

## Cook Islands Laws



## THE COURT OF APPEAL RULES 1981

Saven Danu, Chief Justice of  
the High Court of the Cook Islands

## ORDER IN EXECUTIVE COUNCIL

At Avarua, Rarotonga this 20<sup>th</sup> day of August, 1981.

Present:

HIS HONOUR THE CHIEF JUSTICE OF THE HIGH COURT  
OF THE COOK ISLANDS

PURSUANT to Section 102 of the Judicature Act 1980-81 as substituted by Section 2 of the Judicature Amendment Act 1981 and with the concurrence of the Rules Committee, His Honour the Chief Justice of the Cook Islands exercising the functions of High Commissioner pursuant to Article 7 of the Constitution and acting by and with the advice and consent of the Executive Council hereby makes the following rules:

## ANALYSIS

- |  |   |
|--|---|
| <u>PART I - PRELIMINARY:</u>   |   |
| 1. Title and commencement  | 13. Appellant responsible for preparation of record   |
| 2. Interpretation  | 14. Procedure for hearing of appeal   |
| <u>PART II - GENERAL</u>   |   |
| 3. <u>Sittings of Court of Appeal</u>  | 15. Notice of hearing to be served upon respondent  |
| 4. Commencement of appeals   | 16. Registrar to set appeal down for hearing  |
| 5. Leave of Court of Appeal required for appellant to be heard on grounds not stated in notice of appeal | 17. Appeal not to be brought after expiration of 30 days except by leave of High Court or Court of Appeal |
| 6. Appeal may be adjourned   | 18. Powers of Court of Appeal to extend time or amend grounds of appeal or make any order                 |
| 7. Court of Appeal or Chief Justice may grant leave for written submissions to be filed                  | 19. Registrar to serve notice of date of hearing upon the appellant and respondent                        |
| 8. Court of Appeal may enlarge time prescribed by Rules  | 20. Dismissal of appeal for non-appearance  |
| 9. Record to be as specified   | 21. Appeal may be heard ex parte  |
| 10. Fees   | 22. Right to adduce new evidence  |
|  | 23. Costs   |
| <u>PART III - CIVIL APPEALS</u>  |   |
| 11. Appeals to be by notice of motion  | 24. <u>PART IV - CRIMINAL APPEALS</u>   |
| 12. Abandonment of appeal upon failure to give security for costs  | Appeals to be commenced by notice of appeal or motion for leave to appeal                                 |
|  | 25. Registrar to procure from High Court the documents specified  |

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| <p>26. Registrar to supply appellant with copies of documents upon request</p> <p>27. Appellant to lodge with the Registrar within 6 weeks records specified</p> <p>28. Registrar to prepare records where appellant is not represented.</p> <p>29. Registrar to set down the appeal for hearing.</p> | <p>30. Abandonment of appeal for failure to comply with requirements of Rule 30</p> <p>31. Registrar to notify final determination of the Court of Appeal to the Registrar of the High Court</p> <p>32. Non-compliance by Appellant with rules</p> <p>33. Forms</p> |
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PART I

PRELIMINARY

RULES

1. Title and commencement - (1) These Rules may be cited as the Court of Appeal Rules 1981.  
 (2) These Rules shall come into force on the 28th day of August 1981.

2. Interpretation - In these Rules, unless the context otherwise requires:-

"Act" means the Judicature Act 1980-81:

"Appellant" includes a person who has been convicted and desires to appeal under these Rules:

"Chief Justice" means the Chief Justice of the Cook Islands:

"Court of Appeal" means the Court of Appeal of the Cook Islands:

"Decision" includes any judgment or order:

"Record" means the aggregate of papers relating to an appeal (including the pleadings, proceedings, evidence and judgments) to be laid before the Court of Appeal on the hearing of the appeal:

"Registrar" means the Registrar of the Court of Appeal:

"Respondent" includes any person who has been served with notice of appeal or who is entitled to be so served:

"Sentence" includes any order of the Court made on conviction with reference to the person convicted.

PART II

GENERAL

3. Sittings of Court of Appeal - (1) Sittings of the Court of Appeal shall be convened and constituted from time to time, and the time and place for the hearing of all Criminal and Civil Appeals shall be settled in accordance with directions to be given by the Chief Justice.

## Cook Islands Laws

(2) Subject to subclause (3) of this rule the Court of Appeal shall sit in Rarotonga to hear and determine appeals.

(3) In the case of any appeal against conviction for any offence (whether or not the appeal is against the sentence also) or in the case of an appeal against the sentence imposed for any offence (whether or not the appeal is against the conviction also) or in the case of any other appeal which in the opinion of the Chief Justice it is expedient for the ends of justice and more convenient and in conformity with natural justice so to do, the Chief Justice may direct that the appeal be heard or determined by the Court in any place within or outside of the Cook Islands and in such case the appeal shall be heard and determined in the place where directed.

4. Commencement of appeals - All appeals to the Court of Appeal shall be commenced by filing with the Registrar a notice of appeal, or an order granting leave to appeal, as the case may be.

5. Leave of Court of Appeal required for appellant to be heard on grounds not stated in notice of appeal - The appellant shall not, without the leave of the Court of Appeal, urge or be heard in support of any ground of objection not stated in his notice of appeal but the Court of Appeal in deciding the appeal shall not be confirmed to the grounds so stated; provided that the Court of Appeal shall not rest its decision on any ground not stated in the notice of appeal, unless the respondent has had sufficient opportunity of contesting the case on that ground.

6. Appeal may be adjourned - If for any reason it appears right to adjourn an appeal, the Court of Appeal shall have full power to do so upon such terms and for such time as seems fit.

7. Court of Appeal or Chief Justice may grant leave for written submissions to be filed - The Court of Appeal or, if the Court is not in session, the Chief Justice may upon the application of any party, grant leave to the appellant to file with the Court and serve on the Respondent written argument in support of his appeal and for a respondent to file with the Court and serve on the appellant written argument in opposition to the appeal.

8. Court of Appeal may enlarge time prescribed by Rules - The Court of Appeal may enlarge the time prescribed by the Rules for the doing of anything to which these Rules apply.

9. Record to be as specified - The record shall be prepared on paper of foolscap size and may be printed, typed or cyclostyled. If typed or cyclostyled the spacing known as double spacing will be used and the margin will be  $\frac{1}{4}$  of the width of the paper.

10. Fees - The fees set forth in the First schedule hereto shall be the fees payable in respect of proceedings in the Court of Appeal.

PART III

CIVIL APPEALS

11. Appeals to be by notice of motion - All appeals to the Court of Appeal shall be by notice of motion stating the grounds of the appeal and whether the whole or part only of the decision is complained of. The notice of motion shall be filed with the Registrar and shall be served on every party directly affected by the appeal.

12. Abandonment of appeal upon failure to give security for costs - If the appellant shall fail to give security for costs within the time specified in the Order granting leave to appeal the appeal shall be deemed to be abandoned.

13. Appellant responsible for preparation of record - The appellant shall be responsible for the preparation of the record which shall include copies of the following documents:

- (a) The pleadings;
- (b) Any interlocutory orders with all motions, affidavits and other documents filed in connection therewith;
- (c) Notes of evidence taken at the trial;
- (d) All exhibits to which it is considered necessary to make reference at the hearing of the appeal;
- (e) A list of all exhibits not forming part of the record;
- (f) The judgment appealed from;
- (g) Notice of cross-appeal if any;
- (h) Order granting leave to appeal, if any.

14. Procedure for hearing of appeal - When the appellant is ready to proceed with the hearing of the appeal but not in any event later than 3 months after the filing of the notice of appeal or of the order granting leave to appeal as the case may be he shall lodge with the Registrar:

- (a) Praecipe to set appeal down for hearing;
- (b) The record;
- (c) Six copies of the record for the use of the Judges of the Court of Appeal.

15. Notice of hearing to be served upon respondent - On the same day or as soon as practicable thereafter the appellant shall serve or cause to be served upon the respondent a copy of the Praecipe to set the appeal down for hearing together with a copy of the record.

16. Registrar to set appeal down for hearing - Upon the lodging of the documents in accordance with Rule 14 hereof the Registrar will thereupon set down the appeal by entering the same in the list of appeals and it shall be heard according to its order in such list unless the Court of Appeal or the President thereof shall otherwise direct.

17. Appeal not to be brought after expiration of 21 days except by leave of High Court or Court of Appeal - No appeal to the Court of Appeal from any decision of the High Court shall be brought after the expiration of twenty one days from the time when the appellant first had notice thereof unless the High Court or the Court of Appeal shall enlarge the time for giving notice of appeal.

## Cook Islands Laws

18. Powers of Court of Appeal to extend time or amend grounds of appeal or make any order - The Court of Appeal shall have power to extend the time for appealing, or to amend the grounds of appeal, or to make any other order on such terms as the Court shall think fit to ensure the determination on the merits of the real question in controversy between the parties.

19. Registrar to serve notice of date of hearing upon the appellant and respondent - The Registrar shall cause notice of the date of hearing to be served upon the appellant and the respondent not less than 10 days before such date.

20. Dismissal of appeal for non-appearance - If the appellant fails to appear in person or by counsel when his appeal is called on for hearing, the appeal shall, on proof of service upon him of notice of the hearing, stand dismissed with costs:

Provided that when an appeal has been dismissed owing to the non-appearance of the appellant or his counsel the Court of Appeal may, if it thinks fit, and on such terms as to costs or otherwise as it may deem just, direct the appeal to be re-entered for hearing.

21. Appeal may be heard ex parte - If the respondent fails to appear, in person or by counsel when the appeal is called for hearing, the Court of Appeal shall, on proof of service of notice of hearing, proceed to hear the appeal ex parte.

22. Right to adduce new evidence - (1) It shall not be open, as of right, to any party to an appeal to adduce new evidence in support of his original case, but a party may allege any facts essential to the issue which have come to his knowledge after the date of the decision from which the appeal is brought, and may adduce evidence in support of his allegations.

(2) The Court of Appeal may in any case, if it thinks fit, allow or require new evidence to be adduced, either by oral examination in Court, by affidavit, or by depositions taken before an examiner or commissioner.

23. Costs - The costs of proceedings in the Court of Appeal shall be in accordance with the Second Schedule to these rules; but costs shall in every case be in the discretion of the Court of Appeal which may make such order as in the circumstances may appear to the Court to be just.

## PART IV

## CRIMINAL APPEALS

24. Appeals to be commenced by notice of appeal or motion for leave to appeal - All appeals to the Court of Appeal in its criminal jurisdiction shall be commenced by a notice of appeal or a motion for leave to appeal as the circumstances may require. Such notice or motion shall be signed by the appellant personally or by a solicitor or counsel acting on the appellant's behalf.

25. Registrar to procure from High Court the documents specified - Upon receipt of a notice of appeal or order granting leave to appeal the Registrar shall procure from the High Court the following documents:
- (a) The information;
  - (b) A copy of the Judge's notes of evidence or the stenographic record;
  - (c) All exhibits which it may be practicable to transmit;
  - (d) A list of the remaining exhibits;
  - (e) A copy of the formal conviction and sentence, and of any ancillary order made by the High Court in connection therewith;
  - (f) A copy of the reasons for judgment, if given;
  - (g) A list of previous convictions, if any, in the case of an appeal against sentence.
26. Registrar to supply appellant with copies of documents upon request - The Registrar will upon request supply to the appellant a copy of the above documents to enable the appellant to prepare the record; provided that the appellant shall unless the High Court orders otherwise pay a fee of 15 cents per folio of 72 words for notes of evidence, copies of exhibits and notes of reasons for judgment.
27. Appellant to lodge with the Registrar within 6 weeks records specified - The appellant will within a period of six weeks following the filing of the notice of appeal or of the order granting leave to appeal as the case may be lodge with the Registrar -
- (a) The record;
  - (b) Six copies of record for the use of the Judges of the Court of Appeal;
  - (c) Two copies of the record for service on the Attorney-General and the Prosecuting Officer.
28. Registrar to prepare records where appellant is not represented - If the appellant shall not be represented by a solicitor then it shall be the duty of the Registrar to prepare the record and the copies for the use of the Judges of the Court of Appeal and to have service of two copies effected on the Attorney-General and the Prosecuting Officer.
29. Registrar to set down the appeal for hearing - Upon the lodgment by the appellant or the preparation and service by the Registrar of the copies of the record as the case may be the Registrar will thereupon set down the appeal for hearing by entering the same in the list of appeals and it shall come on for hearing according to its order in such list unless the Court of Appeal or the Chief Justice thereof shall otherwise direct.
30. Abandonment of appeal for failure to comply with requirements of Rule 27 - If upon the expiration of six weeks from the date of filing notice of appeal or of the order granting leave to appeal as the case may be the appellant shall have failed to prepare and lodge the record as provided in Rule 30 hereof then the appeal shall be determined to have been abandoned.

*Cook Islands Laws*GENERAL PROVISIONS

31. Registrar to notify final determination of the Court of Appeal to the Registrar of the High Court - On the final determination of an appeal the Registrar shall in such manner as he thinks most convenient, notify the Registrar of the High Court of the decision of the Court of Appeal and of any orders or directions made or given by the Court of Appeal in respect of such appeal or any matter connected therewith.

32. Non-compliance by Appellant with rules - Non-compliance on the part of an appellant with these rules or with any rule of practice for the time being in force under the Act shall not prevent the further prosecution of his appeal if the Court of Appeal or the President thereof considers that such non-compliance was not wilful and that it may be waived or remedied by amendment or otherwise. The Court of Appeal or the President thereof may in such manner as is thought proper direct the appellant to remedy such non-compliance and upon the proper action being taken by the appellant the appeal shall proceed.

33. Forms - The forms set out in the Third Schedule to these rules shall as far as practicable be used for all documents filed in the Court of Appeal. Where no express form is given the document will, as closely as may be, follow the practice of the High Court.

FIRST SCHEDULE

## Fees Payable to Registrar of Court of Appeal

Filing notice of motion of appeal	\$4.00
Filing case	\$1.00
Setting down case on appeal or on removal from the High Court	\$3.00
Hearing case on appeal or removed	\$10.00
For the first day or part thereof	\$4.00
For each succeeding day or part thereof	\$3.00
Sealing any order	\$2.00
Sealing any duplicate thereof	\$3.00
Sealing any document not otherwise provided for	\$2.00
Sealing any duplicate thereof	\$2.00
Filing any motion	\$1.00
Filing any document not otherwise provided for	\$1.00
Matters not specified above: the fees charged in respect of similar matters in civil proceedings in the High Court	

SECOND SCHEDULE

## Scale of Costs

	Under 400	\$400 to \$1000	Over \$1000
1. Drawing and settling case	50	75	100
2. Setting down a case and arguing to judgment	75	100	150
3. For every day of hearing after the first: A sum to be fixed by the Court, not exceeding \$	50	75	100
4. Extra counsel, if certified for: Not exceeding \$ each day	25	50	75
5. Cost of printing, typewriting or cyclostyling: Whatever the amount paid, or, if the typewriting or cyclostyling has been carried out in the office of the solicitor for the appellant, such sum as may be allowed by the Registrar in that behalf:			
6. If affidavits are allowed, or evidence is taken orally: Such costs in respect thereof as are fixed by the Court:			
7. If money is not claimed, costs shall be on such of the abovementioned scales as shall be determined by the Court, having regard to the importance of the case.			
8. If different questions are involved, the costs may be apportioned by the Court.			



*Cook Islands Laws*THIRD SCHEDULE

Form No.1

Notice of Appeal or application for leave to appeal

Name of appellant: \_\_\_\_\_  
 Offence of which convicted: \_\_\_\_\_  
 Place of conviction: \_\_\_\_\_  
 Date of conviction: \_\_\_\_\_  
 Sentence: \_\_\_\_\_  
 Name of prison (or, if not in prison, full postal address of appellant): \_\_\_\_\_

To the Registrar of the Court of Appeal

I, the abovenamed appellant, hereby give you notice that I desire to appeal to the Court of Appeal against my (conviction) (sentence) conviction and sentence) on the grounds set forth below, and I give answers as follows to the following questions:

1. Did the Judge before whom you were tried grant you a certificate that it was a fit case for appeal? \_\_\_\_\_
2. (a) Is any solicitor now acting for you? \_\_\_\_\_  
 (b) If so, give his name and address: \_\_\_\_\_  
 \_\_\_\_\_
3. (a) Do you desire to apply for leave to call any witnesses on your appeal? \_\_\_\_\_  
 (b) If so then state -  
 (1) Name and address of witness: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 (2) Whether the witness was examined at the trial: \_\_\_\_\_  
 (3) If not, reason why he was not so examined:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 (4) On what matters you wish him to be examined:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 (5) Shortly, what evidence you think he can give:  
 \_\_\_\_\_
4. If your appeal or application is out of time, what do you submit as reasons why the Court should nevertheless entertain your appeal or application?  
 \_\_\_\_\_  
 \_\_\_\_\_
5. (a) If you are not on bail, do you desire to be admitted to bail? \_\_\_\_\_  
 (b) If so, what reasons do you submit for being admitted to bail? \_\_\_\_\_  
 \_\_\_\_\_

## Judicature

6. What are the grounds of your appeal or application for leave to appeal?  
 (You are referred to Rule 5 of the principal rules. You are informed that you may present your case and argument in writing instead of by oral argument if you so desire, and any case or argument so presented will be considered by the Court. 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. Additional sheets may be attached to this form).

DATED at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_

Signature of Appellant: \_\_\_\_\_

Form No. 2

## Judge's Certificate

In the High Court of the Cook Islands

Held at \_\_\_\_\_

\_\_\_\_\_ Informant

\_\_\_\_\_ Defendant

WHEREAS (Full name) was on the \_\_\_\_\_ day of \_\_\_\_\_  
 19\_\_ convicted within the meaning of the Judicature Act  
 1980-81 before me for the offence of (Insert name of offence),  
 and was thereupon sentenced by me to \_\_\_\_\_

DATED at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_

Signature of Judge: \_\_\_\_\_

Form No. 3

## Notification to Appellant of Result of Appeal

In the High Court of the Cook Islands

Held at \_\_\_\_\_

\_\_\_\_\_ Appellant

\_\_\_\_\_ Respondent

## To The Above-Named Appellant

This is to give you notice that the Court of Appeal has considered the matter of your appeal and has finally determined the same, and has this day given judgement to the effect following-namely,

Cook Islands Laws

(that your appeal be dismissed) or (that the sentence imposed upon you be altered from \_\_\_\_\_ to \_\_\_\_\_), (or as the case may be).

DATED at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_

\_\_\_\_\_  
Registrar of the Court of Appeal

Form No. 4

Notification to Appellant of Result of Application

In the Court of Appeal of the Cook Islands

Held at \_\_\_\_\_

\_\_\_\_\_  
Appellant  
\_\_\_\_\_  
Respondent

To The Above-Named Appellant

THIS is to give you notice that the Court of Appeal has considered the matter of your application for -

(Leave to appeal to the said Court against (conviction) (sentence)

(Leave to extend the time within which you may give (notice of appeal) or (Notice of application for leave to appeal),

Permission to be present during the proceedings in your (appeal) (application for leave to appeal), (or as the case may be) and has finally determined the same, and has this day given judgment to the effect following namely, (that you have .....days from the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_ within which you may give notice of appeal), (or as the case may be).

DATED at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_

\_\_\_\_\_  
Registrar of the Court of Appeal

*Judicature*

Form No. 5

## Warrant to Arrest

In the Court of Appeal of the Cook Islands

Held at \_\_\_\_\_

\_\_\_\_\_ Appellant

\_\_\_\_\_ Respondent

WHEREAS A.B. an appellant under the Judicature Act 1980-81, has been released by this Court on bail, and it has now been ordered by this Court that a warrant be issued for his apprehension and committal to prison: This is to command you to whom this warrant is addressed to arrest the said A.B. and to lodge the said A.B. in the prison at \_\_\_\_\_ there to be imprisoned by the Gaoler of the said prison until further order of this Court.

DATED at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

\_\_\_\_\_  
JudgeTo W.T. Constable (By his proper title), of \_\_\_\_\_  
and to all other constables.

Form No. 6

## Notice of Abandonment of Appeal

\_\_\_\_\_ Informant

\_\_\_\_\_ Defendant

To the Registrar of the Court of Appeal

I, (full name), \_\_\_\_\_ having been convicted in the High Court at \_\_\_\_\_ for the offence of \_\_\_\_\_, and having been desirous of appeal and having sent to the Court of Appeal notice to that effect, do hereby give you notice that I do not intend further to prosecute my appeal and that I hereby abandon all further proceedings in regard thereto as from the date hereof.

DATED at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

Signature: \_\_\_\_\_

Witness to signature of (Full name): \_\_\_\_\_

Signature of Witness: \_\_\_\_\_

Address: \_\_\_\_\_

Description: \_\_\_\_\_

## Cook Islands Laws

Form No. 7

Bail Bond for the attendance of the Appellant  
In the Court of Appeal of the Cook Islands

Between: \_\_\_\_\_ Appellant  
(Full name)

and: \_\_\_\_\_ Respondent  
(Full name)

(Full Name), of (address, occupation) (hereinafter called the Appellant) has appealed against his conviction (or sentence or conviction and sentence) for \_\_\_\_\_ and (full name, address and occupation) has agreed to act as surety.

I, the Appellant, bind myself to perform the following obligations that is to say:

- (1) to attend personally before the Court of Appeal at the time fixed for the hearing of the appeal and on any day to which the hearing may be from time to time adjourned (and in the meantime to report \_\_\_\_\_ at the Police Station at \_\_\_\_\_)
- (2) to prosecute with due diligence an appeal against such conviction (or sentence or conviction and sentence).

And I, the Appellant, acknowledge myself bound to forfeit to the Government the sum of \$ \_\_\_\_\_ in the event that I fail to perform any of the above conditions; and I, the surety, acknowledge myself bound to forfeit to the Government the sum of \$ \_\_\_\_\_ in the event that the appellant fails to attend.

\_\_\_\_\_ Appellant  
\_\_\_\_\_ Surety

TAKEN before me at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_  
19 \_\_\_\_\_

\_\_\_\_\_  
Registrar

## Judicature

Form No.8  
Notice of Bond

In the Court of Appeal of the Cook Islands

BETWEEN \_\_\_\_\_ Appellant  
(Full name)

AND: \_\_\_\_\_ Respondent  
(Full name)

\_\_\_\_\_  
To: (Full name) Appellant

TAKE notice that if you, the above-named appellant fail to perform the conditions following or any of them, namely (here set out conditions as in bond) then you will forfeit to the Government of the Cook Islands the sum of \$ \_\_\_\_\_

DATED at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

AND: \_\_\_\_\_ Respondent  
(Full name)

To: (Full name), Surety.

TAKE notice that if the above-named appellant fails to attend personally before the Court of Appeal at the time fixed for the hearing of the Appeal or on any day to which the hearing may be from time to time adjourned then you will forfeit to the Government of the Cook Islands the sum of \$ \_\_\_\_\_

DATED at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_  
19 \_\_\_\_\_

\_\_\_\_\_  
Registrar

\_\_\_\_\_  
Clerk of the Executive Council

## Cook Islands Laws



## THE HIGH COURT FEES COSTS AND ALLOWANCES REGULATIONS 1981

SIR GAVEN JOHN DONNE, KBE, Chief Justice of the High Court of the Cook Islands

## ORDER IN EXECUTIVE COUNCIL

At Avarua, Rarotonga, this 11th day of December 1981.

Present:

HIS HONOUR THE CHIEF JUSTICE OF THE HIGH COURT  
IN EXECUTIVE COUNCIL

PURSUANT to Section 102 of the Judicature Act 1980-81 as substituted by Section 2 of the Judicature Amendment Act 1981 the Chief Justice exercising the functions of High Commissioner of the Cook Islands, pursuant to Article 7 of the Constitution acting by and with the advice and consent of the Executive Council hereby makes the following regulations:

## ANALYSIS

- |   |   |
|---|---|
| 1. Short Title and commencement                               | 6. Costs in criminal proceeding   |
| 2. Application of regulations                                 | 7. Witnesses' and Interpreters' fees, allowances and expenses in criminal proceedings |
| 3. New Scale of Court fees                                    | 8. Fees for laying information in respect of criminal proceedings                     |
| 4. New scale of Solicitors' costs                             | 9. Fees in proceedings in Land Division   |
| 5. Witnesses' and Interpreters' fees, allowances and expenses | Schedules   |

## REGULATIONS

1. Short title and commencement - (1) These regulations may be cited as the High Court Fees, Costs and Allowances Regulations 1981.  
(2) These regulations shall come into force on the 1st day of January 1982.
2. Application of regulations - These regulations shall apply to any proceedings in the High Court -
  - (a) In the exercise of its civil jurisdiction
  - (b) In the exercise of its land jurisdiction
  - (c) In the exercise of its criminal jurisdiction

*Judicature*

3. New Scale of Court fees prescribed - (1) The fees prescribed according to the scales set out in the First Schedule to these regulations shall be payable to the High Court and shall apply in respect of any proceedings commenced on or after the date of the coming into force of these regulations.

(2) In respect of any proceedings commenced before the date of the coming into force of these regulations no further fee shall be payable under the Schedule hereby revoked, and the appropriate fees, if any, set out in the new First Schedule shall be payable in respect of any step in the proceedings taken on or after that date.

4. New Scale of Solicitors' costs prescribed - (1) The costs prescribed according to the scales set out in the Second Schedule to these regulations shall be payable to the solicitors and shall apply in respect of any proceedings in the High Court commenced on or after the date of the coming into force of these regulations.

(2) In respect of any proceedings commenced before the date of the coming into force of these regulations, no further costs shall be payable under the Schedule hereby revoked, and the appropriate costs, if any, set out in the new Second Schedule shall be payable in respect of any step in the proceedings taken on or after that date.

5. Witnesses' and Interpreters' fees, allowances and expenses - The fees, allowances and expenses prescribed according to the scales set out in the Third Schedule to these regulations shall be payable to witnesses and interpreters and shall apply in respect of any proceedings in the High Court commenced on or after the date of the coming into force of these regulations.

6. Costs in criminal proceedings - There shall be payable to the Court the sum of \$5.00 costs in respect of any criminal proceedings in the High Court commenced on or after the date of commencement of these regulations.

7. Witnesses and Interpreters fees, allowances and expenses in criminal proceedings - The fees allowances and expenses prescribed according to the scales set out in the Third Schedule to these regulations shall apply to witnesses and interpreters in respect of any criminal proceedings in the High Court commenced on or after the date of commencement of these regulations.

8. Fees for laying information in respect of criminal proceedings - Notwithstanding anything provided under any enactment regulations or rules, there shall be payable to the High Court by any person the sum of \$2.00 for the laying of any one information.

9. Fees for proceedings in Land Division - (1) The fees prescribed in the Fourth Schedule to these regulations shall be payable to the Land Division of the High Court and shall apply in respect of any proceedings commenced on or after the date of the commencement of these proceedings.

(2) In respect of any proceedings commenced before the date of the coming into force of these regulations, no further fee shall be payable and the appropriate fee prescribed in the Fourth Schedule to these regulations shall be payable in respect of any step in the proceedings taken on or after that date.



FIRST SCHEDULE

Reg.3 (1)

Court Fees

	Where Claim is not for money \$	Amount not Exceeding \$500 \$	Amount Exceeding \$500 \$
1.* Filing: (a) Plaintiff note (or statement of claim); or (b) Counterclaim; or (c) Interpleader affidavit, of a person other than a defendant; or (d) Originating application.	10.00	10.00	15.00
2.* Filing (on amount owing under judgment): (a) Application for judgment summons; or (b) Application for any warrant of distress, for recovery of specific chattels, or for recovery of land; or (c) Application for examination (irrespective of the number of persons to be examined); or (d) Affidavit in support of garnishee summons.	10.00	10.00	15.00
3. Issue of certificate of judgment or order			
4. For search: In any one matter General search			2.00
5. Copy of the Judge's or Justice's notes when notice of appeal has been lodged: for each page			0.50
6. Copy of Judge's or Justice's notes in any other case or of Registrar's notes or of judgment or any other document: For each page			1.00
7. For expenses of execution of any warrant of committal or writ of arrest: The actual expenses incurred by the bailiff or constable, including the costs of conveyance and lodging in prison of the person arrested.			0.20
8. For storage, cartage, and removal of goods, or advertising of goods for sale: Actual and reasonable disbursements.			0.50
9. For each man left in possession of any premises: Fees, allowances, and expenses as allowed to a witness in accordance with the Third Schedule hereto.			

\*NOTE-Where a claim for a sum of money is combined with a claim that is not for money, whether in the alternative or not, the fee payable under item 1 or item 2, shall be the highest fee applicable.

## Judicature

FIRST SCHEDULE  
PROBATE AND ADMINISTRATION MATTERS

	\$ C
1. Filing notice of motion for probate or letters of administration	2.00
2. Filing any document not otherwise provided for	1.00
3. Sealing probate or letters of administration, or resealing pursuant to s.50 of the Administration Act 1952 -	
In an estate not exceeding \$200	1.00
In an estate exceeding \$200 but not exceeding \$1,000	2.00
In an estate exceeding \$1,000 but not exceeding \$2,000	6.00
In an estate exceeding \$2,000 but not exceeding \$6,000	10.00
And for each \$2,000 or part thereof in excess of \$6,000	2.00
The sealing fee is to be calculated upon the net value of the estate.	
4. Sealing probate pursuant to leave reserved, or letters of administration de bonis non, or any grant made subsequent to the original grant of probate or letters of administration	6.00
Or such less sum as was paid upon the sealing of the grant in the first instance.	
5. Sealing exemplification (probate or letters of administration)	4.00
6. Certificate of administration (under S.8A, Administration Act 1952)	1.00
<u>HEARING FEE</u>	
1. First day or part	10.00
2. Each subsequent day or part	5.00

Cook Islands Laws

Reg. 4 (1)

SECOND SCHEDULE  
Scale of Solicitors' costs

A. In Actions for a Sum of Money Only

	Amount not Exceeding \$100	Amount Exceeding \$100 but not Exceeding \$500	Amount Exceeding \$500 but not Exceeding \$1,500	Amount Exceeding \$1,500
1. Preparing statement of claim (or counterclaim) in an action	\$ 8.00	\$ 13.00	\$ 21.00	\$ 27.00
2. Preparing statement of defence where statement ordered by the Court, or where costs allowed	8.00	13.00	21.00	27.00
3. Entering judgment where appearance is necessary but where no witness is called	10.00	15.00	20.00	25.00
4. Appearance in undefended cases to obtain judgment where a witness is called	10.00	15.00	25.00	30.00
5. Appearance in Court to conduct defended action	15.00	25.00	6 $\frac{1}{2}$ with minimum of \$30	
6. Second and each subsequent day of hearing if certified for, not exceeding	10.00	15.00	20.00	25.00
7. Preparing for hearing and entering judgment (if entered) in case in which claim or defence is not proceeded with	10.00	15.00	3 $\frac{1}{2}$ with minimum of \$20	
B. In Proceedings Where There is a Claim Other Than for a Sum of Money				
8. Preparing statement of claim or counterclaim or originating application	Not exceeding \$20			
9. Preparing statement of defence where statement ordered by the Court, or where costs allowed	Not exceeding \$20			
10. Appearance in an undefended action or an uncontested originating application	\$5.00 to \$15.00			
11. Appearance at the hearing of a defended action or contested originating application	\$5.00 to \$80.00			
12. Second and each subsequent day of hearing, if certified for	\$5.00 to \$25.00 per half day			

C. In all Proceedings

	\$	
	8.00	
13. Issuing garnishee proceedings	8.00	
14. Appearance to obtain an order on garnishee proceedings, where subdebtor does not dispute the debt	15.00	
15. Appearance in any interlocutory proceedings (other than garnishee proceedings), including the taking of evidence, or inquiries before the Registrar. Not exceeding per hour	8.00	
16. Preparing application for warrant of execution or warrant of committal	8.00	
17. Preparing application for examination of judgment debtor	8.00	
18. Appearance at examination of judgment debtor	3.00 to 25.00	
19. Preparing affidavit of documents, if certified for	3.00 to 30.00	
20. Preparing notice to produce documents, producing documents, or inspecting documents produced, if certified for		

D. Judgment Summons

21. Preparing application for judgment summons and affidavit in support	8.00
22. Appearance in Court on behalf of judgment creditor or judgment debtor	10.00

## Cook Islands Laws

### C. Travelling Expenses

8. Travelling expenses shall be allowed as follows:

- (a) The cost of travelling by such mode and class of public transport as the Court or paying officer considers reasonable having regard to the distance travelled, the age and health of the witness or interpreter, and any other relevant circumstances:

Provided that air fares shall not be allowed unless the Court or paying officer is satisfied that any extra expense occasioned by the use of air transport is justified in all the circumstances:

- (b) Where no public conveyance is available, and the distance travelled exceeds 3 kilometres one way, an allowance at the rate of 8.5c a kilometre:

Provided that, in special circumstances, the Court or paying officer may allow the cost of travelling by taxi:

- (c) In any case where a public conveyance is available, an allowance at the rate of 8.5c a kilometre may be paid to a witness or interpreter using his own motor vehicle, or a vehicle hired for his personal use, if the total amount of fees, allowances, and expenses payable to that witness or interpreter and any other witnesses or interpreters travelling with him is not more than the total amount that would have been payable if he or they had travelled by public conveyance:

- (d) A medical practitioner using his own motor vehicle or a motor vehicle hired for his personal use, whether a public conveyance is available or not, may be paid an allowance at the rate of 8.5c a kilometre:

Provided that, unless in special circumstances the Court or paying officer approves otherwise, the amount of mileage payable to the medical practitioner shall not exceed \$16.

#### FOURTH SCHEDULE

Reg. 9 (1)

#### Court Fees

(Land Division)

	\$
Filing any application	5.00
Filing any document not otherwise provided for	5.00
Sealing any order	5.00
Issuing any copy of any order under seal	5.00
Issuing any certified copy of any order	5.00
Filing a consent to adoption	2.00
Issuing summons to witness (for each witness)	2.00
Search of any record	1.00
Issuing a certified copy of Titles Register (per page or part thereof)	2.00
Issuing a copy of any minutes (per page or part thereof)	1.00

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 J. Caffery  
 Clerk of the Executive Council