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FEDERAL REPUBLIC OF NIGERIA

HANDBOOK  
OF THE  
SUPREME COURT  
OF NIGERIA

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A.B.C. IKETUONYE (SAN)

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A.B.C. IKETUONYE (SAN)



FEDERAL REPUBLIC OF NIGERIA

# SUPREME COURT OF NIGERIA

Supreme Court Act 1960  
Supreme Court Rules 1961  
Constitution of the Federation 1963

*Also incorporating*

Constitution (Suspension and Modification) Decree 1966, ss. 1-17 ;  
Western and Mid-Western States Magistrates' Court Law, ss. 2, 69  
and 73 ;  
Western and Mid-Western States Customary Courts Law, s. 49 ;  
Constitution (Miscellaneous Provisions) (No. 2) Decree 1967, s. 3 ;  
Western State Court of Appeal Edict 1967 ;  
Eastern States High Court Law, ss. 35 and 38 ;  
High Court of Lagos Law, ss. 50 and 50A ;  
High Court of the Northern States, Cap. 49.

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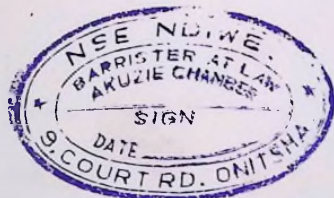
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### *Notes for guidance*

1. *Insertions and additions are in bold type. Dots indicate omissions.*
2. *The appearance in Decree 1966 No. 1 of a reference to a Region in italics indicates that the context appears to call for such a reference notwithstanding section 1 (b) of Decree 1967 No. 19 (which provides for references to a Region to be construed as references to a State).*
3. *The Regional constitutions, with the suspensions and modifications effected by section 2 of Decree 1966 No. 1, have now become State constitutions by virtue of section 1 (5) of Decree 1967 No. 14.*

A.B.C. IKETUONYE (SAN)



SUPREME COURT ACT 1960

THE SUPREME COURT ACT 1960

ARRANGEMENT OF SECTIONS

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2. Interpretation.

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37. Power to send back a case for amendment.
38. Repeal of Cap. 229 and Act. No. 27 of 1955.

(L.S.)

No. 12



1960

### Federation of Nigeria

#### An Act to amend and consolidate the Law relating to the Supreme Court of Nigeria.

Title.

[1st September 1960]

Commencement.

BE IT ENACTED by the Legislature of the Federation of Nigeria as follows—

Enactment.

1. This Act may be cited as the Supreme Court of Nigeria Act 1960, and shall apply throughout the Federation.

Short title, application and commencement.

2.—(1) In this Act, unless the context otherwise requires—

Interpretation.

“appellant” includes a person who has been convicted and desires to appeal under the Constitution or under any Act or law made in pursuance of that Order; and a person appealing under paragraph (a) of subsection (5) of section 147 of that Order;

“cause” includes any action, suit or other original proceeding between a plaintiff and a defendant;

“the constitution” means the Constitution of the Federation and includes any former constitution for Nigeria however prescribed or established;

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

"judge" means the Chief Justice of Nigeria and includes any Justice or Acting Justice of the Supreme Court ;

"judgment" includes decision or order ;

"magistrate's court" includes any district or similar court established by State law ;

"matter" includes every proceeding in court not in a cause ;

"Registrar" means the Chief Registrar of the Supreme Court or any registrar or deputy registrar of that Court ;

"rules of court" means rules of court made under or in pursuance of the Constitution ;

"Supreme Court" means the Supreme Court of Nigeria ;

"sentence" includes a recommendation ;

"suit" includes action ;

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

#### PART I.—GENERAL

"Number of Federal Justices and tenure of office of judges.

3.—(1) The number of Justices of the Supreme Court shall be nine.

(2) Any person holding the office of Chief Justice of Nigeria or a Justice shall vacate that office when he attains the age of sixty-five years."

Precedence of the Justices.

"3A. The Chief Justice shall take precedence of the other Justices of the Supreme Court, and the other Justices shall take precedence after the Chief Justice in accordance with the instructions of the President, acting on the advice of the Prime Minister."

Salaries and allowances of Judges.

4.—(1) There shall be paid to the Chief Justice of the Federation as salary the sum of four thousand one hundred and fifty pounds a year, and to each of the judges as salary the sum of three thousand six hundred pounds a year.

(2) There shall also be paid to each judge on account of expenses incurred in connection with his office or otherwise such allowances as are considered reasonable by the Minister of the Federation charged with responsibility for Courts.

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

(4) The salaries payable by virtue of this section (which revise the salaries formerly payable under the Supreme Court (General Provisions) Act 1955, repealed by this Act) shall accrue proportionately in respect of the years 1959 and 1960 with effect from the 1st day of September, 1959.

5.—(1) The Public Service Commission of the Federation may appoint a Chief Registrar of the Supreme Court and such registrars, deputy registrars and other officers as may be deemed necessary.

Officers of  
Supreme  
Court.

(2) The power conferred by subsection (1) includes power to appoint, with the consent of the Public Service Commission of the State concerned, an officer of the High Court of a State to be a registrar or deputy registrar of the Supreme Court.

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

6. The Supreme Court shall have and use as occasion may require a seal having a device or impression approved by the Chief Justice of Nigeria, with the inscription "The Supreme Court of Nigeria".

Seal of  
Supreme  
Court.

7.—(1) The process of the Supreme Court shall run throughout the Federation.

Process of  
Supreme  
Court.

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

8. Subject to the provisions of any other enactment the practice and procedure of the Supreme Court shall be in accordance with this Act and rules of court.

Practice  
and  
procedure.

9. The Supreme Court shall be duly constituted if it consists of three judges.

Number of  
judges.

10. A single judge of the Supreme Court may exercise any power vested in that court other than the final determination of any cause or matter :

Powers of  
single  
judge.

Provided that—

(a) in criminal causes or matters, if any judge refuses an application for the exercise of any such power, the person making the application shall be entitled to have his application determined by the Supreme Court ; and

(b) in civil causes or matters, any order, direction or decision made or given in pursuance of the powers conferred by this section may be varied, discharged or reversed by the Supreme Court.

Reserved judgments.

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

Trial with assessors.

12.—(1) In the exercise of its original jurisdiction the Supreme Court may, in any civil cause or matter in which it appears to the Supreme Court to be expedient, call in the aid of one or more assessors specially qualified, and hear the cause or matter wholly or partially with their assistance.

(2) The remuneration, if any, to be paid to such assessors shall be determined by the Supreme Court.

Costs.

13. The Supreme Court shall have power to award costs in all civil proceedings in the Supreme Court, and, subject to any other enactment or to rules of Court, it shall be in the discretion of the Supreme Court to determine by whom and to what extent the same shall be paid.

Right of audience.

14.—(1) Subject to the provisions of any other enactment, in all proceedings before the Supreme Court the parties may appear in person or be represented by a legal practitioner.

Jurisdiction to hear appeals in certain matters.

15.—(1) Where rights of appeal, with or without leave, from decisions of the High Court of a State given in the exercise of its appellate jurisdiction in respect of State matters are prescribed by a law of a State, the Supreme Court shall, except in so far as other provision is made by any law enacted by, or having effect as if enacted by, the Legislature of the

Federation, have the like jurisdiction to hear and determine appeals from decisions of that High Court given in the exercise of its appellate jurisdiction in respect of matters included in the Exclusive Legislative List or in the Concurrent Legislative List.

(2) In this section—

“decision” has the meaning assigned to it in section 117 (7) of the Constitution of the Federation ;

“State matter” means a matter other than a matter included in the Concurrent Legislative List or the Exchange Legislative List.

## PART II.—ORIGINAL JURISDICTION

16. With respect to the exercise of the original jurisdiction however conferred upon the Supreme Court, the following provisions shall apply :—

Provisions  
applying to  
exercise of  
original  
jurisdiction.

(a) subject to the express provisions of any enactment, law and equity shall be administered concurrently and in the same manner as they are administered by the High Court of Justice in England ;

(b) in every cause or matter pending before it the Supreme Court shall grant, either absolutely or on such terms and conditions as the Court thinks just, all such remedies whatsoever as any of the parties thereto may appear to be entitled to in respect of any legal or equitable claim properly brought forward by them in the cause or matter, so that, as far as possible, all matters in controversy between the parties may be completely and finally determined, and all multiplicity of legal proceedings concerning any of those matters avoided ;

(c) subject to the express provisions of any enactment, in all matters in which there was formerly or is any conflict or variance between the rules of equity and the rules of the common law with reference to the same matter, the rules of equity shall prevail ;

(d) in addition to any other powers conferred upon the Supreme Court by any enactment the Supreme Court shall, subject to the provisions of the Constitution and any enactment, have and may exercise all powers and

authorities which are vested in or capable to being exercised by the High Court of Justice in England, so far as the same may be appropriate to the exercise of the said original jurisdiction ;

(e) the Supreme Court shall observe and enforce the observance of native law and custom to the same extent as such law and custom is observed and enforced in the High Court of Lagos.

Repealed by  
1962 No. 34  
S. 1 (2).

Witnesses  
in causes  
heard in  
original  
jurisdiction.

17.

18.—(1) For the purpose of any cause before the Supreme Court in its original jurisdiction the Court may require the attendance of persons to give evidence or to produce documents or both.

(2) Any person present in court during the hearing of any such cause may, if the Court thinks fit, be ordered to give evidence or to produce documents.

(3) A judge, if it appears to him that the attendance of any person confined in any part of the Federation as a prisoner under any sentence or order or commitment for trial or otherwise, or under civil process, is necessary for the purpose of obtaining evidence in any such cause as aforesaid depending or to be inquired of in the court, may issue a warrant for bringing up the said person before the court ; and the superintendent of the prison or other officer in whose custody the person is shall forthwith obey such warrant.

Power of  
transfer in  
certain  
cases.

19.—(1) This section shall apply to any cause or matter “touching or concerning—

(a) any dispute between the Federation and a State or between States if and in so far as that dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends ;

(b) any matter in which a writ or order of mandamus or prohibition or an injunction is sought against an officer or authority of the Federation as such ;

(c) any matter arising under any treaty ; or

(d) any matter affecting consular officers or other representatives of countries or of international or similar organizations outside Nigeria.”

(2) The Supreme Court may order any cause or matter which is before it to be transferred to a High Court or magistrate's court having ordinary jurisdiction in the place where the cause of action arose and power to grant the relief sought, for hearing and determination, or to be otherwise disposed of by such court.

(3) Where an Order of Transfer is made under subsection (2) of this section the court to which the cause or matter is transferred shall have jurisdiction to hear and determine it, to the extent set out in the Order of Transfer, as if it were a cause or matter within the ordinary jurisdiction of that court.

(4) A transfer under subsection (2) may be ordered at any time and at any stage of the proceedings in a cause or matter before final judgment, and either with or without application in that behalf by any of the parties thereto, and may apply to any cause or matter in its entirety or in respect of any part thereof or procedure required to be taken therein.

20. Any proceedings before the Supreme Court arising out of a dispute referred to in paragraph (a) of subsection (1) of section 19 of this Act or against the Federation or a State shall—

Proceedings  
between the  
Federation,  
the States.

(a) in the case of the Federation be brought in the name of the Attorney-General of the Federation ;

(b) in the case of a State be brought in the name of the Attorney-General of the State.

### PART III.—APPEALS IN CIVIL CASES

21.—(1) This part shall apply to the exercise of the jurisdiction of the Supreme Court to hear appeals in civil cases.

Application  
of Part III.

“(2) Where in the exercise by the High Court of Lagos of its original jurisdiction an interlocutory order or decision is made in the course of any suit or matter an appeal shall, by leave of that Court or of the Supreme Court as the case may be, lie to the Supreme Court ; but no appeal shall lie from any order made *ex parte*, or by consent of the parties, or relating only to costs.”

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

General powers of the Supreme Court.

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

Wrong ruling as to sufficiency of stamp.

23. The Supreme Court shall not grant a new trial or reverse any judgment by reason of the ruling of any court that the stamp upon any document is sufficient or that the document does not require a stamp.

Stay of execution.

24. An appeal under this Part shall not operate as a stay of execution, but the Supreme Court may order a stay of execution either unconditionally or upon the performance of such conditions as may be imposed in accordance with rules of court.

#### PART IV.—APPEALS IN CRIMINAL CASES FROM A COURT SITTING AS A COURT OF FIRST INSTANCE

Application of Part IV.

25. This Part shall apply to the exercise of the jurisdiction of the Supreme Court to hear appeals from decisions of the court below sitting at first instance.

Determination of appeal.

26.—(1) The Supreme Court on any appeal against conviction under this Part shall allow the appeal if it thinks that the verdict should be set aside on the ground that it is unreasonable or cannot be supported having regard to the evidence, or that the judgment of the court before which the appellant was convicted should be set aside on the ground of a wrong decision on any question of law or that on any

ground there was a miscarriage of justice and in any other case, subject to the provisions of subsection (3) of this section and section 27 dismiss the appeal :

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

(2) Subject to the special provisions of this Act, the Supreme Court shall, if it allows an appeal against conviction, quash the conviction and direct a judgment and verdict of acquittal to be entered or order the appellant to be retried by a court of competent jurisdiction.

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

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

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

Powers of  
Court in  
special cases.

(3) Where on the conviction of the appellant by a jury, the jury have found a special verdict, and the Supreme Court considers that a wrong conclusion has been arrived at by the court before which the appellant has been convicted on the effect of that verdict, the Supreme Court may, instead of allowing the appeal, order such conclusion to be recorded as appears to the Court to be in law required by the verdict, and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law.

(4) (a) If on any appeal it appears to the Supreme Court that, although the appellant was guilty of the act or omission charged against him, he was insane at the time the act was done or omission made so as not to be responsible according to law for his actions, that Court may quash the sentence passed at the trial and order the appellant to be kept in custody as a criminal lunatic in such place and in such manner as that Court may direct until the pleasure of the appropriate authority be known, and the appropriate authority shall thereupon and from time to time give such order for the safe custody of the appellant during pleasure in such place and in such manner as the appropriate authority may see fit.

(b) In this subsection "appropriate authority" means the authority that could have made an order for the safe custody of the appellant if the court below had found that he was insane at the time the act was done or omission made.

Suspension  
of order for  
restoration  
or payment  
of compensa-  
tion or  
expenses.

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

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

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

PART V.—APPEALS IN CRIMINAL CASES FROM A HIGH COURT SITTING IN ITS APPELLATE JURISDICTION

29. This Part shall apply to the exercise of the jurisdiction of the Supreme Court to hear appeals from decisions of a High Court in criminal proceedings in which an appeal has been brought to that Court from some other court.

Application  
of Part V.

30. On the hearing of an appeal under this Part, the Supreme Court may exercise any power that could have been exercised by the High Court or may order the case to be retried by a court of competent jurisdiction.

Determina-  
tion of an  
appeal.

PART VI.—PROCEDURE

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

Time for  
appealing.

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

(a) in an appeal in a civil case, fourteen days in an appeal against an interlocutory decision and three months in an appeal against a final decision ;

(b) in an appeal in a criminal case, thirty days from the date of the decision appealed against.

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

(4) The Supreme Court may extend the periods prescribed in subsection (2) except in the case of a conviction involving sentence of death.

Legal  
assistance  
to appellant.

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

Supple-  
mental  
powers of  
court.

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

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

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

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

(d) where any question arising on the appeal involves prolonged examination of documents or accounts, or any scientific or local investigation, which cannot in the opinion of that Court conveniently be conducted before that Court, order the reference of the question in manner provided by rules of court, or, in the absence of rules of court making provision in that behalf, as it may direct, for enquiry and report to a special commissioner appointed by that Court, and act upon the report of any such commissioner so far

as it thinks fit to adopt it ; and exercise in relation to the proceedings of that Court any other powers which may for the time being be prescribed by rules of court and issue any warrants necessary for enforcing the orders or sentences of that Court :

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

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

Right of  
appellant  
to be  
present.

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

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

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

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

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

Admission  
of appellant  
to bail, and  
date of  
sentence.

(2) The time during which an appellant, pending the determination of his appeal, is admitted to bail shall not count as part of any term of imprisonment under his sentence

and, any imprisonment under the sentence of an appellant, whether it is the sentence passed by the court of trial or the sentence passed by the High Court on appeal or the sentence of the Supreme Court, shall, subject to any directions which may be given by that Court, be deemed to be resumed or to begin to run, as the case requires, from the day on which he is received into prison under the sentence.

(3) In any case in which the appellant has received special treatment pending the hearing of his appeal in accordance with the provisions of any law relating to prisons, the Supreme Court shall fix the day from which the sentence shall be deemed to begin to run.

Procedure with respect to frivolous appeals on questions of law.

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

#### PART VII.—MISCELLANEOUS AND REPEALS

Power to send back a case for amendment.

37. The Supreme Court, when a question as to the interpretation of the Constitution is referred to it may cause the case to be sent back for amendment and judgment shall be delivered after it has been amended.

Repeal of Cap. 229 and Act No. 27 of 1955.

38.—(1) The Supreme Court (Appeals) Act and the Supreme Court (General Provisions) Act, 1955, are hereby repealed.

(2) Subject to the provisions of the Constitution any appeal or reference from a High Court that is pending or part heard, may be continued, completed and determined in accordance with the provisions of this Act.

This printed impression has been carefully compared by me with the Bill which has passed the Federal Legislative Houses and found by me to be a true and correctly printed copy of the said Bill.

**SUPREME COURT RULES 1961**



Supplement to Official Gazette No. 49, Vol. 48, 13th July, 1961—Part B

L. N. 96 of 1961

THE SUPREME COURT RULES

(SECTION 113 OF THE CONSTITUTION OF THE FEDERATION OF NIGERIA)

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## SUPREME COURT RULES

## ORDER I

*General*

Citation and  
commence-  
ment.

These Rules may be cited as the Supreme Court Rules, 1961, and shall come into operation on the 1st day of September, 1961.

Interpreta-  
tion.

2. In these Rules, unless it is otherwise expressly provided or required by the context :

“appeal” includes an application for leave to appeal ;

“appellant” means a party appealing from a judgment or applying for leave in that behalf and includes his legal representative ;

“Chief Justice” means the Chief Justice of Nigeria ;

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

“the Court” means the Supreme Court of Nigeria ;

“Court below” means the court or tribunal from which the appeal is brought ;

“Judge” means a judge of the Court ;

“High Court” means a High Court established for a State by the Constitution of the State ;

“legal representative” means a person admitted to practise in the Court who has been retained by or assigned to a party to represent him in the proceedings before the Court ;

“the Act” means the Supreme Court Act, 1960 ;

“record” means the aggregate of papers relating to an appeal (including the pleadings, proceedings, evidence and judgments) proper to be laid before the Court on the hearing of the appeal ;

“Registrar of the Court below” includes the Chief Registrar and any Registrar or Deputy Registrar of the Court below, and any officer of the Court below exercising functions analogous to those of the Chief Registrar of a High Court ;

“respondent” in a civil appeal means any party (other than the appellant directly affected by the appeal, and in a criminal appeal means the person who undertakes the defence of the judgment appealed against ;

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1960.

“Rules” means these Rules or any amendment thereto or any other additional Rules made under the Constitution of the Federation, and includes the Forms appended to these Rules.

3.—(1) Any reference in these Rules to an address for service means an address within the jurisdiction where notices, pleadings, orders, summonses, warrants and other documents, proceedings, and written communications, if not required to be served personally, may be left, or to which they may be sent. Service.

(2) Where under these Rules any person has given an address for service, any notice or other written communication which is not required to be served personally shall be sufficiently served upon him if it is left at that address or sent by registered post to that address, and in any case where the date of service by post is material section 25 of the Interpretation Act, 1964 shall apply.

(3) Where under these rules any notice or other application to the Court, or to the Court below, is required to have an address for service endorsed on it, it shall not be deemed to have been properly filed unless such an address is endorsed on it.

(4) Any person desiring to change his address for service shall notify the Registrar, who shall thereupon communicate the new address for service to anyone to whom he may have communicated the former address.

(5) Where any person has given the address of a legal practitioner as his address for service and the legal practitioner is not, or has ceased to be instructed by him for the purpose of the proceedings concerned, it shall be the duty of the legal practitioner to inform the Registrar as soon as may be that he is not authorised to accept service on behalf of the client, and if he omits to do so he may be ordered to pay any costs occasioned thereby.

(6) Except as may be otherwise provided in these Rules or in any other written law, no notice or other written communication in proceedings in the original or appellant jurisdiction of the Court, need be served personally except—

(a) in proceedings in the original jurisdiction of the Court, the writ of summons or other document issued by the Court for the institution of the proceedings ; and

(b) in proceedings in the appellant jurisdiction of the Court, the notice of appeal : Provided that if the Court is satisfied that the notice of appeal has in fact been communicated to the respondent no objection to the hearing of the appeal shall lie on the ground that the notice of appeal was not served personally.

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

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

(9) Where any person out of the jurisdiction is a necessary or proper party to an action commenced in the original jurisdiction of the Court and properly brought against some other person duly served within the jurisdiction, the Court may allow service of a summons out of the jurisdiction.

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

(11) Any order giving leave to effect service out of the jurisdiction shall prescribe the mode of service, and shall limit a time after such service within which such defendant is to enter an appearance, such time to depend on the place or country where or within the summons is to be served, and the Court may receive an affidavit or statutory declaration of such service having been effected as *prima facie* evidence thereof.

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

Conflict with Regional Laws.

5. The Court may enlarge the time provided by these Rules for the doing of anything to which these Rules apply, or may direct a departure from these Rules in any other way when this is required in the interest of justice.

Enlargement of time and departure from Rules.

6. The fees set out in the Third Schedule shall be payable in respect of the matters to which they relate.

Fees.

7.—(1) The Registry of the Court is situate at Lagos and, except when otherwise expressly provided, all documents and proceedings shall be filed in this Registry, provided that whilst the Court is sitting in any place other than Lagos any documents or proceedings in connection with any matter to be dealt with at such Sessions may be filed with the Registrar of the Court at such place.

(2) A document may be filed in the Registry of the Court either by being delivered there by the party or his legal representative or agent in person or by being sent there by registered post.

8. The Registry of the Court shall, subject to the directions of the Chief Justice, be open to the public on every day in the year from eight o'clock in the forenoon to one o'clock in the afternoon, except :

Hours of opening to public.

(a) on Sundays or on any day kept in Lagos as a public holiday by virtue of the Public Holidays Act (Cap. 166) ; or

(b) on Saturdays when the Registry shall be open to the public from eight o'clock to eleven o'clock in the forenoon.

9. Sessions of the Court shall be convened and constituted and the time, venue and forum for all sessions and for hearing interlocutory applications shall be settled in accordance with directions to be given by the Chief Justice.

Sessions.

10.—(1) The sittings of the Court and the matters to be disposed of at such sittings shall be advertised and notified in such manner as the Chief Justice may direct :

Notification of Sittings.

Provided that the Court may in its discretion hear any appeal and deal with any other matter whether or not the same has been advertised.

(2) This Rule shall not apply to the hearing of any matter by a single Judge.

Adjourn-  
ment.

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

Chief  
Registrar.

12. The Chief Registrar shall have the custody of the records of the Court and shall exercise such other functions as are assigned to him by these Rules.

Other  
Registrars.

13. The Chief Justice may assign, and the Chief Registrar may, with the approval of the Chief Justice, delegate to any Registrar of the Court any functions required by these Rules to be exercised by the Chief Registrar.

Seal of the  
Court.

14.—(1) Subject to the provisions of this Rule, the Seal of the Court and any duplicate thereof shall be kept in the custody of the Chief Registrar, and except as the Chief Justice may otherwise direct shall not be affixed to any writ, rule, order or other process or to any document without the express authority of the Chief Registrar.

(2) If at any time a session of the Court is held outside Lagos, a duplicate of the Seal of the Court may, on the instructions of the Chief Justice be entrusted to and kept in the custody of a Registrar of the Court for the purpose of that session and may be used for such purposes in accordance with any directions given by the Chief Justice or by the Judge presiding at that session.

Powers of  
Chief  
Registrar.

15. The Chief Registrar shall have the same jurisdiction, powers and duties as the Masters of the Supreme Court, Clerks of Criminal Courts, Registrars and the like officers of the Supreme Court of Judicature and the Court of Criminal Appeal in England, in addition to such other jurisdiction powers and duties as are given him by these Rules or such further powers and duties as the Chief Justice may direct.

Books to be  
kept by  
Registrar.

16.—(1) The Registrar shall keep :

- (a) a Criminal Appeal Book ;
- (b) a Civil Appeal Book ; and
- (c) a Civil Record Book ;

each of which shall contain an index in alphabetical order.

(2) The following particulars shall be entered in the Criminal Appeal Book, and the Civil Appeal Book :

- (a) the number of the appeal ;
- (b) the names of the appellant and respondent ;
- (c) the Court from which the appeal is brought ;
- (d) the date and place of hearing of the appeal ;
- (e) the names of counsel ;
- (f) the subject matter of the appeal ;
- (g) the judgment of the Court ;
- (h) any subsequent proceedings and remarks.

(3) The following particulars shall be entered in the Civil Record Book :

- (a) the number of the application ;
- (b) the names of the parties ;
- (c) the date and place of hearing of the case ;
- (d) the names of counsel ;
- (e) the subject matter of the application ;
- (f) the judgment of the Court ;
- (g) any subsequent proceedings and remarks.

17. As soon as notice of appeal is delivered or an application for the exercise by the Court of its original jurisdiction is made to the Court or a Judge the Registrar shall prepare a cover in which pleadings or documents relating to the appeal or case shall be filed and on the front page thereof shall be recorded particulars of such pleadings or documents and the dates on which they are received.

Covers.

18. Any person aggrieved by anything done or ordered to be done by the Registrar other than anything ordered or done by the direction of the Chief Justice, may apply to a Judge to have the act, order or ruling complained of set aside or varied and the Judge may give such directions or make such order thereon as he thinks fit. Such application shall be made by notice of motion supported by affidavits setting out the complaint and the relief sought.

Setting  
aside or  
varying  
order of  
Registrar.

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

Forms.

20. Rules 3 and 5 of the Federal Supreme Court Rules, 1956, are hereby revoked.

Revocations  
L.N. 1 of  
1956.

## ORIGINAL JURISDICTION

## ORDER II

*Proceedings in the Original Jurisdiction of the Court*

Procedure  
not provid-  
ed for.

1. In the exercise of the original jurisdiction of the Court, where no provision exists in these Rules, the practice and procedure of the Court shall be conducted in substantial conformity with the practice and procedure for the time being observed in England in the High Court of Justice.

Proceedings  
by or  
against a  
Govern-  
ment

2. In all proceedings in which the Federation or any State sues or is sued, the Attorney-General of the Federation or the Attorney-General of the State concerned shall be made the nominal party.

Commence-  
ment of  
Proceedings.

3. Except where otherwise expressly provided, all proceedings for the exercise by the Court of its original jurisdiction shall be commenced by application to the Court filed in accordance with Rule 7 of Order I of these Rules.

Endorse-  
ment of  
summons.

4. There shall be endorsed on every summons issued under Order III or Order V of these Rules a notice requiring the defendant to enter an appearance within thirty days after the summons has been served.

Mode of  
entering  
appearance.  
Civil  
Form 3.

5.—(1) A defendant shall enter appearance by filing in the Registry :

(a) a memorandum in writing dated on the day of its delivery, containing the name of the defendant's legal representative or stating that the defendant defends in person ; and

(b) a duplicate of the memorandum of appearance.

(2) The Registrar shall seal the duplicate memorandum of appearance with a seal bearing the words "Appearance entered", and showing the date on which it is sealed, and then return it to the person entering the appearance.

(3) The duplicate memorandum of appearance so sealed shall be a certificate that the appearance was entered on the day indicated by the seal.

Notice of  
entry to  
Plaintiff.  
Civil  
Form 4.

6. A defendant shall, on the day on which he entered an appearance, give or send written notice of his having entered an appearance to the Plaintiff's legal representative or, if the Plaintiff sues in person, to the Plaintiff himself.

7. Every application for the exercise by the Court of its original jurisdiction, and every memorandum of appearance shall contain a proper address for service to the satisfaction of the Registrar and shall not be received unless it conforms to this Rule.

Address for Service.

8. An application for an interlocutory order shall be by motion entitled in the proceeding in which it is made and shall be supported by an affidavit or affidavits of the facts on which the applicant will rely.

Procedure in interlocutory applications. Civil Form 5.

9. No motion shall be made without previous notice to the parties affected thereby, but the Court, if satisfied that the delay caused by proceeding in the ordinary way would or might entail irreparable mischief, may make any order *ex parte* upon such terms as to costs or otherwise, and subject to such undertaking, if any, as the Court may think just; and any party affected by such order may move to set it aside.

Motion to be on Notice.

10. Unless the Court give special leave to the contrary, there must be at least three clear days between the service of a notice of motion and the day named in the notice for hearing the motion.

Length of Notice.

11. If on the hearing of a motion the Court shall be of the opinion that any person to whom notice has not been given, ought to have or to have had such notice, the Court may either dismiss or adjourn the hearing thereof, in order that such notice may be given, upon such terms, if any, as the Court may think fit to impose.

Motions may be dismissed or adjourned where necessary notice not given.

### ORDER III

#### *Proceedings commenced by Statement of Claims*

1. In any cause other than one commenced under Order V of these Rules, the application to the Court, shall be made by the filing of a Statement of Claim in accordance with Rule 7 of Order I of these Rules.

Procedure when a final order is sought. Civil Form 1.

2. When a statement of claim has been filed a summons shall be issued to the defendant to appear and answer the claim.

Issue of Summons. Civil Form 2.

3. Every summons shall be signed by the Registrar and sealed with the Seal of the Court and shall be accompanied by a copy of the statement of claim.

Form of Summons.

Summons  
for  
directions.  
Civil Forms  
6 and 7.

4. The plaintiff shall, within fourteen days after the defendant has entered an appearance, take out a summons for directions returnable before a Judge in Chambers, and the Judge shall, on the hearing of the summons, give such directions with respect to proceedings, interrogatories, the admission of documents and facts, the discovery, inspection and production of documents and such other interlocutory matters as he may think expedient.

#### ORDER IV

##### *Stated Cases*

Stating  
questions  
of Law.  
Civil  
Form 8.

1. The parties to a proceeding commenced under Order III of these Rules may at any stage concur in stating the question of law arising in the proceeding in the form of a stated case for the opinion of the Court.

Contents of  
case stated.

2. The stated case shall be divided into paragraphs numbered consecutively and shall concisely state such facts and documents as are necessary to enable the Court to decide the questions raised by the stated case.

Reference  
to docu-  
ments.

3. Upon the argument of the case the Court and the parties may refer to the whole contents of the documents stated.

Inferences  
from facts  
and docu-  
ments.

4. The Court may draw from the facts and documents stated any inference, whether of fact or law, which might have been drawn from them if proved at a trial.

Argument  
confined to  
facts in  
case.

5. No facts or documents other than those stated in the case shall be referred to upon the argument save with the consent of all parties.

Signing and  
filing of  
case stated.

6. A stated case concurred in by the parties to a proceeding shall be signed by the several parties or their legal representatives and filed with the Registrar.

Written  
agreement  
of Parties.

7. The parties to a stated case may, if they think fit, enter into an agreement in writing that, upon the determination by the Court of the question or questions of law raised in the stated case, judgment shall be entered by the Court to any effect within its jurisdiction and with or without costs, and such agreement shall be filed with the Registrar.

8. Likewise the parties may, in the presence of the Court, either themselves or by their legal representatives, verbally make an agreement, as to the judgment to be entered upon the determination by the Court of the questions of law raised in the stated case.

Oral Agreement before Court.

9. Where no such agreement is made, the proceedings in the cause shall be resumed, but the questions of law decided in the stated case shall not be reopened in the Court and the application shall proceed to its final determination upon the decision upon the law recorded after the hearing of the stated case.

Procedure in absence of agreement.

## ORDER V

### *Declaratory Judgments*

1. No action or proceeding shall be open to objection, on the ground that a merely declaratory judgment or order is sought thereby, and the Court may make binding declarations of right whether any consequential relief is or could be claimed or not.

Declaratory judgments may be sought.

2. Any person claiming any legal or equitable right in a case where the determination of the question whether he is entitled to the right depends on the construction of the Constitution of the Federation or of a State or of any Act of the British Parliament extending expressly or by implication to Nigeria, or of any enactment or Law as defined in sections 18 and 27 of the Interpretation Act, 1964, may apply for the issue of an originating summons for the determination of such question of construction and for a declaration as to the right claimed.

Construction of statutes on originating summons.

3. Any person claiming to be interested under a deed or other written instrument, may apply for the issue of an originating summons for the determination of any question of construction arising under the instrument and for a declaration of the rights of the person interested.

Construction of other instruments.

4. The Court may direct such persons to be served with the summons as it may think fit.

Service.

Method of application. Civil Form 9.

5. The application shall be made in Civil Form 9 in the First Schedule to these Rules and shall be supported by such evidence as the Court may require.

Originating summons not sole means of obtaining declaratory judgment.

6. Rules 2 and 3 of this Order shall not affect the right of any person seeking a declaratory judgment to institute proceedings by filing a statement of claim under Order III and on an application by originating summons the Court shall not be bound to determine any such question of construction if the opinion of the Court it ought not to be determined on originating summons.

## ORDER VI

### *References as to Constitution and Reserved Points of Law*

Stating a case.

1. When a High Court refers any question as to the interpretation of the Constitution of the Federation or the Constitution of a State to the Court under section 115 of the Constitution of the Federation, or reserves any question of law for the consideration of the Court in accordance with any written law, the High Court referring or reserving the question of law, as the case may be, shall state a case in Civil Form 10 or 11 in the First Schedule to these Rules, whichever may be appropriate, and the Registrar of the High Court shall forward five copies direct to the Registrar.

Civil Forms 10 and 11.

Signature of case stated.

2.—(1) When the lower court making an application consists of two or more persons, the case may be stated on behalf of the lower court by any two or more of those persons.

(2) Where a question is referred or reserved by a High Court the case shall be stated by the judge or judges referring or reserving the question.

Form of case stated.

3. A case stated under this Order shall be divided into paragraphs, which, as near as may be, shall be confined to distinct portions of the subject and every paragraph shall be numbered consecutively. It shall state such of the findings of fact as are necessary to explain the question on which the decision of the Court is sought but except where, in a criminal matter, the question is whether there is any evidence to support any decision, or whether the evidence for the prosecution disclosed a case for the defendant to answer, it shall not contain a statement of the evidence. It shall also state the contentions of the parties, the opinion or decision (if any) of the court stating the case and the questions of law for the

determination of the Court. In cases to which s. 243A of the Criminal Procedure Act applies, the case shall state whether the trial has been adjourned or the verdict has been postponed or sentence has been respited and whether the person accused or convicted has been committed to prison or admitted to bail.

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

Right of audience.

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

(b) in any case stated involving a substantial question of law as to the validity of any law enacted by the Federal Legislature, the Attorney-General of the Federation.

(2) The following persons may be, leave of the Court, appear in person or by a legal practitioner at the hearing of any case stated on the reference to the Court of any question as to the interpretation of the Constitution :

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

(b) the Attorney-General of any State :

Provided that where at the trial of a case stated in a criminal matter by any court established for a State, including the High Court of the State, the Director of Public Prosecutions of the State, or a legal practitioner on his behalf, appears, the Court may decline to allow both him and the Attorney-General of the State to address the Court and may put them to their option which shall do so.

(3) The Registrar shall forward to the Attorney-General of the Federation a copy of any case stated to which paragraph (1) (b) of this Rule applies. Any other person who is entitled as of right to appear, and any persons who may appear by leave of the Court, may obtain a copy of the case stated from the Registrar of the High Court on payment of such fee as may be prescribed.

(4) Except as may otherwise be permitted in writing by the Supreme Court in special cases, a legal practitioner of less than seven years' standing at the Bar may not appear in any cause or matter before the Supreme Court except as a junior to a legal practitioner of at least seven years' standing at the Bar.

## ORDER VII

*Civil Appeals*

Application.

1. This order shall apply to appeals to the Court from any court or tribunal acting either in its original or its appellate jurisdiction in civil cases, and to matters related thereto.

Notice and  
grounds of  
appeal.  
Civil  
Form 12.

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

(2) If the grounds of appeal allege misdirection or error in law the particulars and the nature of the misdirection or error shall be clearly stated.

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

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

X (5) The appellant shall not without the leave of the Court urge or be heard in support of any ground of appeal not mentioned in the notice of appeal, but the Court may in its discretion allow the appellant to amend the grounds of appeal upon payment of the fees prescribed for making such amendment and upon such terms as the Court may deem just.

(6) Notwithstanding the foregoing provisions the Court in deciding the appeal shall not be confined to the grounds set forth by the appellant :

Provided that the Court shall not if it allows the appeal rest its decision on any ground not set forth by the appellant unless the respondent has had sufficient opportunity of contesting the case on that ground.

3.—(1) Where an appeal lies only by leave of the Court or of the Court below any application to the Court for such leave shall be made *ex parte* by notice of motion.

Application  
for leave  
to appeal.  
Civil  
Form 13.

(2) If leave to appeal is granted by the Court or by the Court below the appellant shall file a notice of appeal.

4.—(1) An appeal shall be deemed to have been brought when the notice of appeal has been filed in the Registry of the Court below.

Time.

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

5.—(1) The Registrar of the Court below shall, after the notice of appeal has been filed, cause to be served a true copy thereof upon each of the parties mentioned in the notice of appeal. It shall not be necessary to serve any party not directly affected.

Notice of  
appeal. On  
whom  
served.

Provided that the Court may, of its own motion, or on the application of any person claiming to be affected, direct notice to be served on all or any parties to the action or other proceeding or upon any person not a party and in the meantime may postpone or adjourn the hearing of the appeal upon such terms as may be just and make such order as might have been made if the persons served with such notice had been originally parties to the appeal.

(2) Notwithstanding anything in Rule 3 (6) (b) of Order I, where in any proceeding in the Court below a party has given an address for service, notice of appeal from any decision made under such proceeding may be served on such party at such address for service, notwithstanding that the address may be that of a legal representative who has not been retained for the purpose of an appeal, and notice of any application preparatory

or incidental to any such appeal may be served in like manner at any time before the date on which the respondent gives notice of his address for service in accordance with the immediately following rule.

Addresses  
for service.

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

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

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

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

Registrar's  
summons.  
Civil  
Form 14

7.—(1) The Registrar of the Court below shall after the expiration of the time prescribed for filing notice of address for service summon the parties before him to :—

(a) settle the documents to be included in the record of appeal ;

(b) fix the amount to be deposited by the appellant to cover the estimated cost of making up and forwarding the record of appeal ;

(c) fix the amount to be deposited by the appellant or secured by bond for the due prosecution of the appeal and the payment of any costs.

(2) The said Registrar shall, whether any of the parties attend or not provided that notice has been duly served on those parties who filed an address for service, proceed to settle and determine those matters in accordance with the provisions of Rules 8, 9 and 10 of this Order.

8.—(1) The Record of appeal shall contain the following documents in the order set out :—

Record of  
Appeal.

(a) the index ;

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

(c) copies of the documents settled by the Registrar of the Court below for inclusion in the Record of Appeal in accordance with Rule 7 of this Order ;

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

(2) The Registrar of the Court below, as well as the parties, shall endeavour to exclude from the record all documents (more particularly such as are merely formal) that are not relevant to the subject matter of the appeal and generally to reduce the bulk of the record as far as practicable, taking special care to avoid duplication of documents and unnecessary repetition of headings and other merely formal parts of documents ; but the documents omitted to be copied shall be enumerated in a list at the end of the Record. Where part or parts only of any lengthy document are directly relevant to the subject matter of the appeal, it shall be permissible to omit to copy such parts of the document as are neither directly relevant to the subject matter of the appeal nor necessary for the proper understanding of the part or parts that are so relevant.

(3) If the Registrar of the Court below or any party objects to the inclusion of a document on the ground that it is unnecessary or irrelevant and the other party nevertheless insists upon its being included, the document shall be included and the record shall, with a view to the subsequent adjustment of the costs of and incidental to the inclusion of such document, indicate in the index of papers or otherwise the fact that, and the party by whom the inclusion of the document was objected.

(4) It shall not be necessary for copies of individual documents to be separately certified but the Registrar of the Court below shall certify as correct each copy of the Record transmitted by him in accordance with these Rules.

Cost of Record.

9. The appellant shall within such time as the Registrar of the Court below directs deposit with him a sum fixed to cover the estimated expense of making up and forwarding the record of appeal calculated at the full cost of one copy for the appellant and one-fifth cost for each of the five copies for the use of the Court.

Security for costs. Civil Form 15.

10. The appellant shall within such time as the Registrar of the Court below directs deposit such sum as shall be determined by such Registrar or give security therefor by bond with one or more sureties to his satisfaction as such Registrar may direct for the due prosecution of the appeal and for the payment of any costs which may be ordered to be paid by the appellant.

Provided that no deposit or security shall be required where the deposit would be payable by the State or a Government department.

Additional security for costs.

11. The Court may, where necessary, require security for costs or for performance of the orders to be made on appeal, in addition to the sum determined under Rule 10 of this Order.

Transmission of record. Civil Forms 16 and 17.

12.—(1) The Registrar of the Court below shall transmit the record when ready together with :—

- (a) a certificate of service of the notice of appeal ;
- (b) a certificate that the conditions imposed under Rules 9 and 10 of this Order have been fulfilled ;
- (c) five copies of the record for the use of the Judges ;
- (d) the docket or file of the case in the Court below containing all papers or documents filed by the parties in connection therewith, to the Registrar of the Court.

Civil Form 18.

(2) The Registrar of the Court below shall also cause to be served on all parties mentioned in the notice of appeal *who have filed an address for service* a notice that the record has been forwarded to the Registrar of the Court who shall in due course enter the appeal in the cause list.

Cross-appeal Notice by respondent of contention that judgment should be affirmed on other grounds. Civil Forms 19 and 20.

13.—(1) It shall not be necessary for the respondent to give notice of motion by way of cross-appeal ; but if a respondent intends upon the hearing of the appeal to contend that the decision of the Court below should be varied, or that it should be affirmed on grounds other than those relied on by that Court he shall within one month after service upon him of the notice of appeal cause written notice of such intention to be given to every party who may be affected by such contention, whether or not such party has filed an address for service.

In such notice the respondent shall clearly state the grounds on which he intends to rely and within the same period he shall file with the Registrar of the Court below six copies of such notice of which one shall be included in the record, and the other five copies provided for the use of the Judges.

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

14.—(1) A respondent intending to rely upon a preliminary objection to the hearing of the appeal shall give the appellant three clear days notice thereof before the hearing, setting out the grounds of objection, and shall file such notice together with six copies thereof with the Registrar within the same time.

Notice of preliminary objection to be filed.  
Civil Form 21.  
Civil Form 21.

(2) No objection shall be taken to the hearing of an appeal on the ground that the amount fixed by the Registrar of the Court below under Rule 7 (1) of this Order were incorrectly assessed.

(3) If the respondent fails to comply with this rule the Court may refuse to entertain the objection or may adjourn the hearing thereof at the cost of the respondent or may make such other order as it thinks fit.

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

Withdrawal of appeal.  
Civil Form 22.  
Civil Form 23.

(2) If all parties to the appeal consent to the withdrawal of the appeal without order of the Court, the appellant may file in the Registry the document or documents signifying such consent and signed by the parties or by their legal representatives and the appeal shall thereupon be deemed to have been withdrawn and shall be struck out of the list of appeals by the Registrar. In such event any sum lodged in Court as security for the costs of the appeal shall be paid out to the appellant.

Appeal by respondent where appeal withdrawn.

*Bar for all respondents.*

(3) The withdrawal of an appeal with the consent of the parties under paragraph (2) of this Rule shall be a bar to further proceedings on any application made by the respondent under Rule 13 of this Order.

(4) If all the parties do not consent to the withdrawal of the appeal as aforesaid, the appeal shall remain on the list, and shall come on for the hearing of any issue as to costs or otherwise remaining outstanding between the parties, including any application made by the respondent under Rule 13 of this Order, and for the making of an order as to the disposal of any sum lodged in Court as security for the costs of appeal.

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

Non-compliance with appeal.

16. Where an appeal is withdrawn under the preceding rule any respondent who has not given a notice under Rule 13 of this Order may give notice of appeal and proceed therewith in the manner prescribed by the foregoing rules ; and in such case the times limited for giving notice of appeal, for depositing the sum estimated to cover the cost of the record and for furnishing the security for costs may, on application to the Court, be extended so far as is reasonably necessary in all the circumstances of the case.

Civil Form 24.

17.—(1) If the appellant has complied with none of the requirements of Rules 9 and 10 of this Order, the Registrar of the Court below shall certify such fact to the Supreme Court, which shall thereupon order that the appeal be dismissed either with or without costs, and shall cause the appellant and the respondent to be notified of the terms of its order.

(2) Where an appeal has been dismissed under paragraph (1) of this Rule, a respondent who has given notice under Rule 13 of this Order may give notice of appeal and the provisions of Rule 16 of this Order shall apply as if the appeal were brought under that Rule.

(3) If the respondent alleges that the appellant has failed to comply with a part of the requirements of Rules 2, 9 or 10 of this Order, the Court, if satisfied that the appellant has so failed, may dismiss the appeal for want of due prosecution or make such other order as the justice of the case may require.

(4) An appellant whose appeal has been dismissed under this rule may apply by notice of motion that his appeal be restored. Any such application may be made to the Court and the Court may in its discretion for good and sufficient cause order that such appeal be restored upon such terms as it may think fit.

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

Exhibits.

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

(3) In case any party finds it difficult to comply with the previous provisions of this rule owing to the nature of the documents or other exhibit or owing to its being in possession of a third party or for any other reason, he may apply to the Registrar of the Court below for directions.

(4) The Registrar of the Court below may, either of his own motion or upon application, give any directions he sees fit, whether dispensing with the provisions of this rule or modifying its application in any way or for securing compliance with it.

(5) All original documents delivered to the court below under this rule shall remain in the custody of the Court below until the record of appeal has been prepared, and shall then be forwarded with the record to the Registrar and shall remain in the custody of the Court until the determination of the appeal :

Provided that the Court or Registrar may allow the return of any document to any party pending the hearing of the appeal and subject to such conditions as it or he may impose.

19. After an appeal has been entered and until it has been finally disposed of, the Court shall be seized of the whole of the proceedings as between the parties thereto, and except as may be otherwise provided in this Order, every application

Control of proceedings during pendency of appeal.

therein shall be made to the Court and not to the Court below, but any application may be filed in the Court below for transmission to the Court.

Sub-  
mission by  
party not  
appearing.  
Civil  
Form 25.

20. At any time before hearing of the appeal any party to the appeal may file a declaration in writing that he does not wish to be present in person or by a legal representative on the hearing of the appeal together with four copies of such arguments as he desires to submit to the Court and serve a copy of such declaration and arguments upon every other party who has filed an address for service and thereupon the appeal shall be dealt with as if the party had appeared.

Non-  
appearance  
of appellant.

21.—(1) If the appellant fails to appear when his appeal is called on for hearing and has not taken action under Rule 20 of this Order, the appeal may be struck out or dismissed with or without costs.

(2) When an appeal has been struck out owing to the non-appearance of the appellant the Court may, if it thinks fit, and on such terms as to costs or otherwise as it may deem just, direct the appeal to be re-entered for hearing.

Non-  
appearance  
of  
respondent.

22. If the respondent fails to appear when the appeal is called on for hearing and has not taken action under Rule 20 of this Order, the Court may proceed to hear the appeal *ex parte*.

Applica-  
tion to set  
aside *ex  
parte*  
judgment.

23.—(1) Where an appeal has been heard *ex parte* under Rule 22 and any judgment has been given therein adverse to the respondent, he may apply to the Court to set aside such judgment and to re-hear the appeal.

(2) No application to set aside and re-hear under this rule shall be made after the expiration of twenty-one days from the date of the judgment sought to be set aside :

Provided that a respondent who has failed within the period of twenty-one days to make application under this rule may nevertheless at any time within a further period of three months thereafter apply to the Court on notice to the appellant to set aside such judgment, and the Court if satisfied that good and efficient cause has been shown for the application being out of time, may grant the application and make such order in relation thereto or as to costs as it may deem fit in the circumstances.

(3) Any such application shall be by motion accompanied by an affidavit setting forth the reasons and grounds for the application and the Court may thereupon in its discretion set aside the judgment and order that the appeal be re-heard at such time and upon such conditions as to costs or otherwise as it may think fit.

24. It is not open as of right to any party to an appeal to adduce new evidence in support of his original case ; but, for the furtherance of justice, the Court may, where it thinks fit, allow or require any new evidence to be adduced, such evidence to be either by oral examination in Court, by affidavit or by disposition taken before an examiner or commissioner as the Court may direct. A party may by leave of the Court allege any facts essential to the issue that have come to his knowledge after the decision of the Court below and adduce evidence in support of such allegations.

New  
evidence  
on appeal.

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

Interlocu-  
tory  
judgment  
not to  
prejudice  
appeal.

26. The Court shall have power to give any judgment or make any order that ought to have been made, and to make such further or other order as the case may require including any order as to costs. These powers may be exercised by the Court, notwithstanding that the appellants may have asked that part only of a decision may be reversed or varied, and may also be exercised in favour of all or any of the respondents or parties, although such respondents or parties may not have appealed from or complained of the decision.

Power of  
Court to  
give any  
judgment  
and make  
any order.

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

Judgment.

(2) Whenever a reserved judgment is to be given and the counsel concerned are duly put on notice, the presence of such counsel or of their juniors is required when judgment is being delivered. Failure to observe this will be regarded as an act of disrespect to the Court.

(3) A certified copy of the judgment shall be sent by the Registrar to the Court below.

- Order.**           **28.**—(1) Every judgment of the Court shall be embodied in an order.  
 (2) A sealed or certified copy of the order shall be sent by the Registrar to the Court below.  
 (3) Interlocutory orders shall be prepared in like manner.
- Review of judgment.**   **29.** The Court shall not review any judgment once given and delivered by it save and except in accordance with the practice of the Court of Appeal in England.
- Enforcement of judgments.**   **30.** Any judgment given by the Court may be enforced by the Court or by the Court below or by any other Court which has been seized of the matter, as the Court may direct.
- Execution of judgment by Court below. Civil Form 26.**   **31.** When the Court directs any judgment to be enforced by another Court, a certificate under the seal of the Court and the hand of the presiding Judge setting forth the judgment shall be transmitted by the Registrar to such other Court, and the latter shall enforce such judgment in terms of the certificate.
- Costs.**           **32.** Where the costs of an appeal are allowed they may either be fixed by the Court at the time when the judgment is given or may be ordered to be taxed.
- Fees.**           **33.**—(1) Save as hereinafter provided, the fees prescribed in the Third Schedule shall be charged in respect of the matters to which they are respectively assigned, and shall be paid to the Registrar of the Court below as the case may be.  
 (2) No fee shall be payable in respect of any matter where such fee would be payable by the State or any Government Department :  
 Provided that when any person is ordered to pay the costs of the Crown or any Government Department in any case, all fees which would have been payable but for the provisions of this paragraph shall be taken as having been paid and shall be recoverable from such person.  
 (3) The Court below or the Court may, on account of the poverty of any party (although such party may not have been formally permitted to proceed as a poor person under Rule 36 of this Order) or for other sufficient reason dispense, if it sees fit, with payment of any fees, if the circumstances of the case require.  
 Provided that if such party succeeds in any appeal which results in an order for payment to him of any costs, the Court may order that such fees shall be a first charge on any moneys recovered or to be recovered under such order.

34.—(1) Any party may apply to the Court for leave to prosecute or defend an appeal as a poor person. Such application shall be by notice of motion, supported by affidavit, and shall be served on the other parties to the proceedings. No fee shall be payable on filing any such application.

(2) No party shall be permitted to proceed as a poor person unless he satisfies the Court that he has a reasonable probability of success.

(3) A person permitted to proceed as a poor person shall not be liable to pay any of the Court fees prescribed by these Rules nor shall he be required to make the deposit or to give the security prescribed by Rules 9 and 10 of this Order.

(4) The Court may for good cause shown review, rescind or vary an order permitting any person to proceed as a poor person.

35.—(1) Leave to proceed as a poor person shall not exempt such person from liability to an order for costs in favour of his opponent.

(2) If a poor person is not awarded costs in the proceedings, no fees shall be taken from him by a legal representative assigned to him.

(3) If a poor person is awarded costs against his opponent he shall be entitled to include and receive in such costs the fees of any legal representative assigned to him and all other fees and costs remitted by his admission to proceed as a poor person.

36. Where no other provision is made by these Rules the procedure and practice for the time being in force in the Court of Appeal in England shall apply in so far as it is not inconsistent with these Rules, and the forms in use therein may be used with such adaptations as are necessary.

37. Whenever an application may be made either to the Court below or to the Court, it shall be made in the first instance to the Court below but, if the Court below refuses the application, the applicant shall be entitled to have the application determined by the Court.

## ORDER VIII

## CRIMINAL APPEALS

*Appeals from High Courts in their Original Jurisdiction  
or in their Appellate Jurisdiction in Criminal Cases*

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

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

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

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

4.—(1) Every notice of appeal or notice of application for leave to appeal or notice of application for extension of time within which such notice shall be given shall be signed by the appellant himself, except under the provision of paragraphs (4) and (5) of this Rule.

Any other notice required or authorised to be given shall be in writing and signed by the person giving the same or by his legal representative. All notices required or authorised to be given shall be addressed to the Registrar of the Court below to be forwarded by him to the Registrar.

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

How notices, etc. may be given or sent.

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

Where appellant unable to write.

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

Where question of sanity involved.

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

Notice, etc. on behalf of corporations.

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

Application for extension of time Criminal Form 7.

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

Notice of application for leave to appeal.

Criminal  
Form 6.

(2) Where an application for leave to appeal has been made to the High Court, the Registrar of that Court shall send to the Registrar of the Court notification of the result of the application in Form 6 in the Second Schedule to these rules together with the original of the application for leave to appeal and the case shall thereafter be dealt with as if leave to appeal had been granted by the Court.

Dealing  
with appli-  
cations for  
leave to  
appeal and  
other pre-  
liminary  
applications.  
Criminal  
Forms 8  
and 9.

7.—(1) Where a single judge deals with any preliminary application, the Registrar shall inform the applicant of the result of his application. In the event of such judge refusing the application, the Registrar, on notifying such refusal to the applicant, shall forward to him Form 8 in the Second Schedule hereto, which Form the applicant is hereby required to fill up and forthwith return to the Registrar. If the applicant does not desire to have his said application determined by the Court or does not within thirty days of being notified of such refusal return Form 9 duly completed by him, the refusal of his application shall be final.

(2) The answers to the questions on Forms 1, 2, 3 and 4 shall be deemed to be applications to the Court in such matters.

(3) For the purpose of constituting the Court the judge who has refused any such application may sit as a member of the Court and take part in determining such application.

(4) A judge hearing a preliminary application may sit and act wherever convenient.

Forward-  
ing of  
proceedings  
of Court  
below to  
Registrar.

8.—(1) When

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

(b) the Court below has granted leave to appeal,

the Registrar of the Court below shall prepare the record of appeal in the manner hereinafter prescribed and forward to the Registrar five copies thereof. He shall also forward the original exhibits in the case as far as practicable and any original depositions, information, inquisition, plea, or other documents usually kept by him, or forming part of the record of the Court below, together with the originals of any recognisances entered into or any other documents filed in connection with the appeal or application.

(2) Subject to the provisions of Rule 9 of this Order, the Registrar of the Court below shall forward to the appellant and to the Director of Public Prosecutions of the State from which the appeal emanates a copy each of the record :

Provided that if the appellant is not in custody a copy of the record shall only be supplied to him on request.

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

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

Fees.

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

(3) This rule shall not apply to appeals in capital cases or where an appellant is granted legal aid.

10.—(1) The record of appeal in appeals or applications relating to appeals from a Court below acting in its original jurisdiction in criminal cases shall contain legible typed copies of the following items arranged in this order :—

Record in Criminal Appeals from Court below in its original jurisdiction.

(a) the index ;

(b) the charge or information ;

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

(d) the charge to the Jury or the summing up to the assessors when a record thereof has been made, or if no such record has been made, a statement given to the best of the Judge's recollection the substance of the direction or summing up ;

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

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

(g) all documentary exhibits put in at the trial including depositions read in consequence of the absence of a witness :

Provided that in the case of books of accounts or other documents of great length, extracts of the relevant portions thereof only shall be included ;

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

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

Appeals in  
criminal  
matters  
from High  
Court in  
its appellate  
Jurisdiction.

11.—(1) The record of appeal in appeals or applications relating to appeals from a High Court acting in its appellate jurisdiction in criminal matters shall contain legible typed copies of the following items arranged in this order :—

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

(b) the record of proceedings from the lower Court as submitted to the High Court ;

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

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

(e) the judgment of the High Court ;

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

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

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

(3) In this rule “lower court” includes the court of trial and any court, other than the High Court which may have heard the matter on appeal.

Records of  
summing  
up.

12.—(1) Where any trial is had with a jury or assessors and, by direction of the trial Judge a record is made by some mechanical or electrical device or any summing up or direction of the Judge, such record shall be accepted by the Court as accurate unless the Court has reason to doubt its accuracy.

(2) Where in such a trial a record of any summing up or direction is otherwise made, by direction of the trial Judge, either in longhand or shorthand, such record shall be accepted by the Court as accurate subject to any corrections or additions which the trial Judge may certify ought to be made in order to render the record accurate.

(3) Where in such a trial the trial Judge does not give any directions for recording any summing up or direction given by him, his statement shall be accepted as accurate unless the Court sees reason to the contrary.

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

Report of  
judge of  
Court of  
Trial.

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

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

Furnishing  
Judge of  
Court of  
Trial with  
materials  
for report.

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

Bail.

(2) In the event of such Court not making any special order or giving any special directions under this Rule, the recognisances of the appellant and of his surety or sureties (if any) may be taken before a magistrate.

(3) The recognisances provided for in this Rule shall be in Forms 10 and 11 in the Second Schedule to these Rules.

Forms  
10 and 11.

(4) The Registrar of the Court below shall forward the recognisances of the appellant and his surety or sureties to the Registrar.

(5) An appellant who has been admitted to bail shall be personally present at each and every hearing of his appeal and at the final determination thereof. The Court may, in the event of such appellant not being present at any hearing of his appeal, if it thinks right so to do, decline to consider the appeal, and may proceed summarily to dismiss the same and may issue a warrant for the apprehension of the appellant in Form 12 in the Second Schedule of these Rules ;

Form 12.

Provided that the Court may consider the appeal in his absence, or make such other order as it thinks fit.

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

(7) At any time after an appellant has been released on bail, the Court or where the appellant was released on bail by the Court below that Court may, if satisfied that it is in the interest of justice so to do, revoke the order admitting to bail, and issue a warrant in Form 12 in the Second Schedule of these Rules.

Form 12.

Fines.

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

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

Varying  
order of  
restitution  
of property.

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

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

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

Non-suspension of orders of restitution.

19. The Registrar of the Court below shall not issue, under any law authorising him so to do, a certificate of conviction of any person convicted in the Court below if notice of appeal or notice of application for leave to appeal is given, until the determination or abandonment thereof.

Restrictions on issue of certificate of conviction.

20.—(1) An appellant at any time after he has duly served notice of appeal or of application for leave to appeal, or of application for extension of time within which such notice shall be given, may abandon his appeal by giving notice of abandonment thereof in Form 13 in the Second Schedule to the Registrar, and upon such notice being given the appeal shall be deemed to have been dismissed by the Court.

Abandonment of appeal.

Form 13.

(2) Upon receipt of a notice of abandonment duly completed and signed or marked by the appellant or the party authorised to sign notices under Rule 4 of this Order, the Registrar shall give notices thereof in Form 14 in the Schedule to the respondent, the Prison authority and the Registrar of the Court below, and in the case of an appeal against a conviction involving a sentence of death, shall in like manner give notice to the Permanent Secretary to the appropriate Federal or State Ministry, for the information of the authority responsible for advising the Head of the Federal Military Government or Governor (as the case may be) on the exercise of the prerogative of mercy, and the Registrar shall also return to the Registrar of the Court below any original documents and exhibits received from him.

Form 14.

Notice of abandonment of appeal may be withdrawn. Criminal Form 15.

21. An appellant (other than one convicted of an offence involving sentence of death) who has abandoned his appeal may, in special cases, with the leave of the Court, withdraw his notice of abandonment by filling up Form 15 in the Second Schedule together with Form 7 (Notice of Application for extension of time within which to appeal) and sending them to the Registrar.

Attendance of witness before the Court. Criminal Form 16.

22.—(1) Where the Court has ordered any witness to attend and be examined before the Court an order in Form 16 in the Second Schedule shall be served upon such witness specifying the time and place at which to attend for such purpose.

Application to court to hear witnesses. Criminal Form 17. Order appointing examiner.

(2) Such order may be made on the application at any time of the appellant or respondent, but if the appellant is in custody and not legally represented the application shall be made by him in Form 17 in the Second Schedule.

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

Furnishing examiner with exhibits, etc. for examination.

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

Notification of date of examination.

(5) When the examiner has appointed the day and time for the examination he shall request the Registrar to give notice thereof to the appellant and the respondent and their legal representatives, if any, and when the appellant is in prison, to the Prison authority. The Registrar shall cause to be served on every witness to be examined a notice in Form 18 in the Second Schedule.

Form 18.

Evidence to be taken on Oath.

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

(7) The examination of every such witness shall be taken in the form of a deposition and unless otherwise ordered shall be taken in private. The Caption in Form 19 in the Second Schedule shall be attached to any such deposition.

Deposition  
of witness  
how to  
take.  
Criminal  
Form 19.

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

Expenses of  
witnesses  
before  
examiner.

(9) The appellant and respondent, or their legal representatives, shall, unless the Court otherwise directs, be entitled to be present at and take part in any examination of any witness to which this Rule relates.

Presence of  
parties at  
examination  
of witnesses.

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

Proceedings  
on  
reference.

24.—(1) On the final determination of any appeal or of any application to the Court, the Registrar shall give to the appellant, if he be in custody and has not been present at such final determination, and to the respondent and the Prison authority, notice of such determination in Forms 20, 21, 22 or 23 in the Second Schedule, as the case may be.

Notification  
of final  
determina-  
tion of  
appeals.

(2) In any case of an appeal in relation to a conviction involving sentence of death, the Registrar shall on receiving notice of appeal, send copies thereof to the Permanent Secretary to the appropriate Federal or State Ministry, for the

Notification  
of appeal  
in capital  
cases.

information of the authority responsible for advising the Head of the Federal Military Government or the Governor (as the case may be) on the exercise of the prerogative of mercy, to the respondent and to the Prison authority.

Notification  
of result  
of appeal.

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

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

Return of  
original  
depositions,  
etc.

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

Enforce-  
ment of  
orders.

27. Any order given or made by the Court may be enforced by the Court or by the Court below as may be most expedient.

## ORDER IX

### *Miscellaneous*

Waiver of  
non-  
compliance  
with rules.

28. Non-compliance on the part of an appellant with these Rules or with any Rule of practice for the time being in force shall not prevent the further prosecution of his appeal if the Court consider that such non-compliance was not wilful, and that it is in the interests of justice that non-compliance be waived. The Court may in such manner as they think right, direct the appellant to remedy such non-compliance, and thereupon the appeal shall proceed. The Registrar shall forthwith notify the appellant of any directions given by the Court under this Rule, where the appellant was not present at the time when such directions were given.

FIRST SCHEDULE  
CIVIL FORM 1  
IN THE SUPREME COURT OF NIGERIA  
(STATEMENT OF CLAIM)  
(Order III, Rule 1)

Between..... Plaintiff

and

..... Defendant

The plaintiff, etc.....

(set out the nature of the claim)

The plaintiff claims.....

(set out the relief sought)

DATED this..... day of..... 19.....

Attorney-General of.....  
or other plaintiff  
whose address for

service is.....

Note.—An address for service must be given.

CIVIL FORM 2  
IN THE SUPREME COURT OF NIGERIA  
CIVIL SUMMONS  
(Order III, Rule 2)

No. .... Suit No. ....

Between ..... Plaintiff

and

..... Defendant

To .....

of .....

You are hereby commanded in His Excellency's name to enter an appearance to an action at the suit of ..... within thirty days after the service of this Writ on you, inclusive of the day of such service, and take notice that in default of your so doing the plaintiff may proceed therein, and judgment may be given in your absence.

The plaintiff's claim is for, etc. ....

DATED this ..... day of ..... 19 .....

.....  
*Registrar of the Court*

CIVIL FORM 3  
IN THE SUPREME COURT OF NIGERIA  
MEMORANDUM OF ENTRY OF APPEARANCE  
(Order II, Rule 5)

No. .... Suit No. ....

Between ..... Plaintiff

and

..... Defendant

Enter an appearance for ..... in this action.

DATED this ..... day of ..... 19 .....

.....  
*Defendant or his legal representa-  
tive whose address for service*

is. ....

*Note.*—A Memorandum of Appearance shall not be received unless it contains an address for service.

CIVIL FORM 4

IN THE SUPREME COURT OF NIGERIA  
NOTICE OF APPEARANCE  
(Order II, Rule 6)

No. .... Suit No. ....

Between ..... Plaintiff

and

..... Defendant

TO THE PLAINTIFF OR HIS LEGAL REPRESENTATIVE

Take Notice that an appearance has been entered in this action for the defendant.

DATED this ..... day of ..... 19.....

.....  
*Defendant or his legal representative  
whose address for service*

is .....

*Note.*—The plaintiff is required to take out a summons for directions within fourteen days after the date of entry of appearance, inclusive of the day of such entry.

CIVIL FORM 5

IN THE SUPREME COURT OF NIGERIA  
NOTICE OF MOTION  
(Order II, Rule 8)



Between ..... Appellant/

and

..... Respondent/

TAKE NOTICE that the Court will be moved on .....

at ..... in the forenoon or  
as soon thereafter as Counsel can be heard on behalf of the above-named

..... that ..... for an order

DATED this ..... day of ..... 19.....

.....  
*Applicant or his legal representative  
whose address for service*

is .....

*Note.*—An address for service must be given.

CIVIL FORM 6  
IN THE SUPREME COURT OF NIGERIA  
SUMMONS FOR DIRECTIONS  
(Order III, Rule 4)

No. .... Suit No. ....  
Between ..... Plaintiff  
and  
..... Defendant

TO THE DEFENDANT OR HIS LEGAL REPRESENTATIVE

Let all parties attend ..... at  
the Supreme Court of Nigeria on the ..... day of ..... 19.....  
at ..... o'clock in the forenoon on the hearing of an  
application for directions in this action that

- \*1. ....
- \*2. ....
- \*3. ....

DATED this ..... day of ..... 19.....

This summons was taken out by .....  
of .....

\* Set out directions requested.

CIVIL FORM 7  
IN THE SUPREME COURT OF NIGERIA  
(ORDER ON SUMMONS FOR DIRECTIONS  
(Order III, Rule 4)

No. .... Suit No. ....  
Between ..... Plaintiff  
and  
..... Defendant

Upon hearing .....  
and upon reading the affidavits of ..... filed  
herein;

It is ordered that .....

And it is recorded that the .....  
refuses to admit, for the purposes of this action, the truth of the statement  
in .....

DATED this ..... day of ..... 19.....

.....  
Judge

CIVIL FORM 8

IN THE SUPREME COURT OF NIGERIA

STATED CASE

(Order IV, Rule 1)

No. ....

Suit No. ....

Between..... Plaintiff

and

..... Defendant

1. The following facts have been agreed between the parties, that is to say—

\*(a)

(b)

(c)

2. The following documents have been agreed between the parties that is to say—

†(a)

(b)

(c)

3. The following questions of law arising in these proceedings are referred for the opinion of the Court, that is to say—

‡(a)

(b)

(c)

DATED this..... day of..... 19.....

.....  
Plaintiff or his legal representative

.....  
Defendant or his legal representative

\* Set out the agreed facts.

† Set out the agreed documents.

‡ Set out the question or questions of law on which the opinion of Court is required.

## CIVIL FORM 9

IN THE SUPREME COURT OF NIGERIA

## ORIGINATING SUMMONS FOR A DECLARATORY JUDGMENT

(Order V, Rule 5)

Between.....Plaintiff

and

.....Defendant

Let.....of.....

within.....days after the service of this  
 summons on him, inclusive of the day of such service, cause an appearance  
 to be entered for him on this summons upon the application of.....

.....

.....

with claims to be for the determination of the following questions\* :—

†(1)

(2)

(3)

DATED this.....day of.....19.....

This summons was taken out by.....

whose address for service is.....

*Note.*—An address for service must be given.

\* State nature of interest.

† Set out questions for determination.

CIVIL FORM 10  
IN THE SUPREME COURT OF NIGERIA  
REFERENCE AS TO CONSTITUTION  
(Order VI, Rule 1)

Between..... Plaintiff

and

Defendant

This is an action<sup>1</sup>.....

The plaintiff alleged<sup>2</sup>.....

The defendant answered<sup>3</sup>.....

The plaintiff replied<sup>4</sup>.....

After hearing the parties and evidence adduced on each side the Court found that the following matters were established as facts :—

First that<sup>5</sup>.....

The following question as to the interpretation of the Constitution arose in these proceedings, namely<sup>6</sup>.....

The above stated question of law is referred for the decision of the Supreme Court of Nigeria.

DATED at.....this.....day of.....19....

Judge

<sup>1</sup> State nature of action.  
<sup>2</sup> State as concisely as possible the substantive averments of the plaintiff but not any part of the evidence.  
<sup>3</sup> State in like manner the defendant's answer and also any further allegation of counter claim made by the defendant.  
<sup>4</sup> State reply, if any.  
<sup>5</sup> State the facts found.  
<sup>6</sup> Here state question of law.

CIVIL FORM 11  
IN THE SUPREME COURT OF NIGERIA  
(RESERVED POINT OF LAW)  
(Order VI, Rule 1)

Between ..... Plaintiff  
and ..... Defendant

This is an action<sup>1</sup> .....

The plaintiff alleged<sup>2</sup> .....

The defendant answered<sup>3</sup> .....

The plaintiff replied<sup>4</sup> .....

After hearing the parties and evidence adduced on each side the Court found that the following matters were established as facts :—

First that<sup>5</sup> .....

The following questions of law are reserved for the decision of the Supreme Court of Nigeria :—

First whether<sup>6</sup> .....

DATED at ..... this ..... day of ..... 19.....

.....  
*Judge*

<sup>1</sup> State nature of action.

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

<sup>3</sup> State in like manner the defendant's answer and also any further allegation of counter claim made by the defendant.

<sup>4</sup> State reply, if any.

<sup>5</sup> State the facts found.

<sup>6</sup> State questions of law on which a decision is required.



CIVIL FORM 13  
IN THE SUPREME COURT OF NIGERIA  
NOTICE OF MOTION FOR LEAVE TO APPEAL  
(Order VII, Rule 3)

Between..... Plaintiff  
and  
..... Defendant

TAKE NOTICE that the Federal Supreme Court/High Court will be moved on the..... day of..... 19..... at..... o'clock in the forenoon or as soon thereafter as counsel can be heard on the hearing of an application for leave to appeal against the decision of the..... Court given on the..... day of..... 19.....

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

DATED this..... day of....., 19.....

.....  
*Applicant or his legal representative*  
*whose address for service is*  
.....  
.....

To :  
THE REGISTRAR,  
SUPREME COURT OF NIGERIA/HIGH COURT

And\*.....

\* Insert name of respondent.

Note.—An address for service must be given.

CIVIL FORM 14

IN THE SUPREME COURT OF NIGERIA

SUMMONS TO PARTIES BY REGISTRAR TO SETTLE RECORD

(Order VII, Rule 7)

Between ..... Appellant
and
Respondent

TAKE NOTICE that all parties concerned are required to attend before me at the Court Office at ..... the ..... day of ..... 19....., at the hour of ..... in the ..... noon to proceed with settling of the record of appeal herein.

DATED this ..... day of ..... 19.....

Registrar

CIVIL FORM 15

IN THE SUPREME COURT OF NIGERIA

BOND FOR COSTS ON APPEAL

(Order VII, Rule 10)

KNOW ALL MEN, by these presents, that we ..... of ..... and ..... of ..... and ..... of ..... are jointly and severally held and firmly bound to ..... in the sum of ..... pounds of lawful money to be paid to the said ..... his executors, administrators or assigns, for which payment well and truly to be made, we bind ourselves, and each of us for himself, in the whole our and every of our heirs, executors and administrators, firmly by these presents.

SEALED with our seals.

DATED the ..... day of ..... in the year of our Lord, 19.....

WHEREAS a suit is now depending in the Court at.....  
 wherein the above-bounden.....  
 is Plaintiff and the said.....  
 is Defendant ;

AND WHEREAS a judgment was given by the Court therein, on the.....  
 .....day of ..... for the said.....  
 ..... and the said..... has  
 filed Notice of Appeal from the said judgment ;

AND WHEREAS it is by law provided that the party appealing shall give security to the satisfaction of the Registrar of the Court below for the due prosecution of the appeal and for the payment of any costs which may be ordered to be paid by the appellant.

AND WHEREAS the above-named.....  
 and....., at the request of the  
 said..... have agreed to enter into  
 this obligation for the purpose aforesaid :

Now the condition of this obligation is such, that if the said.....  
 ..... shall duly prosecute the appeal and if the above-bounden  
 ..... and .....  
 any or either of them shall pay any costs which may be ordered to be paid  
 by the appellant this obligation shall be void, otherwise remain in full force.

*Signed, sealed and delivered* (L.S.)  
*in the presence of* (L.S.)  
 (L.S.)

CIVIL FORM 16  
 IN THE SUPREME COURT OF NIGERIA  
 CERTIFICATE OF SERVICE OF NOTICE OF APPEAL  
 (Order VII, Rule 12 (1) (a))

*Between*..... *Appellant(s)*  
*and*.....  
 ..... *Respondent(s)*

I, the undersigned Registrar of the .....  
Court DO CERTIFY that notice of appeal in the above-named case was duly  
served upon .....  
the Respondent herein.

DATED at ..... this ..... day of ..... 19.....

.....  
*Registrar*

CIVIL FORM 17

IN THE SUPREME COURT OF NIGERIA

CERTIFICATE OF REGISTRAR THAT CONDITIONS OF APPEAL  
HAVE BEEN FULFILLED

(Order VII, Rule 12 (1) (b))

Between ..... *Appellant*

and

..... *Respondent*

I do hereby certify that the above-named Appellant has duly and punctually  
complied with the conditions of appeal imposed on him in the above-named  
case.

DATED this ..... day of ..... 19.....

.....  
*Registrar*

THE REGISTRAR,  
FEDERAL SUPREME COURT

CIVIL FORM 18

IN THE SUPREME COURT OF NIGERIA

NOTICE TO PARTIES OF DISPATCH OF RECORD

(Order VII, Rule 12 (2) )

Between ..... *Appellant*

and

..... *Respondent*

TAKE NOTICE that the record in the above-named appeal has this day been  
forwarded to the Registrar of the Supreme Court of Nigeria.

.....  
*Registrar*

To

## CIVIL FORM 19

IN THE SUPREME COURT OF NIGERIA

NOTICE BY RESPONDENT OF INTENTION TO CONTEND THAT  
DECISION OF COURT BELOW BE VARIED

(Order VII, Rule 13)

Between ..... *Appellant*  
 and .....  
 ..... *Respondent*

TAKE NOTICE that upon the hearing of the above appeal the Respondent herein intends to contend that the decision of the Court below dated the ..... day of ..... 19..... shall be varied as follows\* :—

AND TAKE NOTICE that the grounds on which the Respondent intends to rely are as follows :—

- 1.
- 2.
3. etc.

DATED this ..... day of ..... 19.....

.....  
*Respondent*

\* State the variation which will be asked for.

## CIVIL FORM 20

IN THE SUPREME COURT OF NIGERIA

NOTICE OF INTENTION TO CONTEND THAT JUDGMENT  
SHOULD BE AFFIRMED ON GROUNDS OTHER THAN THOSE  
RELIED ON BY THE COURT BELOW

(Order VII, Rule 13)

Between ..... *Appellant*  
 and .....  
 ..... *Respondent*

TAKE NOTICE that upon the hearing of the above appeal the Respondent intends to contend that the decision of the Court below dated the ..... day of ..... 19....., shall be affirmed on grounds other than those relied on by the Court below.

AND TAKE NOTICE that the grounds on which the Respondent intends to rely are as follows :—

- 1.
- 2.
- 3. etc.

DATED this.....day of.....19.....

.....  
*Respondent*

CIVIL FORM 21

IN THE SUPREME COURT OF NIGERIA

NOTICE BY RESPONDENT OF INTENTION TO RELY UPON  
PRELIMINARY OBJECTION

(Order VII, Rule 14)

*Appeal No.*.....19.....

*Between*.....*Appellant*

*and*

.....*Respondent*

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

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

- 1.
- 2.
- 3. etc.

DATED this.....day of.....19.....

.....  
*Plaintiff/Defendant-Respondent*

To the above-named Plaintiff/Defendant-Appellant or his legal representative.

CIVIL FORM 22  
 IN THE SUPREME COURT OF NIGERIA  
 NOTICE OF WITHDRAWAL OF APPEAL  
 (Order VII, Rule 15)

Appeal No. .... 19.....

Between ..... Appellant(s)

and

..... Respondent(s)

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

DATED at ..... this ..... day of ..... 19.....

.....  
 Appellant(s)

THE REGISTRAR,  
 SUPREME COURT OF NIGERIA

And to

CIVIL FORM 23  
 IN THE SUPREME COURT OF NIGERIA  
 NOTICE OF WITHDRAWAL OF APPEAL BY AGREEMENT  
 (Order VII, Rule 15)

Between ..... Appellant

and

..... Respondent

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

DATED this ..... day of ..... 19.....

.....  
 Appellant or his legal representative

.....  
 Respondent or his legal representative

CIVIL FORM 24

IN THE SUPREME COURT OF NIGERIA

CERTIFICATE AS TO NON-COMPLIANCE WITH CONDITIONS  
IMPOSED UPON A WOULD-BE APPELLANT

(Order VII, Rule 17)

Between..... Plaintiff(s)/Appellant(s)

and

..... Defendant(s)/Respondent(s)

Pursuant to Order VII rule 17 of the Supreme Court of Nigeria Rules I hereby certify that the Appellant(s) in the above-named cause have/has complied with none of the requirements of Order VII, rules 9 and 10.

DATED at ..... the ..... day of ..... 19.....

..... Registrar

..... Court

CIVIL FORM 25

IN THE SUPREME COURT OF NIGERIA

FORM OF DECLARATION THAT A PARTY DOES NOT WISH  
TO BE PRESENT OR REPRESENTED AT HEARING OF APPEAL

(Order VII, Rule 20)

Appeal No. ....

Between..... Appellant

and

..... Respondent

I, ..... Appellant/Respondent do hereby declare that I do not wish to be present in person or by counsel on the hearing of the above-mentioned appeal, but desire to submit the following arguments for the consideration of the Court :—

DATED this ..... day of ..... 19.....

..... Appellant/Respondent

CIVIL FORM 26  
 IN THE SUPREME COURT OF NIGERIA  
 CERTIFICATE OF THE ORDER OF THE COURT  
 (Order VII, Rule 31)

APPEAL from the .....

of the .....

dated the ..... day of ..... 19.....

.....  
*Motion*

.....  
*Appeal No.*

.....  
*Appellant*

v.

.....  
*Respondent*

This appeal coming on for hearing on the .....

day of ..... 19..... before .....

in the presence of .....

for the Appellant, and .....

for the Respondent.

I HEREBY CERTIFY that an Order was made as follows :—

GIVEN under my hand and the Seal of the Court this .....

day of ..... 19.....

.....  
*Registrar of the Court*

SECOND SCHEDULE

CRIMINAL FORM 1

IN THE SUPREME COURT OF NIGERIA

NOTICE OF APPEAL FROM DECISION OF A COURT  
SITTING AS A COURT OF FIRST INSTANCE

(Order VIII, Rule 3)

REGINA v. ....

To THE REGISTRAR OF THE .....

I, ..... having

been convicted of the offence of<sup>1</sup> .....

..... and .....

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

or whose address for service is<sup>2</sup> .....

do hereby give notice of appeal against my conviction (particulars of which hereinafter appear) to the Court on the following grounds<sup>3</sup>:—

.....  
*Signature or mark of Appellant*

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

DATED this ..... day of ..... 19.....

PARTICULARS OF TRIAL AND CONVICTION

1. Date of trial .....

2. In what Court tried .....

3. Sentence .....

4. Whether questions of law now raised were raised at the trial .....

.....

(1) State the offence, e.g. murder.

(2) Where appellant for any reason not in custody, set out address for service.

(3) state as clearly as you are able the grounds on which you desire to appeal.

Fill in all these particulars.

You are required to answer the following question :—

Do you desire to be present on the hearing of your appeal by the Court ?

If you do so desire, state the reasons upon which you submit the said Court should give you leave to be present.

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

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

## CRIMINAL FORM 2

IN THE SUPREME COURT OF NIGERIA

### NOTICE OF APPLICATION FOR LEAVE TO APPEAL FROM DECISION OF A COURT SITTING AS A COURT OF FIRST INSTANCE

(Order VIII, Rule 3)

REGINA v. ....

To THE REGISTRAR OF THE .....

I, ..... having

been convicted of the offence of<sup>1</sup> .....

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

(or whose address for service is<sup>2</sup> .....) )

(1) State the offence, e.g. larceny, forgery, etc.  
(2) Where applicant for any reason not in custody set out address for service.

and being desirous of appealing against my conviction/sentence<sup>2</sup>, DO HEREBY GIVE NOTICE that I hereby apply for leave to appeal on the following grounds :—

(3) If the appellant wishes to appeal against conviction only he should strike out the word "sentence". If he wishes to appeal against sentence only he should strike out the word "conviction". If he wishes to appeal against conviction and sentence he should leave in both words.

.....  
*Signature or mark of Applicant*

*Signature and address of witness attesting mark* }  
 .....  
 .....

DATED this..... day of..... 19.....

PARTICULARS OF TRIAL AND CONVICTION

1. Date of trial.....
2. In what Court tried.....
3. Sentence.....

Fill in these particulars.

(4) State as clearly and concisely as possible the grounds on which you desire to appeal against your conviction.

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

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

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

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

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

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

### CRIMINAL FORM 3

IN THE SUPREME COURT OF NIGERIA

#### NOTICE OF APPEAL FROM DECISION OF A COURT IN ITS APPELLATE JURISDICTION

(Order VIII, Rule 3)

To THE REGISTRAR OF THE.....

I, ..... having

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

been convicted of the offence of<sup>1</sup> .....

now being prisoner in prison at.....

(or whose address for service is<sup>2</sup>.....)

DO HEREBY GIVE NOTICE of appeal against the decision of the High Court

of.....

on the following grounds<sup>3</sup> :—

(2) Where applicant for any reason not in custody set out address for service.

(3) Set forth the grounds on which you desire to appeal and specify the extent, if any, to which the appeal Court varied the decision of the Court of trial. It should also be stated whether the appeal is against conviction only or against sentence only, or against both sentence and conviction.

.....  
*Signature or mark of Appellant*

Signature and address of witness attesting mark }  
.....  
.....

DATED this ..... day of ..... 19.....

PARTICULARS OF TRIAL AND CONVICTION

1. Date of trial and sentence.....

Fill in all these particulars.

2. In what Court tried.....

3. In what Court appeal heard.....

4. Sentence.....

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

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

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

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

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

*Note.*—This form should only be used when there is a right of appeal without leave by virtue of the Constitution or an express provision of law.

#### CRIMINAL FORM 4

IN THE SUPREME COURT OF NIGERIA

#### NOTICE OF APPLICATION FOR LEAVE TO APPEAL FROM DECISION OF A COURT IN ITS APPELLATE JURISDICTION

(Order VIII, Rule 3)

To THE REGISTRAR OF THE .....

I, ..... having

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

been convicted of the offence of<sup>1</sup> ..... and  
now being prisoner in prison at .....

(2) Where applicant for any reason not in custody set out address for service.

(or whose address for service is<sup>2</sup> .....)  
DO HEREBY GIVE NOTICE THAT I hereby apply for leave to appeal against the

decision of the High Court on the following grounds<sup>3</sup>:—

(3) Set forth the grounds on which you desire to appeal and specify the extent, if any, to which the Appeal Court varied the decision of the Court of trial. It should also be stated whether the appeal is against conviction only or against sentence only, or against both sentence and conviction.

.....  
*Signature or mark of Applicant*

*Signature and Address  
of Witness attesting mark* }

.....  
.....

DATED this.....day of.....19.....

PARTICULARS OF TRIAL AND CONVICTION

1. Date of trial and sentence.....
2. In what Court tried.....
3. In what Court appeal heard.....
4. Sentence.....

Fill in all these particulars.

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

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

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

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

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

*Note.*—This form, suitably adapted may also be used when the application for leave to appeal is made to the High Court.

CRIMINAL FORM 5  
IN THE SUPREME COURT OF NIGERIA  
NOTICE OF APPEAL (OR APPLICATION FOR LEAVE TO  
APPEAL BY PROSECUTOR)  
(Order VIII, Rule 3)

v.

To THE REGISTRAR OF .....

I, ..... of .....  
the prosecutor in the above case and being desirous of appealing against the  
decision under section\* ..... of .....

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

.....  
*Prosecutor*

DATED this ..... day of ..... 19.....

PARTICULARS OF TRIAL AND CONVICTION

1. Date of trial.....
2. In what Court tried.....
3. Nature of conviction.....
4. Sentence.....

*Note.*—This form, suitably adapted, may also be used when an application for leave to appeal is made to the High Court.

## CRIMINAL FORM 6

IN THE SUPREME COURT OF NIGERIA  
 NOTIFICATION BY REGISTRAR OF HIGH COURT OF RESULT  
 OF APPLICATION FOR LEAVE TO APPEAL  
 (Order VIII, Rule 6)

REGINA v. ....

TO THE REGISTRAR OF THE SUPREME COURT OF NIGERIA

I hereby give you notice that on the ..... day  
 of ..... 19..... the High Court of .....  
 at ..... granted/refused an application for  
 leave to appeal against conviction/sentence in the case of which particulars  
 are set below.

DATED this ..... day of ..... 19.....

Registrar of .....

## PARTICULARS OF TRIAL AND CONVICTION

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

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

## CRIMINAL FORM 7

IN THE SUPREME COURT OF NIGERIA  
 NOTICE OF APPLICATION FOR EXTENSION OF THE TIME  
 WITHIN WHICH TO APPEAL  
 (Order VIII, Rule 5)

REGINA v. ....

TO THE REGISTRAR OF THE .....

I, ..... having been convicted  
 of the offence of<sup>1</sup> ..... in the

..... court,  
 held at..... on the..... day  
 of..... 19....., and being now a prisoner  
 in prison at.....

(or whose address for service is<sup>2</sup>.....)  
 give you notice that I hereby apply to the Court for an extension of time  
 within which I may give Notice of Appeal (or Notice of Application for leave  
 to Appeal) on the grounds<sup>3</sup> following :—

.....  
*Signature or Mark of Applicant*

Signature and address of  
 Witness attesting Mark

{ .....  
 .....  
 .....

DATED this..... day of....., 19.....

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

- 1 State the offence, e.g., larceny, forgery, etc.  
 2 Where applicant for any reason not in custody set out address for service.  
 3 Set out clearly and concisely the reasons for the delay in giving such notice and  
 the grounds on which you submit the Court should extend the time.

### CRIMINAL FORM 8

IN THE SUPREME COURT OF NIGERIA  
 NOTIFICATION TO APPELLANT OF A SINGLE JUDGE'S  
 DECISION  
 (Order VIII, Rule 7)

REGINA v. ....

I hereby give you notice that a Justice of the Supreme Court having  
 considered your application(s) for :

- (a) Leave to appeal ;
- (b) For extension of time within which notice of appeal or of application  
 for leave to appeal may be given ;
- (c) Permission to be present during the hearing of any proceedings in  
 your appeal ;
- (d) Admission to bail ;
- (e) Leave to withdraw abandonment of appeal ;

has refused the application(s) marked ..... (and<sup>1</sup> has granted your application(s) marked .....).

If you desire to have the above-mentioned application(s), which have been refused, determined by the full Court, you are required to fill up the enclosed form and return it to me forthwith.

DATED this ..... day of ..... 19.....

Signed .....  
Registrar of the Court

To the above-named.

CRIMINAL FORM 9

IN THE SUPREME COURT OF NIGERIA

NOTICE OF APPEAL BY APPELLANT FROM REFUSAL OF A SINGLE JUDGE

(Order VIII, Rule 7)

REGINA v. ....

To THE REGISTRAR OF THE SUPREME COURT OF NIGERIA

I, ..... having received your notification that my application(s) for—

- (a) Leave to appeal ;
  - (b) For extension of the time within which notice of appeal or application for leave to appeal may be given ;
  - (c) Permission to me to be present during the hearing of any proceedings in my appeal ;
  - (d) Admission to bail ;
  - (e) Leave to withdraw abandonment of appeal ;
- have been refused ;

DO HEREBY GIVE YOU NOTICE that I desire that the said application(s) shall be considered and determined (and that as I am not legally represented I desire to be present at the determination of my said application(s))\*

.....  
*Signature or Mark of Appellant*

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

DATED this ..... day of ..... 19.....

If you desire to state any reasons in addition to those set out by you in your original notice upon which you submit that the full Court should grant your said application(s), you may do so in the space below.

\* Strike out if you do not desire to be present.

## CRIMINAL FORM 10

IN THE SUPREME COURT OF NIGERIA

## RECOGNIZANCE OF BAIL OF APPELLANT

*(Order VIII, Rule 15)*

REGINA v. ....

BE IT REMEMBERED THAT WHEREAS.....

was convicted of.....on the

.....day of....., 19.....and was

thereupon sentenced to.....),

and now is in lawful custody in prison at.....

and has duly appealed against his conviction (and sentence) to the Court and has applied for bail pending the determination of his appeal, and has been granted bail on entering into his own Recognizances in the sum of £.....

.....(with sureties each in the sum of £.....), the

said.....personally cometh

before me the undersigned, being the.....

*(State office)*

and acknowledges himself to owe to the Head of the Federal Military Government the said sum of £..... of good and lawful money, to be made and levied of his goods and chattels, lands and tenements to the use of the Head of the Federal Military Government, His heirs and successors, if he the said..... fail in the condition endorsed.

TAKEN AND ACKNOWLEDGED this.....day of.....19.....

at....., before me.

*(State office)*

## CONDITION

The condition of the within written Recognizance is such that if the said

.....shall personally appear and surrender himself at and before the Court at each and every hearing of his appeal to such Court and at the final determination thereof and then and there abide by the judgment of the said Court and not depart or absent from such Court at any such hearing without the leave of the said

Court, and in the meantime not depart from his usual place of abode without the leave of the Court, then this Recognizance shall be void, otherwise of full force and effect.

The following to be filled up by the Appellant and signed by him :—

When released on bail my address for service, to which any Notices, etc. are to be addressed, will be as follows :—

.....  
*Signature of Appellant*

CRIMINAL FORM 11

IN THE SUPREME COURT OF NIGERIA

RECOGNIZANCE OF APPELLANT'S SURETIES

(Order VIII, Rule 15)

REGINA v. ....

BE IT REMEMBERED that on this..... day of ..... 19.....

..... of  
..... and  
..... of  
..... came before me  
the undersigned being the..... and

(State office)

severally acknowledged themselves to owe to Head of Federal Military Government the several sums following, that is to say, the said.....

..... the sum of £..... and the said.....

..... the sum of £..... of good and lawful money, to be made and levied of their goods and chattels, lands and tenements respectively, to the use of Head of Federal Military Government, His heirs and successors, if.....

..... now in lawful custody in prison  
at..... fail in the condition hereon  
endorsed.

TAKEN AND ACKNOWLEDGED before me the undersigned, the day and year first above-mentioned.

.....  
*Magistrate/Registrar*

CONDITION

The condition of the within written Recognizance is such that whereas the said having been convicted of..... and now in such lawful custody as before mentioned (under a sentence of..... for such offence), has duly appealed to the Court against

his said conviction (and sentence), and having applied to the said Court for bail, pending the determination of his said appeal, has been granted bail on his entering into recognizances in the sum of £..... with sureties each in the sum of £..... if the said..... shall personally appear and surrender himself at and before the said Court and at the final determination thereof, and then and there abide by the judgment of the said Court, and not depart or be absent from the said Court at any such hearing without the leave of the Court and in the meantime not depart from his usual place of abode without the leave of the Court, then this recognizance shall be void, otherwise of full force and effect.

## CRIMINAL FORM 12

IN THE SUPREME COURT OF NIGERIA  
WARRANT FOR ARREST OF APPELLANT ON BAIL  
(Order VIII, Rule 15)

REGINA v. ....

TO THE CONSTABLES OF THE POLICE FORCE (OR COURT MESSENGERS OR AS THE CASE MAY BE), AND TO THE.....

(State office)

of the Prison at.....

WHEREAS....., an Appellant in the Court has been released on bail, and it has now been ordered by the said Court that a Warrant be issued for the apprehension of the said.....

These are therefore to command you the said Constables or (Court Messengers or as the case may be) forthwith to apprehend the said..... and bring him to the..... of the said prison and there deliver him with this warrant into the custody of the said..... and you the

(State office)

said..... are hereby required to receive the said..... into your custody in the said prison and there safely to keep him until further order of the said Court.

.....  
*Presiding Judge*

DATED this..... day of....., 19.....

CRIMINAL FORM 13  
IN THE SUPREME COURT OF NIGERIA  
NOTICE OF ABANDONMENT OF APPEAL  
(Order VIII, Rule 20)

REGINA v. ....

I, ..... having  
been convicted of ..... in  
the ..... Court at .....  
and having been desirous of appealing to the Court against my said conviction  
(or the sentence of ..... passed upon me  
on my said conviction) do hereby give you notice that I do not intend further  
to prosecute my appeal, but that I hereby abandon all further proceedings in  
regard thereto as from the date hereof.

.....  
*Signature or Mark of Applicant*

*Signature and address of* } .....  
*Witness attesting Mark* } .....

DATED this ..... day of ....., 19.....  
TO THE REGISTRAR OF THE SUPREME COURT OF NIGERIA

CRIMINAL FORM 14  
IN THE SUPREME COURT OF NIGERIA  
NOTIFICATION OF ABANDONMENT OF APPEAL  
(Order VIII, Rule 20)

REGINA v. ....

TO THE DIRECTOR OF PUBLIC PROSECUTIONS OF\* .....

To.....  
This is to give you notice that I have this day received from the above-  
named .....  
a notice of abandonment of all proceedings in regard to his appeal to the  
Court. The said notice is dated .....  
day of ....., 19.....

By rule 20 of the Rules of the Supreme Court Rules, 1961, upon the notice of abandonment being given the appeal shall be deemed to have been dismissed by the Court.

DATED this ..... day of ....., 19.....

.....  
*Registrar of the Court*

\* Send copies addressed to :—

- (a) The Permanent Secretary to the appropriate Ministry (if a capital case).
- (b) The Director of Public Prosecutions or other respondent.
- (c) The Prison authority and
- (d) The Registrar of the Court below.

### CRIMINAL FORM 15

IN THE SUPREME COURT OF NIGERIA

#### NOTICE OF APPLICATION FOR LEAVE TO WITHDRAW AN ABANDONMENT OF APPEAL

(Order VIII, Rule 21)

TO THE REGISTRAR, SUPREME COURT OF NIGERIA

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

I, .....  
 having been convicted of the offence of<sup>1</sup>.....  
 and now being a prisoner in prison at.....

(or) whose address for service is..... and  
 having duly sent a notice that I desired to appeal to the Supreme Court, and  
 having abandoned my appeal :

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

Give you Notice, that I hereby apply to the Supreme Court of Nigeria for leave to withdraw my Notice of Abandonment, in the special circumstances following<sup>2</sup> :—

.....  
*Signature or Mark of Applicant*

Signature and address of } .....  
 Witness attesting Mark } .....

DATED this ..... day of ....., 19.....

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

## CRIMINAL FORM 16

IN THE SUPREME COURT OF NIGERIA

## ORDER TO WITNESS TO ATTEND COURT FOR EXAMINATION

(Order VIII, Rule 22 (1))

Regina v. ....

To .....  
(Name of witness)of .....  
(Address)

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

This is to give you notice to attend before the said Court at .....

on ..... the .....

day of ....., 19....., at ..... o'clock in the ..... noon. You are also required to have with you at the said time and place any books, papers or other things relating to the said appeal which you may have had notices so as to produce.

.....  
Registrar of the Court

DATED the ..... day of ....., 19.....

## CRIMINAL FORM 17

IN THE SUPREME COURT OF NIGERIA

## APPELLANT'S APPLICATION FOR FURTHER WITNESSES

(Order VIII, Rule 22 (2))

Regina v. ....

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

.....  
Signature or Mark of Appellant

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

DATED this ..... day of ....., 19.....

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

1. Names and addresses of witnesses.....
2. Whether such witnesses have been examined at trial.....
3. If not, state the reason why they were not so examined.....

4. On what matters do you wish them to be examined on the appeal?.....

State shortly the evidence you think they can give.

CRIMINAL FORM 18

IN THE SUPREME COURT OF NIGERIA

NOTICE TO WITNESS TO ATTEND BEFORE AN EXAMINER

(Order VIII, Rule 22 (5))

Regina v. ....

To.....  
(Name of witness)

of.....  
(Address of witness)

WHEREAS on good cause shown to the Court you have been ordered to be examined as a witness upon the appeal of the above-named, and your deposition to be taken for the use of the said Court.

This is to give you notice to attend at.....  
(Specify place of examination)

on the.....day of....., 19.....

before.....at.....o'clock in the  
(Fill in examiner's name)  
.....noon.

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

.....  
Registrar of the Court

DATED the.....day of....., 19.....

## CRIMINAL FORM 19

IN THE SUPREME COURT OF NIGERIA

CAPTION FOR DEPOSITION OF WITNESS EXAMINED BEFORE  
EXAMINER*(Order VIII, Rule 22 (7))*

REGINA v. ....

The deposition (on oath) taken before me the undersigned, being an  
examiner duly appointed by the Court in that behalf of .....of ..... and .....  
(Address of witness) (Name of witness)of ..... witness, examined before me under an  
(Address of witness)  
order of the said Court dated ..... day of ....., 19.....in the presence of the said ..... Appellant  
(or of his professional representative) and the Respondent at .......... on the ..... day of ....., 19.....,  
which said Appellant (or his professional representative) and Respondent  
had full opportunity of asking questions of the said witnesses, to whom the  
depositions following were read by me before being signed by them the  
said witnesses respectively.The deposition of .....  
of ..... who (upon oath duly  
administered by me) said as follows :—

DATED this ..... day of ....., 19.....

.....  
Examiner

## CRIMINAL FORM 20

IN THE SUPREME COURT OF NIGERIA

## NOTIFICATION TO APPELLANT OF RESULT OF APPLICATION

*(Order VIII, Rule 24 (1))*

REGINA v. ....

TO THE ABOVE-NAMED APPELLANT.

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

(a) leave to appeal to the said Court ;

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

.....  
*Registrar of the Court*

DATED this.....day of....., 19.....

CRIMINAL FORM 21

IN THE SUPREME COURT OF NIGERIA

NOTICE TO AUTHORITIES OF RESULT OF APPLICATION

(Order VIII, Rule 24 (1))

REGINA v. ....

TO THE DIRECTOR OF PUBLIC PROSECUTIONS OF .....\*

To.....

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

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

.....  
*Registrar of the Court*

DATED this.....day of....., 19.....

\* Send copies addressed to :

- (a) The Director of Public Prosecutions or other respondent.  
 (b) The Prison authority and  
 (c) The Registrar of the Court below.

† Here set out the decision of the Court.

CRIMINAL FORM 22

IN THE SUPREME COURT OF NIGERIA

NOTIFICATION TO APPELLANT OF THE RESULT OF HIS  
APPEAL

(Order VIII, Rule 24 (1))

REGINA v. ....

TO THE ABOVE-NAMED APPELLANT.

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

.....  
*Registrar of the Court*

DATED this..... day of....., 19.....

CRIMINAL FORM 23

IN THE SUPREME COURT OF NIGERIA

NOTICE TO AUTHORITIES OF RESULT OF APPEAL

(Order VIII, Rules 24 and 25)

REGINA v. ....

TO THE DIRECTOR OF PUBLIC PROSECUTIONS OF.....\*

To.....

This is to give you notice that the above-named having appealed against his conviction of the offence of.....

before the..... Court, and or the

sentence of..... passed

upon him for the offence of..... by

the..... Court, the Court

have finally determined the said appeal, and have this day given judgment therein to the effect following† :—

Signed.....

*Registrar of the Court*

DATED this..... day of....., 19.....

- \* Send copies addressed to :
  - (a) The Permanent Secretary to the appropriate Ministry (if a capital case).
  - (b) The appropriate Director of Public Prosecutions or other respondent.
  - (c) The Prison authority and
  - (d) The Registrar of the Court below.

† Here set out the decision of the Court.

## THIRD SCHEDULE

## FEES IN CIVIL MATTERS

(Order I Rule 6)

	£	s	d
<i>A. Original Jurisdiction</i>			
(i) In proceedings between the Federation and a State or between States .. .. .			No fees charged
(ii) In proceedings in Admiralty jurisdiction :— on application under Order II, Rule 3. For the recovery of a specified sum :—			
(a) Not exceeding £100 .. .. .	4	0	0
(b) Exceeding £100 : per £50 or part thereof .. .. .	2	0	0
(c) Maximum fee .. .. .	40	0	0
For an account to be taken and payment of the sum found due .. .. .	10	0	0
For possession of property, as for the sum claimed in lieu of the property			
On application for warrant to detain a ship .. .. .	5	0	0
Any other relief or assistance not specially provided for .. .. .	10	0	0
On the filing of any other document with the Registrar .. .. .	2	0	0
On the appointment and swearing of appraisers .. .. .	1	0	0
On the delivery of a ship or goods to a purchaser .. .. .	2	0	0
On the sale of a ship or goods :—			
For every £100 or fraction of £100 of the price .. .. .	1	0	0
For attending the discharge of a cargo or the removal of a ship or goods .. .. .	2	0	0
And if the discharge or removal occupies more than one day for each additional day, a further fee of .. .. .	2	0	0
In addition to the above fees, the following fees are also payable :—			
(a) where a ship or cargo is in the custody of the Marshal, the reasonable expenses of a ship keeper per day.			
(b) where the Marshal (or his deputy) is required for the purpose of discharging his duty to travel, his reasonable expenses for travelling and subsistence.			
<i>B. Appellate Jurisdiction</i>			
On filing Notice of Appeal against a final judgment or decision .. .. .	7	10	0
On Respondent's Notice of intention to contend that decision of Court below be varied .. .. .	7	10	0
On filing Notice of Appeal against an interlocutory order or decision .. .. .	3	0	0
On filing motion for leave to appeal .. .. .	7	10	0
On filing Notice of Appeal where leave granted .. .. .	1	10	0
On filing motion for extension of time :—			
if the time has not yet expired .. .. .	3	15	0
if the time has already expired .. .. .	15	0	0
On filing any motion not otherwise provided for .. .. .	3	0	0
On filing motion for stay of execution (if application is made by separate motion) .. .. .	3	0	0

	£	s	d
<u>On filing amended or additional grounds of appeal :</u>			
if filed at least three weeks before the date fixed for the commencement of the sitting for which the appeal is set down .. .. .	1	10	0
if filed less than three weeks but at least two clear days before such date .. .. .	4	10	0
if filed later, but before the hearing of the appeal .. .. .	9	0	0
On amending or adding to grounds of appeal by leave or direction of the Court at the hearing .. .. .	15	0	0
Hearing fee payable in advance .. .. .	6	0	0
On filing motion to restore appeal dismissed under Order VII, rule 17 .. .. .	15	0	0
On filing motion to restore appeal struck out under Order VII, rule 21 .. .. .	7	10	0
On filing motion to set aside and re-hear appeal determined <i>ex parte</i> .. .. .	15	0	0
On filing motion to set aside Taxing Officers decision or order .. .. .	1	10	0
On every certificate of the order of the Court of Appeal (made on the final determination of appeals under Order VII, rule 31 .. .. .	3	0	0

### C. General

1. For swearing an affidavit or making a declaration, per deponent .. .. .	0	6	0
For marking any paper annexed to an affidavit or declaration .. .. .	0	1	6
On filing an affidavit .. .. .	0	3	9
On filing a security bond .. .. .	1	0	0
On filing any other document or exhibit .. .. .	0	3	9
On justification of sureties : for each surety .. .. .	0	4	6
For the drawing up of any order or judgment .. .. .	2	0	0
For every subpoena .. .. .	0	3	9
On warrant for prisoner to give evidence .. .. .	0	7	6
On inspection of any document or judgment .. .. .	0	1	6
For searching the archives : for each period of six months or part thereof .. .. .	0	3	9
For preparing a copy where authorised : per folio of 72 words .. .. .	0	0	7
On lodging a bill of costs for taxation including taxation for the first twenty folios .. .. .	1	10	0
For every ten folios or part thereof after the first twenty .. .. .	0	15	0

2. The fee for the service of any document or process shall be that charged for such service by the High Court having jurisdiction in the place where service is to be effected.

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

4. The fee for the services of a special interpreter of a language not in common use shall be that charged for such services by the High Court having jurisdiction in the place where such services are rendered.

5. The following fees in connection with appeals are assessable in accordance with the rules in force in the Court below, and are not prescribed by these Rules :—

(a) fees for any application made to and determinable by the Court below ;

(b) fees for the settling and preparation of the record of appeal, for the lodging of a bond to secure the costs of an appeal, and for the Registrar's certificate that the conditions of appeal have been fulfilled.

MADE by the Supreme Court of Nigeria on the 10th day of May, 1972.

T. O. ELIAS,  
*Chief Justice of Nigeria*

**CONSTITUTION OF THE FEDERATION 1963**

CONSTITUTION OF THE FEDERATION 1950

## CHAPTER VIII

## COURTS

*Part 1.—The Supreme Court of Nigeria*

111.—(1) There shall be a Supreme Court of Nigeria.

(2) The judges of the Supreme Court shall be—

(a) the Chief Justice of Nigeria ; and

(b) such number of Justices of the Supreme Court (not being less than five) as may be prescribed by law.

(3) The Supreme Court shall be a superior court of record, and, save as otherwise provided by law, shall have all the powers of such a court.

(4) The Supreme Court shall sit in Lagos State and in such other places in Nigeria as the Chief Justice of Nigeria may appoint.

112.—(1) The Chief Justice of Nigeria shall be appointed by the Head of the Federal Military Government.

(1A) The Justices of the Supreme Court shall be appointed by the Supreme Military Council, acting after consultation with the Advisory Judicial Committee.

(2) A person shall not be qualified to hold the office of Chief Justice of Nigeria or a Justice of the Supreme Court unless—

(a) he is or has been a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court ;

(b) he is qualified for admission as an advocate in Nigeria and he has been so qualified for not less than ten years ;

Provided that in computing the period during which any person has been qualified for admission as an advocate any period during which he has held office as a judge or magistrate after becoming so qualified shall be included.

(3) If the office of Chief Justice of Nigeria is vacant or if the person holding the office is for any reason unable to perform the functions of the office, then, until a person has been appointed to and has assumed the functions of that office or until the person holding the office has resumed those functions, as the case, may be, those functions shall be performed by such one of the Justices of the Supreme Court as may from time to time be designated in that behalf by the **Head of the Federal Military Government.**

Establishment of Supreme Court.

Decree No. 5 1972.  
Appointment of judges of Supreme Court.

Decree No. 5 1972.

(4) If the office of any Justice of the Supreme Court is vacant or if the person holding the office is acting as Chief Justice of Nigeria or is for any reason unable to perform the functions of his office, the **Supreme Military Council, acting after consultation with the Advisory Judicial Committee**, may appoint a person qualified to hold the office of a Justice of the Supreme Court to act in the office of a Justice of the Supreme Court, and any person so appointed shall continue to act for the period of the appointment or if no period is specified until his appointment is revoked by the **Supreme Military Council, acting after consultation with the Advisory Judicial Committee:**

Provided that a person may act as a Justice of the Supreme Court notwithstanding that he has attained the age prescribed for the purposes of subsection (1) of section 113 of this Constitution.

Tenure of office of judges of Supreme Court.

**113.—(1)** Subject to the provisions of this section, a person holding or appointed to act in the office of Chief Justice of Nigeria or a Justice of the Supreme Court shall vacate that office when he attains such age as may be prescribed by **law** :

Provided that the **Head of the Federal Military Government** may permit a judge to continue in his office or appointment for such period after attaining that age as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him before he attained that age.

Decree No. 5, 1972.

(2) The person holding or appointed to act in the office of Chief Justice of Nigeria may be removed from his office or appointment by the **Head of the Federal Military Government**.

(3) A person holding or appointed to act in the office of a Justice of the Supreme Court may be removed from his office or appointment by the **Supreme Military Council, acting after consultation with the Advisory Judicial Committee.**

Questions as to interpretation of this Constitution.

.....  
**115.—(1)** Where any question as to the interpretation of this Constitution or the constitution of a **State** arises in any proceedings in any court of law in any part of Nigeria (other than the Supreme Court, the High Court of a territory or a court-martial) and the court is of opinion that the question involves a substantial question of law, the court may, and shall if any party to the proceedings so requests, refer the question to the High Court having jurisdiction in that part of Nigeria ; and the High Court shall—

(a) if it is of opinion that the question involves a substantial question of law, refer the question to the Supreme Court ; or

(b) if it is of opinion that the question does not involve a substantial question of law, remit the question to the court that made the reference to be disposed of in accordance with such directions as the High Court may think fit to give.

(2) Where any question as to the interpretation of this Constitution or the constitution of a **State** arises in any proceedings in the High Court of a territory and the court is of the opinion that the question involves a substantial question of law, the court may, and shall if any party to the proceedings so requests, refer the question to the Supreme Court.

(3) Where any question is referred to the Supreme Court in pursuance of this section, the Supreme Court shall give its decision upon the question and the court in which the question arose shall dispose of the case in accordance with that decision.

.....  
**117.**—(1) The Supreme Court shall have jurisdiction, to the exclusion of any other court of law in Nigeria, to hear and determine appeals from the High Court of a territory.

Appeals to  
 Supreme  
 Court from  
 High Courts.

(2) An appeal shall lie from decisions of the High Court of a territory to the Supreme Court as of right in the following cases—

(a) final decisions in any civil proceedings before the High Court sitting at first instance ;

(b) where the ground of appeal involves questions of law alone, decisions in any criminal proceedings before the High Court sitting at first instance ;

(c) decisions in any civil or criminal proceedings on questions as to the interpretation of this Constitution or the constitution of a **State** ;

(d) decisions in any civil or criminal proceedings on questions as to whether any of the provisions of Chapter III of the Constitution has been contravened in relation to any person ;

(e) decisions in any criminal proceedings in which any person has been sentenced to death by the High Court or in which the High Court has affirmed a sentence of death imposed by some other court : and

(f) such other cases as may be prescribed by any law in force in the territory :

Provided that nothing in paragraph (a) of this subsection shall confer any right of appeal—

(i) from any order made *ex parte* ;

(ii) from any order relating only to costs ;

(iii) from any order made with the consent of the parties ;

or

(iv) in the case of a party to proceedings for dissolution or nullity of marriage who, having had time and opportunity to appeal from any decree nisi in such proceedings, has not so appealed, from any decree absolute founded upon such a decree nisi.

.....

(4) Subject to the provisions of subsections (2) and (3) of this section, an appeal shall lie from decisions of the High Court of a territory to the Supreme Court with the leave of the High Court or the Supreme Court in the following case—

(a) where the ground of appeal involves questions of fact, mixed law and fact or quantum of sentence, decisions in any criminal proceedings before the High Court sitting at first instance ;

(b) any case in which, but for the terms of the proviso to subsection (2) of this section, an appeal would lie as of right to the Supreme Court by virtue of paragraph (a) of that subsection ;

(c) decisions in any civil or criminal proceedings in which an appeal has been brought to the High Court from some other court ; and

(d) such other cases as may be prescribed by any law in force in the territory.

(5) The Supreme Court may dispose of any application for leave to appeal from any decision of the High Court of a territory in respect of any civil or criminal proceedings in which an appeal has been brought to the High Court from some other court of the territory upon consideration of the record of the proceedings if the Supreme Court is of opinion that the interests of justice do not require an oral hearing of the application.

(6) Any right of appeal to the Supreme Court from the decisions of the High Court of a territory conferred by this section—

(a) shall be exercisable in the case of civil proceedings at the instance of a party thereto or, with the leave of the High Court or the Supreme Court at the instance of any other person having an interest in the matter and in the case of criminal proceedings at the instance of an accused person or, subject to the provisions of section 104 of this Constitution and any powers conferred by the constitution of a **State** to take over and continue or to discontinue such proceedings, at the instance of such other persons or authorities as may be prescribed by any law in force in the territory ; and

(b) shall be exercised in accordance with any Acts of Parliament and rules of court for the time being in force in the territory regulating the powers, practice and procedure of the Supreme Court.

(7) In this section "decision" means, in relation to the High Court of a territory, any determination of that High Court and includes without prejudice to the generality of the foregoing provisions of this subsection, a judgment, decree, order, conviction, sentence (other than a sentence fixed by law) or recommendation.

.....

119.—(1) An appeal shall lie from decisions of the Sharia Court of Appeal to the Supreme Court as of right in the following cases—

(a) decisions on questions as to the interpretation of this Constitution or the constitution of a **State** ;

(b) decisions on questions as to whether any of the provisions of Chapter III of this Constitution has been contravened in relation to any person ; and

(c) such other cases as may be prescribed by law :

Provided that nothing in paragraph (a) or (b) of this subsection (in so far as it applies to civil proceedings) shall confer any right of appeal with respect to any question relating to the respective jurisdiction of a High Court. . . . . and the Sharia Court of Appeal that the Court of Resolution is competent to determine.

(2) Subject to the provisions of subsection (1) of this section, an appeal shall lie from decisions of the Sharia Court of Appeal or the Court of Resolution to the Supreme Court with the leave of the Supreme Court in such cases as may be prescribed by law.

Appeals to  
Supreme  
Court from  
Sharia Court  
of Appeal  
and Court  
of  
Resolution.

(3) Any right of appeal to the Supreme Court from the decisions of the Sharia Court of Appeal conferred by this section—

(a) shall be exercisable at the instance of a party thereto or, with the leave of the Sharia Court of Appeal or the Supreme Court, at the instance of any other person having an interest in the matter ; and

(b) shall be exercised in accordance with any Acts of Parliament and rules of court for the time being in force . . . regulating the powers, practice and procedure of the Supreme Court.

(4) The Supreme Court may dispose of any application for leave to appeal from any decision of the Sharia Court of Appeal or the Court of Resolution upon consideration of the record of the proceedings if the Supreme Court is of opinion that the interests of justice do not require an oral hearing of the application.

(5) In this section—

“the Court of Resolution” means the Court of Resolution established by the Court of Resolution Law, 1960, of Northern Nigeria, as amended, or any law replacing that law ;

“decision” means, in relation to the Sharia Court of Appeal or the Court of Resolution, any determination of that court in any civil proceedings and without prejudice to the generality of the foregoing provisions of this definition, includes a judgment, decree, order or recommendation ;

“the Sharia Court of Appeal” means the Sharia Court of Appeal established by the Sharia Court of Appeal Law, 1960, of Northern Nigeria, as amended, or any law replacing that law.

Determi-  
nations of  
Supreme  
Court to be  
final.

**120.** Without prejudice to the provisions of section 101 of this Constitution, no appeal shall lie to any other body or person from any determination of the Supreme Court.

Powers,  
practice and  
procedure  
of Supreme  
Court.

**121.—(1)** The decisions of the Supreme Court shall be enforced in any part of Nigeria by the High Court having jurisdiction in that part of Nigeria and by all persons, authorities and other courts of law in that part as if they were decisions of that High Court.

(2) Subject to the provisions of any Act of Parliament, the Supreme Court may make rules for regulating the practice and procedure of the court.

(3) **The Chief Justice of Nigeria may, with the consent of the Federal Executive Council, by order** make provision with respect to the practice and procedure of the Supreme Court (including the service and execution of all civil and criminal processes of the court) and may confer upon the court such powers additional to those conferred by this section as may appear to be necessary or desirable for enabling the court more effectively to exercise its jurisdiction.

(4) Rules made under this section may fix the minimum number of judges who may sit for any purpose, so however that no matter shall be finally determined by less than three judges :

Provided that nothing in this subsection shall preclude a judge who does not concur in the opinion of the other judges from delivering a dissenting opinion.

#### *Part 2.—The High Court of Lagos State*

**122.—(1)** There shall be a High Court for **Lagos State**, which shall be styled the High Court of Lagos.

Establishment of High Court of Lagos.

(2) The judges of the High Court of Lagos shall be—

(a) the Chief Justice of Lagos ; and

(b) such number of other judges (not being less than five) as may be prescribed by **law**.

(3) The High Court of Lagos shall be a superior court of record and, save as otherwise provided by **law**, shall have all the powers of such a court.

**123.—(1)** The Chief Justice of Lagos and the other judges of the High Court of Lagos shall be appointed by the **Supreme Military Council, acting after consultation with the Advisory Judicial Committee**.

Appointment of judges of High Court of Lagos.

(2) A person shall not be qualified to hold office of a judge of the High Court of Lagos unless—

(a) he is or has been a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court ; or

(b) he is qualified for admission as an advocate in Nigeria and he has been so qualified for not less than ten years :

Provided that in computing the period during which any person has been qualified for admission as an advocate any period during which he has held office as a judge or magistrate after becoming so qualified shall be included.

(3) If the office of Chief Justice of Lagos is vacant or if the person holding the office is for any reason unable to perform the functions of his office, then, until a person has been appointed to and has assumed the functions of that office or until the person holding the office has resumed those functions, as the case may be, those functions shall be performed by such one of the other judges of the High Court of Lagos as may from time to time be designated in that behalf by the **Supreme Military Council, acting after consultation with the Advisory Judicial Committee.**

(4) If the office of any judge of the High Court of Lagos other than the Chief Justice is vacant or if the person holding the office is acting as Chief Justice or is for any reason unable to perform the functions of his office, the **Supreme Military Council acting after consultation with the Advisory Judicial Committee,** may appoint a person with such qualifications as may be prescribed by law to act in the office of a judge of the High Court; and any person so appointed shall continue to act for the period of the appointment or if no period is specified until his appointment is revoked by the **Supreme Military Council, acting after consultation with the Advisory Judicial Committee.**

Tenure of  
office of  
judges of  
High Court  
of Lagos.

124.—(1) Subject to the provisions of this section, a person holding or appointed to act in the office of Chief Justice of Lagos or any other judge of the High Court of Lagos shall vacate his office or appointment when he attains such age as may be prescribed by law :

Provided that the **Head of the Federal Military Government** may permit a judge to continue in his office or appointment for such period after attaining that age as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him before he attained that age.

(2) A person holding or appointed to act in the office of a judge of the High Court of Lagos **may be removed from his office or appointment by the Supreme Military Council acting after consultation with the Advisory Judicial Committee.**

125.—(1) An appeal shall lie from decisions of a subordinate court to the High Court of Lagos as of right or, if it is provided by **law** that an appeal as of right shall lie from that subordinate court to another subordinate court, an appeal shall thereafter lie to the High Court as of right in the following cases—

Appeals to High Court of Lagos from subordinate courts.

(a) where the matter in dispute on the appeal to the High Court is of the value of fifty pounds or upwards or where the appeal involves directly or indirectly a claim to or question respecting property or a right of the value of fifty pounds or upwards, final decisions in any civil proceedings ;

(b) where the ground of appeal to the High Court involves questions of law alone, decisions in any criminal proceedings in which any person has been sentenced to imprisonment for a term exceeding three months or corporal punishment exceeding six strokes or a fine or forfeiture exceeding twenty-five pounds by the subordinate court from which the appeal lies to the High Court or that subordinate court has affirmed or substituted such a sentence ;

(c) decisions in any civil or criminal proceedings on questions as to the interpretation of this Constitution or the constitution of a **State** ;

(d) decisions in any civil or criminal proceedings on questions as to whether any of the provisions of Chapter III of this Constitution has been contravened in relation to any person ;

(e) decisions in any criminal proceedings in which any person has been sentenced to death by the subordinate court from which the appeal lies to the High Court or in which that subordinate court has affirmed a sentence of death ;

(f) decisions in any other criminal proceedings before a subordinate court sitting at first instance from which no appeal lies as of right to another subordinate court ; and

(g) such other cases as may be prescribed by **law** :

.....

(2) An appeal shall lie from decisions of a subordinate court to the High Court of Lagos with the leave of the High Court or, if it is provided by **law** that an appeal shall lie from that subordinate court to another subordinate court, an appeal shall thereafter lie to the High Court with the leave of the High Court in the following cases—

(a) decisions in any criminal proceedings from which no appeal lies as of right to the High Court ; and

(b) such other cases in which no appeal lies as of right to the High Court as may be prescribed by **law** :

.....

(3) Any right of appeal from decisions of a subordinate court to the High Court of Lagos conferred by this section—

(a) shall be exercisable in the case of civil proceedings at the instance of a party thereto or, with the leave of the High Court, at the instance of any other person having an interest in the matter and in the case of criminal proceedings at the instance of the accused person or, subject to the provisions of section 104 of this Constitution, at the instance of such other persons or authorities as may be prescribed by **law** : and

(b) shall be exercised in accordance with any laws and rules of court for the time being in force regulating the powers, practice and procedure of the High Court.

(4) In this section—

“decision” means, in relation to a subordinate court, any determination of that court and, without prejudice to the generality of the foregoing provisions of this definition, includes a judgment, decree, order, conviction, sentence (other than a sentence fixed by law) or recommendation ;

“subordinate court” means any court of law in **Lagos State** other than the Supreme Court, the High Court of Lagos or a court-martial.

### *Part 3.—General*

.....

Oaths to be  
taken by  
Judges.

**128.** A judge of the Supreme Court or the High Court of Lagos shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as may be prescribed by **law**.

**CONSTITUTION (SUSPENSION AND MODIFICATION)  
DECREE 1966**

CONSTITUTION (SURRENDER AND MODIFICATION)  
1981

**CONSTITUTION (SUSPENSION AND MODIFICATION)  
DECREE 1966**



**Decree No. 1**

[17th January 1966]

*Provisions relating to the Judiciary*

1.—(1) The provisions of the Constitution of the Federation mentioned in Schedule 1 of this Decree are hereby suspended.

Suspension of some, and modification of other, provisions of Constitution of Federation.

(2) Subject to this and any other Decree, the provisions of the Constitution of the Federation which are not suspended by subsection (1) above shall have effect subject to the modifications specified in Schedule 2 of this Decree.

2.—(1) The provisions of the constitution of each *Region* which are mentioned in Schedule 3 of this Decree are hereby suspended.

Suspension of some, and modification of other, provisions of constitutions of *Regions*.

(2) Subject to this and any other Decree, the provisions of the constitution of a *Region* which are not suspended by subsection (1) above shall have effect subject to the modifications specified in relation to the constitution in Schedule 4 of this Decree.

Powers of  
Federal  
Military  
Government  
and.....  
Military  
Governors  
of States  
to make  
laws.

3.—(1) The Federal Military Government shall have power to make laws for the peace, order and good government of Nigeria or any part thereof with respect to any matter whatsoever.

(2) The Military Governor of a **State**—

(a) shall not have power to make laws with respect to any matter included in the Exclusive Legislative List ; and

(b) except with the prior consent of the Federal Military Government, shall not make any law with respect to any matter included in the Concurrent Legislative List.

(3) Subject to subsection (2) above and to the Constitution of the Federation, the Military Governor of a **State** shall have power to make laws for the peace, order and good government of that **State**.

(4) If any law—

(a) enacted before 16th January 1966 by the legislature of a *Region*, or having effect as if so enacted, or

(b) made after that date by the Military Governor of a **State**, or inconsistent with any law—

(i) validly made by Parliament before that date, or having effect as if so made, or

(ii) made by the Federal Military Government on or after that date,

the law made as mentioned in paragraph (i) or (ii) above shall prevail and the *Regional or State* law shall, to the extent of the inconsistency, be void.

(5) Nothing in subsection (2) of this section shall—

(a) preclude the Military Governor of a **State** from making provision for grants or loans from or the imposition of charges upon any of the public funds of that **State** or the imposition of charges upon the revenues and assets of that **State** for any purpose, notwithstanding that it relates to a matter included in the Exclusive Legislative List ; or

(b) require the Military Governor of a **State** to obtain the consent of the Federal Military Government to his making such provision as aforesaid for any purpose, notwithstanding that it relates to a matter included in the Concurrent Legislative List.

(6) The question whether a law made by the Military Governor of a **State** with respect to a matter included in the Concurrent Legislative List was made with the consent required by subsection (2) (b) above shall not be enquired into in any court of law.

(7) In this section "the Exclusive Legislative List" and "the Concurrent Legislative List" have the same meanings as in the Constitution of the Federation.

4.—(1) The power of the Federal Military Government to make laws shall be exercised by means of Decrees signed by the Head of the Federal Military Government.

Mode of  
exercising  
legislative  
powers.

(2) The power of the Military Governor of a **State** to make laws shall be exercised by means of Edicts signed by him.

(3) A Decree or Edict may be made known to the public by means of a sound or television broadcast, or by publication in writing, or in any other manner.

(4) In so far as a Decree published on any date in the Federal Gazette makes provision with respect to the same matters as a Decree which—

(a) was made known to the public on or before that date ;  
but

(b) has not been published in the Federal Gazette,  
the Decree published in the Federal Gazette shall prevail.

(5) In so far as an Edict published on any date in the Gazette of the **State** to which it applies makes provision with respect to the same matters as an Edict which—

(a) was made known to the public on or before that date ;  
but

(b) has not been published in that Gazette,  
the Edict published in the Gazette shall prevail.

(6) Any decree made by the Military Governor of a Region before 16th February 1966 shall, notwithstanding anything in this section (but subject to section 3 of this Decree), be deemed to be, and to have taken effect as, an Edict ; and references to an Edict shall be construed accordingly.

Making and commencement of Decrees, Edicts, etc.

5.—(1) A Decree is made when it is signed by the Head of the Federal Military Government, whether or not it then comes into force.

(2) An Edict is made when it is signed by the Military Governor of the **State** to which it applies, whether or not it then comes into force.

(3) Where no other provision is made as to the time when a particular provision contained in a Decree, Edict or subsidiary instrument is to come into force, it shall, subject to subsection (4) below, come into force on the day when the Decree, Edict or subsidiary instrument, as the case may be, is made.

(4) Where a provision contained in a Decree, Edict or subsidiary instrument is expressed to come into force on a particular day, it shall be construed as coming into force immediately on the expiration of the previous day.

(5) In this section "subsidiary instrument" means any order, rules, regulations, rules of court or byelaws made in the exercise of powers conferred by a Decree or Edict.

Validity of Decrees and Edicts not to be enquired into.

6. No question as to the validity of this or any other Decree or of any Edict shall be entertained by any court of law in Nigeria.

The executive authority of the Federal Republic of Nigeria.

7.—(1) The executive authority of the Federal Republic of Nigeria shall be vested in the Head of the Federal Military Government and may be exercised by him either directly or through persons or authorities subordinate to him :

Provided that nothing in this subsection shall prevent any authority having power to make laws from conferring functions on persons or authorities other than the Head of the Federal Military Government.

(2) The executive authority of the Federal Republic of Nigeria shall extend to the execution and maintenance of the Constitution of the Federation, as modified and supplemented by this or any other Decree, and to all other matters whatsoever throughout Nigeria.

(3) Without prejudice to subsection (1) above, the Head of the Federal Military Government may either conditionally or unconditionally delegate to the Military Governor of a **State** executive functions falling to be performed within that **State** in relation to any matter.

(4) Subject to subsection (5) below, all executive functions which immediately before 16th January 1966 were vested in or exercisable by the Governor or any officer or authority of a *Region* by virtue of section 86 or 99 of the Constitution of the Federation shall be treated as having been delegated under subsection (3) above to the Military Governor of that *Region* as from 17th January 1966.

(5) Any delegation effected under subsection (3) above (including any delegation which in accordance with subsection (4) above is to be treated as having been effected under subsection (3) above) may be varied or revoked by the Head of the Federal Military Government at any time.

(6) Any executive function which by virtue of any such delegation as is mentioned in subsection (5) above is exercisable by the Military Governor of a **State** may, subject to any conditions imposed under subsection (3) above, be exercised by him either directly or through persons or authorities subordinate to him.

8.—(1) There shall be for Nigeria a Supreme Military Council and a Federal Executive Council.

(2) The Supreme Military Council shall consist of—

(a) the Head of the Federal Military Government, who shall be the President of the Supreme Military Council ;

(b) the Head of the Nigerian Army ;

(c) the Head of the Nigerian Navy ;

(d) the Head of the Nigerian Air Force ;

(e) the Chief of Staff of the Armed Forces ;

(f) the Chief of Staff of the Nigerian Army ;

(g) **the Military Governors of all the States;**

(h) **the Inspector-General and the Deputy Inspector-General of the Nigeria Police; and**

(i) **such other members as the Head of the Federal Military Government may from time to time appoint.**

(3) The Federal Executive Council shall consist of—

(a) the Head of the Federal Military Government, who shall be President of the Federal Executive Council ;

(b) the Head of the Nigerian Army ;

Establishment of Supreme Military Council and Federal Executive Council.

1969 No. 42.

1967 No. 20.

- (c) the Head of the Nigerian Navy ;
- (d) the Head of the Nigerian Air Force ;
- (e) the Chief of Staff of the Armed Forces ;
- (f) the Chief of Staff of the Nigerian Army ;
- (g) **the Inspector-General and the Deputy Inspector-General of the Nigeria Police;**
- (h) **the Attorney-General of the Federation; and**
- (i) **such other members as the Head of the Federal Military Government may from time to time appoint.**

(4) Each of the Councils established by this section may regulate its own procedure and, subject to its rules of procedure, may act notwithstanding any vacancy in its membership or the absence of any member.

Powers of  
Head of  
Federal  
Military  
Government,  
Supreme  
Military  
Council,  
Federal  
Executive  
Council and  
Military  
Governors  
to delegate  
functions  
conferred  
on them by  
laws.

9.—(1) The Head of the Federal Military Government may, subject to such conditions (if any) as he may think fit, delegate any function conferred on him by any law (including the Constitution of the Federation or the constitution of a **State**) to the Federal Executive Council or to any other authority in Nigeria :

Provided that this subsection shall not apply to the function of signing Decrees.

(2) The Supreme Military Council may, subject to such conditions (if any) as it may think fit, delegate any function conferred on it by any law (including the Constitution of the Federation or the constitution of a **State**) to any of its members.

(3) The Federal Executive Council may, subject to such conditions (if any) as it may think fit, delegate any function conferred on it by any law (including the Constitution of the Federation or the constitution of a **State**) to any of its members or to any officer in the public service of the Federation.

(4) The Military Governor of a **State** may, subject to such conditions (if any) as it may think fit, delegate any function conferred on him by any law in force in the **State** (including the Constitution of the Federation and the constitution of the **State**) to any member of the public service of the **State** :

Provided that this subsection shall not apply to the function of making and signing Edicts.

(5) Any function of the Head of the Federal Military Government or of the Supreme Military Council or of the Federal Executive Council or of the Military Governor of a **State** may be exercised respectively by the Head of the Federal Military Government or that Council or Governor notwithstanding any delegation of that function for the time being in force under the foregoing provisions of this section.

(6) References in this section to functions conferred by a law do not include references to executive functions conferred by section 7 of this Decree.

10.—(1) Where a power to make an instrument is conferred on the Head of the Federal Military Government or the Supreme Military Council by any law, then, without prejudice to the exercise of the power by the Head of the Federal Military Government in person or by the Supreme Military Council itself, as the case may be, any instrument made in exercise of that power may be executed under the hand of the Secretary to the Federal Military Government.

Execution of instruments made by certain authorities.

(2) Where a power to make an instrument is conferred on the Federal Executive Council by any law, then, without prejudice to the exercise of the power by the Council itself, any instrument made in the exercise of the power may be executed under the hand of the permanent secretary to the department of government of the Federation responsible for the matter to which the instrument relates, or under the hand of the Secretary to the Federal Military Government.

(3) Where a power to make an instrument is conferred on the Military Governor of a **State** by any law, then, without prejudice to the exercise of the power by the Military Governor in person, any instrument made in the exercise of that power may be executed under the hand of the permanent secretary to the department of government of that **State** responsible for the matter to which the instrument relates, or under the hand of the Secretary to the Military Government of that **State**.

(4) Section 23 of the Interpretation Act 1964 (which is superseded by subsection (1) above) is hereby repealed.

1964 No. 1.

11.—(1) There shall be an Advisory Judicial Committee which shall consist of—

Establishment of Advisory Judicial Committee.

- (a) the Chief Justice of Nigeria, who shall be chairman ;
- (b) the Chief Justice of **each of the States of Nigeria** ;
- (c) the Grand Kadi of the Sharia Court of Appeal ; and
- (d) the Attorney-General of the Federation.

1967 No. 13.

(2) The Solicitor-General of the Federation shall act as secretary of the Advisory Judicial Committee.

(3) The Advisory Judicial Committee may, with the consent of the Head of the Federal Military Government, by regulation or otherwise regulate its own procedure and, subject to its rules of procedure, may function notwithstanding any vacancy in its membership or the absence of any member.

Modification  
of existing  
law.

1967 No. 27.

12.—(1) Subject to this and any other Decree, all existing law, that is to say, all law (other than the Constitution of the Federation or the constitution of a *Region*) which, whether being a rule of law or a provision of an Act of Parliament or of a Law made by the legislature of a *Region* or of any other enactment or instrument whatsoever, was in force immediately before **26th May 1967** or having been passed or made before that date came or comes into force on or after that date, shall, until that law is altered by an authority having power to do so, have effect with such modifications (whether by way of addition, alteration or omission) as may be necessary to bring that law into conformity with the Constitution of the Federation and the constitution of each State, as affected by this or any other Decree, and with the provisions of any Decree or Edict relating to the performance of any functions which are conferred by law on any person or authority.

1967 No. 27.

(2) It is hereby declared that the suspension by this or any other Decree of any provision of the Constitution of the Federation or of the constitution of a *Region* shall be without prejudice to the continued operation in accordance with subsection (1) above of any law which immediately before 26th May 1967 was in force by virtue of that provision.

(3) Any function which is conferred by any existing law within the meaning of subsection (1) above on the President or on the Prime Minister or any other Minister of the Government of the Federation or on the Council of Ministers, the House of Representatives or the Senate shall, until other provision in respect of that function is made by an authority having power to do so, vest in the Federal Executive Council :

1964 No. 5.

Provided that this subsection shall not apply to any function conferred by the National Honours Act 1964.

(4) Any function which is conferred by any existing law within the meaning of subsection (1) above on the Governor of a *Region* or on the Premier or any other Minister of the

Government of a *Region* or on the Executive Council, the House of Assembly or the House of Chiefs of a *Region* shall, until other provision in respect of that function is made by an authority having power to do so, vest in the Military Governor of that *Region*.

(5) Any function which is conferred by any existing law within the meaning of subsection (1) above, or by the constitution of a *Region*, on the Provincial Commissioner or Provincial Administrator of a province shall vest in the Provincial Secretary of that province.

13.—(1) Subject to this and any other Decree, any court of law, authority or office which was established, any appointment which was made, and any other thing whatsoever which was done before **26th May 1967** in pursuance of any provision of the Constitution of the Federation or of the constitution of a *Region*, being a provision that—

(a) is not suspended by this or any other Decree ; but

(b) is modified by this Decree,

or which was deemed by virtue of any such provision to be so established, made or done before that date, shall be deemed to have been duly established, made or done in pursuance of that provision as modified by this Decree.

(2) The suspension by this Decree of section 98 of the Constitution of the Federation (which relates to the constitution of offices and the making of appointments thereto) and of the corresponding sections of the constitutions of the *Regions*, shall not affect any office which was constituted under any of those sections before **26th May 1967** or any appointment to any such office which was made before that date.

14.—(1) Without prejudice to the generality of section 12 of this Decree, all property which, immediately before 16th January 1966, was held by the President or any Minister of the Government of the Federation on behalf of or in trust for the Federation shall on 17th January 1966, by virtue of this subsection and without further assurance, vest in the Head of the Federal Military Government and be held by him on behalf of, or as the case may be on the like trusts for the benefit of, the Federal Military Government.

(2) Without prejudice as aforesaid, all property which, immediately before 16th January 1966, was held by the Governor or a Minister of the Government of a *Region* on behalf of or in trust for the Government of that *Region* shall on

Savings for existing offices, appointments, etc.  
1967 No. 27.

1967 No. 27.

Succession to property, etc.

17th January 1966, by virtue of this subsection and without further assurance, vest in the Military Governor of that *Region* and be held by him on behalf of, or as the case may be on the like trusts for the benefit of, the Government of that *Region*.

(3) Without prejudice to the generality of section 12 of this Decree or of the other provisions of this section, any contract or other arrangement entered into before 16th January 1966 by any person or authority on behalf of the Government of the Federation or the Government of a *Region* shall as from 17th January 1966 be deemed to have been entered into on behalf of the Federal Military Government or the Government of that *Region*, as the case may be.

(4) Without prejudice to the generality of section 12 of this Decree or of the other provisions of this section, all promissory notes, stock, bonds and debentures issued under the General Loan and Stock Act, the Local Loans (Registered Stock and Securities) Act or the Government Promissory Notes Act 1960 before 17th January 1966 by the Minister of the Government of the Federation responsible for finance, or by any person acting on his behalf, shall, so far as any liability of the Government of the Federation in respect thereof remained undischarged immediately before that date, be deemed—

(a) to have been duly issued under the Act in question by the Federal Executive Council ; and

(b) to have been so issued on the date on which (and with the date of redemption with which) they were actually issued ; and the principal sums and interest represented or secured thereby shall accordingly continue to be charged on the Consolidated Revenue Fund.

(5) Subsections (1) and (2) above shall, with the necessary modifications, apply in relation to rights, liabilities and obligations arising out of a contract or other arrangement as they apply in relation to property.

15. Without prejudice to the generality of section 12 of this Decree, the Interpretation Act 1964 (except section 2 thereof) shall apply in relation to a Decree as it applies in relation to an Act of Parliament ; and accordingly any reference in that Act (except in section 2 thereof) to an enactment shall include a reference to any provision of a Decree.

16. In this Decree, and in any other law—

“Decree means an instrument made by the Federal Military Government and expressed to be, or to be made as, a decree ;

Caps. 74  
and 111.  
1960 No. 6.

Application  
of Inter-  
pretation  
Act 1964  
to Decrees.  
1964 No. 1.

Meaning  
of certain  
expressions  
in Decrees  
and other  
laws.

“Edict” means an instrument made by the Military Governor of a *Region or State* and expressed to be, or to be made as, an edict ;

“enactment”, unless the contrary intention appears, includes any provision of a Decree or an Edict; 1966 No. 59.

“the Head of the Federal Military Government” means the Head of the Federal Military Government, **Commander-in-Chief** of the Armed Forces of the Federal Republic of Nigeria ; 1967 No. 13.

“Military Governor”, in relation to a *Region or State* means the Military Governor of that *Region or State*. 1966 No. 59.

17.—(1) This Decree may be cited as the Constitution (Suspension and Modification) Decree 1966 and shall apply throughout the Federation. Citation, extent, commencement, etc.

(2) This Decree shall be deemed to have come into force on 17th January 1966.

(3) Where a power to delegate a function is conferred by this Decree, that power includes—

(a) power to delegate the function to a limited extent only ; and

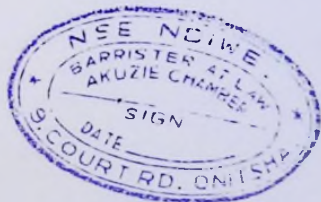
(b) power to delegate the function to different persons or authorities for different purposes, or in respect of different matters or different parts of Nigeria.

(4) In this Decree “functions” includes powers and duties.

(5) For the avoidance of doubt it is hereby declared that any power to make laws conferred by this Decree includes power to make laws having extra-territorial operation.

### SCHEDULES

*(Omitted. Effect reproduced in the reprints of the Federal and State Constitutions.)*





**WESTERN AND MID-WESTERN STATES  
MAGISTRATES' COURTS LAW  
(CAP. 74)**

THE UNIVERSITY OF CHICAGO  
DIVISION OF THE PHYSICAL SCIENCES  
DEPARTMENT OF CHEMISTRY  
5708 S. UNIVERSITY AVENUE  
CHICAGO, ILLINOIS 60637

LAWS OF THE WESTERN AND THE MID-  
WESTERN STATES OF NIGERIA, 1959 EDITION*Magistrates' Courts Law (Cap. 74)*

2. "court of further appeal" means the Supreme Court.

69.—(1) Any person aggrieved by a decision of the appeal court in a criminal case may appeal to the court of further appeal on a matter of law but not of fact or of sentence save with the leave of the court of further appeal. Further  
appeal.

(2) Every such appeal shall be entered within thirty days of the order appealed against and subject to any rules of court applicable to the court of further appeal the provisions of this Law relating to procedure or appeal from a decision of a magistrate to the appeal court and the judgment which may be pronounced thereon shall *mutatis mutandis* apply to an appeal to the court of further appeal.

(3) In this section "decision of the appeal court in a criminal case" does not include a conviction of an offence with respect to any matter included in the First Schedule to the Nigeria (Constitution) Order in Council, 1954, or a sentence in respect of any such conviction.

73.—(1) Any person aggrieved by a decision of the appeal court in a civil case may appeal to the court of further appeal in the same manner as if such appeal were from a decision of the High Court in the exercise of its original civil jurisdiction.

(2) In this section "civil case" does not include civil proceedings relating to any matter included in the First Schedule to the Nigeria (Constitution) Order in Council, 1954.

LAWS OF THE WESTERN AND MID-WESTERN  
STATES OF NIGERIA, 1959*Customary Courts Law (Cap. 31)*

49.—(1) An appeal shall lie to the Supreme Court from any order or decision of the High Court given in the exercise of its appellate jurisdiction conferred by subsection (4) of section 44E or section 48 subject to the conditions and in



**CONSTITUTION (MISCELLANEOUS PROVISIONS)**  
**(No. 2) DECREE 1967**

CONSTITUTION OF THE UNITED STATES  
ARTICLE I

SECTION 1  
All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

CONSTITUTION (MISCELLANEOUS PROVISIONS)

(No. 2) DECREE 1967

**Decree No. 27**

3. As respects the Western State of Nigeria, the Supreme Court shall cease to have jurisdiction to hear and determine appeals in any matter from the High Court of the state (including appeals in any proceedings pending in any court in the state) except in any case in which notice of appeal to the Supreme Court has been filed before 1st June 1967: and accordingly any such appeals as are first mentioned in this subsection shall lie to the Court of Appeal of the State.

Appeals  
from courts  
in the  
Western  
State.

[Effective : 1st June 1967]





**WESTERN STATE COURT OF APPEAL  
EDICT 1967**

WESTERN STATE COURT OF APPEALS  
JULY 1911

WESTERN STATE COURT OF APPEAL EDICT 1967

11.—(4) Until rules are made under this section, the Supreme Court Rules, 1961, as amended from time to time, shall be deemed to have been made under this Edict and shall apply with respect to the practice and procedure of the Court of Appeal as they apply with respect to the practice and procedure of the Supreme Court, with such modifications (whether by way of addition, alteration or omission) as may be necessary to bring them into conformity with the provisions of this Edict, the Constitution of the Federation and the Constitution of Western Nigeria.

L.N. 96  
of 1961.

34. Subject to the provisions of section 35, where in any existing law in force in the State immediately before the 1st day of April, 1967, reference is made to, or to any matter in relation to, any right of appeal to the Supreme Court, with or without leave, from any decision of the High Court given in the exercise of its original or appellate jurisdiction, such reference shall, as from the 1st day of April, 1967, be construed as a reference to, or to such matter in relation to, a right of appeal, with or without leave, as the case may be, from a decision of the High Court to the Court of Appeal in the first instance, and further similarly from a decision of the Court of Appeal to the Supreme Court, in accordance with the existing law relating thereto, and accordingly, any existing law as aforesaid shall be construed with such modifications (whether by way of addition, alteration or omission) as may be necessary to bring the same into conformity with the provisions of this Edict, the Constitution of the Federation and the Constitution of Western Nigeria.

Adaptation  
of existing  
laws in  
force in  
the Region  
with respect  
to right  
of appeal  
from the  
High Court  
to the  
Supreme  
Court.

35.—(1) Subject to the provisions of this section, any appeal which could have been brought from any decision of the High Court to the Supreme Court under or by virtue of any law in force in the State or the Constitution of the Federation, and which was not a pending appeal on the 1st day of April, 1967, shall, as from that date, be deemed to lie in the first instance to the Court of Appeal.

Transitional  
provisions  
with respect  
to pending  
appeals  
from the  
High Court  
to the  
Supreme  
Court, etc.

(2) Any notice of appeal, application or notice of application for leave to appeal, given or made, or any other thing whatsoever done, before, on or after the 1st day of April, 1967, with respect to any proposed appeal (not being a pending appeal) to the Supreme Court, with or without leave, from any decision of the High Court given in the exercise of its original or

appellate jurisdiction, shall be deemed for all purposes to have been given, made or done, as the case may be, with respect to a proposed appeal, with or without leave, from a decision of the High Court given as aforesaid, to the Court of Appeal, and such further action as may be necessary to be taken on the same by any person or authority in accordance with the provisions of this Edict and rules of court shall be so taken as soon as may be after the Court of Appeal shall have assumed its functions.

(3) The President shall have power to give such directions as may appear to him to be necessary for the purpose of ensuring that no person interested, whether as appellant, respondent, or otherwise, in any proposed appeal (not being a pending appeal) to the Supreme Court, which would now lie to the Court of Appeal in the first instance, shall be prejudiced by reason only of the lapse of time between the date of commencement of this Edict and the date on which the Court of Appeal assumes its functions, or of the fact that the period prescribed by law for the doing of anything has elapsed between the dates aforesaid and without the thing having been done.

(4) In this section—

“pending appeal” means an appeal which has been entered in the Supreme Court, so however that an appeal shall be regarded as having been entered as aforesaid only where the records thereof have been received in the Supreme Court and entered on the cause list in accordance with the rules of that court.

**EASTERN STATES HIGH COURT LAW**  
**(CAP. 61)**

WEST VIRGINIA HIGH COURT LAW  
BOOK 21

## LAWS OF EASTERN NIGERIA 1963

*High Court Law (Cap. 61)*

35. For the purposes of paragraph (f) of subsection (2) of section 117 of the Constitution of the Federation, a person aggrieved by a decision of the High Court in a civil appeal in respect of a State matter may appeal further to the Supreme Court in the same manner and as if such appeal were from a decision of the High Court in the exercise of its original civil jurisdiction.

Further appeal to the Supreme Court in Civil Appeals in certain cases.

38.—(1) For the purposes of paragraph (f) of subsection (2) of section 117 of the Constitution Order, a person who, having the right to appeal under the provisions of sections 57 and 59 of the Magistrates' Courts Law, in respect of a State matter and having so appealed, is aggrieved by the decision of the High Court upon his appeal, may appeal further to the Supreme Court on a matter of law, but not on a matter of fact or against sentence without leave of the Supreme Court.

Further appeal to the Supreme Court in certain criminal appeals. (Cap. 82).

(2) Every such further appeal shall be entered within thirty days of the pronouncement of the decision appealed against or within such further time as may be ordered by the High Court.

(3) The provisions of this Law and any other written law relating to judgments which may be pronounced by the High Court on appeals from decisions of Magistrates' Courts shall *mutatis mutandis* apply to any such appeal to the Supreme Court.

ARTICLE 117 OF THE CONSTITUTION

High Court, Calcutta

117. For the purposes of paragraph (1) of sub-section (2) of section 117 of the Constitution, the right to appeal shall be deemed to be a right to appeal in a High Court if the High Court has jurisdiction to entertain an appeal in a High Court in the same manner and in the same manner as the High Court in the case of a High Court.

117. (1) For the purposes of paragraph (1) of sub-section (2) of section 117 of the Constitution, the right to appeal shall be deemed to be a right to appeal in a High Court if the High Court has jurisdiction to entertain an appeal in a High Court in the same manner and in the same manner as the High Court in the case of a High Court.

(2) Every such right to appeal shall be deemed to be a right to appeal in a High Court if the High Court has jurisdiction to entertain an appeal in a High Court in the same manner and in the same manner as the High Court in the case of a High Court.

(3) The provisions of the Constitution relating to appeals shall apply to appeals in a High Court in the same manner and in the same manner as the provisions of the Constitution relating to appeals in a High Court.

**HIGH COURT OF LAGOS LAW**  
**(CAP. 80)**

WILLIAMS & SON  
NEW YORK

LAWS OF THE FEDERATION OF NIGERIA  
AND LAGOS 1958

*High Court of Lagos Law (Cap. 80)*

50.—(1) The prosecutor may on any ground of appeal which involves a question of law alone, appeal to the Supreme Court as of right from a decision of the High Court in any criminal proceedings before the High Court sitting at first instance.

Decree  
No. 11  
1966.  
Appeals  
by prosec-  
utors.

(2) The prosecutor may with the leave of the High Court or the Supreme Court appeal to the Supreme Court—

(a) on any ground of appeal which involves a question of fact alone, or a question of mixed law and fact, from a decision of the High Court in any criminal proceedings before the High Court sitting at first instance ; or

(b) on any ground of appeal which involves a question of law alone, from a decision of the High Court in any criminal appeal from the Magistrates' Court.

(3) In this section "decision" has the same meaning as in section 117 (7) of the Constitution of the Federation.

*Part IVa. Provisions Pending Appeal to the Supreme Court*

50A.—(1) Where an appeal to the Supreme Court is entered, of leave to appeal is granted against a conviction in respect of which the appellant has been sentenced to imprisonment or Borstal Training, the High Court may, in its discretion, admit the appellant to bail pending the determination of the appeal ; and, in the case of a sentence of imprisonment, any time during which the appellant is so admitted to bail, shall not count as part of the term of imprisonment to which he was sentenced.

(2) The operation of any order made on conviction by the High Court for the payment of compensation or of any of the expenses of the prosecution or of the imprisonment or of other punishment imposed on the person convicted or for the restoration of any property to any person, and the revesting in case of any such conviction, in the original owner or his personal representative of the property in stolen goods, shall (unless the judge before whom the conviction takes place directs to the contrary in any case in which, in his opinion, the title to the property is not in dispute) be suspended until the expiration of thirty days after the date of the conviction.

Decree  
No. 11,  
1966.

(2A) Where—

(a) the High Court has in any criminal proceedings before it sitting at first instance acquitted the accused person, or has allowed an appeal from the Magistrates' Court against conviction; and

(b) immediately after that decision of the High Court has been given the prosecutor gives notice to the High Court that he intends or desires to appeal to the Supreme Court from that decision;

the High Court may make an order providing for the detention of the accused person, or directing that the accused person shall not be released except on bail, until either—

(i) the time for bringing the appeal has expired without its having been brought; or

(ii) where applicable, the necessary leave to appeal has been refused both by the High Court and by the Supreme Court; or

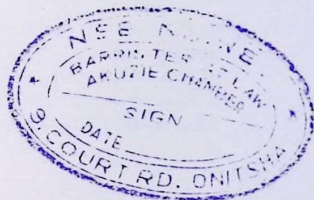
(iii) the appeal has been brought and abandoned; or

(iv) a decision on the appeal has been given by the Supreme Court,

whichever first occurs; but an order made under this subsection shall not affect the power of the Supreme Court, if the appeal is brought, to admit the respondent to bail under section 35 of the Federal Supreme Court Act 1960 as applied by section 4 (4) of the Judicial, etc., Offices and Appeals by Prosecutors Act 1963.

(3) Where an appeal to the Supreme Court is entered, or leave to appeal is granted, in any civil case, the High Court may, in its discretion, order a stay of execution either unconditionally or upon the performance of such conditions as may be imposed in accordance with Rules of Court.

LAWS OF NORTHERN STATES OF NIGERIA 1963  
HIGH COURT LAW  
(CAP. 49)



LAW OF NORTHERN STATES OF INDIA  
WILLIAMS & NORTON  
1882

HIGH COURT LAW OF THE  
NORTHERN STATES

*(Cap. 49 of 1963 Edition of the Laws)*

PROVISIONS PENDING APPEAL

61.—(1) Where an appeal to the Supreme Court is entered, or leave to appeal is granted, against a conviction in respect of which the appellant has been sentenced to imprisonment, the High Court may, in its discretion, admit the appellant to bail pending the determination of the appeal; and any time during which the appellant is so admitted to bail, shall not count as part of the term of imprisonment to which he was sentenced.

(2) The operation of any order made on conviction by the High Court for the payment of compensation or of any of the expenses of the prosecution or of the imprisonment or of other punishment imposed on the person convicted or for the restoration of any property to any person, and the reversion in case of any such conviction, in the original owner or his personal representative of the property in stolen goods, shall (unless the judge before whom the conviction takes place directs to the contrary in any case in which, in his opinion, the title to the property is not in dispute) be suspended until the expiration of fifteen days after the date of the conviction.

(3) Subject to the provisions of subsections (1) and (2) of this section, an appeal to the Supreme Court shall not operate as a stay of execution but the High Court may order a stay of execution either unconditionally or upon the performance of such conditions as may be imposed in accordance with rules of court.