of decision of the lower Court complained of.

3. Grounds of Appeal :

(1)

(2)

(3) etc.

4. Relief sought from the Court of Appeal.

5. Persons directly affected by the appeal :

Name Address :

(1)

(2)

(3) etc.

DATED at.....this.....day of.....20.....

.....

Appellant

Whose address for service is.....

Strike out words inapplicable.

If appealing against the whole decision insert "whole decision"

FORM 4
IN THE COURT OF APPEAL
NOTICE OF MOTION

ORDER 6—RULE 1

Between.....
..... Appellant.

And
.....
..... Respondent.

TAKE NOTICE that the Court will be moved on.....day of
.....20.....at.....in the forenoon or as soon thereafter
as Counsel can be heard on behalf of the above named *.....for
an order that.....

TAKE FURTHER NOTICE that the GROUNDS of this application are :

DATED at.....this.....day of.....20.....

.....
*Applicant or his Legal
Representative*

Whose address for service is.....

State whether Appellant or Respondent.

State the prayer

Note : An address for service must be given.

FORM 5
IN THE COURT OF APPEAL
NOTICE OF MOTION FOR LEAVE TO APPEAL

ORDER 6—RULE 7

Between.....

..... Appellant.

And

..... Respondent.

TAKE NOTICE that the Court will be moved on the.....day
of.....20..... at O'clock in the forenoon or as
soon thereafter as Counsel can be heard on the hearing of an application for
leave to appeal against the decision of the Court on the.....day
of.....20.....

AND further take notice that the grounds of this application are :

And further take notice that the following documents are exhibited in this
application :

(i)

(ii)

DATED at.....this.....day of.....20.....

.....
Applicant

Address for Service

FORM 6
IN THE COURT OF APPEAL
SUMMONS TO PARTIES BY REGISTRAR TO SETTLE RECORD
ORDER 8—RULE 2

Between.....
..... Appellant.

And
.....
..... Respondent.

TAKE NOTICE that all parties concerned are required to attend before me at the Court at.....on the..... day of20..... at the hour of O'clock in the forenoon to proceed with settling of the record of the appeal therein.

DATED at.....this.....day of.....20.....

.....
Registrar of the Court below

FORM 7
IN THE COURT OF APPEAL
CERTIFICATE OF SERVICE OF RECORD OF APPEAL
ORDER 8—RULE 10(3)

Between.....

..... Appellant(s).

And

.....

..... Respondent(s).

I, the undersigned Registrar of the Court do certify that notice of appeal in the above named case was duly served upon the Appellant and the Respondent herein.

DATED at.....this.....day of.....20.....

.....
Registrar of the Court below

FORM 8
IN THE COURT OF APPEAL
NOTICE OF TRANSMISSION OF RECORD
ORDER 8—RULE 10 (1)

Appeal No

I do hereby Certify that on the..... day of.....20.....
the record of appeal in this Appeal has been compiled and transmitted to the
Court of Appeal.

DATED at.....this.....day of.....20.....

.....
Registrar/Appellant

FORM 9
IN THE COURT OF APPEAL
CERTIFICATE OF NON-COMPLIANCE WITH CONDITIONS
IMPOSED ON AN APPELLANT

ORDER 8—RULE 18

Appeal No.

Between.....

..... Appellant.

And

.....

..... Respondent.

Pursuant to Order 8 Rule 18 of the Court of Appeal Rules, I hereby certify that the Appellant(s) in the above-named cause have/has failed to comply with the amount fixed to cover the cost of compilation and transmission of record pursuant to Order 8 Rule 2(b).

DATED at.....this.....day of.....20.....

.....
Registrar/Appellant

FORM 11
IN THE COURT OF APPEAL
NOTICE BY RESPONDENT OF INTENTION TO RELY
UPON PRELIMINARY OBJECTION
ORDER 10—RULE 1

Appeal No.....

Between.....

..... Appellant(s).

And

.....

..... Respondent(s).

TAKE NOTICE that the Respondent herein named intends, at the hearing of this appeal, to rely upon the following preliminary objection notice whereof is hereby given to you, viz :

AND TAKE NOTICE that the grounds of the said objection are as follows :

- 1.
- 2.
- 3.

DATED at.....this.....day of.....20.....

.....
Respondent

To the above named Appellant

To:.....

.....

.....

FORM 13
IN THE COURT OF APPEAL
NOTICE OF WITHDRAWAL OF APPEAL BY CONSENT
ORDER 11—RULE 2

Appeal No.....
Between.....
..... Appellant(s).
And
.....
..... Respondent(s).

TAKE NOTICE that the above appeal is withdrawn with the consent of all parties hereto.

DATED at.....this.....day of.....20.....

.....
Appellant/Respondent

FORM 12
IN THE COURT OF APPEAL
NOTICE OF WITHDRAWAL OF APPEAL
ORDER 11—RULE 1

Appeal No.....

Between.....

..... Appellant(s).

And

.....

..... Respondent(s).

TAKE NOTICE that the Appellant(s) herein intend(s) and doth hereby wholly withdraw(s) his/her appeal against (all) the Respondent(s) in the above mentioned appeal.

DATED at.....this.....day of.....20.....

.....

Appellant(s)

For service on :

Respondent(s)

FORM 14A
IN THE COURT OF APPEAL
CERTIFICATE OF THE REGISTRAR THAT
A COPY OF THE RECORD OF APPEAL
HAS BEEN SERVED ON THE APPELLANT(S)

ORDER 14—RULE 4(1)

Appeal No.....

Between.....

..... Appellant(s).

And

.....

..... Respondent(s).

I do hereby certify that a copy of the record of the above appeal was on the
.....day of 20..... served upon the Appellant(s)
by

DATED at.....this.....day of.....20.....

.....

Registrar

FORM 14B
IN THE COURT OF APPEAL
CERTIFICATE OF THE REGISTRAR OF SERVICE
UPON RESPONDENT(S) OF NOTIFICATION
THAT THE RECORD HAS BEEN COMPILED

ORDER 14—RULE (2)

Appeal No.....

Between.....

..... Appellant(s).

And

.....

..... Respondent(s).

I do hereby certify that on the..... day of.....20.....

The Respondent(s) in this appeal was/were notified by.....that the
record of this appeal has been compiled.

DATED at.....this.....day of.....20.....

.....

Registrar

FORM 15
IN THE COURT OF APPEAL
REQUEST FOR ALTERNATIVE DISPUTE RESOLUTION
ORDER 16

Between.....

..... Appellant(s).

And

.....

..... Respondent(s).

TAKE NOTICE that, being aware of the availability of a range of processes known as Alternative Dispute Resolution (ADR), designed to aid Parties in amicably resolving their dispute outside of a formal judicial proceeding, and of the existence of the Court of Appeal Mediation Programme (CAMP) where the Court offers settlement assistance to Parties. I/We request that the CAMP assist in settling the matter stated herein. Requested ADR Mechanism :

Tick preferred mechanism —

Mediation () : Arbitration () : Neutral Evaluation ()

(Attach a Brief Statement of Issues (4 copies) with no more than 5 issues identified and only the most essential documents).

Name of Applicant

Name of Principal Contact

Address

Tel. No E-mail.....

Signature/Seal of Applicant

Details of the other Party *(If more than one, attach details)*

Name.....

Name of Principal Contact

Address

Tel. No..... E-mail :.....

DATED at.....this.....day of.....20.....

.....
Registrar

.....
Director, CAMP

SECOND SCHEDULE
CRIMINAL FORM I
IN THE COURT OF APPEAL
NOTICE OF APPEAL FROM DECISION OF A COURT
SITTING AS A COURT OF FIRST INSTANCE

ORDER 17 RULE 3

Appeal No.

To the Registrar of the

having been convicted of the offence of
and now being a
prisoner in prison at or whose address for
service is
do hereby give notice of appeal against my conviction (particulars of which are
stated hereinafter) appeal to the Court on the following grounds :

.....
Signature or Mark of Appellant

.....
*Signature and Address of Witness
attesting Mark*

DATED at this day of 20

PARTICULARS OF TRIAL AND CONVICTION

1. Date of Trial
2. In what court tried
3. Sentence
4. Whether questions of law now raised were raised at the trial.

You are required to answer the following question—

Do you desire to be present on the hearing of the appeal by the Court ? If you do so desire, state the reasons upon which you submit the said Court should give you leave to be present.

N.B. : The Court will, if you desire, consider your case and argument if put into writing by you or on your behalf, instead of your case and argument being presented orally. If you desire to present your case and argument in writing, submit as fully as you think right your case and argument in support of your appeal.

Note :- This form should only be used where there is a right of appeal without leave, that is to say, in an appeal from a conviction for murder by the High Court or in any other appeal as of right lies by virtue of the Constitution or an express provision of law.

CRIMINAL FORM 2
IN THE COURT OF APPEAL
NOTICE OF APPLICATION FOR LEAVE TO
APPEAL FROM DECISION OF A COURT SITTING
AS A COURT OF FIRST INSTANCE

ORDER 17 RULE 3

The State Vs.....

To the Registrar of the.....

having been convicted of the offence of.....

and now being a prisoner in prison at.....

whose address for service is.....

and being desirous of appealing my conviction/sentence, Do HEREBY GIVE NOTICE
 THAT I hereby apply for leave on the following grounds :

.....
Signature or Mark of Appellant

.....
Signature and Address of Witness
attesting Mark

DATED at.....this.....day of.....20.....

PARTICULARS OF TRIAL AND CONVICTION

1. Date of Trial
2. In what court tried.....
3. Sentence.....

(1) If you desire to be present when the Court considers your present application for leave to appeal, state :

(a) whether or not you are legally represented, and

(b) the grounds on which you submit that the Court should give you leave to be present thereat.

N.B.: The Court will, if you desire, consider your case and argument if put into writing by you or on your behalf, instead of your case and argument being presented orally. If you desire to present your case and argument in writing submit as fully as you think right your case and argument in support of your appeal.

State if you desire to be present at the final hearing of your appeal.

.....

Note : The form suitably adapted, may also be used where the application for leave to appeal is made to the High Court.

CRIMINAL FORM 3
IN THE COURT OF APPEAL
NOTICE OF APPEAL FROM DECISION OF A
COURT IN ITS APPELLATE JURISDICTION

ORDER 17 RULE 3

The State Vs......
To the Registrar of the.....

having been convicted of the offence of.....and
now being a prisoner in prison at.....or
whose address for service is and
being desirous of appealing against my conviction/sentence, DO HEREBY GIVE NOTICE
of appeal against the decision of the High Court ofon
the following grounds :

.....
Signature or Mark of Appellant

.....
*Signature and Address of Witness
attesting Mark*

DATED at.....this.....day of.....20.....

PARTICULARS OF TRIAL AND CONVICTION

1. Date of Trial
2. In what Court tried.....
3. In what Court appeal heard.....
4. Sentence.....

(1) If you desire to be present when the Court considers your present application for leave to appeal, state :

(a) whether or not you are legally represented, and

(b) the grounds on which you submit that the Court should give you leave to be present thereat.

N.B.: The Court will, if you desire it, consider your case and argument if put in writing by you or on your behalf, instead of your case and argument being presented orally. If you desire to present your case and argument in writing submit as fully as you think right your case and argument in support of your appeal.

State if you desire to be present at the final hearing of your appeal.

Note : The form suitably adapted, may also be used where the application for leave to appeal is made to the High Court.

CRIMINAL FORM 4
IN THE COURT OF APPEAL
NOTICE OF APPLICATION FOR LEAVE TO
APPEAL FROM DECISION OF A COURT IN
ITS APPELLATE JURISDICTION

ORDER 17 RULE 3

The State Vs.....
To the Registrar of the.....

having been convicted of the offence of.....
and now being a prisoner in prison at or
whose address for service is and
being desirous of appealing against my conviction/sentence, DO HEREBY GIVE NOTICE
of appeal against the decision of the High Court of on the
following grounds :

.....
Signature or Mark of Appellant

.....
*Signature and Address of Witness
attesting Mark*

DATED at.....this.....day of.....20.....

PARTICULARS OF TRIAL AND CONVICTION

1. Date of Trial
2. In what Court tried.....
3. In what Court appeal heard.....
4. Sentence.....

(1) If you desire to be present when the Court considers your present application for leave to appeal, state :

(a) whether or not you are legally represented, and

(b) the grounds on which you submit that the Court should give you leave to be present thereat.

N.B.: The Court will, if you desire it, consider your case and argument if put in writing by you or on your behalf, instead of your case and argument being presented orally. If you desire to present your case and argument in writing submit as fully as you think right your case and argument in support of your appeal.

State if you desire to be present at the final hearing of your appeal.

Note: The form suitably adapted may also be used where the application for leave to appeal is made to the High Court.

CRIMINAL FORM 5
IN THE COURT OF APPEAL
NOTICE OF APPEAL
(OR APPLICATION FOR LEAVE TO APPEAL)
BY PROSECUTOR
ORDER 17 RULE 3

To the Registrar of the.....

the prosecutor in the above case and being desirous of appealing against the decision under section*

Do HEREBY GIVE NOTICE OF APPEAL (or application for leave to appeal) on the following grounds :

DATED at.....this.....day of.....20.....

*Refer to the provision of the Law which gives the Prosecutor a Right of Appeal or the Right to apply for leave.

PARTICULARS OF TRIAL AND CONVICTION

1. Date of Trial.....
2. In what Court tried
3. In what Court appeal heard.....
4. Sentence.....

(1) If you desire to be present when the Court considers your present application for leave to appeal, state :

(a) whether or not you are legally represented, and .

(b) the grounds on which you submit that the Court should give you leave to be present thereat.

N.B.: The Court will, if you desire it, consider your case and argument if put in writing by you or on your behalf, instead of your case and argument being presented orally. If you desire to present your case and argument in writing submit as fully as you think right your case and argument in support of your appeal. State if you desire to be present at the final hearing of your appeal.

Note : The form suitably adapted, may also be used where the application for leave to appeal is made to the High Court.

CRIMINAL FORM 6
IN THE COURT OF APPEAL
NOTIFICATION BY REGISTRAR OF HIGH COURT
OF RESULT OF APPLICATION FOR LEAVE TO APPEAL

ORDER 17 RULE 6

The State Vs.....

To the Registrar of the

I hereby give you notice that on the.....day of.....20.....
the High Court of.....at
granted/refused an application for leave to appeal against conviction/sentence
in the case of which particulars are set below.

DATED at.....this.....day of.....20.....

.....

Registrar

PARTICULARS OF TRIAL AND CONVICTION

1. Case No.....
2. Court of trial.....
3. Name of accused.....
4. Result of trial

Note : The Registrar of the High Court should forward with this notice
the application for leave to appeal.

CRIMINAL FORM 7
IN THE COURT OF APPEAL
NOTIFICATION OF APPLICATION FOR EXTENSION OF
THE TIME WITHIN WHICH TO APPEAL

ORDER 17 RULE 3

The State Vs......

To the Registrar of the.....

I.....having been convicted
of the offence of¹..... in the.....court,
held at.....on the.....day of.....and being
now a prisoner in prison ator
whose address for service is²give
notice that I hereby apply to the Court for an extension of time within which I
may give Notice of Appeal (or Notice of Application for leave to appeal) on
the following grounds³:

.....
Signature or Mark of Appellant

.....
*Signature and Address of Witness
attesting Mark*

DATED at.....this.....day of.....20.....

You are required to send to the Registrar of the Court, duly filled up Forms 1,
2, 3 or 4, whichever is appropriate.

¹ State the offence e.g larceny, forgery, etc.

² Where applicant for any reason not in custody, state the address for service.

³ State clearly and concisely the reasons for the delay in giving such notice
and the grounds on which you submit the Court should extend the time.

CRIMINAL FORM 8
IN THE COURT OF APPEAL
RECOGNIZANCE OF BAIL OF APPELLANT
ORDER 17 RULE 13

The State Vs

.....
BE IT REMEMBERED THAT WHEREAS.....
was convicted ofon the.....day of20.....
and was thereupon sentenced toand now is in
lawful custody in prison at
and has duly appealed against his conviction (and sentence) to the Court and has
applied for bail pending the determination of his appeal, and has been granted
bail on entering into his own recognizance in the sum of N.....with
sureties each in the sum of N....., the said.....personally
cometh before me the undersigned, being the.....

(State Office)

and acknowledges himself to owe to the State the said sum of N
of goods and lawful money, to be made and levied of his goods and chattels, lands
and tenements to the use of the State, if the saidfails in the condition
endorsed.

TAKEN AND ACKNOWLEDGED this.....day of.....20.....at

BEFORE ME

.....
(State Office)

CONDITION

The Condition of the within recognizance is such that if the said.....shall
personally appear and surrender himself at and before the Court at each and every
hearing of his appeal to such court and at the final determination thereof and then
abide by the judgment of the said court and not depart or be absent from such court,
and in the meantime not depart or be absent from such court at any such hearing
without the leave of the said court, and in the meantime not depart from his usual
place of abode without the leave of the court, then this recognizance shall be void,
otherwise of full force and effect. The following to be filled up by the Appellant and
signed by him — When released on bail my address for service, to which any Notices
etc are to be addressed, and will be as follows :

.....
Appellant

CRIMINAL FORM 11
IN THE COURT OF APPEAL
NOTICE OF ABANDONMENT OF APPEAL
ORDER 17 RULE 18

The State Vs

.....
I,
having being convicted ofin the.....court
atand having been desirous of appealing to the court against my said
conviction (or the sentence ofpassed upon me on my said
conviction) do hereby give you notice that I do not intend further to prosecute
my appeal, and that I hereby abandon all further proceedings in regard thereto
as from the date thereof.

DATED this.....day of20.....

.....
Signature of mark of Appellant

.....
*Signature and Address of
witness attesting mark*

CRIMINAL FORM 11A
IN THE COURT OF APPEAL
NOTICE OF ABANDONMENT OF APPEAL BY PROSECUTOR
ORDER 17 RULE 18

The State *Vs*.....

I,being the
Appellant/the Prosecutor in the.....(Court)
at, having
appealed against the acquittal and/or discharge.....on
the.....day of.....20.....in Charge
No

and having been desirous of appealing to the Court against the said acquittal
and/or discharge do hereby give Notice that the State/I do not intend further
to prosecute the appeal, and hereby abandon all further proceedings in regard
thereto as from the date hereof.

DATED this.....day of20.....

.....
Signature of mark of Appellant

.....
*Signature and Address of
witness attesting mark*

1. To the Registrar of the Court of Appeal.
2. For Service on the Respondent.

CRIMINAL FORM 12
IN THE COURT OF APPEAL
NOTICE OF ABANDONMENT OF APPEAL
ORDER 17 RULE 18

The State Vs

.....

To THE DIRECTOR OF PUBLIC PROSECUTIONS OF*to.....
This is to give you notice that I have this day received from the above named
a notice of abandonment of all proceedings in regard to his appeal to the
Court. The said notice is dated the.....day of20.....
By Order 17 Rule 18 of the Court of Appeal Rules, upon the notice of
abandonment being given the appeal shall be deemed to have been dismissed
by the Court.

DATED this.....day of20.....

.....
Registrar of the Court.

* Send copies addressed to—

- (a) The Director-General of the appropriate Ministry (if a capital case) ;
- (b) The Director of Public Prosecutions or other Respondent ;
- (c) The Prison Authority ; and
- (d) The Registrar of the court below.

CRIMINAL FORM 13
IN THE COURT OF APPEAL
NOTICE OF APPLICATION FOR LEAVE TO WITHDRAW
AND ABANDONMENT OF APPEAL
ORDER 17 RULE 19

To : THE REGISTRAR, COURT OF APPEAL

The State Vs

.....
I,having been
convicted of the Offence ofand now
being a prisoner in prison ator
whose address for service isand
having duly sent a notice that I desire to appeal to the Court of Appeal and
having abandoned my appeal ; GIVE YOU NOTICE that I hereby apply to the
Court of Appeal for leave to withdraw my Notice of Abandonment, in the
special circumstances following:

.....
Signature or Mark of Appellant

.....
Signature and Address of
Witness attesting Mark

Note : Form 7 must be filled up and sent with the Notice to the Registrar.

¹ Here state the offence *e.g.* larceny, forgery etc.

² Set out as clear and concisely as possible the special reasons for giving such notice, and the grounds on which you submit the Court should allow you to withdraw the abandonment.

CRIMINAL FORM 13A
IN THE COURT OF APPEAL
NOTICE OF APPLICATION FOR LEAVE TO
WITHDRAW AND ABANDONMENT OF APPEAL
(BY APPELLANT/PROSECUTOR)

ORDER 17 RULE 19

To : THE REGISTRAR, COURT OF APPEAL

The State Vs

.....
I,.....being the
Appellant/Prosecutor and having appealed against the acquittal and/or
discharge by the.....Court on the.....day
of.....20.....in Charge No.....and
having duly sent a Notice that the State/I desire to appeal to the Court of
Appeal and having abandoned my appeal, GIVE YOU NOTICE that the State/I
hereby apply to the Court of Appeal for leave to withdraw their/my Notice of
abandonment, in the special circumstances following :

.....
*Signature of Appellant and
Designation of Prosecutor*

.....
*Signature and Address of
witness attesting mark*

Note : Form 7 must be filled up and sent with the Notice to the Registrar.

- 1. To the Registrar, Court of Appeal.
- 2. For service on the Respondent.

IN THE COURT OF APPEAL
ORDER TO WITNESS TO ATTEND COURT
FOR EXAMINATION

ORDER 17 RULE 20

The State Vs

To

Name of Witness

.....

(Address)

WHEREAS on good cause shown to the Court you have been ordered to attend and be examined as a witness before such Court upon the appeal of the above mentioned.

This is to give you notice to attend before the said Court at.....on the.....day ofat2 O'clock in the afternoon. You are also required to have with you at the said time and place any books, papers or other things relating to the said appeal which you may have had notices so as to produce.

DATED this.....day of20.....

.....

Registrar of the Court

CRIMINAL FORM 15
IN THE COURT OF APPEAL
APPELLANT'S APPLICATION FOR FURTHER
WITNESSES

ORDER 17 RULE 20

The State Vs

.....
I,.....having appealed to the Court, hereby
request you to take notice that I desire that the said Court shall order the
witnesses hereinafter specified to attend the Court and be examined on my
behalf.

.....
Signature or Mark of Appellant

.....
*Signature and Address of
Witness attesting Mark*

DATED this.....day of.....20.....

You are required to fill up the following and sign same.

1. Name and address of witnesses
2. Whether such witnesses have been examined at trial
3. If not, state the reason why they were not so examined
4. On what matters do you wish them to be examined on the appeal
5. State briefly the evidence you think they can give.

CRIMINAL FORM 16
IN THE COURT OF APPEAL
NOTICE TO WITNESS TO ATTEND BEFORE
AN EXAMINER
ORDER 17 RULE 20

The State Vs

.....

To.....

(Name of Witness)

of

(Address of Witness)

Whereas on good cause shown to the Court you have been ordered to be examined as a witness upon the appeal of the above named, and your deposition to be taken for the use of the said Court. This is to give you notice to attend at.....

(Specify Place of Examination)

on.....day of20.....

before.....at.....o'clock in the forenoon.

You are also required to have with you at the said time and place any books, papers or other things under your control or in your possession in any manner relating to the said appeal of which you may have had notice so to produce.

DATED this.....day of20.....

.....

Registrar of the Court

CRIMINAL FORM 17
IN THE COURT OF APPEAL
CAPTION FOR DEPOSITION OF WITNESS
EXAMINED BEFORE EXAMINER

ORDER 17 RULE 20

The State Vs

To.....

(Name of Witness)

of

(Address of Witness)

The deposition (on oath) taken before me the undersigned, being an examiner duly appointed by the Court in that behalf of

.....
(Address of Witness)

examined before me under an order of the said Court dated the.....
day of.....20.....in the presence of the said.....
(Appellant or of his professional representative) and Respondent had full
opportunity of asking questions of the said witnesses, to whom the depositions
following were read by me before being signed by them the said witnesses
respectively.

The deposition of

Who (upon oath duly administered by me) said as follows :

DATED this.....day of20.....

.....
Examiner

CRIMINAL FORM 18
IN THE COURT OF APPEAL
NOTIFICATION OF APPELLANT OF RESULT
OF APPLICATION
ORDER 17 RULE 22

The State Vs

.....
To : THE ABOVE-NAMED APPLICANT

This is to give you notice that the Court has considered the matter of your application for :

- (a) leave to appeal to the said Court ;
- (b) leave to extend the time within which you may give notice of appeal or application for leave to appeal ;
- (c) permission to be present during the proceedings in your appeal ;
- (d) admission to bail ;
- (e) leave to withdraw abandonment of appeal ; and has finally determined the same and has this day given judgment to the effect following :

DATED this.....day of20.....

.....
Registrar of the Court

CRIMINAL FORM 19
IN THE COURT OF APPEAL
NOTICE OF AUTHORITIES OF RESULT OF APPLICATION
ORDER 17 RULE 22

The State Vs

.....
To : THE DIRECTOR OF PUBLIC PROSECUTIONS

OF

To

This is to give you notice that the above-mentioned having applied for :

- (a) leave to appeal to the said Court ;**
- (b) leave to extend the time within which he may give notice of appeal or of application for leave to appeal ;**
- (c) permission to be present during the proceedings in his appeal;**
- (d) admission to bail ;**
- (e) leave to withdraw abandonment of appeal* ; the Court has this day finally determined his said applications and has given judgment to the effect following :**

.....
Registrar of the Court

DATED this.....**day of****20**.....

***Send copies addressed to :**

- (a) the Director of Public Prosecutions or other Respondent;**
- (b) the Prison Authority; and**
- (c) the Registrar of the Court below**

Here set out the decision of the Court.

CRIMINAL FORM 20
IN THE COURT OF APPEAL
NOTIFICATION TO APPELLANT OF THE RESULT OF HIS APPEAL
ORDER 17 RULE 22

The State Vs

.....
To : THE ABOVE-NAMED APPELLANT

This is to give you notice that the Court having considered the matter of your appeal has finally determined same and has this day given judgment to the effect following :

DATED this.....day of20.....

.....
Registrar of the Court

CRIMINAL FORM 21
IN THE COURT OF APPEAL
NOTIFICATION TO AUTHORITIES OF RESULT OF APPEAL
ORDER 17 RULE 22

The State Vs

.....
To : THE DIRECTOR OF PUBLIC PROSECUTIONS OF.....

To :

This is to give you notice that the above named having appealed against his conviction at the offence of.....before the.....Court, and/or the sentence ofpassed upon him for the offence of.....

By the.....the Court, the Court has finally determined the said appeal, and has this day given judgment herein to the effect following :

DATED this.....day of20.....

.....
Registrar of the Court

* Send copies addressed to :

- (a) the Director-General of the appropriate Ministry (if a capital base);
- (b) the appropriate Director of Public Prosecutions or other Respondent
- (c) the Prison Authority; and
- (d) the Registrar of the court below.

Here set out the decision of the Court.

CRIMINAL FORM 22
IN THE COURT OF APPEAL
CERTIFICATE OF THE REGISTRAR THAT A
COPY OF THE RECORD OF APPEAL HAS BEEN
SERVED ON THE APPELLANT(S)

ORDER 17 RULE 26

Appeal No.....

Between :

.....Appellant

And

.....Respondent

I do hereby certify that a copy of the record of the above appeal was on the
.....day of20.....served upon the Appellant/
Appellants by.....

DATED this.....day of20.....

.....
Registrar of the Court

CRIMINAL FORM 23
IN THE COURT OF APPEAL
CERTIFICATE(S) OF THE REGISTRAR OF SERVICE UPON
RESPONDENT OF NOTIFICATION THAT THE
RECORD HAS BEEN COMPILED

ORDER 17 RULE 26

Appeal No.....

I do hereby certify that on the.....day of.....20.....
the Respondent/Respondents in this appeal was/were notified by.....
that the record of appeal has been compiled.

DATED this.....day of20.....

.....
Registrar of the Court

PART II
THIRD SCHEDULE
FEES IN CIVIL AND CRIMINAL MATTERS
ORDER 12

A — APPELLATE JURISDICTION	N
On filing Notice of Appeal against a final judgment or decision..	5,000.00
On Respondent's Notice of Intention to contend that decision of Court below be varied or affirmed	5,000.00
On filing Notice of Appeal against an Interlocutory order or decision	5,000.00
On filing Motion for leave to appeal	3,000.00
On filing Notice of Appeal where leave is granted	5,000.00
On filing Motion for Extension of time if the time has not yet expired ..	2,500.00
If the time has already expired	3,000.00
On filing any Motion not otherwise provided for	3,000.00
On filing Motion for stay of execution (if application is made separate)	3,000.00
On filing Amended or Additional Grounds of Appeal:	
If filed at least three weeks before the date fixed for the commencement of the sitting for which the appeal is set down	1,000.00
If filed less than three weeks but at least two clear days before such date	1,500.00
If filed later, but before the hearing of the appeal	2,000.00
On filing of Brief by either the Appellant or the Respondent	2,000.00
For failure to file briefs within the prescribed period for each Additional day thereof per day	100.00
On amending or adding to Grounds of Appeal by leave or direction of the Court at the hearing	2,000.00
On application for warrant to detain a ship	5,000.00
On every certificate of the Order of the Court of Appeal (made on the final determination of appeals under Order 5 Rule 7)	1,000.00
 B—GENERAL	
For swearing an affidavit or making a declaration per deponent ..	300.00
For marking any paper annexed to an affidavit or declaration	100.00
On filing an affidavit	200.00
On filling any other document or exhibit	100.00
For the drawing up of other or judgment	500.00
For every subpoena	200.00
On warrant for prisoner to give evidence	500.00
On inspection of any document or judgment	500.00
For searching the archives for each period of six months or part thereof	500.00
For preparing a copy where authorized per folio of 72 words	500.00
On lodging a bill of costs for taxation, including taxation for the First twenty folio	500.00
For every ten folio or part thereof after the first twenty	500.00

2. The allowances payable to witnesses shall be those payable to witnesses in the High Court having jurisdiction in the place where the evidence of such witnesses is taken.

MADE at Abuja this 1st day of December, 2016.

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