

Order 2

Administration and General Procedure

1. (1) Any reference in these Rules to an address for service means a physical or postal address within the Federal Republic of Nigeria, including an electronic mail address, a facsimile number and GSM Telephone number or any other available mode of communication, where notices and other processes not required to be served personally may be left, sent, posted or transmitted.

(2) Where any notice or other process is required under these Rules to have an address for service endorsed on it, it shall not be deemed to have been properly filed unless such address has been endorsed on it.

(3) Where any person has given an address for service of any notice or other process not required to be served personally under these Rules, it shall be sufficiently served upon him, if-
 - (a) left at the address given;
 - (b) sent by registered post to the address given; or
 - (c) transmitted by electronic means to the electronic mail address, facsimile number, GSM telephone number or other electronic mode of communication.
(4) Upon service of any notice or process of Court, the Bailiff shall file an affidavit of service, which shall be filed in the Court's file.

(5) Any person desiring to change his address for service shall give notice of the new address to the Registrar and all other parties."
2. Where any person has given the address of a legal practitioner as his address for service and the legal practitioner is not or has ceased to be instructed by him for the purpose of the proceedings concerned, it shall be the duty of the legal practitioner to inform the Registrar as soon as may be that he is not or no longer authorised to accept service on behalf of such person, and if he omits to do so he may be ordered to pay any costs occasioned thereby.
3. (1) Except as may be otherwise provided in these Rules or in any other written law, no notice or other written communication in proceedings in the original or appellate jurisdiction of the Court, need be served personally except –

(a) In proceedings in the original jurisdiction of the Court, the writ of summons or other documents issued by the Court for the institution of the proceedings; and

(b) In proceedings in the appellate jurisdiction of the Court, the notice of appeal: Provided that if the Court is satisfied that the notice of appeal has in fact been served in the manner prescribed by sub-rule

(2) Of this Rule, and communicated to the respondent, no objection to the hearing of the appeal shall lie on the ground only that the notice of appeal was not served personally.

(2) Where any document is required by these rules to be served personally, it shall be sufficiently served if it is served in the manner prescribed by law for the personal service of a writ of summons issued by the Federal High Court and if it appears to the Court that for any reason personal service cannot be conveniently effected, the Court shall have the same power as that High Court to direct that service be effected in some other way.

4. The Registrar of the court below shall, after the notice of appeal has been filed, cause to be served a true copy thereof upon each of the parties mentioned in the notice of appeal, it shall not be necessary to serve any party not directly affected: Provided that in criminal cases, service on the Attorney-General of the Federation or on the Attorney-General of a State (as the case may require) shall be deemed to be good and sufficient service on the respondent in a criminal appeal other than an appeal in a private prosecution.

5. (1) Every person who by virtue of service on him of a notice of appeal becomes a respondent to any appeal or intended appeal shall within thirty days of service on him of the notice of appeal file with the Registrar of the court below notice of a full and sufficient address for service in such number of copies as the said Registrar shall require and the Registrar of the court below shall forthwith send a copy of the notice of address to the Registrar and shall cause a copy thereof to be served on the appellant.

(2) Such notice may be signed by the respondent or the legal practitioner representing him.

(3) If any respondent fails or omits to file such notice of address for service, then delivery of any document or proceedings at the address shown in the notice of appeal shall be deemed to be good and proper service on him.

(4) Any party to an appeal or intended appeal may change his address for service at any time by filing and serving on all other parties to the appeal or intended appeal notice of such change.

6. Where a Minister or Commissioner or the Attorney-General or the Director of Public Prosecutions or other like functionary of a Government is a party ex-officio or is representing the Federal Government or a State Government, as the case may be, in any proceedings in the Court, whether civil or criminal, service of any notice or other document shall be deemed to be sufficiently and duly served if it is delivered (as the case may require) to the Attorney-General of the Federation in his office or the Attorney-General of the appropriate State capital or through the Liaison Office of the State Government in Lagos.

7. (1) where any person out of the jurisdiction is a necessary or proper party to an action commenced in the original jurisdiction of the Court and properly brought against some other person duly served within the jurisdiction, the Court may allow service of a summons out of the jurisdiction.

(2) Every application for an order for leave to serve a summons on a defendant out of the jurisdiction shall be supported by evidence by affidavit or otherwise showing in what place or country such defendant is or probably may be found, and the grounds upon which the application is made.

(3) Any order giving leave to effect service out of the jurisdiction shall prescribe the mode of service, and shall limit a time after such service within which such defendant is to enter appearance, such time to depend on the place or country where or within which the summons is to be served, and the Court may receive

an affidavit or statutory declaration of such service having been effected as prima facie evidence thereof.

8. Notices of Appeal, Applications for leave to appeal Briefs and all other documents whatsoever prepared in pursuance of the appellate jurisdiction of the Court for filing in accordance with the provisions of these Rules, shall reflect the same title as that which obtained in the Court of Trial
9. (1) A respondent intending to rely upon preliminary objection to the hearing of the appeal shall give the appellant three clear days notice thereof before the hearing, setting out the grounds of objection, and shall file such notice together with ten copies thereof with the Registrar within the same time.
(2) If the respondent fails to comply with the rule the Court may refuse to entertain the objection or may adjourn the hearing thereof at the cost of the respondent or may make such other order as it thinks fit.
(3) No objection shall be taken to the hearing of an appeal on the ground that the amounts by the Registrar of the court below under Rule 3(1) of Order 7 were incorrectly assessed.
10. At any time before hearing of the appeal any party to the appeal may file a declaration in writing that he does not wish to be present in person or represented by a legal practitioner on the hearing of the appeal, and he shall serve a copy of such declaration upon every other party who has filed as address for service and thereupon the appeal shall be dealt with as if the party had appeared.
11. (1) Subject to the provisions of these Rules, if the appellant fails to appear when his appeal is called on for hearing the appeal may be dismissed with or without costs as the case may be and if the respondent fails to appear the Court may proceed to hear the appeal ex parte
(2) When an appeal has been dismissed under this Rule, the Court may, in civil proceedings on such terms as to costs or other as it may deem just, direct the appeal to be re-entered for hearing.

(3) Where an appeal has been heard ex parte under this Rule and any judgment has been given therein adverse to the respondent, he may apply to the Court and the Court may, in civil proceedings, set aside such judgment and rehear the appeal.

(4) No application to set aside and rehear under this rule shall be made after the expiration of twenty-one days from the date of the judgment sought to be set aside:

Provided that a respondent who has failed within the aforesaid period to make application under this rule may, nevertheless at any time within a further period of three months thereafter, apply to the Court on notice to the appellant to set aside such judgment, and the court may, where exceptional circumstance is shown, grant the application and make such order in relation thereto or as to costs as it may deem fit in the circumstances.

(5) Any application under sub rules (3) and (4) of this Rule shall be motion accompanied by an affidavit setting forth the reasons and grounds for the application and a brief of argument filed simultaneously. The court may acting under sub rule (3) of this Rule set aside the judgment and order the appeal to be reheard at such time and upon such conditions as to costs or otherwise as it may think fit.

12. (1) A party who wishes the Court to receive the evidence of witnesses (whether they were or were not called at the trial) or to order the production of any document, exhibit or other thing connected with the proceedings in accordance with the provisions of section 33 of the Act, shall apply for leave on notice of motion prior to the date set down for the hearing of the appeal.

(2) The application shall be supported by affidavit of the facts on which the party relies for making it and of the nature of the evidence or the document concerned.

(3) It shall not be necessary for the other party to answer the additional evidence intended to be called but if leave is granted the other party shall be entitled to a reasonable opportunity to give his own evidence in reply if he so wishes.

13. (1) Subject to the provisions of these Rules, the fees set out in the Second Schedule hereto shall be payable in respect of the matters to which they relate and shall be paid to the Registrar of the court below or of the court, as the case may be.

(2) No fee shall be payable in respect of any matter where such fee would be payable by the government of the Federation or of a State, or any Government Department:

Provided that when any person is ordered to pay the Costs of the Government of the Federation or of a State or of any Government Department in any case, all fees which would have been payable but for the provisions of this paragraph, shall be taken as having been paid and shall be recoverable from such person.

14. (1) any party may apply to the Court for leave to prosecute or defend an appeal as a poor person and such application shall be by notice of motion, supported by affidavit, and shall be served on the other parties to the proceedings. No fees shall be payable on filing any such application.

(2) No party shall be permitted to proceed as a poor person unless he satisfies the Court that he has a reasonable probability of success.

(3) A person permitted to proceed as a poor person shall not be liable to pay any of the Court fees prescribed by these Rules nor shall he be required to make the deposit or to give security for costs.

(4) Where the Court grants leave to a party under this Rule, the Chief Justice shall assign a legal practitioner to that party.

(5) The Court may for good cause shown review, rescind or vary an order permitting any person to proceed as a poor person.

(6) The Court below or the Court may, on account of the poverty of any party (although such party may not have been formally permitted to proceed as a poor person under this Rule) or for other sufficient reason, dispense, if it sees fit, with payment of any fees, if the circumstances of the case so require:

Provided that if such party succeeds in any appeal which results in an order for payment to him of any costs, the Court may order that such fees shall be a first charge on any moneys recovered or to be recovered under such order.

(7) No fee shall be payable by an appellant in capital cases or where an appellant is granted legal aid.

15. (1) Except when otherwise expressly provided, all documents and processes shall be filed in the Registry of the Court in Lagos:

Provided that whilst the Court is sitting in any place other than Lagos, any documents or processes in connection with any matter to be dealt with at such sessions may be filed with the Registrar of the Court at such place.

(2) A document may be filed in the Registry of the Court either by being delivered by the party or the legal practitioner representing him or his agent in person or by being sent there by registered post.

16. The Registry of the Court shall, subject to the directions of the Chief Justice, be open every day in the year from eight O'clock in the forenoon to one o'clock in the afternoon except :

(a) On Sundays or on any day declared in Lagos as a public holiday by virtue of the Public Holidays Act; or

(b) On Saturdays when the Registry shall be open to the public from eight O'clock to eleven O'clock in the forenoon.

17. Sessions of the Court shall be convened and constituted and the time, venue and forum for all sessions and for hearing interlocutory applications shall be settled in accordance with directions to be given by the Chief justice.

18. The sitting of the Court and the matters to be disposed of at such sittings shall be advertised and notified in the Federal Gazette before the date set down for hearing of the appeal:

Provided that the Court may in its discretion hear any appeal and deal with any other matter whether or not the same has been so advertised.

19. The Court may at any time on application or of its own accord adjourn any proceedings pending before it from time to time and from place to place.
20. The Chief Registrar shall have the custody of the records of the Court and shall exercise such other functions as are assigned to him by these Rules.
21. The Chief Registrar may assign, and the Chief Registrar may, with the approval of the Chief Justice, delegate to any Registrar of the Court any functions required by these Rules to be exercised by the Chief Registrar.
22. (1) Subject to the provisions of this Rule, the Seal of the Court and any duplicate thereof shall be kept in the custody of the Chief Registrar, and except as the Chief Justice may otherwise direct shall not be affixed to any writ, rule, order or other process or to any document without the express authority of the Chief Registrar.
(2) If at any time a session of the Court is held outside Lagos, a duplicate of the Seal of the Court may, on the instructions of the Chief Justice, be entrusted and kept in the custody of a Registrar of the Court for the purpose of that session and may be used for such purposes in accordance with any directions given by the Chief Justice or by the Justice presiding at that session.
23. Except as may be otherwise provided in the Constitution or in any other enactment, the Chief Registrar shall have such powers and duties as are given him by these Rules or such further powers and duties as the Chief Justice may direct.
24. (1) The Registrar shall keep –
 - (a) A Criminal Appeal Book;
 - (b) A Civil Appeal Book; and
 - (c) A Civil Record Book, each of which shall contain an index in alphabetical order.
(2) The following particulars shall be entered in the Criminal appeal Book, and the Civil Appeal Book –
 - (a) The number of the appeal;

- (b) The names of the appellant and respondent;
- (c) The court from which the appeal is brought;
- (d) The date and place of hearing of the appeal;
- (e) The names of counsel;
- (f) The subject matter of the appeal;
- (g) The judgment of the Court;
- (h) Any subsequent proceedings and remarks.

(3) The following particulars shall be entered in the Civil Record Book -

- (a) The number of the application;
- (b) The names of the parties;
- (c) The date and place of hearing of the case;
- (d) The names of counsel;
- (e) The subject matter of the application;
- (f) The judgment of the Court;
- (g) Any subsequent proceedings and remarks.

25. As soon as the notice of appeal is filed or an application for the exercise by the Court of its original jurisdiction is made to the Court, the Registrar shall prepare a file in which pleadings or documents relating to the appeal or case shall be filed and on the front page thereof shall be recorded particulars of such pleadings or documents and the dates on which they are received.
26. Any person aggrieved by anything done or directed to be done by the Registrar other than anything ordered or done by the direction of the Chief Justice may apply to the Chief Justice to have the act, or direction complained of cancelled or varied and the Chief Justice may give such directions as he thinks fit.
27. The forms set out in these Rules, or forms as near thereto as circumstances permit, shall be used in all cases to which such forms are applicable.
28. (1) Every application to the Court shall be by notice of motion supported by affidavit. It shall state the rule under which it is brought and the ground for the relief sought.

(2) Any application to the Court for leave to appeal (other than an application made after the expiration of time for appealing) shall be by notice of motion which shall be served on the party or parties affected.

(3) Where an application has been refused by the Court below, an application for a similar purpose may be made to the Court within fifteen days after the date of the refusal.

(4) Wherever under these Rules an application may be made either to the Court it shall not be made in the first instance to the Court except where there are exceptional circumstances which make it impossible or impracticable to apply to the court below.

(5) If leave to appeal is granted by the Court under these Rules or by the court below the appellant shall file a notice of appeal.

29. (1) An application to strike out or set aside for non-compliance with these Rules, or for any other irregularity arising from the rules of practice and procedure in this Court, any proceedings or any step taken in any proceedings or any document, judgment or order therein shall only be entertained by the Court if it is made within a reasonable time and before the party applying has taken any fresh step after becoming aware of the irregularity.

(2) An application under this rule may be made by motion and the grounds of objection must be stated therein.

30. An appeal shall be deemed to have been brought when the notice of appeal has been filed in the Registry of the court below.

31. (1) The Court may enlarge the time provided by these Rules for the doing of anything to which these Rules apply, or may direct a departure from these Rules in any other way when this is required in the interest of justice.

(2) Every application for an enlargement of time in which to appeal or in which to apply for leave to appeal shall be supported by an affidavit setting forth good and substantial reasons for the failure to appeal or to apply for leave to appeal

within the prescribed period. There shall be exhibited or annexed to such affidavit

(a) A copy of the judgment from which it is intended to appeal;

(b) A copy of other proceedings necessary to support the complaints against the judgment; and

(c) Grounds of appeal which prima facie show good cause why the appeal should be heard.

(3) When time is so enlarged a copy of the order granting such enlargement of time shall be annexed to the Notice of Appeal.

32. Where, in an appeal to the Court from the court below, the court below has affirmed the findings of fact of the court of first instance, any application to the Court in pursuance of its jurisdiction under section 213

(3) Of the Constitution for leave to appeal shall be granted only in exceptional circumstances.

33. Where in any proceedings or at any stage of the hearing of any cause or matter, a question arises concerning the validity or constitutionality of any enactment or other law, the Court may, if it considers that it is necessary and expedient so to do, invite the Attorney-General of the Federation, the Attorney-General of the appropriate State or any other legal practitioner to attend the hearing of such cause or matter for the purpose of presenting arguments on such issues of validity or constitutionality.

34. Except as otherwise stated in this Order, or the context so implies, this Order shall apply to all matters whether civil or criminal.

35. (1) There shall be constituted a body to be known as the Rules of Court Advisory Committee comprising –

(a) Four justices, one of whom shall be Chairman of the Committee;

(b) Two members each of the inner and outer Bar; whom the Chief Justice may in his discretion appoint.

(2) It shall be the duty of the Committee to advise the Chief Justice from time to time, in the exercise of the powers conferred upon him by the Constitution or by or under any law to make rules for regulating or making provision with respect to practice and procedure in the Court.

(3) Every member of the Committee shall remain a member thereof for such period as the Chief Justice may in his discretion prescribe, either at the time of the appointment of the member or at any time thereafter.

Original Jurisdiction.