

# NAURU COURT OF APPEAL

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# Nauru Court of Appeal Act 2018

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# Nauru Court of Appeal Act 2018

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## TABLE OF AMENDMENTS

The Nauru Court of Appeal Act 2018 No 13 was certified on 10 May 2018 and commenced on 15 May 2018 (s 2).

<b>Amending Legislation</b>	<b>Certified</b>	<b>Date of Commencement</b>
Nauru Court of Appeal (Amendment) Act 2020 No 24	23 October 2020	15 November 2020
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021
Nauru Court of Appeal (Amendment) Act 2022 No 14	8 June 2022	10 June 2022

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An Act to establish the Nauru Court of Appeal and for related purposes.

Enacted by the Parliament of Nauru as follows:

## PART 1 — PRELIMINARY

### 1 Short title

This Act may be cited as the *Nauru Court of Appeal Act 2018*.

### 2 Commencement

This Act commences on 15 May 2018.

### 3 Definitions

In this Act:

**‘appellant’** means a person or party who commences or files an appeal, which includes:

- (a) a person who has been convicted or sentenced or both;
- (b) where the Republic, Secretary for Justice or Director of Public Prosecutions is or is deemed to be a party to a proceeding, includes the Republic, Secretary for Justice or Director of Public Prosecutions, as the case may be; and
- (c) has a corresponding meaning to such person or party as an intended appellant, who is intending to appeal or seeking leave to appeal;

[def insrt Act 14 of 2022 s 4, opn 10 June 2022]

**‘applicant’** includes a person who makes an application under this Act or any other written law for an intended appeal, appeal or review and includes an intended appellant, appellant, respondent or intervener;

[def insrt Act 14 of 2022 s 4, opn 10 June 2022]

**‘application’** includes an interlocutory application made under this Act or any other written law;

[def insrt Act 14 of 2022 s 4, opn 10 June 2022]

**‘cause or matter’** includes any appeal, action, suit or other original proceeding in any court between the person originating the proceeding and one or more other parties as defendant or respondent, and includes any original criminal proceeding;

**‘Constitution’** means the *Constitution* of Nauru;

**‘Court’** means the Nauru Court of Appeal established by Article 57 of the *Constitution* unless otherwise stated;

**‘criminal proceedings’** includes proceedings under the *Crimes Act 2016* and such other offences in any other written law;

**‘District Court’** means the District Court formerly established under the *Courts Act 1972* and which continues under the *District Court Act 2018*;

**‘Family Court’** means the Family Court established by the *Family Court Act 1973*;

**‘judgment, decision or order’** where applicable, includes a decree, conviction and sentence and not an opinion under Article 55 of the *Constitution*;

[def am Act 14 of 2022 s 4, opn 10 June 2022]

**‘Justice of Appeal’** means a Justice of Appeal appointed under this Act;

**‘legal representative’** means a barrister and solicitor or a pleader duly admitted to practice law under the *Legal Practitioners Act 2019* or any other written law;

**‘Minister’** means the Minister for Justice and Border Control;

**‘offence’** includes a criminal offence under the *Crimes Act 2016* and other offences under any written law;

**‘President’** means the President of the Republic of Nauru;

**‘President of the Nauru Court of Appeal’** has the same meaning as provided in Article 57(3) of the *Constitution*;

[def am Act 14 of 2022 s 4, opn 10 June 2022]

**‘Registrar’** means the Registrar of Courts;

**‘respondent’** includes a person who is named or joined as a respondent in an application or appeal;

[def insrt Act 14 of 2022 s 4, opn 10 June 2022]

**‘session’** means the sitting of the Court for a specified period; and

**‘Supreme Court’** means the Supreme Court of Nauru established by Article 48 of the *Constitution*.

[The next page is 40,801]

## PART 2 — NAURU COURT OF APPEAL

### 4 The Court

- (1) The final appellate court of the Republic shall be called the Nauru Court of Appeal.
- (2) The Court is a court of record.
- (3) The President of the Nauru Court of Appeal shall be the presiding Justice of Appeal and administrative head of the Nauru Court of Appeal.

[subs (3) insrt Act 14 of 2022 s 5, opn 10 June 2022]

### 5 General jurisdiction of the Court

The Court shall have the power and jurisdiction to hear and determine all appeals which lie to the Court by virtue of the *Constitution*, this Act or any other written law.

### 6 Sessions of the Court

- (1) Subject to subsection (2), the ordinary session of the Court shall be convened at least once a year and shall be notified in the Gazette by the Registrar by no later than 15<sup>th</sup> January of each year.
- (2) The Court may sit in the Republic from time to time as the President of the Nauru Court of Appeal may deem necessary.
- (3) Where the Court or a single Justice of Appeal is unable to sit in the Republic for the purposes of subsection (1), in urgent or exceptional circumstances, the Court or a single Justice of Appeal may sit to hear or make orders in a cause or matter from outside the Republic through audio visual link.

[subs (3) insrt Act 24 of 2020 s 4, opn 15 Nov 2020]

- (4) For the purposes of subsection (3), the Registrar shall ensure that the legal representatives or parties are available in the courtroom as if the court were sitting for a hearing in the Republic.

[subs (4) insrt Act 24 of 2020 s 4, opn 15 Nov 2020]

- (5) For the purposes of this Section, '*exceptional or urgent circumstances*' shall be determined by the Registrar:
  - (a) on the nature of an application filed in Court; and
  - (b) on any submissions by one or more parties to a cause or matter providing for the exceptional or urgent circumstances.

[subs (5) insrt Act 24 of 2020 s 4, opn 15 Nov 2020]

### 7 Seal

- (1) The Court shall have a seal bearing the emblem of the Republic with the inscription '*Nauru Court of Appeal*'.
- (2) The Registrar shall have custody and control of the seal of the Court.
- (3) The seal shall be used for sealing judgments, decisions, orders or certificates and for any other purposes where the Court may require a seal.

## 8 Composition of the Court

- (1) The sitting of the Court shall be duly constituted if it consists of not less than 3 Justices of Appeal including the President of the Nauru Court of Appeal.
- (2) Subject to subsection (1), the Court may be constituted if it consists of not less than 2 Justices of Appeal where the President of the Nauru Court of Appeal is of the opinion it is impractical to summon a Court of 3 Justices of Appeal.
- (3) Where the President of the Nauru Court of Appeal is unable to sit in an appeal for any reason:
  - (a) the Senior Justice of Appeal shall preside in the sitting of the Court under subsection (1) or (2); and
  - (b) another Justice of Appeal shall substitute the President of the Nauru Court of Appeal for the purposes of subsection (1) or (2).

[subs (3) am Act 14 of 2022 s 6, opn 10 June 2022]

[The next page is 41,001]

## PART 3 — APPOINTMENT OF JUSTICES

### 9 Appointment of Justices of Appeal

(1) The Justices of Appeal are to be appointed by the President in consultation with the President of the Nauru Court of Appeal.

[subs (1) am Act 14 of 2022 s 7, opn 10 June 2022]

(2) A person is not qualified to be appointed as a Justice of Appeal unless he or she is qualified to be appointed as a Judge of the Supreme Court and has been so qualified for at least 10 years.

[subs (2) am Act 14 of 2022 s 7, opn 10 June 2022]

(3) A person may be appointed a Justice of Appeal either for a fixed period or for the hearing of one or more appeals as specified in the instrument of appointment.

(4) No person may serve as a Justice of Appeal after the age of 75 years except that the person may continue to hear and determine an appeal commenced before he or she attained that age.

### 10 Justices of Appeal to take oath or affirm

The Justices of Appeal including the President of the Nauru Court of Appeal shall before entering office take and subscribe before the President the oath or affirmation set out in the Schedule.

### 11 Remuneration of Justices of Appeal

(1) The President of the Nauru Court of Appeal and the Justices of Appeal shall receive such remuneration as may be fixed by the Cabinet on the recommendation of the President.

[subs (1) am and renum Act 14 of 2022 s 8, opn 10 June 2022]

(2) The remuneration for the President of the Nauru Court of Appeal and Justices of Appeal shall be prescribed by regulations made under this Act.

[subs (2) insrt Act 14 of 2022 s 8, opn 10 June 2022]

(3) The remuneration for the President of the Nauru Court of Appeal and Justices of Appeal shall be a charge upon the Treasury Fund.

[subs (3) insrt Act 14 of 2022 s 8, opn 10 June 2022]

(4) The remuneration payable to the President of the Nauru Court of Appeal and Justices of Appeal shall not be altered to their disadvantage during the term of their appointments.

[subs (4) insrt Act 14 of 2022 s 8, opn 10 June 2022]

### 12 Seniority of Justices

(1) The Justices of Appeal other than the President of the Nauru Court of Appeal are senior to each other in order of their dates of appointment.

(2) Where 2 or more Justices of Appeal have the same date of appointment,

then seniority among those Justices is determined according to their seniority as judicial officers of a superior court in the Republic or any other jurisdiction.

[The next page is 41,201]

## PART 4 — REGISTRAR AND OTHER STAFF

### 13 Registrar of Nauru Court of Appeal

The Registrar of Courts shall be the Registrar of the Nauru Court of Appeal.

### 14 Functions, powers and jurisdiction of the Registrar

The functions, powers and jurisdiction of the Registrar include:

- (a) taking all necessary steps to obtain a hearing date of the appeals or applications;
- (b) obtaining and compiling a record of the Supreme Court proceedings of all Judge's notes, transcripts, exhibits and other matters relating to the appeal;
- (c) providing necessary directions in relation to the appeals or applications to any parties to the proceedings, officers of the courts, the Chief Correctional Officer and such other officers as he or she thinks fit;
- (d) such other powers and jurisdiction given under this Act, other written law or the rules of the Court; and
- (e) such other directions, functions, powers and jurisdiction which may be given by the President of the Nauru Court of Appeal.

[s 14 am Act 14 of 2022 s 9, opn 10 June 2022]

### 15 Officers of the Court

- (1) There shall be such other officers including interpreters appointed, as the Registrar with the approval of the President of the Nauru Court of Appeal and Chief Secretary, shall consider necessary for the administration of justice and due execution of all the powers and authority vested in the Court.

[subs (1) am Act 14 of 2022 s 10, opn 10 June 2022]

- (2) The interpreters appointed under subsection (1) shall take oath or affirmation before the President of the Nauru Court of Appeal or any other Justice of Appeal.

[subs (2) am Act 14 of 2022 s 10, opn 10 June 2022]

[The next page is 41,401]



## PART 5 — COURT JUDGMENTS

### **16 Judgment of Court**

- (1) A judgment, decision or order of the Court shall be in accordance with the opinion of a majority of the Justices of Appeal constituting the Court for the hearing and determination of the cause or matter.
- (2) Where the Justices of Appeal are equally divided, the judgment, decision or order appealed from the Supreme Court is taken as affirmed and the appeal is deemed to be dismissed.
- (3) A judgment, decision or order of the Court may be delivered by a Justice of Appeal or by the Registrar where the Court cannot be constituted in accordance with Section 8.

### **17 Stay of execution of judgment, decision or order**

- (1) Subject to Part 7, the Court shall have the jurisdiction and power to stay the execution of any judgment, decision or order of the Supreme Court until the final determination of the appeal or such further or other orders the Court may deem fit.
- (2) A party may apply for the discharge or variation of an order granting stay on the grounds of change of circumstances from the time the decision to stay was granted.

### **18 Judgment of the Court enforceable by the Supreme Court**

A judgment, decision or order of the Court may be enforced by the Supreme Court as if it had been given or made by the Supreme Court.

[The next page is 41,601]

## PART 6 — APPEALS IN CIVIL PROCEEDINGS

### 19 Appeals in civil proceedings

- (1) For the purposes of this Part, '*civil proceedings*' means any cause or matter which when commenced in the District Court or the Supreme Court was not a criminal proceeding.
- (2) Subject to subsection (3), an appeal shall lie under this Part in any civil proceeding to the Court:
  - (a) from any final judgment, decision or order of the Supreme Court sitting in the first instance including a judgment, decision or order of a Judge in chambers;
  - (b) from any final judgment, decision or order of the Supreme Court on appeal from the District Court or other subordinate tribunals or committees or bodies constituted under a written law to make decisions appealable to the Supreme Court;
  - (c) from any final judgment, decision or order of the Supreme Court on an appeal from a decision of the Nauru Lands Committee on questions of law only;
  - (d) from any final judgment, decision or order of the Supreme Court sitting under the *Refugees Convention Act 2012* in its appellate jurisdiction on questions of law only;
  - (e) from any final judgment, decision or order of the Supreme Court's original or appellate jurisdiction in relation to proceedings on appeal from the Family Court;
  - (f) from any final judgment, decision or order of the Supreme Court involving the application, interpretation or effect of any provision of the *Constitution*; and
  - (g) as may from time to time be provided under this Act, other written law or the rules of the Court.
- (3) No appeal shall lie:
  - (a) from an Order allowing extension of time for appealing;
  - (b) from a judgment, decision or order of the Court of Disputed Returns under the *Electoral Act 2016* and Article 57 of the *Constitution*;
  - (c) from an Order of the Supreme Court giving unconditional leave to defend a cause or matter;
  - (d) from the final judgment, decision or order of the Supreme Court where it is provided by any written law that such decision is to be final;
  - (e) without the leave of the Supreme Court or the Court where the Order was made or granted by the Supreme Court with the consent of the parties; and
  - (f) without the leave of the Supreme Court or the Court from an interlocutory judgment, decision or order given by the Supreme Court except in cases:
    - (i) where the liberty of a person or an infant is concerned;
    - (ii) where an injunction is granted or refused;
    - (iii) where the appointment of a receiver is granted or refused;
    - (iv) where a decree nisi in a matrimonial cause or judgment is granted;

- (v) where a decree nisi or order in an admiralty action determining liability is granted; and
  - (vi) which may be prescribed by this Act, other written laws or the rules of the Court.
- (4) Where leave is required of the Supreme Court to appeal to the Court, the order in which the application shall be made is first to the Supreme Court and if declined, to a single Justice of Appeal.
- (5) No review or appeal lies to the Court from the judgment, decision or order of a single Justice of Appeal under subsection (4) unless permitted by this Act, any other written law or the rules of the Court.

## **20 Interlocutory Order**

A judgment, decision or order which results in the final determination of a civil proceeding, despite the application being interlocutory in nature, shall not be constituted as an interlocutory order for the purposes of Section 19(3)(f).

## **21 Procedure for commencing civil appeals**

- (1) A person who seeks to appeal a judgment, decision or order of the Supreme Court under this Part shall file a notice of appeal in such manner as prescribed by the rules of the Court.
- (2) A person who seeks to obtain leave to appeal a judgment, decision or order of the Supreme Court under this Part, he or she, shall file a summons for leave to appeal in such manner as prescribed by the rules of the Court.

## **22 Time for appealing**

- (1) Where a person desires to appeal under this Part, he or she shall file and serve a notice of appeal within 30 days of the date of the delivery of the final judgment, decision or order of the Supreme Court.
- (2) Where a person requires leave to appeal under this Part, he or she shall file and serve to the proposed respondents a summons for leave to appeal within 21 days of the date of the delivery of the judgment, decision or order of the Supreme Court.
- (3) The time for filing of an appeal or an application for leave to appeal under this Section may be extended:
- (a) by the Supreme Court before it expires; or
  - (b) by the Court after it expires.
- (4) The time for filing an appeal or an application for leave to appeal may be extended by the Supreme Court or the Court under subsection (3) before or after it expires concurrently with the application for leave to appeal under subsection (2).

## **23 Power of the Court in civil appeals**

- (1) In determining an appeal under this Part, the Court may affirm, vary or reverse a judgment, decision or order appealed from the Supreme Court.
- (2) Where the Court varies or reverses a judgment, decision or order of the Supreme Court under this Part, it may substitute its own judgment.

- (3) Where the Court varies or reverses a judgment, decision or order and orders a retrial of the whole or part of the cause or matter, the Court shall also make orders for the retrial either:
  - (a) before the judicial officer who heard the original cause or matter; or
  - (b) before another judicial officer of the same hierarchy of the court.
- (4) For the purposes of hearing and determining an appeal under this Part, including the power to enforce any judgment, decision or order, the Court shall have the same power and authority of the Supreme Court and such other powers as may be prescribed by a written law or the rules of the Court.

## **24 Fresh evidence**

- (1) Subject to subsection (2), the Court has no jurisdiction to admit or allow any evidence in determining an appeal which were not part of the records of the proceedings of a cause or matter before the Supreme Court in its original or appellate jurisdiction.
- (2) An application for leave to admit fresh evidence in an appeal may be allowed by the Court where it is shown that the evidence:
  - (a) could not have been obtained with reasonable diligence for use at the trial;
  - (b) must be such that if admitted would more probable than not influence the result of the case; and
  - (c) must be such as to be believed or credible.

## **25 Security for costs**

- (1) The appellant may be required to give security for costs for the purposes of the appeal to the satisfaction of the Registrar.
- (2) The Registrar may fix an amount for the security for costs which shall be paid within 14 days of the order being made.
- (3) Where the security for costs fixed is not paid in accordance with subsection (2), or the time for payment has not been extended by the Registrar, the appeal shall be deemed to be abandoned.
- (4) The Registrar shall compile the records of the proceedings of the Supreme Court upon payment of the security for costs.
- (5) A single Justice of Appeal may waive the requirement of security for costs if he or she is satisfied that the nature of the case or the appellant's financial capacity justifies waiving the security for costs.

## **26 Power of the Court to strike out appeal for non-compliance**

The Court shall not entertain any appeals made under this Part unless the appellant has fulfilled the conditions prescribed by this Act or the rules of the Court.

## **27 Powers of a Justice of Appeal**

The powers of a Justice of Appeal under this Part are to:

- (a) give leave to appeal an interlocutory judgment, decision or order of the Supreme Court;

- (b) give leave to appeal an interlocutory judgment, decision or order where leave in the first instance has been refused by the Supreme Court;
- (c) extend the time within which a notice of appeal or an application for an appeal may be given;
- (d) give directions as to the service of documents;
- (e) stay execution of a judgment, decision or order of the Supreme Court;
- (f) give leave to amend a notice of appeal or a respondent's notice;
- (g) make orders by consent of the parties;
- (h) make orders for costs;
- (i) dismiss an appeal for want of prosecution;
- (j) give leave to withdraw an appeal on the application of an appellant;
- (k) strike out an appeal under Section 26;
- (l) deliver a reserved judgment of the Court if any or all the Justices of Appeal who heard the appeal are unable to sit to deliver the judgment;
- (m) give general directions for the purposes of the appeal; or
- (n) any other matters as prescribed under the Act, other written law or the rules of the Court or directions published by the President of the Nauru Court of Appeal from time to time.

[s 27 am Act 14 of 2022 s 11, opn 10 June 2022]

## 28 Representation

An appellant or a respondent may be represented in an appeal by a legal representative or may appear in person.

[The next page is 41,801]

**PART 7 — APPEALS IN CRIMINAL PROCEEDINGS**

**29 Appeals in criminal proceedings from the original jurisdiction of the Supreme Court**

- (1) Where a person is convicted and sentenced for an offence in a trial held before the Supreme Court, he or she may appeal from the final judgment, decision or order of the Supreme Court:
  - (a) against the conviction on a question of law or a question of mixed law and fact;
  - (b) with the leave of the Court on a question of facts only;
  - (c) against the sentence unless the sentence is one fixed by a written law; or
  - (d) such other matters which may be prescribed from time to time by the Cabinet.

[subs (1) am Act 14 of 2022 s 12, opn 10 June 2022]

- (2) Where the Supreme Court after a trial and delivery of a judgment certifies that the case is fit for appeal on the grounds that it involves a question of fact or a question of mixed law and fact, an appeal lies under this Section without the leave of the Court.
- (3) The Director of Public Prosecutions may appeal against a judgment, decision or order of the Supreme Court:
  - (a) where a person is acquitted on a question of law or a question of mixed law and fact;
  - (b) in relation to the sentence unless the sentence is one fixed by a written law;
  - (c) which stays a criminal cause or matter;
  - (d) from the revisional jurisdiction of the Supreme Court;
  - (e) on a case stated to the Supreme Court by the District Court; or
  - (f) such other matters which may be prescribed from time to time by the Cabinet.

[subs (3) am Act 14 of 2022 s 12, opn 10 June 2022]

**30 Appeals from the appellate jurisdiction of the Supreme Court**

- (1) Subject to this Section, a party to an appeal from the District Court to the Supreme Court or the Director of Public Prosecutions may appeal against the judgment, decision or order of the Supreme Court exercising its appellate jurisdiction to the Court:
  - (a) with the leave of the Court; and
  - (b) on a question of law only.
- (2) No appeal lies under this Section:
  - (a) in respect of a sentence imposed by the Supreme Court in its appellate jurisdiction unless:
    - (i) the appeal is on an error of law; or
    - (ii) where the Supreme Court passed an immediate custodial sentence in substitution of a non-custodial sentence; or

(b) where the Supreme Court affirms or upholds a verdict of an acquittal by the District Court except on an error of law.

[subs (2) am Act 14 of 2022 s 13, opn 10 June 2022]

- (3) Where the Court determines that a person may not have been properly convicted on some charges but has been properly convicted on some other charges, the Court may in respect of the charges it considers that the appellant has not been properly convicted of, either affirm the sentence passed by the District Court or Supreme Court or pass such other sentence in substitution which it deems proper.
- (4) Where the Court determines in an appeal under this Section:
- (a) that the District Court and the Supreme Court had convicted a person of an offence; and
  - (b) based on the findings of the District Court or the Supreme Court the Court is satisfied of the facts which proves a person guilty of some other offence charged within the information,
- the Court may instead of allowing or dismissing the appeal, substitute the verdict of the District Court or Supreme Court, enter a conviction for that other offence and pass such sentence in substitution for the sentence passed by the District Court or Supreme Court.
- (5) On an appeal under this Section, the Court may dismiss an appeal if it considers that no substantial miscarriage of justice has occurred despite some points raised in the appeal may be decided in favour of the appellant.
- (6) Where on an appeal against a conviction on an information containing 2 or more counts the Court allows the appeal in respect of part of the information, the Court may in respect of any count for which the appellant remains convicted, pass such sentence in substitution for any sentence passed at the trial as the Court deems fit and authorised by the law for the offence for which the appellant remains convicted.
- (7) The Court shall not under subsection (6), pass any sentence such that the appellant's sentence on the information as a whole will in consequence of the appeal be of greater severity than the sentence taken as a whole which was passed at the trial for all offences of which the appellant was convicted.

### **31 Appeals from case stated or revisional jurisdiction of the Supreme Court**

- (1) A judgment, decision or order of the Supreme Court in exercise of its revisional jurisdiction or in a case stated under the provisions of any written law shall be deemed to be a judgment, decision or order of the Supreme Court.

[subs (1) am Act 14 of 2022 s 14, opn 10 June 2022]

- (2) The judgment, decision or order of the Supreme Court under subsection (1), may with the leave of the Court, be appealed to the Court under this Part by a party to such proceedings including the Director of Public Prosecutions.

[subs (2) subst Act 14 of 2022 s 14, opn 10 June 2022]

- (3) The President of the Nauru Court of Appeal shall make rules for the practice and procedure for the filing and conduct of an appeal under this Section.

[subs (3) subst Act 14 of 2022 s 14, opn 10 June 2022]



### **32 Circumstances when appeal against conviction or sentence is allowed**

- (1) In considering an appeal against a conviction, the Court shall allow the appeal and set aside the conviction if:
  - (a) the conviction in all the circumstances of the case is inconsistent with the finding of facts;
  - (b) the judgment, decision or order was a consequence of an error of law; or
  - (c) a substantial miscarriage of justice has occurred.
- (2) Where an appeal against a conviction is allowed, the Court shall quash the conviction and:
  - (a) direct a judgment and verdict of acquittal to be entered; or
  - (b) where the interest of justice requires, remit the cause or matter to the appropriate court for a retrial.
- (3) Where on an appeal against sentence, the Court determines that a different sentence ought to have been passed, the Court shall:
  - (a) quash the sentence passed at the trial; and
  - (b) in substitution, pass such other sentence which the Court deems fit under the relevant law.

[s 32 am Act 14 of 2022 s 15, opn 10 June 2022]

### **33 Powers of the Court in special cases**

- (1) Where the Court determines in an appeal under this Section that a person may not be properly convicted on some counts or part of the information, but has been convicted properly on some other counts or part of the information, the Court may in respect of the counts or part of the information it considers that the appellant has not been properly convicted, either affirm the sentence passed by the Supreme Court or pass such other sentence in substitution which it deems fit.
- (2) Where the Court determines in an appeal under this Section:
  - (a) that the Supreme Court had convicted a person of an offence; and
  - (b) based on the findings of the Supreme Court the Court is satisfied of the facts which proves a person guilty of some other offence,the Court may instead of allowing or dismissing the appeal, substitute for the conviction entered by the Supreme Court a conviction of guilty for that other offence and pass such sentence it deems fit in substitution for the sentence passed by the Supreme Court.
- (3) On an appeal under this Section, the Court may dismiss an appeal if it considers that no substantial miscarriage of justice has occurred notwithstanding that some points raised in the appeal might be decided in favour of the appellant.

### **34 Suspension of order for restoration or payment of compensation**

- (1) Where on conviction an order is made by the Supreme Court for:
  - (a) the payment of compensation;
  - (b) the restoration of any property to any person; or
  - (c) the re-vesting of any property to the original owner of any stolen property by operation of any written law,

the judgment, decision or order shall be stayed:

- (i) until the expiration of 30 days from the date of the conviction; or
  - (ii) where a notice of appeal or leave to appeal is filed within 30 days after the date of the conviction until the determination of the appeal or the application for leave to appeal.
- (2) Where on appeal the judgment, decision or order of the Supreme Court is affirmed by the Court, the Supreme Court judgment, decision or order shall take immediate effect.
  - (3) Where on appeal the judgment, decision or order of the Supreme Court is reversed or varied, the Court shall make appropriate orders for:
    - (a) the payment of compensation;
    - (b) the restoration of any property to any person; and
    - (c) the re-vesting of any property to the original owner of any stolen property by operation of any written law.

### **35 Re-trial**

- (1) Where the Court allows an appeal and does so by reason of evidence received or available to be received by the Court under Section 39 and if the interest of justice so require, the Court may order the appellant to be retried.
- (2) A person shall not under this Section be ordered to be retried for an offence other than:
  - (a) the offence for which he or she was convicted at the original trial and in respect of which his or her appeal is allowed;
  - (b) the offence of which he or she could have been convicted at the original trial; or
  - (c) an offence charged in an alternative count in the information.

### **36 Time for appealing**

- (1) Where a person convicted and sentenced desires to appeal under this Part, he or she shall file and serve a notice of appeal within 30 days of the date of the delivery of the judgment, decision or order of the Supreme Court.
- (2) Where a person convicted and sentenced requires leave to appeal under this Part, he or she shall file and serve a summons for leave to appeal within 21 days of the date of the delivery of the judgment, decision or order of the Supreme Court.

[subs (2) am Act 14 of 2022 s 16, opn 10 June 2022]

- (3) Where a person seeks to appeal the judgment, decision or order of the Supreme Court under Section 30, the application for leave shall be filed and served within 21 days of the judgment, decision or order of the Supreme Court.
- (4) The time for filing of an appeal or an application for leave to appeal under this Section may be extended by:
  - (a) the Supreme Court before it expires; or
  - (b) the Court after it expires.
- (5) The time for filing an appeal or an application for leave to appeal may be extended by the Supreme Court or the Court under subsection (4) before or after it expires concurrently with the application for leave to appeal under subsection (2).

- (6) The provisions of this Section apply with the necessary modifications to an application for leave to appeal, an application for leave to appeal out of time and the filing of an appeal by the Director of Public Prosecutions under Section 29(3).

[subs (6) insrt Act 14 of 2022 s 16, opn 10 June 2022]

### **37 Procedure for commencing appeals**

- (1) A person who seeks to appeal a judgment, decision or order of the Supreme Court under this Part shall file a notice of appeal in such manner as prescribed by the rules of the Court.
- (2) A person who seeks to obtain leave to appeal a judgment, decision or order of the Supreme Court under this Part where leave is required, shall file a summons for leave to appeal in such manner as prescribed by the rules of the Court.
- (3) The provisions of this Section apply with the necessary modifications to an application for leave or appeal by the Director of Public Prosecutions.

[subs (3) insrt Act 14 of 2022 s 17, opn 10 June 2022]

### **38 Presence of appellant for hearing**

- (1) Subject to subsection (2), an appellant shall be entitled to be present if he or she wishes to be present on the hearing of the appeal although he or she may be in custody.
- (2) A person in custody is not required to be present without the grant of prior leave of the Court to be present for the hearing:
- (a) where the appeal is on a ground involving a question of law only;
  - (b) on an application by him or her for leave to appeal;
  - (c) on any proceedings preliminary or incidental to an appeal; or
  - (d) where the appellant is in custody in consequence of a verdict of not guilty by reason of insanity or finding of disability.
- (3) Where an appellant is unrepresented, the Court shall grant leave for the appellant to be present and to make submissions to the Court at any stage of the appeal proceedings.

### **39 Powers of the Court to adduce fresh evidence**

- (1) Where the Court deems it fit or expedient in the interest of justice, it may make one or more of the following orders:
- (a) order production of any document, exhibit or any matters connected to the proceedings where the production of which appears to the Court necessary for the determination of an application or the appeal;
  - (b) order any witnesses who have been compellable witnesses at the trial:
    - (i) to attend and be examined before the Court whether they were or were not called at the trial; or
    - (ii) the examination of any such witnesses to be conducted in the manner provided by the rules of the Court or in the absence of the rules, the Court may direct any Judge of the Supreme Court or the Resident Magistrate of the District Court to take depositions of the evidence before them;
  - (c) receive the evidence if tendered, of any witness who is a competent but not compellable witness and if the appellant makes an application for

the purpose, of the spouse of the appellant, in cases where the evidence of the spouse could not have been given at the trial except on such application;

- (d) where any question arising in the appeal involves prolonged examination of documents, accounts or any scientific or local investigation which cannot in the opinion of the Court can be conducted before the Court, order the reference of the question in the manner provided by the rules of the Court for inquiry and report to a special commissioner appointed by the Court and act upon the report of any such commissioner as far as they think fit to adopt it; and
  - (e) appoint any person with special expert knowledge to act as an assessor to the Court where it appears to the Court that special knowledge is required for the determination of the case.
- (2) The Court shall not increase any sentence by reason of or in consideration of any evidence adduced before it under this Section but was not adduced at the trial.

#### **40 Director of Public Prosecutions**

The Director of Public Prosecutions is deemed to be a party to any application for leave or appeal in any criminal cause or matter in which the proceedings were instituted and were carried on by a public prosecutor.

#### **41 Cost of appeal**

- (1) The Court shall not make any order as to costs on the hearing and determination of an appeal under this Part.

[subs (1) renum Act 14 of 2022 s 18, opn 10 June 2022]

- (2) A Justice of Appeal in exercising the powers and jurisdiction vested to a single Justice of Appeal, shall not make an order as to costs on the hearing and determination of an application under this Part.

[subs (2) insrt Act 14 of 2022 s 18, opn 10 June 2022]

#### **42 Admission of appellant to bail and custody when attending Court**

- (1) An appellant who is not admitted to bail pending the determination of his or her appeal may, at his or her own request, be treated in like manner as a prisoner awaiting trial.
- (2) On an application for bail pending appeal, a single Justice of Appeal may grant the appellant bail pending the determination of the appeal.
- (3) Where an appellant under this Part is admitted to bail pending appeal, the time during which he or she is at large on bail shall be disregarded in computing the term of any sentence to which he or she is for the time being subjected to.

#### **43 Powers which may be exercised by a Justice of Appeal**

- (1) The powers of a Justice of Appeal under this Part are to:
- (a) give leave to appeal to the Court;
  - (b) extend time within which notice of appeal or leave to appeal may be given;

- (c) allow the appellant to be present in any proceedings where he or she is not entitled to be present without leave;
  - (d) admit an appellant to bail pending appeal; and
  - (e) cancel an appellant's bail on good cause being shown.
- (2) Where on the filing of a notice to appeal or of an application for leave to appeal, a Justice of Appeal determines that the appeal is frivolous or vexatious or is bound to fail because there is no right of appeal or to seek leave to appeal, the Justice of Appeal may dismiss the appeal or the application for leave to appeal.
- (3) Where the Justice of Appeal refuses an application by an applicant or appellant under subsection (2), the applicant or appellant may make an application to the Court and where the Court grants the application, it may concurrently hear and determine the appeal.

[subs (3) am Act 14 of 2022 s 19, opn 10 June 2022]

- (4) The decision of a Justice of Appeal to cancel bail under subsection (1)(e) may at the application of the appellant be reviewed by the Court.
- (5) A reserve judgment of the Court may be delivered by a Justice of Appeal if any or all of the Justices of Appeal who heard the appeal are unable to constitute the Court.

#### **44 Judgment in criminal appeals**

- (1) A judgment, decision or order of the Court or a Justice of Appeal may be pronounced in such terms as the Court or the Justice of Appeal thinks appropriate but the full contents of the judgment, decision or order shall be written down and a copy of the same shall be made available to the parties as soon as practicable after the pronouncement of such judgment, decision or order.
- (2) In an appeal under this Part, the Court shall ordinarily give only one judgment, decision or order which may be given by the President or a senior member of the Court present at the hearing of the appeal as he or she may direct, provided that:
- (a) if any Justice of Appeal dissents from the judgment, decision or order of the Court it shall not be obligatory on him or her to sign the same instead he or she shall deliver a dissenting judgment, decision or order; and
  - (b) separate judgments, decisions or orders shall be given, if the Court is of the opinion, that it is convenient that there should be separate judgments, decisions or orders.
- (3) The judgment, decision or order of the Court or of any Justice of Appeal present at the hearing of the appeal shall be delivered in open Court either at 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.
- (4) The judgment, decision or order of the Court or of any of the Justices of Appeal present at the hearing of the appeal may be read in open Court by any Justice of Appeal, whether present at the hearing of that appeal or not or by the Registrar.

[The next page is 42,001]

## PART 8 — RESPONDENT'S NOTICE

### 45 Respondent's notice

- (1) A respondent who, not having appealed from the judgment, decision or order of the court below seeks to contend on the appeal that the judgment, decision or order of the Court shall be varied, shall give notice to that effect specifying the grounds of that contention and precise form of the order which he or she proposes the Court to consider.
- (2) A respondent who seeks to contend on the appeal that the judgment, decision or order of the court below should be affirmed on the ground other than those relied upon by the Supreme Court shall give notice to that effect specifying the grounds of that contention.
- (3) A respondent shall not be entitled on the hearing of the appeal to contend that the judgment, decision or order of the Supreme Court be varied upon the grounds not specified in the notice under this Section, to apply for any relief not so specified or to support a judgment, decision or order of the Supreme Court on any grounds not relied upon by the Supreme Court or specified in such a notice.
- (4) A respondent's notice shall be filed within 21 days of the service of the notice of appeal to the respondent.
- (5) For the purposes of an appeal by a person under Part 7, the Director of Public Prosecutions is deemed to be the respondent, who may file a respondent's notice under this Part.

### 46 Respondent's notice to be treated as notice of appeal

The provisions relating to a notice of appeal shall also apply to the respondent's notice with such modifications as necessary.

[The next page is 42,201]



**PART 9 — REVIEW OF OPINION UNDER ARTICLE 55**

**47 Review of opinion**

- (1) The Court shall have the power and jurisdiction to review the opinion of the Supreme Court pronounced under Article 55 of the *Constitution*.
- (2) The opinion of the Court shall supersede the opinion of the Supreme Court.

[The next page is 42,401]

## PART 10 — MISCELLANEOUS

### 48 Amendments

- (1) A notice of appeal or respondent's notice may be amended and served:
  - (a) without the leave of the Court at any time before 14 days of the date fixed for hearing of the appeal; or
  - (b) with the leave of the Court at any time less than 14 days of the date fixed for hearing of the appeal.
- (2) The amended appeal or respondent's notice shall be by way of Supplementary notice of appeal or respondent's notice.

### 49 Adjournments

- (1) Where no Justices of Appeal are present at the time appointed for the session of the Court, the Registrar shall adjourn the session and determine the time of the next session.
- (2) The Court may adjourn a session of the Court or an appeal pending before it at its own discretion to a specific date or a date to be fixed.

### 50 Power to remit proceedings to Supreme Court or District Court

The Court shall have the power and jurisdiction in both civil and criminal appeals to:

- (a) remit the proceedings to the Supreme Court or District Court; or
- (b) order a new trial in the Supreme Court or District Court.

### 51 Records of proceedings

- (1) The Judge of the Supreme Court before whom a person is convicted or sentenced shall provide certified copies of the Judge's notes or transcripts of the proceedings to the Registrar for compiling the records of the proceedings for the purposes of the appeal.
- (2) The rules of the Court may provide:
  - (a) for the making of the record of any proceedings in respect of which an appeal lies to the Court; and
  - (b) for the making and verification of a transcript of any such record and for supplying the transcript to the parties for the purposes of preparing the Court record.

### 52 Contempt of court

The Court shall have the same powers as the Supreme Court under Section 14 of the *Administration of Justice Act 2018* to try and punish any act of contempt of court committed by any person.

### 53 Protection of Justices of Appeal

- (1) The President of the Nauru Court of Appeal, a Justice of Appeal or the Registrar acting under this Act or any written law shall not be liable for any act done or ordered to be done in the discharge of judicial duties and

functions, whether or not within the limits of his or her jurisdiction, provided that he or she at the time in good faith believed himself or herself to have jurisdiction to do so or order the act complained of.

- (2) A person bound to execute the lawful judgments, decisions or orders of the Court shall not be liable to be sued in any court for the proper execution of the same.

#### **54 Costs**

Subject to Section 41, in determining an appeal, the Court shall have the jurisdiction and discretion to award costs to one or more of the parties to the appeal.

#### **55 Fees**

The President of the Nauru Court of Appeal may by notice in the Gazette prescribe such filing and hearing fees to be paid to the Court for the lodgement and hearing of an appeal.

[s 55 am Act 14 of 2022 s 20, opn 10 June 2022]

[The next page is 42,601]

## PART 11 — TRANSITIONAL PROVISIONS

### 56 Appeals pending in the High Court of Australia

- (1) For avoidance of doubt, any appeals or applications for leave to appeal filed in the High Court of Australia on or before 13<sup>th</sup> March 2018 shall continue to be heard and determined by the High Court of Australia.
- (2) Where an appeal or application for leave to appeal was filed in the High Court of Australia after 13<sup>th</sup> March 2018, the High Court of Australia shall transfer the appeal to the Nauru Court of Appeal or the applicant or appellant may file an application for leave or appeal in the Nauru Court of Appeal under this Act.

### 57 Appeals which may be filed in the Nauru Court of Appeal

- (1) The Court shall have exclusive power and jurisdiction to hear and determine an appeal:
  - (a) from any judgment, decision or order of the Supreme Court sitting under the *Refugees Convention Act 2012* in its appellate jurisdiction delivered after 13<sup>th</sup> March 2018 on a question of law;
  - (b) from any judgment, decision or order of the Supreme Court delivered after 13<sup>th</sup> March 2018 limited to the causes or matters which were only appealable to the High Court of Australia under the *Appeals Act 1972*, *Nauru (High Court Appeals) Act 1976* and Article 1 of the Agreement between the Government of Australia and the Government of Nauru relating to appeals to the High Court of Australia from the Supreme Court of Nauru; and
  - (c) from any judgment, decision or order of the Supreme Court to which appeals are allowed under this Act, from the commencement of this Act.
- (2) An appeal under subsections (1)(a) and (b) shall be filed within 21 days from the commencement of this Act.

### 57A Savings and transition

- (1) A direction given to the parties to an appeal by the Chief Justice, sitting as a single Justice of Appeal, shall be complied with by the parties and the appeal shall proceed as if it was to be heard by the Chief Justice presiding as Justice of Appeal.
- (2) A pending judgment of the Court on an appeal or interlocutory application, in which the Chief Justice as Justice of Appeal presided as part of the full Court or as a single Justice of Appeal, shall be delivered within 30 days of the coming into effect of this Act and all such matters thereafter are to be heard *de novo*.
- (3) The salaries, allowances and benefits of the Justices of Appeal made under the *Judicial Officers Conditions of Service, Salaries and Allowances Regulations 2020* shall continue to apply as if they were prescribed under this Act.

- (4) A Justice of Appeal, other than the Chief Justice, who immediately before the coming into effect of the substituted provisions, was appointed a Justice of Appeal, continues to hold the office of a Justice of Appeal until the expiry of his or her appointment.

[s 57A insrt Act 14 of 2022 s 23, opn 10 June 2022]

## 58 **Repeal**

The *Appeals Act 1972* is repealed.

[The next page is 42,801]

## PART 12 — RULES

### 59 Power to make rules

- (1) The President of the Nauru Court of Appeal may issue practice directions and make rules of the Court for carrying this Act into effect and the practice and procedure of the Court including the Court attire for legal representatives.

[subs (1) am and renum Act 14 of 2022 s 21, opn 10 June 2022]

- (2) The *Nauru Court of Appeal Rules 2018* and a practice direction issued prior to the commencement of the *Nauru Court of Appeal (Amendment) Act 2022*, continues to remain in force and is deemed to have been made under this Section.

[subs (2) insrt Act 14 of 2022 s 21, opn 10 June 2022]

[The next page is 43,001]



**SCHEDULE**

*[Section 10]*

**OATH AND AFFIRMATION**

**OATH**

I, ....., swear that, as a Justice of Appeal of the Republic of Nauru, I will be faithful and bear true allegiance to the Republic of Nauru, and that I will obey, observe, uphold and maintain the *Constitution* and all other laws of the Republic of Nauru; and I solemnly and sincerely undertake that I will defend the rule of law and the rights of the people, and will do justice to all persons without fear, favour or prejudice, in accordance with the *Constitution* and the law. So help me God!

**AFFIRMATION**

I..... do solemnly and sincerely and truly declare and affirm that as a Justice of Appeal of the Republic of Nauru, I will be faithful and bear true allegiance to the Republic of Nauru, and that I will obey, observe, uphold and maintain the *Constitution* and all other laws of the Republic of Nauru; and I solemnly and sincerely undertake that I will defend the rule of law and the rights of the people, and will do justice to all persons without fear, favour or prejudice, in accordance with the *Constitution* and the law.

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# Nauru Court of Appeal Rules 2018

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# Nauru Court of Appeal Rules 2018

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The Nauru Court of Appeal Rules 2018 SL 19 was notified and commenced on 18 July 2018 (GN No 536/2018; Gaz 112/2018).

<b>Amending Legislation</b>	<b>Notified</b>	<b>Date of Commencement</b>
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021
Nauru Court of Appeal (Amendment) Act 2022 No 14	8 June 2022	s 22: 10 June 2022

[The next page is 49,401]



**IN EXERCISE** of the powers conferred upon me under Section 59 of the *Nauru Court of Appeal Act 2018*, I hereby make the following Rules of the Court:

## **PART 1 — PRELIMINARY**

### **1 Citation**

These Rules may be cited as the *Nauru Court of Appeal Rules 2018*.

### **2 Commencement**

The Rules came into effect on 18 July 2018.

### **3 Definition**

In these Rules:

*‘Act’* refers to the *Nauru Court of Appeal Act 2018*;

*‘applicant’* refers to an intended appellant, appellant, respondent or intervener who makes an application under the Act or the Rules for an intended appeal, appeal or review;

*‘application’* refers to any interlocutory application made under the Act or Rules;

*‘appellant’* means a person who has filed an appeal to the Court against a judgment, decision or order of the Supreme Court or of any other adjudicating body under a written law;

*‘Civil Procedure Rules’* refers to the *Civil Procedure Rules 1972* or any other subsequent rules amending or successor to those Rules;

*‘the Court’* unless otherwise stated refers to the Nauru Court of Appeal including when constituted by a single Justice of Appeal under the Act;

*‘chamber’* does not include an open court hearing;

*‘legal representative’* has the same meaning as provided for in Article 15 of the *Constitution* and the *Nauru Court of Appeal Act 2018*;

*‘Registrar’* has the same meaning as provided for in Section 13 of the *Nauru Court of Appeal Act 2018*;

*‘respondent’* refers to a party against whom an application or appeal is filed; and

*‘the Rules’* refers to the *Nauru Court of Appeal Rules 2018*.

### **4 Objectives of the Rules**

(1) The objectives of the Rules are to:

- (a) provide for the orderly, expeditious and inexpensive disposal of applications and appeals; and
- (b) enable the parties to an application or appeal to prepare and present their cases and responses to the other parties, comprehensively and fairly.

- (2) The objectives of the Rules shall be the guiding factor in the interpretation and application of the Rules.

## **5 Rules to be complied with**

- (1) The Rules shall be complied with unless waived by the Court.
- (2) Any documents filed contrary to the Act or Rules shall not be read, admitted as evidence or form part of a proceeding, without the prior leave of the Court.
- (3) In waiving the non-compliance of the Rules under subrule (1), the Court may:
- (a) direct the party to rectify the non-compliance in accordance with the applicable rule; or
  - (b) where it deems fit, order costs against the defaulting party.

## **6 Appeal to be confined to grounds of appeal**

Subject to any amendments to the grounds of appeal made under the Rules, the Court shall confine the appellant or respondent to the grounds of appeal contained in the notice of appeal or respondent's notice.

## **7 Application of practice and procedure of England**

Where no provision is made by the Rules or any other written law, the practice and procedure of the Court of Appeal of England shall apply.

## **8 Sitting in chambers**

A single Justice of Appeal may conduct a hearing and deliver judgment, decision or order in chambers.

## **9 Reference to the Court includes a single Justice of Appeal**

Where under the Rules a reference is made to the Court, a single Justice of Appeal may exercise those powers and jurisdiction of the Court vested to him or her under Sections 27 and 43 of the Act.

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## PART 2 — APPEALS IN CIVIL PROCEEDINGS

### 10 Notice of appeal

- (1) A notice of appeal under Part 6 of the Act may be given in respect of whole or part of a judgment, decision or order of the Supreme Court.
- (2) The notice of appeal shall:
  - (a) be filed and served within 30 days of the delivery of the final judgment, decision or order of the Supreme Court;
  - (b) state whether the appeal is against whole or part of any judgment, decision or order of the Supreme Court;
  - (c) state whether the appeal is against one or more of the parties to the cause or matter in the Supreme Court;
  - (d) specify the date of judgment, decision or order which is the subject of appeal;
  - (e) specify whether the appeal is from the original, appellate, case stated or revisional jurisdiction of the Supreme Court;
  - (f) specify the grounds of appeal or relating to the part or parts of the judgment, decision or order which is the subject of appeal;
  - (g) specify the nature of relief sought; and
  - (h) be signed by the appellant or by the appellant's legal representative.
- (3) The notice of appeal, where applicable, shall provide in detail the date and nature of any interlocutory orders made by the Supreme Court or the Court after the delivery of the judgment, decision or order, which is the subject of appeal.
- (4) A copy of the judgment decision or order which is the subject of appeal shall be attached to the notice of appeal.
- (5) The notice of appeal shall be in Form 1 in Schedule 1.

### 11 Security for cost

- (1) The appellant, within 30 days of the service of the notice of appeal to the last of the respondents, shall file and serve a summons in Form 2 in Schedule 1 before the Registrar to fix the amount and nature of security for cost to be given by the appellant for the hearing and determination of the appeal.
- (2) Where one or more of the parties to the appeal seek to oppose an order for security for cost, such party or parties may file and serve an answering affidavit within 7 days of the service of the summons in subrule (1).
- (3) The Registrar may waive or fix the security for cost and the time within which the appellant shall pay the security for cost in Court.
- (4) Where the appellant fails to comply with the order of the Registrar, all proceedings in the appeal shall be stayed and be listed for a session of the sitting of the Court for a formal order for dismissal, unless the order is varied or time for payment of security for cost is extended by a single Justice of Appeal.
- (5) An appellant, who is represented by the Office of the Public Legal Defender or a legal representative on a *pro bono* basis, at the time the

- appeal is filed or any subsequent proceedings of the appeal, shall not be required to provide security for cost for the respondent's cost in Court.
- (6) The Republic, as an appellant in a proceeding before the Court shall not be required to provide or pay security for cost for the respondent's cost in Court, whether at the time of the filing of the appeal or in any other subsequent proceedings.
  - (7) The appellant in subrules (4), (5) and (6) shall within 30 days of the service of the notice of appeal, file and serve a summons to the respondent returnable before the Registrar for directions for compiling the appeal record book.
  - (8) Subrule (4) shall apply where the appellant fails to comply with subrule (7).

## 12 Stay of execution or proceeding

- (1) An appeal shall not operate as a stay of execution or proceeding unless ordered by the Supreme Court or the Court.
- (2) Where an intended appellant or appellant seeks an order for stay of execution or proceeding against the judgment, decision or order of the Supreme Court, before or after filing of the notice of appeal respectively, he or she may file and serve:
  - (a) a summons seeking an order for stay of execution or proceeding with any other appropriate orders in Form 3 in Schedule 1; and
  - (b) one or more affidavits in support of the application for stay of execution or proceeding for and on behalf of the applicant.
- (3) The affidavit in subrule (2)(b) shall include:
  - (a) reasons as to why the failure to stay the execution or proceeding will render the appeal nugatory;
  - (b) the prospect of the success of the appeal or where an appeal is not filed, exhibit a duly completed copy of the proposed notice of appeal in Form 1 in Schedule 1;
  - (c) the effect of the stay on a third party;
  - (d) the balance of convenience and competing rights of parties to the intended appeal or appeal filed;
  - (e) a copy of the judgment, decision or order of the Supreme Court;
  - (f) a copy of the decision or order of the Supreme Court where the application for stay was filed but dismissed; and
  - (g) any other matters which the intended appellant or appellant may deem necessary.
- (4) The Court may hear *ex parte* a summons for stay, if the applicant is able to demonstrate the urgency and the Court deems it fit to hear the application and grant such an order.
- (5) The Court, in considering an *ex parte* application for stay shall only grant an interim stay until such time the application is heard *inter partes*.
- (6) Any respondent or interested party who seeks to oppose the application may file and serve an answering affidavit no later than 7 days or as directed by the Court from the date of the service of the summons and affidavit filed in subrule (2).

- (7) An order granted under this rule shall be served to the respondent or any other interested third parties as soon as practicable or as ordered by the Court.

### **13 Respondent's notice**

- (1) A respondent, who seeks to contend that the judgment, decision or order of the Supreme Court on appeal be varied, shall file and serve a respondent's notice in Form 4 in Schedule 1.
- (2) The respondent's notice shall:
  - (a) state whether it is intended to contest whole or part of any judgment, decision or order which is the subject of appeal;
  - (b) state whether the respondent's notice is against one or more of the appellants or respondents to the appeal or parties to the cause or matter in the Supreme Court or any other written law;
  - (c) specify the date of the judgment, decision or order sought to be varied;
  - (d) specify the ground or grounds of contention and variations sought relating to the part or parts of the judgment, decision or order which is the subject of appeal;
  - (e) specify the nature of relief sought; and
  - (f) be signed by the respondent or the respondent's legal representative.
- (3) The respondent shall file and serve the respondent's notice to the appellant and other parties to the appeal within 21 days from the date of service of the notice of appeal to the respondent.
- (4) The respondent shall not be required to provide security for cost for the respondent's notice.

### **14 Application for leave to appeal**

- (1) Where leave is required to appeal an interlocutory judgment, decision or order of the Supreme Court or any provisions of Part 6 of the Act, the intended appellant shall make an application for leave by filing:
  - (a) a summons for leave to appeal such interlocutory judgment, decision or order with any other appropriate orders in Form 5 in Schedule 1; and
  - (b) one or more affidavits in support of the application for leave to appeal for and on behalf of the applicant.
- (2) The affidavit in subrule (1)(b) shall include:
  - (a) the reasons as to why leave is required;
  - (b) the prospect of success of the intended appeal or exhibit a duly completed copy of the proposed notice of appeal in Form 1 in Schedule 1;
  - (c) the balance of convenience and the effect of granting leave to any other party or parties to the appeal;
  - (d) any decisions or orders of the Supreme Court on leave to appeal the interlocutory judgment, decision or order, if a prior application for leave was filed in the Supreme Court;
  - (e) a copy of the judgment, decision or order of the Supreme Court; and
  - (f) any other matters which the intended appellant may deem necessary.
- (3) The intended appellant shall file and serve the summons and affidavit to the respondent within 21 days of the date of the delivery of the judgment, decision or order of the Supreme Court intended to be appealed.

- (4) A respondent or interested party who seeks to oppose the application may file and serve an answering affidavit no later than 14 days or as directed by the Court from the date of the service of the summons and affidavit filed under subrule (1).
- (5) The Court shall give such directions or make such orders as it deems fit for the purpose of the hearing and determination of the application.
- (6) Where the Court grants leave under this rule to appeal an interlocutory judgment, decision or order of the Supreme Court, the intended appellant shall file and serve a notice of appeal in Form 1 in Schedule 1 within 7 days of granting of the leave or as directed by the Court.

## **15 Application for extension of time**

- (1) For the purposes of Section 22(3) of the Act, an intended appellant who seeks leave of the Court to extend the time for filing or serving of an application for leave to appeal or to appeal a judgment, decision or order of the Supreme Court out of time, shall file and serve to the respondents or other interested parties to the application or intended appeal:
  - (a) a summons seeking leave to extend time to file an application for leave or to file an appeal with any other appropriate orders in Form 6 in Schedule 1; and
  - (b) one or more affidavits in support of the application for and on behalf of the applicant.
- (2) The affidavit in subrule (1)(b) shall include:
  - (a) the prospect of success of the intended appeal or exhibit a duly completed copy of the proposed notice of appeal in Form 1 in Schedule 1;
  - (b) the explanation for the nature, length and reasons for delay;
  - (c) the balance of convenience and competing rights of the parties; and
  - (d) any other matters which the intended appellant may deem necessary.
- (3) Any respondent or interested party, who seeks to oppose the application may file and serve an answering affidavit no later than 14 days or as directed by the Court from the date of the service of the summons and affidavit filed under subrule (1).
- (4) The Court shall give such directions or make such orders as it deems fit for the purpose of the hearing and determination of the application.

## **16 Application to admit fresh evidence**

- (1) For the purposes of Section 24(2) of the Act, where a party seeks leave of the Court to admit fresh evidence in an appeal, such party shall file and serve:
  - (a) a summons seeking an order to admit such evidence with any other appropriate orders in Form 7 in Schedule 1; and
  - (b) one or more affidavits in support of the application for and on behalf of the applicant specifically deposing to matters contained in Section 24(2)(a), (b) and (c) of the Act.
- (2) An application for leave to admit fresh evidence shall be filed and served to the respondents or interested parties to the appeal no later than 30 days before the date fixed for hearing of the appeal.

- (3) A respondent or interested party, who seeks to oppose the application, may file and serve an answering affidavit no later than 14 days or as directed by the Court from the date of the service of the summons and affidavit filed under subrule (1).
- (4) The Court shall give such directions or make such orders as it deems fit for the purpose of the hearing and determination of the application.

**17 Application of Civil Procedure Rules**

Subject to these Rules, the Civil Procedure Rules shall apply to an appeal under Part 6 of the Act.

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## PART 3 — APPEALS IN CRIMINAL PROCEEDINGS

### 18 Application of this Part

- (1) This Part of the Rules applies to appeals in Part 7 of the Act relating to appeals in criminal proceedings.
- (2) The Civil Procedure Rules or Part 2 of the Rules do not apply to this Part of the Rules except where:
  - (a) the Act, the Rules or any other written law so expressly provides; and
  - (b) any judgment, decision or order granted in criminal proceedings relates to the effect or interpretation of the *Constitution* under Part 7 of the *Supreme Court Act 2018*.
- (3) For the purposes of subrule (2), where leave is required the application may be made to a single Justice of Appeal.

### 19 Notice of appeal

- (1) An appeal from the judgment, decision or order of the original, appellate, case stated or revisional jurisdiction of the Supreme Court as to conviction, sentence or both as provided for in the Act, shall be commenced by a notice of appeal in Form 8 in Schedule 1.
- (2) A notice of appeal may be given against whole or part of the judgment, decision or order which is the subject of appeal.
- (3) The notice of appeal shall provide:
  - (a) the conviction recorded;
  - (b) the sentence imposed;
  - (c) the orders granted by the Supreme Court;
  - (d) whether the appeal is from the original, appellate, case stated or revisional jurisdiction of the Supreme Court;
  - (e) whether the appeal is on conviction, sentence or both and whether it is on a question of law, facts or mixed law and facts;
  - (f) the grounds of appeal relating to the part or parts of the judgment, decision or order which is the subject of appeal;
  - (g) the nature of any interlocutory relief sought from the Court;
  - (h) the nature of final relief sought; and
  - (i) the signature of the appellant or the appellant's legal representative.
- (4) The appellant shall file and serve the notice of appeal to the respondent within 30 days from the date of the delivery of the judgment, decision or order which is the subject of appeal.
- (5) Where leave is required and granted by the Court, the notice of appeal shall be filed and served within 7 days from the grant of such leave or as directed by the Court.

### 20 Bail pending appeal or intended appeal

- (1) Where a person convicted and sentenced to a term of imprisonment appeals or seeks leave to appeal against the judgment, decision or order of the Supreme Court, he or she may apply for bail pending appeal by filing and serving to the respondent:

- (a) a summons seeking an order for bail pending appeal or intended appeal with any other appropriate orders in Form 9 in Schedule 1; and
  - (b) one or more affidavits in support of the application for bail pending appeal or intended appeal.
- (2) The affidavit in subrule (1)(b) shall include:
- (a) the reasons for bail;
  - (b) the prospect of success of the appeal or where an appeal is not filed, exhibit a duly completed copy of the proposed notice of appeal in Form 8 in Schedule 1;
  - (c) a copy of the judgment, decision or order of the Supreme Court;
  - (d) a copy each of the judgment, decision or order made by the Supreme Court after the delivery of the judgment, decision or order being the subject of appeal; and
  - (e) any other matters which the appellant may deem necessary.
- (3) For the purposes of this rule, the application shall comply with the requirements of the *Bail Act 2018*.
- (4) The Court may grant an order for bail pending appeal or intended appeal or any other appropriate orders in Form 10 in Schedule 1.
- (5) An appellant admitted to bail, shall be personally present on each occasion the appeal is listed before the Court including the hearing of interlocutory applications or the hearing and determination of the appeal, unless the presence of the appellant is excused by the Court.
- (6) Where the appellant fails to attend to Court as required under subrule (5), the Court may:
- (a) summarily dismiss the appeal;
  - (b) issue a warrant for his or her apprehension;
  - (c) adjourn the appeal; or
  - (d) consider the appeal in his or her absence.

## **21 Stay of sentence, restoration of compensation or any other appropriate order**

- (1) Where a person convicted and sentenced to a term of imprisonment appeals or seeks leave to appeal against the judgment, decision or order of the Supreme Court, he or she may apply for the stay of sentence or any other orders against the judgment, decision or order of the Supreme Court by filing and serving to the respondent:
- (a) a summons seeking an order to stay a sentence with any other appropriate orders in Form 11 in Schedule 1; and
  - (b) one or more affidavits in support of the application for and on behalf of the applicant.
- (2) The affidavit in subrule (1)(b) shall include:
- (a) the reasons for the stay of sentence;
  - (b) the prospect of success of appeal or where an appeal is not already filed, exhibit a duly completed copy of the proposed notice of appeal in Form 8 in Schedule 1;
  - (c) a copy of the judgment, decision or order which is the subject of appeal;
  - (d) a copy of the judgment, decision or order of the Supreme Court made after the judgment, decision or order which is the subject of appeal; and

- (e) any other matters which the intended appellant or appellant may deem necessary.
- (3) The Court may grant an order staying the sentence or any other appropriate order in Form 12 in Schedule 1.

## **22 Respondent's notice**

- (1) A respondent, who seeks to contend that the judgment, decision or order of the Supreme Court on appeal be varied, shall file and serve a respondent's notice in Form 13 in Schedule 1.
- (2) The respondent's notice shall:
  - (a) state whether whole or part of any judgment, decision or order which is the subject of appeal is intended to be varied;
  - (b) state whether the respondent's notice is against one or more of the appellants or respondents to the appeal or parties to the cause or matter in the Supreme Court;
  - (c) specify the date of the judgment, decision or order sought to be varied;
  - (d) specify the grounds of appeal for the variation sought relating to the part or parts of the judgment, decision or order which is the subject of appeal;
  - (e) specify the nature of relief sought; and
  - (f) be signed by the respondent or by the respondent's legal representative.
- (3) Where the Director of Public Prosecutions is a respondent, he or she may file and shall serve the respondent's notice to the appellant and other parties to the appeal within 14 days from the date of service of the notice of appeal to the Director of Public Prosecutions.

## **23 Application for leave to appeal under Sections 30 and 31 of the Act**

- (1) Where an appeal lies to the Court from the judgment, decision or order of the appellate jurisdiction of the Supreme Court or where leave is required to commence an appeal, the intended appellant shall only commence an appeal after having obtained leave of the Court under Section 30 of the Act.
- (2) Where leave of the Court is required in subrule (1), the intended appellant in an application or appeal shall file and serve:
  - (a) a summons for leave to appeal the judgment, decision or order with any other appropriate orders in Form 14 in Schedule 1; and
  - (b) one or more affidavits in support of the application for and on behalf of the applicant.
- (3) The affidavit in subrule (2)(b) shall include:
  - (a) the reasons for the requirement of leave;
  - (b) the prospect of success of the intended appeal or where an appeal is not filed, exhibit a duly completed copy of the proposed notice of appeal in Form 8 in Schedule 1;
  - (c) a copy of the judgment, decision or order of the Supreme Court, which is the subject of the appeal;
  - (d) a copy of the judgment, decision or order of the Supreme Court where the application for leave was made but declined; and
  - (e) any other matters which the intended appellant may deem necessary.

- (4) Where the Court grants leave under this rule to appeal a judgment, decision or order of the Supreme Court, the intended appellant shall file and serve the notice of appeal in Form 8 in Schedule 1 within 7 days from the date of the grant of leave or as directed by the Court.
- (5) This rule applies to an appeal against a judgment, decision or order of the Supreme Court under Section 31 of the Act.

## **24 Appeals on certification by Supreme Court**

- (1) Where the Supreme Court certifies that the case is fit for appeal on the grounds that it involves a question of fact or mixed law and fact or point of law of general importance, the Supreme Court shall issue a certificate as provided in Form 15 in Schedule 1.
- (2) The issues or questions formulated by the Supreme Court shall form the basis of the appeal.
- (3) The appellant or the respondent may add any other grounds of appeal limited to matters of questions of law.

## **25 Consolidation of appeals**

- (1) Where 2 or more appeals are brought from convictions or sentences passed at the same trial, they shall be consolidated and determined as one appeal unless the interest of justice requires the Court to hear and determine the appeals separately.
- (2) Where 2 or more persons convicted or sentenced by the District Court, appeals to the Supreme Court and their appeals were consolidated and heard by the Supreme Court as one appeal, such 2 or more persons may give notice of appeal to the Court, to have their appeals consolidated and determined as one appeal.

## **26 Extension of time to appeal or seeking leave to appeal**

- (1) The Court shall only extend the time for appealing in accordance with the Act, the Rules or any other written law.
- (2) Where an intended appellant or appellant who seeks leave of the Court to extend the time for filing or serving of an application for leave to appeal or notice of appeal out of time, the intended appellant or appellant shall file and serve to the respondents or other interested parties to the application or intended appeal:
  - (a) a summons seeking an order to enlarge the time to file an application for leave to appeal or appeal out of time with any other appropriate orders in Form 16 in Schedule 1; and
  - (b) one or more affidavits in support of the application for and on behalf of the applicant.
- (3) The affidavit in subrule (2)(b) shall include:
  - (a) the prospect of success of the intended appeal or exhibit a duly completed copy of the proposed notice of appeal in Form 8 in Schedule 1;
  - (b) the explanation for the nature, length and reasons for delay; and
  - (c) any other matters which the intended appellant may deem necessary.
- (4) The Court shall give such directions or make such orders as it deems fit for the purpose of the hearing and determination of the application.

**27 Notice of Appeal by a serving prisoner**

A serving prisoner, who is not represented by a legal representative, may file a notice of appeal as provided in Form 17 in Schedule 1.

**28 Application to admit fresh evidence**

- (1) For the purposes of Section 39 of the Act, where a party seeks leave of the Court to admit fresh evidence in an appeal under Part 7 of the Act, he or she shall file and serve:
  - (a) a summons seeking an order to admit such evidence with any other appropriate orders in Form 18 in Schedule 1; and
  - (b) one or more affidavits in support of the application for and on behalf of the applicant.
- (2) The affidavit in support of an appeal against conviction or sentence or both shall contain:
  - (a) evidence which was in existence but not available to the party after reasonable due diligence at the time of the trial or sentence;
  - (b) *prima facie* admissible evidence only;
  - (c) evidence which is credible;
  - (d) reason as to why the proposed evidence could not be adduced during the hearing or trial before the District Court or Supreme Court;
  - (e) how the proposed evidence would have affected the outcome of the trial or hearing before the District Court or Supreme Court;
  - (f) the relevance of the proposed evidence to the appeal; and
  - (g) whether any miscarriage of justice may occur in the event that the evidence was not to be admitted.
- (3) The Court shall not admit:
  - (a) events or evidence under this rule which have occurred after the conviction and sentence was imposed; and
  - (b) evidence of any rehabilitation between the sentence and hearing of an appeal.
- (4) An application for leave to admit fresh evidence shall be filed and served to the respondents or interested parties to the appeal no later than 30 days before the date fixed for hearing of the appeal.
- (5) A respondent or interested party who seeks to oppose the application may file and serve an answering affidavit no later than 14 days or as directed by the Court from the date of the service of the summons and affidavit filed under subrule (1).
- (6) The Court shall give such directions or make such orders as it deems fit for the purpose of the hearing and determination of the application.

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**PART 4 — RULES OF GENERAL APPLICATION TO CIVIL OR CRIMINAL APPEALS**

**29 Intervention by a non-party**

- (1) A person, who is or was not a party to a proceeding in the Supreme Court but is aggrieved or affected by or has sufficient interest in the judgment, decision or order of the Supreme Court which is the subject of appeal, may seek leave of the Court to intervene in the application or appeal.
- (2) A person seeking to intervene in an application or appeal under subrule (1) shall file and serve:
  - (a) a summons seeking an order to intervene in the proceedings with any other appropriate orders in Form 19 in Schedule 1; and
  - (b) one or more affidavits in support of the application for and on behalf of the applicant.
- (3) The affidavit in subrule (2)(b) may include:
  - (a) the purpose of the intervention;
  - (b) any grievance or adverse effect which the judgment, decision or order may have on the applicant;
  - (c) the nature of interest and reasons for such interest to be pursued in the appeal;
  - (d) the breach of natural justice or denial of a right to present his or her case before the District Court or Supreme Court by virtue of not being a party;
  - (e) any judgment, decision, order, restriction or liability imposed on the intervener; and
  - (f) any other matters which the party may deem necessary.
- (4) A party to an application or appeal, who opposes the application for intervention, may file and serve an answering affidavit within 7 days of the service of the summons and affidavit unless such time is extended by the Court.
- (5) A person aggrieved, affected or having sufficient interest under subrule (1), may with the leave of a single Justice of Appeal or the Court, commence an appeal against the judgment, decision or order of the Supreme Court, where the parties to the cause or matter in the Supreme Court have not appealed, as a consequence of which the intervener is not able to intervene in an application or appeal under the Act or the Rules.
- (6) In an appeal under subrule (5), the intervener may join one or more parties to the cause or matter in the Supreme Court as respondents or interested parties in an application for appeal.
- (7) An application under subrule (5) shall be in accordance with subrule (2) with any necessary modification.
- (8) The Court in granting leave under this rule may impose such conditions as it deems fit.
- (9) Where the Court grants leave to intervene, the intervener shall:
  - (a) be deemed as a party to an application or appeal;
  - (b) where no application or appeal is filed, the intervener may commence an appeal;

- (c) file and serve a notice of appeal by an intervener as provided in Form 20 in Schedule 1;
  - (d) have all such rights and obligations as a party to an appeal under the Act, the Rules or any other written law for the purposes of the appeal; and
  - (e) comply with the procedure applicable for appeals under the Act or the Rules with any necessary modification.
- (10) The Court may give such directions or make such orders as it deems fit for the purpose of the hearing and determination of the application or appeal, where leave is granted.

### **30 Interlocutory application**

- (1) An interlocutory application to the Court shall be by a summons in accordance with Form 35 in Schedule 1 and where necessary, supported by one or more affidavits.
- (2) Where a party to an intended appeal or appeal seeks one or more interlocutory reliefs concurrently in an interlocutory application, the party shall include all the reliefs in one summons to avoid multiplicity of interlocutory applications.
- (3) A respondent or interested party who seeks to oppose the application may file and serve an answering affidavit no later than 14 days or as directed by the Court from the date of the service of the summons and affidavit filed under subrule (1).
- (4) No summons shall be served to the other parties in less than 3 clear days of the returnable date of such summons unless the Court has abridged the time for such service.

### **31 Abandonment of appeal or respondent's notice**

- (1) A party seeking to abandon, whole or part of an appeal or respondent's notice, shall file and serve to the other party or parties to the appeal a notice of abandonment of appeal or respondent's notice in Form 21 in Schedule 1.
- (2) For the avoidance of any doubt, despite the abandonment of appeals, other than in a criminal appeal, the Court shall have the jurisdiction to hear and determine other issues relating to costs.

### **32 Dismissal for want of prosecution of the appeal**

- (1) The Court may list the appeal or respondent's notice for dismissal for want of prosecution, where a party:
  - (a) fails to comply with the requirements of the Act, the Rules or any other written law; or
  - (b) fails to prosecute the appeal within 12 months.
- (2) An appellant or respondent may make an application to dismiss an appeal or respondent's notice respectively under this rule.
- (3) An application under subrule (2) shall be made by a summons and affidavit.
- (4) The Court in dismissing an appeal or respondent's notice under this rule shall concurrently make appropriate orders including discharging orders for stay of execution, proceeding, sentence or any other interlocutory orders.



**33 Abridgment or extension of time for service or doing of an act**

- (1) A party, who seeks an abridgment or extension of time for service or doing of an act under the Rules for which no specific rule is made, shall seek prior leave of a single Justice of Appeal or the Registrar.
- (2) An application under this rule shall be made by filing and serving a summons in Form 22 in Schedule 1 and where necessary supported by one or more affidavits for and on behalf of the applicant.

**34 Court may order costs**

- (1) Subject to Section 41 of the Act, the Court shall have the power to award costs on standard or indemnity basis.
- (2) Where the Court orders the costs to be taxed, the Registrar shall tax the costs in accordance with the Civil Procedure Rules, these Rules or as ordered by the Court.
- (3) The liability of 2 or more parties to pay costs shall be joint and several unless the Court makes any other orders.
- (4) Where the Court orders any costs to be taxed, the Registrar shall tax the costs on the application of any party to the appeal.

**35 Supplementing the records**

- (1) An appellant or respondent may seek leave of the Court to supplement the record of the proceedings of a cause or matter in the District Court or Supreme Court, which is the subject of appeal, where the appellant or respondent has reasonable cause to believe that certain matters relevant to the issues on appeal were not included in the appeal record book.
- (2) Where leave of the Court is required to supplement the record of the proceedings, the applicant shall file and serve:
  - (a) a summons for leave to supplement the record of the proceedings with any other appropriate orders in Form 23 in Schedule 1; and
  - (b) one or more affidavits in support of the application for and on behalf of the applicant.
- (3) The affidavit in subrule (2)(b) shall include:
  - (a) the material which on reasonable belief is intended to supplement the appeal record book;
  - (b) the reasons for the initial exclusion of the material from the appeal record book;
  - (c) the significance or relevance of the material to the appeal; and
  - (d) the material which was already agreed to by the parties to the cause or matter and admitted as part of the proceedings in the District Court or Supreme Court but was excluded from the appeal record book.
- (4) The Court shall not grant leave under this rule to include any new material or evidence that was not part of the proceedings or considered by the District Court or Supreme Court.
- (5) Subject to subrule (4), the appellant or respondent may by consent supplement the record.
- (6) A single Justice of Appeal or the Registrar may hear and determine the application made under this rule.
- (7) For the purposes of this rule, '*material*' includes pleadings, affidavits,

exhibits, transcripts or records of the proceedings of the District Court or Supreme Court, written or transcripts of oral submissions or any other evidence which was duly admitted or presented in the respective court of original jurisdiction.

### **36 Amendment of notice of appeal or respondent's notice**

- (1) A notice of appeal or respondent's notice may be amended by filing and serving a supplementary notice of appeal or respondent's notice in Form 24 in Schedule 1 without the leave of the Court at any time prior to 14 days of the date fixed for hearing of the appeal.
- (2) Where leave of the Court is required to amend the notice of appeal or respondent's notice at any time less than 14 days of the date fixed for hearing of the appeal, the applicant shall file and serve:
  - (a) a summons seeking an order to amend the notice of appeal or respondent's notice with any other appropriate orders in Form 25 in Schedule 1; and
  - (b) one or more affidavits in support of the application for and on behalf of the applicant.
- (3) The affidavit in subrule (2) shall include:
  - (a) the purpose of the intended amendment;
  - (b) the merits of the intended amendment in relation to the determination of the substantive issues or grounds of appeal;
  - (c) the nature, length and reasons for the delay in amending the appeal under subrule (1);
  - (d) whether the proposed amendment may prejudice the other parties to the appeal; and
  - (e) any other matters which the party may deem necessary.
- (4) The summons and affidavit under subrule (2) shall be served to the other parties to the appeal at least 3 clear days before the hearing of the application or as directed by the Court.
- (5) Where subrule (4) is not complied with, the Court may adjourn, dismiss or stay the application or proceed to hearing of the substantive appeal without the intended amendment.
- (6) A party who seeks to oppose the application may file and serve an answering affidavit before the returnable date of the application in subrule (2) or as directed by the Court.
- (7) The Court shall give such directions or make such orders as it deems fit for the purpose of the hearing and determination of the application.
- (8) Where the Court grants leave to amend the notice of appeal or respondent's notice, a supplementary notice of appeal or respondent's notice shall be filed and served to the other parties within 7 days from the date of the grant of such leave or as directed by the Court.

### **37 Date of hearing**

- (1) A single Justice of Appeal or the Registrar may fix a date of the hearing of an application or appeal.
- (2) The single Justice of Appeal or Registrar may give such directions as he or she deems fit for the purposes of the hearing of the application or appeal.

**38 Order of address in Court**

- (1) Subject to any directions of the Court, at the hearing of an application, the Court shall first hear the applicant followed by the respondent and any replies by the applicant.
- (2) For the hearing of an appeal, the Court shall hear the parties in the following chronological order:
  - (a) the appellant on the appeal;
  - (b) the respondent on the appeal and respondent's notice, if any given;
  - (c) the appellant on the respondent's notice and reply to the respondent on the appeal; and
  - (d) the respondent may reply to paragraph (c) but limited to the submission of the appellant on the respondent's notice.
- (3) The Court may dismiss an appeal or respondent's notice on a preliminary objection after hearing the other parties to the appeal.

**39 Death of a party in civil appeal**

- (1) An application for leave to appeal or appeal shall not be instituted in the name of a person who is deceased but may be instituted in the name of his or her personal representative or estate.
- (2) An application for leave to appeal or appeal under subrule (1) may be filed by the estate of the deceased limited for the purposes of complying with requirements of time prescribed by the Act, the Rules or any other written law.
- (3) Where an application for leave to appeal or appeal is filed in the name of the estate of the deceased:
  - (a) the application or appeal be stayed for a maximum period of 3 months; or
  - (b) the prior substitution of the personal representative of the intended appellant or appellant.
- (4) Where a personal representative in subrule (3) is not substituted, the application or appeal may be dismissed on the application by a party to the application or appeal.
- (5) Subject to subrule (6), the death of the respondent at the time of the commencement of the application for leave to appeal or appeal may not render an application for leave to appeal or appeal incompetent if the applicant or appellant has had no notice of such death at the time of the commencement of the application or appeal.
- (6) Upon the application of the appellant, respondent or any other party to the appeal, the personal representative may be substituted in place of the deceased.
- (7) Subject to subrule (8), without the leave of the single Justice of Appeal or Registrar, a judgment, decision or order of the Court shall not be enforced against the estate of the deceased where no personal representative is appointed.
- (8) A judgment, decision or order against an estate may be enforced with the leave of the Court for the purposes of the preservation of money and properties to satisfy any judgment, decision or order of the Court.

- (9) The procedure for substitution of a personal representative under the Civil Procedure Rules shall apply with necessary modifications.

**40 Death of a person convicted and sentenced in criminal appeal**

Where an application for leave to appeal or appeal is pending by or against a person convicted and sentenced by the District Court or Supreme Court and such person dies, the appeal shall be abated.

[The next page is 50,201]

## PART 5 — SERVICE

### 41 Service of notice of appeal on person affected

- (1) Subject to subrule (2), an intended appellant or appellant shall serve copies of documents filed in Court to all persons who are parties to the cause or matter in the Supreme Court and to such other persons who may personally be affected by the nature of relief sought in the appeal.
- (2) Where an application is made *ex parte*, the applicant shall only serve the documents to parties directly affected by the application or to persons who are parties to the cause or matter in the Supreme Court on the directions of the Court.
- (3) The rules for service prescribed by the *Civil Procedure Rules* or the *Criminal Procedure Act 1972* shall apply to service of all documents in a cause or matter filed in the Court.
- (4) A party to an application or appeal may seek an order from a single Justice of Appeal or Registrar for substituted service, where personal service may not be possible and in case of service outside the Republic.
- (5) The single Justice of Appeal or Registrar may make such orders as he or she deems fit for the purposes of subrule (4).

### 42 Death of respondent before service of notice of appeal

Where a respondent dies before the service of an application or notice of appeal, the appellant may serve the documents to the personal representative of the deceased.

### 43 Respondent, intervener etc to give address for service

- (1) A respondent, intervener or an interested party on whom a notice of appeal is served shall within 14 days file and serve their respective addresses for service in Form 26 in Schedule 1.
- (2) A notice of address for service may be signed by the respondent or the respondent's legal representative.
- (3) The filing and serving of a notice of address for service shall not operate or be construed as an admission that the appeal is competent or as a waiver of any procedural or substantive irregularity.

[The next page is 50,401]

**PART 6 — APPEAL RECORD BOOK, CHRONOLOGY AND WRITTEN  
SUBMISSIONS**

**44      Compiling of appeal record book for civil appeal**

- (1) The appellant in consultation with the Registrar shall be responsible for compiling the appeal record book for a civil appeal in a cause or matter.
- (2) The Registrar shall prepare the transcript of the Magistrate's or Judge's Notes or transcribed copies of the proceedings and exhibits.
- (3) Subject to subrule (4), the record in a civil appeal shall be as provided in Form 27 in Schedule 1 and include:
  - (a) the notice and grounds of appeal;
  - (b) the respondent's notice if any;
  - (c) any supplementary notice served;
  - (d) the judgment, decision or order of the Supreme Court;
  - (e) the pleadings, affidavits and only relevant interlocutory applications to the appeal filed in the Supreme Court;
  - (f) the official transcript of the Magistrate's or Judge's Notes or record, if any, of such evidence given in the District Court or Supreme Court as is relevant to any question or issue on appeal;
  - (g) a list of exhibits;
  - (h) documentary exhibits;
  - (i) any affidavits, exhibits or parts of exhibits, which were in evidence in the District Court or Supreme Court and are relevant to any question or issue on appeal; and
  - (j) the pages of all the original and copies of the appeal record book shall be numbered consecutively.
- (4) Before the appellant prepares the appeal record book, he or she shall file any copies of the records referred to in subrule (3) for certification by the Registrar as a true copy of the document which they purport to be a copy.
- (5) Where there are any errors or deficiencies in the bundle of documents submitted by the appellant for the Registrar's approval, the Registrar shall within 7 days require the appellant to remedy such errors or deficiencies within 14 days.
- (6) After the expiry of 14 days under subrule (5), the Registrar shall within 7 days certify the appeal record book as being correct.
- (7) In compiling the appeal record book, the appellant shall consult all other parties directly affected by the appeal as to its content.
- (8) Any document to which a party objects to from being included shall be indicated in the appeal record book for the purposes of adjustment of costs.
- (9) After certification of the appeal record book by the Registrar in subrule (6), the appellant shall within 21 days:
  - (a) file 4 copies of the appeal record book for the purposes of the Court; and
  - (b) file such number of copies of the appeal record book for the purposes of service to other parties to the appeal.

- (10) A failure by the appellant or respondent to comply with this rule shall be deemed as an abandonment of the notice of appeal or respondent's notice respectively unless the Court grants leave to the respective party to proceed with the notice of appeal or respondent's notice.

#### **45 Compiling appeal record book for criminal appeal**

- (1) The appeal record book for criminal appeals shall be:
- (a) compiled by the Registrar, where the appellant is not represented;
  - (b) compiled by the Director of the Office of the Public Legal Defender where the accused is represented by the Office of the Public Legal Defender;
  - (c) compiled by the Director of Public Prosecutions where the Office of the Director of Public Prosecutions is the appellant; or
  - (d) compiled by the appellant in any other case subject to the direction of the Registrar.
- (2) The Registrar shall prepare the transcript of the Magistrate's or Judge's Notes or transcribed copies of the proceedings and exhibits.
- (3) The appeal record book in a criminal appeal shall be in Form 28 in Schedule 1, which shall include:
- (a) the notice of appeal;
  - (b) respondent's notice;
  - (c) any supplementary notice of appeal or respondent's notice;
  - (d) the judgment, decision or order of the District Court or Supreme Court;
  - (e) in the case of an appeal filed under Section 30 of the Act, a certified copy of the District Court proceedings and a certified copy of the record of the proceedings in the Supreme Court;
  - (f) a list of exhibits;
  - (g) any documents, exhibits or parts of the exhibits that were in evidence in the District Court or Supreme Court and are relevant to any question or issue on appeal; and
  - (h) where applicable, the official transcript of the Judge's Notes or record, if any, of such evidence given in the Supreme Court as is relevant to any question or issue on appeal.
- (4) Before the appellant prepares the appeal record book, he or she shall file any copies of the appeal record book referred to in subrule (3) for certification by the Registrar as a true copy of the document which they purport to be a copy.
- (5) Subject to subrule (1)(a), if there are any errors or deficiencies in the bundle of documents, the Registrar shall within 7 days require the parties to the appeal to rectify the errors or deficiencies within 14 days.
- (6) After the expiry of 14 days under subrule (5), the Registrar shall within 7 days certify the appeal record book as being correct.
- (7) In compiling the appeal record book, the appellant shall consult any other party to the appeal as to its content.
- (8) After certification of the appeal record book by the Registrar in subrule (6), the appellant, the Director of Public Prosecutions or Director of the Office of the Public Legal Defender shall within 21 days:
- (a) file 4 copies of the appeal record book for the purposes of the Court; and



- (b) file such number of copies of the appeal record book for the purposes of service to other parties to the appeal.
- (9) A failure by the appellant or respondent to comply with this rule shall be deemed as an abandonment of the notice of appeal or respondent's notice respectively unless the Court grants leave to the respective party to proceed with the notice of appeal or respondent's notice.

#### **46 Chronology and written submissions**

- (1) As part of the written submissions for an appeal, the appellant shall file and serve as directed by the Court:
  - (a) the chronology of facts in Form 29 in Schedule 1;
  - (b) the chronology of proceedings in the District Court or Supreme Court in Form 30 in Schedule 1;
  - (c) written submissions in Form 31 in Schedule 1; and
  - (d) list of authorities cited or referred to in the written submissions in Form 32 in Schedule 1.
- (2) As part of the written submissions for an appeal, the respondent or any other parties shall file and serve as directed by the Court:
  - (a) the chronology of facts in Form 29 in Schedule 1, if he or she does not agree with the chronology of facts filed by the appellant identifying the contentious facts only;
  - (b) the chronology of proceedings in Form 30 in Schedule 1, if he or she does not agree with the chronology of proceedings filed by the appellant identifying the contentious facts as to the stage or description of the proceedings only;
  - (c) written submissions in Form 31 in Schedule 1; and
  - (d) list of authorities cited or referred to in the written submissions in Form 32 in Schedule 1.
- (3) The Court or the Registrar may give directions for the filing of the documents under this rule.

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## PART 7 — REFUGEE APPEALS

### 47 **Refugee appeals**

An appeal from the Supreme Court sitting under the *Refugees Convention Act 2012* shall be filed in accordance with Parts 2 and 4 of the Rules or any other written law.

### 48 **Application of the Rules to refugee appeals**

- (1) Part 6 of the Act, Parts 2 and 4 of these Rules or any other written law relating to civil proceedings or appeals shall apply with necessary modifications to these appeals except for subrule (2).
- (2) Part 7 of the Act, Part 3 of these Rules or any other written law relating to criminal proceedings do not apply to an appeal under this Part.

### 49 **Identity of appellant or respondent**

- (1) Subject to Rule 50, an appellant or respondent in an appeal from any final judgment, decision or order of the Supreme Court under Section 19(2)(d) of the Act shall not be identified by name in any application or appeal under the Act.
- (2) An appellant or respondent in an appeal under this Part may be identified by his or her boat number or any other identification code.
- (3) This rule does not apply to an application or appeal where the Republic is an appellant or a respondent.

### 50 **Intitule of refugee appeal**

The intitule to an appeal under this Part shall be as provided in Form 40 in Schedule 1 to these Rules.

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## PART 8 — GENERAL

### 51 Forms

- (a) The Forms in Schedule 1 shall be used consistently with these Rules.
- (b) Where no forms are prescribed, the general forms shall be used with any necessary modifications.

### 52 Documents to be filed

- (1) Where a party is required to file documents under the Act or the Rules, such documents shall comply with the following:
  - (a) A4 size paper with a margin of 4 centimetres to the left and 3 centimetres to the right;
  - (b) a font size of not less than 12 points and not more than 14 points;
  - (c) type written with a space of 1.5 space;
  - (d) printed only on one side of the paper;
  - (e) the pages shall be numbered consecutively; and
  - (f) stapled or bound.
- (2) The Registrar may decline to accept any documents for filing which do not comply with this rule.
- (3) Where an objection is taken by a party as to the non-compliance with this rule, a single Justice of Appeal or the Court may order:
  - (a) that with the leave of the Court, the document be used for the purpose of an application or the appeal;
  - (b) that the document be re-filed in compliance with these Rules; and
  - (c) costs against the defaulting party.

### 53 Intitule

- (1) Subject to subrule (2), the intitule to:
  - (a) a civil application or appeal shall be as provided in Form 33 in Schedule 1; or
  - (b) a criminal application or appeal shall be as provided in Form 34 in Schedule 1.
- (2) The intitule to any application or appeal shall set out:
  - (a) the front page of the document commencing a proceeding; and
  - (b) the cover of any other document required to be filed in a proceeding.
- (3) Where an intervener has been joined as a party to an appeal, the intitule shall contain the name, address, occupation or description of the intervener.

### 54 Backing sheet

Any document required to be filed and served by a party in a proceeding shall have a backing sheet as provided in Form 37 in Schedule 1.

### 55 Provision for address for service

- (1) In an appeal, each party shall file the following address:

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Service 1

- (a) if a party is not represented by a legal representative, the full name, address in the Republic, telephone contact, email address in Form 26 in Schedule 1; or
  - (b) if a party is represented by a legal representative, the name, address in the Republic, telephone, email address of the legal representative's law firm in Form 26 in Schedule 1.
- (2) The address filed under subrule (1) shall be the party's address for service.
  - (3) The Registrar shall not accept any documents for filing unless the party seeking to file the document has provided the information required under subrule (1) in particular, a physical address for service in the Republic.
  - (4) A party may not be served any documents for the purposes of the appeal where he or she fails to provide the information required under subrule (1).
  - (5) Where an applicant or appellant commences an application or an appeal, he or she shall provide the last known address of the respondent, which will be the address for service for the purposes of the Act and the Rules unless the respondent files the information required under subrule (1).
  - (6) Where the respondent files the information under Rule 43, the address for service for the purpose of the appeal shall be in accordance with the respondent's information.
  - (7) A party who has provided an address for service may at any time change the address by filing a notice of such change in the registry and serving copies of it on all persons who have been served with the previous address in Form 26 in Schedule 1.

## **56 Notification by the Registrar**

- (1) Where the Registrar is required to notify the parties under the Act or the Rules, the notification may be sent by email or any address for service provided under Rule 55.
- (2) Where a notification is sent by ordinary mail, it is deemed to be received:
  - (a) 5 days, in case of an address within the Republic; and
  - (b) 14 days, in case of an address outside the Republic.

## **57 Computation of time**

A time fixed by the Act, these Rules or any other written law or by any decision of the Court for doing any act shall be counted as follows:

- (a) a period of days from the occurrence of any event or the doing of any act shall be deemed to be exclusive of the day in which the event occurs;
- (b) if the last day of the period is a Saturday, Sunday or a public holiday, the period shall include the next working day;
- (c) where any act or proceeding is directed or allowed to be done or taken on a certain day, if that day is a Saturday, Sunday or a public holiday, the act or proceedings shall be considered as done or taken in due time if it is done or taken on the next working day;
- (d) where any act or proceeding is directed or allowed to be done or taken within any time not exceeding 7 days, Saturday, Sunday and any public holiday shall not be counted in the computation of time; and
- (e) unless the Court otherwise directs, the period of judicial vacation shall not be counted in the computation of time.

**58 Hours for filing documents**

- (1) The normal hours for filing documents shall be between 9.30 am to 4.00 pm from Monday to Friday.
- (2) The Registrar in consultation with the President of the Nauru Court of Appeal may from time to time vary the hours of filing of documents.

[subr (2) am Act 14 of 2022 s 22, opn 10 June 2022]

- (3) Where the Registrar varies the time under subrule (2), he or she shall Gazette the variation of such time.

**59 Maintenance of Register**

- (1) The Registrar shall maintain:
  - (a) a Register of Civil Applications in which particulars of every application filed in the registry shall be entered;
  - (b) a Register of Criminal Applications in which particulars of every application filed in the registry shall be entered;
  - (c) a Register of Civil Appeals in which particulars of every notices of appeal filed and any subsequent proceedings in the appeal shall be entered; and
  - (d) a Register of Criminal Appeals in which particulars of every notices of appeal filed and any subsequent proceedings in the appeal shall be entered.
- (2) The Registers to be maintained under this rule shall contain:
  - (a) the number of the application or appeal;
  - (b) the number of the proceeding in the Supreme Court;
  - (c) the names of the parties;
  - (d) the dates when the steps in the proceedings were taken; and
  - (e) the result of the application or appeal.
- (3) Every application or appeal received by the Registrar shall be given a serial number allotted as soon as the notice of appeal is received and maintained in the Register.
- (4) The Register shall be made available for public inspection with the approval of the Registrar.

**60 Documents to be sealed**

- (1) Where a document is filed in the registry in accordance with the Act and these Rules, the Registrar shall immediately cause the seal to be endorsed with the date and time of the filing of the documents.
- (2) A document which is not sealed shall not be served or accepted by any parties to the appeal.

**61 Refusal to accept documents filed out of time**

- (1) The Registrar shall refuse to accept any documents filed out of time as required under the Act, these Rules or any other written law and inform the applicant, appellant or respondent of the reasons for refusal in writing.
- (2) Where the Registrar refuses to accept the documents under subrule (1):
  - (a) in case of an appeal out of time, the applicant or intended appellant may apply for extension of time to a single Justice of Appeal;

- (b) in case of a respondent's notice being out of time, the respondent may apply for extension of time to a single Justice of Appeal; or
  - (c) an applicant or intended appellant may seek a review of the decision by a single Justice of Appeal.
- (3) For the purposes of subrule (2)(b), the aggrieved party may file and serve a summons in Form 35 in Schedule 1 and an affidavit in support returnable before a single Justice of Appeal.

## **62 Signature on the documents**

Where the signature of the party filing the documents in the Court is required under the Act, the Rules or any other written law:

- (a) the document may be signed by the legal representative of that party; or
- (b) the document may be signed by the person or any other authorised person where the party is unrepresented.

## **63 Sitting of the Court**

The respective parties or legal representatives shall be notified of the sitting of the Court and the matters to be disposed of at such sitting by email or the address provided under Rule 55.

## **64 Notice of hearing**

The Registrar shall cause the notice of the date of hearing to be served to the parties to the appeal.

## **65 Change of legal representative**

- (1) Where a party to any application or appeal changes their legal representative, such party shall:
  - (a) as soon as practicable, file a notice of change of legal representative in Form 38 in Schedule 1; and
  - (b) serve a copy of such notice to the other party or parties to an application or appeal.
- (2) A legal representative who desires to cease acting for any party in a civil appeal or application may apply by a summons in Form 35 in Schedule 1 before a single Justice of Appeal for leave to cease acting for that party.
- (3) For the purposes of subrule (2), the legal representative shall serve the summons to the party he or she intends to cease acting for and all other parties to the application or appeal.

## **66 Number of copies of document to be filed**

A party to an appeal shall file:

- (a) 4 copies of each document for the purposes of the Court; and
- (b) a copy of each document for the number of parties to the appeal.

## **67 Affidavits**

- (1) The provision of the Civil Procedure Rules relating to affidavits applies, with such necessary modifications.
- (2) Any affidavit required to be filed under these Rules shall be in accordance with Form 36 in Schedule 1.



**68 Sealing of orders**

- (1) For the purposes of the enforcement of the judgment, decision or order of the Court, the final declarations and orders shall be sealed.
- (2) An order required to be sealed shall be in accordance with Form 39 in Schedule 1.

**[The next page is 51,001]**

## PART 9 — MISCELLANEOUS

### 69 Correction of inadvertent slip or omission

- (1) Where any judgment, decision or order contains a clerical mistake or an error arising from an inadvertent slip or omission of the Court and the Court being the final appellate court, the Court in concurrence with the panel which delivered the judgment, decision or order may permit or authorise a single Justice of Appeal or the Registrar to correct such mistake or error on:
  - (a) the Court or Registrar's own initiative with notice to parties; or
  - (b) an interlocutory application made by a party on notice to the other parties.
- (2) The Registrar may correct the judgment, decision or order in accordance with subrule (1), only where the judgment, decision or order was made by the Registrar.

### 70 Judgment and interest

- (1) Where a monetary judgment, decision or order of the Supreme Court is appealed to the Court and the Supreme Court or the Court stayed the judgment, decision or order pending appeal, the party in whose favour the judgment, decision or order was given, if subsequently succeeds in the appeal wholly or partially, shall be paid the sum determined by the Court inclusive of interest until the sum is paid.
- (2) Where an appellant in accordance with the judgment, decision or order of the Supreme Court, paid the monetary judgment debt inclusive of interest and the appellant successfully appeals from the judgment, decision or order, the Court may make the following complementary orders:
  - (a) the repayment of the amount paid by the appellant; and
  - (b) the payment of interest to the appellant on the amount paid by the appellant under the judgment during the period commencing on the date of payment and ending with the date of the repayment.
- (3) Where the rate or quantum of interest is decided by the Supreme Court, unless varied by the Court, the interest shall apply to subrules (1) and (2).
- (4) Where the interest rate or quantum is not quantified, the Court may apply a simple interest rate based on a fair market interest rate or a rate of 5% per annum, whichever is less.
- (5) For the avoidance of doubt, in any appeal where a stay is granted, interest for such time as the execution has been delayed by reason of the appeal shall be allowed, unless the Court makes any other orders in relation to the interest or where the judgment, decision or order is wholly reversed.

### 71 Practice directions

The President of the Nauru Court of Appeal may issue practice directions from time to time clarifying or supplementing the practice and procedure of the Court.

[r 71 am Act 14 of 2022 s 22, opn 10 June 2022]

**72 Fees**

- (1) The appellant and respondent in a civil appeal shall pay any prescribed fees in Schedule 2 for the purposes of filing, hearing and determination of the appeal.
- (2) No fees shall be payable for any criminal proceedings in a cause or matter under this rule.

[The next page is 51,201]

PART 10 — TRANSITIONAL

**73 Filing of appeal or application for leave to appeal during transitional period**

- (1) Where:
  - (a) a party was required to file an appeal within a fixed period of time; or
  - (b) an appeal was so filed within the time provided for under the Act, the appeal is deemed to be filed regularly whether or not the formal requirements of the Rules were complied with.
- (2) For the avoidance of any doubt, the application for leave to appeal or appeal under subrule (1) shall only be deemed to be regularly filed if the appeal or application for leave to appeal was filed within the mandatory time provided under the Act.
- (3) This Part applies to any applications or appeals filed from the commencement of the Act on 15 May 2018 until the coming into effect of the Rules.

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## SCHEDULE 1

### NAURU COURT OF APPEAL ACT 2018

#### INDEX OF FORMS

<b>Form number</b>	<b>Name of Form</b>	<b>Rule</b>
1	Notice of Appeal in Civil appeal	10(5)
2	Summons for security for cost	11(1)
3	Summons for stay of execution or proceeding	12(2)(a)
4	Respondent's notice in Civil appeal	13(1)
5	Summons for leave to appeal an interlocutory judgment, decision or order	14(1)(a)
6	Summons for leave to extend time	15(1)(a)
7	Summons for application to admit fresh evidence	16(1)(a)
8	Notice of appeal in Criminal appeal	19(1)
9	Summons for bail pending appeal or intended appeal	20(1)(a)
10	Order for Bail	20(4)
11	Summons for stay of sentence, restoration of compensation or any other appropriate orders	21(1)(a)
12	Order for stay	21(3)
13	Respondent's notice in Criminal appeal	22(1)
14	Summons for leave to appeal a judgment, decision or order	23(2)(a)
15	Certification by Supreme Court	24(1)
16	Summons for extension of time to appeal or seeking leave to appeal	26(2)(a)
17	Notice of appeal for serving prisoner	27
18	Summons to admit fresh evidence	28(1)(a)
19	Summons for intervention by a non-party	29(2)(a)
20	Notice of appeal by an intervener	29(9)(c)
21	Abandonment of Civil or Criminal appeal or Respondent's notice	31(1)
22	Summons for abridgment or extension of time for service or other act	33(2)
23	Summons for supplementing the appeal record book in Civil or Criminal appeal	35(2)(a)
24	Supplementary notice of appeal or Respondent's notice	36(1)
25	Summons for leave to amend the notice of appeal or Respondent's notice	36(2)(a)
26	Notice of address for service	43(1) and 51
27	Appeal record book in Civil Appeal	44(3)
28	Appeal record book in Criminal Appeal	45(3)
29	Chronology of facts	46(1)(a) or 46(2)(a)

30	Chronology of proceedings in the District or Supreme Court	46(1)(b) or 46(2)(b)
31	Written submissions	46(1)(c) or 46(2)(c)
32	List of authorities	46(1)(d) or 46(2)(d)
33	Intitule for Civil application or appeal	53(1)(a)
34	Intitule for Criminal application or appeal	53(1)(b)
35	General form for summons	30(1);61(3);65(2)
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39	General form for Order	68(2)
40	Intitule for Refugee Appeals	50

## FORM 1

*[Rule 10(5)]*

### NOTICE OF APPEAL IN CIVIL APPEAL

#### IN THE NAURU COURT OF APPEAL

#### CIVIL APPELLATE JURISDICTION

Civil Appeal Number:...../20.....

Supreme Court Civil Case Number...../20.....

**BETWEEN** : (name of Appellant) of (address), (occupation)

**Appellant**

**AND** : (name of Respondent) of (address), (occupation)

**Respondent**

### NOTICE OF APPEAL

**TAKE NOTICE** that the abovementioned Appellant appeals to this Honourable Court the (*judgment, decision or order*) of the Supreme Court granted by the Honourable Justice (*President of the Nauru Court of Appeal or the surname of the Judge of the Supreme Court*) on ..... of..... 20.....(*date of judgment, decision or order*).

The full particulars of appeal are as follows:

<b>State the nature of appeal</b>	The Appellant appeals against: (a) whole or part of the final ( <i>judgment, decision or order</i> ); or (b) interlocutory ( <i>judgment, decision or order</i> ) ( <b>leave to appeal required</b> ). <i>(Delete whichever is inapplicable)</i>
<b>Date of judgment, decision or order</b>	<i>(State the date of the judgment, decision or Order)</i>



<b>Orders granted by the Supreme Court</b>	<p>The orders made by the Supreme Court were as follows:</p> <p>1 2 3</p> <p><i>[(a) State the precise orders made by the Supreme Court; (b) Attach a copy of the judgment, decision or order of the Supreme Court with this Notice of Appeal]</i></p>
<b>Appeal from original, appellate case stated or revisional Jurisdiction of the Supreme Court</b>	<p>This appeal is from the:</p> <p>(a) Original Jurisdiction of the Supreme Court; (b) Appellate Jurisdiction; or (c) Case stated or Revisional Jurisdiction</p> <p><i>(Delete whichever is inapplicable)</i></p>
<b>Any orders made by the Supreme Court after the delivery of judgment, decision or order</b>	<p>The Supreme Court made the following orders after the delivery of the <i>(judgment, decision or order)</i> of the Supreme Court:</p> <p>1 2 3</p> <p><i>(Note: List the date the orders were made and the actual orders.)</i></p>
<b>Any Orders Granted by a Single Justice of Appeal or Registrar</b> <i>(where applicable)</i>	<p>The following interlocutory orders were granted by a single Justice of Appeal or Registrar:</p> <p>1 2 3</p> <p><i>(Any orders regarding leave to appeal or stay of execution of judgment, decision or order granted by the single Justice of Appeal.)</i></p>
<b>Grounds of Appeal</b>	<p>The Grounds of Appeal are as follows:- <i>(Properly outline, number and state the grounds of appeal as 1, 2, 3 etc)</i></p> <p>1 2 3</p> <p><b>AND</b> the Appellant reserves the right to amend or vary the grounds of appeal by way of a supplementary Notice of Appeal upon receipt of the appeal record book of the Supreme Court 14 days before the hearing of the appeal or with the leave of the Court.</p> <p><i>(If necessary attach a separate page.)</i> <i>(Note: No submissions are to be attached or included as part of the grounds of appeal.)</i></p>
<b>Nature of interlocutory relief or orders sought</b>	<p>The Appellant seeks the following interlocutory or interim relief or orders: -</p> <p>1 2 3</p> <p><i>[(a) Precisely state the interlocutory or interim orders sought from the Nauru Court of Appeal; (b) If necessary attach a separate page; (c) No submissions are to be attached or included as part of the relief or orders sought]</i></p>

<b>Nature of final relief or orders sought</b>	The Appellant seeks an Order to <i>(vary or reverse)</i> the <i>(judgment, decision or order)</i> of the Supreme Court and the following orders be granted: - 1 2 3 <i>(Precisely state the final relief or orders sought from the Court.)</i>
<b>Notice to Respondent</b>	If the Respondent intends to file a Respondent's Notice, this must be filed within 14 days of the service of Notice of Appeal to the Respondent
<b>Last date for Appealing</b>	[day] / [ month] / [year]  <i>[(a) Appellant must state the last date for appealing the decision under the Act or the Rules; and (b)If out of time, application for leave to appeal out of time must be made or where granted should be stated here with orders attached to this Notice.]</i>
<b>Representation</b>	In person or by a legal representative <i>(state the name of legal representative)</i>
<b>Address for service of the Appellant</b>	Legal representative or Appellant in persons full address:  ..... District Email:..... Telephone Number:.....
<b>Signature of Appellant or Legal representative</b>	.....
<b>Date filed and sealed by the court</b>	[day] / [ month] / [year]
<b>Endorsement by the Registrar of the Nauru Court of Appeal.</b>	

[Form 1 am Act 14 of 2022 s 22, opn 10 June 2022]



FORM 3

[Rule 12(2)(a)]

STAY OF EXECUTION OR PROCEEDING

IN THE NAURU COURT OF APPEAL

CIVIL APPELLATE JURISDICTION

Civil Appeal Number:...../20.....

Supreme Court Civil Case Number:...../20.....

BETWEEN : (name of Appellant) of (address), (occupation)
Appellant or Applicant1
AND : (name of Respondent) of (address), (occupation) or Republic
Respondent Applicant2

SUMMONS

(Stay of execution or proceedings)

LET ALL PARTIES concerned attend before a single Justice of Appeal at Yaren on
.....day the .....of .....20..... on the hearing of an application by the
(Appellant or Applicant or Respondent) for the following orders that:

- (a) the (judgment, decision or order) of the Supreme Court on the ..... day of
....., 20.....be stayed (in the interim pending the hearing and
determination of this Application or the hearing and determination of the appeal);
(b) .....(include any other appropriate orders if necessary); or
(c) the cost of this Application be (costs in cause or be paid by the Appellant/ Respondent)

AND such other orders this Honourable Court may deem fit.

The (Appellant or Applicant) intends to read and rely upon the Affidavit of (Name of Deponent)
sworn and (filed or to be filed) in support of this application.

(Note: If Notice of Appeal in Form 1 is not filed, a copy of the proposed Notice of Appeal in Form 1 needs to
be exhibited in the affidavit)

This Application is filed under Rule 12 (or any other rules) of the Nauru Court of Appeal Rules
2018 (state the relevant provision of an Act, Regulation or Rules) and the inherent jurisdiction of the
Court.

Dated this day of 20.....

Court seal and signed

To: The Respondent
(Address)

1 Appellant is to be used where the appeal is already filed. If Appeal is not filed and only leave is sought, the
reference should be "Applicant" only.
2 Respondent is to be used where the appeal is already filed. If Appeal is not filed and interlocutory application
is filed by the respondent the reference should be "Respondent or Applicant".

**FORM 4**

[Rule 13(1)]

**RESPONDENT’S NOTICE IN CIVIL APPEAL**

**IN THE NAURU COURT OF APPEAL**

**CIVIL APPELLATE JURISDICTION**

Civil Appeal Number:...../20.....

Supreme Court Civil Case Number:...../20.....

**BETWEEN** : (name of Appellant) of (address), (occupation)

**Appellant**

**AND** : (name of Respondent) of (address), (occupation) or Republic

**Respondent**

**Respondent’s Notice**

**TAKE NOTICE** that the abovementioned Respondent by this Respondent’s Notice cross appeals to this Honourable Court the (*judgment or decision or order*) of the Supreme Court granted by the Honourable Justice (*President of the Nauru Court of Appeal or the surname of the Judge of the Supreme Court*) on .....of..... 20..... (*date of judgment, decision or order*).

The full particulars of the Respondent’s notice are as follows:

State the nature of Respondent’s notice	The respondent seeks a variation of: (a) whole or part of the final ( <i>judgment, decision or order</i> ) the subject of the appeal; or (b) any interlocutory judgment, decision or order of the Supreme Court in that suit. <i>(Delete whichever is inapplicable)</i>
Name the parties against whom the Respondent’s notice seeks variation of orders	The respondent seeks the orders to be varied will be against the following: (a) Appellant; (b) Respondent. <i>(name the parties as in the Supreme Court records or proceedings)</i>
Date of judgment, decision or order sought to be varied	The ( <i>judgment, decision or order</i> ) delivered on the following dates are sought to be varied: 1 2 3  <i>[Note: (a) List the dates in a chronological order; (b) Attach copies of the judgment, decision or order.]</i>

<p>The grounds of appeals</p>	<p>The Respondent relies on the following grounds of appeal:                      1                      2                      3  <b>AND</b> the Respondent reserves the right to amend or vary the grounds of appeal by way of a supplementary Respondent’s notice upon receipt of the appeal record book of the Supreme Court 14 days before the hearing of the appeal or with the leave of the Court.  <i>(If necessary attach a separate page.)</i>  <i>(Note: No submissions are to be attached or included as part of the grounds of appeal.)</i></p>
<p><b>Nature of interlocutory relief or orders sought</b></p>	<p>The Respondent seeks the following interlocutory or interim relief or orders:                      1                      2                      3  <i>[(a) Precisely state the interlocutory or interim orders sought from the Court;                      (b) If necessary attach a separate page;                      (c) No submissions are to be attached or included as part of the relief or orders sought.]</i></p>
<p><b>Nature of final relief or orders sought</b></p>	<p>The Respondent seeks an Order to <i>(vary or reverse)</i> the <i>(judgment, decision or order)</i> of the Supreme Court and the following orders be granted:                      1                      2                      3  <i>(Precisely state the final relief or orders sought from the Court)</i></p>
<p><b>Last date for filing Respondent’s notice</b></p>	<p>[day] / [ month] / [year]  <i>(Note:</i>  <ul style="list-style-type: none"> <li>• <i>the Respondent’s notice must be filed within 21 days from the date of the service of the notice of appeal.</i></li> <li>• <i>Respondent must state the last date for filing the Respondent’s notice under the Act or the Rules; and</i></li> <li>• <i>If out of time, application for leave to appeal out of time must be made or where granted should be stated here with orders attached to this Notice.)</i></li> </ul> </p>
<p><b>Representation</b></p>	<p>In person or by a legal representative <i>(state the name of legal representative)</i></p>
<p><b>Address for service of the Appellant</b></p>	<p>Legal representative or Respondent in person’s full address:                      .....District                      Email:.....                      Telephone Number:.....</p>
<p><b>Signature of Respondent or Legal representative</b></p>	<p>.....</p>
<p><b>Date filed and sealed by the court</b></p>	<p>[day] / [ month] / [year]</p>
<p></p>	<p></p>

<b>Endorsement by the Registrar of Court.</b>	
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[Form 4 am Act 14 of 2022 s 22, opn 10 June 2022]

[The next page is 51,901]



**FORM 5**

[Rule 14(1)(a)]

**LEAVE TO APPEAL AN INTERLOCUTORY JUDGMENT, DECISION OR ORDER  
IN THE NAURU COURT OF APPEAL  
CIVIL APPELLATE JURISDICTION**

Civil Appeal Number:...../20.....

Supreme Court Civil Case Number:...../20.....

**BETWEEN** : (name of Appellant) of (address), (occupation)  
**Intended Appellant or Applicant<sup>1</sup>**

**AND** : (name of Respondent) of (address), (occupation)  
**Intended Respondent or Applicant<sup>2</sup>**

**SUMMONS***(Leave to appeal an interlocutory judgment, decision or order)*

**LET ALL PARTIES** concerned attend before a single Justice of Appeal at Yaren on .....day the .....of.....20.....on the hearing of an application by the *(Appellant or Applicant or Respondent)* for the following orders that:

- (a) leave to appeal an *(interlocutory judgment, decision or order)* of the Supreme Court delivered on the ..... day of ....., 20.....;
- (b) the applicant to file the Notice of appeal within 7 days of the grant of leave;
- (c) pursuant to the leave granted under paragraphs (a) and (b), the *(interlocutory judgment decision or order)* of the Supreme Court be stayed *(in the interim pending this application)* or *(until final determination of the Appeal)*  
*(Note: order in paragraph (c) may be necessary to complement the leave granted by the Court)*
- (d) .....; or
- (e) the cost of this Application be *(costs in cause or be paid by the Appellant/ Respondent)*

**AND** such other orders this Honourable Court may deem fit.

The *(Appellant or Applicant)* intends to read and rely upon the Affidavit<sup>3</sup> of *(Name of Deponent)* sworn and *(filed or to be filed)* in support of this application.

*(Note: If Notice of Appeal in Form 1 is not filed, a copy of the proposed Notice of Appeal in Form 1 needs to be exhibited in the affidavit)*

This Application is filed under Rule 14 *(include any other rules)* of the *Nauru Court of Appeal Rules 2018 (state the relevant provision of an Act, Regulation or Rules)* and the inherent jurisdiction of the Court.

Dated this ..... day of ..... 20.....

<sup>1</sup> Appellant is to be used where the appeal is already filed. If Appeal is not filed and only leave is sought, the reference should be "Applicant" only.

<sup>2</sup> Respondent is to be used where the appeal is already filed. If Appeal is not filed and interlocutory application is filed by the respondent the reference should be "Respondent or Applicant".

<sup>3</sup> This paragraph is only required if an affidavit is filed.

Court seal and signed

To:           The Respondent  
              (*Address*)

**FORM 6**

[Rule 15(1)(a)]

**EXTENSION OF TIME****IN THE NAURU COURT OF APPEAL****CIVIL APPELLATE JURISDICTION**

Civil Appeal Number:...../20.....

Supreme Court Civil Case Number:...../20.....

**BETWEEN** : (name of Appellant) of (address), (occupation)  
**Intended Appellant or Applicant**<sup>1</sup>

**AND** : (name of Respondent) of (address), (occupation) or Republic  
**Intended Respondent or Applicant**<sup>2</sup>

**SUMMONS**

(Leave to extend time)

**LET ALL PARTIES** concerned attend before a single Justice of Appeal at Yaren on .....day the .....of .....20..... on the hearing of an application by the (*Appellant or Applicant or Respondent*) for the following orders that:

- (a) leave to appeal out of time of the (*judgment, decision or order*) of the Supreme Court delivered on the ..... day of ....., 20 .....
  - (b) the applicant to file the Notice of appeal within 7 days of the grant of leave;
  - (c) pursuant to the leave granted under paragraph (a) the (*interlocutory judgment decision or order*) of the Supreme Court be stayed (*in the interim pending this application*) or (*until final determination of the Appeal*);
- (Note: order in paragraph (c) may be necessary to complement the leave granted by the Court)
- (d) .....; or
  - (e) the cost of this Application be (*costs in cause or be paid by the Appellant/ Respondent*).

**AND** such other orders this Honourable Court may deem fit.

The (*Appellant or Applicant*) intends to read and rely upon the Affidavit<sup>3</sup> of (*Name of Deponent*) sworn and (*filed or to be filed*) in support of this application.

(*Note: If Notice of Appeal in Form 1 is not filed, a copy proposed Notice of Appeal in Form 1 needs to be exhibited in the affidavit*)

Dated this        day of                    20.....

Court seal and signed

To:                    The Respondent  
                           (*Address*)

<sup>1</sup> Appellant is to be used where the appeal is already filed. If Appeal is not filed and only leave is sought, the reference should be "*Applicant*" only.

<sup>2</sup> Respondent is to be used where the appeal is already filed. If Appeal is not filed and interlocutory application is filed by the respondent the reference should be "*Respondent or Applicant*".

<sup>3</sup> This paragraph is only required if an affidavit is filed.

## FORM 7

[Rule 16(1)(a)]

## ADMIT FRESH EVIDENCE

IN THE NAURU COURT OF APPEALCIVIL APPELLATE JURISDICTION

Civil Appeal Number: ...../20.....

Supreme Court Civil Case Number:...../20.....

**BETWEEN** : (name of Appellant) of (address), (occupation)  
**Intended Appellant or Applicant**<sup>1</sup>

**AND** : (name of Respondent) of (address), (occupation) or Republic  
**Intended Respondent or Applicant**<sup>2</sup>

## SUMMONS

(Admit fresh evidence)

**LET ALL PARTIES** concerned attend before a single Justice of Appeal at Yaren on .....day the .....of .....20 ..... on the hearing of an application by the (Appellant / Applicant / Respondent) for the following orders that:

- (a) leave be granted to admit fresh evidence contained in the affidavit of (name of deponent);
- (b) the evidence so admitted be tendered in Court by no later than 14 days from the date of the order made in paragraph (a);
- (c) .....; or
- (d) the cost of this Application be (costs in cause or be paid by the Appellant/ Respondent).

**AND** such other orders this Honourable Court may deem fit.

The (Appellant or Applicant) intends to read and rely upon the Affidavit<sup>3</sup> of (Name of Deponent) sworn and (filed or to be filed) in support of this application.

(Note: If Notice of Appeal in Form 1 is not filed, a **draft Notice of Appeal** in Form 1 needs to be exhibited in the affidavit)

This Application is filed under Rule 16 (or any other rules) of the Nauru Court of Appeal Rules 2018 (state the relevant provision of an Act, Regulation or Rules) and the inherent jurisdiction of the Court.

Dated this        day of        20.....

Court seal and signed

To:            The Respondent  
                   (Address)

<sup>1</sup> Appellant is to be used where the appeal is already filed. If Appeal is not filed and only leave is sought, the reference should be "Applicant" only.

<sup>2</sup> Respondent is to be used where the appeal is already filed. If Appeal is not filed and interlocutory application is filed by the respondent the reference should be "Respondent or Applicant".

<sup>3</sup> This paragraph is only required if an affidavit is filed.

**FORM 8**

[Rule 19(1)]

**NOTICE OF APPEAL IN CRIMINAL APPEAL**

**IN THE NAURU COURT OF APPEAL**

**CRIMINAL APPELLATE JURISDICTION**

Criminal Appeal Number: ...../20.....

Supreme Court Criminal Case Number:...../20.....

**BETWEEN** : (name of Appellant) of (address), (occupation) or Republic<sup>1</sup>  
**Appellant**

**AND** : (name of Respondent) of (address), (occupation) or Republic<sup>2</sup>  
**Respondent**

**NOTICE OF APPEAL**

**TAKE NOTICE** that the abovementioned Appellant appeals to this Honourable Court the (judgment, decision or order) of the Supreme Court granted by the Honourable Justice (President of the Nauru Court of Appeal or the surname of the Judge of the Supreme Court) on ..... of ..... 20 ..... (date of judgment, decision or order).

The full particulars of appeal are as follows:

<b>Plea</b>	The (Appellant/ Respondent) pleaded as follows: 1 Count 1                      guilty / not guilty 2 Count 2                      guilty / not guilty  <i>(State the count as it appears on the charge and information sheet and the plea for each such count.)</i>
<b>Sentence imposed</b>	The sentence imposed by the (District Court or Supreme Court) were as follows: 1 2 3  <i>(State sentence imposed – custodial or otherwise)</i>
<b>Orders granted by the (District Court or Supreme Court) after the delivery of judgment which is subject of appeal</b>	The orders made by the (District Court or Supreme Court) were as follows: 1 2 3  <i>[(a) State the precise orders made by the Supreme Court. (b) Attach a copy of the judgment, decision or order of the Supreme Court with this Notice of Appeal]</i>

<sup>1</sup> Where Republic is a party, the document must be served to the Director of Public Prosecutions

<sup>2</sup> Where Republic is a party, the document must be served to the Director of Public Prosecutions

<b>Appeal from original, appellate, case stated or revisional Jurisdiction of the Supreme Court</b>	This appeal is from the: (a) Original Jurisdiction of the Supreme Court (b) Appellate Jurisdiction (c) Case stated or Revisional Jurisdiction <i>(Delete whichever is inapplicable)</i>
<b>State the nature of appeal</b>	The Appellant appeals against the judgment, decision or order of the Supreme Court on: (a) Conviction, sentence or both; and (b) Question of law; (c) Question of mixed law and facts; (d) Question of facts <b><i>(leave to appeal required); or</i></b> (e) Second appeal on conviction or sentence on question of law <b><i>(leave to appeal required)</i></b> • <i>(state leave where granted in the next paragraph)</i> • <i>(Delete whichever is in applicable)</i>
<b>Grounds of Appeal</b>	The Grounds of Appeal are as follows: <i>(Properly outline, number and state the grounds of appeal as 1, 2, 3 etc)</i> 1 2 3 <b>AND</b> the Appellant reserves the right to amend or vary the grounds of appeal by way of a supplementary Notice of Appeal upon receipt of the Records of the Proceedings of the Supreme Court or 14 days before the hearing of the Appeal. <i>(if necessary attach a separate page)</i> <b><i>(Note: No submissions are to be attached or included as part of the grounds of appeal.)</i></b>
<b>Nature of interlocutory relief or orders sought</b>	The Appellant seeks the following interlocutory or interim relief or orders: 1 2 3  <i>[(a) Precisely state the interlocutory or interim orders sought from the Court; (b) If necessary attach a separate page; (c) No submissions are to be attached or included as part of the relief or orders sought.]</i>
<b>Nature of final relief or orders sought</b>	The Appellant seeks an Order to <i>(vary or reverse)</i> the <i>(judgment, decision or order)</i> of the Supreme Court and the following orders be granted: 1 2 3  <i>(Precisely state the final relief or orders sought from the Court.)</i>
<b>Any Orders Granted by a Single Justice of Appeal (where applicable)</b>	<i>(Any orders regarding leave to appeal, bail or stay of decision granted by the single Justice of Appeal)</i>

<b>Notice to Respondent</b>	If the Respondent intends to file a Respondent’s Notice, this must be filed within 14 days of the service of Notice of Appeal to the Respondent
<b>Last date for Appealing</b>	[day] / [ month] / [year] <i>[(a) Appellant must state the last date for appealing the decision under the Act or the Rules; and                  (b) If out of time, application for leave to appeal out of time must be made or where granted should be stated here.]</i>
<b>Representation</b>	In person or by a legal representative ( <i>state the name of legal representative</i> )
<b>Address for service of the Appellant</b>	Legal representative or Appellant in persons full address:  ..... District Email:..... Telephone Number:.....
<b>Signature of Appellant or Legal representative</b>	.....
<b>Date filed and sealed by the court</b>	[day] / [ month] / [year]
<b>Endorsement by the Registrar of Court.</b>	

[Form 8 am Act 14 of 2022 s 22, opn 10 June 2022]

[The next page is 52,101]



**FORM 9**

[Rule 20(1)(a)]

**BAIL PENDING APPEAL OR INTENDED APPEAL****IN THE NAURU COURT OF APPEAL****CRIMINAL APPELLATE JURISDICTION**

Criminal Appeal Number: ...../20.....

Supreme Court Criminal Case Number: ...../20.....

**BETWEEN** : (name of Appellant or Applicant) of (address), (occupation)  
**Appellant or Applicant**<sup>1</sup>

**AND** : (name of Respondent or Applicant) of (address), (occupation) or  
 Republic  
**Respondent or Applicant**<sup>2</sup>

**SUMMONS**

(Bail Pending appeal or intended appeal)

**LET ALL PARTIES** concerned attend before (the Full Court/ Single Justice of Appeal) at Yaren on .....day the .....of .....20 ..... on the hearing of an application by the (Appellant /Applicant / Respondent) for the following orders: -

- (a) the (Appellant /Applicant / Respondent) be released from custody pending the determination of his or her appeal against his or her conviction by the Supreme Court on the .....day of .....20 .....
- (b) the (Appellant / Applicant / Respondent) be released from custody pending the determination of his or her appeal against the sentence of.....imposed on the (Appellant / Applicant / Respondent) by the Supreme Court on the .....day of .....after conviction of the appellant of.....(Offence); or (appeal against sentence by the District Court)
- (c) the (Appellant / Applicant / Respondent) be released from custody pending the determination of his or her appeal against both conviction and sentence (insert the conviction and sentence if the Notice of Appeal is not filed or exhibit a copy of the intended Notice of Appeal in Form 8 in Schedule 1).

**AND** such other orders this Honourable Court may deem fit.

The (Appellant or Applicant) intends to read and rely upon the Affidavit<sup>3</sup> of (Name of Deponent) sworn and (filed or to be filed) in support of this application.

(Note: A copy of the proposed Notice of Appeal in Form 1 needs to be exhibited in the affidavit)

This Application is filed under Rule 20 (or any other rules) of the Nauru Court of Appeal Rules 2018 (state the relevant provision of an Act, Regulation or Rules) and the inherent jurisdiction of the Court.

Dated this        day of                    20.....

Court seal and signed

<sup>1</sup> Appellant is to be used where the appeal is already filed. If Appeal is not filed and only leave is sought, the reference should be "Applicant" only.

<sup>2</sup> Respondent is to be used where the appeal is already filed. If Appeal is not filed and interlocutory application is filed by the respondent the reference should be "Respondent or Applicant".

<sup>3</sup> This paragraph is only required if an affidavit is filed.

To:           The Respondent  
              (*Address*)

**FORM 10**

[Rule 20(4)]

**ORDER FOR BAIL****IN THE NAURU COURT OF APPEAL****CRIMINAL APPELLATE JURISDICTION**

Criminal Appeal Number: ...../20.....

Supreme Court Criminal Case Number: ...../20.....

**BETWEEN** : (name of Appellant or Applicant of (address), (occupation)  
**Appellant or Applicant<sup>1</sup>**

**AND** : (name of Respondent or Applicant) of (address), (occupation) or  
 Republic  
**Respondent or Applicant<sup>2</sup>**

**ORDER**

**BEFORE A SINGLE JUSTICE OF APPEAL, HONOURABLE MR / MADAM JUSTICE**  
 ..... ON THE..... DAY OF  
 .....20.....

**UPON THE APPLICATION** of the Appellant; **AND UPON HAVING READ** the Affidavit and Undertaking of the Appellant; **AND UPON HEARING** (*Legal Representative for the Appellant or Appellant in person*) and Legal Representative for the Respondent;

**AND IT APPEARING THAT** the Appellant has filed a Notice of Appeal or Application for leave to appeal the applicant's conviction or sentence by the Supreme Court of the Republic of Nauru, on the following charges:

*(Summarise each charge the appellant is appealing as it appears in the information or charge, and the exact sentences imposed.)*

**AND IT IS HEREBY ORDERED THAT:-**

1. The Application be allowed and the Appellant be released upon:  
*(Use the more appropriate of the following two paragraphs)*
  - (a) Entering into an Undertaking, with the following conditions, namely:
    - (i) keep the peace and be of good behaviour;
    - (ii) report to Court in person as and when required by the Court;
    - (iii) remain within \_\_\_\_\_;
    - (iv) pursue the appeal with due diligence, and in particular comply with any deadlines and directions in the Rules of Court, in this Order, or as made by the Court respecting the appeal;
    - (v) \_\_\_\_\_ *(include any other conditions)*  
*(Select either "with" or "without" as appropriate)*

<sup>1</sup> Appellant is to be used where the appeal is already filed. If Appeal is not filed and only leave is sought, the reference should be "Applicant" only.

<sup>2</sup> Respondent is to be used where the appeal is already filed. If Appeal is not filed and interlocutory application is filed by the respondent the reference should be "Respondent or Applicant".

- (b) Entering into a Recognisance in the amount of \$\_\_\_\_\_ with / without deposit of cash or other valuable security, and with/without sureties as deemed acceptable to the Court, with the following conditions, namely:
- (i) keep the peace and be of good behaviour;
  - (ii) report to Court in person as and when required by the Court;
  - (iii) remain within \_\_\_\_\_;
  - (iv) pursue the appeal with due diligence, and in particular comply with any deadlines and directions in the Rules of Court, in this Order, or as made by the Court respecting the appeal;
  - (v) \_\_\_\_\_ (*include any other conditions that the Court orders*)

2. Such Undertaking or Recognisance may be entered into by the Appellant before any Justice of Appeal or Registrar.
3. A Justice of Appeal may order that the Appellant be brought in for the purpose of entering into such Undertaking or Recognisance, and this Order shall be sufficient authority to the Chief Correctional Officer having the custody of the Appellant to have the Appellant brought before the Justice of Appeal or Registrar for this purpose.
4. Where the Appellant is brought before a Justice of Appeal or Registrar and enters into the Undertaking or Recognisance, the Chief Correctional Officer having custody of the Appellant shall release the Appellant forthwith.
5. On the hearing date, the Appellant shall attend Court assigned for hearing of the appeal and report to the Registrar pending the hearing of the appeal.
6. The appeal shall proceed in strict compliance with the Rules of Court, and the (name of document) must be filed in accordance with the order or directions of the Court failing which the Director of Public Prosecutions may apply to revoke this order.

.....  
**REGISTRAR OF THE NAURU COURT OF APPEAL**

Court seal

*(Note: This template of the order must be sealed in every case for bail or stay if the Appellant is to be discharged at large in addition to the recognisance bond under the Bail Act 2018.)*



To:           The Respondent  
              (*Address*)

**FORM 12**

[Rule 21(3)]

**ORDER FOR STAY**

**IN THE NAURU COURT OF APPEAL**

**CRIMINAL APPELLATE JURISDICTION**

Criminal Appeal Number:...../20.....

Supreme Court Criminal Case Number: ...../20.....

**BETWEEN** : (name of Appellant or Applicant) of (address), (occupation)  
**Appellant or Applicant<sup>1</sup>**

**AND** : (name of Respondent or Applicant) of (address), (occupation) or  
 Republic  
**Respondent or Applicant<sup>2</sup>**

**ORDER**

**BEFORE A SINGLE JUSTICE OF APPEAL, HONOURABLE MR / MADAM JUSTICE..... ON ..... THE**

**..... DAY OF.....20.....**

**UPON THE APPLICATION** of the Appellant; **AND UPON HAVING READ** the Affidavit and Undertaking of the Appellant; **AND UPON HEARING** (*Legal Representative for the Appellant or Appellant in person*) and Legal Representative for the Respondent;

**AND IT APPEARING THAT** the Appellant has filed a Notice of Appeal or Application for leave to appeal the applicant’s conviction or sentence by the Supreme Court of the Republic of Nauru, on the following charges:

*(Summarise each charge the appellant is appealing as it appears in the information or charge, and the exact sentences imposed.)*

**AND IT IS HEREBY ORDERED THAT:-**

1. The Application be allowed and the Appellant be released upon:  
*(Use the more appropriate of the following two paragraphs)*
  - (a) Entering into an Undertaking, with the following conditions, namely:
    - (i) keep the peace and be of good behaviour;
    - (ii) report to Court in person as and when required by the Court;
    - (iii) remain within. ....;
    - (iv) pursue the appeal with due diligence, and in particular comply with any deadlines and directions in the Rules of Court, in this Order, or as made by the Court respecting the appeal;
    - (v) ..... *(include any other conditions)*  
*(Select either “with” or “without” as appropriate)*
  - (b) Entering into a Recognisance in the amount of \$.....with / without deposit of cash or other valuable security, and with/without sureties as deemed acceptable to the Court, with the following conditions, namely:

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<sup>1</sup> Appellant is to be used where the appeal is already filed. If Appeal is not filed and only leave is sought, the reference should be “Applicant” only.  
<sup>2</sup> Respondent is to be used where the appeal is already filed. If Appeal is not filed and interlocutory application is filed by the respondent the reference should be “Respondent or Applicant”.

- (i) keep the peace and be of good behaviour;
- (ii) report to Court in person as and when required by the Court;
- (iii) remain within. ....;
- (iv) pursue the appeal with due diligence, and in particular comply with any deadlines and directions in the Rules of Court, in this Order, or as made by the Court respecting the appeal;
- (v) ..... (*include any other conditions that the Court orders*)

- 2. Such Undertaking or Recognisance may be entered into by the Appellant before any Justice of Appeal or Registrar.
- 3. A Justice of Appeal may order that the Appellant be brought in for the purpose of entering into such Undertaking or Recognisance, and this Order shall be sufficient authority to the Chief Correctional Officer having the custody of the Appellant to have the Appellant brought before the Justice of Appeal or Registrar for this purpose.
- 4. Where the Appellant is brought before a Justice of the Appeal or Registrar and enters into the Undertaking or Recognisance, the Chief Correctional Officer having custody of the Appellant shall release the Appellant forthwith.
- 5. On the hearing date, the Appellant shall attend Court assigned for hearing of the appeal and report to the Registrar pending the hearing of the appeal.
- 6. The appeal shall proceed in strict compliance with the Rules of Court, and the (*name of document*) must be filed in accordance with the order or directions of the Court failing which the Director of Public Prosecutions may apply to revoke this order.

.....  
**REGISTRAR OF THE NAURU COURT OF APPEAL**

Court seal

*(Note: This template of the order must be sealed in every case for stay if the Appellant is to be discharged at large of an order in addition to the recognisance bond under the Bail Act 2018.)*



**FORM 13**

[Rule 22(1)]

**RESPONDENT’S NOTICE IN CRIMINAL APPEAL**

**IN THE NAURU COURT OF APPEAL**

**CRIMINAL APPELLATE JURISDICTION**

Criminal Appeal Number:...../20.....

Supreme Court Criminal Case Number: ...../20.....

**BETWEEN** : (name of Appellant) of (address), (occupation) or Republic<sup>1</sup>  
**Appellant**

**AND** : (name of Respondent) of (address), (occupation) or Republic<sup>2</sup>  
**Respondent**

**RESPONDENT’S NOTICE**

**TAKE NOTICE** that the abovementioned Respondent by this Respondent’s Notice cross appeals to this Honourable Court the (judgment or decision or order) of the Supreme Court granted by the Honourable Justice (President of the Nauru Court of Appeal or the surname of the Judge of the Supreme Court) on..... of.....20.....(date of judgment, decision or order).

The full particulars of the Respondent’s notice are as follows:

<b>Respondent’s notice as to whole or part of the judgment, decision or order which is subject of the appeal</b>	The Respondent’s notice as to (whole / part) of the (judgment / decision / order) of the Supreme Court were as follows: <i>(Delete whichever is inapplicable)</i>
<b>Orders granted by the (District Court or Supreme Court) after the delivery of judgment which is subject of Respondent’s notice</b>	The orders made by the (District Court or Supreme Court) were as follows: 1 2 3 <i>[(a) State the precise orders made by the Supreme Court; (b) Attach a copy of the judgment, decision or order of the Supreme Court with this Notice of Appeal]</i>
<b>Respondent’s notice from original, appellate, case stated or revisional Jurisdiction of the Supreme Court</b>	This Respondent’s notice is from the: (a) Original Jurisdiction of the Supreme Court (b) Appellate Jurisdiction (c) Case stated or Revisional Jurisdiction <i>(Delete whichever is inapplicable)</i>

<sup>1</sup> Where Republic is a party, the document must be served to the Director of Public Prosecutions

<sup>2</sup> Where Republic is a party, the document must be served to the Director of Public Prosecutions

<p><b>State the nature of Respondent's notice</b></p>	<p>The Respondent cross appeals by the Respondent's notice against the judgment, decision or order of the Supreme Court on:</p> <p>(a) Conviction, sentence or both; and  (b) Question of law;  (c) Question of mixed law and facts;  (d) Question of facts (<i>leave to appeal required</i>); or  (e) Second appeal on conviction or sentence on question of law (<i>leave to appeal required</i>)</p> <ul style="list-style-type: none"> <li>• (<i>state leave where granted in the next paragraph</i>)</li> <li>• (<i>Delete whichever is in applicable</i>)</li> </ul>
<p><b>Grounds of Appeal of Respondent's Notice</b></p>	<p>The Respondent relies upon the following Grounds of Appeal:</p> <p><i>(Properly outline, number and state the grounds of appeal as 1, 2, 3 etc)</i></p> <p>1  2  3</p> <p><b>AND</b> the Respondent reserves the right to amend or vary the grounds of appeal by way of a supplementary Notice of Appeal upon receipt of the Records of the Proceedings of the Supreme Court or 14 days before the hearing of the Appeal.</p> <p><i>(If necessary attach a separate page)</i></p> <p><i>(Note: No submissions are to be attached or included as part of the grounds of appeal.)</i></p>
<p><b>Nature of interlocutory relief or orders sought</b></p>	<p>The Respondent seeks the following interlocutory or interim relief or orders:</p> <p>1  2  3</p> <p><i>[(a) Precisely state the interlocutory or interim orders sought from the Court; (b) If necessary attach a separate page; (c) No submissions are to be attached or included as part of the relief or orders sought.]</i></p>
<p><b>Nature of final relief or orders sought</b></p>	<p>The Respondent seeks an Order to (<i>vary or reverse</i>) the (<i>judgment, decision or order</i>) of the Supreme Court and the following orders be granted:</p> <p>1  2  3</p> <p><i>(Precisely state the final relief or orders sought from the Court)</i></p>
<p><b>Any Orders Granted by a Single Justice of Appeal</b>  <i>(where applicable)</i></p>	<p><i>(Any orders regarding leave to appeal, bail or stay of decision granted by the single Justice of Appeal)</i></p>

<p><b>Last date for filing Respondent’s notice</b></p>	<p>[day] / [ month] / [year]  <i>[(a) Respondent must state the last date for appealing the decision under the Act or the Rules; and (b) If out of time, application for leave to appeal out of time must be made or where granted should be stated here.]</i></p>
<p><b>Representation</b></p>	<p>In person or by a legal representative <i>(state the name of legal representative)</i></p>
<p><b>Address for service of the Appellant</b></p>	<p>Legal representative or Respondent in persons full address:                   ..... District                  Email:.....                  Telephone                  Number:.....</p>
<p><b>Signature of Respondent or Legal representative</b></p>	<p>.....</p>
<p><b>Date filed and sealed by the court</b></p>	<p>[day] / [ month] / [year]</p>
<p><b>Endorsement by the Registrar of Court.</b></p>	<p></p>

[Form 13 am Act 14 of 2022 s 22, opn 10 June 2022]

[The next page is 52,201]

FORM 14

[Rule 23(2)(a)]

LEAVE TO APPEAL A JUDGMENT, DECISION OR ORDER

IN THE NAURU COURT OF APPEAL

CRIMINAL APPELLATE JURISDICTION

Criminal Appeal Number:...../20.....

Supreme Court Criminal Case Number: ...../20.....

BETWEEN : (name of Appellant) of (address), (occupation)
Intended Appellant or Applicant1

AND : (name of Respondent) of (address), (occupation) or Republic
Intended Respondent or Applicant2

SUMMONS

(Leave to appeal a judgment, decision or order)

LET ALL PARTIES concerned attend before a single Justice of Appeal at Yaren on
.....day the .....of .....20..... on the hearing of an application by the
(Appellant or Applicant or Respondent) for the following orders that:

- (a) leave to appeal a judgment, decision or order of the Supreme Court on the
.....day of ....., 20.....;
(b) the Notice of Appeal be filed within 7 days of the date of the grant of the order in
paragraph (a);
(c) .....

AND such other orders this Honourable Court may deem fit.

The (Appellant or Applicant) intends to read and rely upon the Affidavit3 of (Name of Deponent)
sworn and (filed or to be filed) in support of this application.

(Note: If Notice of Appeal in Form 1 is not filed, a copy of the proposed Notice of Appeal in Form
1 needs to be exhibited in the affidavit.)

This Application is filed under Rule 23 (or any other rules) of the Nauru Court of Appeal
Rules 2018 (state the relevant provision of an Act, Regulation or Rules) and the inherent jurisdiction
of the Court.

Dated this ..... day of ..... 20.....

Court seal and signed

To: The Respondent
(Address)

1 Appellant is to be used where the appeal is already filed. If Appeal is not filed and only leave is sought, the
reference should be "Applicant" only.

2 Respondent is to be used where the appeal is already filed. If Appeal is not filed and interlocutory application
is filed by the respondent the reference should be "Respondent or Applicant".

3 This paragraph is only required if an affidavit is filed.

**FORM 15***[Rule 24(1)]***CERTIFICATION BY SUPREME COURT***(Intitule to be as in the Supreme Court)***Certificate**

The *(judgment, decision or order)* delivered by this Court involves *(question of fact / mixed law and fact / point of a law of general importance)*.

This Court certifies that an appeal be filed in the Nauru Court of Appeal without the requirement of any leave for the purposes of the determination of the following *(question of fact / mixed law and fact / point of a law of general importance)*:

*(State the precise questions)*

Dated this    day of    20.....

Judge of the Supreme Court

Seal of the Supreme Court

*(Note: A copy of the judgment, decision or order with the certificate shall be submitted by the Registrar of the Supreme Court to the Registrar of the Court of Appeal.)*

**FORM 16**

[Rule 26(2)(a)]

**EXTENSION OF TIME TO APPEAL OR SEEKING LEAVE TO APPEAL  
IN THE NAURU COURT OF APPEAL  
CRIMINAL APPELLATE JURISDICTION**

Criminal Appeal Number:...../20.....

Supreme Court Criminal Case Number: ...../20.....

**BETWEEN** : (name of Appellant) of (address), (occupation)  
**Intended Appellant or Applicant**<sup>1</sup>

**AND** : (name of Respondent) of (address), (occupation) or Republic  
**Intended Respondent or Applicant**<sup>2</sup>

**SUMMONS**

(Extension of time to appeal or seeking leave to appeal)

**LET ALL PARTIES** concerned attend before a Single Justice of Appeal at Yaren on .....day the .....of .....20..... on the hearing of an application by the (Appellant or Applicant or Respondent) for the following orders that:

- (a) the time for filing an (application / appeal) against the ((leave to appeal judgment/ decision / order) / (judgment/ decision / order) of the Supreme Court delivered on the ..... day of ....., 20.....;
- (b) the application for (leave to appeal / appeal) be filed within 7 days of the date of the grant of the order in paragraph (a); or
- (c) the cost of this Application be (costs in cause or be paid by the Appellant/ Respondent).

**AND** such other orders this Honourable Court may deem fit.

The (Applicant or Appellant) intends to read and rely upon the Affidavit<sup>3</sup> of (Name of Deponent) sworn and (filed or to be filed) in support of this application.

(Note: If Notice of Appeal in Form 1 is not filed, a draft Notice of Appeal in Form 1 needs to be exhibited in the affidavit)

This Application is filed under Rule 26 (or any other rules) of the Nauru Court of Appeal Rules 2018 (state the relevant provision of an Act, Regulation or Rules) and the inherent jurisdiction of the Court.

Dated this day of 20.....

Court seal and signed

To: The Respondent  
(Address)

<sup>1</sup> Appellant is to be used where the appeal is already filed. If Appeal is not filed and only leave is sought, the reference should be "Applicant" only.

<sup>2</sup> Respondent is to be used where the appeal is already filed. If Appeal is not filed and interlocutory application is filed by the respondent the reference should be "Respondent or Applicant".

<sup>3</sup> This paragraph is only required if an affidavit is filed.

FORM 17

[Rule 27]

NOTICE OF APPEAL BY SERVING PRISONER

IN THE NAURU COURT OF APPEAL

CRIMINAL APPELLATE JURISDICTION

Criminal Appeal Number: ...../20.....

Supreme Court Criminal Case Number: ...../20.....

**BETWEEN** : (name of Appellant) of (address), (occupation) or Republic  
**Appellant**

**AND** : (name of Respondent) of (address), (occupation) or Republic  
**Respondent**

**Notice of Appeal against Conviction / Sentence by Serving Prisoner**

To: The Registrar of Courts

I .....(name of Appellant / Applicant), having been convicted of the offence(s) of ..... (state offence(s) in the Supreme Court on the ..... day of .....

1. I wish to appeal against:

- (a) my conviction of the said offence(s).
- (b) the sentence of ..... imposed upon me.
- (c) Both my conviction and sentence.

2. The grounds of appeal are as follows:

- (a)
- (b)
- (c)

.....  
[Signature of Appellant (Serving Prisoner)]



**FORM 18**

[Rule 28(1)(a)]

**ADMIT FRESH EVIDENCE**

**IN THE NAURU COURT OF APPEAL**  
**CRIMINAL APPELLATE JURISDICTION**

Criminal Appeal Number: ...../20.....

Supreme Court Criminal Case Number: ...../20.....

**BETWEEN** : (name of Appellant) of (address), (occupation)  
**Intended Appellant or Applicant<sup>1</sup>**  
**AND** : (name of Respondent) of (address), (occupation) or Republic  
**Intended Respondent or Applicant<sup>2</sup>**

**SUMMONS**

(Admit Fresh Evidence)

**LET ALL PARTIES** concerned attend before a single Justice of Appeal at Yaren on .....day the .....of .....20..... on the hearing of an application by the (Appellant / Applicant / Respondent) for the following orders that:

- (a) leave be granted to admit fresh evidence contained in the affidavit of (name of deponent);
- (b) the evidence so admitted be tendered in Court no later than 14 days from the date of the order made in paragraph (a);
- (c) .....; or
- (d) the cost of this Application be (costs in cause or be paid by the Appellant/ Respondent).

**AND** such other orders this Honourable Court may deem fit.

The Applicant intends to read and rely upon the Affidavit<sup>3</sup> of (Name of Deponent) sworn and (filed or to be filed) in support of this application.

This Application is filed under Rule 28 (or any other rules) of the Nauru Court of Appeal Rules 2018 (state the relevant provision of an Act, Regulation or Rules) and the inherent jurisdiction of the Court.

Dated this day of 20. . .

Court seal and signed

To: The Respondent  
(Address)

<sup>1</sup> Appellant is to be used where the appeal is already filed. If Appeal is not filed and only leave is sought, the reference should be "Applicant" only.

<sup>2</sup> Respondent is to be used where the appeal is already filed. If Appeal is not filed and interlocutory application is filed by the respondent the reference should be "Respondent or Applicant".

<sup>3</sup> This paragraph is only required if an affidavit is filed.

FORM 19

[Rule 29(2)(a)]

INTERVENTION BY A NON-PARTY

IN THE NAURU COURT OF APPEAL

CIVIL/CRIMINAL APPELLATE JURISDICTION

Civil/ Criminal Appeal Number:...../20.....

Supreme Court Civil / Criminal Case Number:...../20.....

BETWEEN : (name of Appellant) of (address), (occupation) or Republic
Appellant
AND : (name of Respondent) of (address), (occupation) or Republic
Respondent

SUMMONS

(Intervention by a non-party)

LET ALL PARTIES concerned attend before a Single Justice of Appeal at Yaren on
.....day the.....of .....20..... on the hearing of an application by
(name, address and occupation of the Intervener) for an order:

- (a) that leave be granted to (name of the intervener) to intervene in the (application / appeal);
(b) the intervener to file and serve grounds of appeal within (.....) days of the grant
of order in paragraph (a); or
(c) .....

AND such other orders this Honourable Court may deem fit.

The Applicant intends to read and rely upon the Affidavit<sup>1</sup> of (Name of Deponent) sworn and (filed
or to be filed) in support of this application.

This Application is filed under Rule 29 (or other rules) of the Nauru Court of Appeal Rules 2018
(state the relevant provision of an Act, Regulation or Rules) and the inherent jurisdiction of the
Court.

Dated this day of 20. . . .

Court seal and signed

To: The Respondent
(Address)

<sup>1</sup> This paragraph is only required if an affidavit is filed. The body of the affidavit must be consistent with the
requirements of the particular rule under which the affidavit is filed.

**FORM 20**

[Rule 29(9)(c)]

**NOTICE OF APPEAL BY AN INTERVENER**

**IN THE NAURU COURT OF APPEAL**

**CIVIL / CRIMINAL APPELLATE JURISDICTION**

Civil / Criminal Appeal Number: ...../20.....

Supreme Court Civil / Criminal Case Number:...../20.....

**BETWEEN** : (name of Appellant) of (address), (occupation) or Republic  
**Appellant**

**AND** : (name of Respondent) of (address), (occupation) or Republic  
**Respondent**

**AND** : (name of Intervener) of (address), (occupation)  
**Intervener**

**Notice of Appeal by an Intervener**

**TAKE NOTICE** that pursuant to the leave granted by (the Court / Single Justice of Appeal) on the ..... day of ..... 20....., the abovementioned Intervener appeals to this Honourable Court against the (*judgment, decision or order*) of the Supreme Court granted by the Honourable Justice (*President of the Nauru Court of Appeal or the surname of the Judge of the Supreme Court*) on ..... of.....20..... (*date of judgment, decision or order*).

The full particulars of appeal are as follows:

<b>Date of judgment, decision or order</b>	[day] / [month] / [year]
<b>Judgment, decision or order granted by the Supreme Court</b>	The Supreme Court granted the following orders: 1 2 3
<b>Orders granted by the Supreme Court which the Intervener is aggrieved or affected by or interested in</b>	The Intervener is ( <i>aggrieved / affected / interested</i> ) ( <i>by / in</i> ) the following ( <i>judgment / decision / order</i> ) of the Supreme Court: 1 2 3
<b>Orders granted by the (<i>District Court or Supreme Court</i>) after the delivery of judgment which is subject of appeal</b>	The orders made by the ( <i>District Court or Supreme Court</i> ) were as follows: 1 2 3  [(a) State the precise orders made by the Supreme Court. (b) Attach a copy of the judgment, decision or order of the Supreme Court with this Notice of Appeal]

<b>State the nature of appeal</b>	<p>The Intervener appeals against the judgment, decision or order of the Supreme Court on:</p> <p>(a) Conviction, sentence or both; and</p> <p>(b) Question of law;</p> <p>(c) Question of mixed law and facts;</p> <p>(d) Question of facts (<i>leave to appeal required</i>); or</p> <p>(e) Second appeal on conviction or sentence on question of law (<i>leave to appeal required</i>)</p> <ul style="list-style-type: none"> <li>• (state leave where granted in the next paragraph)</li> <li>• (Delete whichever is inapplicable)</li> </ul>
<b>Intervener's Grounds of Appeal / Grievance</b>	<p>The Intervener's Grounds of Appeal / Grievance are as follows:- (Properly outline, number and state the grounds of appeal as 1, 2, 3 etc)</p> <p>1</p> <p>2</p> <p>3</p> <p><b>AND</b> the Intervener reserves the right to amend or vary the grounds of appeal / grievance by way of a supplementary Notice of Appeal upon receipt of the Records of the Proceedings of the Supreme Court or 14 days before the hearing of the Appeal.</p> <p>(If necessary attach a separate page)</p> <p>(Note: No submissions are to be attached or included as part of the grounds of appeal.)</p>
<b>Nature of interlocutory relief or orders sought</b>	<p>The Intervener seeks the following interlocutory or interim relief or orders:</p> <p>1</p> <p>2</p> <p>3</p> <p>[(a) Precisely state the interlocutory or interim orders sought from the Court; (b) If necessary attach a separate page; (c) No submissions are to be attached or included as part of the relief or orders sought.]</p>
<b>Nature of final relief or orders sought</b>	<p>The Intervener seeks an Order to (vary or reverse) the (judgment, decision or order) of the Supreme Court and the following orders be granted:</p> <p>1</p> <p>2</p> <p>3</p> <p>(Precisely state the final relief or orders sought from the Court)</p>
<b>Any Orders Granted by a Single Justice of Appeal</b> (where applicable)	<p>(Any orders regarding leave to appeal, bail or stay of decision granted by the single Justice of Appeal)</p>
<b>Representation</b>	<p>In person or by a legal representative (state the name of legal representative)</p>
<b>Address for service of the Intervener</b>	<p>Legal representative or Intervener in persons full address:</p> <p>..... District</p> <p>Email:.....</p> <p>Telephone Number:.....</p>

<b>Signature of Intervener or Legal representative</b>	.....
<b>Date filed and sealed by the court</b>	[day] / [ month] / [year]
<b>Endorsement by the Registrar of Court.</b>	

[Form 20 am Act 14 of 2022 s 22, opn 10 June 2022]

FORM 21

[Rule 31(1)]

ABANDONMENT OF APPEAL OR RESPONDENT’S NOTICE

IN THE NAURU COURT OF APPEAL

CIVIL/CRIMINAL APPELLATE JURISDICTION

Civil or Criminal Appeal number ...../20.....

Supreme Court Civil or Criminal Case number ...../20.....

BETWEEN : (name of Appellant or Applicant) of (address), (occupation)
Appellant or Applicant¹

AND : (name of Respondent or Applicant) of (address), (occupation) or
Republic
Respondent or Applicant²

Abandonment of appeal or Respondent’s notice

TAKE NOTICE that the (Appellant in this Appeal) or (Respondent in the Respondent’s Notice) based on his or her own advice, counsel and decision abandons the (whole or part of) the Notice of appeal or Respondent’s notice.

Dated this day of 20.....

(Signature of Appellant / Respondent / Legal Representative)

(Witness, unless signed by Legal Representative or Republic is an Appellant

(name and address of witness)

¹ Appellant is to be used where the appeal is already filed. If Appeal is not filed and only leave is sought, the reference should be “Applicant” only.

² Respondent is to be used where the appeal is already filed. If Appeal is not filed and interlocutory application is filed by the respondent the reference should be “Respondent or Applicant”.



[The next page is 52,301]



FORM 23

[Rule 35(2)(a)]

SUPPLEMENTING THE APPEAL RECORD BOOK

IN THE NAURU COURT OF APPEAL

CIVIL/CRIMINAL APPELLATE JURISDICTION

Civil/ Criminal Appeal Number:...../20.....

Supreme Court Civil / Criminal Case Number:...../20.....

BETWEEN : (name of appellant) of (address), (occupation) or Republic
Appellant

AND : (name of Respondent) of (address), (occupation) or Republic
Respondent

SUMMONS

(Supplementing the Appeal Record Book)

LET ALL PARTIES concerned attend before a Single Justice of Appeal at Yaren on .....day the
.....of .....20..... on the hearing of an application by the (Appellant or
Applicant or Respondent) for the following order(s):

- (a) leave to supplement the appeal record book by incorporating the following materials
(pleadings, affidavits, exhibits, transcripts or records of the proceedings of the District
Court / Supreme Court, written transcripts of oral submissions or any other evidence
which was duly admitted in the respective court of original jurisdiction);
(List the material which needs to be incorporated)
(b) the Applicant to compile and file 4 copies for the Court and one each for the parties of the
materials within .....days of the grant of the order in paragraph (a);
(c) .....

AND such other orders this Honourable Court may deem fit.

The (Appellant or Applicant) intends to read and rely upon the Affidavit<sup>1</sup> of (Name of Deponent)
sworn and (filed or to be filed) in support of this application.

This Application is filed under Rule 35 (or any other rules) of the Nauru Court of Appeal
Rules 2018 (state the relevant provision of an Act, Regulation or Rules) and the inherent jurisdiction
of the Court.

Dated this day of 20.....

Court seal and signed

To: The Respondent
(Address)

<sup>1</sup> This paragraph is only required if an affidavit is filed

FORM 24

[Rule 36(1)]

SUPPLEMENTARY NOTICE OF APPEAL OR RESPONDENT'S NOTICE

IN THE NAURU COURT OF APPEAL

CIVIL / CRIMINAL APPELLATE JURISDICTION

Civil / Criminal Appeal Number:...../20.....

Supreme Court Civil / Criminal Case Number:...../20.....

BETWEEN : (name of appellant) of (address), (occupation) or Republic
Appellant

AND : (name of Respondent) of (address), (occupation) or Republic
Respondent

Supplementary Notice of appeal or Respondent's notice

TAKE NOTICE that pursuant to Rule 36(1) of the Nauru Court of Appeal Rules 2018, the
(Appellant / Respondent) has amended the Notice of appeal / Respondent's notice filed
on..... of ..... 20..... as follows:

(List the amendments paragraph by paragraph or make amendments to Forms 1, 4, 8, 13 and
underline with red ink the amendments and attach it with this Notice.)

Dated this day of 20.....

Court seal and signed

To: The Respondent
(Address)

FORM 25

[Rule 36(2)(a)]

AMENDMENT OF THE NOTICE OF APPEAL OR RESPONDENT’S NOTICE
IN THE NAURU COURT OF APPEAL
CIVIL/CRIMINAL APPELLATE JURISDICTION

Civil/ Criminal Appeal Number: ...../20.....

Supreme Court Civil / Criminal Case Number: ...../20.....

BETWEEN : (name of appellant) of (address), (occupation) or Republic
AND : (name of Respondent) of (address), (occupation) or Republic
Appellant
Respondent

SUMMONS

(Amend the notice of appeal or Respondent’s notice)

LET ALL PARTIES concerned attend before a Single Justice of Appeal at Yaren on
day the .....of .....20..... on the hearing of an application by the
(Appellant or Applicant or Respondent) for an order:

- (a) to amend the notice of appeal or Respondent’s notice as contained in Exhibit “1” of the
Affidavit in Support;
(b) the supplementary Notice of appeal to be filed and served within 7 days of the grant of the
order in paragraph (a); or
(c) .....

AND such other orders this Honourable Court may deem fit.

The Applicant intends to read and rely upon the Affidavit<sup>1</sup> of (Name of Deponent) sworn and (filed
or to be filed) in support of this application.

This Application is filed under Rule 36 of the Nauru Court of Appeal Rules 2018 (state the relevant
provision of an Act, Regulation or Rules) and the inherent jurisdiction of the Court.

Dated this day of 20.....

Court seal and signed

To: The Respondent
(Address)

<sup>1</sup> This paragraph is only required if an affidavit is filed

## FORM 26

[Rules 43(1) and 51]

## NOTICE OF ADDRESS FOR SERVICE

IN THE NAURU COURT OF APPEALCIVIL / CRIMINAL APPELLATE JURISDICTION

Civil / Criminal Appeal Number:...../20.....

Supreme Court Civil / Criminal Case Number:...../20.....

**BETWEEN** : (name of Appellant) of (address), (occupation) or Republic  
**Appellant**

**AND** : (name of Respondent) of (address), (occupation) or Republic  
**Respondent**

**Notice of Address for Service**

This Notice of Address for Service is filed pursuant to Rules 43 and 51 of the *Nauru Court of Appeal Rules 2018*

Name of ( <i>Appellant / Respondent / Intervener</i> )	
Name of Legal Representative ( <i>if applicable</i> )	
Address for Service in the Republic	
Telephone	
Email	
Is this the address for service of Notices for all proceedings with the above case number:	( <i>yes / no</i> )
I hereby give notice that I have been appointed as the legal representative for the above named ( <i>Appellant / Respondent / Intervener</i> ) OR I hereby give notice that I am now acting in person. ( <i>delete whichever is inapplicable</i> )	

Dated this        day of        20.....

Signed:.....

To:            The (*Appellant / Respondent/ Intervener*)  
                  (*Address*)

**FORM 27***[Rule 44(3)]***APPEAL RECORD BOOK IN CIVIL APPEAL****IN THE NAURU COURT OF APPEAL****CIVIL APPELLATE JURISDICTION**

Civil Appeal Number:...../20.....

Supreme Court Civil Case Number:...../20.....

**BETWEEN** : (name of Appellant) of (address), (occupation) or Republic  
**Appellant**

**AND** : (name of Respondent) of (address), (occupation) or Republic  
**Respondent**

**Appeal Record Book in Civil Appeal***(Name and address of Appellant's  
legal representative)**(If any)**(Name and address of Respondents legal  
representative)**(If any)***(Cover page)*****Other pages***

The Appeal Record Book must be bound with colour and must contain the following in the following and in the order as set out below:

**1. INDEX****2. DOCUMENTS FILED IN COURT OF APPEAL EXCLUDING THE SUBMISSIONS**

*The most current versions of the document(s) that initiated the proceeding under appeal and the responding document(s) filed following order:*

- (a) Notice and Grounds of Appeal;*
- (b) Respondent's notice(if any);*
- (c) Supplementary Notice of Appeal (if any)*
- (d) Supplementary Respondents Notice (if any)*

**3. ORDER**

*A copy of the sealed order or orders under appeal and be identified and enumerated in the order they were sealed the most recent one on top.*

**4. Judgment or Decision of the Supreme Court**

*A copy of the reasons for judgment or decision filed in the format released to the parties.*

**5. Order(s) for an application for leave to appeal or stay by the Court of Appeal or a Single Judge Justice of Appeal**

*A copy of the document that initiated the appeal and a copy of the entered order granting leave, if available, or, if no copy of the entered order is available, a blank page with an envelope attached in which the copy of the entered order can be inserted once available.*

**6. Transcript of the records of the proceedings (including Magistrate's / Judge's Notes)**

*This has to be in the chronological order with which the trial or proceedings was conducted in a sequence from the commencement to the conclusion.*

**7. Exhibits**

*An index of all the exhibits must be compiled to form the part of the record.*

*Any documentary evidence capable of being photocopied and bound as part of the records should be included in the bound book with proper index and identification of each exhibit.*

**8. Affidavits**

**9. Submissions of the Parties**

*Any written submissions of the parties or legal representatives are to be compiled in a chronological order in which they were presented to or filed in the Supreme Court.*

**FORM 28***[Rule 45(3)]***APPEAL RECORD BOOK IN CRIMINAL APPEAL****IN THE NAURU COURT OF APPEAL****CRIMINAL APPELLATE JURISDICTION**

Criminal Appeal Number:...../20.....

Supreme Court Criminal Case Number:...../20.....

**BETWEEN** : (name of Appellant) of (address), (occupation) or Republic  
**Appellant**

**AND** : (name of Respondent) of (address), (occupation) or Republic  
**Respondent**

**Appeal Record Book in Criminal Appeal**

(Name and address of Appellant's  
 legal representative)  
 (If any)

(Name and address of Respondents legal  
 representative)  
 (If any)

**(Cover page)*****Other pages***

The Appeal Record Book must be bound with colour and must contain the following in the following and in the order as set out below:

**1. INDEX****2. DOCUMENTS FILED IN COURT OF APPEAL EXCLUDING THE SUBMISSIONS**

*The most current versions of the document(s) that initiated the proceeding under appeal and the responding document(s) filed following order:*

- (a) *Notice of Appeal;*
- (b) *Respondent's notice;*
- (c) *Supplementary Notice of Appeal;*
- (d) *Supplementary Respondents Notice.*

**3. ORDER**

*A copy of the sealed order or orders under appeal and be identified and enumerated in the order they were sealed the most recent one on top.*

**4. Judgment or Decision of the Supreme Court**

*A copy of the reasons for judgment or decision filed in the format released to the parties.*

**5. Order(s) for an application for leave to appeal, bail or stay by the Court of Appeal or Single Judge Justice of Appeal**

*A copy of the document that initiated the appeal and a copy of the entered order granting leave, if available, or, if no copy of the entered order is available, a blank page with an envelope attached in which the copy of the entered order can be inserted once available.*

**6. Certified copy of the District Court proceedings and certified copy of the record of appeal in the Supreme Court**

**7. Transcript of the records of the proceedings (including Magistrate's / Judge's Notes)**

*This has to be in the chronological order with which the trial or proceedings was conducted in a sequence from the commencement to the conclusion.*

**8. Exhibits**

*An index of all the exhibits must be compiled to form the part of the record.*

*Any documentary evidence capable of being photocopied and bound as part of the records should be included in the bound book with proper index and identification of each exhibit.*

**9. Submissions of the Parties**

*Any written submissions of the parties or legal representatives are to be compiled in a chronological order in which they were presented to or filed in the Supreme Court.*



FORM 29

[Rules 46(1)(a); 46(2)(a)]

CHRONOLOGY OF FACTS

IN THE NAURU COURT OF APPEAL

CIVIL/CRIMINAL APPELLATE JURISDICTION

Civil/Criminal Appeal Number:...../20.....

Supreme Court Civil/Criminal Case Number:...../20.....

BETWEEN : (name of Appellant) of (address), (occupation) or Republic
Appellant

AND : (name of Respondent) of (address), (occupation) or Republic
Respondent

Chronology of Facts

The chronology of facts required to be filed under Rules 46(1)(a) or 46(2)(a) of the Nauru Court of Appeal Rules 2018:

- 1
2
3

[(a) List the material facts in the sequence or chronology in which it happened and state dates and times if that is important.

(b) The chronology of facts must be consistent with records of the proceedings.

(c) Factual matters not contained or raised in the District Court or Supreme Court are to be introduced or included.]

Dated this day of 20.....

Signed by the party / legal representative:

[The next page is 52,401]

FORM 30

[Rules 46(1)(b); 46(2)(b)]

CHRONOLOGY OF PROCEEDINGS IN THE DISTRICT / SUPREME COURT
IN THE NAURU COURT OF APPEAL
CIVIL/CRIMINAL APPELLATE JURISDICTION

Civil/Criminal Appeal Number:...../20.....

Supreme Court Civil/Criminal Case Number:...../20.....

BETWEEN : (name of Appellant) of (address), (occupation) or Republic
AND : (name of Respondent) of (address), (occupation) or Republic
Appellant
Respondent

Chronology of Proceedings in the District / Supreme Court

The chronology of proceedings required to be filed under Rules 46(1)(b) or 46(2)(b) of the Nauru Court of Appeal Rules 2018:

- 1
2
3

- [(a) This part should contain the various stages of the proceedings and list of documents filed in the chronological order from commencement leading to this appeal. The most recent event shall be listed first.
(b) The ordinary Mentions and call overs may be ignored if not necessary or material for the purposes of the appeal.]

Dated this day of 20.. .

Signed by the party / legal representative:

## FORM 31

*[Rules 46(1)(c); 46(2)(c)]*

## WRITTEN SUBMISSIONS

IN THE NAURU COURT OF APPEALCIVIL/CRIMINAL APPELLATE JURISDICTION

Civil/Criminal Appeal Number:...../20.....

Supreme Court Civil/Criminal Case Number:...../20.....

**BETWEEN** : (name of Appellant) of (address), (occupation) or Republic  
**Appellant**

**AND** : (name of Respondent) of (address), (occupation) or Republic  
**Respondent**

**Written Submissions**

The *written submissions* required to be filed under Rules 46(1)(c) or 46(2)(c) of the *Nauru Court of Appeal Rules 2018* shall contain the following:

- (a) introduction;
- (b) grounds of appeal;
- (c) statement of material facts;
- (d) identifying the ground or grounds of appeal with the error in a specific part, paragraph or extract of the judgment, decision or order;
- (e) submissions of the how the error needs to be corrected;
- (f) the relief or order the respective Parties seek from the Court; and
- (g) repeat sub-paragraphs (c) to (e) respectively for each of the ground or grounds of appeal.

*(Note: two or more grounds of appeal may be submitted together but the reference to those grounds in the submissions must be explicit.)*

Dated this        day of        20.....

Signed by the party / legal representative:

**FORM 32**

*[Rule 46(1)(d) and 46(2)(d)]*

**LIST OF AUTHORITIES**

**IN THE NAURU COURT OF APPEAL**

**CIVIL /CRIMINAL APPELLATE JURISDICTION**

Civil/Criminal Appeal Number:...../20.....

Supreme Court Civil/Criminal Case Number:...../20.....

**BETWEEN** : (name of Appellant) of (address), (occupation) or Republic  
**Appellant**

**AND** : (name of Respondent) of (address), (occupation) or Republic  
**Respondent**

**List of Authorities**

The List of Authorities required to be filed under Rules 46(1)(d) or 46(2)(d) of the *Nauru Court of Appeal Rules 2018*:

- (a) Full name of the cases;
- (b) Citations from published law reports and where un-reported the citations must note it as unreported; and
- (c) Alphabetical order.

Dated this        day of        20.....

Signed by the party / legal representative:

**FORM 33**

*[Rule 53(1)(a)]*

**INTITULE FOR CIVIL APPLICATION OR APPEAL**

**IN THE NAURU COURT OF APPEAL**

**CIVIL APPELLATE JURISDICTION**

Civil Appeal Number:...../20.....

Supreme Court Civil Case Number:...../20.....

**BETWEEN** : (name of Appellant) of (address), (occupation)

**Appellant**

**AND** : (name of Respondent) of (address), (occupation)

**Respondent**

FORM 34

[Rule 53(1)(b)]

INTITULE FOR CRIMINAL APPLICATION OR APPEAL
IN THE NAURU COURT OF APPEAL
CRIMINAL APPELLATE JURISDICTION

Criminal Appeal Number:...../20.....

Supreme Court Criminal Case Number:...../20.....

BETWEEN : (name of Appellant) of (address), (occupation) or Republic
AND : (name of Respondent) of (address), (occupation) or Republic
Appellant
Respondent

FORM 35

[Rules 30(1); 61(3); 65(2)]

GENERAL FORM FOR SUMMONS

IN THE NAURU COURT OF APPEAL

CIVIL / CRIMINAL APPELLATE JURISDICTION

Civil/ Criminal Appeal Number:...../20.....

Supreme Court Civil/ Criminal Case Number:...../20.....

BETWEEN : (name of Appellant) of (address), (occupation) or Republic
Appellant

AND : (name of Respondent) of (address), (occupation) or Republic
Respondent

SUMMONS

(General Form)

LET ALL PARTIES concerned attend before a (Single Justice of Appeal / Registrar / Full Court) at Yaren on .....day the .....of .....20 ..... on the hearing of an application by the (Appellant / Respondent / Applicant) for an order:

- 1
2
3

AND such other orders this Honourable Court may deem fit.

The Applicant intends to read and rely upon the Affidavit<sup>1</sup> of (Name of Deponent) sworn and (filed or to be filed) in support of this application.

This Application is filed under Rules ..... of the Nauru Court of Appeal Rules 2018 (state the relevant provision of an Act, Regulation or Rules) and the inherent jurisdiction of the Court.

Dated this day of 20.....

Court seal and signed

To: The Respondent
(Address)

<sup>1</sup> This paragraph is only required if an affidavit is filed.



FORM 36

[Rule 67(2)]

GENERAL FORM OF AFFIDAVIT

IN THE NAURU COURT OF APPEAL

CIVIL/CRIMINAL APPELLATE JURISDICTION

Civil/ Criminal Appeal Number:...../20.....

Supreme Court Civil/ Criminal Case Number:...../20.....

BETWEEN : (name of Appellant) of (address), (occupation) or Republic
Appellant

AND : (name of Respondent) of (address), (occupation) or Republic
Respondent

(Affidavit in Support of the Summons)

(Answering Affidavit of the Respondent)

(Affidavit in Reply to the Answering Affidavit)

(Note: Use the above as the appropriate caption for Affidavits)

I, ..... (name) ....., of ..... (address) .....,
.....(occupation) ....., do hereby (swear or affirm) the contents of this affidavit and say
as follows:

- 1
2
3

( Note: The contents of the Affidavit for various applications is contained in the Rules. In preparing
the Affidavit, the requirements of the Rules must be complied with to ensure that the application has
merits.)

SWORN (OR AFFIRMED) BEFORE ME )
at....., )
on.....[day/month/year]..... ) .....
Deponent

.....
A Notary Public or Commissioner for Oaths
Seal or stamp of the witnessing officer

**FORM 37**

*[Rule 54]*

**BACKING SHEET**

**IN THE NAURU COURT OF APPEAL**  
**CIVIL/CRIMINAL APPEALS JURISDICTION**

Civil/ Criminal Appeal number. . . . /20. . .  
Supreme Court Civil/ Criminal Case Number:. . . . /20. . .

<b>BETWEEN</b>	:	<i>(name of appellant)</i> of <i>(address),</i> <i>(occupation),</i> or Republic	<b>Appellant</b>
<b>AND</b>	:	<i>(name of Respondent)</i> of <i>(address),</i> <i>(occupation),</i> or Republic	<b>Respondent</b>

\_\_\_\_\_  
*(Caption of document)*  
\_\_\_\_\_

This *(state the nature of document)* is filed for  
and on behalf of the  
*(Appellant/Respondent/Applicant)*

FORM 38

[Rule 65(1)(a)]

NOTICE OF CHANGE OF LEGAL REPRESENTATIVE
IN THE NAURU COURT OF APPEAL
CRIMINAL APPELLATE JURISDICTION

Criminal Appeal Number:...../20.....

Supreme Court Civil/ Criminal Case Number:...../20.....

BETWEEN : (name of Appellant) of (address), (occupation) or Republic
AND : (name of Respondent) of (address), (occupation) or Republic
Appellant
Respondent

Notice of Change of Legal Representative

TAKE NOTICE that the (Appellant / Respondent), formerly represented by (name of former legal representative), has appointed (name of new legal representative) as legal representative in these proceedings.

Dated this day of 20.....

Signed:
Legal Representative for the (Appellant / Respondent)
(Insert address)

To: Registrar of Courts To: (insert name of opposing party or legal representative)
(Insert address)

FORM 39

[Rule 68(2)]

GENERAL FORM FOR ORDER

IN THE NAURU COURT OF APPEAL

CIVIL/CRIMINAL APPELLATE JURISDICTION

Civil/ Criminal Appeal Number:...../20.....

Supreme Court Civil/ Criminal Case Number:...../20.....

BETWEEN : (name of Appellant or Applicant) of (address), (occupation)
Appellant or Applicant¹

AND : (name of Respondent or Applicant) of (address), (occupation) or
Republic
Respondent or Applicant²

ORDER

ON THE ..... DAY OF .....20.....

BEFORE THE HONOURABLE PRESIDENT OF THE COURT OF APPEAL, MR/MADAM JUSTICE ....., HONOURABLE JUSTICE OF APPEAL MR/MADAM JUSTICE ..... AND HONOURABLE JUSTICE OF APPEAL MR/MADAM JUSTICE.

UPON THE APPLICATION of the Appellant; AND UPON HAVING READ the Affidavit and Undertaking of the Appellant; AND UPON HEARING (Legal Representative for the Appellant or Appellant in person) and Legal Representative for the Respondent;

AND IT APPEARING THAT the Appellant has filed a Notice of Appeal or Application for leave to appeal the applicant’s conviction or sentence by the Supreme Court of the Republic of Nauru, on the following charges:

(Summarise each charge the appellant is appealing as it appears in the information or charge, and the exact sentences imposed.)

AND IT IS HEREBY ORDERED THAT:-

- 1. ....
2. ....
3. ....

REGISTRAR OF THE NAURU COURT OF APPEAL

Court seal

¹ Appellant is to be used where the appeal is already filed. If Appeal is not filed and only leave is sought, the reference should be “Applicant” only.

² Respondent is to be used where the appeal is already filed. If Appeal is not filed and interlocutory application is filed by the respondent the reference should be “Respondent or Applicant”.

**FORM 40**

*[Rule 50]*

**INTITULE FOR REFUGEE APPEALS**

**IN THE NAURU COURT OF APPEAL**

**CIVIL APPELLATE JURISDICTION**

Refugee Appeal Number:...../20.....

Supreme Court Refugee Appeal Case Number:...../20.....

**BETWEEN** : *(Boat number or any other identification code of the appellant<sup>1</sup>) of (address), (occupation) or Republic*

**Appellant**

**AND** : *(Boat number or any other identification code of the respondent<sup>2</sup>) of (address), (occupation) or Republic*

**Respondent**

<sup>1</sup> If the refugee is an appellant, he or she may be identified by his or her Boat ID or any other identification code.  
<sup>2</sup> If the refugee is a respondent, the respondent may be identified by his or her Boat ID or any other identification code.

[The next page is 52,601]

## SCHEDULE 2

### NAURU COURT OF APPEAL ACT 2018

[Rule 72(2)]

#### FEES

No	ITEM	FEE (\$)
1.	On filing a notice of appeal, or a notice of cross-appeal, from any decision, final or interlocutory ( <i>this fee includes the fees for setting down, notice of hearing and hearing</i> )	40
2.	On an application for: (a) leave to appeal; (b) extension of time; (c) fixing or dispensing with security for costs; (d) leave to amend; (e) directions for service; (f) stay of execution or proceedings; or (g) any interim or any other order.	10
3.	On filing a Respondent's notice	10
4.	On every bond or deposit	4
5.	On filing an affidavit or any other document unless otherwise provided for by this Schedule	2
6	For every copy of the appeal record book prepared in Rule 44, or of any proceedings, or of any judgment, order or document, per page (with a minimum fee of \$1) ( <i>Provided that, where the fee exceeds \$5,000, the Registrar may on the grounds of hardship or for other sufficient reason waive, wholly or in part, the fee in excess of \$5,000</i> ).	0.20
7.	For certifying any copy, per page (with a minimum fee of \$1 and a maximum fee of \$1,000)	0.20
8.	On entering or sealing the judgment or order made on the hearing of an appeal	10
9.	On entering or sealing any other order made by the Court of Appeal or a Single Justice of Appeal including orders for leave to appeal, security for costs or enlargement of time	8
10.	On any certificate by the Registrar (other than certification of a copy or of taxed costs)	2
11.	On filing a bill of costs and obtaining an appointment to tax- <ul style="list-style-type: none"> <li>• For a bill not exceeding \$100</li> <li>• For a bill exceeding \$100 but not exceeding \$200</li> <li>• For a bill exceeding \$200</li> </ul> <i>(This fee is to be paid on the amount claimed in the bill. No additional fee is payable for taxation).</i>	<div style="display: flex; flex-direction: column; align-items: center;"> <div style="margin-bottom: 10px;">7</div> <div style="margin-bottom: 10px;">10</div> <div>16</div> </div>

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12.	On a certificate of the taxing officer	1
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[The next page is 55,001]



## PRACTICE DIRECTION NO 1 OF 2018

### NAURU COURT OF APPEAL LEGAL REPRESENTATIVES COURT ATTIRE

#### Table of Amendments

Practice Direction No 1 of 2018 Nauru Court of Appeal Legal Representatives Court Attire was notified and commenced on 13 July 2018 (GN No 514/2018; Gaz 110/2018).

Amending Legislation	Notified	Date of Commencement
----------------------	----------	----------------------

In accordance with Section 59 of the *Nauru Court of Appeal Act 2018*, I make the following Practice Direction that the attire to be worn by legal representatives appearing before the Nauru Court of Appeal shall be as follows:

1. For Barristers and Solicitors appearing before the Nauru Court of Appeal:
  - (a) in the case of males:
    - (i) black gown, wig, jabot;
    - (ii) a lounge suit of black or grey colour;
    - (iii) a collared shirt in plain white, blue or any other sombre colours with a tie; and
    - (iv) enclosed black shoes.
  - (b) in the case of females:
    - (i) black gown, wig, jabot;
    - (ii) black jacket;
    - (iii) black or dark navy blue dress;
    - (iv) white, blue or sombre colour blouse;
    - (v) black or grey skirts or trousers; and
    - (vi) enclosed black shoes.
2. For Pleaders appearing before the Nauru Court of Appeal:
  - (a) in the case of males:
    - (i) black gown, wig, jabot;
    - (ii) a lounge suit of black or grey colour;
    - (iii) a collared shirt in plain white, blue or any other sombre colours with a tie; and
    - (iv) enclosed black shoes.
  - (b) in the case of females:
    - (i) black gown, wig, jabot;
    - (ii) black jacket;
    - (iii) black or dark navy blue dress;
    - (iv) white, blue or sombre colour blouse;
    - (v) black or grey skirts or trousers; and
    - (vi) enclosed black shoes.

3. For all legal representatives appearing in chambers before a single Justice of Appeal:
  - (a) in the case of males:
    - (i) a lounge suit of black or grey colour;
    - (ii) a collared shirt in plain white, blue or any other sombre colours with a tie; and
    - (iii) enclosed black shoes.
  - (b) in the case of females:
    - (i) black jacket;
    - (ii) black or dark navy blue dress;
    - (iii) white, blue or sombre colour blouse;
    - (iv) black or grey skirts or trousers; and
    - (v) enclosed black shoes.
4. This Practice Direction commences from the 13<sup>th</sup> day of July 2018 in the Nauru Court of Appeal.

[The next page is 59,001]

# Justices of Appeal Conditions of Service, Salaries and Allowances Regulations 2022

## TABLE OF PROVISIONS

<i>Regulation</i>	<i>Title</i>
1	Citation
2	Commencement
3	Objective
4	Interpretation
5	Salary of the President
6	Salary of Justice of Appeal
7	When salary payable
8	Other allowances
9	Travel
10	Accommodation
11	Transport
12	Medical
13	Leave
14	Telecommunication
15	Allowances not taxable
16	Employment and services tax
17	Transition
	SCHEDULE 1 — GROSS SALARY OF JUSTICES OF APPEAL
	SCHEDULE 2 — OTHER ALLOWANCES OF JUSTICES OF APPEAL
	SCHEDULE 3

[The next page is 59,201]

# Justices of Appeal Conditions of Service, Salaries and Allowances Regulations 2022

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## TABLE OF AMENDMENTS

The Justices of Appeal Conditions of Service, Salaries and Allowances Regulations 2022 SL 17 was notified and commenced on 13 July 2022.

<b>Amending Legislation</b>	<b>Notified</b>	<b>Date of Commencement</b>
-----------------------------	-----------------	-----------------------------

[The next page is 59,401]

The Cabinet makes the following Regulations under Section 11 of the *Nauru Court of Appeal Act 2018*:

**1 Citation**

These Regulations may be cited as the *Justices of Appeal Conditions of Service, Salaries and Allowances Regulations 2022*.

**2 Commencement**

These Regulations come into effect on the day they are notified in the Gazette.

**3 Objective**

The objective of these Regulations is to prescribe the conditions of service, salaries and allowances of the Justices of Appeal.

**4 Interpretation**

In these Regulations:

*'month'* means a calendar month beginning on any day of a named month and ending:

- (a) at the end of the day before the corresponding day of the next named month; or
- (b) if there is no corresponding day, at the end of the next named month; and

*'President'* means the President of the Nauru Court of Appeal or any other Justice of Appeal acting as the President in his or her absence or inability to perform the functions or exercise the powers of the office of the President.

**5 Salary of the President**

- (1) The salary of the President is fixed and set out in Schedule 1.
- (2) The President shall receive the salary in subregulation (1) when he or she is in the Republic commencing from the date of arrival to the date of departure.

**6 Salary of Justice of Appeal**

- (1) The salary of a Justice of Appeal is fixed and set out in Schedule 1.
- (2) A Justice of Appeal shall receive the salary in subregulation (1) when he or she is in the Republic commencing from the date of arrival to the date of departure.

**7 When salary payable**

- (1) For the purposes of Regulations 5 and 6, the salary of the President and a Justice of Appeal shall:
  - (a) be paid on a monthly basis or part thereof depending on the period of his or her presence in the Republic; and
  - (b) include Saturdays, Sundays and public holidays.

- (2) Where the Nauru Court of Appeal is required to sit through audio visual link, the salary of the President or a Justice of Appeal shall be paid for each day of the Court sittings and shall take no more than 3 days to write the judgment, decision or order of the Court.

## **8 Other allowances**

- (1) A Justice of Appeal shall be paid a non-accountable subsistence allowance per month or part thereof for the period of his or her presence in the Republic as set out in Item 1 of Schedule 2.
- (2) The President shall be provided with a reimbursable entertainment allowance as set out in Item 2 of Schedule 2.

## **9 Travel**

- (1) Subject to the availability of flight and a seat, a Justice of Appeal shall be entitled to a business class return airfare from his or her place of residence to the Republic.
- (2) Where a Justice of Appeal is required to travel on official travel, he or she shall be entitled to a business class return airfare.
- (3) The spouse of the President may accompany him or her to the Republic or on official travel on a business class return airfare.
- (4) Where a Justice of Appeal travels on official travel, he or she:
  - (a) shall be paid a per diem as set out in Item 1 of Schedule 2; and
  - (b) is not eligible to be paid any salary unless he or she is employed on a full-time basis.

## **10 Accommodation**

A furnished paid for accommodation shall be provided to a Justice of Appeal by the Republic.

## **11 Transport**

- (1) A Justice of Appeal shall be provided with transport and a driver.
- (2) A Justice of Appeal has unlimited use of the vehicle during the period of his or her presence in the Republic.

## **12 Medical**

A Justice of Appeal is entitled without charge for any medical treatment available at the Republic of Nauru hospital.

## **13 Leave**

- (1) Where a Justice of Appeal is employed on a full-time basis, he or she shall be entitled to the following leave:
  - (a) recreation leave of 20 working days;
  - (b) medical leave of 10 working days;
  - (c) special leave of 3 working days; and
  - (d) any other leave contained in the Contract of Employment or as the Cabinet may approve.
- (2) A Justice of Appeal who is employed on a full time basis may take leave of absence from the Republic during a judicial vacation.



**14 Telecommunication**

A Justice of Appeal shall be provided with an official phone number and internet facility as set out in Schedule 3.

**15 Allowances not taxable**

The allowances and other benefits of a Justice of Appeal are not taxable income.

**16 Employment and services tax**

The salary of a Justice of Appeal shall be subject to the provisions of the *Employment and Services Tax Act 2014*.

**17 Transition**

- (1) These Regulations shall not apply to an existing contract of employment of any Justice of Appeal until the date of expiry of such contract, when it is deemed to have come to an end.
- (2) A Justice of Appeal may be re-appointed under a new contract of employment on the terms and conditions prescribed in these Regulations, once a contract is deemed to have come to an end under subregulation (1).

[The next page is 59,601]

**SCHEDULE 1**

*[Regulations 5, 6 and 7]*

**GROSS SALARY OF JUSTICES OF APPEAL**

<b>Justices of Appeal</b>	<b>Gross salary per month</b>
President	\$29,000
Justice of Appeal	\$27,000

[The next page is 59,701]

**SCHEDULE 2**

*[Regulations 8 and 9]*

**OTHER ALLOWANCES OF JUSTICES OF APPEAL**

**Item 1**

<b>Justices of Appeal</b>	<b>Non-accountable Allowance per month</b>	<b>Per diem for official travel</b>
President	\$1,200	At the rate provided for a Judge in the Republic of Nauru travel allowance (per diem) for official travel on behalf of the Republic.
Justice of Appeal	\$1,200	At the rate provided for a Judge in the Republic of Nauru travel allowance (per diem) for official travel on behalf of the Republic.

**Item 2**

Reimbursable entertainment allowance of President	\$ 5,000 per annum
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[The next page is 59,801]

### **SCHEDULE 3**

*[Regulations 10, 11 and 14]*

The Justices of Appeal are entitled to the following benefits:

- (a) fully paid and furnished accommodation;
- (b) official vehicle and driver [unlimited use]; and
- (c) a sim card with 50GB data per month.

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