

# SUPREME COURT RULES 2012

## EXPLANATORY NOTES

The *Supreme Court Rules 2012* repealed and replaced the *Supreme Court Rules 1984* and commenced operation on 19 December 2012, and have been amended by:

- the *Supreme Court (Amendment No 1) Rules 2013*, which were deemed to have commenced operation on 19 December 2012 (note that the provisions of the 2012 Rules affected by these amendments are marked \*); and
- the *Supreme Court (Miscellaneous Amendments) Rules 2021*, which commenced operation on 1 November 2021 (note that the provisions of the 2012 Rules affected by these amendments are marked ^); and
- the *Supreme Court (Miscellaneous Amendments) Rules 2022*, which commenced operation on 1 May 2022 (note that the provisions of the 2012 Rules affected by these amendments are marked #).

This consolidation states the *Supreme Court Rules 2012* as at 6 March 2024.

A hard copy of these Rules, which has been published in “the Supreme Court Book”, is available for purchase from the Waigani Court Library. Please contact Mr Johannes Fege on email [jfege@pngjudiciary.gov.pg](mailto:jfege@pngjudiciary.gov.pg).

JUSTICE CANNINGS  
CHAIRMAN, RULES COMMITTEE  
17 May 2024

# RULES OF THE SUPREME COURT OF JUSTICE 2012

## *PART 1—PRELIMINARY*

### ORDER 1—INTERPRETATIVE MATTERS

#### Division 1—Repeal and interpretation

1. These Rules may be cited as the *Rules of the Supreme Court of Justice 2012* or by the shorter form *Supreme Court Rules 2012*.
2. These Rules shall apply to all proceedings commenced or instituted on or after the date of commencement of these Rules.
3. These Rules shall come into force on the date to be fixed by the Chief Justice by notice in the *National Gazette*.
4. The *Supreme Court Rules 1984 to 2011* inclusive are repealed.
5. A proceeding pending and judgment, decree or order given or made before the commencement of these Rules, being of a kind to which these Rules apply, shall be treated as if pending, given or made under these Rules and may be proceeded with, enforced, varied or otherwise dealt with accordingly, subject to any special order or direction made or given by the court in a particular case.
6. These Rules are divided in Parts, Orders, Divisions and Rules as follows—

#### Division 2—Definitions and forms

7. (1) In these Rules, unless the contrary intention appears—

"**The Act**" means the *Supreme Court Act 1975*;

"**Application**" means an application allowed under these rules and "applicant" has a corresponding meaning;

"**Authority**" in relation to any special reference means the authority by whom the reference is made under *Constitution, s 19*;

"**Court**" means the full court of the Supreme Court of Justice;

"**Judgment**" means the judgment, decree, order or sentence of a court or a judge under appeal or in respect of which leave to appeal is sought;

"**Judge**" means a judge of the Supreme Court of Justice;

"**Order**" where specifically referred to in these rules means an order of a judge of the court;

**"The principal legal adviser"** means the Principal Legal Adviser within the meaning of the *Attorney-General Act 1989*;

**"Registrar"** means—

- (a) the Registrar of the Court; and
- (b) includes an acting, deputy or assistant Registrar;

**"Registry"** means the offices of the Court;

**"Reference"** means a Reference to the Court under *Constitution*, s 18;

**"Special Reference"** means a Reference to the Court under *Constitution*, s 19;

**"Substantive proceedings"** means proceedings instituted under these Rules, not being in the nature of interlocutory matters or an appeal pursuant to Order 11 rule 27.

(2) In these Rules, unless the context or subject matter otherwise indicates or requires, a reference to a Part or to an Order or to a Schedule is a reference to that Part, Order or Schedule in these Rules.

(3) A reference to a form by number shall be read as a reference to the form so numbered in the First Schedule.

## 8. Forms

(a) Subject to sub-rule (b) of this Rule—

- (i) The forms in the First Schedule shall be used where applicable.
- (ii) It shall be sufficient compliance with any requirement of an Act or these Rules as to the form of any document if the document is substantially in accordance with the requirement or has only such variations as the nature of the case requires.
- (iii) A form in these Rules shall be completed in accordance with the directions, if any, contained in the form.

(b) Where the citation of an Act stated in a form is subsequently altered, the citation as altered, may be substituted for the citation of that Act in the form.

(c) The forms referred to in s 32(1) of the Act shall be those so numbered in the Second Schedule.

# ORDER 2—ADMINISTRATIVE MATTERS

## Division 1—Certain rules to apply

1. The following Rules of the National Court shall apply as if they were, with necessary modifications, Rules of the Supreme Court with regard to—

- (a) Sittings and vacations Order 2 Division 1
- (b) The registry Order 2 Division 2
- (c) Documents Order 2 Division 3
- (d) Lawyers Order 2 Division 5
- (e) Fees Order 2 Division 6
- (f) Funds in court Order 2 Division 7
- (g) Contempt of Court Order 14
- (h) Any other matter where there is a relevant provision in the *National Court Rules*, no provision in these Rules and no order has been made as to the procedure to be followed.

## ^Division 2—Court dress

**^2.** Counsel shall appear in court wearing a long-sleeved clean ironed opaque white shirt or blouse with collar (a collarless blouse or shirt is not acceptable) closed at the throat and dark blue or black trousers or skirt and black business shoes or dark blue or black sulu and black sandals with counsel's gown and white bib (tabs). A wig is optional.

**^3.** In Rule 2 "counsel's gown" means a black gown reaching to the knees with the material gathered/pleated across the shoulder blades, open at the front and generously loose long sleeves with the sleeve material gathered at the inner bend of the forearm, generally in a design worn in similar jurisdictions or approved by the Council of the Law Society.

## ^Division 3—Practice directions

**^4.** The Registrar may, in consultation with and approval of the Chief Justice, issue a practice direction in relation to any matter concerning these Rules to clarify the procedure and application or otherwise explain or regulate any matter concerning the Rules.

## ***PART 2—ORIGINAL JURISDICTION***

### **ORDER 3—PROCEDURE**

#### **Division 1—Commencement and continuance of proceedings**

1. Proceedings which relate to a matter or question within the original jurisdiction shall be entitled "In the Supreme Court of Justice" and shall be commenced and continued in accordance with these Rules.

2. Where any proceedings under Rule (1) are pending before the Court—

- (a) a direction not involving a final decision upon the proceedings; or
- (b) an interim order to prevent prejudice to the claims of the parties; or
- (c) an order for security for costs; or
- (d) an order in the nature of orders such as are referred to in s 8(1)(a), (b) and (c) of the Act—

may be made by a Judge.

\*3. Upon the direction of the Court, either on the application of a party to the proceedings or of its own motion, a single Judge may take evidence upon any issue of fact for the determination of the proceedings and state those facts as found by him, and the Court may act upon such statement of facts so far as it thinks fit to adopt it.

# ORDER 4—APPLICATIONS AND REFERENCES UNDER THE CONSTITUTION, SECTIONS 18 AND 19

## Division 1—Form of application or reference

1. An application under *Constitution*, s 18(1) shall be instituted by an application in Form 1 and shall —
  - (a) be entitled under *Constitution*, s 18(1) with the year and number of the reference; and,
  - (b) be endorsed with —
    - (i) the name of the person making the application;
    - (ii) an application for a declaration that the applicant has standing to make the application;
  - (c) be signed by the person making the application; and
  - (d) be filed in the Registry.
2. A reference under *Constitution*, s 18(2) or a special reference under *Constitution*, s 19 shall be instituted by a reference and shall—
  - (a) be entitled under the section of the *Constitution* by which it is made together with the year and number of the reference; and
  - (b) and with—
    - (i) the name of the Court, tribunal or authority making the reference under s 18(2) or special reference under s 19; or
    - (ii) with the title or proceedings if the reference is under s 18(2); and
  - (c) be in accordance with Forms 2, or 3 whichever is applicable; and
  - (d) be signed by the person, court, tribunal, authority or proper officer on behalf of the authority as required by law, making the reference; and
  - (e) be filed in the registry.
3. An application under *Constitution*, s 18(1) shall state —
  - (a) the basis on which the applicant claims standing to make the application;
  - (b) the section of a constitutional law the applicant requests to have interpreted;
  - (c) the answer or interpretation and relief for which the applicant contends;
  - (d) the facts out of which the request arises;
  - (e) whether a question of fact arises for determination by the Court on the application;
  - (f) the names of the persons or bodies whose interests may be directly affected by the interpretation sought by the applicant.
4. A reference under *Constitution*, s 18(2) shall state—

- (a) the question to be referred and such facts as are admitted or found by the Judge of the National Court and are necessary for the proper consideration of the question; and
  - (b) if the facts referred to in sub-rule (a) cannot be conveniently and shortly stated, the findings of the Judge of the National Court shall be annexed to the reference; and
  - (c) where a question involves the pleadings before the court or tribunal from which it is referred, then so much of the pleadings shall be set out in the reference as raise the question.
5. A special reference under *Constitution*, s 19 shall—
- (a) state the question, the subject of the reference; and
  - (b) state the circumstances in which it arises; and
  - (c) if appropriate, have annexed a copy of the law or proposed law the validity of which is questioned; and
  - (d) specify the relevant provisions of the Constitutional Law.

## **Division 2—Provisions applicable to a reference made pursuant to Constitution, section 18(2)**

6. Where a court or tribunal making a reference consists of a magistrate or some other officer, but not a Judge of the National Court, Rules 7, 8 and 9 following apply as if the description of his office were substituted for the words "Judge of the National Court".

7. Where a Judge of the National Court proposes to make a reference under *Constitution*, s 18(2), he may give such directions as he considers proper for the drafting of the reference and for the preparation of the documents for the court including copies for use by the court and the parties at the hearing.

8. The original reference shall be signed by the Judge of the National Court by whom the reference is made or in his absence another Judge of the National Court and shall be transmitted to the Registrar.

9. The Judge by whom the reference is made or, in his absence, another Judge of the National Court may, upon the application of a party or of his own motion, upon notice to the parties, amend the reference at any time before argument.

## **Division 3—Provisions applicable to an application or reference made pursuant to Constitution, sections 18 and 19**

10. The applicant or referrer may amend the application, reference or special reference—
- (a) if no party has intervened;
    - (i) without leave before hearing, or

- (ii) with leave after commencement of hearing but before the court has given its opinion; or
  - (b) if a party has intervened, with leave of the court or of a Judge.
- 11. Where leave is granted under Rule 10, it shall be on such conditions as the court or a Judge thinks fit.
- 12. Notice of amendment or an application for leave shall—
  - \*(a) be in accordance with Form 6 or 14 whichever is applicable;
  - (b) where leave is sought, be supported by affidavit;
  - (c) be filed in the Registry; and
  - (d) be served on all parties to the proceedings and upon such persons as the court or a Judge directs.

## Division 4—Service

- 13. An application, reference or special reference shall be served on the Principal Legal Adviser unless such application is made by that authority as soon as possible after it is filed in the Registry.
- 14. An application under *Constitution*, s 18(1) shall be served, as soon as possible after it is filed in the Registry, on the persons named in the application whose rights may be affected by the interpretation sought by the applicant.
- 15. Where an application, reference or special reference relates to the Constitutional validity of any Act or a provision in any Act passed by—
  - (a) The National legislature in relation to any Province; or
  - (b) The legislature of a Province,

it shall be served on the Provincial Government according to law.

## Division 5—Setting down for hearing

- 16. A reference shall not be set down for hearing—
  - \*(a) until the time allowed by an order under Rule 20(c) has expired; or
  - \*(b) until an application under Rule 17(a) has been determined.
- 17. Subject to Rule 16, the Registrar shall—
  - (a) unless otherwise ordered by the Court or a Judge, in the first instance, set an application under *Constitution*, s 18(1) down before the Court for hearing and determination of the sole question of standing of the applicant to make the application;
  - (b) set an application under *Constitution*, s 18(1) down for substantive hearing only after the Court has declared that the applicant has standing to make the application.



## **Division 6—Court may decline to give opinion**

18. The court may decline to give an opinion on the question the subject of the reference or special reference if in the opinion the question is trivial, vexatious, hypothetical or unlikely to have any immediate relevance to the circumstances of Papua New Guinea.

## **Division 7—Intervention**

19. Where—

- (a) the Court;
- (b) the referrer; or
- (c) the Principal Legal Adviser—

desires to give notice of an application or reference under this order to persons who may have an interest in the proceedings, the court may make an order for the purpose.

\*20. An order made under Rule 19 shall include—

- (a) the form of the notice; and
- (b) publication of the notice; and
- (c) the time limited for filing an application to intervene.

21. Before a reference has been set down for hearing, any person who has an interest in the proceedings may make application to the Court or to a Judge for leave to intervene.

## **Division 8—Application to intervene**

22. An application under Rule 21 shall be instituted by an application to intervene and shall—

- (a) be entitled under the application or reference in question; and
- (b) be entitled with the name of the person making the application; and
- (c) state briefly the particulars relied upon; and
- (d) be in accordance with Form 4; and
- (e) be signed by the person making the application; and
- (f) be filed in the Registry.

23. An application to intervene shall be supported by affidavit.

## **Division 9—Service of application**

24. The application shall be served as soon as possible on all parties to the proceedings.

## **Division 10—Statement of Response by respondent parties and interveners**

25. A party, whether original or by grant of leave to intervene, shall within 14 days of the date of service on a party of the originating proceedings or grant of leave to intervene, file an appearance in the proceedings and file and serve a Statement of Response in Form 4A signed by the respondent parties or their lawyers stating:

- (a) in the case of an intervener, the date on which the party was given leave to intervene;
- (b) in the case of an application pursuant to *Constitution*, s 18(1) whether the respondent party supports or opposes the standing of the applicant to make the application;
- (c) in the case of a reference under *Constitution*, s 18(2) or s 19, the interpretation or answer for which the respondent party contends;
- (d) in the case of an application pursuant to *Constitution*, s 18(1), within 14 days after receipt of notice that the Court has declared that the applicant has standing, by Statement of Response, plead to the application in Form 1 and state succinctly the case for the intervener.
- (e) the Statement of Response shall not exceed by more than one A4 page, the length of the application in Form 1, and the Registrar shall not accept longer statements for filing.

26. Within 7 days of service on an applicant of a Statement in Response the applicant may file a reply.

# ORDER 5—REVIEW OF NATIONAL COURT

## Division 1—General Review

### Sub-Division 1—Form of review application

1. An application to the court under *Constitution*, s 155(2)(b) lies with leave only, or without leave. Where the application lies with leave only the provisions of Order 7 Division 2 shall be followed, substituting the word “applicant” for the word “appellant” and the word “application” for the word “appeal”.
- \*2. An application for leave by a prisoner who is not legally represented may be made in Form 2 to the Second Schedule. ^ The provisions of Order 7 rule 62 shall apply to an application for leave and an application for review from sentence of death.
3. An application for leave for review shall be made before a Judge.
4. Where the application lies without leave or where leave has been granted the application for review shall be instituted by an application to review and shall—
  - (a) be entitled under the s of the *Constitution* by which it is made together with the year and number of the application; and
  - (b) be entitled with the name of the person making the application; and
  - (c) state briefly particulars of the judicial act to be reviewed; and
  - (d) the order sought in lieu thereof; and
  - (e) be in accordance with Form 5; and
  - (f) be signed by the person seeking the review or his lawyer; and
  - (g) be filed in the registry.

### Sub-Division 2—Service

5. The review shall be served as soon as possible on all parties to the National Court proceedings from which the judicial act to be reviewed arises.

### Sub-Division 3—Interlocutory orders

6. A Judge may grant leave to proceed, give any directions desirable to prepare the matter for hearing or to preserve the interests of the parties pending hearing of the review, or make any other interlocutory order which seems just, which is not determinative of the issues under review.

## Division 2—Election Petition Reviews

### Sub-Division 1—Definitions

7. Unless expressly stated otherwise in this division—

**"Applicant"** means a party referred to in Sub-division 2.

**# "Decision"** means any decision of the National Court regarding an election petition that is susceptible to review under s 155(2)(b) of the *Constitution* and for the avoidance of doubt

includes a decision to refuse an objection to competency of the petition and a decision to refuse a no-case submission made after the close of the petitioner's case at the trial of the petition.

**"Election petition review"** means a review under s 155(2)(b) of the *Constitution* of a decision of the National Court made pursuant to part xviii of the *Organic Law on National and Local-Level Government Elections*.

**"Index"** means the Index to the Review Book under these Rules.

**"Organic Law"** means the *Organic Law on National and Local-Level Government Elections*.

**"Respondent"** means the Electoral Commission and the party in whose favour a decision is made.

**"Transcript"** means the transcript of proceedings of the National Court on an election petition under review.

### **Sub-Division 2—Application for leave to apply for review**

8. A party aggrieved by a decision of the National Court in an election petition brought under Part XVIII of the *Organic Law* shall file an application for an election petition review.
9. An application for an election petition review in respect of a decision referred to under Rule 8 lies to the Court with leave only.
10. An application for leave shall—
  - (a) be entitled under s 155(2)(b) of the *Constitution* and in the matter of Part XVIII of the *Organic Law on National and Local-Level Government Elections*; and
  - (b) be entitled in the name of the person making the application and the name of the respondents; and
  - (c) state briefly the particulars of the decision of the National Court to be reviewed, the nature of the case, the issues involved and why leave should be given; and
  - (d) state an address for service of the applicant; and
  - (e) be signed by the applicant; and
  - (f) be in accordance with Form 5A; and
  - (g) be filed in the Supreme Court Registry at Waigani.
11. The application for leave shall be supported by an affidavit of the applicant. The affidavit shall set out the circumstances pertaining to the application and shall have annexed a copy of the election petition and the judgment and order of the National Court.
12. The filing fee for the application for leave shall be K750.00.
13. At the time of filing the application for leave, the applicant shall deposit in the Registrar's Trust Account, the sum of K5,000.00 as security for costs.
- # 14. The application for leave shall be filed and served within 14 days after the decision sought to be reviewed or within such time as extended by a Judge, upon application filed within that 14-day period.
- # 15. The application for leave and supporting affidavit shall be served on the respondents personally or in any manner permitted by a Judge, including by service on their lawyers in the National Court proceedings, not less than three days before the application is heard, and an affidavit of service shall be filed within that three-day period.

16. The application for leave shall be made before a Judge.
17. A decision to grant or a refusal to grant leave is final and shall not be subject to further review.

### **Sub-Division 3—Filing of Application for review**

18. The application for review shall be filed within 14 days from the date of grant of leave or within such further extended period as the Judge determines upon application made within those 14 days.
19. The Application for Review shall—
  - (a) state that the application lies with leave and state the date on which such leave was granted; and
  - (b) state whether the whole or part only and what part of the judgment is being reviewed; and
  - (c) state briefly but specifically the grounds relied upon in support of the review; and
  - (d) state what judgment, order or relief the applicant seeks in lieu of that decision reviewed; and
  - (e) be in accordance with Form 5B; and
  - (f) be signed by the applicant.
20. At the time of filing the application, the applicant shall also—
  - (a) indicate on the application whether a transcript is required and if so, a request for the production of the transcript; and
  - (b) file a draft Index of the Review Book.
21. The application for review shall, amongst other things, include the date and time fixed by the Registrar for the Directions Hearing before a Judge of the Supreme Court.
22. The date fixed for the Directions Hearing under Rule 27 shall not exceed 14 days from the filing of the application.
23. The application shall be filed in the Supreme Court Registry at Waigani.

### **Sub-Division 4—Transcript**

24. Where a request is made for a transcript, the applicant shall meet the cost for the production of the transcript as determined by the Registrar.

### **Sub-Division 5—Service of Application**

25. Within 7 days of filing the application, the applicant shall serve the application together with the draft Index on the respondents named in the application and on any other person the Court considers has an interest in the application.

### **Sub-Division 6—Notice of Appearance**

26. Within 7 days of the service of the application, the respondents or their lawyer shall file a Notice of Appearance in accordance with Form 5C.

### **Sub-Division 7—Directions Hearing**

27. Within 14 days after filing the application, there shall be a Directions Hearing before a Judge.
28. At the Directions Hearing, the Judge may consider and determine or give such directions as may be necessary to ensure prompt disposition of the application, amongst other things—
- (a) question of legal representation;
  - (b) grounds of review;
  - (c) identification of legal issues;
  - (d) consolidation of multiple applications on the one election for purpose of the hearing;
  - (e) availability of transcript and related matters;
  - (f) objections to competency of the application;
  - (g) manner of presentation of argument by parties including filing extract of submissions;
  - (h) settlement of the Index;
  - (i) compilation of the Review Book;
  - (j) the number of days required for the hearing.

### **Sub-Division 8—Review Book**

29. Within 14 days after the Directions Hearing, the applicant shall compile, file and serve the Review Book on each respondent.
30. The Review Book shall be prepared in the following manner—
- (a) in bound volumes in a suitable binder on A4 size paper with tabs;
  - (b) the thickness of any one volume of the review book shall not exceed 38 mm;
  - (c) the title pages shall give the full and correct title of the proceedings and the names of the lawyers for each party (if any), telephone numbers and their addresses for service;
  - (d) after the title page there shall follow the index consisting of a complete list of documents contained in the review book as settled by the Registrar, stating in the case of each document, indicating at what page of the review book it appears;
  - (e) in the Index, the exhibits shall be marked in the order in which they were identified or numbered in the National Court;
  - (f) the date and a short description of each document shall precede it, but the back-sheet or formal heading shall not be printed or copied and *jurats*, formal identification of exhibits and the like shall be omitted;
  - (g) where the transcript of evidence is reproduced, the name of the witness together with a notation indicating whether the evidence given is in chief (IC), cross-examination (XX) or re-examination (RX) shall appear on the right hand side of each page;

- (h) only such documents as are relevant or necessary shall be included in the Review Book.

31. The Review Book shall be paginated and arranged in the following order—

- (a) the title page;
- (b) index to Review Book;
- (c) order granting leave;
- (d) the application for review to the Supreme Court;
- (e) the election petition for review;
- (f) evidence, oral or affidavit, stating the name of each witness or deponent and page number on which such evidence commences;
- (g) testimony taken on commission or before an examiner and put into use as evidence;
- (h) exhibits arranged in the order in which were identified or numbered as exhibits in the National Court;
- (i) written submissions filed in the National Court;
- (j) the reasons for decision of the National Court;
- (k) the formal judgment or order of the National Court.

32. A copy of the Review Book shall be examined with the original documents and all copies shall be certified as correct by the parties.

### **Sub-Division 9—Pre-Hearing Conference**

33. Within 21 days from the Directions Hearing, there shall be a Pre-Hearing Conference before a Judge.

34. At the Pre-Hearing Conference, the Judge shall consider and determine or give such directions as may be necessary to ensure prompt disposition, amongst other things—

- (a) legal representation;
- (b) the correctness of the Review Book;
- (c) the grounds for review to be argued at the hearing;
- (d) identify legal issues to be argued at the hearing;
- (e) consolidation of multiple applications on the one election;
- (f) manner of presentation of argument by parties including filing extract of written submissions;
- (g) number of days required for the hearing;
- (h) fix a date for the hearing.

### **Sub-Division 10—Hearing**

\*35. The Registrar shall give notice of the date of hearing fixed by the Court under Rule 34(h), to the parties in accordance with Form 5D.

36. The Court may hear and determine the application or any objection to competency of the application on the date and time fixed for the hearing or may adjourn the hearing.

### **Sub-Division 11—Dismissal, etc of Application**

37. Where a party has not done any act required to be done by or under the rules of this division or otherwise has not prosecuted his or her application for leave or application for review with due diligence, or has failed to comply with a direction or order of the Court or a Judge, the Court or a Judge may on its or his own motion or on application by a party, at any stage of the proceeding—

- (a) order that the application for leave or application for review be dismissed where the defaulting party is the applicant; or
- (b) where the defaulting party is the respondent, set down the application for leave or application for review for an expedited hearing; or
- (c) fix a time peremptorily for the doing of an act under these Rules and may make such orders as it deems just.

### **Sub-Division 12—Stay of enforcement of decision under review**

38. The filing of an application for review does not operate as a stay of enforcement of the decision of the National Court, subject of the review.

### **Sub-Division 13—Dispensation from the Rules**

\*39. The Court or a Judge may dispense with compliance with any of the requirements of the Rules, either before or after the occasion for compliance occurs, unless it is a requirement of the *Organic Law*.

### **Sub-Division 14—Costs**

40. The Court may make such orders as to costs as it deems just.

41. The rates of cost specified in the Third Schedule shall apply unless a party applies for and the Court orders a different rate.

42. If parties do not agree to the costs, the Registrar shall tax the costs in accordance with the Third Schedule or if the Court orders, at the rate ordered by the Court.

43. A party aggrieved by the taxation of costs may within 7 days of the taxation apply to a Judge for a review of the taxation.

44. Where parties agree in writing for the security deposit to be paid out to any party or parties, the Registrar shall pay out the security deposit as agreed between the parties, as endorsed by a Judge.

45. Where there is a dispute as to the distribution of the security deposit, the parties awarded costs may share the deposit in equal proportion to the number of parties.

46. The Registrar shall pay out the share of the security deposit of party awarded costs after the taxation of the costs of that party.

47. Where a successful party does not claim the deposit within 3 months after the decision, the deposit shall be refunded to the applicant, as ordered by a Judge.



48. If, on the taxation of any costs, one-sixth or more of the amount of the bill for those costs is taxed off, the lawyer whose bill it is shall not be allowed the fees to which, apart from this Rule, he would be entitled for preparing the bill and for attending the taxation.

# **ORDER 6—ENFORCEMENT OF CONSTITUTIONAL RIGHTS**

## **Division 1—Commencement of proceedings**

1. An application to enforce Constitutional rights under *Constitution*, s 57, shall in the first instance, if not made in the National Court, be made to a Judge.
2. An application shall be supported by an affidavit setting out the facts giving rise to the application.

## **Division 2—Form of constitutional enforcement application**

3. An application under *Constitution*, s 57 shall be instituted by an application to enforce constitutional rights and shall—
  - (a) be entitled under the section of the *Constitution* by which it is made together with the year and number of the application; and
  - (b) be entitled with the name of the court, person or Law Officer making the application; and
  - (c) state briefly the circumstances giving rise to the application and specify the relevant Constitutional rights provisions; and
  - (d) be in accordance with Form 6; and
  - ^ (e) be signed by the person or his lawyer or Law Officer making the application; and
  - (f) be filed in the registry.

## **Division 3—Service**

4. An enforcement application and supporting affidavits shall be served—
  - (a) on those whose conduct give rise to the action; and
  - (b) if action for enforcement is taken against the executive arm of Government, in accordance with Order 4 Division 4.

# **PART 3—JURISDICTION UNDER SUPREME COURT ACT**

## **ORDER 7—APPEALS**

### **# Division 1—Application to extend time and application for leave to appeal**

#### **Sub-Division 1—Application to Extend Time**

1. Where a person desires to make an application for a further period within which to lodge a notice of appeal or an application for leave to appeal, the applicant shall, within 40 days after the date of the judgment in question, file and serve on all parties in the proceedings the subject of the proposed appeal or the lawyers for such parties in those proceedings:
  - (a) an application in form 4 setting out:
    - (i) the date of the judgment in question;
    - (ii) the grounds upon which the applicant relies for an extension of time;
    - (iii) the further period which the applicant seeks; and
  - (b) a supporting affidavit:
    - (i) annexing a copy of the judgment in question, or a transcript or if no judgment or transcript is available a summary of the decision of the Court;
    - (ii) deposing as to why the additional amount of time being sought is required.
2. The Registrar shall take all steps necessary to have an application under rule 1 heard by a Judge as soon as is practicable after its filing.

#### **Sub-Division 2—Application for leave to appeal**

3. Where an appeal from a judgment lies to the Court only with leave, an application for leave to appeal may be heard and determined by a Judge.
4. An application for leave to appeal shall be made by filing a notice in writing and shall—
  - (a) be entitled "In the Supreme Court of Justice" and shall also be entitled as between the party as appellant and the party as respondent; and
  - (b) show that an appeal lies with leave; and
  - (c) state the nature of the case, the questions involved and the reason why leave should be given; and
  - (d) show an address for service of the party giving the notice; and
  - (e) be in accordance with Form 7; and
  - (f) be served forthwith on all parties in the proceedings the subject of the proposed appeal or the lawyers for such parties in those proceedings.

### **Division 2—Filing and serving notice of application for leave to appeal**

- \*5. The provisions of Rule 11, with the necessary modifications shall apply to an application for leave to appeal and notice of such application.

6. When leave to appeal has been granted a notice of appeal shall be filed within 21 days immediately after the date on which leave is granted or within such further time as the Court or Judge may allow on application filed and served within that 21 days.

### **Division 3—Notice of appeal**

7. An appeal shall be instituted by a notice of appeal.

8. The notice of appeal and all subsequent proceedings shall be entitled "In the Supreme Court of Justice" and shall be entitled as between the party as appellant and the party as respondent.

9. The notice of appeal shall—

- (a) state that an appeal lies without leave or that leave has been granted and or annex the appropriate order to the notice of appeal; and
- (b) state whether the whole or part only and what part of the judgment is appealed from; and
- (c) state briefly but specifically the grounds relied upon in support of the appeal; and
- (d) state what judgment the appellant seeks in lieu of that appealed from; and
- (e) be in accordance with Form 8; and
- (f) be signed by the appellant or his lawyer; and
- (g) be filed in the registry.

\*10. Without affecting the specific provisions of Rule 9, it is not sufficient to allege that a judgment is against the evidence or the weight of the evidence or that it is wrong in law, and the notice must specify with particularity the grounds relied on to demonstrate that it is against the evidence and the weight of the evidence and the specific reasons why it is alleged to be wrong in law.

### **Division 4—Filing and serving notice of appeal**

11. Upon filing the notice of appeal, the appellant for the purposes of ss 17 and 29 of the Act shall be deemed to have given notice of appeal in the prescribed manner.

12. Where the appeal is from a Judge of the National Court sitting on an appeal, a copy of the notice of appeal shall be left with the court or tribunal from the judgment of which the appeal was brought to the National Court.

13. A copy of the notice of appeal shall be served without delay by or on behalf of the appellant on each party—

- (a) affected by the relief sought by the notice of appeal; or
- (b) interested in maintaining so much of the judgment as is appealed from;

and upon the associate to the primary judge.

14. The Court or a Judge may direct—

- (a) the notice of appeal be served on any other person; or

- (b) service on a particular party or person be dispensed with; or
- (c) service be effected in a particular manner.

## # Division 5—Objection to competency of appeal

15. A respondent who objects to the competency of an appeal or of an application for leave to appeal shall, within 14 days after service of the notice of appeal or application for leave to appeal—
  - (a) file an objection in accordance with Form 9; and
  - (b) serve a copy of the objection on the appellant in any manner including by service on the appellant’s lawyers in the National Court proceedings.
16. Any party may file affidavits.
17. (1) An objection of which notice has been given shall be determined by:
  - (a) in the case of an objection to a matter that is within the jurisdiction of a Judge, the Court or any Judge; and
  - (b) in any other case, the Court.(2) An objection to competency shall be heard and determined before the substantive matter to which the objection relates is set down for hearing unless a Judge decides in a special case that it is in the interests of justice to set down the matters together.
18. Upon the hearing of an objection to competency the burden of establishing the incompetency of the matter the subject of objection is on the party making the objection.
19. If notice of objection is not given and the appeal or the application for leave to appeal is dismissed as incompetent, the respondent shall not receive any costs of the appeal or the application for leave to appeal unless the Court or Judge on special grounds orders otherwise.

## Division 6—Discontinuance of appeal

20. An appellant may at any time file and serve a notice of discontinuance of the appeal and upon it being filed, the appeal shall be abandoned.
- \*21. The notice filed by an appellant under Rule 20 does not affect any other appellant in the appeal.
- \*22. A party filing a notice under Rule 20 shall except in criminal appeals, be liable to pay the costs of the other party or parties occasioned by his appeal.
- \*23. A party whose costs are payable under Rule 22 may tax the costs and if the taxed costs are not paid within 14 days after service of the certificate of taxation, may enter judgment for the taxed costs.

## Division 7—Security for costs

24. Unless the court otherwise directs no security for costs of an appeal to the court shall be required.

## Division 8—Amendment by supplementary notice

25. A notice of appeal may, before the date of appointment to settle under Rule 42 be amended without leave by filing a supplementary notice.

\*26. A party who files a supplementary notice under Rule 25 shall file and serve it in accordance with Rule 13. The addition of a new ground of appeal shall not be made after the expiry of 40 days after the date of the judgment in question, or such further period as has been allowed by a Judge within those 40 days.

## Division 9—Institution of cross-appeal

27. A respondent who desires to appeal from any part of the judgment, or to seek a variation of a part of the judgment, need not institute a substantive appeal, but in addition to complying with Order 11 rule 2 he shall, within the period or extended period provided for by s 17 of the Act, file in the registry a notice of cross-appeal.

28. The notice of cross-appeal shall—

- (a) be entitled as between the party as cross appellant and the party as cross respondent; and
- (b) state that the cross-appeal lies without leave or that leave has been granted and annex the appropriate order to the notice of cross-appeal; and
- (c) state what part of the judgment the respondent cross-appeals from or contends should be varied; and
- (d) state briefly but specifically the grounds of the cross-appeal; and
- (e) state what relief is sought in lieu of the order cross-appealed from or the variation sought in that order; and
- (f) be in accordance with Form 10; and
- (g) a copy of the notice shall be served immediately on the appellant and any other person affected by the relief claimed; and
- (h) Form 10 may, if convenient, be combined with Form 16.

29. It is not necessary to give notice of cross-appeal if a respondent proposes to contend that some matter of fact or law has been erroneously decided against him but does not seek a discharge or variation of a part of the judgment actually pronounced but the respondent shall in that event—

- (a) give notice of the contention to the appellant; and
- (b) give notice to the appellant of the record of evidence or documents before the National Court relevant to the contention, for inclusion in the appellant's draft index to be prepared in accordance with Rule 40; and
- (c) request the Registrar to include such record of evidence or documents in the appeal book.

## Division 10—Retention of exhibits

30. Where an appeal from a judgment may lie by leave or without leave to the court, the officer of the National Court who has custody of the exhibits in the proceedings shall, unless the primary Judge otherwise orders, retain the exhibits—

- (a) for 40 days after the date when the judgment is pronounced; or
- (b) if within the period of 40 days leave to appeal to the court from the judgment is granted for a further period of 40 days.

31. Upon the filing of a notice of appeal—

- (a) the Associate to the primary Judge shall make out and certify a list of exhibits; and
- (b) the exhibits, the list and any other documents before the primary Judge shall be delivered to the registry.

32. Where an exhibit cannot be so delivered, the Associate shall in his certificate, state the circumstances and give such information as he can to enable the Registrar to cause the exhibit to be available at the court. The Registrar shall retain the documents obtained under Rules 30 and 31 until the disposal of the appeal and shall, subject to any direction by the court, return them to the persons from whom they were obtained.

## **Division 11—Appointment to settle**

33. The appellant shall on filing the notice of appeal get from the proper officer in the registry an appointment to settle the appeal book.

34. The appellant shall serve notice of the appointment on each person on whom the appeal is served.

35. The notice of appointment may be subscribed to the notice of appeal.

## **Division 12—Collection of papers**

36. Before the date appointed for settling the appeal book, the appellant shall obtain and produce to the Registrar, if required—

- (a) the reasons for judgment of the primary Judge or Court; and
- (b) a copy of the notes of evidence taken by the primary Judge certified by his Associate or other authorized person.

37. If a copy of the transcript of proceedings is available, it shall be obtained from the Registrar and corrected in accordance with Rules 38 and 39.

38. The appellant shall on obtaining a copy of the transcript referred to in sub-rule (2)—

- (a) correct any errors that appear in it; and
- (b) submit a list of corrections to the respondent; and
- (c) afford the respondent a reasonable opportunity of examining the transcript and corrections.

39. If the parties disagree upon the accuracy of any part of the transcript or are unable to agree upon a correction, the question shall be submitted to the Registrar or primary Judge for direction on the matter.

## **Division 13—Draft index of appeal book**

40. A draft index of the papers which are to constitute the appeal book shall be prepared and filed in the registry before the date appointed for settlement.

41. The appellant shall serve the draft index on the respondent a reasonable time before the appointment to settle the appeal book but no later than two clear days before settlement.

## **Division 14—Settlement**

42. At the appointment to settle the appeal book, the Registrar shall—

- (a) determine what documents and matters shall be included in the appeal book and the order of inclusion and such other matters as he thinks fit concerning the preparation of copies of the appeal papers; and
- (b) settle the index in accordance with the Rule 43 sub-rule (13); and
- (c) determine the number of copies of the appeal book required; and
- (d) may, if he thinks necessary, obtain the direction of the primary Judge; and

## **Division 15—The appeal book**

43. (1) The appeal book for use on the hearing of an appeal, shall be prepared in bound volumes or a suitable binder on paper of international size A4, and every tenth line on each page shall be numbered.
- (2) The thickness of any one volume of the appeal book shall not exceed 38 mm.
- (3) The title pages shall give the full and correct title of the proceedings and the names of the lawyers for each party, telephone numbers and their addresses for service.
- (4) After the title page there shall follow the index consisting of a complete list of the documents contained in the appeal book as settled by the Registrar, stating in the case of each document whether it is copied or not, and if copied, indicating at what page of the appeal book it appears.
- (5) In the Index, the exhibits shall be arranged in the order in which they have been lettered or numbered in the National Court.
- (6) The date and a short description of each document shall precede it, but back-sheet or formal headings shall not be printed or copied, and jurats, formal identification of exhibits and the like shall be omitted.
- (7) Interrogatories and answers, and affidavits of documents, shall not be copied except so far as they were put in evidence.



- (8) Where the transcript of evidence is reproduced, the name of the witness together with a notation indicating whether the evidence given is in chief (IC), cross examination (XX) or re-examination (RX) shall appear on the right-hand side of each page.
- (9) A copy of the appeal book shall be examined with the original documents, and all copies shall be corrected.
- (10) The examined copy of the appeal book shall be filed in the registry with a certificate by the parties or their lawyers that it has been examined and is correct.
- (11) The appeal book shall be prepared and produced in a manner satisfactory to the Registrar.
- (12) Only such documents as are relevant or necessary shall be included in the appeal book.
- (13) The appeal papers shall be paginated and the documents arranged in the following order—
- (a) The notice of appeal to the Supreme Court;
  - (b) Process and pleadings;
  - (c) Evidence, oral or affidavit, stating the name of each witness or deponent and page number on which such evidence commences;
  - (d) Testimony taken on commission or before an examiner and put in or used as evidence;
  - (e) Exhibits, arranged in the order in which they have been lettered or numbered as exhibits in the National Court;
  - (f) The reasons for judgment of the primary judge or Court; where the text of an oral judgment is to be included in the appeal book it shall first be submitted to the Judge for correction and shall, when included in the appeal book, be accompanied by a certificate from the Registrar that, this has been done.
  - (h) The formal judgment or order of the primary Judge or Court.
  - (i) If the judgment appealed from is that of a Judge of the National Court sitting on an appeal—notice of appeal, the reasons for judgment and the formal order in that proceeding;
  - (j) The certificate that the appeal book has been examined and is correct.

## Division 16—Lodgement and service

\*44. Unless the court or a Judge otherwise orders, the appellant shall,

- (a) lodge with the Registrar and
- (b) serve on each of the respondents separately represented,

copies of the appeal book as determined under Rule 42 sub-rule (c) in accordance with Order 13 rule 7(2).

## **Division 17—Costs of appeal book**

45. Subject to s 29 of the Act the costs of the appeal book are costs in the appeal unless the court otherwise orders.
46. The costs of copies of unnecessary documents or of documents copied at unnecessary length shall not be allowed.

## **Division 18—Setting down for hearing**

47. The court or a Judge may at any time make such orders as appear just for the expediting of the appeal.

## **# Division 19—Time and want of prosecution**

48. Where an appellant has not done any act required to be done by or under these rules or otherwise has not prosecuted his appeal with due diligence, the Court or a Judge may—
- (a) order that the appeal be dismissed for want of prosecution; or
  - (b) fix a time peremptorily for the doing of the act and at the same time order that upon non-compliance, the appeal shall stand dismissed for want of prosecution, or subsequently, and in the event of non-compliance, order that it be so dismissed; or
  - (c) make any other order that may seem just.
49. The respondent may make application for an order under Rule 48 and the Court or a Judge may, after notice has been given to the appellant by the Registrar, make orders on reference from the Registrar.
50. An application for an order under Rule 48 shall—
- (a) be in accordance with Form 11; and
  - (b) be supported by affidavit.
51. An order under Rule 48 sub-rule (b) may be varied at any time before the appeal stands dismissed for want of prosecution, and in special circumstances may be varied or revoked after that time.

## **Division 20—Further evidence on appeal**

52. This Division applies to any application to the court to receive evidence in a proceeding on an appeal additional to the evidence in the National Court.
53. This Division applies unless the court otherwise directs.
54. Application shall be made at the hearing of the appeal.
55. The application shall be—
- (a) by notice stating the nature of the evidence sought to be called; and

(b) supported by an affidavit stating the grounds of the application.

56. Any evidence necessary to establish the grounds of the application, and the evidence which the applicant wants the court to receive shall be by affidavit.

\*57. The applicant shall file the Rule 55 notice and any affidavit not later than 21 days before the hearing of the appeal.

58. The evidence of any other party to the appeal shall, unless the court or a Judge otherwise orders, be given by affidavit filed not later than 14 days before the hearing of the appeal.

59. A party to the appeal shall, not later than the time limited for him to file an Affidavit under this rule—

(a) lodge as many copies of the affidavit as the Registrar may direct; and

(b) serve a copy of the affidavit on each other party to the appeal.

## **Division 21—Interlocutory order not to prejudice relief**

60. An interlocutory order or rule from which there has been no appeal shall not operate so as to bar or prejudice the court from giving such decision upon an appeal as may be just.

## **Division 22—Adjournment of appeal**

61. If for any reason an appeal is not heard or disposed of at the sittings of the court for which it was set down, it shall, subject to any direction which may be given by the court or by a Judge, stand adjourned to the next sittings of the court.

## **^ Division 23—Appellant unrepresented in criminal appeals or reviews**

^ 62.

- (1) Where a person appeals or applies for leave to seek review in any criminal proceedings, the Duty Judge shall in each case inquire as to whether the appellant or applicant has a lawyer.
- (2) If there is no lawyer, the Duty Judge shall direct the Registrar to notify the Office of the Public Solicitor that at the next mention of the matter a senior lawyer from the Office of the Public Solicitor is required to appear and notify the Court whether the Public Solicitor will provide legal aid, advice and assistance to the appellant or applicant.
- (3) The Duty Judge shall also make a preliminary assessment of the case and give consideration to whether it would be appropriate to give a direction to the Public Solicitor under s 177(2)(b) of the *Constitution*.

# **ORDER 8—RESERVATION OF CASES OR POINTS OF LAW**

## **Division 1—Judge may give directions**

1. Where a Judge of the National Court reserves a case or any point in a case or any question of law for consideration of the court under s 15 or 21 of the Act, he or in his absence, another Judge may give such directions as he considers proper for the drafting of the case stating the question reserved and for the preparation of documents for the use of the court.
2. Where a Judge of the National Court proposes under s 21 of the Act to reserve a question of law, whether or not on the application of the accused, the Judge may give such directions as set out in Rule 1.

## **Division 2—Form of reservation**

3. The case to be stated shall—
  - (a) be entitled under the section of the Act by which it is made, the names of parties and the title of the proceedings from which the question arose; and
  - (b) shall state the question; and
  - (c) set forth such facts only as are relevant to raise the question of law reserved; and
  - (d) if any question turns on the form of the pleadings, so much of the pleadings shall be set out as raises the question; and
  - (e) state whether—
    - (i) a judgment on the conviction was pronounced or respited, or was postponed;
    - (ii) the convicted person was committed to prison or admitted to bail on recognizance to render himself in execution or receive judgment; and
  - (f) be in accordance with Form 12; and
  - (g) be signed by the Judge.
4. The Reservation stating the question shall be transmitted by the Judge of the National Court by whom it was signed to the Registrar, who shall then compile an index to the Reservation book within 40 days of receipt of the Reservation.
5. The Judge by whom the Reservation was stated may amend the statement of the case at any time before argument.

## **Division 3—Service**

6. Upon receipt of the Reservation, the Registrar shall cause to be served a copy of the Reservation book—
  - (a) if under s 15, on the parties to the proceedings or on their lawyers; and
  - (b) if under s 21, on the Public Prosecutor, the accused or his lawyer.

# **ORDER 9—REFERENCE UNDER SECTION 26 SUPREME COURT ACT**

## **Division 1—Form of reference**

1. References under s 26 of the Act shall be instituted by a reference which shall—
  - (a) be entitled under the section of the Act by which it is made and the title as set out in the indictment; and
  - (b) make no reference to the identity of the acquitted person; and
  - (c) specify the point of law referred; and
  - (d) where appropriate, such facts of the case as are necessary for the proper consideration of the point of law; and
  - (e) state to the acquitted person—
    - (i) that the reference will not affect the trial and acquittal;
    - (ii) that he should inform the Registrar (within the specified time which shall not be less than 28 days after the date of service) if it is intended to present argument to the court either in person or by a lawyer; and
  - (f) be in accordance with Form 13; and
  - (g) be filed in the Registry.
2. Upon filing the reference, the Principal Legal Adviser, for the purposes of s 26 of the Act, shall be deemed to have reserved the matter.

## **Division 2—Service**

3. Upon the filing of the reference, the Registrar shall cause to be served with a copy of the reference—
  - (a) the person acquitted; and
  - (b) the Public Prosecutor; and
  - (c) the Public Solicitor.
4. For the purpose of Rule 3 sub-rule (a), service may be effected—
  - (a) by sending it by post, addressed to the lawyer who acted for the person acquitted at trial; or
  - (b) in the case of a body corporate by leaving it at or by sending it by post to the registered office of that body; and
  - (c) in the case of any other person by—
    - (i) post as provided by law; or
    - (ii) delivery to the person to whom it is directed; or

- (iii) leaving it with some person apparently over the age of 16 years at the last known or usual place of residence.

### **Division 3—Court may give directions**

5. Where a reference has been filed, the court may give such directions as may be required concerning the terms of the reference, the matters to be included in it and provision of lawyers for the argument of it.

### **Division 4—Amendment and withdrawal of reference**

6. The Principal Legal Adviser may withdraw or amend the reference by notice—
- (a) before hearing without leave; or
  - (b) after commencement of hearing but before the court delivers its opinion, with leave.
- \*7. Notice of withdrawal or amendment under Rule 6 shall—
- (a) be in accordance with Form 14; and
  - (b) be filed in the registry; and
  - (c) be served where applicable in accordance with Division 2.

# ORDER 10—APPEAL FROM ORDERS MADE UNDER ORDERS 16 AND 17 OF THE NATIONAL COURT RULES

## Division 1—Institution of appeal

1.
  - (a) An appeal under this Order shall be instituted by a notice of motion.
  - (b) Where the appeal lies only with leave the provisions of Order 7 Division 2 shall apply.
2. The notice of motion and all subsequent proceedings shall be entitled "In the Supreme Court of Justice" and shall be entitled between the party as appellant and the party as respondent.
3. The notice of motion shall—
  - \* (a) show where appropriate the particulars set out in a notice of appeal under Order 7 rule 9; and
  - (b) have annexed—
    - (i) copies of all documents which were before the Judge of the National Court appealed from; and
    - (ii) a copy of the order made, certified by the Judge's Associate or the Registrar; and
  - (c) be in accordance with Form 15; and
  - (d) be signed by the appellant or his lawyer; and
  - (e) be filed in the registry.

## Division 2—certain rules to apply

4. The following rules shall apply to matters under this part with regard to—
  - (a) filing and service: Order 7 Division 4; and
  - \* (b) affidavits: Order 7 rules 56, 57, 58 and 59.
  - \* (c) where an application for leave to appeal has been filed: Order 7 rule 6 (*time to file a Notice of Appeal*) and Order 7 rule 11 (*notice of appeal deemed given on filing of an Application for Leave to Appeal*) with the necessary modifications.
5. Where leave to appeal is required pursuant to s 14 of the *Supreme Court Act* application shall be made in Form 7.

## **PART 4—GENERAL PROVISIONS**

### **ORDER 11—RULES OF GENERAL APPLICATION**

#### **Division 1—Application**

The rules contained in this part apply to all matters brought under these rules unless in these rules, the contrary intention appears.

#### **Division 2—Notice of appearance to be filed and served**

2. A person served with a document by which proceedings are instituted or by which leave or other order is sought under these rules and who desires to be heard at any stage of the proceedings shall, as soon as is practicable or within the time specified in the document or in any other order of the court—

- (a) file an appearance in accordance with Form 16; and
- (b) serve a copy of the appearance on each of the other parties.
- (c) a party appearing by a ‘next friend’ who ceases to be under the disability which occasioned that appearance and who wishes to adopt the proceedings shall file and serve an appearance in their own name on every other party within 30 days of ceasing to be under that disability.

#### **Division 3—Address for service**

3. An address for service shall be disclosed on—

- (a) any document by which proceedings are instituted in the court; and
- (b) an appearance filed under Rule 2 of this Order.

4. The address for service shall—

- (a) Contain the name, address and telephone number of—
  - (i) the person on whose behalf the document is filed; and
  - (ii) be a place within 15 kilometres of the Registry, at which documents in the proceedings may, during ordinary business hours, be left for the person whose address for service it is; and
  - (iii) an address to which documents in the proceedings may be posted for that person; and
  - (iv) where a person is represented by a lawyer it shall be the office of the lawyer or of his Papua New Guinea agent, but in the case of a lawyer who has requested and been allocated by the Registrar a compartment in the Document Exchange Box located within the Registry then the deposit of a document in such compartment shall amount to ordinary service within the meaning of this sub-rule; and



(b) be in accordance with Form 17.

5. The address so disclosed shall remain the address for service until notice of change of address is filed in the registry and served on any other party to the proceedings.

6. Where a lawyer ceases to act for a party, he shall file in the registry a notice of that fact.

## **Division 4—Service**

7. Where in these rules service is required of any document, it may be effected—

(a) by serving a signed and sealed copy of the document personally on the party to be served; or

(b) by delivering a signed and sealed copy of the document to—

(i) the address for service of a party given in accordance with Division 3; or

(ii) the address for service of a party in the proceedings in the National Court from which the present proceedings arose; or

(c) where a lawyer of a party has an address for service disclosed, service shall be effected at that address whilst such lawyer continues to act for a party.

## **Division 5—Pending proceedings**

8. Where proceedings under these rules are pending, the court or a Judge may, subject to the Act, make such orders as are considered necessary for—

(a) the custody or release on bail or otherwise if a person in custody; and

(b) the custody, preservation and production of exhibits or other property; and

(c) the suspension or payment of any fine; and

(d) the suspension or variation of any order relating to restitution of property.

## **Division 6—Lack of procedural provision**

9. Where a person desires to take any step in proceedings under these rules and the manner or form of the procedure is not prescribed, the person may apply to a Judge for directions.

## **Division 7—Waiver of rules**

10. Where compliance with the provisions of these rules relating to the preparation of documents or appeal books for the court may cause unnecessary hardship expense or delay, the Registrar, may, after consultation with the Chief Justice, or if he is not available, the next most senior Judge in Chambers, waive compliance to such extent as in his opinion is reasonable.

## **Division 8—Adding parties and amendment**

11. The court or a Judge may order that any person be added as a party to proceedings under these rules or that the proceedings be amended and may impose such conditions as appear just, and give all consequential directions.

## Division 9—Written submissions

12. (1) The court may of its own motion, direct the preparation of written submissions.

\* (2) The Registrar shall, if ordered by the court or a Judge, serve notice on the parties of a direction under sub-rule (1).

(3) The short form of the order may be “submission shall be filed” which shall mean that the parties shall file submissions in accordance with the provisions of Order 11 Division 9 of the *Supreme Court Rules*.

\*13. Upon receipt of a direction under Rule 12, the appellant or applicant shall within 10 days prepare file and serve on each other party a written submission which shall—

- (a) bear the title of the proceeding; and
- (b) identify the party whose case it is; and
- (c) consist of paragraphs consecutively numbered; and
- (d) state as concisely as possible—
  - (i) the circumstances out of which the matters arise; and
  - (ii) the contentions to be urged by the party concerned; and
  - (iii) the reasons relied upon; and
- (e) a list of all legislation and authorities referred to.

14. (1) So far as practicable, in a written submission, references to the portions of the transcript relied upon shall be given by page and line, and extracts shall not be set out. References to case authorities or other material shall be cited with precision to the page and paragraph, and extracts exceeding four lines shall not be set out;

(2) the appellant or applicant shall lodge 4 copies of the submission with the Registrar unless he otherwise directs.

15. Each other party to the proceedings shall not more than 10 days after receipt of the appellant's submissions—

- (a) file and serve on each other party to the proceedings his written submissions; and
- (b) lodge with the Registrar such number of copies of the submissions as he may direct.

16. A submission must not exceed 10 pages in length and must be signed by the legal practitioner or party presenting the argument.

17. (1) Where the parties are required by direction to prepare written submissions—

- (a) the appellant or applicant shall file and serve on each other party to the proceedings, with the written submissions, a chronology of the principal

events leading up to the litigation, together with cross-references to the page and line number in the appeal, application reference, review or other book at which a record of the evidence or other material in connection with an event is located;

(b) Lodge 4 copies with the Registrar unless he otherwise directs;

(2) any other party to the proceedings who regards the appellant/applicant's statement as inadequate or inaccurate shall—

(a) file and serve on each other party to the proceedings that party's own statement;

(b) unless the Registrar otherwise directs, lodge 4 copies for the Court;

(3) the chronology shall not contain argument or submissions;

(4) the Registrar shall not receive for filing any written submission which exceeds the length specified in Order 11 rule 16 or any chronology prepared in contravention of this Rule.

## **Division 10—Written extract of argument**

18. In all substantive matters instituted under these rules, the parties to proceedings shall prepare a written extract of argument to the court.

19. The extract shall be—

(a) as nearly as possible in accordance with Rule 13; and

\*(b) consist of no more than four pages of the size referred to in Order 7 rule 43(1).

20. On the presentation of oral argument, each Judge constituting the court shall be given a copy of the extract referred to in Rule 18, by counsel presenting the argument.

21. The court may dispense with any requirements of this rule.

## **Division 11—List of authorities and legislation**

22. Each party to substantive proceedings under these rules shall, prior to the Status Conference referred to in Order 13 rule 10, file 4 copies of a list of authorities and legislation to which the party may refer at the hearing unless the list has already been filed pursuant to Order 11 rule 13(e).

## **Division 12—Report by primary judge**

23. Where—

(a) notice of appeal or application for leave to appeal has been filed; or

(b) a case or question of law has been reserved under s 15 or 21 or referred under s 26 of the Act,

the Court may, whenever it appears necessary for the proper determination of any application or appeal—

- (i) request the primary judge to furnish it with a report in writing in the terms of the request; and
- (ii) direct the Registrar to furnish the judge with any document or information which it considers material.

24. The Registrar shall, after delivery of the primary judge's report to the members of the court, promptly furnish a copy of the report to each party to the appeal or application.

## Division 13—Appeal & application to court from orders or directions of judge

25. A party dissatisfied with a direction or order given by a Judge under these rules or s 5 of the Act, may, upon notice to the other parties concerned in the proceedings, filed and served within 21 days of the making of such direction or order, apply to the Court which may make such order as appears just.

<sup>^</sup> 26. Proceedings under Rule 25 shall be instituted by notice of motion filed in the substantive proceedings seeking the same orders as were sought before the single Judge.

27. Where a Judge refuses an order sought on an application pursuant to s 10(1) of the Act, that application shall not stand dismissed, but shall remain on foot, and the same application may be moved before the Court pursuant to s 10(2) of the Act, provided that a written request in that behalf is served on the Registrar within 14 days of the order refusing relief.

## Division 14—Other Rules of General Application

28. The provisions of the following rules apply to any proceedings before the Court, substituting the nature of the proceedings for the word 'appeal' where necessary:

- (a) Order 7 Division 5 (*Objection to competency*);
- (b) Order 7 Division 19 (*Time, and want of prosecution*);

## Division 15—Withdrawal

29. A party making an application or claiming any relief may withdraw the proceedings so far as concerns the whole or any part of his application or claim for relief—

- (a) without leave before the filing of an appearance by respondents;
- (b) with the consent of all of the parties appearing or leave of the Court before a date is set for hearing;
- (c) with the leave of the Court once a date has been set for hearing.

30. (1) Leave to withdraw may be granted by the Court unconditionally or upon such conditions as to the Court seem just;

- (2) Unless the Court otherwise orders, the party withdrawing proceedings shall bear the costs of all parties who have entered an appearance in the proceedings up to and including the day on which notice of withdrawal is served on each of those other parties.

31. A party appearing in a proceeding may withdraw its appearance and any submissions filed, subject to any order as to costs as the Court or a Judge considers just.

## **Division 16—Applications subsequent to disposal of proceedings**

32. (1) An application of any nature made after disposal of a proceeding, shall be filed and served in writing within 21 days of the order disposing of the proceeding.
- (2) A 'slip rule' application shall set out the nature of the slip and the finding that the applicant contends the Court should have made.
- (3) A 'slip rule' application shall not be listed for hearing before the Court unless a Judge of the Court making the order from which the application arises, or that Court, has granted leave for the application to proceed.

# ORDER 12—COSTS

## Division 1—Interpretation

1. In this Order unless the contrary intention appears: “Bill “means bill of costs;  
“**Counsel**“ means lawyer instructed by another lawyer to advise or appear;  
“**Proceeding**“ means any reference, application, appeal, motion, objection to competency or other matter brought before the court pursuant to the Constitution, the Act, these Rules or any other jurisdiction of the court, other than criminal matters.  
“**Taxed costs**“ means costs taxed in accordance with this Order.  
“**Taxing Officer**“ means the Registrar or a person whose duty it is to tax costs in the Court. Reference to the taxing officer as “he” in these Rules means or includes a reference to “she”.

## Division 2—Application

2. The provisions of this Order apply to costs payable or to be taxed under any order of the Court, or under these Rules, and costs to be taxed in the Court under any Act.

## Division 3—Party represented by officer of the State or in-house lawyer

3. If a party is represented by a lawyer (as counsel) who is employed or engaged by the State or is represented by an in-house lawyer employed or engaged by a party, a fee commensurate with that which would be allowable if the lawyer had been a private lawyer may be allowed to the State or that party despite the fact that the party is unable to vouch payment of the fee either by the signature of the lawyer or otherwise.

## Division 4—Time for dealing with costs

4. The Court or a Judge may in any proceeding of which the Court or Judge is seized exercise its power and discretion as to costs at any stage of the proceeding or after the conclusion of the proceeding.
  - (a) Where the Court or a Judge makes an order in any proceeding for the payment of costs the Court or a Judge may require that the costs be paid forthwith notwithstanding that the proceeding is not concluded.
  - (b) An order for costs of an interlocutory proceeding shall not, unless the Court or a Judge otherwise orders, entitle a party to have a bill of costs taxed until the principal proceeding in which the interlocutory order was made is concluded or further order.
    - (i) When, pursuant to s 3 or 12 of the Act judgment is delivered by less than the full number of Judges who heard the proceeding, if no final order for costs of that proceeding is included in the judgment, the Judges or Judge

delivering the decision of the Court may hear the parties on costs and make such order for costs, as is considered just.

- (ii) After hearing argument the Judge or Judges may consult the available absent members of the Court, in which case the order made shall be the order of the majority of the Court.

## Division 5—Taxed costs and other provisions

5. (1) Subject to this Order, whereby or under these Rules or any order of the Court, or a Judge, costs are to be paid to any person, that person shall be entitled to his taxed costs.
- (2) Where the Court or a Judge orders that costs be paid to any person, the Court or a Judge may further order that as to the whole or any part of the costs specified in the order, instead of taxed costs, that person shall be entitled to:
- (a) a proportion specified in the order of the taxed costs; or
  - (b) the taxed costs from or up to a stage of the proceedings specified in the order; or
  - (c) a gross sum specified in the order; or
  - (d) a sum in respect of costs to be ascertained in such manner as the Court may direct; or
  - (e) the costs to be taxed on a party/party or solicitor/client basis, or;
  - (f) the costs, whether taxed or specified, to be payable by a lawyer, in accordance with Rule 11.
- (3) The Court or a judge may make an order under sub-rule (2) at any time, whether or not an order that costs be paid to a person has previously been made or entered.

## Division 6—Costs in other courts

6. Where in a proceeding transferred to or removed into the Court or in a proceeding on an appeal to the Court, the Court or a Judge makes an order as to the costs of a proceeding before any other court, the Court or a Judge may:
- (a) specify the amount of the costs to be allowed; or
  - (b) order that the costs be taxed in accordance with this Order; or
  - (c) make orders for the ascertainment of the costs by taxation or otherwise in that other court.

## Division 7—Order for payment

7. Subject to this Order or to the effect of any written agreement between the parties, a party to a proceeding in the Court shall not be entitled to recover any costs of and incidental to

the proceeding from any other party to the proceeding except under an order of the Court or a Judge.

## **Division 8—Order for taxation — when not required**

8. Where:
- (a) an order of the Court directs the payment of costs; or
  - (b) the proceeding is dismissed with costs; or
  - (c) an application is refused with costs; or
  - (d) on the discontinuance of a proceeding; where there is no order or agreement to the contrary; or
  - (e) a party is otherwise liable under these Rules to pay the costs of another party, the costs may be taxed without any order directing taxation.

## **Division 9—Entry of Order for Costs**

9. (1) Where costs are not paid within 14 days after service of a sealed copy of a certificate of taxation of the costs, whether under this Rule or an Order of the Court or a Judge, a party to whom the costs are payable may apply to the Court or a Judge, whichever is appropriate, for the payment of taxed costs.
- (2) Application for judgment shall be moved by motion and supported by affidavit and shall be filed and served 3 clear days before the hearing date.

## **Division 10—Registrar to tax costs**

10. Unless the Court or a Judge in a particular case otherwise orders, bills of costs and fees which:
- (a) are payable to a party in respect of business transacted by them in the Court or its registries; and
  - (b) have been directed by a judgment or order to be taxed or under these Rules are liable to be taxed without express direction;

shall be taxed, allowed and certified by a taxing officer.

## **Division 11—Liability of Lawyer**

11. (1) Without limiting the Court's discretion to award costs in a proceeding, if costs are incurred improperly or without reasonable cause, or are wasted by undue delay or by any other misconduct or default, and it appears to the Court or a Judge that a lawyer is responsible (whether personally or through a servant or agent), the Court or a Judge may, after giving the lawyer a reasonable opportunity to be heard, do any of the following:
- (a) disallow the costs as between the lawyer and the lawyer's client or;



- (b) if the lawyer is acting as instructed counsel— disallow the costs as (c) between the counsel and the counsel’s instructing Lawyer or;
  - (c) direct the lawyer to repay to the client, costs which the client has been ordered to pay to another party or;
  - (d) direct the lawyer to indemnify any party other than the client against costs payable by the party indemnified.
- (2) Without limiting sub-rule (1), a lawyer is taken to be responsible for a default under that sub-rule if a proceeding cannot conveniently proceed, or can proceed only with the incurring of extra costs or with inconvenience to the Court or a Judge or another party to the proceeding, because of the failure of the lawyer:
- (a) to attend before the Court in person or by a proper representative; or
  - (b) to file any document that ought to have been filed; or
  - (c) to deliver for the use of the Court or a Judge, any document that ought to have been so delivered; or
  - (d) to be prepared with any proper submission, evidence or account; or
  - (e) to comply with any provision of these Rules or any judgment or order or direction of the Court or a Judge; or
  - (f) otherwise to proceed.
- (3) Before making an order under sub-rule (1), the Court or a Judge may refer the matter to the Registrar for inquiry and report.
- (4) The Court or a Judge may order that notice of any proceeding or order against a lawyer be given, as specified in the order, to:
- (a) the lawyer’s client; or
  - (b) if the lawyer is acting as counsel, his instructing Lawyer.
- (5) For the purpose of giving effect to a costs order, the Court or a Judge may give ancillary directions, including a direction to a lawyer to provide to the Court or a party to the proceeding, a bill of costs in taxable form.

## Division 12—Scale of costs

12. \*(1) Except as otherwise ordered in proceedings commenced on and after the date these Rules came into operation, Lawyers are, subject to these Rules, entitled to charge and be allowed the fees set forth in the Fourth Schedule (except for proceedings under Order 5 Division 2 Sub-division 14 where the Third Schedule applies), and higher fees shall not be allowed.
- (2) A person who is not a party to proceedings and who is called as a witness or attends at Court in compliance with a summons issued pursuant to s 8 of the Act or any other power of the Court, is entitled to recover from the party calling that person or requesting the issue of the summons, the reasonable expenses incurred in giving evidence or attending Court.

(3) The Court or a Judge may order that the party who called the person referred to in sub-rule (2) as a witness or requested the issue of the summons under which the person attended before the Court or a Judge, to pay the reasonable expenses of that person.

## **Division 13—Taxing officers to assist each other**

13. The taxing officers shall assist each other in the discharge of their duties and so, for the proper despatch of the business of the respective officers, a taxing officer may tax or assist in the taxation of a bill of costs which has been referred to another taxing officer for taxation and to ascertain what is due in respect of the costs, and in that case, shall certify accordingly.

## **Division 14—Costs of interlocutory proceedings**

14. Unless the Court or a Judge otherwise orders, the final Order for costs shall include all interlocutory costs Orders.

## **Division 15—Costs reserved**

15. Where the costs of an application or other proceeding are reserved by the Court or a Judge, the costs so reserved shall follow the event unless the Court or a Judge otherwise orders.

## **Division 16—Notice of adjournment of taxation**

16. If the taxation of a bill is adjourned for any reason, the party with the carriage of the taxation shall send notice of the adjournment by post or personal service or to any Lawyer or person not present at the time of the adjournment on whom the original bill of costs was or ought to have been served.

## **Division 17—Time limit for taxation**

17. A bill shall not be taxed unless the party entitled to costs files a bill within 12 months of the date of the final order for costs.

## **Division 18—Delay before taxing officer**

18. Where in a proceeding before the taxing officer, a party is found to be guilty of neglect or delay or puts another party to any unnecessary or improper expense, the taxing officer may;

- (a) certify the costs of the other party; or
- (b) allow a nominal or other sum to the party refusing or neglecting to bring in his costs.

## **Division 19—Cost to be allowed on taxation**

19. On every taxation, the taxing officer shall allow all such costs, charges and expenses as appear to him to have been necessary or proper for the attainment of justice or for maintaining

or defending the rights of a party, but, except as against the party who incurred them, costs shall not be allowed which appear to the taxing officer to have been incurred or increased:

- (a) through over-caution, negligence or misconduct; or
- (b) by payment of special fees to counsel or special charges or expenses to witnesses or other persons; or
- (c) by other unusual expenses.

unless, on taxation of a lawyer and own client bill, those additional or unusual costs have been approved in writing by the client.

## Division 20—Disbursements

20. (1) Subject to sub-rule (2), a disbursement must not be allowed if the disbursement has not been paid before the bill of costs is delivered.

(2) If a bill expressly states that a disbursement was not paid before the bill was delivered, and the bill sets out the unpaid items of disbursement under a separate heading in the bill, the disbursement may be allowed by the taxing officer if:

- (a) the disbursement:
  - (i) is paid before the certificate of taxation is given; and
  - (ii) is paid in discharge of an antecedent liability of the Lawyer, including counsels' fees, properly incurred on behalf of the client; or
- (b) the Lawyer provides an unconditional undertaking to the Court to pay the unpaid disbursement from any costs recovered.

## Division 21—Taxing officer's discretion

21. (1) In the case of a fee or allowance which is discretionary, it shall, unless otherwise provided, be allowed at the discretion of the taxing officer.

(2) In the exercise of his discretion, the taxing officer shall take into consideration:

- (a) the other fees and allowances to the lawyer and counsel, if any, in respect of the work to which such a fee or allowance applies;
- (b) the nature and importance of the proceeding;
- (c) the amount involved;
- (d) the principle involved;
- (e) the interest of the parties;
- (f) the fund, estate or person who will bear the costs;
- (g) the general conduct and cost of the proceeding; and
- (h) all other relevant circumstances.

## **\*Division 22—Discontinuance and withdrawal**

22.     \*(1)     Where a party to any proceeding discontinues or withdraws the proceeding the provisions of Order 7 Division 6 or Order 11 Division 15 will apply.
- (2)     Rule 8 applies to the taxation and recovery of such costs referred to herein.

## **Division 23—Continuance of interlocutory injunction**

23.     Where the Court or a Judge grants an interlocutory injunction or stay and afterwards grants a further interlocutory injunction or stay continuing the first injunction with or without modification, an order as to costs of the further injunction or stay shall, unless the Court or a Judge otherwise orders, include the costs of the first injunction or stay.

## **Division 24—Cost of application or step within proceedings**

24.     Subject to this Order, the costs of any application or other step in any proceedings shall, unless the Court or a Judge otherwise orders, be deemed to be part of the costs of the party in whose favour the application or other step is determined and shall be paid and otherwise dealt with in accordance with the provisions of this Order.

## **Division 25—Costs of application or step within proceedings where stood over to hearing**

25.     When an application, objection to competency or other proceeding is ordered to stand over to the substantive hearing, and no order is made at the hearing as to the costs of the application, objection to competency or proceeding, the costs of all parties to the application, objection to competency or proceeding shall be deemed to be part of their costs of the proceeding.

## **Division 26—Party and party basis**

26.     On a taxation on a party and party basis:
- (a)     the costs of briefing more than one Counsel may be allowed;
  - (b)     a retaining fee to more than one Counsel shall not be allowed; and
  - (c)     a fee on brief or other additional costs in respect of Counsel attending before a Registrar or taxing officer shall not be allowed unless the Registrar or taxing officer certifies the attendance to be proper, or the Court or a judge otherwise orders.

## **Division 27—Absence of Counsel**

27.     (1)     Where Counsel is briefed to appear on a hearing and costs are taxed on a party and party basis, counsel's fee on the brief shall not be allowed unless:

- (a) he is present at the hearing for a substantial amount of the relevant period; or
- (b) he gives substantial assistance during the relevant period in the conduct of the proceedings; or
- (c) the Court or a Judge otherwise orders.

(2) In sub-rule (1) *relevant period* means the period of the hearing or if the hearing lasts more than 4½ hours, the first 4½ hours.

## Division 28—4½ hour periods

28. (1) In reckoning the 4½ hour period mentioned in Rule 27 the mid-day Adjournment shall not be included unless the Court or a Judge otherwise orders.

(2) Where the commencement or resumption of a hearing is delayed beyond the listed time the taxing officer may include waiting time in reckoning the 4½ hour period mentioned in Rule 27.

## Division 29—Fees to Lawyer and Counsel

29. (1) When a lawyer also acts as Counsel, the Taxing Officer may allow such sum as Counsel's fee as the taxing officer in his discretion thinks just and reasonable.

\*(2) Where the fees, costs and expenses of an Overseas Counsel are certified by the Court or a Judge, they shall be allowed in accordance with the Fourth Schedule of these Rules.

## Division 30—Disallowance of costs of improper, vexatious or unnecessary matter in documents or proceedings & reduction of costs

30. On a hearing, the Court or a Judge may, upon application and whether or not objection is taken:

- (1) (a) direct that any costs which have been improperly, unreasonably or negligently incurred, be disallowed;
- (b) direct the taxing officer to examine the costs incurred, and to disallow such costs as he shall find to have been improperly, unreasonably or negligently incurred; or
- (c) direct that a party whose costs are so disallowed, shall pay to the other parties the costs incurred by those parties in relation to the proceeding in respect of which his costs have been disallowed.

(2) Where the question of costs having been improperly, unreasonably or negligently incurred has not been raised before and dealt with by the Court or a Judge, it is the duty of the taxing officer to look into that question, and thereupon, the same consequences shall ensue as if he had been specially directed under paragraph (1)(b) of this rule to examine the costs incurred,

and to disallow such costs as he finds to have been improperly, unreasonably or negligently incurred.

(3) Where a party is awarded judgment for less than the maximum civil jurisdiction of the District Court on proceeding for a money sum or damages, any costs ordered to be paid, including disbursements, will be reduced by one-third of the amount otherwise allowable under this Order unless the Court or a Judge otherwise orders.

## **Division 31—Unnecessary appearance in Court**

31. Where a party appears upon a proceeding before the Court or a Judge or before the Registrar, in which he is not interested or upon which, according to the practices of the Court, he ought not to appear, he shall not be allowed any costs of appearance unless the Court, Judge or Registrar respectively, so directs.

## **Division 32—Powers of taxing officer**

32. (1) The taxing officer may, for the purpose of taxation of costs:
- (a) summon and examine witnesses either orally or upon affidavit;
  - (b) administer oaths;
  - (c) direct or require the production of books, papers and documents;
  - (d) issue summonses;
  - (e) make separate or interim certificates;
  - (f) require a party to be represented by a Lawyer or Counsel; and
  - (g) do such other acts and direct or take all such other steps as are directed by these Rules or by the Court or a Judge.
- (2) A taxing officer may, of his own motion, refer any question arising in a taxation for the direction of a Judge or the Court.

## **Division 33—Bill of costs**

33. (1) A bill shall be in the form prescribed in Part 2 of the Fourth Schedule and shall contain particulars of:
- (a) work done by the Lawyer, his servants and agents; and
  - (b) costs claimed for the work done in paragraph (a) above; and
  - (c) disbursements made.
- (2) There shall be endorsed on the bill, a certificate signed by a Lawyer verifying the additions in it, and there shall be attached to it or otherwise filed with it in a convenient manner, originals or legible copies of receipts for significant disbursements, or if a disbursement has not been paid, copies of all relevant accounts.

## **Division 34—Appointment to tax bill of costs**

34. (1) If a bill is filed, the taxing officer must appoint a time to tax the bill and endorse

the bill with the date and time of the appointment.

(2) The party who filed the bill must serve a copy of the bill on each other party to the taxation at least 21 days before the date appointed for taxation.

## Division 35—Objection to bill of costs

35. (1) A party on whom a bill is served, may, by notice, object to any item in the bill.
- (2) The notice shall list each item or part thereof in the bill which is objected to and shall also state concisely and specifically the nature and grounds of objection to each item or part objected to and the amount which it is contended should be taxed off.
- (3) The notice shall be filed and served on the party in whose favour the bill is to be taxed and on any other interested party not less than 7 days before the day appointed for taxing the bill.
- (4) A party on whom a notice is served under sub-rule (5) must prepare a written statement of response to each item or part of an item of the bill objected to, stating concisely and specifically, the basis on which it is claimed the item or part is allowable and the reason the objection cannot be sustained, including references to any authorities relied on.
- (5) The statement of response shall be filed and served on the party on whom the bill was served not less than 3 days before the day appointed for taxing the bill.
- (6) Oral submissions may be made at the taxation conference:
- (a) subject to the discretion of the taxing officer; and
  - (b) only for the purpose of explaining or clarifying an objection set out in a notice under sub-rule (3) or a response to an objection set out in a statement under sub-rule (4).
- (7) Subject to the discretion of the taxing officer to be exercised in exceptional circumstances, on taxation of the bill:
- (a) no amount is to be taxed off, nor any ground of objection to an item or part of an item of a bill allowed, unless each amount, ground, item or part, is specifically set out in a notice under sub-rule (2); and
  - (b) no amount is to be allowed in respect of an item or part of an item of a bill which is objected to in a notice under sub-rule (2) if no response to the objection has been made under sub-rule (4).
- (8) The taxing officer has a discretion:
- (a) To tax the costs of a notice under sub-rule (2), a response under sub-rule (4), and of any other objections, and:
    - (i) add them, or a part of them, to; or
    - (ii) deduct them, or a part of them, from;
  - any sum payable by or to a party to the taxation; or

- (b) to fix a lump sum in respect of the costs of the notice or other objection and add to it, or deduct it from any sum payable by or to a party to the taxation.

(9) If, on the taxation of any costs, one-sixth or more of the amount of the bill for those costs is taxed off, the lawyer whose bill it is, shall not be allowed the fees to which, apart from this Rule, he would be entitled, for preparing the bill and for attending on the taxation.

## **Division 36—Certificate of taxation**

36. (1) Within 7 days of completion of taxation, the taxing officer shall issue a sealed certificate of taxation, with sufficient number of office copies as are needed for the parties responsible for the payment of costs.
- (2) The certificate of taxation must be served by the party entitled to costs, on the party responsible for its payment.
- (3) If, after 14 days from the date of service of the certificate of taxation, the costs remain unpaid, the Court or a Judge may, on motion by a party, supported by an affidavit, direct the entry of judgment for costs in the amount stated in the Certificate of taxation.

## **Division 37—Review of Taxation**

37. (1) A Court or a Judge may review the decision of a Taxing Officer, only if the taxing officer has given a certificate in accordance with that decision.
- (2) A party aggrieved by the taxed costs may, within 14 days from the date of issue of the Certificate of Taxation, apply to the Court or a Judge, for leave to review the taxing officer's decision, such application to be supported by affidavit and shall be served on the other party, 3 clear days before the date of moving the application.
- (3) The application shall be made by Notice of Motion and supported by affidavit which shall, amongst other things, specify the list of items to which the applicant objects and must state concisely the nature and grounds of each objection.

## **Division 38—Extension of time**

38. (1) Before the expiration of the 14 days referred to in Rules 36(3) or 37(2) hereof, a party shall apply for an extension of time to pay taxed costs, such application to be supported by affidavit and served on the other party, 3 clear days before the date of moving the application.
- (2) Where a party applies for an extension of time he shall, unless the Court or a Judge otherwise orders, pay the costs of and occasioned by the application or any order made on or in consequence of the application.

## **Division 39—Interest on Costs**



39. Every award of costs shall carry interest at up to 8% per annum from 14 days after the date of service of the Certificate of Taxation on the party liable to pay, irrespective of whether application for extension of time or review is made. Service must be established by an affidavit of service.

# ORDER 13 —LISTINGS RULES

## Division 1—Interpretation

1. Unless the contrary intention appears:

“**Appeal**” means an appeal to the Supreme Court;

“**Appeal Book**” means an appeal book described in Order 7 rule 43 or an application book as referred to in Rule 7 and “**Book**” has the same meaning;

“**Appellant**” means the party who filed the originating process (whether an appeal, reference or application) in the Court;

“**Application**” means any application provided for under these rules, the Act, the *Constitution* and any other legislation;

“**Callover List**” means the list established by Rule 7(1);

“**Circuit Calendar**” means the annual circuit calendar for the year as determined by the Chief Justice;

“**Directions List**” means the list established by Rule 8(1);

“**Duty Judge**” means the Duty Judge for the month as determined by the Chief Justice and referred to in Rule 2;

“**General List**” means the list of all matters filed in the Supreme Court Registry;

“**Hearing List**” means the list of matters fixed for hearing in accordance with Rule 12(1);

“**matter**” means any appeal, application, review or other proceeding on the General List and includes any interlocutory application in respect of such matter;

“**Objection/s**” means an Objection to Competency;

“**Rule**” means a Rule in this Order;

“**Status Conference**” means the Status Conference to be held in accordance with Rule 10;

“**Summary Determination**” means an application to dismiss a matter.

## Division 2—Duty Judge

2. (1) The Chief Justice shall assign a Judge(s) to conduct listings and hear applications or motions which he or she has jurisdiction to hear, which will include urgent applications as provided in Rule 14 of these Rules.

(2) The Judge assigned in (1) is also the Duty Judge for that circuit month.

## # Division 3—File Reference

3. The Registrar shall ensure, unless directed otherwise in a particular case by a Judge, that the file references shown in column 1 of the table below, bearing the descriptions shown in

column 2 of the table, are allocated to the categories of matters shown in column 3 of the table.

<b>File reference</b>	<b>Description</b>	<b>Categories of matters</b>
SC APP	Supreme Court Application	Application for leave to appeal, for further time to appeal, for leave to seek review under <i>Constitution</i> , s 155(2)(b), for bail and any other application that may be heard and determined by a Judge
SC REF	Supreme Court Reference	Reference to the Supreme Court under <i>Constitution</i> , ss 18(2) or 19 or <i>Supreme Court Act</i> , s 26
SC RES	Supreme Court Reservation	Reservation of a question of law to the Supreme Court under <i>Supreme Court Act</i> , s 21
SC REV	Supreme Court Review	Review of a decision of the National Court under <i>Constitution</i> , s 155(2)(b)
SC REV (EP)	Supreme Court Election Petition Review	Review, pursuant to Division 5.2 of the <i>Supreme Court Rules</i> , of a decision of the National Court under <i>Constitution</i> , s 155(2)(b)
SCA	Supreme Court Appeal	Supreme Court civil appeal
SCCA	Supreme Court Constitutional Application	Application to the Supreme Court under <i>Constitution</i> , s 18(1)
SCM	Supreme Court Motion	Appeal under <i>Supreme Court Rules</i> , Order 10
SCMP	Supreme Court Miscellaneous Proceeding	Any matter apparently within the jurisdiction of the Supreme Court that is not otherwise described in this table
SCRA	Supreme Court Criminal Appeal	Supreme Court criminal appeal

## Division 4—Hearings

4. The Chief Justice will assign Judges to conduct hearings of the Court as may be determined in the Annual Circuit Calendar issued by the Chief Justice; and at such other times and places as the Chief Justice decides having regard to the volume of appeals and the urgency or importance of an issue to be decided.

## Division 5—Senior Clerk

5. The Registrar shall assign staff to manage the General List and to perform the Registrar's duties given under this Order, the Act and these rules.

## Division 6—The General List

6. (1) There shall be a General List kept by the Registrar, which is the list of all matters registered in the Registry, which list shall contain the current status report of those matters.

- (2) When a matter is filed in the Registry, it shall be immediately listed in the General List.
- (3) An application for review of an election petition shall proceed as provided in Order 5 Division 4. All other matters shall be called over, have their status checked by the Duty Judge and be listed for hearing in accordance with these Rules.

## Division 7—Callover List

7. (1) There shall be a callover list maintained by the Registrar;
- (2) No substantive matter shall be added to the Callover List unless a book is filed;
- (3) In respect of an appeal under Order 7 the book shall be as provided in Order 7 Division 14 & 15. For other applications, references and all other matters to be heard by the Court the index and the application book or reference book shall be prepared as closely as possible, and as far as relevant, to the provisions in Order 7 Division 14 & 15;
- (4) For interlocutory applications to be heard by a Judge a book shall not be required;
- (5) Any issue arising in respect of the book not determined to the satisfaction of the parties by the Registrar shall be referred to the Duty Judge.
- (6) A substantive matter shall be added to the Call over List when the Book is filed;
- (7) The Registrar shall call all matters on the call over list, once every month on the second Tuesday of the month and may:
  - (a) refer matters to the Directions List, for directions for setting down of the matter for hearing; or
  - (b) remove a matter from the call over list to the Summary Determination list.

## Division 8—Directions List and Directions Hearing

- \*8. There shall be a Directions List prepared after the call over which shall contain all matters that are ready for hearing as determined by the Registrar.
  - (a) A Directions Hearing shall be conducted by the Duty Judge on the first Monday of the circuit month.
  - (b) Notice of the Directions Hearing shall be given by the Registrar, in Form 10A or in the manner determined by him or as directed by the Duty Judge, immediately after the Call over.
  - (c) Where parties are represented by a lawyer, a lawyer who has carriage or knowledge of the matter must attend the Directions Hearing.
  - (d) At the Directions Hearing, the Duty Judge may review the steps taken by the Registrar at the Call over and may, if necessary, issue directions in relation to the following:
    - (i) Legal representation for parties.

- (ii) The grounds of appeal, review, etc.
  - (iii) Issues on appeal, review, etc.
  - (iv) Availability of National Court depositions including the primary judge's reasons for decision.
  - (v) Typed transcript of the proceeding.
  - (vi) Filing of Index to the Book and its certification.
  - (vii) Any other issues in relation to the contents of the Book.
  - (viii) Manner of presentation of arguments including directions as to when extract of submissions and submissions will be filed, in accordance with Order 11 Divisions 9 and 10 of the *Supreme Court Rules*.
  - (ix) Decide whether further directions should issue or whether hearing dates can be allocated.
  - (x) Allocation of hearing dates for the matter.
  - (xi) Issuing of directions under O 11 rr 9 or s 185 of the *Constitution*, where appropriate.
- (e) Upon fixing a date for the hearing of a matter:
- (i) The Registrar shall add the matter to a draft Hearing List in accordance with Rule 12 and issue to all parties a Notice of Hearing in Form 18, which Notice shall be taken out by the appellant's or applicant's lawyer and served on the other parties immediately after the Directions Hearing.
  - (ii) The Duty Judge shall refer the matter to the Status Conference.

# 8A. All interlocutory applications and processes, including applications to adduce fresh evidence, to dismiss an appeal for abuse of process or for want of prosecution or for failure to comply with directions of a Judge, and objections to competency, shall be heard at a separate and distinct hearing and determined before the substantive matter to which they relate is set down for hearing, unless a Judge determines in a particular case, in consultation with the parties, that is in the interests of justice for another procedure to apply.

## Division 9—Further Directions Hearings

9. The Duty Judge may conduct further Directions Hearings in the circuit month and cases may then be fixed for hearing. Cases fixed for hearing at such subsequent Directions Hearings shall be added to the draft Hearing List

## Division 10—Status Conference

10. (1) A Status Conference shall be held on the Monday of the week prior to the Court sittings;

(2) At the Status Conference, the Duty Judge shall review each matter on the draft Hearing List and may, amongst other things, issue further directions as may be necessary to make the proceedings ready for hearing or the Judge may confirm that the matter is ready for hearing by checking the following:-

- (a) Confirm parties' compliance with directions issued at the Directions Hearing.
- (b) Confirm the correctness of the Book.
- (c) Refer to summary determination, matters which fail to comply with directions issued at the Directions Hearing or otherwise fail to comply with procedures prescribed by the relevant rule or statute.
- (d) Confirm length of hearing time.
- (e) Confirm that written submissions have been prepared and filed in compliance with earlier directions.
- (f) Confirm that the parties have prepared extracts of submissions in accordance with Order 11 rule 18 to be handed up at the hearing of the matter.
- (g) Confirm the date or dates for the hearing of the matter.

(3) After hearing parties or a party, the Duty Judge may confirm the hearing date, or adjourn the Status Conference as is necessary, to enable the parties to fully comply with directions or may refer the matter for summary determination.

## **Division 11—Status Conference Form**

11. Upon completion of the Status Conference the Duty Judge's Associate shall record a summary of the Status Conference in Form 10 "B" and shall place it on the Court file.

## **Division 12—The Hearing List**

12. (1) There shall be a draft Hearing List and a Hearing List maintained by the Registrar.

The draft Hearing List shall contain all of the matters listed for hearing at the Directions Hearing. The Hearing List shall contain all of the matters listed for hearing with hearing dates confirmed at the Status Conference.

(2) Within 2 days of the Status Conference a Hearing List shall be prepared by the Registrar in consultation with the Associate to the Duty Judge and the List shall be issued to all of the parties in the list. The Hearing List is not subject to alteration except by the Chief Justice or the Court before which the matter is listed.

(3) The hearing of a matter shall proceed on the date and time fixed in the Hearing List.

(4) If a matter is not heard at the appointed time it must not be adjourned generally. The matter must be fixed or adjourned to either the next sittings of the Court or the next call over or to the next Directions Hearing, whichever is appropriate.

(5) At the hearing, the Court may exercise its discretion to summarily hear and determine any matter where the appellant fails to comply with directions issued at a Directions Hearing or Status Conference.

(6) The Court may also hear a party's application to summarily dismiss for failure to comply with directions. The application must be in writing and supported by an affidavit, served on the respondent party one clear working day before the hearing.

## Division 13—Adjournments

13. (1) Proceedings in a Directions Hearing or Status Conference shall not be adjourned generally, even by consent.
- (2) If parties require time to consider their position or negotiate a settlement, the proceedings may, with the approval of the Duty Judge, be adjourned for a comparatively lengthy period, but always to a fixed date with liberty to restore the matter to either the Call over List or Directions Hearing or Status Conference, within that time.
- (3) A substantive hearing of a matter shall not be adjourned unless sufficient cause is shown to the Court, by the party applying for an adjournment.
- (4) The application shall be in writing, supported by affidavit, to the Bench before whom the appeal is listed for hearing and not to any other Judge(s) or another Bench.
- (5) The application must be filed and served 3 clear days before the date allocated for the hearing of the matter.

## Division 14—Urgent applications

14. (1) Subject to expressed jurisdictional limits, urgent applications for a stay or other urgent interlocutory applications may be made before the Duty Judge.
- (2) The appointment for hearing of the application is obtained from the Duty Judge or in his absence the Chief Justice by prior application to the Registrar.
- (3) The request for an appointment must be in writing and explain the reasons for the urgency.
- (4) If the applicant desires to proceed *ex parte* the application for an appointment must explain why he seeks to dispense with the requirement for service of the application.
- (5) The Registrar, upon receipt of a request for an appointment for hearing and on being satisfied with the reasons for urgency, shall refer the request to the Duty Judge or the Chief Justice in Form 10 "C".
- (6) The application will not be set down for hearing unless the following documents are filed—
- (a) Originating Process;
  - (b) Application;
  - (c) Supporting Affidavit(s);
  - (d) Where appropriate, an Undertaking as to Damages; and
  - (e) A draft order.
- (7) The applicant must, in the application, first seek an order dispensing with the requirement for service of the application.

- (8) The supporting affidavit must demonstrate the urgency of the matter and the reasons why the requirement for service of the application is unnecessary, such as difficulty with locating the respondent in order for service to be affected.
- (9) Upon hearing the application, the Duty Judge may make orders including—
- (a) An order dispensing with requirements of service;
  - (b) An interim order which provides some solution, until the return date;
  - (c) For service of the Order, the Originating Process, Motion, Supporting Affidavit, Undertaking as to Damages (where appropriate) and other documents filed in the proceedings, on or by a specified date;
  - (d) Giving “liberty to apply”;
  - (e) Giving a specific return date, when the interim orders become returnable before the Duty Judge; and
  - (f) For filing an affidavit of service of the documents referred to in (c) above.

## Division 15—Applications

15. All applications for interlocutory orders must contain a concise statement of the Court’s jurisdiction to grant the orders being sought. With the exception of urgent applications, all other applications for interlocutory orders shall be made to the Duty Judge on a scheduled motions day. All applications shall be made in Form 4.

## # Division 16—Summary Disposal

16. (1) The Court or a Judge may summarily determine a matter:
- (a) on application by a party; or
  - (b) on referral by a Judge; or
  - (c) on the Court’s or Judge’s own initiative; or
  - (d) upon referral by the Registrar in accordance with the procedure set out in sub-rule (2) below or pursuant to s 11 of the Act.
- (2) Where the Registrar refers a matter to the Court or a Judge for summary determination, the following procedure shall be followed:
- (a) the Registrar may give notice, 14 days before the hearing, in Form 10D to each of the parties of the intention to refer the matter to the Court or a Judge for summary determination, or may publish, 14 days before the hearing, an appropriate notice in the media.
  - (b) the Registrar shall place on the file any written response or a note of a verbal response received and advise the Appellant to appear in Court on the date fixed.
  - (c) on the day fixed for hearing the Registrar shall forward the file to the Court or a Judge, together with any response received.
  - (d) the Court or a Judge (where a Judge has jurisdiction) may determine the matter summarily based on the response received and report by the



Registrar, and any representation made by the parties; or issue directions for the future conduct of the proceedings.

- (e) If the parties are unrepresented, the Registrar shall draft the Court Order, enter it and forward sealed copies to the parties.
- (f) If the matter is dismissed the Registrar, shall forward a sealed copy of the Order together with a copy of the judgment, if any, to the National Court which made the decision.
- (g) If the matter is dismissed the file shall be closed and forwarded to Archives for storage.

# # ORDER 14 —ON THE PAPERS MATTERS

## Division 1—On the Papers List

1. A list of appeals or reviews or other matters pending in the Supreme Court suitable for hearing and determination on the papers, to be known as the “On the Papers List” is hereby established.
2. A case may only be placed on the On the Papers List by order of the Court or a Judge assigned by the Chief Justice to be a Duty Judge under Order 13 rule 2 of the *Supreme Court Rules*. Such an order may be made—
  - (a) on the Court’s or Duty Judge’s own motion, but only after affording each of the parties an opportunity to be heard as to whether the case should be placed on the On the Papers List and whether there should be any variation from the standard length of written submission and being satisfied that it is in the interests of justice that the case be placed on the On the Papers List; or
  - (b) on the application of a party, but only after affording each of the other parties an opportunity to be heard as to whether the case should be placed on the On the Papers List and whether there should be any variation from the standard length of written submissions and being satisfied that it is in the interests of justice that the case be placed on the On the Papers List; or
  - (c) on the joint request of the parties, if the Court or a Judge, after considering that request, is satisfied that it is in the interests of justice that the case be placed on the On the Papers List.
3. If a variation from the standard form directions is sought by a party or the parties, that variation and a succinct, related explanation must be specified in the listing request.
4. No case will be placed on the On the Papers List unless the appeal or application book (or other similar book or collection of materials prepared on direction of the Court or a Judge) has been filed.

## Division 2—Appeal/Application Books

5. Appeal or application books are to be prepared in accordance with the usual practice of the Court but must, if within the systems data filing limits or unless the Court or a Judge or the Registrar otherwise directs, be filed electronically using the Court’s Integrated Electronic Case Management System (IECMS). Large, multi-volume appeal books prepared in accordance with Order 7 rule 43 of the *Supreme Court Rules* and not feasible for scanning may, with the permission of the Court or a Judge or the Registrar, be filed in hard copy form. Hard copy volumes so filed will then, as occasion requires, be distributed by the Registrar to the Judges by the most efficient available means.

## Division 3 – Procedure after being placed on the On the Papers List

6. Upon being placed on the On the Papers List, the case will be heard and determined on the papers, following an exchange of written submissions by the parties.

7. The On the Papers Listing Directions will specify the dates by which, in terms of the standard form directions, or such variation as the Court or a Judge may approve, written submissions must be filed and served.
8. The standard On the Papers Listing Directions will be—
  - (a) the submissions in chief of the appellant/applicant must be electronically filed and served by ..... [*insert date*];
  - (b) the submissions in chief of the respondent(s) must be electronically filed and served by ..... [*insert date*];
  - (c) the submissions in reply of the appellant/applicant or a statement that an appellant/applicant will file no reply submissions shall be electronically filed and served by ..... [*insert date*];
  - (d) the submissions in chief of a party shall be not more than 50 pages (including annexures) and shall specify any grounds of appeal or review or any other contentions that are abandoned or otherwise not being pursued;
  - (e) a party must annex to a submission in chief the orders sought by that party in respect of the appeal or application;
  - (f) the submissions in reply of a party must not exceed five pages;
  - (g) the submissions of a party represented by the same firm as another party shall be a joint submission;
  - (h) the submissions of a party represented by a different firm or who is not represented must be made by a separate submission;
  - (i) if a party seeks an order for costs other than on a party-party basis to be taxed if not agreed, the reasons for such different costs order being made, must be specified in that party's submissions;
  - (j) the submissions of a party shall, within the page limits specified, be as brief and succinct as possible and avoid unnecessary or unnecessarily extensive copying of extracts from decided cases or legislation;
  - (k) case references in submissions must be to the authorised report of the case or, if not reported, to its SC or N number.

## Division 4 – When judgment shall stand reserved

9. Upon the date of filing of the last submissions in reply or, as the case may be, upon the date of filing of a statement that there will be no submissions in reply, or on any other date ordered to be appropriate by the Court or a Judge, which shall be deemed the “Expiry Date”, judgment shall, subject to Rule 10, without further order, stand reserved.
10. There may be circumstances in which the Court or a Judge will wish to pose questions to counsel arising from submissions, in which case such questions shall be posed through the Registrar, to be conveyed electronically to counsel and counsel shall respond within the time set, through the Registrar; and in all such cases, all parties shall be copied in to the communication that takes place, and the Expiry Date will be amended accordingly.
11. The Registrar must forthwith after the Expiry Date—
  - (a) certify that judgment stands reserved; and
  - (b) forward to the Chief Justice and the members of the bench hearing the matter a copy of his certificate; and
  - (c) place on the file and email to the parties a copy of his certificate.

## **Division 5 – Default of compliance with standard form or specific directions**

12. If a party is in default of compliance with the On the Papers Listing Directions or any variation thereof made by the Court or a Judge, the Court may make on the papers such order to which the party not in default appears justly entitled.
13. Default in compliance with the usual practice in relation to the preparation of appeal or application books will be the subject of a requirement to show cause to the Court or a Judge by filed written response why the case should not be dismissed for want of prosecution.

## **Division 6 – Variation of directions**

14. The Court or a Judge may, on application and either before or after the Expiry Date and prior to the delivery of judgment on the appeal or application, make such variation to the times specified in accordance with the On the Papers Listing Directions and when judgment shall stand reserved as seems just on the evidence and after hearing from the parties.
15. Unless the Court or a Judge otherwise directs, such applications are to be heard and determined on the papers.
16. Save as aforesaid, once an appeal or application is placed on the On the Papers List, no other interlocutory application may be made in the case without the leave of the Court or a Judge.

## **Division 7 – Pronouncement of orders and publication of reasons for judgment**

17. The Registrar will notify the parties of the date and mode of pronouncement of orders and publication of reasons for judgment.

## **Division 8 – Access by non-parties to documents**

18. So as to achieve the closest assimilation of a case heard on the papers with one heard in open court, a non-party may, at such place at the Court as the Registrar may specify, view any notice of appeal or other originating document (or amendment of either) and any submission, order and reasons for judgment, in the same way as in any case not on the On the Papers List.

## **Division 9 – Filing and service of documents**

19. Unless the Court or a Judge or the Registrar otherwise directs, all documents to be filed in the Court must be filed electronically.
20. The following information must be provided on any filed document—
  - (a) if a lawyer prepares the document—the name, postal address, telephone number and email address of the firm, and the name of an individual in the firm and that person's mobile phone number, who can be contacted in respect of the matter;
  - (b) if the party or person on whose behalf the document is to be filed is not represented by a lawyer—the name, postal address, telephone number and email address of the party or person, and that person's mobile phone number, who can be contacted in respect of the matter.

21. The person who files a document electronically must:
  - (a) keep a paper or electronic copy of the document; and
  - (b) if directed to do so by the Court, a Judge or the Registrar, produce a hard copy of the document.
22. The normal requirements of service are dispensed with, and all parties may, subject to an order of the Court or a Judge to the contrary, serve any Court documents on other parties by email or other electronic means, and shall ensure that if and when required to do so, sufficient records are available to verify and prove service.

## **Division 10 – Format of documents**

23. A document to be filed in a case on the On the Papers List must—
  - (a) be in clear, sharp, legible and permanent type of at least 12 point size; and
  - (b) have not less than 1.5 line spacing between lines and paragraphs; and
  - (c) be in A4 size; and
  - (d) have margins of at least 2.5 cm at the top, bottom, left and right sides; and
  - (e) have each page numbered; and
  - (f) be without erasure or alteration that causes material disfigurement.

# FORMS

---

## FIRST SCHEDULE

---

O 4 r 1

Form 1\*

### GENERAL FORM OF APPLICATION (CONSTITUTION S 18(1))

IN THE SUPREME COURT  
OF JUSTICE

SCA No of 20  
*(Insert number and year)*

Application Pursuant to  
*Constitution, s 18(1)*

Application by *(Insert name of  
person making application)*

#### APPLICATION

To the Supreme Court:

APPLICATION TO INTERPRET SECTION... *(insert section number)*... OF *(Insert Constitution or the  
name of the Constitutional Law)*

1. The applicant requests the Court to declare that the applicant has standing to make this application, and after that declaration, the finding sought in paragraph 3 below;
2. The basis on which the applicant claims standing to make this application is:
3. The applicant requests the Court to declare that the proper interpretation or application of section... of... *(Insert the Constitution and relevant section or name of a constitutional law and section)* is:
4. The facts out of which the request arises are:
- \*5. Whether a question of fact arises for determination by the Court on the application. (If questions of fact need to be determined the Court may, in accordance with Order 3 rule 3 direct a Judge to find the facts, before the issue of constitutional interpretation is referred to the Supreme Court.)
- \*6. The names of the persons or bodies whose interests may be directly affected by the interpretation sought by the person making the application are: *(insert names of persons whose interests may be affected, with a positively or adversely)*.

DATED:

Sgd

---

*(To be signed by person  
making the application)*

FILED BY: (Form 17)

Application for Directions

Application will be made to a Judge of the Supreme Court Waigani at ... am on the day of ... 20...

---

Registrar

A Respondent or intervener may file a Statement of Response.

---

**GENERAL FORM OF REFERENCE (CONSTITUTION, SECTION 18(2))**

IN THE SUPREME COURT  
OF JUSTICE

SCR No ... of 20..  
*(Insert number and year)*

Reference pursuant to  
*Constitution, s 18(2)*  
concerning or *(insert*  
*nature of the reference)*  
Between *(insert names of*  
*parties in Court or tribunal*  
*from which reference made)*

**REFERENCE**

1. THIS REFERENCE is made by *(insert name of Judge, Magistrate, or Tribunal making the reference)*.
2. FOR an Opinion on a question relating to interpretation or application of a Constitutional Law.
3. THIS Reference arises *(herein state briefly the nature of the hearing and circumstances in which the question arises OR if necessary, annex copy of findings of Judge or referrer, together with particulars under Order 4 rule 2 if necessary)*.
4. THE QUESTION IS *(to be stated)*

DATED:

Sgd \_\_\_\_\_  
Judge  
Magistrate  
Tribunal

\_\_\_\_\_

**GENERAL FORM OF SPECIAL REFERENCE (Constitution, s 19)**

IN THE SUPREME COURT  
OF JUSTICE

SCR No ... of 20  
*(Insert number and year)*

Special Reference Pursuant to  
*Constitution, s 19*  
Reference by *(insert name of*  
*Authority)*

**SPECIAL REFERENCE**

1. THIS REFERENCE is made by an authority referred to in s 19 of the *Constitution* FOR an Opinion on a question relating to interpretation or application of a Constitutional Law.
2. THIS Reference arises *(herein state briefly the nature of and circumstances in which the question arises)*.

3. THE LAW or PROPOSED LAW the validity of which is the subject of the special reference is annexed hereto (*where appropriate a copy of the law or proposed law is to be annexed*).
4. THE CONSTITUTIONAL LAW provisions, relevant are (*state title of the Constitutional Law and state section by number and title*).
5. THE QUESTION IS (*to be stated*).

DATED: Sgd (*to be signed by Authority according to law*).

Designation of the officer  
signed to be stated

FILED BY: (Form 17)

Application for Directions  
(see Form 1)

O 4 r 22(d), O 7 r 1(a)

Form 4

**GENERAL FORM OF APPLICATION**  
**(Heading as Applicable)**

Application will be made to a Judge of the Supreme Court, Waigani at . . . am on the . . . day of . . . 20 . . .

1. FOR (*state nature of application*)
2. GROUNDS (*specify each particular ground by paragraph*).
3. Affidavits in support of this Application sworn by (*list names, dates*).

Dated:

Sgd \_\_\_\_\_  
(Applicant or his  
Lawyer)

FILED BY: (Form 17)

O 4 r 25

Form 4A

**STATEMENT OF RESPONSE**  
(By respondent parties and interveners)

(heading as in Form 1, 2 or 3, as applicable)

STATEMENT OF RESPONSE BY (*name of party*)

In relation to the question put to the Court by the applicant/referrer this respondent:

1. Supports/opposes the application;
2. This respondent states, in support of its case that:  
(*set out the argument in short numbered paragraphs*)



Dated this            day of            .

Respondent/Lawyer for the Respondent

\_\_\_\_\_

O 5 r 4(e)

Form 5

**GENERAL FORM OF APPLICATION TO REVIEW  
UNDER CONSTITUTION, S 155(2)(b)**

IN THE SUPREME COURT  
OF JUSTICE

SC REV NO of 20  
(*Insert number and year*)

Review Pursuant to  
*Constitution, s 155(2)(b)*  
Application by (*insert name*  
*of person seeking Review*)

**APPLICATION TO REVIEW**

1. THIS REVIEW OF THE NATIONAL COURT is sought by (*insert name of person seeking the review*).
2. THE JUDICIAL ACT TO BE REVIEWED is—  
National Court No:  
Parties:  
Date of Order:  
Order:  
(*Where appropriate, a copy of the National Court Order is to be stated and annexed*).
3. GROUNDS (*specify each particular ground by paragraph*).
4. ORDER (*state relief sought*).

DATED:

Sgd \_\_\_\_\_  
(*To be signed by person  
seeking the review or his lawyer*)

FILED BY: (Form 17)

NOTICE: (Form 18)

\_\_\_\_\_

**APPLICATION FOR LEAVE TO REVIEW**

\*O 5 r 10(f)

Form 5A

IN THE SUPREME COURT  
OF JUSTICE

SC REVIEW No .... 20....

(*Insert number and year*)

Application under s 155(2)(b)  
of the *Constitution*  
And in the Matter of Part XVIII of the  
*Organic Law on National and Local-level  
Government Elections*.

A.B.  
Applicant

C.D.  
Respondent

**APPLICATION FOR LEAVE TO REVIEW**

APPLICATION will be made to the Supreme Court, at Waigani at ..... am/pm on the ..... day of ..... 20...., for:

1. LEAVE TO APPLY FOR REVIEW:

*(state date of the decision and the decision for review).*

2. GROUNDS:

*(state briefly the particulars of the decision of the National Court to be reviewed and the nature of the case)*

3. THE ISSUES INVOLVED:

4. REASONS WHY LEAVE SHOULD BE GIVEN:

5. ADDRESS FOR SERVICE OF THE APPLICANT:

Dated this .....day of..... , 20..... .

Signed \_\_\_\_\_

(Applicant)

**APPLICATION TO REVIEW**

\*O 5 r 19(e)

Form 5B

IN THE SUPREME COURT  
OF JUSTICE

SC REV NO ... OF 20... *(Insert  
number and year)*

Review Pursuant to  
*Constitution, s 155(2)(b)*  
Application by *(insert name of party  
seeking Review)*

Respondents  
*(insert name of party seeking Review)*

**APPLICATION TO REVIEW**

THIS REVIEW OF THE DECISION OF THE NATIONAL COURT is sought by:

(the applicant)

LEAVE TO APPLY FOR REVIEW WAS GRANTED ON:

*(state date and name of Judge who granted leave)*

THE DECISION TO BE REVIEWED is:

National Court No: EP No ..... 20....

Parties:

Date of order:

Primary judge:

4. STATE BRIEFLY THE NATIONAL COURT DECISION AND ATTACH A COPY OF THE DECISION OR ORDER:

5. GROUNDS:

*(specify each particular grounds by paragraph)*

6. ORDERS SOUGHT:

Dated this .....day of .....20.....

Signed: \_\_\_\_\_

(Applicant)

FILED at the Supreme Court Registry at Waigani

BY:

Name of applicant

Name (Lawyer)

Address (Residential)

Address (Business)

Address (postal and e-mail where available)

Address (postal and e-mail where available)

Telephone

Telephone

Fax

Fax

Transcript of Proceeding in the National Court

Transcript required?

Yes/No

Transcript requested?

Yes/No

(For completion by the Registrar Only)

**APPOINTMENT OF DATE FOR DIRECTIONS HEARING**

The Supreme Court will conduct a Directions Hearing at .....am/pm on ..... day of .....20... at the Supreme Court at Waigani, National Capital District.

At the Directions Hearing, the Judge shall consider amongst other things, the following:

- question of legal representation;
- grounds of Review;
- (c) identification of legal issues;
- (d) consolidation of multiple applications on the one election for purpose of the hearing;
- (e) availability of transcript and related matters;
- (f) objections to competency of the application;
- (g) manner of presentation of argument by parties including filing extract of submissions;
- (h) settlement of the Index;
- (i) compilation of the Review Book;
- (j) the number of days for the hearing.

\_\_\_\_\_  
REGISTRAR

(Date)

\_\_\_\_\_

**\* FORM OF NOTICE OF APPEARANCE IN REVIEW**

O 5 r 26

Form 5C

(Headings as applicable to proceedings)

**NOTICE OF APPEARANCE**

TAKE NOTICE, I enter an appearance on this review.

Dated at .....this ..... day of ..... 20. ...

Signed: \_\_\_\_\_

(Respondent or his/her Lawyer)

FILED:

BY:

Name of respondent

Name: Lawyer

Address: (Residential)

Address: (Business)

Address: (postal and e-mail where available)

Address: (postal and e-mail where available)

Telephone

Telephone:

Fax:

Fax:

**GENERAL FORM OF NOTICE OF HEARING**

\*O 5 r 35

Form 5D

(Heading as applicable to the application for review)

**NOTICE OF HEARING**

The application for review will be heard at the sittings of the Supreme Court at Waigani, (or such other place as specified) at .....a.m./p.m. on the ..... day of ....., 20...

Further details can be obtained from the registry.

Signed \_\_\_\_\_

Registrar

Dated:

FILED at the Supreme Court Registry at Waigani

BY:

Name: (Personal)

Name: (Lawyer)

Address: (Residential)

Address: (Business)

Address: (postal and e-mail where available)

Address: (postal and e-mail where available)

Telephone:

Telephone:

Fax:

Fax:

\*O 6 r 3(d)

Form 6

**GENERAL FORM OF CONSTITUTIONAL ENFORCEMENT APPLICATION (CONSTITUTION SECTION 57)**

IN THE SUPREME COURT  
OF JUSTICE

SCA No of 20  
(Insert number and year)

Enforcement Pursuant to  
Constitution, s 57

Application By (insert name  
of person or Court)

### APPLICATION TO ENFORCE CONSTITUTIONAL RIGHTS

1. THIS ENFORCEMENT of Rights and Freedoms is sought by (name of person)
2. On Behalf of (person/s to be named)
3. THIS APPLICATION arises (briefly state the nature and circumstances in which the matter arises).
4. The CONSTITUTIONAL LAW Provisions, relevant are (state the title of the Constitutional Law and state section by number and title).

DATED:

Sgd \_\_\_\_\_  
(To be signed by person  
making the application  
or his Lawyer)

Filed By: (Form 17)

NOTICE: (Form 18)

O 7 r 4, \*O 10 r 5

Form 7

### APPLICATION FOR LEAVE TO APPEAL

IN THE SUPREME COURT  
OF JUSTICE

SC APPEAL No of 20

A.B.  
Applicant/

C.D.  
Respondent

APPLICATION will be made to the Supreme Court, Waigani at . . . am on the . . . day of . . . for leave to appeal.

1. The appeal lies with leave;
2. NATURE OF THE CASE:
3. QUESTIONS INVOLVED:
4. REASONS WHY LEAVE SHOULD BE GIVEN:

Dated:

Sgd \_\_\_\_\_  
(Applicant or his  
lawyer)

FILED BY: (Form 17)

---

Form 8.—Notice of Appeal

**GENERAL FORM NOTICE OF APPEAL**

IN THE SUPREME COURT

SC APPEAL No....of 20...

OF JUSTICE

A.B

Appellant

C.D.

Respondent

**NOTICE OF APPEAL**

1. THE Appellant appeals from the whole *(or if a part specify part)* of the judgment of *(specify National Court or National Court Judge)* given on *(specify date)* at *(place)*.
2. *(Where applicable)* THE appeal lies without leave OR *(where applicable)* THE appeal is brought pursuant to leave granted on *(specify order)*
3. GROUNDS *(specify each particular ground by paragraph)*.
4. ORDER SOUGHT *(state what judgment or order appellant seeks in lieu of the judgment appealed from)*.
5. The name of the primary judge is:
  
6. A transcript is/is not required.

Dated:

\_\_\_\_\_

Sgd: Appellant or his  
Lawyer

FILED BY: (Form 17)

APPOINTMENT

The Appeal Book will be settled before the Registrar at the Supreme Court at *(time)* on the *(date)*.

\_\_\_\_\_

Registrar

\_\_\_\_\_

**(HEADING AS IN FORM 8)**

**NOTICE OF OBJECTION TO COMPETENCY**

OBJECTION to the competency of this appeal will be made at the Supreme Court, Waigani at . . . am on the . . . day of . . . 20

OBJECTION is made on the following grounds (set out concisely the whole of the grounds of the objection).

DATED:

Sgd \_\_\_\_\_

(To be signed by Respondent or his Lawyer)

FILED BY: (Form 17)

\_\_\_\_\_

**GENERAL FORM NOTICE OF CROSS-APPEAL**

IN THE SUPREME COURT OF JUSTICE

SC APPEAL No of 20

A.B.  
Cross Appellant  
C.D.  
Cross Respondent

**NOTICE OF CROSS-APPEAL**

1. The Respondent cross-appeals from (*specify part*) of the judgment of (*specify National Court or National Court Judge*) given on (*specify date*) at (*place*).
2. (*Where applicable*) The cross-appeal lies without leave.
3. (*Where applicable*) The cross-appeal is brought pursuant to leave granted on (*specify order*) OR Leave to cross-appeal is sought at the hearing as the matters to be raised in that application are in whole and/or in part (*whichever is applicable*) the substantive matters constituting the grounds of cross-appeal as set out in the grounds numbered (*here state*).
4. GROUNDS (*specify each particular ground by paragraph*).
5. ORDER SOUGHT (*state what judgment or order cross respondent seeks in lieu of the judgment appeal from*).

Dated:

Sgd \_\_\_\_\_

(Respondent or his Lawyer)

FILED BY: (Form 17)

\_\_\_\_\_



(Title of proceedings)

**NOTICE FOR DIRECTIONS HEARING**

To:

Appellant/Lawyer:

Respondent/Lawyer:

*(Heading in the matter)*

Take note that the above described matter is listed for Directions Hearing before a Judge of the Supreme Court at \_\_\_\_\_ (*Courthouse*) at \_\_\_\_ am/pm on the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_.

You are required to attend at the Directions Hearing to assist the Judge confirm that the matters listed below have been complied with or that parties have addressed them. These are:

- (a) Legal representation.
- (b) Grounds of appeal.
- (c) Issues on appeal.
- (d) Availability of Court or tribunal’s depositions including the trial Judge’s Reasons for decision.
- (e) Typed transcript of the proceeding.
- (f) Filing of Index to the Book and its certification.
- (g) Any other issues in relation to the contents of the Book.
- (h) Manner of presentation of arguments including directions as to when extract of submissions and submissions will be filed, in accordance with Order 11 Divisions 9 and 10.
- (i) In relation to applications and objections, whether further directions should issue or whether they can be allocated hearing dates.
- (j) Number of hearing days to be allocated for the substantive hearing of appeal.
- (k) Issuing of directions under s 185 of the *Constitution*, where appropriate.

Where hearing date(s) have been allocated, the Judge will refer the matter to the Status Conference, to take place on a Monday before the Supreme Court week, to be conducted in accordance with Order 11 rules 10 and 11.

Dated this ..... day of ..... 20.....

Issued by:  
.....  
Registrar

**STATUS CONFERENCE FORM**

*(To be completed by Duty Judge's associate after completion of the status conference. Matter not applicable to be struck out.)*

Title of :  
appeal/matter  
Date :  
Coram :

**ORDERED:**

- (1) The parties have complied with (not complied with) directions issued at the Directions Hearing in respect of the matters set out in Rule 10 of the *Supreme Court Listing Rules*;
- (2) The appeal book is correct/not correct;
- (3) The parties estimate the length of the hearing time of the appeal will be...;
- (4) The written submissions of the parties have been filed (or will be filed by ..... ) in accordance with the directions issued at the Status Conference;
- (5) The parties will have extracts of submission not exceeding 4 pages available for handing up at the hearing of the appeal;
- (6) The date for the hearing of the matter will be.....;

OR

The matter is referred to the Registrar to institute the procedure for Summary Disposal;  
Further Directions...

Associate

**REGISTRAR'S REFERRAL FORM**

*(To be completed by Registrar, Deputy Registrar (SC) or in their absence Assistant Registrar (SC) only)*

TO : Chief Justice/Duty Judge

FROM :

DATE :

RE : SCA, SC APP etc (*file reference and name of parties*):

I refer the above matter for (*tick appropriate item*):

- ..... Directions
- ..... Fixture of date and time for Mention/Hearing of Motion etc
- ..... Advice on point of law or procedure
- ..... Others

State action required and brief reasons: .....

.....

.....

.....

.....

.....

(*Signature*)

(Registrar/Deputy Registrar (SC))

FOR ENDORSEMENT BY CHIEF JUSTICE/DUTY JUDGE ONLY

DATE:

DIRECTIONS ISSUED/ACTION TAKEN: .....

Chief Justice/Duty Judge

Action taken by Registrar in compliance with directions (Endorsement by Registrar/Deputy Registrar (SC) only).

.....

.....  
Dated this..... day of ..... 20.....

.....  
Registrar

*NOTE: Complete form in duplicate. Copy of form to be placed in running file.*

O 13 r 16(2)(a)

FORM 10D

**NOTICE FOR SUMMARY DETERMINATION**

Date:

To: Messrs \_\_\_\_\_

*(name of appellant or his/her lawyer & address)*

Copy to: Messrs \_\_\_\_\_

*(name of respondent or his/her lawyer & address)*

Title of matter: \_\_\_\_\_

RE: NOTICE TO SHOW CAUSE WHY YOUR MATTER SHOULD NOT BE  
SUMMARILY DISMISSED

I refer to the above matter and advise that this matter is listed for summary determination before the Supreme Court at \_\_\_\_\_ (*name of Court house*) at \_\_\_\_\_am/pm on the \_\_\_\_\_ day of \_\_\_\_\_ 20...../or before the Supreme Court on the sittings commencing on \_\_\_\_\_ 20..... to \_\_\_\_\_ 20.....

The grounds or reasons are\*:

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

You are required to attend Court on the date and time fixed above and to show cause why your matter should not be summarily dismissed.

If you wish to give an explanation before appearing in Court, you may do so by letter delivered to the Registrar or by affidavit filed in the Court Registry at least 7 days before the date mentioned above.

Yours faithfully

.....

Registrar

\*Specify matters under s 11 of the *Supreme Court Act* or Order 7 rule 48 of the *Supreme Court Rules*.

\*O 7 r 50(a)

Form 11

**GENERAL FORM APPLICATION FOR ORDER UNDER  
ORDER 7 RULE 48**

**(HEADINGS AS IN FORM 8)**

**APPLICATION**

APPLICATION will be made to the Supreme Court, Waigani at ... am at the... day of . . . 20

1. FOR AN ORDER:—

*(herein state order sought)*

(a)

(b) or such other order as the Court may make.

2. Affidavit in support of this Application is sworn by *(name)* on the *(date)*.

Dated:

Sgd \_\_\_\_\_

(Respondent or  
his Lawyer)

A.B. (Appellant) TAKE NOTICE:

If you or your lawyer do not appear to show cause why such orders should not be made, the Court may make orders in your absence.

O 8 r 3(f)

Form 12

**GENERAL FORM OF RESERVATION**

IN THE SUPREME COURT  
OF JUSTICE

SC Reservation No . . . of 20  
Reservation (pursuant to  
s 15 or 21 of the *Supreme  
Court Act* where applicable)

To be entitled as in proceedings  
from which question arose

**RESERVATION**

1. THIS RESERVATION is made for an opinion on *(the case or point of law)*.

2. THIS Reservation arises (state briefly such facts or pleadings as necessary and circumstances in which question arises).

3. State matters required by Order 8 rule 3(e).

4. THE QUESTION IS *(to be stated)*.

Dated:

Sgd: \_\_\_\_\_

Judge

NOTICE: (Form 18)

Form 13.—Reference

**GENERAL FORM OF REFERENCE  
(SUPREME COURT ACT SECTION 26)**

IN THE SUPREME COURT  
OF JUSTICE

SC Act R No of 20  
*(Insert year and number)*

Reference pursuant to  
section 26 of the  
*Supreme Court Act*

**REFERENCE**

- 1. THIS REFERENCE is made for an opinion on a point of law.
- \*2. THIS REFERENCE arises *(state briefly such facts as necessary and circumstances in which the question arose in the trial and name of person acquitted)*.
- 3. THE QUESTION IS *(to be stated)*.

Dated:

Sgd \_\_\_\_\_  
Principal Legal Adviser

FILED BY: (Form 17)

NOTICE:

This reference on a point of law does not affect the outcome of your trial and acquittal.  
 If you desire to present argument either in person or by your lawyer in the Supreme Court, you are to inform the Registrar within . . . days after service of this Reference upon you.  
 Address of the Registrar is Supreme Court, Waigani, NCD.  
 The Postal address is: P.O. Box 7018, BOROKO.  
 Telephone No: 257099.

NOTICE: (Form 18)

**GENERAL FORM NOTICE OF AMENDMENT  
OR WITHDRAWAL OF REFERENCE**

**(Heading as appropriate)**

**NOTICE**

- 1. This Reference is hereby *(state)* OR Pursuant to leave granted by *(state date of order)*.
- 2. *(Where applicable)* The Amendment is as follows:—  
*(Set out particulars)*

Dated:

Sgd \_\_\_\_\_  
(To be signed by Lawyer  
or person giving Notice)

FILED BY: (Form 17)

**GENERAL FORM NOTICE OF MOTION**

IN THE SUPREME COURT  
OF JUSTICE

SCM No of 20

A.B.  
Appellant  
C.D.  
Respondent

**NOTICE OF MOTION**

1. THE Appellant appeals from the whole (*or if from part specify part*) of the Order of (*specify National Court or National Court Judge*) given on (*specify day*) at (*place*).
2. GROUNDS (*specify each particular ground by paragraph*).
3. ORDER SOUGHT (*state what Order appellant seeks in lieu of order appealed from*).
4. ANNEXES are:—
  - (a) Copies of all documents before National Court in sequence.
  - (b) Certified copy of Order.
5. AFFIDAVIT in support of this Motion is sworn by (*name*) on the (*date*).

Dated:

Sgd \_\_\_\_\_  
(To be signed by appellant  
or his lawyer)

FILED BY: (Form 17)

NOTICE: (Form 18)

**GENERAL FORM OF APPEARANCE**

(Headings as applicable to proceedings)

**APPEARANCE**

TAKE NOTICE, I...enter an appearance on this appeal.

DATED:

Sgd \_\_\_\_\_  
(Respondent or his Lawyer)

FILED BY: (Form 17)

Form 17.—Address for Service

**GENERAL FORM OF ADDRESS FOR SERVICE**

FILED:	Name ( <i>Personal</i> )	Name	( <i>Lawyer</i> )
Address	(O 11 r 4(a)(ii))	Address	(O 11 r 4(a)(iv))

Address (Postal)  
Telephone Telephone

Address (Postal)

O 11 r 29

Form 18

---

**GENERAL FORM OF NOTICE OF HEARING  
NOTICE**

This (*state proceedings*) will be heard at the sittings of the Supreme Court, Waigani, commencing on the day of...Further details can be obtained from the registry.

Sgd \_\_\_\_\_  
Registrar

---



---

**SECOND SCHEDULE**

---

O 1 r 8(c)

Form 1

SC Appeal No of 20

**SUPREME COURT OF JUSTICE**

**NOTICE OF APPEAL AND OF APPLICATION FOR LEAVE TO APPEAL AGAINST A  
DECISION OF THE NATIONAL COURT**

1. NAME OF APPELLANT:.....  
(*Apil tauna ladana*) (*Nem bilong man ilaik apil*).
2. OFFENCE:.....  
(*Oi emu kerere*) (*Trabel bilong yu*).
3. DATE CONVICTED:.....  
(*Kerere dinana*) (*Dei bilong kalabusim yu*).
4. PLACE OF NATIONAL COURT SITTINGS:.....  
(*eg. Waigani, Chimbu, etc*)  
(*National kotaia heabigabuna*) (*Ples bilong nasinol kot isidaun*).
5. SENTENCE:.....  
(*Lagani*) (*Hamas kalabus yu kisim*).
6. DATE OF SENTENCES:.....  
(*Edena dina kota ia siaiaoilao dibura ruma*) (*Taim yu kisim kalabus*).
7. SET OUT THE REASON WHY YOU WANT TO APPEAL:  
(*Dahaka dainai oi ura apil, anina oi gwauraia*) (*Raitim wanem yu laik apil*)

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

I hereby give notice of appeal and notice of application for leave to appeal against the above decision on the grounds stated above.

Further grounds as may be considered necessary may be added to this Notice following legal advice being given to me.

DATED the . . . day of . . . 20..

TO: The Registrar  
Supreme Court  
PO Box 7018  
BOROKO

.....  
Appellant (*ladamu o I torea*)  
(*Raitim nem bilong yu*).

**APPLICATION FOR LEAVE TO REVIEW**

(Prisoner in person)

O 5 r 2

FORM 2

**APPLICATION FOR LEAVE TO REVIEW**

(Prisoner in Person)

You can appeal against conviction or sentence to the Supreme Court if you lodge your notice of appeal within 40 days of sentence. If you are too late to lodge an appeal, and if you wish to have the Supreme Court review your conviction or sentence you must apply to a Judge for leave.

(Pisin):

NAME OF APPLICANT:

CRIME FOR WHICH CONVICTED AND SENTENCED:

DATE OF CONVICTION:

DATE OF SENTENCE:

PLACE COURT SAT:

NAME OF JUDGE:

Do you wish the Supreme Court to review your conviction or sentence?

Why did you not lodge a Notice of Appeal within 40 days of your sentence?

Why did you not applying to the Court until now?

What do you want the Supreme Court to consider, your conviction or your sentence, or both?

Why do you say the Supreme Court should re-consider your case?

\_\_\_\_\_

Sign Your Name

Date:.....

TO: Registrar, Supreme Court, PO Box 7018, Boroko.

---

**THIRD SCHEDULE**

---

SCALE OF COSTS

(Election Petition Reviews)

**PART 1—PRE-TRIAL FEES**

ITEM

1. An allowance of up to K650.00 per hour:
  - a. Institution of proceedings;
  - b. Interlocutory proceedings;
  - c. Other Documents: Preparing (including where necessary filing, serving or delivering) any document;
  - d. Opinions and Conferences;
  - e. Attendances;
  - f. Preparation for Hearing.
2. Preparation of the Review Book K700.00

This is the preparation allowance, the original and all copies of documents are charged at K1.00 per page.

3. Letter & Phone calls
  - a. Letters Out – K75.00 (if faxed or e-mailed, add Telikom charges)
  - b. Letters In – K40.00 (if faxed or e-mailed, add Telikom charges)
  - c. Phone calls In and Out may be charged at the hourly rate and with Telikom charges – proof from Telikom for time spent must be produced.
4. Copy documents:

Photocopy, printed and carbon copies – all sizes K4.00 per page

**PART 2—LAWYER’S FEES**

Directions Hearing	K800.00
Any other application	K600.00

Appearing and arguing a Petition – First Day      K3,000.00  
2/3rd of first day for second day and  
subsequent days

Taking a deferred Judgment                              K600.00

Where the primary judge has certified the fees, costs and expenses of a second lawyer resident within the jurisdiction or for an overseas counsel – there shall be allowed the same amount as for the first lawyer

### **PART 3–LAWYER’S TRAVELLING EXPENSES**

1. Where a lawyer is required to travel from the town where he practices to appear as counsel in Court he shall be allowed reasonable travel and accommodation expenses.
2. Where the fees, costs and expenses of an overseas counsel are certified by the Court there shall be allowed return business class airfares to Brisbane (except where the airfare is for a lesser amount, or counsel is appearing in more than one matter during the same period) and reasonable hotel expenses.
3. Within the town of trial for Lawyers and Overseas Counsel for all attendances at the Court there is allowed a total of half an hour for the journey to and the journey back from the Court of K375.00 (i.e. half an hour is allowed at the hourly rate of K650.00).

### **PART 4–ALLOWANCES TO WITNESSES**

1. Villagers and others who give evidence at the trial of a Petition – K10.00 per day.
2. Where a person who gives evidence at a trial of a Petition is on salary or wages – the amount of salary or wages actually lost may be allowed at the taxing officer’s discretion.
3. Proof by affidavit that a salary or wages is actually earned by the witness, annexing proof of loss of salary or wages signed by the employer of the witness must be produced to the taxing officer.
4. Where a witness who gives evidence at a trial of the Petition does not reside in the town where he is required to give evidence, he shall be allowed such additional sum as is reasonable for travel expenses to and from that town by PMV or by sea and for accommodation and transport within that town – at the discretion of the taxing officer.
5. The allowance for transport within the town shall be the ordinary PMV cost. Where a witness stays with relatives or friends whilst attending the hearing of a petition a sum of K30.00 per day may be allowed at the discretion of the taxing officer.
6. A witness attending in more than one cause will be entitled to a proportionate part only in each cause.

### **PART 5–TAXATION OF COSTS**

#### **1. Taxation:**

Preparing bill of costs and copies and attending to lodge;  
attending taxation;  
vouching and completing bill, paying taxing fee and  
lodging for certificate or order                              K1,500.00

**2. Review:**

Preparing and filing notice of motion to review decision of Taxation officer; preparing and delivering objections or answers to objections, including copies for service and filing and considering opponent's answers on objections as the case may be; attending hearing of review

K1,500.00

---

**FOURTH SCHEDULE**

---

*General Schedule of Costs*

<b>ITEM</b>	<b>MATTER FOR WHICH CHARGE MAY BE MADE</b>	<b>CHARGE (K)</b>
1.	Preparing a Notice or Entry of Appearance	75.00
2	Preparing an Application or Notice of Motion	250.00
3	Preparing an Affidavit, having regard to the complexity of the matter and the circumstances of the case.	250.00–850.00
4.	Preparing Appeal Books, including collating all necessary material, attendances on the printer and general oversight of their preparation – lawyer – clerk	150.00 per hour 25.00 per hour
5.	Preparing any other document including an Application for Leave to Appeal, Notice of Appeal and Reference, having regard to all the circumstances of the case.	350.00–1,000.00
6.	Perusal of documents, having regard to the complexity of the document and the seniority of the lawyer or Counsel	150.00–450.00 per hour
7.	Preparing short letters	50.00
8.	Preparing ordinary letters	75.00
9.	Perusing short letters	25.00
10.	Perusing ordinary letters	50.00
11.	Printing or photocopying	4.00 per page
12	Attendance by telephone – Up to 10 minutes – Over 10 minutes	50.00 75.00
13.	Any attendance that is capable of being made by a clerk, such as at the Court Registry	50.00
14.	Any attendance that requires the attendance of a lawyer, including attendance for inspection of documents, and having regard to the complexity of the matter and the seniority of the lawyer	150.00–450.00 per hour.
15.	Appearance in Court, depending on the complexity of the matter and the seniority of the lawyer, and excluding waiting time	150.00–450.00 per hour, but not to exceed 3,000.00 per day
16.	Attendance at Court for waiting time	150.00 per hour but not to exceed 850.00 per day.
17.	Appearance at Court to receive Judgment	150.00–450.00
18.	Where a lawyer is required to travel from the town where he practices to appear in Court, he shall be allowed return airfares to attend the Court, together with reasonable hotel expenses and a reasonable allowance for transport within the town of trial.	
19.	A lawyer may incur an amount for Counsel's fees where it is proper to do so, and where the fee appears to be fair and reasonable having regard to the circumstances of the case and the seniority of Counsel. The fees incurred may be claimed as a disbursement. The fees for Overseas Counsel are only recoverable in accordance with Rule 29(2).	

20.	<p>If the case or circumstances warrant it, an allowance may be claimed under this item in addition to any other item that appears in this schedule, for general care and conduct, having regard to:</p> <p>(a) the complexity of the matter and the difficulty or novelty of questions raised;</p> <p>(b) the importance of the matter to the party and the amount involved;</p> <p>(c) the skill, labour, specialized knowledge and the responsibility involved in the matter on the part of the lawyer;</p> <p>(d) the number and importance of the documents prepared or perused, but without regard to length;</p> <p>(e) the time taken by the lawyer;</p> <p>(f) research and consideration of questions of law and fact.</p>	150.00–450.00 per hour
21.	Allowance for professional witnesses called because of their professional, scientific or other special skill or knowledge.	Not more than 350.00 per hour and not to exceed 1,500.00 per day
22.	Other witnesses	The amount of salary or wages actually lost but not more than 50.00 per hour and not to exceed 400.00 per day.
23.	All Court fees	To the extent to which they have been properly incurred and paid.
24.	<p>Preparing bill of costs and attendance on taxation of Costs</p> <p>– Lawyer, depending on the complexity of the matter</p> <p>– Clerk</p>	<p>150.00–350.00 per hour</p> <p>25.00 per hour.</p>

**PART 2 —**

***BILL OF COSTS***

***IN THE SUPREME COURT*** )  
OF JUSTICE AT (*insert place of Court*) )  
PAPUA NEW GUINEA )

(*insert appropriate*) SC No of 20

BETWEEN:

(*insert name*)

Appellant/Applicant

AND:

(*insert name*)

Respondent

**THE** (*insert title of party entitled to costs*) **BILL OF COSTS TO BE TAXED AND PAID BY THE** (*insert title of party liable to pay costs*) **ON A** (*insert party/party, solicitor/client, indemnity, etc*) **BASIS PURSUANT TO** (*insert applicable Rule or Court Order*)

I appoint am/pm on the day of

20 at the Registrar’s Chambers in the Supreme

Court House (*insert place*) to be the time for hearing of the within taxation of the Bill of Costs

(*insert front sheet requirement for name of lawyers and details*)

IN THE SUPREME COURT ) (*insert appropriate*) SC file No of 20 )  
OF JUSTICE AT (*insert place of Court*) )  
PAPUA NEW GUINEA )

BETWEEN:

(*insert name*)



Appellant/Applicant

AND:

*(insert name)*

Respondent

THE .....BILL OF COSTS TO BE TAXED AND PAID BY THE.....ON A  
.....BASIS PURSUANT TO

.....

						Taxed off
No of Item	Date	Item	Disbursements	Charges	Disbursements	Charges
		PREPARATION OF DOCUMENTS				
1.		<i>(insert description of document)</i>				
2.						
3.						
4.						
		PERUSAL OF DOCUMENTS				
5.		<i>(insert description of documents)</i>				
		PREPARATION OF HEARING				
6.		<i>(insert particulars of research etc)</i>				
		COURT APPEARANCES				
7.		<i>(insert particulars of appearances)</i>				
		PREPARATION OF CORRESPONDENCE				
8.		<i>(insert number of short letters)</i>				
9.		<i>(insert number of ordinary letters)</i>				
		PERUSAL OF CORRESPONDENCE				
10.		<i>(insert number of short letters)</i>				
11.		<i>(insert number of</i>				

		<i>ordinary letters)</i>				
--	--	--------------------------	--	--	--	--

		ATTENDANCES				
12.		By telephone –  Up to 10 minutes – <i>insert number and particulars</i> Over 10 minutes – <i>(insert number and particulars)</i> .				
13.		In person –  – Attendances capable of being made by a Clerk – <i>(insert particulars)</i>  – Attendances requiring lawyer – <i>(insert particulars)</i> .				
		OUT OF TOWN LAWYERS – EXPENSES				
14.		<i>(insert particular of airfares, accommodation and transport)</i> .				
		OVERSEAS COUNSEL				
15.		<i>(insert particular of Certification by Judge or Court)</i> .				
		ADDITIONAL ALLOWANCE				
16.		<i>(insert particulars of special case or circumstances)</i> .				
		WITNESSES				
17.		Professional witnesses <i>insert particulars</i> ).  Other witnesses – <i>(insert particulars)</i> .				
		COURT FEES				
18.		<i>(insert particulars)</i> .				

		TAXATION OF COSTS				
19.		<p>Preparing Bill of Costs and attendance on Taxation of Costs.</p> <p>– Lawyer (<i>insert particulars</i>)</p> <p>– Clerk (<i>insert particulars</i>)</p>				
		TOTAL:				
		CERTIFICATE				
20.		<p>I have checked the within Bill of Costs and verify that it is correct.</p> <p>Attached hereto or filed with it are legible copies of receipts for significant disbursements.</p> <p>Dated this    day of 20.....</p> <p><i>(insert name of lawyer and firm of lawyers).</i></p>				