

Unannotated Statutes of Malaysia - Subsidiary Legislations/Rules of the Federal Court 1995 (P.U.(A) 376/1995)

RULES OF THE FEDERAL COURT 1995
[P.U.(A) 376/1995]

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IN exercise of the powers conferred by section 17 of the Courts of Judicature Act 1964 and with the consent of the Chief Justice, the Rules Committee makes the following rules:

CHAPTER ONE

PRELIMINARY AND GENERAL

1. Citation and commencement

These rules shall be cited as the **Rules of the Federal Court 1995** and shall be deemed to have come into force on 24 June 1994.

2. Interpretation

In these Rules, unless the context otherwise require--

"appellant"

means a person desiring of appealing from a decision of the Court of Appeal to the Federal Court and includes a person who has been convicted for a criminal offence in the High Court and who by any written law is entitled to appeal to the Federal Court;

"Constitution"

means the Constitution of Malaysia;

"Court"

means the Federal Court and includes a Judge of that Court;

"file"

means a file in the Registry of the Federal Court in Putrajaya;

"Government"

means the Government of Malaysia or the Government of any State in Malaysia or any one or more of them, as circumstances may require;

"Judge"

means a Judge of the Federal Court;

"public holiday"

means any day which is declared by law to be a public holiday in any of the States of Malaysia or in the Federal Territory;

"Public Prosecutor"

means the Attorney General of Malaysia;

"Registrar"

means the Registrar of the Federal Court and shall include a Deputy Registrar and any Senior Assistant Registrar of the Federal Court;

"Registry of the Court of Appeal"

in relation to any particular appeal means the Registry of the Court of Appeal against the decision of which the said appeal is brought or proposed to be brought and where such

Registry comprises more than one branch registry (by whatever name called) means the branch registry in which the proceedings in question of the said Court of Appeal have been held immediately prior to the giving of notice of appeal;

"Registry"

means the Registry of the Federal Court at Putrajaya;

"Solicitor"

means--

- (a) in the case of the Government of Malaysia, the Attorney General;
- (b) in the case of the Government of any State, the State Legal Adviser by whatever title he may be designated;
- (c) in the case of any other party, any person who is entitled to practise as a legal practitioner in any Court in Malaysia;

"suit"

means a suit between any of the States of the Federation or between the Federation and any State and includes any suit to which any party is joined by reason of holding any public office.

3. Application of the Rules of Court 2012, etc..

Where no other provision is made by any written law or by these Rules, the procedure and practice in the Rules of the Court of Appeal 1994 [*P.U.(A) 524/1994*] and the Rules of Court 2012 [*P.U.(A) 205/2012*] shall apply *mutatis mutandis*.

CHAPTER TWO

ORIGINAL AND CONSULTATIVE JURISDICTION RULES

PART I

Form and Commencement of Proceedings

4. Form of proceedings

Save as otherwise provided by these Rules or by any other rules, all proceedings in the Court in respect of its original and consultative jurisdiction shall be by way of suit.

5. Commencement of suit

Every suit shall be commenced by a petition which shall be filed in the Registry at Putrajaya.

6. Form of petition Form 1

The petition for the commencement of a suit shall be in Form 1 in the First Schedule to these Rules.

7. Contents of petition

The petition shall contain a statement in summary form of the material facts on which the petitioner relies and shall conclude by setting out the relief to which the petitioner considers he is entitled.

8. Verification of petition

A petitioner may at the time of filing his petition or at any time subsequent thereto file and serve on the

respondent an affidavit verifying the contents of his petition.

9. Notice of petition

(1) The petitioner shall file a Notice of Petition and shall cause the same to be served on the respondent together with a copy of the petition and of the affidavit verifying it (if any).

(2) The Notice of Petition shall be in Form 2 in the First Schedule to these Rules.

PART II

Address for Service

10. Address for service

Every party to a suit shall as soon as practicable give notice to the Registrar and to every other party to the suit of an address for service.

PART III

Service

11. Service of notice of petition

Service of a Notice of Petition on any party may be effected by delivering a copy of the same sealed with the seal of the Court and signed by the Registrar to such party personally or by sending a copy so sealed and signed by A.R. registered letter addressed to such party.

12. Service of other documents

Service of any document other than a Notice of Petition may be effected by delivering a copy of the same at the address for service of the party to be served or by sending a copy of the same by A.R. registered letter addressed to such address for service.

13. Date of services

(1) The date of service by personal service shall be the date on which such service was effected.

(2) The date of service by A.R. registered letter shall be the date of receipt of such letter by the party to be served or any person purporting to act on his behalf.

14. Proof of service

(1) In the case of personal service an affidavit by the person effecting such service shall be sufficient proof of service and of the date thereof.

(2) In the case of service by A.R. registered letter the production of the A.R. card shall be sufficient proof of service and of the date thereof.

PART IV

Appearance

15. Place and time for entering appearance

The respondent to any petition shall enter an appearance thereto in the Registry at Putrajaya within fourteen days of service upon him of the Notice of Petition.

16. Mode of entering appearance

Appearance to a petition may be entered in accordance with the provisions of Order 12 of the Rules of Court 2012 [*P.U.(A) 205/2012*].

17. Default of appearance

(1) In any suit where the party served with the Notice of Petition does not appear within the time limited for appearance upon proof of service in accordance with these Rules the suit may proceed as if such party had appeared.

(2) In default of appearance by any party within the time limited therefor, any document requiring to be delivered to him shall be deemed to have been delivered if a copy thereof is filed with the proper officer bearing a note "Delivered to by filing in Court this day of" and signed by the party delivering the same or his solicitor.

PART V

Defence

18. Statement of defence

Within fourteen days of entering appearance, or within such longer time as may be agreed upon by the parties, the respondent shall file in the Registry at Putrajaya and shall serve upon the petitioner a written statement of defence.

19. Contents of statement of defence

The statement of defence shall--

- (a) mention every statement of fact contained in the petition and state whether the same is admitted or denied or not admitted;
- (b) set out concisely any facts upon which the respondent relies;
- (c) state concisely the grounds on which the respondent opposes the petition.

PART VI

Summons for Directions

20. Filing of the summons for directions

(1) The petitioner, shall within fourteen days after the filing of the written statement of defence, take out a summons in Form 2A (in these Rules referred to as a summons for directions) returnable in not less than fourteen days.

(2) If the petitioner does not take out a summons for directions in accordance with the foregoing provisions of this rule, the respondent or any respondent may do so or apply for an order to dismiss the action.

(3) On an application by a respondent to dismiss the action under subrule (2) the Court may either dismiss the action on such terms as may be just or deal with the application as if it were a summons for directions.

(4) In the case of an action which is proceeding only as respects a counterclaim, references in this rule to the petitioner and respondent shall be construed respectively as references to the party making the counterclaim and the respondent to the counterclaim.

21. Directions

On the hearing of the summons for directions the Judge may on the application of any party make such orders regarding the following matters as he considers to be in the interest of justice and desirable to ensure the speedy and economical decision of the matters in dispute between the parties:

- (a) joinder of other parties;
- (b) delivery of a reply to the statement of defence;
- (c) discovery of documents and inspection of documents;
- (d) delivery of further and better particulars;
- (e) interrogatories;
- (f) mode of proof of any facts in dispute;
- (g) date of trial.

21A. Duty to consider all matters

(1) When the summons for directions first comes to be heard, the Court shall consider whether -

- (a) it is possible to deal then with all the matters which, by the subsequent rules of these Rules, are required to be considered on the hearing of the summons for directions; or
- (b) it is expedient to adjourn the consideration of all or any of those matters until a later stage.

(2) If, when the summons for directions first comes to be heard, the Court considers that it is possible to deal then with all the said matters, it shall deal with them forthwith and shall endeavour to secure that all other matters which must or can be dealt with on interlocutory applications and have not already been dealt with are also then dealt with.

(3) If, when the summons for directions first comes to be heard, the Court considers that it is expedient to adjourn the consideration of all or any of the matters which, by the subsequent rules of these Rules, are required to be considered on the hearing of the summons, the Court shall deal forthwith with such of those matters as it considers can conveniently be dealt with forthwith and adjourn the consideration of the remaining matters and shall endeavour to secure that all other matters which must or can be dealt with on interlocutory applications and have not already been dealt with are dealt with either then or at a resumed hearing of the summons for directions.

(4) If the hearing of the summons for directions is adjourned without a day being fixed for the resumed hearing thereof, any party may restore it to the list on two days' notice to the other parties.

21B. Duty to give all information at hearing

(1) Subject to subrule (3), no affidavit shall be used on the hearing of the summons for directions except by the leave or direction of the Court, but, subject to subrule (5), it shall be the duty of the parties to the action and their solicitors to give all such information and produce all such documents on any hearing of the summons as the Court may reasonably require for the purposes of enabling it to properly deal with the summons.

(2) Where the Court has required any information to be given or documents to be produced under subrule (1), the Court may, if it appears proper so to do in the circumstances, authorize any such information or documents to be given or produced to the Court without being disclosed to the other parties but, in the absence of such authority, any information or document given or produced under subrule (1) shall be given or produced to all the parties present or represented on the hearing of the summons as well as to the Court.

(3) No leave shall be required by virtue of subrule (1) for the use of an affidavit by any party on the

hearing of the summons for directions in connection with any application thereat for any order if, under any of this Part, an application for such an order is required to be supported by an affidavit.

(4) If the Court on any hearing of the summons for directions requires a party to the action or his solicitor or counsel to give any information or produce any document and that information or document is not given or produced, then, subject to paragraph (5), the Court may-

- (a) cause the facts to be recorded in the order with a view to such special order, if any, as to costs as may be just being made at the trial; or
- (b) if it appears to the Court to be just so to do, order the whole or any part of the pleadings of the party concerned to be struck out and, if the party is the petitioner or the claimant under a counterclaim, order the action or counterclaim to be dismissed on such terms as may be just.

(5) Notwithstanding anything in the foregoing provisions of this rule, no information or documents which are privileged from disclosure shall be required to be given or produced under this rule by or by the solicitors of any party otherwise than with the consent of that party.

21C. Duty to make all interlocutory applications on summons for directions

(1) Any party to whom the summons for directions is addressed must, so far as practicable, apply at the hearing of the summons for any order or directions which he may desire as to any matter capable of being dealt with on an interlocutory application in the action and must, not less than seven days before the hearing of the summons, serve on the other parties a notice in Form 2B specifying those orders and directions in so far as they differ from the orders and directions asked for by the summons.

(2) If the hearing of the summons for directions is adjourned and any party to the proceedings desire to apply at the resumed hearing for any order or directions not asked for by the summons or in any notice given under paragraph (1), he must, not less than seven days before the resumed hearing of the summons, serve on the other parties a notice specifying those orders and directions in so far as they differ from the orders and directions asked for by the summons or in any such notice as aforesaid.

(3) Any application subsequent to the summons for directions and before judgment as to any matter capable of being dealt with on an interlocutory application in the action must be made under the summons by two clear days' notice to the other party stating the grounds of the application.

22. No other applications

When the summons for directions has been disposed of, no application may be made by any party which could have been made on the summons for directions save with special leave of a Judge.

PART VII

Demurrer

23. Demurrer

(1) Where by his statement of defence the respondent has raised any point of law and in the opinion of the Judge the decision of such point of law will substantially dispose of the whole petition or any distinct portion thereof the Judge may, on the application of either party, make an order in such terms as he thinks just for the trial of such point of law in accordance with rule 29 and may adjourn indefinitely any other applications before him.

(2) On the trial by the Court of such point of law as is mentioned herein the Court may dismiss the petition or make such other order as may be just.

PART VIII

Trial

24. Mode of trial

The mode of trial shall be by three Judges or by such greater uneven number of Judges as the Chief Justice may direct.

25. Place of trial

The place of trial shall be such place as the Chief Justice may direct.

26. Time of trial

The time of trial shall be such time as the Chief Justice may direct.

PART IX

Evidence

27. Evidence to be by affidavit

Subject to the provision of rule 29, all evidence in proceedings under these Rules shall be by affidavit.

28. Rules as to affidavits

The provisions of the Rules of Court 2012 shall apply to all affidavits used in evidence under these Rules.

29. Other evidence

The Court or a Judge may order that in any particular case either generally or in respect of any specified matter evidence may be given in such manner otherwise than by affidavit as may be specified.

PART X

Application for Leave

30. Application under Article 4(4) of the Constitution

An application under Article 4(4) of the Constitution for leave to commence proceedings shall be made in accordance with Chapter III of these Rules.

PART XI

Special Constitutional Case

31. Reference by subordinate court

- (1)** Where in any proceedings in any court subordinate to a High Court a question arises as to the effect of any provision of the Constitution the presiding officer of such Court shall forthwith stay the proceedings and shall send the record thereof to the Registrar of the High Court.
- (2)** On the receipt of any record of proceedings under this rule the Registrar of the High Court shall lay the same before a Judge of the High Court.
- (3)** On consideration of any record of proceedings as is herein mentioned where a Judge considers that the decision of a question as to the effect of any provision of the Constitution is necessary for the

determination of such proceedings the Judge shall deal with the case as if it were a case before him in the original jurisdiction of the High Court in which such a question has arisen.

32. Reference by High Court

(1) Where in any proceedings in any High Court a question arises as to the effect of any provision of the Constitution the Judge hearing such proceedings may make an order on such terms as may be just staying such proceedings to await the decision of such question by the Federal Court.

(2) An order staying proceedings under this rule may be made by the Judge of his own motion or on the application of any party and shall be made at such stage of the proceedings as the Judge may consider most suitable having regard to the decision of such questions of fact as may be necessary to be settled to assist the Federal Court in deciding the question which has arisen and to the speedy and economical final disposal of the proceedings.

33. Special case

(1) Where an order for stay of proceedings has been made under rule 32 the Judge shall state the question which in his opinion has arisen as to the effect of the Constitution in the form of a special case for the opinion of the Federal Court.

(2) The question which has arisen shall be stated in a form which shall permit of an answer being given in the affirmative or the negative.

(3) Every special case stated under this rule shall be divided into paragraphs and shall concisely state such facts and shall include such documents as may be necessary to enable the Court to decide the question raised thereby and shall be signed by the Judge.

34. Delivery of special case

(1) A special case stated under rule 33 shall be delivered to the plaintiff.

(2) In relation to a criminal proceeding the Attorney General shall be deemed to be the plaintiff and the accused person shall be deemed to be a party other than the plaintiff.

35. Filing of special case

(1) Within fourteen days of delivery to him of a special case or within such longer time as the Federal Court may allow the plaintiff shall file the said special case together with as many copies thereof as may be necessary in the Registry of the Federal Court at Putrajaya.

(2) At the time of filing the special case the plaintiff shall serve a copy thereof on every other party to the proceedings.

36. Mode of dealing with special case

(1) Where a special case has been filed it shall subject to the provisions of these Rules be dealt with and regarded in all ways as an appeal to the Federal Court.

(2) The special case shall be treated as the record of appeal.

(3) The plaintiff in the proceedings in the, High Court shall be treated as the appellant and all other parties as respondents.

(4) All steps required to be taken under Chapter III of these Rules prior to the filing of the record of appeal shall be deemed to have been taken.

(5) The judgement of the Court shall be in the form of an answer to the question set out in the special

case.

37. Certification on special case

The Registrar shall deliver to the plaintiff and to every party a certificate of the judgement of the Court.

38. Proceedings in the High Court

(1) Any party may within fourteen days file in the Registry of the High Court in which the proceedings are pending the certificate of the judgement of the Court and the said High Court shall continue such proceedings and dispose of the same according to law.

(2) The High Court shall determine all questions and make all necessary orders regarding costs therein but no order for costs incurred in the Federal Court shall be made.

39. Agreement between parties

The parties to any proceedings in the course of which a special case has been stated may, if they think fit, enter into an agreement in writing, that, on the judgement of the Court being given in the affirmative or negative of the questions of law raised by the special case, a sum of money, fixed by the parties, or to be ascertained by the High Court, or in such manner as the High Court may direct, shall be paid by one of the parties to the other of them, either with or without costs of the cause or matter; and the judgement of the High Court may be entered for the sum so agreed or ascertained, with or without costs, as the case may be, and execution may issue upon such judgment forthwith, unless otherwise agreed, or unless stayed on appeal.

PART XII

Special Reference under Article 130 of the Constitution

40. Notice to Attorney General

(1) On the receipt by the Registrar of an order of the Yang di-Pertuan Agong under Article 130 of the Federal Constitution referring to the Court for its opinion a question as to the effect of a provision of the Constitution the Registrar shall give notice to the Attorney General to appear before a Judge of the Court on a day specified in the notice to take the directions of the Court regarding such order. The day so specified shall be called the "general return day".

(2) The Registrar shall cause to be published in the Federal Government *Gazette* an advertisement setting out the substance of the order of the Yang di-Pertuan Agong and of the notice given to the Attorney General.

41. Applicants to be joined

(1) Within fourteen days of the publication of an advertisement under rule 40 any person desiring to be heard as a party on the hearing of the matter therein mentioned may file a notice of motion applying accordingly.

(2) Every notice of motion under this rule shall be supported by a brief statement of the grounds on which the person making the same considers he should be heard and shall be served on the Attorney General.

(3) The Registrar shall require all persons who have given notice of motion under this rule to appear before a Judge on the general return day.

42. Directions

On the general return day the Judge shall determine all applications which have been made under rule 41 and shall give such directions as he shall consider necessary for the hearing of the reference.

43. Hearings

Subject to the provisions of this Part of these Rules the procedure on a reference which has been received under rule 41 shall follow as nearly as may be the procedure in proceedings before the Court in the exercise of its original jurisdiction.

44. Report

The Registrar shall report to the Yang di-Pertuan Agong the opinion of the Court on the question referred by His Majesty.

PART XIII

Costs

45. Costs

No party to any proceedings to which this Chapter applies shall be ordered to pay any costs.

PART XIV

Fees

46. Fees

(1) A fee of RM1000 shall be paid on the filing of an application under rule 41 to be heard as a party on the hearing of a question referred to the Court by the Yang di-Pertuan Agong:

Provided that no such fee shall be paid by the Government of any State:

And provided further that where a person who has paid such fee is heard and the Court considers that it has thereby derived material assistance in deciding the question before it, the Court may make an order for the refund of such fee.

(2) Save as in this rule provided no fees shall be payable in respect of any proceedings under this Chapter.

CHAPTER THREE

CIVIL APPEALS

PART I

Appeal from the Court of Appeal

47. Appeal to be by notice

(1) An appeal to the Court shall be brought by giving notice of appeal which shall be filed--

- (a) within thirty days from the date on which the decision appealed against was given in cases where leave to appeal is not required; or
- (b) within fourteen days from the date leave to appeal was granted in cases where leave to appeal is required,

or within such further time as the Court may allow under rule 108.

(2) A notice of appeal shall substantially be in Form 3 in the First Schedule to these Rules.

(3) The notice of appeal shall state whether the whole or part only, and what part, of the judgement or order is complained of.

(4) The hearing of the appeal shall be confined to matters, issues or questions in respect of which leave to appeal has been granted.

48. Service of notice of appeal

Notice of appeal shall be served on all parties directly affected by the appeal or their solicitors respectively within the time limited for the filing of the notice of appeal. It shall not be necessary to serve parties not so affected.

PART II

Notice and Memorandum of Appeal

49. Notice of cross-appeal. Form 4

(1) Notice of cross-appeal shall be substantially in Form 4 in the First Schedule to these Rules, and must be filed at the Registry within fourteen days from the date on which the notice of appeal was served on the respondent or within such further time as the Court may allow under rule 108.

(2) If the respondent fails to give such notice within the time limited, his cross-appeal may be dismissed.

50. Withdrawal of notice

(1) An appellant may at any time before his appeal is called on for hearing serve on the parties to the appeal a notice to the effect that he does not intend further to prosecute the said appeal.

(2) A copy of such notice shall at the same time be filed by the appellant in the Registry of the Court of Appeal and one copy shall be sent to the Registrar of the Court.

(3) If all parties to the appeal consent to the intended withdrawal of the appeal, the appellant may file in the Registry the document or documents signifying such consent and signed by the parties or by their solicitors, and the appeal shall thereupon be deemed to have been withdrawn and shall be struck out of the list of appeals by the Registrar. In such event any sum lodged in Court as security for the costs of the appeal shall be paid out to the appellant.

(4) If all the parties do not consent to the intended withdrawal of the appeal, the appeal shall remain on the list, and shall come on for the hearing of any issue as to costs or otherwise remaining outstanding between the parties, and for the making of an order as to the disposal of any sum lodged in Court as security for the costs of the appeal.

51. Notice of cross-appeal by respondent where notice of appeal withdrawn or appeal not entered

(1) Where an appeal is withdrawn under the preceding Rules or where an appeal is not entered within the time limited, any respondent who has given notice of cross-appeal may proceed therewith.

(2) Where a respondent intends to withdraw his cross-appeal, the provisions of rule 50 shall apply to him *mutatis-mutandis*.

52. Stay of proceedings on appeal

An appeal shall not operate as a stay of execution of proceedings under the decision appealed from

unless the Court of Appeal or the Court so orders and no intermediate act or proceeding shall be invalidated except so far as the Court may direct.

53. Application which may be made either to Court of Appeal or Court to be made first to Court of Appeal

Whenever application may be made either to Court of Appeal or to the Court, it shall be made in the first instance to the Court of Appeal.

54. Interest

On any appeal, interest, for such time as execution has been delayed by the appeal, shall be allowed, unless the Court otherwise orders, and the Registrar may compute such interest without any order for that purpose.

55. Leave to appeal

Where leave of the Federal Court to appeal is required, the application for such leave, shall be made in accordance with the provisions of Chapter Five.

56. Entry of appeal

(1) Notice of appeal may be given by filing within the time limited for bringing the appeal six copies of the Notice of Appeal in the Registry of the Court of Appeal and a copy in the Registry, and by paying the prescribed fee.

(1A) The Court may, on the application by the respondent, in any case where it thinks fit, order security for costs to be given, and may order security to be given for the payment of past costs relating to the matters in question in the appeal:

Provided that no order for the payment of security for costs shall be made if the appeal is brought by the Government of Malaysia or any State Government.

(2) A list of appeals of which notice has been filed herein shall be kept in the Registry of the Court of Appeal and a copy thereof shall be kept by the Registrar at Putrajaya.

(3) The Registrar of the Court of Appeal shall on receiving six copies of the notice of appeal and the prescribed fee enter the appeal in the list of appeals, stating therein the title of the cause or matter, the name of the appellant and his solicitors, if any, and the date of such entry, and shall inform the Registrar of such entry.

(4) The Registrar shall on receipt of information of the entry of an appeal enter the like particulars in the consolidated list of appeals and shall allocate a number to the appeal and shall inform the appellant's solicitor and the Registrar of the Court of Appeal who entered the appeal of the number so allocated which shall thenceforth form part of the title of the appeal.

57. Memorandum of appeal

(1) Subject to rule 47(4) of these Rules, the appellant shall prepare a memorandum of appeal setting forth concisely and under distinct heads, without argument or narrative, the grounds of objection to the decision appealed against, and specifying the points of law or fact which are alleged to have been wrongly decided, such grounds to be numbered consecutively.

(2) The appellant shall not at the hearing without the leave of the Court put forward any other ground of objection, but the Court in deciding the appeal shall not be confined to the grounds set forth by the appellant.

(3) The memorandum of appeal shall be substantially in Form 5 in the First Schedule to these Rules.

(4) The appellant shall attach to such memorandum a copy of--

- (a) the order made by the Court granting leave to appeal;
- (b) the Notice of Appeal;
- (c) the order made by the Court of Appeal;
- (d) the record of appeal filed in the Court of Appeal; and
- (e) the grounds of judgement of the Court of Appeal.

(5) The memorandum of appeal and the copies of the documents specified in paragraph (4) must be clear and legible. The Registrar may reject any memorandum and the copies of the said documents, if in his opinion they are not clear and legible.

(6) The memorandum and copies referred to above, which, together shall be called the record of appeal, shall be filed at the Registry within ninety days--

- (a) from the date on which the decision appealed against was given in cases where leave to appeal is not required; or
- (b) from the date leave to appeal was granted in cases where leave to appeal is required,

or within such further time as the Court may allow.

(7) Sufficient copies of the record of appeal for the use of the Judges of the Court shall be sent to the Registrar when the record of appeal is filed.

(8) The appellant shall within the time limited for the filing of the record serve a copy thereof on each party who has been served with the notice of appeal.

(9) The appellant shall, when filing his record of appeal in the Registry, submit to the Registrar a chronology of events which had taken place from the date the action or the application was filed in the High Court to the date of filing of the record of appeal in the Registry.

58. Failure to file record

(1) Where an appellant omits to comply with rule 57 any respondent who has given notice of cross-appeal may proceed with his cross-appeal.

(2) In any such case the respondent shall, as soon as practicable, or within such time as may be allowed by the Court, file a record of appeal, as is prescribed by rule 57, together with copies thereof for the use of the Judges of the Court, and shall serve copies thereof on the appellant and any other parties to the appeal.

59. Court may direct service of notice on person not served

When an appeal is called on for hearing, or at any previous time on the application of any person interested, the Court may direct that the record of appeal, or any notice of cross-appeal, be served on any party to the cause or matter who has not been served therewith, or on any other person not already a party to the cause or matter, and may, for the purpose of such service, adjourn the hearing upon such terms as are just, and may give such judgement and make such order as might have been given or made if the parties served with such record or notice had been originally parties.

60. Amendments

(1) The Court may at any time allow amendment of any notice of appeal, or notice of cross-appeal, or memorandum of appeal, or other part of the record of appeal on such terms as it thinks fit.

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

(3) If any part of the record of appeal is not filed, or any copy thereof is not supplied, within the prescribed time, and no sufficient ground is shown for the delay, the appeal may be dismissed.

61. Urgent appeals

Any party filing a notice of appeal may in the case of urgency apply in writing to the Chief Justice who if satisfied that it is a proper case for an urgent hearing, may order the appeal to be heard at the earliest time convenient to the Court.

62. Appellant not appearing

(1) If, on any day fixed for the hearing of an appeal, the appellant does not appear in person or by a solicitor, the appeal may be dismissed.

(2) If the appellant appears, and any respondent fails to appear, either in person or by a solicitor, the appeal shall proceed in the absence of such respondent, unless the Court for any sufficient reason sees fit to adjourn the hearing thereof.

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

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

63. Pronouncement of judgement

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

(2) Such judgement may be pronounced notwithstanding the absence of the Judges who composed the Court or any of them, and the judgement of any Judge not present may be read by a Judge of the Court or by the Registrar.

64. Certificate of grounds of judgement

On the application of any person who has within the time limited given notice of appeal against any judgement or order, the Court of Appeal shall, unless the judgement was written, certify in writing the grounds of such judgement or order; but delay or failure so to certify shall not prevent the appellant from proceeding with his appeal.

65. Poor persons

Any provisions of law, relating to proceedings by poor persons and the representation of poor persons by solicitors, applicable in the Court of Appeal shall apply, as nearly as may be, to proceedings in the Court.

PART III

Applications

66. Applications to Court

- (1) All applications to the Court shall unless otherwise provided be made by motion and shall be heard in open Court.
- (2) A notice of motion shall be substantially in Form 6 in the First Schedule to these Rules and must be supported by an affidavit.
- (3) Notice of motion shall be served on the parties concerned not less than seven days before the return day, unless, the Court otherwise orders. Applications for leave to give shorter notice may be made by motion *ex parte*.
- (4) Affidavits may be filed, read and used in like manner as provided in the Rules of Court 2012.

67. Applications

- (1) All applications to the Court in pending appeals shall contain in the heading the appeal number allocated pursuant to rule 56 and shall not require any application number.
- (2) All applications to the Court (otherwise than in pending appeals) shall be allocated a number by the Registrar.
- (3) All applications shall be made by filing seven copies of the notice of motion and of every affidavit intended to be used in support thereof, unless the application is made to a single Judge of the Court in which case two copies only need be filed. The said documents shall be filed in the Registry of the Federal Court. Copies of such application and affidavits shall immediately be sent to all necessary parties. The Registrar shall follow a procedure similar so far as possible to the procedure relating to the entry of appeals. On receipt from the Registrar of information regarding the number of the application and the place and date of hearing, the applicant's solicitor shall immediately inform the respondents to the application or their solicitors.
- (4) At the time of filing any application the appellant's solicitor may file a written statement to the effect that the application is urgent and showing the grounds of such urgency and that the respondents have agreed to the application being heard by the Court or if they have not agreed, that he has requested them to do so and that they have refused. Whereupon the Registrar if he considers that a *prima facie* case of urgency has been made out shall call upon the respondents to attend and show cause why the application should not be heard, and shall transmit the applicant's statement and the replies of respondents to the Chief Justice who may fix the date and place of hearing the application but may require the applicant to give security for the respondents' costs of the application.

68. Certificate of final decision of the Court

The Registrar shall send to the Registrar of the Court of Appeal and of the appropriate High Court a certificate of every final decision or order of the Court.

PART IV

Address for Service, and Service

69. Rules of Court 2012

Except as otherwise provided, the provisions of the Rules of Court 2012 as to address for service and service shall *mutatis mutandis* apply to any appeal or proposed appeal to the Federal Court.

PART V

Change of Parties by Death, etc..

70. Action not abated where cause of action continues

An appeal shall not become abated by reason alone of the death, or bankruptcy of any of the parties or by the assignment, creation, or devolution of any estate or title *pendente lite*.

71. Order to carry on proceedings

Where by reason of death or bankruptcy, or any other event occurring after the commencement of an appeal, and causing a change or transmission of interest or liability, or by reason of any person interested coming into existence after the commencement of the appeal, it becomes necessary or desirable that any person not already a party should be made a party, or that any person already a party should be made a party in another capacity, an order that the proceedings shall be carried on between the continuing parties, and such new party or parties, may be obtained *ex parte* on application to the Court or Judge, upon an allegation of such change, or transmission of interest or liability, or of any such person interested having come into existence.

72. Service of order to continue action

An order obtained as in the last preceding rule mentioned shall, unless the Court or Judge shall otherwise direct, be served upon the continuing party or parties, or their solicitors, and also upon each such new party, unless the person making the application be himself the only new party, and the order shall from the time of such service, subject nevertheless to the next two following rules, be binding on the person served therewith, and every person served therewith who is not already a party to the cause or matter shall be bound to enter an appearance thereto within the same time and in the same manner as if he had been served with a writ of summons.

73. Application to discharge order by person under no disability or having a guardian

When any person who is under no disability or under no disability other than coverture, or being under any disability other than coverture, but having a guardian *ad litem* in the cause or matter, shall be served with such order as in rule 71 mentioned, such person may apply to the Court or a Judge to discharge or vary such order at any time within twelve days from the service thereof.

74. By person under disability having no guardian

Where any person being under any disability other than coverture, and not having a guardian *ad litem* in the cause or matter, is served with any order as in rule 71 mentioned, such person may apply to the Court or a Judge to discharge or vary such order at any time within twelve days from the appointment of a guardian *ad litem* for such party, and until such period of twelve days shall have expired such order shall have no force or effect as against such last mentioned person.

75. Solicitor of plaintiff to give notice of change of interest

In the case of any such change of interest as is by this Part of these Rules provided for, the solicitor for the person having the conduct of the appeal shall certify the fact to the proper officer, who will cause an entry thereof to be made in the Cause Book opposite to the name of such cause or matter.

PART VI

Evidence and Affidavits

76. Evidence to be by affidavits

Upon any motion, petition, application or summons, evidence may be given by affidavit, but the Court or a Judge may, on the application of either party, order the attendance for cross-examination of the person making any such affidavit, and where, after such an order has been made, the person in question does not attend, his affidavit shall not be used as evidence unless by the leave of the Court or a Judge.

77. Provision as to affidavits and filing

Except as otherwise provided in these Rules, the provisions of the Rules for the time being in force in any High Court as to affidavits shall *mutatis mutandis* apply to all affidavits used in any proceeding in the Court and to any appeal or proposed appeal against any decision of the Court of Appeal.

PART VII

Motions and Other Applications

78. Application by motion

Where by these Rules any application is authorised to be made to the Court or a Judge, such application, if made to a Judge in Court, shall be made by motion.

79. Where notice of motion to be given

Except where by any order or rule it may be made *ex parte* in the first instance, no motion shall be made without previous notice to the parties affected thereby; but the Court or a Judge may make any order *ex parte* upon such terms as to costs or otherwise, and subject to such undertaking, if any, as the Court or Judge may think just; and any party affected by such order may, within ten days of the service of such order on him, move to set it aside.

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

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

81. Adjournment

The hearing of any motion or application may from time to time be adjourned upon such terms, if any, as the Court or Judge shall think fit.

82. Statement of persons to be served with application

At the foot of every application presented to the Court, and of every copy thereof, a statement shall be made of the persons, if any, intended to be served therewith, and if no person is intended to be served, a statement to the effect shall be made at the foot of the application and of each copy thereof.

83. Length of notice of application

Unless the Court or a Judge gives leave to the contrary, there must be at least two clear days between the service and the day appointed for hearing an application.

PART VIII

Costs

84. Costs to be in the discretion of the Court

Subject to the provisions of any other written law and these Rules, the costs of and incidental to all proceedings in the Court shall be in the discretion of the Court or Judge.

85. Application of the provisions of the Rules of Court 2012 as to costs

The provisions of the Rules of Court 2012 as to costs shall *mutatis mutandis* apply to any appeal to the Federal Court.

PART IX

Court Fees

86. Second Schedule

The fees in the Second Schedule and no others shall be taken and paid in all proceedings in the Court:

Provided that in proceedings to which a Government is a party other than any such proceedings relating to income tax such Government shall not be required to pay any Court fees, but in case any order shall provide that costs be paid by any party to the proceeding to such Government the amounts which would have been payable as fees but for this proviso shall be payable by such party and, when recovered, shall be paid to the Registry of the Court at which such order was given:

Provided further that nothing herein contained shall affect any liability to pay any fee required to be paid in respect of any proceeding in any High Court by the rules of such High Court.

87. Manner of payment of fees

The fees to be taken and paid under these Rules shall be collected in such manner as the Chief Justice may from time to time direct.

CHAPTER FOUR

CRIMINAL APPEALS

PART I

Commencement of Appeal and Proceedings Prior to Hearing

88. Notice

(1) Within fourteen days of the decision of the Court of Appeal or within such extended time as the Court may allow the appellant shall file in the Registry of the Court of Appeal a Notice of Appeal and eight copies thereof. A copy of the Notice of Appeal shall be sent by the appellant to the Registrar, and another copy to the respondent.

(2) The Notice of Appeal shall be substantially in Form 7 in the First Schedule to these Rules.

(3) As soon as Notice of Appeal is filed by the Public Prosecutor as in paragraph (1) the Federal Court may on an application by the Public Prosecutor issue a warrant directing that the accused be arrested and brought before it and may remand him to prison pending the disposal of the appeal or admit him to bail in accordance with the provisions of section 88 of the Courts of Judicature Act 1964 [Act 91].

(4) The application under paragraph (3) may be made by motion *ex parte* and for the purpose of this paragraph, rules 101 and 102 shall apply.

89. Notice where person appealing is in prison

(1) Where a person who wishes to appeal is in prison he may inform the officer in charge of the prison orally or in writing that he wishes to appeal against the decision of the Court of Appeal and of the grounds on which he wishes to appeal.

(2) The officer in charge of the prison on receiving any such communication as in paragraph (1) shall complete Form 8 in the First Schedule to these Rules and eight copies thereof which shall be signed by the person who wishes to appeal and by the officer in charge of the prison; and the officer in charge of the prison shall deliver the same or send the same by registered post to the Registry of the Court of Appeal, and a copy sent to the Registry and another to the Public Prosecutor.

(3) A form completed and filed in accordance with this rule shall for all purposes be treated as a Notice of Appeal and as a Petition of Appeal for the purposes of rule 95 and shall be deemed to have been filed in accordance with these Rules:

Provided that nothing in this rule shall prevent any person from filing a Petition of Appeal in pursuance of rule 95.

90. Notice to be forwarded to the Registrar

On receipt of a Notice of Appeal the Registrar of the Court of Appeal shall forthwith make a note of the particulars of the same in a register to be kept by him and shall forthwith send such Notice and five copies thereof to the Registrar and shall send one copy thereof to the respondent.

91. Papers

(1) As soon as practicable after the filing of a Notice of Appeal in his Registry the Registrar of the Court of Appeal shall forward to the Registrar particulars of the appellant's trial in Form 9 in the First Schedule to the Rules together with sufficient copies of the following papers:

- (a) the record of appeal used in the Court of Appeal;
- (b) the grounds of judgement of the Court of Appeal; and
- (c) additional evidence or documentary exhibits read and produced at the hearing of the Court of Appeal.

(2) The Registrar of the Court of Appeal shall deal with the exhibits as directed by the Registrar.

92. More than one who appeal

Where more than one person appeals against the same decision of a Court of Appeal the number of papers to be filed and supplied under these Rules shall be increased by one for each person in addition to one.

93. Service of papers

As soon as may be practicable the Registrar of the Court of Appeal shall cause copies of all the papers mentioned in rule 91 to be served on both parties to the appeal.

94. Service of documents

Any notice, order or other document required or authorised to be served under these Rules may be served by delivering or posting a true copy or duplicate thereof to the person on whom it is to be served or to his solicitor, or in such other manner as the Court may direct.

95. Petition of Appeal

(1) Within a period of ten days after service upon him of the papers mentioned in rule 91 or within such extended period as the Court may allow the appellant shall file with the Registrar a Petition of Appeal and eight copies thereof.

(2) A Petition of Appeal shall be substantially in Form 10 in the First Schedule to these Rules.

(3) On receipt of a Petition of Appeal the Registrar shall transmit a copy thereof to the Registrar of the Court of Appeal and shall cause a copy of the same to be served on the respondent.

96. Legal Aid

In an appeal where a party thereto is not legally represented the Registrar may assign a solicitor to represent him--

- (a) in every case where the person has been sentenced to death; and
- (b) in any other case where the Chief Justice considers it is in the interest of justice that legal aid should be given.

97. Fees

- (1) No fees shall be charged in respect of any appeal or any proceedings therein.
- (2) No fees shall be charged for any papers which by these Rules are required to be supplied to any party to the appeal.

PART II

Applications

98. Applications

- (1) All applications to the Court shall unless otherwise provided be made by motion and shall be heard in open Court.
- (2) A Notice of Motion shall be substantially in Form 11 in the First Schedule to these Rules.
- (3) A Notice of Motion shall be served on the parties concerned not less than four days before the return day, unless the Court otherwise orders. Application for leave to give shorter notice may be made by motion *ex parte*.

99. How and where made

- (1) All applications shall be made by filing the notice of motion and every affidavit intended to be used in support thereof and eight copies thereof, unless the application is made to a single Judge of the Court in which case two copies only need be filed. Such documents shall be filed in the Registry, and a copy in the Registry of the Court of Appeal where the judgement, order or decision complained of was given or made. Copies of such application and affidavits shall immediately be served on all necessary parties.
- (2) The Registrar shall follow a procedure similar so far as possible to the procedure relating to the entry of appeals and the Registrar shall forthwith inform the Public Prosecutor and the applicant and any other necessary party to the application of the place and date of hearing of the application.

100. Place of hearing

Every application shall be heard at such place as the Chief Justice may direct.

101. Judge

Every application other than an application under rule 102 may be heard by a single Judge of the Court.

102. Application to discharge or vary an order

- (1) Every application to discharge or vary an order made by a single Judge shall be made by separate Notice of Motion filed within ten days from the date of such order.
- (2) On such application no further evidence shall be admissible without the special leave of the Court.
- (3) Such motion shall be filed in the Registry and shall be accompanied by sufficient copies of all

relevant papers for the use of the Judges.

(4) In the case of an application to discharge or vary an order of a Judge refusing any extension of time or refusing bail such application shall be made in Form 12 in the First Schedule to these Rules and shall for all the purposes of these Rules be deemed to be a Notice of Motion.

103. Withdrawal of appeal

(1) Where an appellant, at any time before the commencement of the hearing, wishes to withdraw or discontinue his appeal, he may do so without the leave of the Court by filing in duplicate with the Registrar and a copy with the Registrar of the Court of Appeal a notice in Form 13 in the First Schedule to these Rules.

(2) Upon the filing as aforesaid of such notice the appeal shall be deemed to have been dismissed by the Court.

Presentation of Case, etc.

104. Presentation of case

(1) An appellant may present his case orally or in writing or if he is not the Public Prosecutor, by solicitor.

(2) An appellant, whether or not legally represented, shall be entitled to be present at the hearing of his appeal and at the hearing of any application made by him or on his behalf.

(3) Where an appellant is not legally represented and is in prison the officer in charge of the prison shall cause him to be produced at the hearing of any application made by him and at the hearing of his appeal:

Provided that on the hearing of any application it shall not be necessary to produce the appellant if he does not express a wish to be present at the hearing.

(4) Where a Judge makes any order dismissing any application for extension of time or for bail made by an appellant who is not legally represented the Judge shall explain to the appellant, if present in Court, the effect of such order and inform him of the steps he is entitled to take to apply to have such order discharged or varied by the Court.

(5) If on the day fixed for the hearing of an appeal the appellant does not appear in person or by a solicitor and has not presented his case in writing as aforesaid, the appeal may be dismissed.

(6) Where an appeal is dismissed under paragraph (5) of this rule the Court may restore the appeal for hearing if it is satisfied that the appellant was prevented by any sufficient cause from appearing, whether in person or by a solicitor, when the appeal was called on for hearing.

(7) Nothing in this rule shall operate to relieve any appellant of any obligation to fulfil any condition regarding appearance which he shall have bound himself to perform.

105. Security

Where an appellant has been ordered to give any security such security shall be of such amount and nature as the Judge or Court ordering the same shall determine and shall be given in such form as the Registrar may require.

PART IV

Miscellaneous

106. Ancillary powers of the Court

The Court shall exercise, for all purposes incidental to or arising from any application or appeal, all the powers which, under the provisions of any written law in force in the place of trial at first instance, were vested in the trial Judge, whether before, during or after the trial, to the extent that such powers may be applicable to the circumstances of an application or appeal to the Court.

CHAPTER FIVE

LEAVE TO APPEAL

107. Application for leave to appeal

(1) Every application in a civil matter to the Court for leave to appeal shall be made by motion, supported by affidavit exhibiting a copy of the grounds of the judgement of the High Court and the Court of Appeal, if then available, filed with the Registrar.

(2) The applicant shall state in writing whether he intends to appeal against the whole or part only of the judgement or order, and what part of the judgement or order is complained of and the grounds for doing so.

(3) A copy of the application shall be served by the applicant on the respondent not less than seven clear days before the return date and another copy filed in the Court of Appeal within the time limited for the filing of the application for leave to appeal.

(4) (Deleted by P.U.(A) 25/2018)

108. Court's order for leave

(1) Where leave to appeal is granted the Court may--

- (a) fix the time within which the notice of appeal is to be filed;
- (b) give the respondent leave to file a cross-appeal;
- (c) determine the questions or issues which ought to be heard in the appeal; and
- (d) give such other directions in the matter as the justice of the case may require.

(2) Where an appellant having obtained an order granting him leave to appeal fails to file his notice of appeal within the time allowed by the Court, the Court may rescind the order granting him leave to appeal. This provision shall apply to a cross-appeal.

109. Deleted

(Deleted by P.U.(A) 379/1998)

CHAPTER SIX

MISCELLANEOUS

PART I

The Registry

110. Direction by Chief Justice

The Chief Justice may from time to time give such directions with respect to the business in the Registry, as he may consider necessary.

111. Official seals

The official seals to be used in the Registry shall be such as the Chief Justice from time to time directs, and such seal includes an electronic seal.

112. Sealed copies etc., receivable in evidence

All copies, certificates, and other documents sealed with a seal of the Registry shall be presumed to be office copies or certificates or other documents issued from the Registry, and may be received in evidence, and no signature or other formality, except the sealing with a seal of the Registry, shall be required for the authentication of any such copy, certificate, or other document.

113. Date upon documents

Upon every proceeding which is filed in the Registry, the date of filing the same shall be printed or written.

113A. Electronic filing

Any document required to be filed or issued under these Rules may be filed or issued electronically; and such filing or issue shall be deemed to comply with these Rules.

114. Searches

The Registrar shall on a request in writing giving sufficient particulars, and on payment of the prescribed fee, cause a search to be made in the registers or indexes under his custody, and issue a certificate of the result of the search.

115. Certificate of proceedings in cause or matter

For the purpose of enabling all persons to obtain precise information as to the state of any cause or matter, and to take the means of preventing improper delay in the progress thereof, the Registrar shall at the request of any person, whether a party or not to the cause or matter inquired after, but on payment of the usual fee, give a certificate specifying therein the dates and general description of the several proceedings which have been taken in such cause or matter in the Registry.

116. Restrictions on removal of documents from Registry

No affidavit or record of the Court shall be taken out of the Registry without the order of a Judge or Registrar, and no subpoena for the production of any such document shall be issued.

117. Fees of officer required to attend away from where such document is kept

Any officer in the Registry, being required to attend with any record or document at any Court or place out of the Court where such record or document is kept, shall be entitled to require that the solicitor or party desiring his attendance shall deposit with him with a sufficient sum of money to answer his just fees, charges, and expenses in respect of such attendance, and undertake to pay any further just fees, charges, and expenses which may not be fully answered by such deposit.

118. Forms to be used

The prescribed forms and the forms contained in the First Schedule to these Rules shall be used in and for the purposes of the Registry with such variations as circumstances may require.

119. Other forms

The Chief Justice may from time to time prescribe the use in or for the purposes of the Registry of such modified or additional forms as he may deem expedient.

PART II***Sittings and Vacations*****120. Regulations regarding vacations**

The Chief Justice may make such regulations as to vacations as he thinks fit.

121. Days on which office are to be open

The offices of the Court shall be open on every day of the year except weekly holidays and public holidays.

122. Office hours

Save as hereinafter provided, the office hours for the Registry shall be from 8:00 a.m. to 5:00 p.m. except on Friday the office hours shall be from 8:00 a.m. to 12:15 p.m. and from 2:45 p.m. to 5:00 p.m..

Provided that, the Registrar shall not receive any document presented for filing except as follows:

- (a) on Monday until Thursday between the hours of 8:30 a.m. to 4:00 p.m.; and
- (b) on Friday between the hours of 8:30 a.m. to 12:15 p.m. and from 2:45 p.m. to 4:00 p.m..

123. "Months"

Where by these Rules, time for doing any act or taking any proceedings is limited by months, and where the word "month" occurs in any document which is part of any legal procedure under these Rules, such time shall be computed by calendar months according to the Gregorian calendar, unless otherwise expressed.

124. Exclusion of holidays

Where any limited time less than six days from or after any date or event is appointed or allowed for doing any act or taking any proceeding, a weekly holiday and public holiday shall not be reckoned in the computation of such limited time.

125. Time expiring on holiday

Where the time for doing any act or taking any proceeding expires on a day on which the Registry is close, and by reason thereof such act or proceeding cannot be done or taken on that day, such act or proceeding shall, so far as regards the time of doing or taking the same, be held to be duly done or taken if done or taken on the day on which the Registry shall next be open.

126. Power of Court or Judge to enlarge or abridge time

The Court or a Judge shall have power to enlarge or abridge the time appointed by these Rules, or fix by an order enlarging time, for doing any act or taking any proceeding, upon such terms (if any) as the justice of the case may require, and any such enlargement may be ordered although the application for the same is not made until after the expiration of the time appointed or allowed:

Provided that when the time for delivering any document of filing any affidavit, answer or document, or doing any act is or has been fixed or limited by any of these Rules or by any direction on or under the summons for directions or by an order of the Court or a Judge the costs of any application to extend such time and of any order made thereon shall be borne by the party making such application unless the Court or a Judge shall otherwise order.

127. Number of days how computed

In any case in which any particular number of days, not expressed to be clear days, is prescribed by these Rules, the same shall be reckoned exclusively of the first day and inclusively of the last day.

128. Costs

Subject to the provisions of any other written law and these Rules, the costs of and incidental to all proceedings in the Court shall be in the discretion of the Court or Judge:

Provided that nothing herein contained shall deprive an executor, administrator, trustee, or chargee, who has not unreasonably instituted or carried on or resisted any proceedings, of any right to costs out of a particular estate of fund to which he would be entitled according to the Rules hitherto acted upon.

PART III

Notices, Printing, Paper, Copies, Office Copies, Minutes, etc..

129. All notices to be in writing

All notices required by these Rules shall be in writing unless expressly authorised by the Court to be given orally.

130. Regulations for printing

(1) Where by any provision of these Rules any document is required to be printed, that document may be either printed or reproduced by type lithography, stencil duplicating, or photocopying.

(2) The type to be used for such printing or other form of reproduction shall be type producing a clear and legible impression and shall be not smaller than small pica type for printing and not smaller than elite type for type lithography or stencil duplicating.

(3) Any other document required for use in any proceeding in the Court shall either be printed or reproduced as prescribed in the last two preceding paragraphs or shall be clearly and legibly written or typewritten.

(4) Every proceeding in the Court, and every judgement, order, certificate, petition, affidavit, or document made, presented, filed or used in any cause or matter, shall, unless the nature of the document renders it impracticable, be written, typewritten, or printed or partly written, partly typewritten, and partly printed on foolscap folio paper of good quality and shall have an inner margin and an outer margin.

(5) Copies of documents for making as office copies may, instead of being printed, written or typewritten copies, be photostat copies of the same size as the original document.

(6) No written or typewritten copy of a document shall be filed, registered or marked as an office copy unless in the opinion of the Registrar it is clearly legible.

131. Affidavits printed or written

Any affidavit may be sworn to either in print or in manuscript, or partly in print and partly in manuscript.

132. Regulations as to printing and copies

Where, pursuant to these Rules, any document is to be printed, and where any printed or other office copy of any such document is to be taken, the following regulations shall be observed:

Payment for printed copies furnished to other parties.

(a) The party printing shall on demand in writing, furnish to any other party any number of

printed copies, not exceeding ten, upon payment therefor at the rate of 30 cents per folio for every copy.

Credit for payment.

- (b) As between a solicitor delivering any printed copies and his client, credit shall be given by the solicitor for the whole amount payable by any other party for such printed copies.

No charge for written copies.

- (c) The party entitled to be furnished with a print shall not be allowed any charge in respect of a written copy, unless the Court shall otherwise direct.

Marking office copies.

- (d) The party by whom or on whose behalf any affidavit, or certificate is filed shall leave a copy with the officer with whom the same is filed who shall examine it with the original and mark it as an office copy; such copy shall be a copy printed as above provided where such affidavit is to be printed.

Party by whom written copies to be furnished.

- (e) Where any party is entitled to a copy of any affidavit, proceeding, or document filed or prepared by or on behalf of another party, which is not required to be printed, such copy shall be furnished by the party by whom or on whose behalf the same has been filed and prepared.

Application for and delivery of copies.

- (f) The party requiring any such copy, or his solicitor, shall make a written application to the party by whom the copy is to be furnished, or his solicitor, with an undertaking to pay the proper charges, and thereon such copy shall be made and ready to be delivered at the expiration of twenty-four hours after the receipt of such request and undertaking, or within such other time as the Court may in any case direct, and is to be furnished accordingly upon demand and payment of the proper charges.

Footnote of affidavit.

- (g) It shall be stated in a note at the foot of every affidavit filed on whose behalf it is so filed, and such note shall be printed on every printed copy of an affidavit or set of affidavits, and copied on every office copy and copy furnished to a party.

Endorsement of name and address. Party answerable for true copy.

- (h) The name and address of the party or solicitor by whom any copy is furnished is to be endorsed thereon in like manner as upon proceedings in Court, and such party or solicitor is to be answerable for the same being a true copy of the original, or of an office copy of the original, of which it purports to be a copy, as the case may be.

Neglect to furnish copy in time.

- (i) In case any party or solicitor who shall be required to furnish any such written copy as aforesaid shall either refuse or, for forty-eight hours from the time when the application for such copy has been made, neglect to furnish the same, all person by whom such application shall be made shall be at liberty to procure an office copy from the office in which the original shall have been filed, and in such case no costs shall be payable to the solicitor so making default in respect of the copy so applied for.

Direction by Court as to cost of printing and copies.

- (j) Where, by any order of the Court any document is ordered to be printed, the Court may order the expense of printing to be borne and allowed, and printed copies to be furnished by and to such parties and upon such terms as shall be thought fit.

133. Document shall be in national language

(1) Subject to subrule (2), any document required for use in pursuance of these Rules shall be in the national language and may be accompanied by a translation thereof in the English language:

Provided that any document in the English language may be used as an exhibit, with or without a translation thereof in the national language.

(2) For Sabah and Sarawak, any document required for use in pursuance of these Rules shall be in the English language and may be accompanied by a translation thereof in the national language:

Provided that any document in the national language may be used as an exhibit, with or without a translation thereof in the English language.

PART IV

Effects of Non-Compliance

134. Non-compliance

Non-compliance with any of these Rules, or with any rule of practice for the time being in force, shall not render any proceedings void unless the Court or a Judge shall so direct, but such proceedings may be set aside either wholly or in part as irregular, or amended, or otherwise dealt with in such manner and upon terms as the Court or Judge shall think fit.

135. Application to set aside for irregularity

No application to set aside any proceeding for irregularity shall be allowed unless made within reasonable time, nor if the party applying has taken any fresh step after knowledge of the irregularity.

136. Objections of irregularity

When an application is made to set aside proceedings for irregularity, the several objections intended to be insisted upon shall be stated in the summons or notice of motion.

PART V

Inherent powers of the Court

137. Inherent powers of the Court

For the removal of doubts it is hereby declared that nothing in these Rules shall be deemed to limit or affect the inherent powers of the Court to hear any application or to make any order as may be necessary to prevent injustice or to prevent an abuse of the process of the Court.

138. Repeal

The Rules of the Supreme Court 1980 is hereby repealed:

Provided that any proceeding which is pending before the Supreme Court on 23 June 1994, shall be continued and concluded by the Federal Court under the Rules of the Supreme Court 1980.

FIRST SCHEDULE

FORM 1

(rule 6)

IN THE FEDERAL COURT OF MALAYSIA

(Original Jurisdiction)

Suit No. of 19....

Between

A.B.....Petitioner

and

C.D.....Respondent

Petition

To the Chief Justice and Judges of the Federal Court.

THE PETITION OF A.B.

shows:

- 1.
 2. (as appropriate)
 - 3.
- etc.

The petitioner therefore prays:

(set out the relief asked for)

(Signed)

**Attorney General for the Government
of Malaysia*

**State Legal Advisor for the State*

Of.....

** Solicitor for Petitioner*

* Strike out those inapplicable.

FORM 2

(rule 9)

NOTICE OF PETITION

(General heading)

To CD. of.....

TAKE NOTICE that A.B. of. has commenced a suit against you.

A copy of the Petition of the said A.B. (and a copy of an affidavit in support thereof) * dated theday of..... 199..... is attached hereto.

If you wish to defend this suit you are required to cause an appearance to be entered herein at the Central Registry of the Federal Court at Putrajaya within fourteen days of the receipt of this notice. At the same time you should file in the said Registry a note of the name of your solicitor (if any) and of his or your address for service.

Under my hand at Putrajaya, this.....day of..... 19.....

.....

Registrar

+ The above Notice is issued by E.F., Solicitor for the said A.B. whose address for service is:

+ or The above notice is issued by the said A.B. whose address for service is:

* Delete if inapplicable.

+ Delete whichever is inapplicable.

FORM 2A

(rule 20)

SUMMONS FOR DIRECTIONS

N.B.-Applicants to complete the text of any matter required and to strike out the number opposite any matter not required but not to strike out the text, which must be left for the Judge (or Registrar).

(Title as in action)

Let all parties concerned attend before the Judge on the day of 20, atm. on the hearing of an application for directions in this action, that:

1. This action be consolidated with action(s) in Suit Noof, and Suit No of
2. The petitioner have leave to amend the petition by and that the service of the petition and the respondent's appearance do stand, and that the costs incurred and thrown away by the amendment be the respondent's in any event.
3. The petitioner have leave to amend the petition as shown in the document served herewith and to re-serve the amended petition in days, with leave to the respondent to re-serve an amended defence (if so advised) in days thereafter, (and with leave to the petitioner to re-serve an amended reply (if so advised) in days thereafter) and that the costs incurred and thrown away by the amendments be the respondent's in any event.
4. The respondent have leave to amend the defence as shown in (the document served with) the respondent's notice under this summons and to re-serve the amended defence in days (or with leave to the petitioner to re-serve an amended reply (if so advised) in days thereafter) and that the costs of and the costs thrown away as the result of the amendments be the petitioner's in any event.
5. The petitioner serve on the respondent within days the further and better particulars of the petition specified in (the document served with) the respondent's notice under this summons.
6. The respondent serve on the petitioner within days the further and better particulars of the defence specified in the document served herewith.
7. The petitioner serve on the respondent within days the further and better particulars of the reply specified in (the document served with) the respondent's notice under this summons.
8. The petitioner give security for the respondent's costs to the satisfaction of the Registrar in the sum of on the groundand that in the meantime all further proceedings be

stayed.

9. The petitioner within days serve on the respondent a list of documents (and file an affidavit verifying such list) (limited to the documents relating to the- (period from to))

(issues raised in paras of the petition and paras of the defence)

(issues of))

10. The respondent within days serve the petitioner with a list of documents (and file an affidavit verifying such list) (limited to documents relating to the-

(period from to)

(issues raised in paras of the petition and parasof the defence)

(issues of))

11. There be inspection of documents within days of the service of the lists (filing of the affidavits).

12. The petitioner have leave to serve on the respondent the interrogatories shown in the document served herewith, and that the respondent answer the interrogatories on affidavit within days.

13. The respondent have leave to serve on the petitioner the interrogatories shown in the document served with the respondent's notice under this summons, and that the petitioner answer the interrogatories on affidavit within days.

14. The petitioner (or respondent) (retain and preserve pending the trial of the action) (upon days notice to give inspection of) (the subject matter of the action, to the respondent (or petitioner) and to his legal advisers (and experts)).

15. The statements in be admissible in evidence at the trial without calling as a witness the maker of the statements (and, if a copy of that document certified by to be a true copy is produced, without production of the original document).

16. An affidavit of (in the form of the draft affidavit (served herewith) (with the respondent's notice under this summons)) (to be served within days) be admissible in evidence at the trial.

17. Evidence of the following fact(s), namely, be received at the trial by statement on oath of information and belief (by the production of the following documents or entries in books or copy documents or copy entries in books, namely,).

18. It be recorded that the parties ((petitioner) (respondent) refuses to admit for the purposes of this action that the truth of the statements in the document served (herewith) with the respondent's notice under this summons.

19. Trial. (Estimated length and number of witnesses) To be set down within days (and to be tried immediately after the action in Suit No of 20.....).

20. The costs of this application be costs in the cause.

Dated the day of, 20.....

Entered No 20.....

Clerk

(Seal)

.....
.....
Registrar

To the respondent(s) and to his (their) solicitors.

This summons is taken out by of, solicitors for the petitioner.

FORM 2B

(rule 21C)

NOTICE UNDER SUMMONS FOR DIRECTIONS

(Title as in action)

Take notice that the abovenamed respondent intends to apply at the hearing of the summons for directions herein for an order that (insert directions required - see Form 2A).

Dated the day of, 20.....

.....
.....
*Solicitors for
the*
.....
.....
Registrar

Entered No.of 20.....

Clerk

This summons is taken out by solicitor for
.....

To

.....

FORM 3

(rule 47)

IN THE FEDERAL COURT OF MALAYSIA

(Appellate Jurisdiction)

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

Between

A.B.....Petitioner

and

C.D.....Respondent

(In the matter of..... No.....of 19.....in the Court of Appeal
in.....at.....)

Between

.....

and

.....

NOTICE OF APPEAL

Take notice that.....being dissatisfied with die decision (s) of the Court of
Appeal given at..... on theday of 19..... appeals to the Federal
Court against:

either/or the whole of the said decision (s)
 such part only of the said decision (s)
 as decides that

(Set out details)

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

.....

Appellant,

Solicitor for the Appellant

To
The Registrar,
The Federal Court,
.....

and to

The Registrar, The Court of Appeal in..... at and to
.....

The address for service for the appellant is.....
.....

FORM 4

(rule 49)

IN THE FEDERAL COURT OF MALAYSIA

(Appellate Jurisdiction)

Civil Appeal No of 19.....

Between

A.B.....Appellant

and

C.D.....Respondent

(In the matter of.....No.....of 19..... in the Court of Appeal
in..... at

Between

.....
and
.....

NOTICE OF CROSS-APPEAL

Take notice that, on the hearing of the above appeal, C.D., the respondent abovenamed, will contend that the decision (s) of the Court of Appeal given at on the day of..... 19..... ought to be varied to:

(Set out in numbered paragraphs--

- (a) the nature of the relief claimed; and
- (b) the grounds relied upon)

.....
Respondent
Solicitor for the Respondent

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

.....
Registrar

To the appellant abovenamed or his solicitor,

.....

The address for service of the respondent is.....
.....

FORM 5

(rule 57)

IN THE FEDERAL COURT OF MALAYSIA

(Appellate Jurisdiction)

Civil Appeal No of 19.....

Between

A.B.....Appellant

and

C.D.....Respondent

(In the matter of.....No..... of 19..... in the Court of Appeal
in..... at

Between

.....

and

.....

MEMORANDUM OF APPEAL

A.B., the appellant abovenamed having obtained leave to appeal on, appeals to the Federal Court against of the decision of the Court of Appeal given

at..... on the.....day of19..... on the following grounds:

(Set out in numbered paragraphs)

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

.....

Appellant

Solicitor for the Appellant

FORM 6

(rule 66)

(Appellate Jurisdiction)

Application No..... of 19.....

Between

A.B.....Appellant/Applicant

and

C.D.....Respondent

(In the matter of.....No of 19..... In the Court of Appeal
in.....at.....

Between

.....

and

.....

decided by the Court of Appeal

at theday of..... 19.....

NOTICE OF MOTION

Take notice that on.....the.....day of..... 19.....at..... o'clock in the
fore / after noon, or as soon thereafter as he can be heard Mr of counsel for
the abovenamedwill move the Court for an order that

(Here set out the order sought)

.....

Solicitor for the

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

.....

Registrar

To

.....

or his solicitor

The address for service on the applicant is.....

.....

FORM 7

(Rule 88)

IN THE FEDERAL COURT OF MALAYSIA

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

Between

..... Appellant

and

..... Respondent

(In the matter of.....No.....of 19.....

in the Court of Appeal in.....at.....

Between

The Public Prosecutor

and

.....

NOTICE OF APPEAL

Take notice that.....appeals to the Court against the decision of the Court of Appeal given on the day of 19..... whereby the appellant/respondent was convicted/acquitted on a charged of..... and sentenced to.....

This appeal is against conviction/acquittal only *
sentence only*
conviction and sentence*

I wish/do not wish* to be present at the hearing of my appeal.

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

.....
Appellant/Respondent

To
The Registrar
The Federal Court
.....

and to

The Registrar,

The Court of Appeal

and to

(the Respondent)

The address of the Appellant is.....

* Strike out whichever is inapplicable.

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

FORM 8

(rule 89)

NOTICE ON BEHALF OF PRISONER

IN THE FEDERAL COURT OF MALAYSIA

Public Prosecutor v.

To the Registrar of the Court of Appeal at.....

Take notice that..... who was convicted in the High Court
in.....
at.....on..... for the offence of.....and
sentenced to and whose conviction was confirmed by the Court of Appeal and who is
now a prisoner in this prison has informed me that he wishes to appeal to the Federal

Court against his conviction*
sentence *

conviction and sentence*

The grounds on which he wishes to appeal are stated by him as follows:

(See Note)

.....

Signature of Officer in Charge of Prison

.....

Signature or mark of Appellant

*Delete what is inapplicable.

NOTE:

1. If the prisoner has made an oral statement insert the substance of the same here.
2. If the prisoner has made a written statement it is sufficient to say so and attach a copy.
3. A copy of this Notice has to be sent to the Registrar of the Federal Court and a copy to the Public Prosecutor.

FORM 9

(rule 91)

IN THE FEDERAL COURT OF MALAYSIA

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

Public Prosecutor v.

Particulars of Trial

1. Where was the trial held?
 2. Date of trial.
 3. Name of trial Judge.
 4. For what offence was the conviction?
 5. What was the sentence?
- Were any consequential orders made for restitution of property or otherwise?
6. Annex hereto a copy of the list of exhibits.
 7. Was appellant defended by a solicitor privately, or at request of the Court?
 8. State the name of the solicitor (if any).

9. Was the appellant admitted to bail before trial?

If so, in what amount? Were there sureties?

If so, what amount?

10. Decision of Court of Appeal was made on and the decision was that.....

(Signed)

Registrar of Court of Appeal

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

FORM 10

(rule 95)

IN THE FEDERAL COURT OF MALAYSIA

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

Between

.....Appellant

and

.....Respondent

PETITION OF APPEAL TO THE HONOURABLE THE JUDGES OF THE FEDERAL COURT

The appellant above-named having given notice of appeal to the Federal Court against the decision of the Court of Appeal on the day of19..... states the following grounds for his said appeal:

(Set out in numbered paragraphs)

and the appellant above-named therefore prays that the *conviction/acquittal and sentence on him may be set aside or that the sentence on him may be reduced.

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

.....

Appellant

Solicitor for the Appellant

The address of the appellant is.....

* Or as the case may be.

FORM 11

(rule 98)

IN THE FEDERAL COURT OF MALAYSIA

Criminal Appeal No.....of 19

Between

A.B.....Appellant/Applicant

and

C.D.....Respondent

(In the matter of.....

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

Between

.....

and

.....

decided by the Court of Appeal at on the day of..... 19.....)

NOTICE OF MOTION

Take notice that on the day of..... 19.....at.....o'clock in the fore noon or as soon thereafter as he can be heard Mr..... of counsel for the above-named.....will move the Court for an order that

(Here set out the order sought)

.....
Solicitor for the.....

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

.....
Registrar

To.....

or his solicitor.....

The address of the appellant is.....

FORM 12

(rule 102)

IN THE FEDERAL COURT OF MALAYSIA

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

.....V.....

NOTICE OF APPLICATION TO THE COURT TO VARY OR DISCHARGE THE ORDER OF THE COURT

I,

having applied for--

and my application having been refused

Do hereby give you notice that I desire that the said application shall be considered and determined by the Court (*and that I desire to be present at the determination of my said application).

(Signed).....

Appellant

To the Registrar of the Federal Court in.....

at.....

Dated this day of19.....

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

FORM 13

(rule 103)

IN THE FEDERAL COURT OF MALAYSIA

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

.....Appellant

v.

.....Respondent

I.....

do hereby give notice that I do not intend further to prosecute my appeal.

.....Witness

.....

Appellant

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

To the Registrar of the Federal Court

To the Registrar of the Court of Appeal

To the Respondent

*Strike out this if you do not wish to be present.

SECOND SCHEDULE

Court Fees

(rule 86)

		RM
1.	Notice of Appeal and Cross-Appeal	1,500.00

2.	Any interlocutory application	200.00
3.	Memorandum of Appeal	200.00
4.	On application to prepare an Index	50.00
5.	(a) Order on any interlocutory application	200.00
	(b) Final order on appeal	300.00
6.	Petition	500.00
7.	Notice of Petition	200.00
8.	Notice of Motion for leave to appeal	1,500.00
9.	Notice of Motion other than leave to appeal	200.00
10.	Summons for Direction	100.00
11.	Amended Petition or Notice of Motion	100.00
12.	Search Fee	30.00
13.	Photostat Copy (per pages)	4.00
14.	Affidavit	20.00
15.	Supplementary Appeal Record	50.00
16.	Notice of Discontinuance	20.00
17.	Certificate of Urgency	100.00
18.	Certified true copy of order (one set)	4.00
19.	Motion for review application against an order refusing leave--	
	(a) First motion	2,000.00
	(b) Subsequent motion against the same decision	4,000.00
20.	Motion for review against decision in full appeal--	
	(a) First motion	3,000.00
	(b) Subsequent motion against the same decision	6,000.00

Made 6 September 1995.

[(1) dlm. JK/MA. 299; PN. (PU²) 106/1.]

TAN SRI DATO' SERI MOHD. EUSOFF BIN CHIN,
Chief Justice Malaysia

TAN SRI DATO' HAJI LAMIN BIN HAJI MOHD. YUNUS,
President Court of Appeal

TAN SRI DATO' HAJI ANUAR BIN DATO' HAJI ZAINAL ABIDIN,
Chief Judge Malaya

DATUK CHONG SIEW FAI,
Chief Judge Sabah & Sarawak

TAN SRI DATO' HAJI MOHD. AZMI BIN DATO' HAJI KAMARUDDIN,
Judge, Federal Court

TUAN GOPAL SRI RAM,
Judge, Court of Appeal

DATO' FAIZA IBN HAJI TAMBY CHIK,
Judge, High Court Malaya

DATO' SULEIMAN BIN HASHIM,
Judge, High Court Sabah & Sarawak

DATO' HELILIAH BINTI MOHD. YUSOFF,
Solicitor General

PUAN LIM YEE LAN,
Senior Sessions Court Judge

PUAN HENDON BINTI MOHAMED,
Advocate and Solicitor

PUAN MAUREEN LIND,
Advocate

ENCIK JOHN KO WAI SENG,
Advocate

(The national language version will be gazetted in due course.)

(To be laid before the Dewan Rakyat pursuant to subsection 17(5) of the Courts of Judicature Act 1964.)

Amending law	Citation	In force from
P.U.(A) 379/1998	Rules of the Federal Court (Amendment) 1998	29-10-1998
P.U.(A) 198/2002	Rules of the Federal Court (Amendment) 2002	17-05-2002
P.U.(A) 208/2011	Rules of the Federal Court (Amendment) 2011	01-03-2011
P.U.(A) 233/2012	Rules of the Federal Court (Amendment) 2012	01-08-2012
P.U.(A) 65/2013	Rules of the Federal Court (Amendment) 2013	01-03-2013
P.U. (A) 25/2018	Rules of the Federal Court (Amendment) 2018	01-03-2018

P.U. (A) 68/2018

CORRIGENDUM-Rules of the Federal Court (Amendment) 2018

06-03-2018