

REPUBLIC OF ZAMBIA

**THE SUPREME COURT OF ZAMBIA ACT**

**CHAPTER 25 OF THE LAWS OF ZAMBIA**

**CHAPTER 25 THE SUPREME COURT OF ZAMBIA ACT**

THE SUPREME COURT OF ZAMBIA ACT

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**CHAPTER 25**

SUPREME COURT OF ZAMBIA

41 of 1973  
26 of 1974  
17 of 1976  
31 of 1976  
5 of 1979

**An Act to provide for the constitution, jurisdiction and procedure of the Supreme Court of Zambia; to prescribe the powers of the Court; and to provide for matters connected therewith or incidental thereto.**

[14th September, 1973]

PART I PRELIMINARYPART I

PRELIMINARY

1. This Act may be cited as the Supreme Court of Zambia Act. Short title
  
2. In this Act, unless the context otherwise requires- Interpretation
  - "appellant" includes applicant;
  
  - "the Court" means the Supreme Court;
  
  - "judgment" includes decree, order, conviction, sentence and decision;
  
  - "Master" means the Master of the Court appointed in pursuance of the provisions of section *twenty-nine*;
  
  - "practitioner" has the meaning assigned to it by section *two* of the Legal Practitioners Act; Cap. 30
  
  - "qualified person" has the meaning assigned to it by section *three* of the Legal Practitioners Act; Cap. 30
  
  - "rules of court" means rules of court made under section *twenty-eight*;
  
  - "sentence" includes any order made on conviction not being-
    - (a) a probation order or an order for conditional discharge;
  
    - (b) an order under any enactment which enables the Court to order the destruction of an animal; or

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- (c) an order made in pursuance of any enactment under which the Court has no discretion as to the making of the order or its terms.

(As amended by No. 31 of 1976)

PART II

CONSTITUTION AND GENERAL POWERS OF THE COURT

3. (1) When the Court is determining any matter, other than an interlocutory matter, it shall be composed of such uneven number of Judges, not being less than three, as the Chief Justice may direct. Constitution of the Court

(2) The determination of any question before the Court shall be according to the opinion of the majority of the members of the Court hearing the case.

4. A single Judge of the Court may exercise any power vested in the Court not involving the decision of an appeal or a final decision in the exercise of its original jurisdiction but- Powers of single Judge of the Court

- (a) in criminal matters if any Judge of the Court 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 Court; and
- (b) in civil 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 Court.

5. A Judge of the Court shall not sit on the hearing of an appeal, nor shall he exercise any power under section *four* in respect of an appeal- Judge not to sit on appeal from his own decision

- (a) from any judgment given by himself or any judgment given by any Court of which he was sitting as a member;
- (b) against a conviction or sentence if he was the Judge by or before whom the appellant was convicted.

6. The Court shall have a seal having a device or impression and bearing an inscription approved by the Chief Justice. Seal

7. The Court shall have jurisdiction to hear and determine appeals in civil and criminal matters as provided in this Act and such other appellate or original jurisdiction as may be conferred upon it by or under the Constitution or any other law. Jurisdiction

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**8.** The jurisdiction vested in the Court shall, as regards practice and procedure, be exercised in the manner provided by this Act and rules of court: Practice and procedure

Provided that if this Act or rules of court do not make provision for any particular point of practice and procedure, then the practice and procedure of the Court shall be-

- (i) in relation to criminal matters, as nearly as may be in accordance with the law and practice for the time being observed in the Court of Criminal Appeal in England;
- (ii) in relation to civil matters, as nearly as may be in accordance with the law and practice for the time being observed in the Court of Appeal in England.

**9.** The process of the Court shall run throughout Zambia and any judgment of the Court shall be executed and enforced in like manner as if it were a judgment of the High Court. Execution of judgment of the Court

**10.** (1) The sittings of the Court shall usually be held at Lusaka or Ndola but may be held at such other place as the Chief Justice may direct. Sittings of the Court

(2) The dates of sittings of the Court shall be determined by the Chief Justice.

(3) The times of sittings of the Court shall be determined by the Chief Justice or, if he is not a member of the Court hearing a case, the next senior Judge of the Court hearing the case.

(4) At any sitting, the Court shall, subject to the provisions of this Act, be composed of such members as the Chief Justice may direct.

**11.** In all proceedings before the Court the parties may appear in person or be represented and appear by a practitioner. Right of audience

PART III CRIMINAL APPEALS PART III

CRIMINAL APPEALS

**12.** (1) Any person convicted on a trial by the High Court may appeal to the Court on any matter of fact as well as on any matter of law, and shall be so informed by the Judge at the conclusion of the trial. First appeals

(2) A person convicted by a subordinate court and committed to the High Court for sentence and sentenced by the High Court shall for all purposes connected with his rights of, and procedural matters relating to, appeal be deemed to have been convicted and sentenced on a trial by the High Court, and accordingly an appeal against such conviction and sentence shall lie to the Court.

(3) If the Director of Public Prosecutions is dissatisfied with a judgment of the High Court in the exercise of its original jurisdiction upon a point of law, he may appeal against such judgment to the Court.

(4) No appeal shall lie against any sentence the imposition of which is fixed by law.

*(As amended by Act No. 31 of 1976)*

**13.** *(Repealed by Act No. 31 of 1976)*

**14.** (1) Any party to an appeal to the High Court may appeal to the Court against the High Court judgment with the leave of that court if given at the time when judgment is pronounced, or with the leave of the Court. Second appeals

(2) For the purposes of this section, an order made by the High Court in the exercise of its revisional jurisdiction, or a decision of the High Court on a case stated, or a decision of the High Court refusing an application for an appeal to be heard out of time, shall be deemed to be a decision of the High Court in its appellate jurisdiction.

(3) Where under section *three hundred and twenty-four* of the Criminal Procedure Code an application for an appeal to be heard out of time has been refused by the High Court, the applicant may apply to the Court for his appeal to be heard by the Court, and if such application is granted the appeal shall be heard by the Court as if it lay direct thereto. Cap. 88

*(As amended by Act No. 26 of 1974)*

**15.** (1) On an appeal against conviction, the Court shall allow the appeal if it is of the opinion that the judgment of the court before which the appellant was convicted or of the High Court in exercise of its appellate jurisdiction should be set aside- Determination of appeals

(a) on the ground that in all the circumstances of the case it is unsafe or unsatisfactory; or

(b) on the ground of a wrong decision on any question of law; or

(c) on the ground that there was a material irregularity in the course of the trial;

and in any other case shall dismiss the appeal:

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

(2) The Court shall, if it allows an appeal against conviction, either quash the conviction and direct a judgment and verdict of acquittal to be entered, or, if the interests of justice so require, order a new trial.

(3) On any appeal, whether against conviction or sentence, the Court may substitute a judgment of guilty of such other offence as the trial court could have entered, and, in the case of an appeal from a judgment of the High Court in its appellate jurisdiction, the Court shall in addition have power to restore the conviction of the trial court.

(4) On any appeal, whether against conviction or sentence, the Court may increase or reduce the sentence, or impose such other sentence or make such other order as the trial court could have imposed or made.

*(As amended by Act No. 17 of 1976)*

- 16.** The Court may, if it thinks it necessary or expedient in the interests of justice- Supplementary powers of the Court
- (a) order the production of any document, exhibit, or other thing connected with the proceedings, the production of which appears to it necessary for the determination of the case;
  - (b) order any witness who would have been a competent and compellable witness at the trial to attend and be examined before the Court, whether he was or was not called at the trial, or order the examination of any such witness to be conducted in manner provided by rules of court before any Judge of the Court or other person appointed by the Court for the purpose, and allow the admission of any deposition so taken as evidence before the Court;
  - (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 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 application to the trial court;
  - (d) remit the case for further hearing to the court from which the appeal was brought, with such instructions as regards the taking of further evidence or otherwise as appear to it necessary;
  - (e) where any question arising at the appeal involves prolonged examination of documents or accounts or any scientific or local investigation which cannot, in the opinion of the Court, conveniently be conducted before the Court, order the reference of the question in manner provided by rules of court for inquiry and report to a special commissioner appointed by the Court, and act upon the report of any such commissioner so far as it thinks fit to adopt it;
  - (f) appoint any person with special expert knowledge to act as an assessor in an advisory capacity in any case where it appears to the Court that such knowledge is required for the proper determination of the case;
  - (g) issue any warrant necessary for enforcing any order or sentence of the Court; and
  - (h) on the application of an appellant and pending the determination of his appeal or application for leave to appeal to the Court, admit the appellant to bail and, in the event of an appellant having been admitted to bail, give any directions which it may consider necessary concerning the time at which the sentence of the appellant shall be resumed or begin to run:

Provided that-

- (i) in no case shall any sentence be increased by reason of or in consideration of any evidence that was not given at the trial; and
- (ii) whenever the Court receives further evidence or gives instructions for the taking of further evidence, it shall make such order as will secure an opportunity to the parties to the proceedings to examine every witness whose evidence is so taken.

**17. (1)** A person who intends to appeal against a judgment of the High Court under this Part shall, within fourteen days of the date of the judgment against which he intends to appeal- Time for appealing

(a) give notice of his intention to appeal; or

(b) if leave to appeal is required, submit an application for such leave;

to the Registrar of the High Court in such manner and form as may be prescribed by rules of court.

(2) (*Repealed by Act No. 31 of 1976*)

(3) If the intending appellant is in prison, the aforesaid notice or application, as the case may be, may, within the said period of fourteen days, be given to the officer in charge of the prison, who shall forward it to the Registrar of the High Court.

(4) The Court may extend the time for giving notice of intention to appeal or of submitting an application for leave to appeal notwithstanding that the time for giving such notice or submitting such application has already expired:

Provided that where sentence of death has been passed, no extension of time shall be granted after the sentence has been confirmed by the President.

(*As amended by Act No. 31 of 1976*)

**18. (1)** In the case of a sentence of death or corporal punishment-

Stay of execution of  
sentence of death or  
corporal punishment

(a) the sentence shall not be executed until after the expiration of the time within which notice of intention to appeal may be given or, as the case may be, an application for leave to appeal may be submitted;

(b) if notice of intention to appeal is so given, the sentence shall not be executed until the appeal has been determined or abandoned;

(c) if the application for leave to appeal is so submitted, the application shall be determined as soon as practicable, and the sentence shall not be executed until the application has been refused or the appeal has been determined or abandoned.

(2) Notwithstanding the provisions of subsection (1), a sentence of corporal punishment imposed or confirmed on appeal by the High Court, or imposed by a subordinate court, may be executed before, the expiration of the time within which notice of intention to appeal to the Court may be given or, as the case may be, an application for leave to appeal may be submitted, if the person sentenced to such corporal punishment has given written notice to the Master or the Registrar of the High Court or the clerk of that subordinate court, as the case may be, that he wishes the sentence to be carried out without further delay and that he-

(a) does not intend to appeal or to apply for leave to appeal; or

(b) has abandoned his appeal or his application for leave to appeal.

**19.** (1) An appellant shall be entitled to be present, if he so desires, at the hearing of his appeal or any application to the Court.

Right of appellant to be present

(2) An appellant who does not appear at the hearing of his appeal by a practitioner may present his case and argument in writing, and any case or argument so presented shall be considered by the Court.

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

**20.** (1) If, in the exercise of powers conferred upon the High Court, it thinks fit to reserve for the consideration and determination by the Court any question decided by the High Court on any exception or objection taken to the information preferred against any person on trial before the High Court for any offence, the High Court shall state the question reserved and direct that the question so stated be transmitted to the Master for consideration and determination by the Court.

Reservation for consideration of the Court of decisions on exceptions and objections to informations

(2) The Court shall determine any question reserved for its consideration under subsection (1).

(3) On the determination by the Court of a question reserved for its consideration in terms of subsection (1), the Court may make an order confirming, amending or setting aside the decision in respect of which the question was reserved and give such directions as the Court thinks fit to give as to the information and the further proceedings before the High Court.

**21.** (1) If it appears to any Judge of the Court that any notice of an appeal against a conviction is frivolous or vexatious or does not show any substantial ground of appeal, such Judge may direct the Master to refer the appeal to the Court for summary determination, and, when the appeal is so referred, the Court may, if it considers that the appeal is frivolous or vexatious or does not show any substantial ground of appeal and the appeal can be determined without adjourning the same for a full hearing, dismiss the appeal summarily without calling on any person to attend the hearing or to appear for the People thereon.

Procedure with respect to frivolous or unsubstantial appeals

(2) The provisions of subsection (1) shall not apply in the case of an appeal by a person upon whom a sentence of death is passed.

**22.** (1) Where the High Court has, in exercise of its powers under section *three hundred and thirty-six* of the Criminal Procedure Code, refused to admit an appellant to bail or to postpone the payment of any fine imposed upon him, the Court may, if it deems fit, on the application of the appellant, and pending the determination of his appeal or application for leave to appeal to the Court in a criminal matter-

Provisions as to bail.  
Cap. 88

- (a) admit the appellant to bail, or if it does not so admit him, direct him to be treated as an unconvicted prisoner pending the determination of his appeal or of his application for leave to appeal, as the case may be; and
- (b) postpone the payment of any fine imposed upon him.

(2) The time during which an appellant, pending the determination of his appeal, is admitted to bail, and, subject to any directions which the Court may give to the contrary in any appeal, the time during which the appellant, if in custody, is treated as an unconvicted prisoner under this section, shall not count as part of any term of imprisonment under his sentence. Any imprisonment of the appellant under the sentence, whether it is the sentence passed by the court of trial or by the High Court in its appellate jurisdiction or the sentence passed by the Court, shall, subject to any directions which the Court may give to the contrary, be deemed to be resumed or to begin to run, as the case requires-

- (a) if the appellant is in custody, as from the day on which the appeal is determined;
- (b) if the appellant is not in custody, as from the day on which he is received into goal under the sentence.

#### PART IV CIVIL APPEALS FROM THE HIGH COURT

##### CIVIL APPEALS FROM THE HIGH COURT

**23.** Subject to the exceptions and restrictions contained in section *twenty-four*, an appeal in any civil cause or matter shall lie to the Court from any judgment of the High Court.

Right of appeal in civil cases

**24.** (1) No appeal shall lie-

Restrictions on civil appeals

- (a) from an order allowing an extension of time for appealing from a judgment;
- (b) from an order of a Judge giving unconditional leave to defend an action;

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- (c) from a judgment given by the High Court in the exercise of its appellate or revisional jurisdiction without the leave of the High Court or, if that has been refused, without the leave of a Judge of the Court;
- (d) from an order of the High Court or any Judge thereof made with the consent of the parties or from an order as to costs only which by law is left to the discretion of the court without the leave of the court or of the Judge who made the order or, if that has been refused, without the leave of a Judge of the Court;
- (e) from an order made in chambers by a Judge of the High Court or from an interlocutory order or interlocutory judgment made or given by a Judge of the High Court, without the leave of the Judge or, if that has been refused, without the leave of a Judge of the Court, except in the following cases:
  - (i) where the liberty of the subject or the custody of infants is concerned;
  - (ii) where an injunction or the appointment of a receiver is granted or refused;
  - (iii) in the case of a decision determining the claim of any creditor or the liability of any contributory or the liability of any director or other officer under the Companies Act;
  - (iv) in the case of a *decree nisi* in a matrimonial cause or a judgment or order in any Admiralty action determining liability;
  - (v) in the case of an order on a special case stated under any law relating to arbitration;
- (f) from an order absolute for the dissolution or nullity of marriage made by a Judge in favour of any party who, having had time and opportunity to appeal from the *decree nisi* on which the order was founded, has not appealed from that decree.

Cap. 388

(2) An order refusing unconditional leave to defend an action shall not be deemed to be an interlocutory order or interlocutory judgment within the meaning of paragraph (e) of subsection (1).

**24A.** An appeal shall lie to the Court in any civil proceedings upon application for *habeas corpus* against an order for the release of the person restrained as well as against the refusal of such an order.

Appeal in *habeas corpus* proceedings

(As amended by Act No. 5 of 1979)

**25.** (1) On the hearing of an appeal in a civil matter, the Court-

Powers of the Court on an appeal in civil matters

- (a) shall have power to confirm, vary, amend, or set aside the judgment appealed from or give such judgment as the case may require;

- (b) may, if it thinks it necessary or expedient in the interests of justice-
- (i) 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;
  - (ii) order any witness who would have been a competent and compellable witness at the trial to attend and be examined before the Court, whether he was or was not called at the trial, or order the examination of any such witness to be conducted in manner provided by rules of court before any Judge of the Court or before any officer of the Court or other person appointed by the Court for the purpose, and allow the admission of any deposition so taken before the Court;
  - (iii) receive the evidence, if tendered, of any witness (including any party) who is a competent but not compellable witness, and if a party makes application for the purpose, of the husband or wife of that party in cases where the evidence of the husband or wife could not have been given at the trial except on application to the trial court;
  - (iv) remit the case to the High Court for further hearing, with such instructions as regards the taking of further evidence or otherwise as appear to it necessary; and
- (c) shall, if it appears to the Court that a new trial should be held, have power to set aside the judgment appealed against and order that a new trial be held.

(2) Whenever the Court gives instructions for the taking of further evidence, it shall make such order as will secure an opportunity to the parties to the proceedings to examine every witness whose evidence is taken.

## PART V MISCELLANEOUSPART V

### MISCELLANEOUS

**26.** (1) The Court or any judge thereof may require and administer any necessary oath. Administration of oaths

(2) The form of an oath shall be the same, as nearly as may be, as that which is used in the High Court.

(3) Any person who, by law, is entitled to make an affirmation instead of taking an oath, may do so in any cause or matter in the Court, and shall do so in the form prescribed by law.

**27.** When the presence of an appellant who is in custody is necessary or desirable at the hearing of his appeal or he exercises the right conferred upon him by section *nineteen* to be present at the hearing of his appeal, a judge of the Court may issue a warrant for the production of the appellant at the appeal

Warrant for production of appellant before the Court

**28.** The Chief Justice may, by statutory instrument, make rules of court for regulating generally the practice and procedure of the Court and with respect to appeals to or reviews by the Court including rules as to the time within which any requirement of the rules is to be complied with, as to the costs of and incidental to any proceedings in the Court and as to the fees to be charged in respect of proceedings therein and generally in regard to any other matter which appears to the Chief Justice to be necessary or desirable.

Rules of Court

**29.** (1) There shall be a Master and such other officers as may be necessary to give effect to the provisions of this Act.

Officers of the Court

(2) The Master shall be appointed by the Judicial Service Commission.

(3) The Registrar of the Court of Appeal immediately prior to the commencement shall be the first Master.

**30.** Has had its effect.

**31.** Obsolete.

## **SUBSIDIARY LEGISLATION**

### THE SUPREME COURT RULES.

#### ARRANGEMENT OF RULES

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##### GENERAL

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MISCELLANEOUS AND TRANSITIONAL PROVISIONS

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- 77. Orders as to costs
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70 of 1975  
85 of 1975  
100 of 1986  
173 of 1990  
45 of 1995  
86 of 1997  
Act No. 13 of 1994

PART I

GENERAL

- 1. These Rules may be cited as the Supreme Court Rules Title
  
- 2. (1) In these Rules, unless the context otherwise requires- Interpretation
  - "appellant" includes applicant;
  - "court below" includes, in relation to an appeal to the Court, any court established for the Republic and any judicial or quasi-judicial tribunal or body in respect of the judgment of which or the proceedings before which such appeal is brought to the Court, either directly or by way of further appeal from the judgment of a court acting in its appellate jurisdiction;
  - "direct appeal" means an appeal direct from a subordinate court to the Court in terms of section *twelve* of the Act;
  - "first appeal" means an appeal against a judgment of the High Court in the exercise of its original criminal jurisdiction and against a judgment of a subordinate court in the case of a direct appeal;
  - "judgment" includes, in addition to the meaning assigned to it by section *two* of the Act, summing up;

- "officer in charge of the prison" means the person appointed to be, or deemed to be, in charge of a prison under the provisions of section *five* of the Prisons Act;
- "presiding judge" means, in relation to the hearing of any appeal or any application therein or to the delivery of any judgment thereon, the senior judge of the Court as constituted for that appeal or application;
- "proceedings" includes, in relation to an appeal to the Court, the proceedings at first instance in respect of which the appeal is brought and any proceedings subsequent thereto by way of appeal and all applications relating to such proceedings as aforesaid;
- "register", in relation to the registration of any proceedings in the Court, means the appropriate register kept by the Master for registration of the proceedings in question;
- "Registrar of the High Court" includes Deputy Registrar and District Registrar of the High Court;
- "Registry" means the Registry of the Court in Lusaka;
- "respondent" includes any person served with a notice of appeal or application, notice of motion, or summons, or entitled to be so served, and includes, in relation to a criminal offence, the Director of Public Prosecutions;
- "respondent's notice" means the notice of cross-appeal which a respondent is required to give under rule 61;
- "revenue stamps" means stamps prescribed by any written law for use in payment of fees;
- "second appeal" means an appeal against a judgment of the High Court in the exercise of its appellate criminal jurisdiction;
- "single judge" means a single judge of the Court;
- "subsequent appeal" means an appeal from the judgment of a court below acting in its appellate or revisional jurisdiction.

(2) In these Rules, unless the context otherwise requires, in the case of a direct appeal-

- (i) a reference to the High Court shall be read as a reference to the subordinate court whose judgment is the subject of the appeal;
- (ii) a reference to the trial judge shall be read as a reference to the trial magistrate; and
- (iii) a reference to the Registrar of the High Court shall be read as a reference to the clerk of the subordinate court in question.

**3.** (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.

Notice of sittings, vacations and business

(2) Vacations of the Court and arrangements made for business during vacations shall be advertised and notified in like manner.

**4.** (1) The Registry shall be situated in Lusaka.

Registry

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(2) Proceedings in the Court shall be instituted in the Registry.

(3) All documents and proceedings filed subsequently to the institution of any proceedings in the Court shall be filed in the Registry.

5. Any act required to be done by a person on a date which falls on a Saturday or on a Sunday or a public holiday shall be valid and effective if done on the next following day not being a Saturday or a Sunday or a public holiday.

Acts to be done on a Saturday, Sunday or public holiday

6. Whenever under these Rules any document other than a record of appeal is required to be filed with the Court there shall also be filed four copies of such document, but the Master may in any case order that a greater or lesser number of copies shall be filed.

Copies

7. Interlocutory applications may be heard and determined by a single judge:

Interlocutory applications

Provided that no direction or order made on an interlocutory application shall operate so as to prejudice the Court from giving such decision upon the case as may be just.

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

Setting aside or varying order of Master

*(As amended by S.I. No. 85 of 1975)*

9. (1) All summonses, warrants, orders, rules, notices and mandatory processes whatsoever of the Court may be signed by any judge of the Court or by the Master and shall be sealed with the seal of the Court. Every order of the Court shall be dated as of the date on which the judgement was given or order made and shall in addition show the date on which the order was extracted.

Process of the Court and service

(2) Process of the Court may be served in such manner as the Court may direct. Service shall ordinarily be personal, but where a party to any proceeding has given an address for service, service may be effected by delivery at that address. The Court may order substituted service of any process and may order that service be deemed to have been effected at any time and in any manner.

(3) Subject as aforesaid, and unless the Court shall otherwise order, service of any process shall be effected in such manner as would be appropriate if it were process of the High Court.

(4) The Court may order that process of the Court be served out of the jurisdiction, or that notice thereof be served in lieu in like manner.

(5) The Court may in any case order that process of the Court be served upon any party to the proceedings in the Court below on whom it has not been served, or upon any person not party to those proceedings.

**10.** (1) All proceedings in the Court shall be on metric A4 paper of good quality, unless the nature of the document renders it impracticable, and shall be clear and easily legible and may be printed, mimeographed, typewritten, written or reproduced in photostat, or in any combination of those media. Only one side of the paper shall be used and a margin of not less than 4 centimetres shall be left on the left-hand side of each sheet to permit of binding in book form.

Form of proceedings

(2) Whatever medium of reproduction may be adopted the taxing officer shall on taxation allow only those costs which would in his opinion have been incurred by using the most economical method permitted.

(3) A record of appeal shall be bound in book form with an outside cover of stout paper, and may, if long, be in more volumes than one. The title of the appeal shall appear on the outside cover.

(4) A record of appeal shall be paged continuously throughout, but in criminal cases the preliminary pages comprising the documents relating to the appeal may for this purpose be disregarded.

(5) Every fifth line of every record of appeal shall be indicated by numbering in the unbound portion of the margin.

**11.** The Court shall have power to allow amendment of any proceedings in the Court.

Power to amend

**12.** (1) The Court shall have power for sufficient reason to extend time for making any application, including an application for leave to appeal, or for bringing any appeal, or for taking any step in or in connection with any appeal, notwithstanding that the time limited therefor may have expired, and whether the time limited for such purpose was so limited by the order of the Court or by these Rules, or by any written law.

Extension of time and late applications

(2) An application to the Court for an extension of time under this rule in criminal cases shall be in Form CRIM/3 and in Civil cases in Form CIV/2 of the Third Schedule.

(3) In any order extending the time for doing any act, the Court shall specify the time within which such act shall be done.

(4) The Registrar of the High Court or the Master, as the case may be, shall not file any notice of appeal or other document instituting an appeal or any application which is delivered after the expiration of the times set out in these Rules unless leave to appeal or to make application out of time has been obtained, but shall notify the appellant or his practitioner that his appeal or application is out of time.

**13.** The fees set out in the First Schedule shall be payable in respect of proceedings in and in relation to the Court. Prescribed fees

Provided that no fees shall be payable upon a criminal appeal, or on any application in connection therewith, or for the supply of a copy of the record of appeal therein to any appellant or respondent.

**14.** The forms set out in the Third Schedule shall be used when applicable and practicable with such variations as the circumstances of the particular case require. Prescribed forms

**15.** (1) The costs of any proceedings in the Court, unless assessed by the Court, shall be taxed by the Master or such other officer of the Court as the Chief Justice may designate in any particular case or cases, in accordance with the provisions and scales set out in the Second Schedule. Costs

(2) If in any civil appeal the services of any interpreter other than an official Court interpreter are required, the Court may direct that the expenses and fees of such interpreter shall be borne by any party and the same may be assessed or taxed accordingly.

(3) Any person aggrieved by an order on taxation may apply to a single judge to have the order complained of set aside or varied, and such judge may make such order thereon as he thinks fit.

(4) Any person aggrieved by an order of such judge may apply to the court to set aside or vary such order, and the court may make such order thereon as it thinks fit.

**16.** (1) The Master shall, after obtaining directions from the Chief Justice, cause notice of the date, time and place of hearing of an application or appeal to be served upon the appellant and respondent or their practitioners. Notice of hearing and non-appearance at hearing

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(2) It shall not be necessary to serve notice of hearing on any person who has lodged a statement of his case under rule 34 and who has signified that he does not intend to appear at the hearing.

(3) When at the time set down for the hearing of an application or appeal there is no appearance for the appellant and no written argument has been submitted in terms of rule 34, the Court may strike out the application or appeal or may proceed to determine the application or appeal after hearing any other party or practitioner present and entitled to be heard.

**17.** Whenever application may be made to the Court or to the High Court, it shall be made in the first instance to the High Court. Applications to the High Court first

**18.** (1) An application to the Court not involving the decision of an appeal shall, unless made informally in the course of the hearing of an appeal, be made in the first place to a single judge. Applications to the Court

(2) Applications to a single judge shall be heard in open court or in chambers as the single judge may direct.

(3) If an appeal is pending, any application made in connection therewith shall be intitled in the appeal.

(4) If no appeal is pending, an application shall be intitled as a criminal or civil application and in the matter of the intended appeal or otherwise as may be appropriate.

(5) For the purpose of this rule, an appeal shall not be pending until it has been duly entered in the register of the Court.

(6) For the purpose of constituting a Court, the single judge who has dealt with or refused any application may sit as a member of such Court and take part in determining such application.

**19.** If a respondent intends to take a preliminary objection to any appeal he shall, if practicable, give reasonable notice thereof to the Court and to the other parties to the appeal, and if such notice be not given the Court may refuse to entertain the objection or may adjourn the hearing and make such order as to the Court may seem just. The provisions of this rule shall apply *mutatis mutandis* to a cross-appeal. Preliminary objection

**20.** The Court shall have power to adjourn any proceedings pending or current before it from time to time and from place to place. Adjournment

PART II CRIMINAL APPEALS PART II

CRIMINAL APPEALS

**21.** This Part shall apply only to criminal appeals and applications and to matters related thereto. Application

**22.** Every appeal shall be brought by notice of intention to appeal or by an application for leave to appeal. Institution of appeal

**23. (1)** Every notice of intention to appeal shall be in writing and shall be lodged in triplicate with the Registrar of the High Court within fourteen days of the date of the judgment appealed against. Notice of intention to appeal

(2) Every notice of intention to appeal shall state shortly the effect of the judgment appealed against, shall contain a full and sufficient address at which any notice or document connected with the appeal may be served upon the appellant or upon his practitioner, and, subject to the provisions of rule 28, shall be signed by the appellant or his practitioner.

(3) The Registrar of the High Court shall forthwith transmit two copies of the notice of intention to appeal to the Master who shall enter the appeal in the register and inform the Registrar of the High Court of the serial number assigned thereto.

(4) Upon receipt of a notice of intention to appeal, the Master shall notify the Director of Public Prosecutions thereof by sending him a copy of the notice.

(5) Where more persons than one have been jointly tried and any two or more of them desire to appeal, they may at their option file separate or joint notices of intention to appeal. Every notice of intention to appeal shall be deemed to institute one appeal, but where more appeals than one are brought arising from convictions at the same trial they shall, unless the Court otherwise orders, be deemed to have been consolidated and shall proceed as one appeal.

(6) A notice of intention to appeal shall be substantially in Form CRIM/1 of the Third Schedule.

**24.** (1) Save where leave to appeal has been given by the High Court as provided in subsection (1) of section *fourteen* of the Act, an appellant seeking leave to appeal shall apply for such leave by lodging with the Master within fourteen days of the judgment against which he intends to appeal a notice in triplicate substantially in Form CRIM/2, and the Master shall forthwith enter the application in the register and notify the Registrar of the High Court of the application and the serial number assigned thereto: Leave to appeal

Provided that where leave to appeal is given by the High Court when judgment is pronounced, notice of intention to appeal shall be lodged in the manner provided by rule 23 and shall be endorsed by the Registrar of the High Court with a certificate that such leave has been granted.

(2) Where leave to appeal is given by the Court or a single judge, the Master shall notify the Director of Public Prosecutions and shall send him a copy of the notice of application for leave to appeal.

**25.** (1) The appellant may include in the notice of intention to appeal grounds of appeal setting out in paragraphs numbered consecutively particulars of the matters in regard to which the court below is alleged to have erred: Grounds of appeal

Provided that if grounds of appeal are not so included the appellant shall file grounds of appeal as aforesaid within fourteen days after receipt of the copy of the record referred to in rule 31 and should the appellant fail to file grounds of appeal within such period the appeal shall be deemed to have been abandoned.

(2) Where grounds of appeal have been included in the notice of intention to appeal the appellant may file additional or amended grounds of appeal within fourteen days after receipt of the copy of the record.

(3) Every application for leave to appeal shall contain a statement of the appellant's grounds of appeal as aforesaid and if leave is granted the appellant may file additional or amended grounds of appeal within fourteen days of receipt of the record.

(4) Except by leave of the court the appellant shall not be permitted on the hearing of the appeal to rely on any grounds of appeal other than those referred to in this rule, but nothing in this sub-rule shall restrict the power of the court to make such order as the justice of the case may require.

**26.** Any application made to the Court and not specifically dealt with elsewhere in these Rules shall be brought by notice in writing setting out the nature of the application and shall be lodged in triplicate with the Master. Other criminal applications

**27.** Where any application has been dealt with by a single judge, the Master shall notify the appellant in Form CRIM/11 of the decision thereon. When an appellant is notified that such application has been refused he shall, if he wishes his application to be heard by the full Court, lodge with the Master within fourteen days of receipt of such notification a notice substantially in Form CRIM/12 requesting his application to be heard by the full Court. If the appellant has not lodged such notice within the time prescribed, the refusal of his application by such judge shall be final.

Procedure where  
single judge refuses  
application

(As amended by S.I. No 85 of 1975)

**28.** (1) If the appellant is of unsound mind or is under any disability which prevents him from signing his name, any notice or proceedings may be signed on his behalf by a practitioner or by any person including a medical officer or officer in charge of the prison in whose care or custody he may be for the time being.

Signature of  
proceedings

(2) In lieu of a signature an appellant may append his mark or his thumbprint to any notice or proceedings.

**29.** (1) Subject to the provisions of section *eighteen* of the Act no appeal shall operate as a stay of execution, but the High Court or the Court may stay execution on any judgment, pending appeal, on such terms as to security for the payment of any money or the performance or non-performance of any act or the suffering of any punishment ordered by or in such judgment, as to such Court may seem reasonable.

Stay of execution

(2) Where stay of execution of a judgment containing a sentence of imprisonment is ordered under sub-rule (1) and the Court subsequently dismisses the appeal, or makes an order that the appellant shall serve some term of imprisonment, then the time during which the execution of the judgment was so stayed shall be excluded in computing the term of such sentence unless the Court otherwise orders.

**30.** If in any case the Court considers that explanation of the judgment of the trial court would be of assistance to the Court, it may direct that such explanation shall be furnished and shall form part of the record of the proceedings in addition to the judgment.

Grounds of decision

**31.** (1) Upon receipt of a notice of intention to appeal or application for leave to appeal, the Registrar of the High Court shall forthwith prepare the record and transmit to the Master five copies thereof together with the original record (including where appropriate the original record of any preliminary inquiry). Original exhibits, other than documentary exhibits, shall not ordinarily be so transmitted but shall be retained by the Registrar of the High Court who shall transmit the same to the Court only if the Court shall so direct.

Preparation of record

(2) The Registrar of the High Court shall also furnish each appellant and each respondent to an appeal with a copy of the said record.

(3) Every record shall be prepared in accordance with rule 10 and shall comprise the following items in the order in which they are hereinafter set out:

- (a) in the case of a first appeal:
  - (i) a complete index of the evidence and all proceedings and documents in the case showing the pages at which they appear. As regards the trial judge's notes of the evidence and any transcript of a shorthand note or an electronic or other mechanical recording of the evidence, the index shall show the names of all witnesses and the relevant pages of the record as well as indicating the numerical sequence of witnesses. Whenever the record comprises more than one volume, the index shall appear in the first volume only;
  - (ii) a certificate of record as required by sub-rule (4);
  - (iii) the notice of intention to appeal;
  - (iv) any grounds of appeal filed separately from the notice of intention to appeal, or additional or amended grounds of appeal;
  - (v) a copy of the appeal aid certificate (if any) granted by the High Court;
  - (vi) the information or charge;
  - (vii) the plea;
  - (viii) the proceedings including the evidence as recorded in the trial judge's notes of the trial or, if such proceedings were recorded by shorthand or by means of a recording apparatus, a copy of the transcript thereof;

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Provided that the court may call for the production of the judge's notes of the proceedings;

- (ix) a record of the evidence adduced, if any, in mitigation of sentence;
- (x) in the case of a trial with assessors, the summing up to the assessors and their recorded opinions;
- (xi) the judgment and sentence of the High Court;
- (xii) any explanation of the judgment furnished pursuant to rule 30;
- (xiii) a record of the proceedings on or after sentence, in so far as not included in the note or transcript of the hearing;
- (xiv) a list of the previous convictions (if any) of the accused;
- (xv) a list of the exhibits put in at the trial, indicating those which are being retained by the trial court and those which are being forwarded to the Court;
- (xvi) all documentary exhibits put in at the trial, including any deposition admitted in the absence of an intended witness, photographs and plans:

Provided that in the case of books of account or documents of great length or bulkiness, copy extracts of the relevant parts thereof only shall be included;

- (xvii) any other documents which the trial judge may order to be included, or which appear to the Registrar of the High Court to be necessary for the proper disposal of the appeal, such as reports on the appellant's state of mind or health, made after sentence;

(b) in the case of a second appeal:

- (i) a complete index of the evidence and all proceedings and documents in the case showing the pages at which they appear. As regards the notes of the evidence taken at the trial or any transcript of a shorthand note or electronic or other mechanical recording of such evidence, the index shall show the names of all witnesses and the relevant pages of the record as well as indicating the numerical sequence of witnesses. Whenever the record comprises more than one volume the index shall appear in the first volume only;
- (ii) a certificate of record as required by sub-rule (4);
- (iii) the application for leave to appeal or, where leave to appeal has been given by the High Court as provided in subsection (1) of section *fourteen* of the Act, the notice of intention to appeal;
- (iv) any grounds of appeal filed separately from the application for leave to appeal or the notice of intention to appeal, as the case may be, or additional or amended grounds of appeal;
- (v) the notice of appeal to the High Court;
- (vi) a copy of the appeal aid certificate (if any) granted by the High Court;
- (vii) the proceedings including the evidence as recorded in the trial magistrate's notes of the trial or, if such proceedings were recorded by shorthand or by means of a recording apparatus, a copy of the transcript thereof;

Provided that the court may call for the production of the magistrate's notes of the proceedings;

- (viii) the judgment of the High Court;
- (ix) any explanations of the judgment of the trial court furnished pursuant to rule 30;
- (x) a record of the proceedings on or after sentence, in so far as not included in the note or transcript of the hearing;
- (xi) a record of any additional evidence given, or any exhibits received, at the hearing of the appeal before the High Court;
- (xii) any other documents which the judge hearing the appeal in the High Court may order to be included, or which appear to the Registrar of the High Court to be necessary for the proper disposal of the appeal, such as reports on the appellant's state of mind or health, made after sentence.

(4) It shall not be necessary that copies of individual documents be separately certified, but the Registrar of the High Court, or any officer of such court appointed by him for such purpose, or, in the case of a direct appeal, the clerk of the subordinate court, shall certify as correct each copy of the record to be transmitted by him under the provisions of this rule.

**32.** (1) If the appellant is in prison he shall be deemed to have complied with the requirements of these Rules if he gives to the officer in charge of the prison his notice of intention to appeal or application for leave to appeal within the time prescribed.

Procedure where appellant in prison

(2) Such officer shall forthwith record on such notice or application the date of receipt thereof and shall forward the same to the Registrar of the High Court.

**33.** (1) An appellant, at any time after he has lodged notice of intention to appeal or notice of application for leave to appeal, or for an extension of time within which such notice shall be given, may abandon his appeal or application by giving notice thereof to the Master substantially in Form CRIM/5 of the Third Schedule and, upon such notice being given, the appeal or application shall without further order be deemed to have been dismissed or refused by the Court.

Abandonment of appeal

(2) The Master shall give notice of such dismissal or refusal to the Registrar of the High Court and to the respondent and, if any stay of execution has been granted, the sentence or order of the High Court shall forthwith be enforced.

(3) If an appellant is alleged to be of unsound mind, his appeal or application shall not be abandoned without leave of the Court.

**34.** Where an appellant wishes to present his case in writing under the provisions of subsection (2) of section *nineteen* of the Act, he shall within fourteen days of the receipt by him of the copy of the record lodge five copies of the written statement of his case with the Master.

Presentation of appellant's case in writing

**35.** The Court may require an appellant or respondent who will be represented by a practitioner at the hearing of the appeal to prepare a document setting out the main heads of his argument together with the authorities to be cited in support of each head, and to deliver five copies of such heads of argument to the Master and one copy thereof to each of the other parties to the appeal within such period prior to the day fixed for the hearing of the appeal as may be specified by the Court.

Heads of argument

**36.** (1) If the appellant is the People, it shall not be necessary for the respondent to appear at the hearing of the appeal, but if the Court is disposed to allow the appeal it may direct his attendance to hear judgment:

Attendance at hearing

Provided that the Court may for any sufficient reason direct his attendance at any earlier time.

(2) If on the day fixed for the hearing of an appeal the appellant does not appear in person or by practitioner, the appeal may, if the appellant has presented his case in writing or has informed the Court that he does not wish to attend, be heard in his absence, and in any other case may, in the discretion of the Court, be summarily dismissed or heard in the appellant's absence.

(3) Where an appeal is dismissed under sub-rule (2), the Court may restore the appeal for hearing if it is proved to the satisfaction of the Court that the appellant was prevented by any sufficient cause from appearing, whether in person or by practitioner, when the appeal was called on for hearing.

**37.** The Court may, in its discretion, on the application of any person desirous of appealing or cross-appealing who may be debarred from so doing by reason of his not having observed some formality or some requirement of these Rules, permit such person to prosecute his appeal or cross-appeal, as the case may be, upon such terms as to costs or otherwise and subject to such directions as it may consider desirable in order that substantial justice may be done in the matter.

Irregularities

**38.** At the hearing of an appeal the Court shall hear the appellant or his practitioner, if he appears, and, if it thinks fit, the respondent or his practitioner, if he appears, and may hear the appellant or his practitioner in reply, and the Court shall thereupon, subject to the provisions of rule 41, determine the said appeal, and may make any order therein in conformity with the provisions of the Act as to it may seem just, and may by such order exercise any power which any court below might have exercised.

Hearing and orders on appeal

**39.** (1) In dealing with any appeal the Court may, if it thinks additional evidence to be necessary, either take such evidence itself or direct it to be taken by the trial court or by the Master or by some other person as commissioner.

Additional evidence  
and report

(2) When additional evidence is taken by the trial court it shall certify such evidence, with a statement of its opinion as to the credibility of the witness or witnesses giving such additional evidence, to the Court. When additional evidence is taken by the Master or a commissioner, he shall certify such evidence to the Court. The Court shall thereupon proceed in either case to dispose of the appeal.

(3) The parties to the appeal shall be entitled to be present when such additional evidence is taken, but such evidence shall not be taken in the presence of a jury or assessors.

(4) In dealing with any appeal the Court may also, if it thinks fit, call for and receive from the trial court a report on any matter connected with the trial, and in dealing with any second appeal, the Court may in addition, if it thinks fit, call for and receive from the High Court a report on any matter connected with the appeal proceedings before it.

**40.** When an order for the restitution of any property to any person, or for the forfeiture or other disposal of any property belonging to any person, has been made by any court below in the course of any criminal trial or appeal, then any person in whose favour or against whom any such order has been made, and, with the leave of the Court, any other person, shall, on the hearing by the Court of an appeal against the judgment whether at first instance or on appeal relating to the conviction in respect of which such order was made, be entitled to be heard by the Court in regard to such order.

Order for disposal of  
property

**41.** (1) On the termination of the hearing of an appeal the Court shall, either at once or on some future day which shall either then be appointed for the purpose or of which notice shall subsequently be given to the parties, deliver judgment in open court:

Judgment in criminal  
cases

Provided that if the presiding judge so directs the Court shall not sit for the purpose of delivering judgment, but the judgment of the Court or of the members of the Court, as the case may be, shall be read in open court by a judge thereof or by the Master at the time and place appointed or fixed as aforesaid.

(2) The Court shall ordinarily give only one judgment, which may be pronounced by the presiding judge or by such other member of the Court as the presiding judge may direct:

Provided that-

- (i) if any judge of the Court dissents from the judgment of the Court it shall not be obligatory on him to sign the same;
- (ii) separate judgments shall be delivered if the presiding judge so directs.

(3) The judgment of any member of the Court who is absent may be read by any other judge of the Court or by the Master.

**42.** (1) Whenever a criminal appeal or matter is decided, the judgment or order of the Court shall be embodied in a formal order by the Master, and a sealed copy of such order shall be sent by the Master to the trial court and, in the case of a second appeal, to the High Court. In drawing up such order it shall not be necessary for the Master to consult the parties to the appeal or their practitioners. Order

(2) The trial court and, in the case of a second appeal, the High Court, shall thereupon make such orders as are necessary and conformable to the order of the Court and, if necessary, the record shall be amended in accordance therewith.

**43.** The Master shall inform each court below and, when the appellant is in prison, the officer in charge of the prison, and so far as possible any party to any proceeding in the Court who was not present or represented at the hearing thereof, of the result of such proceeding. Notifying decision

(As amended by S.I. No. 85 of 1975)

**44.** On the hearing and determination of an appeal or any proceedings preliminary or incidental thereto, no costs shall be allowed on either side unless the Court otherwise orders. Costs

**45.** Upon the final determination of an appeal the Master shall return any original depositions and exhibits to the Registrar of the High Court. Return of original depositions and exhibits Bail

**46.** (1) An application for bail to the Court shall be made substantially in Form CRIM/6 of the Third Schedule.

(2) The provisions of sections *one hundred and twenty-three to one hundred and thirty-one* (both inclusive) and *one hundred and thirty-three* of the Criminal Procedure Code shall apply *mutatis mutandis* to applications for, and the grant of, bail by the Court. Cap. 88

### PART III CIVIL APPEALS PART III

#### CIVIL APPEALS

**47.** This Part shall apply only to civil appeals and applications and to matters related thereto. Application and interpretation

**48.** (1) Applications to a single judge shall be made by motion or summons, which shall state the grounds of the application, and shall if necessary be supported by affidavits. The proceedings and other documents relating thereto shall be filed in duplicate. Civil applications

(2) Notice of motion and copies of any affidavits and other documents filed shall be served on all necessary parties not less than two clear days before the hearing:

Provided that in case of urgency application may be made *ex parte* and without notice, but in any case a certificate of urgency signed by the practitioner for the applicant, or, if none, by the Master, shall be filed with the proceedings.

(3) Any application made to a single judge may be adjourned by him for the consideration of the Court. In such event the applicant shall before the date of the adjourned hearing file three extra copies of any affidavits filed by any respondent prior to such order for adjournment, for the use of the Court.

(4) Any person aggrieved by any decision of a single judge who desires to have such decision varied, discharged or reversed by the Court under paragraph (b) of section *four* of the Act, shall in like manner file before the hearing by the Court three extra copies of the proceedings, including copies of any affidavits filed by any other party prior to the single judge's decision, for the use of the Court.

(5) An application involving the decision of an appeal shall be made to the Court in like manner as aforesaid, but the proceedings shall be filed in quintuplicate and the application shall be heard in Court unless the Chief Justice or presiding judge shall otherwise direct.

(6) Every order on an application, other than an order for adjournment or an order made without formal application in the course of the hearing of an appeal, shall be drawn up and filed with the proceedings at the instance of the party in whose favour the order was granted.

(7) A notice of motion shall be substantially in Form B of the Third Schedule, and the relative motion paper shall be in similar form.

(8) A summons shall be substantially in Form C of the Third Schedule.

**49.** (1) Any person desiring to appeal to the Court shall give notice of appeal as hereinafter provided. Notice of appeal

(2) the notice of appeal shall be intitled in the proceedings from which it is intended to appeal and shall be filed therewith in duplicate with the Registrar of the High Court, and shall be so filed within thirty days after the judgment complained of. The Registrar of the High Court shall forward one copy of the notice to the Master. One copy of the notice of appeal for each party directly affected by the appeal shall at the same time be submitted by the Registrar of the High Court to the Master for sealing and return to the appellant or his practitioner for service in accordance with sub-rule (5).

(3) A notice of appeal shall be substantially in Form CIV/1 of the Third Schedule.

(4) Any appellant may appeal from the whole or any part of a decision and the notice of appeal shall state whether the whole or part only, and what part, of the decision is complained of.

(5) The notice of appeal shall be served within the period of thirty days on all parties directly affected by the appeal or their practitioners respectively. It shall not be necessary to serve parties not so affected. The names and addresses of all persons intended to be served shall be stated in the notice of appeal.

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

**50.** (1) Leave to appeal to the Court may be granted or refused by the High Court without formal application at the time when judgment is given, and in such event the judgment shall record that leave has been granted or refused accordingly. If leave is granted, the appellant shall proceed to give notice of appeal in accordance with the provision of rule 49.

Leave to appeal

(2) In all other cases application to the High Court for leave to appeal to the Court shall be by motion or summons, which shall state the grounds of the application, and shall, if necessary, be supported by affidavit. Such application shall be intitled and filed in the proceedings from which it is intended to appeal, and all necessary parties shall be served. If leave is granted, the order giving leave shall be included in the record of appeal. If leave is refused, the order refusing leave shall be produced on any application for leave to appeal made subsequently to the Court.

(3) An application to the Court for leave to appeal shall be made in accordance with rule 48.

**51.** An appeal shall not operate as a stay of execution or of proceedings under the decision appealed from unless the High Court or the Court so orders and no intermediate act or proceeding shall be invalidated except so far as the Court may direct.

Appeal not to operate as stay of execution

**52.** (1) On the application of any person who has within the time limited given notice of appeal against any judgment, the judge who gave or made the same shall, unless the judgment was written, certify in writing the grounds of such judgment; but delay or failure so to certify shall not prevent the appellant from proceeding with his appeal.

Certificate of grounds of judgment

(2) The Registrar of the High Court shall on the application of any party and upon payment of the prescribed fee furnish such party with a copy of the judgment or, as the case may be, the certificate in writing of the grounds of the judgment.

*(As amended by S.I. No. 85 of 1975)*

**53.** (1) Where in any proceeding in the High Court a party has given an address for service, notice of appeal from any judgment pronounced in such proceeding may be served on such party at such address for service notwithstanding that the address may be that of a practitioner 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 or ought to give notice of his address for service in accordance with sub-rule (2).

Address for service

(2) Every person who by virtue of service on him of a notice of appeal becomes a respondent to any intended appeal shall, within fourteen days after service on him of the notice of appeal, file with the Registrar of the High Court and serve on the appellant notice of a full and sufficient address for service, and shall also within a further fourteen days serve a copy of such notice of address for service on every other respondent named in the notice of appeal who has filed notice of an address for service. Such person shall as soon as may be after he has filed the notice with the Registrar of the High Court file a copy thereof in the Registry.

(3) Such notice shall be substantially in Form CIV/4 of the Third Schedule and may be signed by the respondent or his practitioner.

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

(5) 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.

**54.** Subject to any extension of time and to any order made under rule 12, the appellant shall within sixty days after filing notice of appeal lodge the appeal by filing in the Registry five copies of the record of appeal, paying the prescribed fee and lodging in Court the sum of two thousand fee units as security for the costs of the appeal.

Lodging appeal

*(As amended by Act No. 13 of 1994)*

**55.** If an appeal is not lodged as aforesaid the respondent may make application to the Court for an order dismissing the appeal for want of prosecution and, or alternatively, for such other order in regard to the appeal as he may require.

Default in lodging appeal

**56.** The Court or a judge thereof may at any time, in any case where it or he thinks fit, upon application or of its or his own motion, order security or further security for costs to be given, and may order security to be given for the payment of past costs relating to the matters in question in the appeal, and may make compliance with any such order a condition precedent to the entertainment of any appeal.

Security for costs

**57.** (1) A register of civil appeals shall be kept in the Registry.

Entry of appeal

(2) Upon an appeal being lodged as provided in rule 54, the Master shall enter the appeal in the register of civil appeals. Such entry shall include the title of the cause or matter, the name of the appellant and his practitioner, if any, the names of the respondents and their practitioners, if any, and the date of such entry. The Master shall assign a serial number to the appeal and shall inform the appellant of such number.

**58.** (1) The record of appeal shall be prepared in accordance with rule 10 and shall include a memorandum of appeal and copies of the proceedings in the High Court and in any court below.

Record of appeal

(2) The memorandum of appeal shall be substantially in Form CIV/3 of the Third Schedule and shall set forth concisely and under distinct heads, without argument or narrative, the grounds of objection to the judgment appealed against, and shall specify the points of law or fact which are alleged to have been wrongly decided, such grounds to be numbered consecutively.

(3) The appellant shall not thereafter without the leave of the Court put forward any grounds of objection other than those set out in the memorandum of appeal, but the Court in deciding the appeal shall not be confined to the grounds put forward by the appellant:

Provided that the Court shall not allow an appeal on any ground not stated in the memorandum of appeal unless the respondent, including any person who in relation to such ground should have been made a respondent, has had sufficient opportunity of contesting the appeal on that ground.

(4) The record of appeal shall contain the following documents in the order in which they are set out:

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- (a) a complete index of the evidence and all proceedings and documents in the case showing the pages at which they appear. As regards the notes of the evidence taken in any court below and any transcript of a shorthand note or electronic or other mechanical recording of such evidence, the index shall show the names of all witnesses and the relevant pages of the record as well as indicating the numerical sequence of the witnesses. Whenever the record comprises more than one volume the index shall appear in the first volume only;
- (b) a certificate of record signed by the Registrar of the High Court;
- (c) the notice of appeal together with a copy of the order granting leave to appeal where appropriate;
- (d) the memorandum of appeal;
- (e) a statement showing the address for service of each party to the appeal, if so furnished, or the name and last known address of any respondent who has not filed notice of address for service, together with proof of service on him of the notice of appeal;
- (f) a copy of the judgment appealed against, or of the certificate issued under rule 52;
- (g) copies of the documents in the nature of pleadings, so far as it is necessary for showing the matter decided and the nature of the appeal;
- (h) copies of all affidavits read and all documents put in evidence in the High Court, so far as they are material for the purposes of the appeal, and, if such documents are not in the English language, copies of certified translations thereof; affidavits, together with copies of documents exhibited thereto, shall be arranged in the order in which they were originally filed; other documentary evidence shall be arranged in strict order of date, without regard to the order in which the documents were submitted in evidence;
- (i) such other documents, if any, as may be necessary for the proper determination of the appeal, including any interlocutory proceedings which may be directly relevant to the appeal;
- (j) a copy of the notes of the hearing at first instance in the court below or, if the hearing was recorded by shorthand or by means of a recording apparatus, a copy of the transcript thereof;

Provided that the Court may call for the production of the notes of the hearing at first instance;

- (k) copy of the Certificate after Trial, if any;

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- (l) a list of exhibits, or schedule of evidence, as the case may be, indicating those items which are being forwarded to the Master and those which are being retained by a court below;
- (m) copies of such exhibits or parts of exhibits (including correspondence) as are relevant to the matters in controversy on the appeal.

(5) The appellant shall file in the Registry five copies of the record of appeal and at the same time serve a copy thereof on each party who has been served with the notice of appeal and has filed notice of address for service:

Provided that if more respondents than one are represented by one practitioner it shall be sufficient to serve one copy on such practitioner.

(6) The record shall be prepared by the appellant:

Provided that-

- (i) if the appellant is not represented by a practitioner the Registrar of the High Court upon request by such appellant and on payment of the prescribed charges shall prepare the record and necessary copies and for that purpose he shall be deemed to act as agent of the appellant and not as an officer of the High Court;
- (ii) in all cases the Registrar of the High Court shall prepare the copy of the notes of hearing at first instance in the court below or, if the hearing was recorded by shorthand or by means of a recording apparatus, the transcript thereof, and the appellant shall pay the prescribed charges thereof.

(7) Each copy of the record shall be certified by the appellant or his practitioner, or, if prepared by the Registrar of the High Court, by him.

(8) For the purposes of sub-rules (6) and (7) "Registrar of the High Court" includes any officer of such court who may be appointed by the Registrar thereof for the purpose of the preparation of the record.

**59.** (1) If the respondent is of the opinion that the record filed by the appellant is defective he may, without prejudice to his rights, if any, under rule 68, file five copies of a supplementary record of appeal containing copies of any further documents which in his opinion are required for the proper determination of the appeal.

Supplementary record

(2) A supplementary record shall be prepared as nearly as may be in the same manner as a record of appeal.

(3) A copy of the supplementary record shall be served on the appellant and on any other respondent who has filed notice of address for service.

**60.** The Master may disallow on taxation the cost of any matter improperly included in any record or supplementary record of appeal. Costs of record

**61.** (1) It shall not be necessary for a respondent to give notice of cross-appeal, but if a respondent intends upon the hearing of the appeal to contend that the judgment of the court below should be varied he may, at any time after receiving notice of appeal, but not more than fourteen days after the service on him of the record of appeal, give notice of cross-appeal, specifying the grounds thereof, to the appellant and to any other respondent named in the notice of appeal who may be affected by such cross-appeal (whether or not such other respondent has filed notice of address for service), and shall file in the Registry within the like period five copies of such notice. Respondent's notice of cross-appeal

(2) A respondent's notice shall be substantially in Form CIV/5 of the Third Schedule.

(3) If the respondent fails to give such notice within the time prescribed he shall not be allowed, except by leave of the Court, to contend on the hearing of the appeal that the judgment appealed against should be varied:

Provided that the Court may in its discretion hear any such contention and may, if it thinks fit, impose terms as to costs, adjournment, or otherwise.

**62.** (1) The parties to any civil appeal may concur in stating the questions of law or of fact or of both law and fact arising therein in the form of a stated case. Stated cases

(2) Every such stated case shall be divided into paragraphs numbered consecutively, and shall concisely state such facts and documents as may be necessary to enable the Court to determine the appeal.

(3) Upon the argument of the appeal the Court shall be at liberty to refer to the whole contents of such documents as are included in the stated case and the Court shall be at liberty to draw from the facts and documents stated any inference, whether of fact or law, which might have been drawn therefrom if included in the record of appeal.

**63.** (1) An appellant may at any time after lodging the appeal and before the appeal is called on for hearing serve on the parties to the appeal and file in the Registry a notice in Form CIV/7 of the Third Schedule to the effect that he does not intend further to prosecute the said appeal. Withdrawal of appeal

(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 practitioners, and the appeal shall thereupon be deemed to have been dismissed. In such event any sum lodged in Court as security for the cost of the appeal shall be paid out to the appellant.

(3) 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, and for the making of an order as to the disposal of any sum lodged in Court as security for the costs of the appeal.

**64.** Where an appeal is withdrawn under the preceding rule, or where notice of appeal has been given but the appeal has not been duly lodged, any respondent who has not given a respondent's notice may, within thirty days of the date of the withdrawal of the appeal or of the last day of the period prescribed for the lodging of the appeal, as the case may be, give a respondent's notice and proceed therewith in the manner prescribed by the foregoing rules; and in any such case the times limited for giving notice of appeal, entering the appeal, furnishing security for costs, and filing and serving the record of appeal may, on application to the Court or, if the appeal has not been lodged, to a judge of the High Court, be extended so far as is reasonably necessary in all the circumstances of the case.

Appeal by respondent where appeal withdrawn

**65.** (1) Where an appellant omits to comply with rule 54, any respondent who has given a respondent's notice may proceed with his cross-appeal.

Failure to file record

(2) In any such case the respondent shall, as soon as possible, or within such time as may be allowed by the Court, file five copies of a record of appeal, as prescribed by rule 58, and shall serve copies thereof on the appellant and on any other parties to the appeal.

**66.** Any respondent who proceeds with a cross-appeal under the provisions of rule 64 or 65 shall be required, unless the appellant has paid the prescribed fee on lodging the appeal, to pay the amount of such fee, but shall not be required to furnish security for costs unless the Court or a judge thereof shall so order.

Fees and security for costs on cross-appeal

**67.** (1) When an appeal is called for hearing or at any previous time the Court or a judge thereof may, either on the application of any party interested or of its or his own motion, direct that the record of appeal, or any respondent's notice, be served on any party to the cause or matter who has not been served therewith, or any other person not already a party to the cause or matter, and may, for the purpose of such service, adjourn the hearing upon such terms as may appear to the Court or a judge thereof to be just, and may give such judgment and make such order as might have been given or made if the parties served with such record or notice had been originally parties.

Additional parties

(2) In any such case the Court or a judge thereof may direct that any additional copies of the record or respondent's notice which may be necessary be prepared and served by any party upon any person and may prescribe the time therefor.

**68.** (1) The Court or a judge thereof may at any time allow amendment of any notice of appeal, or respondent's notice, or memorandum of appeal, or other part of the record of appeal on such terms as the Court or such judge thinks fit, and may likewise make any such amendment of its own motion.

Amendment and default

(2) If the record of appeal is not drawn up in the prescribed manner, the appeal, may be dismissed.

**69.** (1) An appellant or a respondent may at any time not less than seven days before the day fixed for the hearing but after lodgment file in the Registry a notice in writing, substantially in Form CIV/6 of the Third Schedule, that he does not wish to be present in person or by practitioner on the hearing of the appeal, together with five copies of such argument set out in numbered paragraphs under distinct heads as he desires to submit to the Court.

Notice of non-appearance and written argument

(2) The appellant or respondent, as the case may be, shall immediately after filing such notice serve a copy thereof and a copy of his argument on each of the other parties to the appeal or their practitioners.

**70.** (1) An appellant or respondent who will be represented by a practitioner at the hearing of the appeal shall prepare a document setting out the main heads of his argument together with the authorities to be cited in support of each head.

Heads of argument

(2) The appellant shall, not later than seven days before the day fixed for the hearing, deliver five copies of his heads of argument to the Master and one copy thereof to each of the other parties to the appeal, and each respondent shall, in similar manner, not later than three days before the day fixed for the hearing, deliver his heads of argument.

**71.** (1) Subject to the provisions of rule 69, if on any day fixed for the hearing of an appeal-

Non-appearance of parties at hearing

- (a) the appellant does not appear in person or by practitioner, the appeal may be dismissed;
- (b) the appellant appears, and any respondent fails to appear either in person or by practitioner, the appeal shall proceed in the absence of such respondent, unless the Court for any sufficient reason sees fit to adjourn the hearing;
- (c) no party appears either in person or by practitioner, the appeal may be adjourned, struck out, or dismissed.

(2) Where any appeal is dismissed, allowed, or struck out under the provisions of sub-rule (1), any party who was absent may apply to the Court for the re-hearing or hearing of the appeal, as the case may be, and, where it is proved that there was sufficient reason for the absence of such party, the Court may order that the appeal be restored for hearing upon such terms as to costs or otherwise as it thinks fit.

(3) The provisions of this rule shall apply *mutatis mutandis* to the hearing of any cross-appeal.

**72.** Appeals to the Court shall be by way of re-hearing on the record and any further evidence received under section *twenty-five* of the Act. Hearing of appeals

**73.** (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 Master to the parties to the appeal. Judgment in civil cases

(2) Such judgment may be pronounced notwithstanding the absence of the judges who composed the court or any of them, and the judgment of any such judge not present may be read by any judge present or by the Master.

(3) Certified copies of the judgment shall be sent by the Master to the High Court and any court below, and to the parties or their practitioners.

**74.** On any appeal, interest on any sum remaining due or damages payable as a result of the termination of the appeal shall be allowed for such time as satisfaction of the judgment shall have been delayed by the appeal, unless the Court otherwise orders, at the rate recognised by the High Court, and the Registrar of the High Court may compute such interest without any order for that purpose. Interest

**75.** (1) Every judgment of the Court shall be embodied in an order. Order

(2) It shall be the duty of the party who is successful in the appeal to prepare without delay a draft order and submit it for the approval of the other parties to the appeal. If the draft is so approved, it shall be submitted to the presiding judge or such other judge who sat at the hearing as the presiding judge may direct. If the parties do not agree upon the form of the order, the draft shall be settled by the presiding judge or by such other judge who sat at the hearing as the presiding judge may direct, and the parties shall be entitled to be heard thereon if they so desire.

(3) A sealed or certified copy of the order shall be sent by the Master to the Registrar of the High Court, to the parties, and to any court below.

(4) Interlocutory orders shall be prepared in like manner.

**76.** (1) An application for leave to appeal to the Court as a poor person shall be made to a single judge in accordance with rule 48, but no fee shall be payable on filing any such application. All respondents or intended respondents shall be served and they and the Master shall be entitled to be heard on any such application.

Poor persons

(2) Notwithstanding that the single judge may be satisfied as to the appellant's lack of means, the application may be dismissed if in the single judge's opinion the appeal would have no reasonable possibility of success.

(3) Upon any such application the single judge may order-

- (a) that no Court fees, or any specified amount less than the prescribed court fees, be paid in respect of the appeal;
- (b) that no security for costs be lodged, or that any specified sum less than the prescribed sum of two thousand fee units, be lodged in Court as security for costs;
- (c) that the record of appeal be prepared by the Registrar of the High Court without payment therefor, or on payment of any specified sum less than the prescribed charges thereof;
- (d) that any sums the payment of which by the appellant has been excused by virtue of such order shall be a first charge on any money or property recovered by the appellant in or in consequence of the appeal.

(4) The appeal shall proceed in accordance with such order, and it shall be the duty of the Master to take such steps as may be necessary to recover any sums becoming due under paragraph (d) of sub-rule (3).

*(As amended by Act No. 13 of 1994)*

#### PART IV MISCELLANEOUS AND TRANSITIONAL PROVISIONSPART IV

##### MISCELLANEOUS AND TRANSITIONAL PROVISIONS

**77.** The Court may make such order as to the whole or any part of the costs of appeal or in any court below as may be just, and may assess the same, or direct taxation thereof in accordance with the scales prescribed in the Second Schedule, or in default of provision therein in accordance with the scales provided for the High Court under the High Court Act.

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**78.** Clerical errors by the Court or a judge thereof in documents or process, or in any judgment, or errors therein arising from any accidental slip or omission, may at any time be corrected by the Court or a judge thereof. Clerical errors and accidental slips or omissions

**79.** Obsolete.

**80.** Has had its effect.

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FIRST SCHEDULE

(Rule 13)

PART I

CIVIL APPEALS

<i>Item No.</i>		<i>Fee units</i>	<i>Document to be Receipted</i>
1.	On filing an affidavit	28	The affidavit
2.	On sealing a writ of subpoena for each witness	33	The praecipe
3.	On filing a certificate of service	28	The certificate
4.	On entering or sealing an order made in chambers	44	The order
5.	On filing any notice not specifically provided for	44	The filed copy
6.	On filing a notice of motion or summons	83	The filed copy
7.	On every notice of appeal	167	The filed copy
8.	On every memorandum of appeal	50	The filed memorandum
9.	On filing a respondent's notice	167	The filed copy
10.	On filing an application for leave to appeal to the Court	67	The application
11.	On leave being granted to appeal to Court	67	The order
12.	On every bond	50	The filed copy
13.	On hearing any appeal per day or part of a day	167	The judgment
14.	On entering or sealing a judgment decree or order given, directed or made at the hearing of an appeal or further consideration of an appeal or matter in Court	83	The decree or order
15.	On reference from the Master to a Judge of the Court	67	The reference
16.	On filing a bill of costs for taxation	44	The notice of taxation
17.	On the certificate or allocatur of the results of taxation of a bill of costs-together with a further K15 for every K150 or part thereof of the amount allowed (excluding this fee)	67	The certificate of allocatur

NOTE: Where the costs of any matter are assessed by the Court and ordered to be paid the appropriate fee under this item shall be payable on sealing the Order in addition to the Oá1 payable. Except as provided for in Part II, no fees, other than those prescribed in this Part, shall be taken in any civil appeal.

PART II

GENERAL

<i>Item No.</i>		<i>Fee units</i>	<i>Document to be Receipted</i>
1.	On every search, per case file	17	The praecipe

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2.	For copies of judgement, or records, for additional copies of documents or proceedings furnished upon the direction of the Master, per page or part thereof	17	The filed copy
3.	On sealing additional copies of any judgement or order	44	The filed copy
4.	On certifying any documents as an office copy and additional of under seal	44	The filed copy
5.	Transcript of shorthand writer's notes or otherwise recorded proceedings, per page or part thereof	17	The application
6.	(a) Certified translation by an interpreter of the Court, per page or part thereof	17	The filed copy
	(b) Checking, correcting and certifying a translation not made by an interpreter of the Court, per page or part thereof	17	The filed copy
7.	Certifying a copy of any document when not prepared by the Court, per page or part thereof	17	The filed copy
8.	Service of any process or proceedings required to be served by the Court as prescribed by law	17	The filed copy
9.	Per page of the transcript of record	6	

NOTES:

1. In all proceedings in the High Court preparatory or incidental to an appeal to the Court, or consequential thereupon, the fees, if not herein before specified, shall be in accordance with the provisions of the law applicable to the High Court.

2. There shall be paid to the Sheriff or his officers such fees, expenses and travelling and subsistence allowances as are prescribed by law for the service or execution of any summons, warrants, writ or other process of the High Court in respect of which execution or service is sought to be levied or effected.

PART III

WITNESSES AND INTERPRETERS' FEES-CIVIL PROCEEDINGS

The allowance for witnesses shall be as follows:

	<i>Minimum payable Per Diem K</i>	<i>Maximum payable Per Diem K</i>
Professional persons, owners, directors or managers of business and expert witness	10,000	25,000
Clerks, artisans and persons of similar status	5,000	15,000
Provided that the sum payable shall not, unless otherwise ordered by the Court or Taxing Master, exceed the sum of K1,300 per diem if the witness has lost no wages or earnings or other income in attending the proceedings or for the period during which he has been away from home and in respect of which he has lost wages, earnings or attendance, does not exceed four hours		
Others	3,000	

PART IV

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COMMISSIONERS' AND ASSESSORS' FEES

A special Commissioner or Assessor shall be remunerated at the rate of K15,000 per hour or part thereof, subject to a maximum of K120,000 in respect of any one day.

(As amended by Act No. 13 of 1994 and S.I. No. 45 of 1995 and S.I. No. 86 of 1997.)

SECOND SCHEDULE

(Rule 15)

COSTS

PART I

PRACTITIONERS' COSTS

1. The Registrar, or such other officer of the Court as the Chief Justice may designate in any particular case or cases, shall be the Taxing Officer, and shall be responsible for the taxation of all costs incurred in respect of any proceedings in the Court. Taxing Officer
2. Save as to the items set out in Part II hereof, the fees allowable on a taxation shall be in accordance with the scales applicable, *mutatis mutandis*, in respect of proceedings in the High Court. Tariff of Fees
3. Whenever a practitioner shall have lodged a bill of taxation with the necessary papers and vouchers, the Taxing Officer shall thereupon issue a notice fixing the time, and date, at which the taxation shall be proceeded with and such appointment shall be not less than seven days after the date of lodgment. Notice of taxation to be given by Taxing Officer
4. Prior to the conclusion of the taxation of a bill the Taxing Officer may refer any matter in dispute arising out of the taxation other than a question of quantum only for the opinion of a judge of the Court. Refer to judge
5. No addition or alteration shall be made in a bill after it has been lodged for taxation except by consent of the parties, or by permission or direction of the Taxing Officer or a judge of the Court. Bills not to be altered after lodged
6. Any practitioner, or his representative, who shall without reasonable excuse, after due notice, fail to appear on the day appointed for taxation, or on any date to which such taxation may be adjourned, or who shall in any way delay or impede the taxation, or put any other party to any unnecessary or improper expense relative to such taxation, shall, unless the Taxing Officer otherwise directs, forfeit the fees to which he would otherwise be entitled for drawing the bill of costs and for attending the taxation, and shall in addition be liable to pay for any unnecessary or improper expense to which he has put any party. Default of practitioner to attend taxation
7. The Taxing Officer may, in respect of appearance in Court, allow as party and party costs-
  - (a) in any matter where two advocates are employed and the Court has certified that the case warranted such employment, the reasonable fee consequent thereon;
  - (b) in any matter which does not conclude upon the first day, reasonable refreshers for each day subsequent to the first.Appearance in Court
8. In exceptional cases, and in particular in the taxation of solicitor and client bills of costs, the Taxing Officer may, for good and sufficient reason, depart from any of the provisions of the Tariff, where strict adherence to such provisions would be inequitable. Depart from provisions of Tariff

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9. In order to diminish as much as possible the costs arising from the copying of documents to accompany briefs, the Taxing Officer shall not allow the costs of any unnecessary duplication in a practitioner's brief. Unnec copies

10. On every taxation the Taxing Officer shall allow all such costs, charges, and expenses as shall appear to him to have been necessary or proper for the attainment of justice or for defending the rights of any party, but save as against the party who incurred the same, no costs shall be allowed which appear to the Taxing Officer to have been incurred or increased through overpayment, extravagance, over-caution, negligence, or mistake, or by payment of unjustified special charges or expenses to witnesses or other persons, or by other unjustified expenses. Discret of Taxi Officer

11. Where in the opinion of the Taxing Officer, more than one practitioner has been necessarily engaged in the performance of any work covered by the Tariff, each such practitioner shall be entitled to be remunerated on the basis set out in the Tariff for the work necessarily done by him, notwithstanding that such practitioners are members or employees of the same firm. More th one practiti engage

12. No costs shall be payable as between party and party, or out of any fund, unless so ordered by the Court. If costs are ordered to be paid without further direction they shall be taxed as between party and party, unless the amount is agreed between all parties affected. Order f costs

13. If more than one-sixth of the amount of the bill as delivered is disallowed on taxation the cost of preparing, filing, and serving the bill, and of attending the taxation, shall be disallowed. Excess claim

14. If in any case it shall appear to the Court, or to a judge thereof, that costs have been incurred improperly or without reasonable cause, or that by reason of any undue delay in proceeding under any judgment, or on account of any misconduct or default of any practitioner, any costs properly incurred have nevertheless proved fruitless to the person incurring the same, the Court, or a judge thereof, may call on the practitioner by whom such costs have been incurred to show cause why such costs should not be disallowed as between the practitioner and his client, and also (if the circumstances of the case so require) why the practitioner should not repay to his client any costs which his client may have been ordered to pay to any other person, and therefrom may make such order as the justice of the case may require. Costs improp incurre practiti

15. Notice of taxation need not be given to any party who did not appear, either in person or by Counsel, or did not present his case in writing at the hearing of the appeal, or matter in question. Party n appear

16. When any party who is entitled to costs, such costs having not been agreed, refuses, or neglects, to bring in his costs for taxation or to procure the same to be taxed, and thereby prejudices any other party, the Taxing Officer shall be at liberty to certify the costs of the other parties and certify such refusal or neglect, or may allow such party refusing or neglecting as aforesaid a nominal sum only or such other sum in respect of such costs as will prevent any other party from being prejudiced by such refusal or neglect. Party entitlec costs refusin lodge t for taxz

17. Bills of costs shall be intituled and filed in the proceedings and shall be prepared upon foolscap size paper in seven columns, starting from the left-hand side of the paper, as follows: Manne prepari bills for taxatio

the first column for the Taxing Officer's deductions;  
the second column for the serial number of the items;  
the third column for dates, showing year, month and day;  
the fourth column for particulars of services charged for;  
the fifth column for the Tariff item numbers;  
the sixth column for disbursements charged for;  
the seventh column for the professional charges in accordance with the Tariff.

Each and every page shall be totalled and a summary of the totals shall appear on the final page of the bill, allowing for items taxed off and for the taxation fee payable.

Every bill of costs which shall be lodged for taxation shall be endorsed with the name and address of the practitioner by whom it is lodged, and also the name and address of the practitioner (if any) for whom he is agent, and shall include at the end thereof a form of certificate, or allocatur, for signature by the Registrar certifying the result of the taxation.

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18. Receipts or vouchers for all disbursements charged in a bill of costs, together with all documents or drafts or copies thereof shall be produced on taxation. All drafts and other documents, the preparation of which is charged for by the folio, shall have the folios thereof consecutively numbered in the margin of the same, and the number of the folios shall be endorsed thereon in figures. The length of all documents not vouched for by attested copies or other satisfactory evidence shall be certified by the practitioner, and if such certificate be erroneous the Taxing Officer may disallow the costs of the documents so erroneously certified or any part thereof. Vouch  
to be  
produc  
on tax
19. Where the same practitioner is employed for two or more parties and separate proceedings are heard by or for any two or more such parties, the Taxing Officer shall consider in the taxation of such practitioner's bill of costs, either as between party and party, or as between solicitor and client, whether such separate proceedings were necessary or proper, and if he is of opinion that any part of the costs occasioned thereby have been unnecessarily or improperly incurred, the same shall be disallowed. Costs v  
practiti  
employ  
two or  
parties
20. In taxing the costs as between party and party or for payment out of a trust fund of joint executors or trustees who are separately represented, the Taxing Officer shall, unless otherwise ordered by the Court or a judge thereof, allow but one set of costs for such parties, such costs to be apportioned among them as the Taxing Officer shall deem fit. Costs v  
trustee  
defend  
separa
21. Where any party appears upon any application or proceeding in court, or in chambers, in which he is not interested, or upon which, according to the practice of the Court, he ought not to attend, he shall not be allowed any costs of such appearances unless the Court or a judge thereof otherwise orders. Appeal  
party n  
interes
22. The allowances for instructions and drawing any special affidavit shall include all attendances on the deponent to settle and read over. Instruc  
include  
attend  
depon
23. The Taxing Officer shall have power to limit or extend the time for any proceedings before him, and to adjourn the same from time to time and from place to place. Time a  
adjourn
24. Expenses of parties attending court as such shall not be allowed but an allowance may be made for attendance of any necessary witnesses, including parties, of such amount as would be allowed to such person for attendance in the High Court, at the place in question. Witnes
25. When taxing costs, witnesses' expenses shall be supported by a statement signed by the practitioner and filed with the bills of costs stating the place of abode and the condition, quality, occupation or rank in life of the witnesses or intended witnesses charged for, the distance they have had to travel, the mode of travel, and if by rail the class in which such witnesses travelled for the purpose of attending the hearing; also whether to the knowledge or belief of the deponent they attended as witnesses in any other cause or came upon any other business; also that they were material and necessary witnesses for the party on the hearing; and the notes of their evidence must be produced at the taxation. The allowances in respect of fees to any accountants, merchants, engineers, actuaries and scientific persons to whom any question is referred, shall, save where the Court or a judge thereof shall otherwise order, be regulated by the Taxing Officer, subject to review by the Court or a judge thereof. Discret  
of Taxi  
Officer  
allowin  
witness  
expens
26. The expression "folio" where used shall mean 100 words. A single figure or a group of figures up to four shall be counted as one word. Meanir  
"folio"
27. Any agreement for remuneration of a practitioner whereby he becomes financially interested in the result of any proceedings in the Court, shall be void. Improp  
agreen

## PART II

The Laws of Zambia

TARIFF OR FEES

<i>Instructions</i>	<i>Fee units</i>
1. Instructions to file notice of Appeal Not to exceed .. .. .	95
2. Instructions to file Memorandum of Appeal (including grounds of appeal)	450
3. Instructions to file Respondent's Notice (including grounds of cross appeal)	450
4. Instructions to file any other Notice/ Application relevant to an Appeal	
Minimum .. .. .	95
5. Instructions to appear for the Respondent to any application to an Appeal	
Minimum .. .. .	95
6. Respondent's fixed costs on application to dismiss Appeal for want of prosecution under Rule 55	
Minimum .. .. .	300

NOTE:

In absence of any specific scale fees, the High Court scale shall apply.

(As amended by S.I. No. 173 of 1990 and Act No. 13 of 1994)

THIRD SCHEDULE

(Rule 14)

PRESCRIBED FORMS

The Laws of Zambia

The forms prescribed in this Schedule or forms of like effect shall be used in all proceedings to which they may be applicable with such variations as the circumstances may require.

LIST OF FORMS

TITLE

*General*

<i>Form No.</i>		<i>Rule</i>
A	General Heading .. .. .	-
B	Notice of Motion .. .. .	48
C	Summons .. .. .	48

TITLE

*Criminal*

<i>Form No.</i>		<i>Rule</i>
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CRIM/2	Notice of Application to the Court for leave to appeal .. .. .	24
CRIM/3	Notice of Application for extension of time .. .. .	12
CRIM/4	Grounds of Appeal .. .. .	25
CRIM/5	Abandonment of Appeal .. .. .	33
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CRIM/7	Recognizance of Bail of Appellant .. .. .	29
CRIM/8	Certificate of Surety .. .. .	29
CRIM/9	Notice to Prison Superintendent to release an Appellant on Bail .. .. .	29
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*Civil*

CIV/1	Notice of Appeal .. .. .	49
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*General Heading*

Appeal/Application No.....

IN THE SUPREME COURT OF ZAMBIA HOLDEN AT .....

CRIMINAL/CIVIL JURISDICTION

BETWEEN:

..... Appellant/Applicant

and

..... Respondent

(Rule 48)

REPUBLIC OF ZAMBIA

NOTICE OF MOTION

Appeal/Application No. ....

IN THE SUPREME COURT HOLDEN AT .....

CRIMINAL/CIVIL JURISDICTION

BETWEEN:

..... Appellant/Applicant

and

..... Respondent

An application in respect of a judgment of the High Court (Mr Justice.....) appeal from

sitting at ..... in its original/appellate jurisdiction and dated the..... day of....., 19...

TAKE NOTICE that the Supreme Court will be moved before Mr Justice ..... on..... day, the..... day of....., 19....., at the hour of..... o'clock in the..... noon, or so soon thereafter as Counsel can be heard, by Mr ..... of Counsel on behalf of the Appellant/Respondent/ ..... for an Order that- on the grounds that-

(Signed) ..... Appellant/Applicant

Address for service .....

Dated at ..... this ..... day of....., 19.....

Master of the Supreme Court of Zambia

Date .....

To: The Appellant ..... of .....

The Respondent ..... of .....

Mr ..... for the Applicant will read, in support of the application the affidavit(s) of ..... sworn the ..... day(s) of ..... 19.....

NOTES:

- (1).....A Notice of Motion to be heard by the full Supreme Court shall commence as follows: "TAKE NOTICE that the Supreme Court will be moved on ....."
- (2) Inapplicable words, etc., on this form should be deleted.

REPUBLIC OF ZAMBIA

SUMMONS

Appeal/Application No. ....

IN THE SUPREME COURT HOLDEN AT .....

CRIMINAL/CIVIL JURISDICTION

BETWEEN:

..... Appellant/Applicant

and

..... Respondent

An application in respect of a judgment of the High Court (Mr Justice ..... )  
appeal from

sitting in its original/appellate jurisdiction at ..... and dated the ..... day of ....., 19.....

LET ALL PARTIES concerned appear before Mr Justice .....  
in Court/Chambers at ..... on the ..... day of ..... 19....., at the hour of ..... o'clock in the  
..... noon, or so soon thereafter as Counsel can be heard on the hearing of an application on the part of the  
Appellant/Respondent/..... for an Order that-  
on the grounds that-

Dated at ..... this ..... day of ....., 19.....

This Summons was taken out by ..... whose address for  
service is .....

.....  
*Master of the Supreme Court of Zambia*

Dated .....

To: The Appellant .....

of .....

The Respondent .....

of .....

Mr ..... for the Applicant will read in support of the application the  
affidavit(s) of ..... sworn on the ..... day(s) of ....., 19.....

NOTES:

- (1) A Summons before the Master should commence as follows: "LET ALL PARTIES attend before the Master of the Court at the Registry of the Supreme Court at Lusaka ....."
- (2) Inapplicable words, etc., on this form should be deleted.

(Rule 23)

REPUBLIC OF ZAMBIA

NOTICE OF INTENTION TO APPEAL

Supreme Court Appeal No. ....
IN THE SUPREME COURT HOLDEN AT .....

CRIMINAL JURISDICTION

BETWEEN:
..... Appellant

versus
THE PEOPLE

Respondent

TAKE NOTICE that I, ....., appeal to the Supreme Court against the conviction/sentence/order(s) of the Subordinate Court of the ..... class/High Court sitting in its original jurisdiction (Mr Justice .....) holden at ..... on the ..... day of ....., 19..... .

WHEREBY the Subordinate Court/High Court convicted me of ..... and sentenced me to ..... and made an order/orders that .....

My appeal is against-
Conviction and/or sentence.

The order/orders of the Court on the grounds hereinafter set forth.

GROUND(S):

The appelland desires/does not desire to attend the hearing of the appeal.

Dated at ..... this ..... day of ....., 19..... .

(Signed) .....
Appellant (or his Counsel)

Address for service .....

To: The District/Registrar of the High Court at Lusaka/Ndola (Case No. ....)
or The Senior/Clerk of the Court at ..... (Case No. ....)

Filed this ..... day of ....., 19..... , at .....

District/Registrar of the High Court
or
Senior/Clerk of the Court

at .....

The appelland is/is not in custody.

The appelland is/is not on bail.

NOTES:

- (1) Inapplicable words on this form should be deleted.
(2) If the appelland is in custody the date of filing shall be the date the Notice is lodged with the Officer in Charge of the Prison.
(3) If there is insufficient space provided on this form for grounds of appeal the same may be submitted upon a separate sheet of paper and be dated, signed, etc., as provided on this form.

(Rule 24)

REPUBLIC OF ZAMBIA

NOTICE OF APPLICATION TO THE COURT FOR LEAVE TO APPEAL

Supreme Court Application No. ....

IN THE SUPREME COURT HOLDEN AT .....

CRIMINAL JURISDICTION

BETWEEN:

.....

and

.....

TAKE NOTICE that I, ..... , having been convicted by the ..... Court, holden at ..... , on the ..... day of ..... , 19..... , of the offence of ..... , and having been sentenced to ..... and the said Court having further ordered .....

AND having appealed to the High Court against the said conviction/sentence/Order(s);

AND the High Court (Mr Justice ..... ) holden at ..... on the .....day of ..... 19..... , having by judgment dated the.....day of....., 19..... (High Court No .....) dismissed my appeal allowed my appeal only in part by ordering that .....

NOW DO HEREBY apply for leave to appeal against the said judgment of the High Court on the grounds hereinafter set forth.

GROUNDS:

Dated at ..... this .....day of ..... , 19.....

(Signed) ..... Appellant (or his Counsel)

.....

Witness (If not represented by Counsel)

Tc: The Master of the Supreme Court (in triplicate).

NOTE: Inapplicable words, etc., on this form should be deleted.

(Rule 12)

REPUBLIC OF ZAMBIA

NOTICE OF APPLICATION FOR AN EXTENSION OF TIME  
(CRIMINAL)

Application No.....

IN THE SUPREME COURT OF ZAMBIA HOLDEN AT .....

CRIMINAL JURISDICTION

BETWEEN:

..... Applicant/Appellant

and

THE PEOPLE

Respondent

TAKE NOTICE that I, ....., being desirous of appealing against the judgment of the High Court (Mr Justice ..... ) holden at.....dated the .....day of ....., 19..... ;

DO HEREBY give notice of application for an extension of time within which I may give notice of intention to appeal or notice of application for leave to appeal against the said judgment for the reasons and upon the grounds next following:

- (1) Reason for being out of time and grounds for extension .....
- (2) Particulars and dates of the conviction, sentence and order of the court of trial; and of the decision of the Subordinate/High Court if appealed to .....
- (3) Grounds of appeal .....

Dated at ..... this..... day of....., 19.....

(Signed) .....

*Applicant (or his Counsel)*

Applicant's address for service .....

.....  
*Witness*  
(If applicant is not legally represented)

To: The Master of the Supreme Court.  
The Director of Public Prosecutions.

NOTES:

- (1) If not in custody the address of the applicant must be shown in full.
- (2) Inapplicable words, etc., on this form should be deleted.
- (3) If there is insufficient space provided on this form for reasons, etc., the same may be submitted upon a separate sheet of paper and be dated, signed, etc., as is provided on this form.

REPUBLIC OF ZAMBIA

\_\_\_\_\_  
GROUND OFS OF APPEAL

Appeal No.....

IN THE SUPREME COURT HOLDEN AT .....  
CRIMINAL JURISDICTION

BETWEEN:

.....Appellant

and

THE PEOPLE

Respondent

WHEREAS I, ....., on the ..... day of ....., 19....., appealed/made application for the leave to appeal to the Supreme Court against the judgment of the Subordinate/High Court dated the ..... day of ....., 19.....;

AND WHEREAS on the ..... day of ....., 19....., the appellant filed a Notice of Intention to Appeal/was granted leave to appeal with/without grounds of appeal:

TAKE NOTICE that the appellant will rely on the following/additional or amended grounds of appeal:

GROUND S-see overleaf/attached:

Dated at ..... this ..... day of ....., 19.....

(Signed) .....

*Appellant (or his Counsel)*

Address for service .....

.....

*Witness*

(If appellant is not legally represented)

To: The Registrar/District of the Clerk of Court/High Court at .....  
The Master of the Supreme Court.  
The Director of Public Prosecutions.

Filed this ..... day of ....., 19....., at .....

.....  
Clerk of Court/Registrar of the High Court

The appellant is/is not in custody.

The appellant is/is not on bail.

The appellant desires/does not desire to attend the hearing of the appeal.

NOTES:

- (1) Inapplicable words, etc., on this form should be deleted.
- (2) If the appellant is in custody the date of filing shall be the date the Memorandum is lodged with the Officer in Charge of the Prison.
- (3) If there is insufficient space provided on this form for grounds of appeal the same may be submitted upon a separate sheet of paper and be dated, signed, etc., as is provided on this form.

(Rule 33)

REPUBLIC OF ZAMBIA

ABANDONMENT OF APPEAL (CRIMINAL)

IN THE SUPREME COURT OF ZAMBIA HOLDEN AT ..... Appeal/Application No. ....  
CRIMINAL JURISDICTION

BETWEEN:

..... Appellant/Applicant  
and  
..... Respondent

TAKE NOTICE that I, ....., the above-named Appellant/Applicant do hereby abandon-  
all further proceedings in the above matter;  
my appeal in the above matter in so far as it relates to .....

Dated at ..... this ..... day of ....., 19.....

(Signed) .....  
Appellant/Applicant (or his Counsel)  
Address for service .....

.....  
Witness  
(If Appellant/Applicant is not represented by Counsel)

To: The Master of the Supreme Court.  
The Director of Public Prosecutions.

NOTE: Inapplicable words in this form should be deleted.

(Rule 29)

REPUBLIC OF ZAMBIA

APPLICATION FOR BAIL PENDING APPEAL

Appeal/Application No. ....
High Court or Subordinate .....

IN THE SUPREME COURT HOLDEN AT .....
CRIMINAL JURISDICTION

BETWEEN:

..... Appellant
and
..... Respondent

I, ....., having been convicted of the offence
of .....
and now being detained in the ..... Prison undergoing a sentence
of ..... years/months and having given notice of intention to appeal to the Supreme
Court against the judgment of the High Court/Case No. ....) dated ..... relating to
my said conviction and sentence;

DO HEREBY give you Notice that I desire to apply to the Supreme Court for bail pending the hearing of my said appeal
with/without sureties, on the following grounds: .....

The undermentioned persons are willing to become sureties for my presence at the hearing and determination of the
appeal:

Name of surety .....
Occupation .....
Address .....
Amount for which surety is willing to be bound ..... fee units:

Name of surety .....
Occupation .....
Address .....
Amount for which surety is willing to be bound ..... fee units:

(Signed) .....
Appellant
Address of service .....

Witness

Dated at ..... this ..... day of ....., 19.....

To: The Master of the Supreme Court of Zambia.

NOTES:

- (1) This form MUST be signed or thumbprinted at the time of application by the appellant, unless he is under
disability.
(2) Inapplicable words on this form should be deleted.
(3) If there is insufficient space provided on the form for grounds the same may be submitted upon a separate
sheet of paper and be dated and signed, etc., as is provided on this form.

(Rule 29)

REPUBLIC OF ZAMBIA

RECOGNIZANCE OF BAIL OF APPELLANT

IN THE SUPREME COURT HOLDEN AT .....  
CRIMINAL JURISDICTION

Appeal Number ..... of 19.....

BETWEEN:

..... Appellant

and

THE PEOPLE

Be it remembered that whereas ..... was convicted of ..... on the ..... day of ..... 19....., and was thereupon sentenced to ..... and ordered to ..... and now is in lawful custody in the State Prison at ..... and has duly appealed against his conviction (and sentence) (and order) to the Supreme Court and has applied to the said Court for bail pending the determination of his appeal, and the said Court has granted him bail on entering into his own recognizances in the sum of ..... and with ..... sureties each in the sum of ....., the said ....., acknowledges himself to owe to the Republic of Zambia the said sum of ..... of good and lawful money of the Republic of Zambia, to be made and levied of his goods and chattels, lands and tenements to the use of the said Republic if he the said ..... fail in the condition endorsed.

.....  
*Master of the Supreme Court of Zambia*

CONDITION

The condition of the within written recognizance is such that if he the said ..... shall personally appear and surrender himself at and before the Supreme Court at ..... at each and every hearing of his appeal to the said Court and at the final determination thereof and to then and there abide by the judgment of the said Court and not to depart or to be absent from the said Court at any such hearing without the leave of the said Court, and in the meantime not to depart out of the Republic of Zambia, then this recognizance to be void, or else to stand in full force and effect.

The following portion to be filled up and signed by the appellant:

On release on bail my residence, to which Notices, etc., are to be addressed, will be as follows:

.....  
.....  
.....

(Signed) .....

*Appellant*

Date....., 19.....

(Rule 29)

REPUBLIC OF ZAMBIA

CERTIFICATE OF SURETY

IN THE SUPREME COURT

CRIMINAL JURISDICTION

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

BETWEEN:

THE PEOPLE  
and

..... Appellant

THIS IS TO CERTIFY that you, .....  
of ..... , whose signature  
is below, have been accepted by the Supreme Court, on this ..... day of ..... 19.....,  
as surety for the above-mentioned appellant, in the sum of ..... for the due appearance  
of the said ..... before the Supreme Court at each and every hearing of his appeal  
and at the final determination thereof and that the said ..... shall then  
abide by the judgment of the said Court and not depart or be absent from the said court at any such hearing without leave  
of said Court in the meantime not to depart out of the Republic of Zambia.

AND THAT your said recognizance will be duly forwarded by me to the Master of the Supreme Court.

Date .....

At .....

I acknowledge that the above Certificate is correct.

.....  
*Surety*

REPUBLIC OF ZAMBIA

NOTICE TO PRISON SUPERINTENDENT TO RELEASE AN APPELLANT ON BAIL

IN THE SUPREME COURT HOLDEN AT .....

CRIMINAL JURISDICTION

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

BETWEEN:

THE PEOPLE  
and

.....Appellant

To: The Superintendent, State Prison at .....

WHEREAS ..... has duly appealed  
(and his sentence of .....)  
(and the order .....)  
and having duly applied to the said Court has been granted bail by the said Court pending the determination of his said  
appeal on entering into recognizance(s) himself in the sum of ..... ,  
(and with ..... sureties each in the sum of ..... ), in the forms provided;

AND WHEREAS I, ....., the Master of the Supreme Court, have been  
given to understand that the said ..... is now in your lawful custody  
in the said Prison under the said conviction and sentence;

AND WHEREAS I have received a recognizance of the said. .... (and recognizance  
from ..... sureties for the  
said ..... ) and the said recognizances are in due  
form and in compliance with the Order of the said Supreme Court admitting the said .....  
to bail:

NOW I, .....  
DO GIVE YOU NOTICE that if the said ..... do remain  
in your custody under the said conviction (and sentence) (and order) and for no other cause you shall on receipt of this  
notice suffer him to go at large.

AND THIS NOTICE shall be your authority in that behalf.

.....  
*Master of the Supreme Court*

Dated at ..... this ..... day of ....., 19.....  
This Notice was issued on the ..... day of ....., 19.....

Inapplicable words, etc., to be deleted.

(Rule 16)

REPUBLIC OF ZAMBIA

NOTICE OF HEARING

Appeal/Application No. ....

IN THE SUPREME COURT OF ZAMBIA HOLDEN AT .....

CRIMINAL JURISDICTION

BETWEEN:

..... Appellant/Applicant

and

THE PEOPLE

Respondent

TAKE NOTICE that the above Appeal/Application will be heard and determined by the Supreme Court of Zambia sitting at ..... on .....day, the ..... day of ....., 19....., at the hour of ..... o'clock in the ..... noon or so soon thereafter as Counsel may be heard.

Court No. ....

Before .....

Dated at ..... this ..... day of ....., 19.....

.....  
*Master of the Supreme Court*

To: The Director of Public Prosecutions.

The State Advocate at .....

.....of Counsel for the Appellant/Applicant.

The Superintendent, State Prison at.....

The Appellant/Applicant (if attending).....

.....

.....

(Rule 27)

REPUBLIC OF ZAMBIA

NOTIFICATION TO APPELLANT OF A JUDGE'S DECISION

Appeal/Application No. ....

IN THE SUPREME COURT HOLDEN AT .....

CRIMINAL JURISDICTION

BETWEEN:

..... Appellant

and

THE PEOPLE

THIS IS TO GIVE YOU NOTICE that Mr. Justice ..... a Judge of the Supreme Court acting under section 4 of the Supreme Court of Zambia Act, 1973, has in terms of rules ..... considered your application(s) for-

- (a) extension of time within which notice of intention to appeal, or, notice of application for leave to appeal, may be given;
- (b) leave to appeal against conviction and/or sentence;
- (c) legal aid to be assigned to you;
- (d) bail;

and has determined the same and has .....

Dated at ..... this ..... day of ....., 19.....

.....  
*Master of the Supreme Court of Zambia*

This Notice was issued on the ..... day of ....., 19..... .

To: The above named ..... and to-

- The Director of Public Prosecutions.
- The Commissioner of Prisons.
- The Assistant Commissioner, C.I.D., Lusaka.
- The Superintendent, State Prison at
- The District/Registrar of the High Court at .....
- The Senior/Clerk of the Court at .....

NOTES:

- (1) Inapplicable words, etc., on this form are to be deleted.
- (2) If any of the above-mentioned applications have been refused the appellant may, if he so desires, have the same determined by the full Supreme Court duly constituted for the hearing of appeals. In such case he MUST WITHIN FOURTEEN DAYS of the RECEIPT of this Notice give notice of appeal to the Master of the Supreme Court on Form CRIM/12. A copy of Form CRIM/12 for the use of the appellant, if he so desires, is enclosed with his copy of the Notice. If the appellant does not wish to proceed further with his application(s) he should complete Form CRIM/5 (Notice of Abandonment).

(Rule 27)

REPUBLIC OF ZAMBIA

NOTICE BY APPELLANT REQUIRING APPLICATION TO BE DEALT WITH BY THE COURT

Appeal/Application No. ....
IN THE SUPREME COURT HOLDEN AT .....
CRIMINAL JURISDICTION

BETWEEN:

..... Appellant

and

THE PEOPLE

Respondent

I, .....
received on the ..... day of ....., 19 ....., your notification that my application(s) for-

- (a) extension of time within which notice of intention to appeal, or notice of application for leave to appeal to the Court may be given;
(b) leave to appeal against conviction and/or sentence;
(c) legal aid to be assigned to me;
(d) bail;
(e) .....

has/have been refused;

DO HEREBY give you Notice that I desire that the said applications shall be considered and determined by the Supreme Court and desire/do not desire to be present at the hearing of my application.

Dated at ..... this ..... day of ....., 19.....

(Signed) .....

Appellant (or his Counsel)

.....

Witness

(If not legally represented)

To: The Master of the Supreme Court.
The Director of Public Prosecutions.
The District/Registrar of the High Court at .....
(Case No. ....).
or The Senior/Clerk of Court at ..... (Case No. ....).

NOTES:

- (1) Inapplicable words, etc., on this form should be deleted.
(2) If you wish to state any reason IN ADDITION to those set out by you in your original Notice upon which you submitted that the Supreme Court should grant your said application(s) you may do so in the space overleaf BUT you must not repeat reasons that you have already stated in any previous Notice or Notices.

(Rule 43)

REPUBLIC OF ZAMBIA

NOTIFICATION OF RESULT OF APPLICATION TO THE FULL COURT

Appeal/Application No. ....

IN THE SUPREME COURT HOLDEN AT .....

CRIMINAL JURISDICTION

BETWEEN:

..... Appellant

and

THE PEOPLE

Respondent

THIS IS TO GIVE YOU NOTICE that the Supreme Court as duly constituted for the hearing of appeals under section 3 of the Supreme Court of Zambia Act, 1973, has this day considered the application(s) of the above-named appellant for-

- (a) extension of time within which notice of intention to appeal or, notice of application for leave to appeal, may be given;
- (b) leave to appeal against;
- (c) legal aid to be assigned to him;
- (d) bail;
- (e) leave to call further evidence;
- (f) .....

and has finally determined the same and has-

Dated at ..... this ..... day of ....., 19.....

.....  
*Master of the Supreme Court*

This Notice was issued on the .....day of ....., 19.....

To: The above named ..... and to-

- The Director of Public Prosecutions.
- The Commissioner of Prisons.
- The Superintendent, State Prison at .....
- The District/Registrar of the High Court at .....
- The Assistant Commissioner, C.I.D., at Lusaka.
- The Senior/Clerk of the Court at .....

NOTE: Inapplicable words, etc., on this form to be deleted.

(Rules 27 and 43)

REPUBLIC OF ZAMBIA

NOTIFICATION THAT DECISION OF A JUDGE HAS BECOME FINAL THROUGH FAILURE OF APPELLANT TO APPEAR WITHIN THE TIME STATED

Appeal/Application No. ....

IN THE SUPREME COURT HOLDEN AT .....

CRIMINAL JURISDICTION

BETWEEN:

..... Appellant

and

THE PEOPLE

Respondent

THIS IS TO GIVE YOU NOTICE that the above-named appellant having applied for ..... and the said application(s) having on the ..... day of ..... 19....., been refused by a Judge of the Supreme Court and notification having been given to the appellant on the ..... day of ....., 19....., enclosing Form CRIM/12 and the said Form CRIM/12 not having been returned to me duly completed by the appellant, the refusal of his application(s) is/are final.

Dated at ..... this ..... day of....., 19.....

..... Master of the Supreme Court

This Notice was issued on the ..... day of....., 19.....

To: The above named ..... and to- The Director of Public Prosecutions. The Commissioner of Prisons. The Superintendent, State Prison at ..... The District/Registrar of the High Court at or Senior/Clerk of Court ..... (Case No. ....) or Senior/Clerk of the Court at..... (Case No. ....) The Assistant Commissioner, C.I.D., at Lusaka. ....

NOTE: Inapplicable words, etc., on this form are to be deleted.

(Rule 43)

REPUBLIC OF ZAMBIA

NOTIFICATION OF RESULT OF FINAL APPEAL

Appeal No. ....

IN THE SUPREME COURT OF ZAMBIA HOLDEN AT .....

CRIMINAL JURISDICTION

BETWEEN:

..... Appellant

and  
THE PEOPLE

Respondent

THIS IS TO GIVE YOU NOTICE that the Supreme Court of Zambia as duly constituted for the hearing of appeals under section 3 of the Supreme Court of Zambia Act, 1973, has this day considered the appeal of the above-named appellant against

and has finally determined the same and

Dated at ..... this ..... day of ....., 19..... .

.....  
*Master of the Supreme Court*

This Notice was issued on the ..... day of ....., 19..... .

To: The above-named ..... and to-  
The Director of Public Prosecutions.  
The Commissioner of Prisons.  
The Superintendent, State Prison, at .....  
The District/Registrar of the High Court of Zambia at ..... (Case No. ....)  
or Senior/Clerk of the Court at ..... (Case No. ....)  
The Assistant Commissioner, C.I.D., at Lusaka. ....

NOTE: Inapplicable words, etc., on this form are to be deleted.

(Rule 33)

REPUBLIC OF ZAMBIA

NOTIFICATION OF ABANDONMENT OF AN APPEAL

Supreme Court Appeal No. ....

IN THE SUPREME COURT OF ZAMBIA HOLDEN AT .....

CRIMINAL JURISDICTION

BETWEEN:

..... Appellant

and  
THE PEOPLE

Respondent

TAKE NOTICE THAT the above-named appellant having filed a Notice of Abandonment dated the ..... day of ....., 19 ....., on the ..... day of ....., 19 ....., his/her appeal to the Supreme Court against conviction and/or sentence is deemed to have been dismissed by the said Court.

Dated at ..... this ..... day of ....., 19.....

.....  
*Master of the Supreme Court*

This Notice was issued on the ..... day of ....., 19.....

To: The above named ..... and to-  
The Director of Public Prosecutions.  
The Commissioner of Prisons.  
The Superintendent, State Prison, at .....  
The District/Registrar of the High Court at ..... (Case No. .... )  
or Senior/Clerk of the Court at ..... (Case No. .... )  
The Assistant Commissioner, C.I.D., at Lusaka. ....

NOTE: Inapplicable words, etc., on this form are to be deleted.

(Rule 49)

REPUBLIC OF ZAMBIA

NOTICE OF APPEAL

IN THE SUPREME COURT HOLDEN AT .....

CIVIL JURISDICTION

BETWEEN:

.....  
and  
.....

TAKE NOTICE that .....  
being dissatisfied with the judgment of Mr Justice .....  
given in the High Court at ..... on the ..... day of ....., 19....., intends to  
appeal to the Supreme Court against the whole judgment (No. .... ) or against such  
part or parts of the said judgment (.....) as decides  
that .....

Dated at ..... this ..... day of ....., 19 .....

.....  
*Appellant (or his Counsel)*  
Address for service .....

To: The District/Registrar of the High Court at .....  
The Respondent to the intended appeal .....

(Name)  
of .....  
.....  
(Address for service)

The Master of the Supreme Court.

Filed this ..... day of ....., 19....., at .....

.....  
*Register of the High Court*  
at .....

NOTES:

- (1) A respondent served with this Notice is required within 14 (fourteen) days after such service to file in these proceedings and to serve upon the appellant a Notice of his address for service for the purpose of the intended appeal, and within a further 14 (fourteen) days to serve a copy thereof on every other respondent named in this Notice who has filed a Notice of an address for service. In the event of non-compliance, the appellant may proceed *ex parte*.
- (2) Inapplicable words, etc., on this form should be deleted.

(Rule 12)

REPUBLIC OF ZAMBIA

NOTICE OF APPLICATION FOR EXTENSION OF TIME

Application No. ....

IN THE SUPREME COURT HOLDEN AT.....

CIVIL JURISDICTION

BETWEEN:

.....  
and  
.....

TAKE NOTICE that .....  
being desirous of appealing against the judgment (.....) of Mr Justice .....  
given in the High Court at .....  
on the ..... day of ....., 19..... ;

HEREBY GIVES NOTICE OF APPLICATION for an extension of time within which to give notice of appeal, or notice of application for leave to appeal against the said judgment (No. ....) for the reasons and upon the grounds next following:

- (1) Reasons for being out of time and grounds for an extension: .....
- (2) Grounds of appeal .....

Dated at ..... this ..... day of ....., 19.....

Appellant (or his Counsel)

Address for service .....

To: The Master of the Supreme Court.

The Respondent: .....

(Name)

of .....

(Address for Service)

NOTES:

- (1) Form CIV/1-Notice of Appeal (Civil)-duty completed or a copy of the Notice of Motion or Summons for leave to appeal must be forwarded with this application.
- (2) Inapplicable words, etc., on this form should be deleted.

(Rule 58)

REPUBLIC OF ZAMBIA

MEMORANDUM OF APPEAL

Appeal No. ....

IN THE SUPREME COURT HOLDEN AT .....

CIVIL JURISDICTION

BETWEEN:

..... Appellant

and

..... Respondent

the Appellant above named, appeals to the Supreme Court against the whole/part(s) of the judgment (.....) in the above-mentioned matter on the following ground(s), namely:

..... GROUND(S) (Here set out what part or parts of the judgment..... is complained of and the ground or grounds of appeal:

Dated at ..... this ..... day of ....., 19.....

..... Appellant (or his Counsel)

Address for service .....

To: The Master of the Supreme Court.

The Respondent .....

(Name)

of .....

(Address for service)

The District/Registrar of the High Court at .....

Filed at ..... this ..... day of ....., 19.....

..... Master of the Supreme Court of Zambia

NOTE: Inapplicable words, etc., on this form should be deleted.

REPUBLIC OF ZAMBIA

NOTICE OF ADDRESS FOR SERVICE

Application/Appeal No. ....

IN THE SUPRMEE COURT HOLDEN AT .....

CIVIL JURISDICTION

BETWEEN:

.....  
and  
.....

TAKE NOTICE that the address for service of .....  
a Respondent served with the Notice of Appeal herein, is .....

Dated this ..... day of ....., 19 .....

.....  
*Respondent(or his Counsel)*

To: The District/Registrar of the High Court at .....

The Appellant .....  
(Name)

of .....

.....  
(Address for service)

The Respondent .....

(Name)

of .....

.....  
(Address for service)

The Master of the Supreme Court.

Filed this ..... day of ....., 19 .....,  
at .....

.....  
*Registrar of the High Court*

NOTES:

- (1) This Notice must be served on all interested parties who have themselves furnished addresses for service.
- (2) Inapplicable words, etc., on this form should be deleted.

(Rule 61)

REPUBLIC OF ZAMBIA

RESPONDENT'S NOTICE OF CROSS-APPEAL

Appeal No. ....

IN THE SUPREME COURT HOLDEN AT.....

CIVIL JURISDICTION

BETWEEN:

..... Appellant

and

..... Respondent

TAKE NOTICE that, in the hearing of this appeal, ..... the Respondent above named, being dissatisfied with the judgment the subject of the said appeal, will contend that the said judgment ought to be varied to the extent and in the manner and upon the grounds hereinafter set out, namely:

(Here set out the variations contended for and the grounds relied on in support):

Dated at ..... this ..... day of ....., 19.....

..... Respondent (or his Counsel)

Address for service .....

To: The Master of the Supreme Court.

The Appellant .....

(Name)

of .....

(Address for service)

The Respondent .....

(Name)

of .....

(Address for service)

The District/Registrar of the High Court .....

Filed this ..... day of ....., 19 .....

at .....

..... Master of the Supreme Court of Zambia

NOTES:

- (1) This Notice must be served on all interested parties who have themselves furnished addresses for service.
- (2) Inapplicable words, etc., on this form should be deleted.

(Rule 69)

REPUBLIC OF ZAMBIA

NOTICE OF NON-APPEARANCE

Appeal No. ....

IN THE SUPREME COURT HOLDEN AT .....

CIVIL JURISDICTION

BETWEEN:

..... Appellant

and

..... Respondent

TAKE NOTICE that the Appellant/Respondent

.....

(Name)

- (1) Does not desire to be present in person or by practitioner at the hearing of the above-mentioned appeal, or at any proceedings subsequent thereto.
- (2) Submits herewith written argument for the consideration of the Supreme Court as set out in the Appendix hereto.

Dated at ..... this ..... day of ....., 19.....

.....

Appellant/Respondent

Address for service .....

.....

To: The Master of the Supreme Court.

The Appellant .....

(Name)

of .....

.....

(Address for service)

The Respondent .....

(Name)

of .....

.....

(Address for service)

APPENDIX

(Here set out the argument to be put forward)

.....

Appellant/Respondent

NOTES:

- (1) This Notice must be served on all interested parties who have themselves furnished addresses for service.
- (2) Inapplicable words, etc., on this form should be deleted.

(Rule 63)

REPUBLIC OF ZAMBIA

WITHDRAWAL OF APPEAL

Appeal No. ....

IN THE SUPREME COURT HOLDEN AT .....

CIVIL JURISDICTION

BETWEEN:

..... Appellant

and

..... Respondent

TAKE NOTICE that the Appellant/Respondent

.....  
(Name)  
hereby discontinues all further proceedings in the above-mentioned appeal, or such part thereof as relates to .....

.....  
(set out)

Dated at ..... this ..... day of ....., 19.....

.....  
Appellant/Respondent (or his Counsel)

Address for service .....

To: The Master of the Supreme Court.

The Appellant .....

(Name)

of .....

.....  
(Address for service)

The Respondent .....

(Name)

of .....

.....  
(Address for service)

NOTES:

- (1) This Notice must be served on all interested parties who have themselves furnished addresses for service.
- (2) Inapplicable words, etc., on this form should be deleted.

(Rule 16)

REPUBLIC OF ZAMBIA

NOTICE OF HEARING

Appeal/Application No. ....

IN THE SUPREME COURT HOLDEN AT .....

CIVIL JURISDICTION

BETWEEN:

..... Appellant/Applicant

and

..... Respondent

TAKE NOTICE that the above-mentioned Appeal/Application will be heard and determined by the Supreme Court sitting at..... on ..... day, the ..... day of ....., 19....., at the hour of ..... o'clock in the ..... noon or so soon thereafter as Counsel may be heard.

Court No. ....

Before .....

Dated at ..... this ..... day of ....., 19.....

.....  
*Master of the Supreme Court of Zambia*

To: The Appellant/Applicant .....

.....  
The Respondent.....

.....  
The District/Registrar of the High Court at .....

and to .....

Notice Board.

File.