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G.N. No. 536/2018

**NAURU COURT OF APPEAL RULES 2018**

SL. NO. 19 OF 2018

Notified: [ ]

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In exercise of the powers conferred upon me under *section 59* of the Nauru Court of Appeal Act 2018, I hereby make the following Rules of the court:

**PART 1 - PRELIMINARY**

1 **Citation**

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

2 **Commencement**

The Rules commence on the day they are notified in the Gazette.

3 **Definition**

In these Rules:

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

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

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

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

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

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

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

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

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

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

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

4 **Objectives of the Rules**

**(1) The objectives of the Rules are to:**

- (a) provide for the orderly, expeditious and inexpensive disposal of applications and appeals;
- and

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(b) enable the parties to an application or appeal to prepare and present their cases and responses to the other parties, comprehensively and fairly.

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

**5 Rules to be complied with**

**(1)The Rules shall be complied with unless waived by the Court.**

**(2)Any documents filed contrary to the Act or Rules shall not be read, admitted as evidence or form part of a proceeding, without the prior leave of the Court.**

(3)In waiving the non-compliance of the Rules under sub rule (1), the Court may:

(a) direct the party to rectify the non-compliance in accordance with the applicable rule; or

(b) where it deems fit, order costs against the defaulting party.

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

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

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

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

**8 Sitting in chambers**

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

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

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

**PART 2 - APPEALS IN CIVIL PROCEEDINGS**

**10 Notice of appeal**

(1)A notice of appeal under Part 6 of the Act may be given in respect of whole or part of a judgment, decision or order of the Supreme Court.

(2)The notice of appeal shall

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

#### **11 Security for cost**

- (1) The appellant, within 30 days of the service of the notice of appeal to the last of the respondents, shall file and serve a summons in Form 2 in Schedule 1 before the Registrar to fix the amount and nature of security for cost to be given by the appellant for the hearing and determination of the appeal.
- (2) Where one or more of the parties to the appeal seek to oppose an order for security for cost, such party or parties may file and serve an answering affidavit within 7 days of the service of the summons in sub rule (1).
- (3) The Registrar may waive or fix the security for cost and the time within which the appellant shall pay the security for cost in court.
- (4) Where the appellant fails to comply with the order of the Registrar, all proceedings in the appeal shall be stayed and be listed for a session of the sitting of the Court for a formal order for dismissal, unless the order is

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varied or time for payment of security for cost is extended by a single Justice of Appeal.

- (5) An appellant, who is represented by the Office of the Public Legal Defender or a legal representative on a pro bono basis, at the time the appeal is filed or any subsequent proceedings of the appeal, shall not be required to provide security for cost for the respondent's cost in Court.
- (6) The Republic, as an appellant in a proceeding before the Court shall not be required to provide or pay security for cost for the respondent's cost in Court, whether at the time of the filing of the appeal or in any other subsequent proceedings.
- (7) The appellant in sub rules (4), (5) and (6) shall within 30 days of the service of the notice of appeal, file and serve a summons to the respondent returnable before the Registrar for directions for compiling the appeal record book.
- (8) Sub rule (4) shall apply where the appellant fails to comply with sub rule (7).

12 **Stay of execution or proceeding**

- (1) An appeal shall not operate as a stay of execution or proceeding unless ordered by the Supreme Court or the Court.
- (2) Where an intended appellant or appellant seeks an order for stay of execution or proceeding against the judgment, decision or order of the Supreme Court, before or after filing of the notice of appeal respectively, he or she may file and serve:
  - (a) a summons seeking an order for stay of execution or proceeding with any other appropriate orders in Form 3 in Schedule 1; and
  - (b) one or more affidavits in support of the application for stay of execution or proceeding for and on behalf of the applicant.
- (3) The affidavit in sub rule (2)(b) shall include:
  - (a) reasons as to why the failure to stay the execution or proceeding will render the appeal nugatory;
  - (b) the prospect of the success of the appeal or where an appeal is not filed, exhibit a duly completed copy of the proposed notice of appeal in Form 1 in Schedule 1;
  - (c) the effect of the stay on third party;
  - (d) the balance of convenience and competing rights of parties to the intended appeal or appeal filed;

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- (e) a copy of the judgment, decision or order of the Supreme Court;
  - (f) a copy of the decision or order of the Supreme Court where the application for stay was filed but dismissed; and
  - (g) any other matters which the intended appellant or appellant may deem necessary.
- (4) The Court may hear *ex parte* a summons for stay, if the applicant is able to demonstrate the urgency and the Court deems it fit to hear the application and grant such an order.
- (5) The Court, in considering an *ex parte* application for stay shall only grant an interim stay until such time the application is heard *inter parte*.
- (6) Any respondent or interested party who seeks to oppose the application may file and serve an answering affidavit no later than 7 days or as directed by the Court from the date of the service of the summons and affidavit filed in sub rule (2).
- (7) An order granted under this rule shall be served to the respondent or any other interested third parties as soon as practicable or as ordered by the Court.

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**Respondent's notice**

- (1) A respondent, who seeks to contend that the judgment, decision or order of the Supreme Court on appeal be varied, shall file and serve a Respondent's notice in Form 4 in Schedule 1.
- (2) The Respondent's notice shall:
- (a) state whether it is intended to contest whole or part of any judgment, decision or order which is the subject of appeal;
  - (b) state whether the Respondent's notice is against one or more of the appellants or respondents to the appeal or parties to the cause or matter in the Supreme Court or any other written law;
  - (c) specify the date of judgment, decision or order sought to be varied;
  - (d) specify the ground or grounds of contention and variations sought relating to the part or parts of the judgment, decision or order which is the subject of appeal;
  - (e) specify the nature of relief sought; and
  - (f) be signed by the respondent or the respondent's legal representative.

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(3) The respondent shall file and serve the Respondent's notice to the appellant and other parties to the appeal within 21 days from the date of service of the notice of appeal to the respondent.

(4) The respondent shall not be required to provide security for cost for the Respondent's notice.

14 **Application for leave to appeal**

(1) Where leave is required to appeal an interlocutory judgment, decision or order of the Supreme Court or any provisions of Part 6 of the Act, the intended appellant shall make an application for leave by filing:

(a) a summons for leave to appeal such interlocutory judgment, decision or order with any other appropriate orders in Form 5 in Schedule 1; and

(b) one or more affidavits in support of the application for leave to appeal for and on behalf of the applicant.

(2) The affidavits in sub rule (1)(b) shall include:

(a) the reasons as to why leave is required;

(b) the prospect of success of the intended appeal or exhibit a duly completed copy of the proposed notice of appeal in Form 1 in Schedule 1;

(c) the balance of convenience and the effect of granting leave to any other party or parties to the appeal;

(d) any decisions or orders of the Supreme Court on leave to appeal the interlocutory judgment, decision or order, if a prior application for leave was filed in the Supreme Court;

(e) a copy of the judgment, decision or order of the Supreme Court; and

(f) any other matters which the intended appellant may deem necessary.

(3) The intended appellant shall file and serve the summons and affidavit to the respondent within 21 days of the date of the delivery of the judgment, decision or order of the Supreme Court intended to be appealed.

(4) A respondent or interested party who seeks to oppose the application may file and serve an answering affidavit no later than 14 days or as directed by the Court from the date of the service of the summons and affidavit filed under sub rule (1).

(5) The Court shall give such directions or make such orders as it deems fit for the purpose of the hearing and determination of the application.

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- (6) Where the Court grants leave under this rule to appeal an interlocutory judgment, decision or order of the Supreme Court, the intended appellant shall file and serve a notice of appeal in Form 1 in Schedule 1 within 7 days of granting of the leave or as directed by the Court.

**15 Application for extension of time**

- (1) For the purposes of section 22(3) of the Act, an intended appellant who seeks leave of the Court to extend the time for filing or serving of an application for leave to appeal or to appeal a judgment, decision or order of the Supreme Court out of time, shall file and serve to the respondents or other interested parties to the application or intended appeal:

- (a) a summons seeking leave to extend time to file an application for leave or to file an appeal with any other appropriate orders in Form 6 in Schedule 1; and
- (b) one or more affidavits in support of the application for and on behalf of the applicant.

- (2) The affidavit in sub rule (1)(b) shall include:

- (a) the prospect of success of the intended appeal or exhibit a duly completed copy of the proposed notice of appeal in Form 1 in Schedule 1;
- (b) the explanation for the nature, length and reasons for delay;
- (c) the balance of convenience and competing rights of the parties; and
- (d) any other matters which the intended appellant may deem necessary.

- (3) Any respondent or interested party who seeks to oppose the application may file and serve an answering affidavit no later than 14 days or as directed by the Court from the date of the service of the summons and affidavit filed under sub rule (1).

- (4) The Court shall give such directions or make such orders as it deems fit for the purpose of the hearing and determination of the application.

**16 Application to admit fresh evidence**

- (1) For the purposes of section 24(2) of the Act, where a party seeks leave of the Court to admit fresh evidence in an appeal, such party shall file and serve:

- (a) a summons seeking an order to admit such evidence with any other appropriate orders in Form 7 in Schedule 1; and

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- (b) one or more affidavits in support of the application for and on behalf of the applicant specifically deposing to matters contained in section 24(2)(a), (b) and (c) of the Act.
- (2) An application for leave to admit fresh evidence shall be filed and served to the respondents or interested parties to the appeal no later than 30 days before the date fixed for hearing of the appeal.
- (3) A respondent or interested party, who seeks to oppose the application, may file and serve an answering affidavit no later than 14 days or as directed by the Court from the date of the service of the summons and affidavit filed under sub rule (1).
- (4) The Court shall give such directions or make such orders as it deems fit for the purpose of the hearing and determination of the application.

**17 Application of Civil Procedure Rules**

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

**PART 3 - APPEALS IN CRIMINAL PROCEEDINGS**

**18 Application of this Part**

(1) This Part of the Rules applies to appeals in Part 7 of the Act relating to appeals in criminal proceedings.

(2) The Civil Procedure Rules or Part 2 of the Rules do not apply to this Part of the Rules except where:

- (a) the Act, the Rules or any other written law so expressly provides; and
- (b) any judgment, decision or order granted in criminal proceedings relates to the effect or interpretation of the Constitution under Part 7 of the Supreme Court Act 2018.

(3) For the purposes of sub rule (2), where leave is required the application may be made to a single Justice of Appeal.

**19 Notice of appeal**

- (1) An appeal from the judgment, decision or order of the original, appellate, case stated or revisional jurisdiction of the Supreme Court as to conviction, sentence or both as provided for in the Act, shall be commenced by a notice of appeal in Form 8 in Schedule 1.
- (2) A notice of appeal may be given against whole or part of the judgment, decision or order which is the subject of appeal.
- (3) The notice of appeal shall provide:

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

## **20 Bail pending appeal or intended appeal**

- (1) Where a person convicted and sentenced to a term of imprisonment appeals or seeks leave to appeal against the judgment, decision or order of the Supreme Court, he or she may apply for bail pending appeal by filing and serving to the respondent:
- (a) a summons seeking an order for bail pending appeal or intended appeal with any other appropriate orders in Form 9 in Schedule 1; and
  - (b) one or more affidavits in support of the application for bail pending appeal or intended appeal.
- (2) The affidavit in sub rule (1) (b) shall include:
- (a) the reasons for bail;
  - (b) the prospect of success of the appeal or where an appeal is not filed, exhibit a duly completed copy of the proposed notice of appeal in Form 8 in Schedule 1;
  - (c) a copy of the judgment, decision or order of the Supreme Court;

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- (d) a copy each of any decision or order made by the Supreme Court after the delivery of the judgment, decision or order being the subject of appeal; and
  - (e) any other matters which the appellant may deem necessary.
- (3) For the purposes of this rule, the application shall comply with the requirements of the Bail Act 2018.
  - (4) The Court may grant an order for bail pending appeal or intended appeal or any other appropriate orders in Form 10 in Schedule 1.
  - (5) An appellant admitted to bail, shall be personally present on each occasion the appeal is listed before the Court including the hearing of interlocutory applications or the hearing and determination of the appeal, unless the presence of the appellant is excused by the Court.
  - (6) Where the appellant fails to attend to Court as required under sub rule (5), the Court may:
    - (a) summarily dismiss the appeal;
    - (b) issue a warrant for his or her apprehension;
    - (c) adjourn the appeal; or
    - (d) consider the appeal in his or her absence.

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

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

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- (c) a copy of the judgment, decision or order which is the subject of appeal;
  - (d) a copy of the decision or order of the Supreme Court made after the judgment, decision or order which is the subject of appeal; and
  - (e) any other matters which the intended appellant or appellant may deem necessary.
- (3) The Court may grant an order staying the sentence or any other appropriate order in Form 12 in Schedule 1.

## **22 Respondent's notice**

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

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

- (1) Where an appeal lies to the Court from the judgment, decision or order of the appellate jurisdiction of the Supreme Court or where leave is required to commence an appeal, the intended appellant shall only commence an appeal after having obtained leave of the Court under section 30 of the Act.

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- (2) Where leave of the Court is required in sub rule (1), the intended appellant in an application or appeal shall file and serve:
  - (a) a summons for leave to appeal the judgment, decision or order with any other appropriate orders in Form 14 in Schedule 1; and
  - (b) one or more affidavits in support of the application for and on behalf of the applicant.
- (3) The affidavit in sub rule (2)(b) shall include:
  - (a) the reasons as to why leave is required;
  - (b) the prospect of success of the intended appeal or where an appeal is not filed, exhibit a duly completed copy of the proposed notice of appeal in Form 8 in Schedule 1;
  - (c) a copy of the judgment, decision or order of the Supreme Court, which is the subject of the appeal;
  - (d) a copy of the decision or order of the Supreme Court where the application for leave was made but declined; and
  - (e) any other matters which the intended appellant may deem necessary.
- (4) Where the Court grants leave under this rule to appeal a judgment, decision or order of the Supreme Court, the intended appellant shall file and serve the notice of appeal in Form 8 in Schedule 1 within 7 days from the date of the grant of leave or as directed by the Court.
- (5) This rule applies to an appeal against a judgment, decision or order of the Supreme Court under section 31 of the Act.

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

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

#### **25 Consolidation of appeals**

- (1) Where two or more appeals are brought from convictions or sentences passed at the same trial, they shall be consolidated and determined as one

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appeal unless the interest of justice requires the Court to hear and determine the appeals separately.

(2) Where two or more persons convicted or sentenced by the District Court, appeals to the Supreme Court and their appeals were consolidated and heard by the Supreme Court as one appeal, such two or more persons may give notice of appeal to the Court, to have their appeals consolidated and determined as one appeal.

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

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

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

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

## **28 Application to admit fresh evidence**

(1) For the purposes of section 39 of the Act, where a party seeks leave of the Court to admit fresh evidence in an appeal under Part 7 of the Act, he or she shall file and serve:

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

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

**29 Intervention by a non-party**

- (1) A person, who is or was not a party to a proceeding in the Supreme Court but is aggrieved or affected by or has sufficient interest in the judgment

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decision or order of the Supreme Court which is the subject of appeal, may seek leave of the Court to intervene in the application or appeal.

- (2) A person seeking to intervene in an application or appeal under sub rule (1) shall file and serve:
  - (a) a summons seeking an order to intervene in the proceedings with any other appropriate orders in Form 19 in Schedule 1; and
  - (b) one or more affidavits in support of the application for and on behalf of the applicant.
- (3) The affidavit in sub rule (2)(b) may include:
  - (a) the purpose of the intervention;
  - (b) any grievance or adverse effect which the judgment, decision or order may have on the applicant;
  - (c) the nature of interest and reasons for such interest to be pursued in the appeal;
  - (d) the breach of natural justice or denial of a right to present his or her case before the District Court or Supreme Court by virtue of not being a party;
  - (e) any judgment, decision, order, restriction or liability is imposed on the intervener; and
  - (f) any other matters which the party may deem necessary.
- (4) A party to an application or appeal, who opposes the application for intervention, may file and serve an answering affidavit within 7 days of the service of the summons and affidavit unless such time is extended by the Court.
- (5) A person aggrieved, affected or having sufficient interest under sub rule (1), may with the leave of a single Justice of Appeal or the Court, commence an appeal against the judgment, decision or order of the Supreme Court, where the parties to the cause or matter in the Supreme Court have not appealed, as a consequence of which the intervener is not able to intervene in an application or appeal under the Act or the Rules.
- (6) In an appeal under sub rule (5), the intervener may join one or more parties to the cause or matter in the Supreme Court as respondents or interested parties in an application for appeal.
- (7) An application under sub rule (5) shall be in accordance with sub rule (2) with any necessary modification.
- (8) The Court in granting leave under this rule may impose such conditions as it deems fit.
- (9) Where the Court grants leave to intervene, the intervener shall:

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- (a) be deemed as a party to an application or appeal;
- (b) where no application or appeal is filed, the intervener may commence an appeal;
- (c) file and serve a notice of appeal by an intervener as provided in Form 20 in Schedule 1;
- (d) have all such rights and obligations as a party to an appeal under the Act, the Rules or any other written law for the purposes of the appeal; and
- (e) comply with the procedure applicable for appeals under the Act or the Rules with any necessary modification.

(10) The Court may give such directions or make such orders as it deems fit for the purpose of the hearing and determination of the application or appeal, where leave is granted.

### **30 Interlocutory application**

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

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

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

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

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

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

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

**34 Court may order costs**

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

**35 Supplementing the records**

- (1) An appellant or respondent may seek leave of the Court to supplement the record of the proceedings of a cause or matter in the District Court or Supreme Court, which is the subject of appeal, where the appellant or respondent has reasonable cause to believe that certain matters relevant to the issues on appeal were not included in the appeal record book.
- (2) Where leave of the Court is required to supplement the record of the proceedings, the applicant shall file and serve:

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- (a) a summons for leave to supplement the record of the proceedings with any other appropriate orders in Form 23 in Schedule 1; and
  - (b) one or more affidavits in support of the application for and on behalf of the applicant.
- (3) The affidavit in sub rule (2)(b) shall include:
- (a) the material which on reasonable belief is intended to supplement the appeal record book;
  - (b) the reasons for the initial exclusion of the material from the appeal record book;
  - (c) the significance or relevance of the material to the appeal; and
  - (d) the material which was already agreed to by the parties to the cause or matter and admitted as part of the proceedings in the District Court or Supreme Court but was excluded from the appeal record book.
- (4) The Court shall not grant leave under this rule to include any new material or evidence that was not part of the proceedings or considered by the District Court or Supreme Court.
- (5) Subject to sub rule (4), the appellant or respondent may by consent supplement the record.
- (6) A single Justice of Appeal or the Registrar may hear and determine the application made under this rule.
- (7) For the purposes of this rule, '*material*' includes pleadings, affidavits, exhibits, transcripts or records of the proceedings of the District Court or Supreme Court, written or transcripts of oral submissions or any other evidence which was duly admitted or presented in the respective court of original jurisdiction.

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

- (1) A notice of appeal or Respondent's notice may be amended by filing and serving a supplementary notice of appeal or Respondent's notice in Form 24 in Schedule 1 without the leave of the Court at any time prior to 14 days of the date fixed for hearing of the appeal.
- (2) Where leave of the Court is required to amend the notice of appeal or Respondent's notice at any time less than 14 days of the date fixed for hearing of the appeal, the applicant shall file and serve:
- (a) a summons seeking an order to amend the notice of appeal or Respondent's notice with any other appropriate orders in Form 25 in Schedule 1; and
  - (b) one or more affidavits in support of the application for and on behalf of the applicant.

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- (3) The affidavit in sub rule (2) shall include:
  - (a) the purpose of the intended amendment;
  - (b) the merits of the intended amendment in relation to the determination of the substantive issues or grounds of appeal;
  - (c) the nature, length and reasons for the delay in amending the appeal under sub rule (1);
  - (d) whether the proposed amendment may prejudice the other parties to the appeal; and
  - (e) any other matters which the party may deem necessary.
- (4) The summons and affidavit under sub rule (2) shall be served to the other parties to the appeal at least 3 clear days before the hearing of the application or as directed by the Court.
- (5) Where sub rule (4) is not complied with, the Court may adjourn, dismiss or stay the application or proceed to hearing of the substantive appeal without the intended amendment.
- (6) A party who seeks to oppose the application may file and serve an answering affidavit before the returnable date of the application in sub rule (2) or as directed by the Court.
- (7) The Court shall give such directions or make such orders as it deems fit for the purpose of the hearing and determination of the application.
- (8) Where the Court grants leave to amend the notice of appeal or Respondent's notice, a supplementary notice of appeal or Respondent's notice shall be filed and served to the other parties within 7 days from the date of the grant of such leave or as directed by the Court.

**37 Date of hearing**

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

**38 Order of address in Court**

- (1) Subject to any directions of the Court, at the hearing of an application, the Court shall first hear the applicant followed by the respondent and any replies by the applicant.
- (2) For the hearing of an appeal, the Court shall hear the parties in the following chronological order:
  - (a) the appellant on the appeal;

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- (b) the respondent on the appeal and Respondent's notice, if any given;
  - (c) the appellant on the Respondent's notice and reply to the respondent on the appeal; and
  - (d) the respondent may reply to sub rule (2)(c) but limited to the submission of the appellant on the Respondent's notice.
- (3) The Court may dismiss an appeal or Respondent's notice on a preliminary objection after hearing the other parties to the appeal.

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

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

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

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

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

**PART 5 – SERVICE**

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

(1) Subject to sub rule (2), an intended appellant or appellant shall serve copies of documents filed in Court to all persons who are parties to the cause or matter in the Supreme Court and to such other persons who may personally be affected by the nature of relief sought in the appeal.

(2) Where an application is made *ex parte*, the applicant shall only serve the documents to parties directly affected by the application or to persons who are parties to the cause or matter in the Supreme Court on the directions of the Court.

(3) The rules for service prescribed by the Civil Procedure Rules or the Criminal Procedure Act 1972 shall apply to service of all documents in a cause or matter filed in the Court.

(4) A party to an application or appeal may seek an order from a single Justice of Appeal or Registrar for substituted service, where personal service may not be possible and in case of service outside the Republic.

(5) The single Justice of Appeal or Registrar may make such orders as he or she deems fit for the purposes of sub rule (4).

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

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

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

(1) A respondent, intervener or an interested party on whom a notice of appeal is served shall within 14 days file and serve their respective addresses for service in Form 26 in Schedule 1.

(2) A notice of address for service may be signed by the respondent or the respondent's legal representative.

(3) The filing and serving of a notice of address for service shall not operate or be construed as an admission that the appeal is competent or as a waiver of any procedural or substantive irregularity.

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

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

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

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- (8) Any documents to which a party objects to from being included shall be indicated in the appeal record book for the purposes of adjustment of costs.
- (9) After certification of the appeal record book by the Registrar in sub rule (6), the appellant shall within 21 days:
  - (a) file 4 copies of the appeal record book for the purposes of the Court; and
  - (b) file such number of copies of the appeal record book for the purposes of service to other parties to the appeal.
- (10) A failure by the appellant or respondent to comply with this rule shall be deemed as an abandonment of the notice of appeal or Respondent's notice respectively unless the Court grants leave to the respective party to proceed with the notice of appeal or Respondent's notice.

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

- (1) The appeal record book for criminal appeals shall be:
  - (a) compiled by the Registrar, where the appellant is not represented;
  - (b) compiled by the Director of the Office of the Public Legal Defender where the accused is represented by the Office of the Public Legal Defender;
  - (c) compiled by the Director of Public Prosecutions where the Office of the Director of Public Prosecutions is the appellant; or
  - (d) compiled by the appellant in any other case subject to the direction of the Registrar.
- (2) The Registrar shall prepare the transcript of the Magistrate's or Judge's Notes or transcribed copies of the proceedings and exhibits.
- (3) The appeal record book in a criminal appeal shall be in Form 28 in Schedule 1, which shall include:
  - (a) the notice of appeal;
  - (b) Respondent's notice;
  - (c) any supplementary notice of appeal or Respondent's notice;
  - (d) the judgment, decision or order of the District Court or Supreme Court;
  - (e) in the case of an appeal filed under section 30 of the Act, a certified copy of the District Court proceedings and a certified copy of the record of the proceedings in the Supreme Court;
  - (f) a list of exhibits;

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- (g) any documents, exhibits or parts of the exhibits that were in evidence in the District Court or Supreme Court and are relevant to any question or issue on appeal; and
  - (h) where applicable, the official transcript of the Judge's Notes or record, if any, of such evidence given in the Supreme Court as is relevant to any question or issue on appeal.
- (4) Before the appellant prepares the appeal record book, he or she shall file any copies of the appeal record book referred to in sub rule (3) for certification by the Registrar as a true copy of the document which they purport to be a copy.
- (5) Subject to sub rule (1)(a), if there are any errors or deficiencies in the bundle of documents, the Registrar shall within 7 days require the parties to the appeal to rectify the errors or deficiencies within 14 days.
- (6) After the expiry of 14 days under sub rule (5), the Registrar shall within 7 days certify the appeal record book as being correct.
- (7) In compiling the appeal record book, the appellant shall consult any other party to the appeal as to its content.
- (8) After certification of the appeal record book by the Registrar in sub rule (6), the appellant, the Director of Public Prosecutions or Director of the Office of the Public Legal Defender shall within 21 days:
- (a) file 4 copies of the appeal record book for the purposes of the Court; and
  - (b) file such number of copies of the appeal record book for the purposes of service to other parties to the appeal.
- (9) A failure by the appellant or respondent to comply with this rule shall be deemed as an abandonment of the notice of appeal or Respondent's notice respectively unless the Court grants leave to the respective party to proceed with the notice of appeal or Respondent's notice.

**46 Chronology and written submissions**

- (1) As part of the written submissions for an appeal, the appellant shall file and serve as directed by the Court:
- (a) the chronology of facts in Form 29 in Schedule 1;
  - (b) the chronology of proceedings in the District Court or Supreme Court in Form 30 in Schedule 1;
  - (c) written submissions in Form 31 in Schedule 1; and
  - (d) list of authorities cited or referred to in the written submissions in Form 32 in Schedule 1.

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

## **PART 7 – REFUGEE APPEALS**

### **47 Refugee appeals**

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

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

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

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

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

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

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

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**PART 8 - GENERAL**

**51 Forms**

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

**52 Documents to be filed**

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

**53 Intitule**

- (1) Subject to sub rule (2), the intitule to:
  - (a) a civil application or appeal shall be as provided in Form 33 in Schedule 1;
  - (b) a criminal application or appeal shall be as provided in Form 34 in Schedule 1.
- (2) The intitule to any application or appeal shall set out:
  - (a) the front page of the document commencing a proceeding; and

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(b) the cover of any other document required to be filed in a proceeding.

(3) Where an intervener has been joined as a party to an appeal, the intitule shall contain the name, address, occupation or description of the intervener.

**54 Backing sheet**

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

**55 Provision for address for service**

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

(a) if a party is not represented by a legal representative, the full name, address in the Republic, telephone contact, email address in Form 26 in Schedule 1; or

(b) if a party is represented by a legal representative, the name, address in the Republic, telephone, email address of the legal representative's law firm in Form 26 in Schedule 1.

(2) The address filed under sub rule (1) shall be the party's address for service.

(3) The Registrar shall not accept any documents for filing unless the party seeking to file the document has provided the information required under sub rule (1) in particular, a physical address for service in the Republic.

(4) A party may not be served any documents for the purposes of the appeal where he or she fails to provide the information required under sub rule (1).

(5) Where an applicant or appellant commences an application or an appeal, he or she shall provide the last known address of the respondent, which will be the address for service for the purposes of the Act and the Rules unless the respondent files the information required under sub rule (1).

(6) Where the respondent files the information under Rule 43, the address for service for the purpose of the appeal shall be in accordance with the respondent's information.

(7) A party who has provided an address for service may at any time change the address by filing a notice of such change in the registry and serving copies of it on all persons who have been served with the previous address in Form 26 in Schedule 1.

**56 Notification by the Registrar**

(1) Where the Registrar is required to notify the parties under the Act or the Rules, the notification may be sent by email or any address for service provided under Rule 55.

(2) Where a notification is sent by ordinary mail, it is deem to be received:

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- (a) 5 days, in case of an address within the Republic; and
- (b) 14 days, in case of an address outside the Republic.

**57 Computation of time**

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

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

**58 Hours for filing documents**

- (1) The normal hours for filing documents shall be between 9.30 am to 4.00 pm from Monday to Friday.
- (2) The Registrar in consultation with the Chief Justice may from time to time vary the hours of filing of documents.
- (3) Where the Registrar varies the time under sub rule (2), he or she shall Gazette the variation of such time.

**59 Maintenance of Register**

- (1) The Registrar shall maintain:
  - (a) a Register of Civil Applications in which particulars of every application filed in the registry shall be entered;
  - (b) a Register of Criminal Applications in which particulars of every application filed in the registry shall be entered;
  - (c) a Register of Civil Appeals in which particulars of every notices of appeal filed and any subsequent proceedings in the appeal shall be entered; and

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

**60 Documents to be sealed**

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

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

- (1) The Registrar shall refuse to accept any documents filed out of time as required under the Act, the Rules or any other written law and inform the applicant, appellant or respondent of the reasons for refusal in writing.
- (2) Where the Registrar refuses to accept the documents under sub rule (1):
  - (a) in case of an appeal out of time, the applicant or intended appellant may apply for extension of time to a single Justice of Appeal;
  - (b) in case of a Respondent's notice being out of time, the respondent may apply for extension of time to a single Justice of Appeal; or
  - (c) an applicant or intended appellant may seek a review of the decision by a single Justice of Appeal.
- (3) For the purpose of sub rule (2) (b), the aggrieved party may file and serve a summons in Form 35 in Schedule 1 and an affidavit in support returnable before a single Justice of Appeal.

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**62 Signature on the documents**

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

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

**63 Sitting of the Court**

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

**64 Notice of hearing**

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

**65 Change of legal representative**

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

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

A party to an appeal shall file:

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

**67 Affidavits**

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

**68 Sealing of orders**

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

**PART 9 – MISCELLANEOUS**

**69 Correction of inadvertent slip or omission**

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

**70 Judgment and interest**

- (1) Where a monetary judgment, decision or order of the Supreme Court is appealed to the Court and the Supreme Court or the Court stayed the judgment, decision or order pending appeal, the party in whose favour the judgment, decision or order was given, if subsequently succeeds in the appeal wholly or partially, shall be paid the sum determined by the Court inclusive of interest until the sum is paid.
- (2) Where an appellant in accordance with the judgment, decision or order of the Supreme Court, paid the monetary judgment debt inclusive of interest and the appellant successfully appeals from the judgment, decision or order, the Court may make the following complementary orders:
  - (a) the repayment of the amount paid by the appellant; and
  - (b) the payment of interest to the appellant on the amount paid by the appellant under the judgment during the period commencing on the date of payment and ending with the date of the repayment.
- (3) Where the rate or quantum of interest is decided by the Supreme Court, unless varied by the Court, the interest shall apply to sub rules (1) and (2).
- (4) Where the interest rate or quantum is not quantified, the Court may apply a simple interest rate based on a fair market interest rate or a rate of 5% per annum, whichever is less.

G.N. No. 536/2018 (Cont'd)

- (5) For the avoidance of doubt, in any appeal where a stay is granted, interest for such time as the execution has been delayed by reason of the appeal shall be allowed, unless the Court makes any other orders in relation to the interest or where the judgment, decision or order is wholly reversed.

**71 Practice directions**

The Chief Justice may issue practice directions from time to time clarifying or supplementing the practice and procedure of the Court.

**72 Fees**

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

**PART 10 - TRANSITIONAL**

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

(1) Where:

- (a) a party was required to file an appeal within a fixed period of time; or
- (b) an appeal was so filed within the time provided for under the Act, -

the appeal is deemed to be filed regularly whether or not the formal requirements of the Rules were complied with.

- (2) For the avoidance of doubt, the application for leave to appeal or appeal under sub rule (1) shall only be deemed to be regularly filed if the appeal or application for leave to appeal was filed within the mandatory time provided under the Act.
- (3) This Part applies to any applications or appeals filed from the commencement of the Act on 15 May 2018 until the coming into effect of the Rules.

**Dated this 13<sup>th</sup> day of July 2018**

**FILIMONE JITOKO**  
**CHIEF JUSTICE AND PRESIDENT OF THE NAURU COURT OF APPEAL**



**REPUBLIC OF NAURU**

**SCHEDULE 1**

**Nauru Court of Appeal Act 2018**

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**Form 1**

*Rule 10(5)*

**(Notice of Appeal in Civil Appeal)**

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

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

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

**Appellant**

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

**Respondent**

**NOTICE OF APPEAL**

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

The full particulars of appeal are as follows:

<b>State the nature of appeal</b>	The Appellant appeals against:  (a) whole or part of the final ( <i>judgment, decision or order</i> ); or (b) interlocutory ( <i>judgment, decision or order</i> ) ( <b>leave to appeal required</b> ).  <i>(Delete whichever is inapplicable)</i>
<b>Date of judgment, decision or order</b>	<i>(State the date of the judgment, decision or Order)</i>
<b>Orders granted by the Supreme Court</b>	The orders made by the Supreme Court were as follows:  1 2 3  <i>[(a) State the precise orders made by the Supreme Court; (b) Attach a copy of the judgment, decision or order of the Supreme Court with this Notice of Appeal]</i>
<b>Appeal from original, appellate case stated or revisional Jurisdiction of the Supreme Court</b>	This appeal is from the:  (a) Original Jurisdiction of the Supreme Court; (b) Appellate Jurisdiction; or (c) Case stated or Revisional Jurisdiction  <i>(Delete whichever is inapplicable)</i>
<b>Any orders made by the Supreme Court after the delivery of judgment, decision or order</b>	The Supreme Court made the following orders after the delivery of the ( <i>judgment, decision or order</i> ) of the Supreme Court:  1 2 3  <i>(Note: List the date the orders were made and the actual orders.)</i>

G.N. No. 536/2018 (Cont'd)

<b>Any Orders Granted by a Single Justice of Appeal or Registrar</b> <i>(where applicable)</i>	The following interlocutory orders were granted by a single Justice of Appeal or Registrar: 1 2 3 <i>(Any orders regarding leave to appeal or stay of execution of judgment, decision or order granted by the single Justice of Appeal.)</i>
<b>Grounds of Appeal</b>	The Grounds of Appeal are as follows:- <i>(Properly outline, number and state the grounds of appeal as 1, 2, 3 etc.)</i> 1 2 3 <b>AND</b> the Appellant reserves the right to amend or vary the grounds of appeal by way of a supplementary Notice of Appeal upon receipt of the appeal record book of the Supreme Court 14 days before the hearing of the appeal or with the leave of the Court.  <i>(If necessary attach a separate page.)</i> <i>(Note: No submissions are to be attached or included as part of the grounds of appeal.)</i>
<b>Nature of interlocutory relief or orders sought</b>	The Appellant seeks the following interlocutory or interim relief or orders:- 1 2 3 <i>[(a) Precisely state the interlocutory or interim orders sought from the Nauru Court of Appeal; (b) If necessary attach a separate page; (c) No submissions are to be attached or included as part of the relief or orders sought]</i>
<b>Nature of final relief or orders sought</b>	The Appellant seeks an Order to <i>(vary or reverse)</i> the <i>(judgment, decision or order)</i> of the Supreme Court and the following orders be granted:- 1 2 3 <i>(Precisely state the final relief or orders sought from the Court.)</i>
<b>Notice to Respondent</b>	If the Respondent intends to file a Respondent's Notice, this must be filed within 14 days of the service of Notice of Appeal to the Respondent
<b>Last date for Appealing</b>	[day] / [ month] / [year]  <i>[(a) Appellant must state the last date for appealing the decision under the Act or the Rules; and (b) If out of time, application for leave to appeal out of time must be made or where granted should be stated here with orders attached to this Notice.]</i>
<b>Representation</b>	In person or by a legal representative <i>(state the name of legal representative)</i>
<b>Address for service of the Appellant</b>	Legal representative or Appellant in persons full address:  ..... District Email: ..... Telephone Number: .....
<b>Signature of Appellant or Legal representative</b>	.....
<b>Date filed and sealed by the court</b>	[day] / [ month] / [year]
<b>Endorsement by the Registrar of the Nauru Court of Appeal.</b>	





G.N. No. 536/2018 (Cont'd)

**FORM 4**

*Rule 13(1)*

**(Respondent's Notice in Civil Appeal)**

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

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

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

**Appellant**

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

**Respondent**

**Respondent's Notice**

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

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

State the nature of Respondent's notice	The respondent seeks a variation of: (a) whole or part of the final ( <i>judgment, decision or order</i> ) the subject of the appeal; or (b) any interlocutory judgment, decision or order of the Supreme Court in that suit. <i>(Delete whichever is inapplicable)</i>
Name the parties against whom the Respondent's notice seeks variation of orders	The respondent seeks the orders to be varied will be against the following: (a) Appellant; (b) Respondent. <i>(name the parties as in the Supreme Court records or proceedings)</i>
Date of judgment, decision or order sought to be varied	The ( <i>judgment, decision or order</i> ) delivered on the following dates are sought to be varied: 1 2 3 <i>[Note: (a) List the dates in a chronological order; (b) Attach copies of the judgment, decision or order.]</i>
The grounds of appeals	The Respondent relies on the following grounds of appeal: 1 2 3 <b>AND</b> the Respondent reserves the right to amend or vary the grounds of appeal by way of a supplementary Respondent's notice upon receipt of the appeal record book of the Supreme Court 14 days before the hearing of the appeal or with the leave of the Court. <i>(If necessary attach a separate page.)</i> <i>(Note: No submissions are to be attached or included as part of the grounds of appeal.)</i>

G.N. No. 536/2018 (Cont'd)

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







G.N. No. 536/2018 (Cont'd)

**FORM 8**

*Rule 19(1)*

**(Notice of Appeal in Criminal Appeal)**

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

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

**BETWEEN** : (name of appellant) of (address), (occupation) or Republic<sup>12</sup>

**Appellant**

**AND** : (name of Respondent) of (address), (occupation) or Republic<sup>13</sup>

**Respondent**

**NOTICE OF APPEAL**

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

The full particulars of appeal are as follows:

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

1 Where Republic is a party , the document must be served to the Director of Public Prosecutions  
2 Where Republic is a party , the document must be served to the Director of Public Prosecutions

G.N. No. 536/2018 (Cont'd)

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

G.N. No. 536/2018 (Cont'd)

<b>Address for service of the Appellant</b>	Legal representative or Appellant in persons full address: ..... District Email: ..... Telephone Number: .....
<b>Signature of Appellant or Legal representative</b>	.....
<b>Date filed and sealed by the court</b>	[day] / [ month] / [year]
<b>Endorsement by the Registrar of the Court.</b>	



G.N. No. 536/2018 (Cont'd)

**FORM 10**

*Rule 20(4)*

**(Order for Bail)**

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

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

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

**Appellant or Applicant<sup>17</sup>**

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

**Respondent or Applicant<sup>18</sup>**

**ORDER**

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

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

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

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

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

1. The Application be allowed and the Appellant be released upon:  
(Use the more appropriate of the following two paragraphs)
  - (a) Entering into an Undertaking, with the following conditions, namely:
    - (i) keep the peace and be of good behaviour;
    - (ii) report to Court in person as and when required by the Court;
    - (iii) remain within \_\_\_\_\_;

---

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

G.N. No. 536/2018 (Cont'd)

- (iv) pursue the appeal with due diligence, and in particular comply with any deadlines and directions in the Rules of Court, in this Order, or as made by the Court respecting the appeal;
- (v) \_\_\_\_\_ (include any other conditions)  
(Select either "with" or "without" as appropriate)

(b) Entering into a Recognisance in the amount of \$ \_\_\_\_\_ with / without deposit of cash or other valuable security, and with/without sureties as deemed acceptable to the Court, with the following conditions, namely:

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

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

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

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



G.N. No. 536/2018 (Cont'd)

**FORM 12**

*Rule 21(3)*

**(Order for Stay)**

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

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

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

**Appellant or Applicant<sup>22</sup>**

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

**Respondent or Applicant<sup>23</sup>**

**ORDER**

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

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

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

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

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

- 1. The Application be allowed and the Appellant be released upon:

*(Use the more appropriate of the following two paragraphs)*

- (a) Entering into an Undertaking, with the following conditions, namely:
  - (i) keep the peace and be of good behaviour;
  - (ii) report to Court in person as and when required by the Court;
  - (iii) remain within.....;

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

G.N. No. 536/2018 (Cont'd)

- (iv) pursue the appeal with due diligence, and in particular comply with any deadlines and directions in the Rules of Court, in this Order, or as made by the Court respecting the appeal;
- (v) ..... (*include any other conditions*)

*(Select either "with" or "without" as appropriate)*

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

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

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

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

**FORM 13**

*Rule 22(1)*

**(Respondent's Notice in Criminal Appeal)**

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

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

**BETWEEN** : (name of Appellant) of (address), (occupation) or Republic<sup>24</sup>

**Appellant**

**AND** : (name of Respondent) of (address), (occupation) or Republic<sup>25</sup>

**Respondent**

**RESPONDENT'S NOTICE**

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

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

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

<sup>24</sup> Where Republic is a party , the document must be served to the Director of Public Prosecutions

<sup>25</sup> Where Republic is a party , the document must be served to the Director of Public Prosecutions

G.N. No. 536/2018 (Cont'd)

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

G.N. No. 536/2018 (Cont'd)

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



G.N. No. 536/2018 (Cont'd)

**FORM 15**

*Rule 24(1)*

**Certification by Supreme Court**

*(Intitule to be as in the Supreme Court)*

**Certificate**

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

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

*(State the precise questions)*

Dated this    day of    20....

Judge of the Supreme Court

Seal of the Supreme Court

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



G.N. No. 536/2018 (Cont'd)

**FORM 17**

*Rule 27*

**(Notice of appeal by serving prisoner)**

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

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

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

**Appellant**

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

**Respondent**

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

To the Registrar of the Court

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

1. I wish to appeal against:

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

2. The grounds of appeal are as follows:

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

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





**FORM 20**

*Rule 29(9)(c)*

**(Notice of Appeal by an Intervener)**

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

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

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

**Appellant**

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

**Respondent**

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

**Intervener**

**Notice of Appeal by an Intervener**

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

The full particulars of appeal are as follows:

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

G.N. No. 536/2018 (Cont'd)

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

G.N. No. 536/2018 (Cont'd)

**FORM 21**

*Rule 31(1)*

**(Abandonment of appeal or Respondent's notice)**

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

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

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

**Appellant or Applicant<sup>36</sup>**

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

**Respondent or Applicant<sup>37</sup>**

**Abandonment of appeal or Respondent's notice**

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

Dated this            day of            20....

*(Signature of Appellant / Respondent / Legal Representative)*

*(Witness, unless signed by Legal Representative or Republic is an Appellant)*  
*(name and address of witness)*

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









G.N. No. 536/2018 (Cont'd)

**FORM 26**

*Rules 43(1) and 51*

**(Notice of Address for Service)**

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

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

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

**Appellant**

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

**Respondent**

**Notice of Address for Service**

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

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

Dated this     day of     20.....

Signed: .....

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

**FORM 27**

*Rule 44(3)*

**(Appeal Record Book in Civil Appeal)**

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

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

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

**Appellant**

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

**Respondent**

**Appeal Record Book in Civil Appeal**

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

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

**(Cover page)**

***Other pages***

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

**1. INDEX**

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

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

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

**3. ORDER**

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

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

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

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

G.N. No. 536/2018 (Cont'd)

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

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

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

**7. Exhibits**

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

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

**8. Affidavits**

**9. Submissions of the Parties**

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

**FORM 28**

*Rule 45(3)*

**(Appeal Record Book in Criminal Appeal)**

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

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

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

**Appellant**

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

**Respondent**

**Appeal Record Book in Criminal Appeal**

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

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

**(Cover page)**

***Other pages***

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

**1. INDEX**

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

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

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

**3. ORDER**

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

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

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

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

G.N. No. 536/2018 (Cont'd)

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

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

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

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

**8. Exhibits**

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

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

**9. Submissions of the Parties**

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

G.N. No. 536/2018 (Cont'd)

**FORM 29**

*Rules 46(1)(a); 46(2)(a)*

**(Chronology of Facts)**

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

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

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

**Appellant**

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

**Respondent**

**Chronology of Facts**

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

- 1
- 2
- 3

*[(a) List the material facts in the sequence or chronology in which it happened and state dates and times if that is important.  
(b) The chronology of facts must be consistent with records of the proceedings.  
(c) Factual matters not contained or raised in the District Court or Supreme Court are to be introduced or included.]*

Dated this    day of            20....

Signed by the party / legal representative:

G.N. No. 536/2018 (Cont'd)

**FORM 30**

*Rules 46(1)(b); 46(2)(b)*

**(Chronology of Proceedings in the District / Supreme Court)**

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

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

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

**Appellant**

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

**Respondent**

**Chronology of Proceedings in the District / Supreme Court**

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

- 1
- 2
- 3

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

Dated this    day of            20....

Signed by the party / legal representative:

**FORM 31**

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

**(Written Submissions)**

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

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

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

**Appellant**

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

**Respondent**

**Written Submissions**

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

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

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

Dated this    day of            20....

Signed by the party / legal representative:

G.N. No. 536/2018 (Cont'd)

**FORM 32**

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

**(List of Authorities)**

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

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

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

**Appellant**

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

**Respondent**

**List of Authorities**

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

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

Dated this    day of            20....

Signed by the party / legal representative:

G.N. No. 536/2018 (Cont'd)

**Form 33**

*Rule 53(1)(a)*

**(Intitule for Civil Application or Appeal)**

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

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

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

**Appellant**

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

**Respondent**

G.N. No. 536/2018 (Cont'd)

**FORM 34**

*Rule 53(1)(b)*

**(Intitule for Criminal Application or Appeal)**

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

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

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

**Appellant**

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

**Respondent**



G.N. No. 536/2018 (Cont'd)

**FORM 36**

*Rule 67(2)*

**(General Form of Affidavit)**

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

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

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

**Appellant**

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

**Respondent**

**(Affidavit in Support of the Summons)**  
**(Answering Affidavit of the Respondent)**  
**(Affidavit in Reply to the Answering Affidavit)**  
*(Note: Use the above as the appropriate caption for Affidavits)*

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

- 1
- 2
- 3

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

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

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

**FORM 37**

*Rule 54*

*(Backing sheet)*

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

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

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

**Appellant**

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

**Respondent**

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

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

G.N. No. 536/2018 (Cont'd)

**FORM 38**

*Rule 65(1)(a)*

**(Notice of Change of Legal Representative)**

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

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

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

**Appellant**

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

**Respondent**

**Notice of Change of Legal Representative**

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

Dated this        day of        20.....

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

To: Registrar of the Court

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

G.N. No. 536/2018 (Cont'd)

**FORM 39**

*Rule 68(2)*

**(General form for Order)**

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

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

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

**Appellant or Applicant<sup>44</sup>**

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

**Respondent or Applicant<sup>45</sup>**

**ORDER**

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

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

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

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

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

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

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

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

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

G.N. No. 536/2018 (Cont'd)

**FORM 40**

*Rule 50*

**(Intitule for Refugee Appeals)**

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

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

**BETWEEN** : (Boat number or any other identification code of the appellant<sup>46</sup>) of (address),  
(occupation) or Republic

**Appellant**

**AND** : (Boat number or any other identification code of the respondent<sup>47</sup>) (address), (occupation) or  
Republic

**Respondent**

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1 If the refugee is an appellant, he or she may be identified by his or her Boat ID or any other identification code.

2 If the refugee is a respondent, the respondent may be identified by his or her Boat ID or any other identification code.



**REPUBLIC OF NAURU**

**SCHEDULE 2**

**Nauru Court of Appeal Act 2018**

**FEES**

<b>No.</b>	<b>ITEM</b>	<b>FEE (\$)</b>
1.	On filing a notice of appeal, or a notice of cross-appeal, from any decision, final or interlocutory ( <i>this fee includes the fees for setting down, notice of hearing and hearing</i> )	40.00
2.	On an application for: (a) leave to appeal; (b) extension of time; (c) fixing or dispensing with security for costs; (d) leave to amend; (e) directions for service; (f) stay of execution or proceedings; or (g) any interim or any other order.	10.00
3.	On filing a Respondent's notice	10.00
4.	On every bond or deposit	4.00
5.	On filing an affidavit or any other document unless otherwise provided for by this Schedule	2.00
6.	For every copy of the appeal record book prepared in Rule 44, or of any proceedings, or of any judgment, order or document, per page (with a minimum fee of \$1-00) ( <i>Provided that, where the fee exceeds \$5000, the Registrar may on the grounds of hardship or for other sufficient reason waive, wholly or in part, the fee in excess of \$5000</i> ).	0.20
7.	For certifying any copy, per page (with a minimum fee of \$1-00 and a maximum fee of \$1000)	0.20
8.	On entering or sealing the judgment or order made on the hearing of an appeal	10.00
9.	On entering or sealing any other order made by the Court of Appeal or a Single Justice of Appeal thereof including orders for leave to appeal, security for costs or enlargement of time	8.00
10.	On any certificate by the Registrar (other than certification of a copy or of taxed costs)	2.00

G.N. No. 536/2018 (Cont'd)

11.	On filing a bill of costs and obtaining an appointment to tax- <ul style="list-style-type: none"><li>• For a bill not exceeding \$100</li><li>• For a bill exceeding \$100 but not exceeding \$200</li><li>• For a bill exceeding \$200</li></ul> <i>(This fee is to be paid on the amount claimed in the bill. No additional fee is payable for taxation).</i>	7.00 10.00 16.00
12.	On a certificate of the taxing officer	1.00