

(MY) RULES OF THE COURT OF APPEAL 1994 (P.U.(A) 524/1994)

Unannotated Statutes of Malaysia - Subsidiary Legislations

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IN exercise of the powers conferred by [section 17](#) of the Courts of Judicature Act 1964 [Act 91] and with the consent of the Chief Justice, the Rules Committee makes the following rules:

CHAPTER ONE PRELIMINARY AND GENERAL1. Citation and commencement.

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

1A. Court or Judge shall have regard to justice.

In administering any of the Rules herein, the Court or a Judge shall have regard to the justice of the particular case and not only to the technical non-compliance of any of the rules herein.

2. Interpretation.

In these Rules, unless the context otherwise requires—

“**appeal**”

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includes an application to the Court for a new trial or to set aside a judgment after trial;

“appellant”

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

“Court”

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

“file”

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

“Government”

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means the Government of Malaysia and the Government of a State, as circumstances may require;

“High Court”

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in relation to any appeal, civil or criminal, means the High Court against the decision of which an appeal is brought or intended to be brought;

“Judge”

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means a Judge of the Court of Appeal;

“mechanical means”

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includes any equipment, device, apparatus or medium operated digitally, electronically, magnetically or mechanically;

“public holiday”

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

“Public Prosecutor”

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means the Attorney General of Malaysia and includes a Deputy Public Prosecutor;

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“Registrar”

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

“Registry”

--

means the Registry of the Court of Appeal at Putrajaya;

“Registry of the High Court”

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in relation to any particular appeal, means the Registry of the High Court against the decision of which the said appeal is brought or proposed to be brought and where such Registry comprises more than one branch registry (by whatever name called) means the branch registry in which the proceedings in question of the said High Court have been held immediately prior to the giving of notice of appeal;

“solicitor”

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means—

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

3. Rules of the Court of Appeal 1994.

These Rules shall apply so far as they are applicable thereto to every proceeding in the Court of Appeal commenced on or after the coming into force of these Rules.

3A. Preliminary objection on the ground of non-compliance shall not be allowed.

A Court or Judge shall not allow any preliminary objection by any party only on the ground of non-compliance of any of these Rules unless the Court or Judge is of the opinion that such non-compliance has occasioned a substantial miscarriage of justice.

4. Application of Rules of Court 2012.

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

CHAPTER TWO CIVIL APPEALS PART I Appeals 5. Appeal to be by re-hearing on notice.

(1) Appeals to the Court shall be by way of re-hearing and shall be brought by giving notice of appeal.

(2) Security for costs shall be given as provided in rule 17.

(3) A notice of appeal shall substantially be in Form 1 in the First Schedule.

(4) Any appellant may appeal from the whole or part of a judgment or order and the notice of appeal shall state whether the whole or part only, and what part, of the judgment or order is complained of.

6. Service of notice of appeal.

Notice of appeal shall be served on all parties directly affected by the appeal or their solicitors respectively within

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the time limited for the filing of the notice of appeal. It shall not be necessary to serve parties not so affected.

7. Power of Court to amend, admit further evidence, or draw inferences of fact.

(1) The Court shall have all the powers and duties, as to amendment or otherwise, of the appropriate High Court, together with full discretionary power to receive further evidence by oral examination in Court, by affidavit, or by deposition taken before an examiner or Commissioner.

(2) Such further evidence may be given without leave on interlocutory applications, or in any case as to matters which have occurred after the date of the decision from which the appeal is brought.

(3) Upon appeals from a judgment, after trial or hearing of any cause or matter upon the merits, such further evidence, save as to matters subsequent as aforesaid, shall be admitted on special grounds only, and not without leave of the Court.

(3A)

At the hearing of the appeal further evidence shall not be admitted unless the Court is satisfied that—

(a) at the hearing before the High Court or the subordinate court, as the case may be, the new evidence was not available to the party seeking to use it, or that reasonable diligence would not have made it so available; and

(b) the new evidence, if true, would have had or would have been likely to have had a determining influence upon the decision of the High Court or the subordinate court, as the case may be”.

(4) The Court may draw inferences of fact, and give any judgment, and make any order which ought to have been given or made, and make such further or other orders as the case requires.

(5) The powers aforesaid may be exercised notwithstanding that the notice of appeal relates only to part of the decision, and such powers may also be exercised in favour of all or any of the respondents or parties, although such respondents or parties have not appealed from or complained of the decision.

PART II *Notice and Memorandum of Appeal* 8. Notice of cross-appeal.

(1) It shall not be necessary for a respondent to give notice of appeal, but if a respondent intends, upon the hearing of the appeal, to contend that the decision of the High Court should be varied, he may, at any time after entry of the appeal and not more than ten days after the service on him of the record of appeal, give notice of cross-appeal specifying the grounds thereof, to the appellant and any other party who may be affected by such notice, and shall file within the like period a copy of such notice, accompanied by copies thereof for the use of each of the Judges of the Court.

(2) Notice of cross-appeal shall be substantially in Form 2 in the First Schedule.

(3) If the respondent fails to give such notice within the time prescribed, he shall not be allowed, except by leave of the Court, to contend on the hearing of the appeal that the decision of the High Court should be varied; but the Court may in its discretion hear any such contention and may, if it thinks fit, impose terms as to costs, adjournment or otherwise.

9. Withdrawal of notice.

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

(2) One copy of such notice shall at the same time be sent by the appellant to the Registry of the High Court, and one copy shall be sent to the Registrar of the Court at Putrajaya.

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

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

10. Notice of appeal by respondent where notice of appeal withdrawn or appeal not entered.

Where an appeal is withdrawn under rule 9, or where an appeal of which notice has been given is not entered

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within the time limited, any respondent who has not given notice of cross-appeal may give notice of appeal and proceed therewith in the manner prescribed by the foregoing rules; but in any such case the times limited for giving notice of appeal, entering the appeal, furnishing security for costs, and filing and serving the record of appeal may, on application to the Court or if the appeal has not been entered, to a Judge of the High Court, be extended so far as is reasonably necessary in all the circumstances of the case.

11. Interlocutory order not to prejudice appeal.

No interlocutory order, from which there has been no separate appeal, shall operate to prevent the Court from giving such decision upon the appeal as is just.

12. Time limit for appeal.

No appeal shall, except by leave of the Court, be brought after the expiration of thirty days—

- (a) in the case of an appeal from an order in Chambers, from the date when such order was pronounced at the hearing;
- (b) in the case of an appeal against the refusal of an application, from the date of such refusal;
- (c) in all other cases, from the date on which the judgment or order appealed against was pronounced.

13. Stay of proceedings on appeal.

An appeal shall not operate as a stay of execution or of proceedings under the decision appealed from unless the High Court or the Court so orders and no intermediate act or proceeding shall be invalidated except so far as the Court may direct.

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

Except as otherwise provided by any written law, whenever application may be made either to the High Court or to the Court, it shall be made in the first instance to the High Court.

15. Interest.

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

16. Leave to appeal.

Where leave of the Court of Appeal is required, the application for such leave may be made to the Court before expiration of the time limited for bringing the appeal or within such enlarged time as the Court may allow.

17. Entry of appeal.

(1) Notice of appeal may be given by filing within the time limited for bringing the appeal four copies of the notice of appeal in the Registry of the High Court at the place where the judgment, order or decision complained of was made or given by paying the prescribed fee.

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

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

(2) The appellant shall, on the date of filing the notice of appeal in the Registry of the High Court, send by registered post one copy of the notice of appeal to the Registry.

(3) A list of appeals of which notice has been filed herein shall be kept in each Registry of each High Court and a consolidated list thereof shall be kept by the Registrar at Putrajaya.

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(4) The Registrar of the High Court shall on receiving four copies of the notice of appeal and the prescribed fee and on the security required by subrule (1) being lodged in Court enter the appeal in the list of appeals, stating therein the title of the cause or matter, the name of the appellant and his solicitors, if any, and the date of such entry, and shall inform the Registrar at Putrajaya of such entry.

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

18. Memorandum of appeal.

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

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

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

(4) The appellant shall attach to such memorandum copies of the proceedings in the High Court, including—

- (a) copies of the documents in the nature of pleadings, so far as is necessary for showing the matter decided and the nature of the appeal;
- (b) a copy of the Judge's notes of the hearing of the cause or matter in which the decision appealed against was given which may be recorded wholly or partly by mechanical means;
- (c) copies of all affidavits read and of all documents put in evidence in the High Court so far as they are material for the purposes of the appeal, and subject to rule 101 if such documents are not in the national language, copies of certified translations thereof;
- (d) a copy of the judgment, decree or order appealed from;
- (e) a copy of the written judgment or grounds of decision of the Judge, or a copy of the agreed notes of judgment as prepared by the parties and approved by the Judge, if such written judgment, grounds of decision or agreed notes as approved is made available within the time limited for filing the record of appeal; and
- (f) a copy of the notice of appeal.

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

(6) A draft index of the documents to be included in the record of appeal shall be sent by the appellant's solicitors to the solicitors for the respondent who or (if more than one) any of whom may within forty-eight hours object to the inclusion or exclusion of any document. In the event of the parties being unable to agree, the matter shall be referred to the Registrar of the High Court who may require the parties to attend before a Judge of the said Court. The Registrar of the High Court as well as the parties shall endeavour to exclude from the record all documents (more particularly such as are merely formal) that are not relevant to the subject matter of the appeal taking special care to avoid the duplication of documents and unnecessary repetition of headings and other merely formal parts of documents. Where in the course of preparation of the record one party objects to the inclusion of a document on the ground that it is unnecessary or irrelevant and the other party nevertheless insists on its being included, the record, as finally printed or typed shall, with a view to the subsequent adjustment of the costs of and incidental to such documents, indicate, in the index of papers, or otherwise, the fact that, and the party by whom, the inclusion of the document was objected to.

(7) The memorandum and copies referred to in subrule (4), which together shall be called the record of appeal, shall be filed at the Registry within ninety days from the date on which the decision appealed against was given.

(7A) Notwithstanding subrule (7), if any copy of the documents specified in paragraph (4)(b), (d) or (e) is not available within ninety days from the date on which the decision appealed against was given, the appellant shall file the copy of the documents together with the memorandum of appeal as supplementary records of appeal within three weeks of being notified of its availability.

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(7B) Notwithstanding subrules (7) and (7A), if any copy of the documents specified in paragraph (4)(b) or (e) is not available after ninety days from the date on which the decision appealed against was given, the court may order the appellant to proceed with his appeal.

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

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

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

19. Failure to file record.

(1) Where an appellant omits to comply with rule 18 any respondent who has given notice of cross-appeal may proceed with his cross-appeal.

(2) In any such case the respondent shall, as soon as practicable, or within such time as may be allowed by the Court, file a record of appeal, as is prescribed by rule 18, together with copies thereof for the use of the Judges of the Court, and shall serve copies thereof on the appellant and any other parties to the appeal.

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

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

21. Amendments.

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

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

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

22. Urgent appeals.

Any party filing a notice of appeal may in the case of urgency apply in writing to the President who, if satisfied that it is a proper case for an urgent hearing, may order the appeal to be heard at such time convenient to the Court. On such order the party applying shall file copies of the papers lodged in the High Court and his grounds of appeal.

23. Appellant not appearing.

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

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

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

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

24. Pronouncement of judgment.

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

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

25. Certificate of grounds of judgment.

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

26. Poor persons.

(Deleted by P.U.(A) 26/2018)

PART III *Application* 27. Applications to Court.

(1) All applications to the Court shall unless otherwise provided be made by motion and shall be heard in open court.

(2) A notice of motion shall be substantially in Form 4 in the First Schedule and must be supported by an affidavit.

(3) Notice of motion shall be served on the parties concerned not less than seven days before the return day, unless the Court otherwise orders. Applications for leave to give shorter notice may be made by motion *ex parte*.

(4) Affidavits may be filed, read and used in like manner as provided in the Rules of Court 2012.

28. Applications.

(1) All applications to the Court in pending appeals shall contain in the heading the appeal number allocated pursuant to rule 17 and shall not require any application number.

(2) All applications to the Court (otherwise than in pending appeals) shall be allocated a number by the Registrar.

(3) All applications shall be made by filing seven copies of the notice of motion and of every affidavit intended to be used in support thereof, unless the application is made to a single Judge of the Court in which case two copies only need be filed. The said documents shall be filed in the Registry of the Court and a copy filed in the Registry of the High Court at the place where the judgment, order or decision complained of was given or made. Copies of such application and affidavits shall at the same time be served on all necessary parties. The Registrar shall follow a procedure similar so far as possible to the procedure relating to the entry of appeals. On receipt from the Registrar of information regarding the number of the application and in cases coming within subrule (4) or (5) the place and date of hearing, the applicant's solicitor shall immediately inform the respondents to the application or their solicitors.

(4) At the time of filing any application the appellant's solicitor may file a written statement to the effect that the application is urgent and showing the grounds of such urgency and that the respondents have agreed to the application being heard by the Court at Putrajaya (or at such other place as may be agreed) or if they have not agreed, that he has requested them to do so and that they have refused. Whereupon the Registrar of the Court if he considers that a *prima facie* case of urgency has been made out shall call upon the respondents to attend and show cause why the application should not be heard in Putrajaya or some other place and shall transmit the applicant's statement and the replies of the respondents to the President who may fix the date and place for hearing the application but may require the applicant to give security for the respondent's costs of the application.

28A. Application for leave to appeal.

(1) All application for leave to appeal to the Court shall be made by motion and filed with the Registrar.

(2) An affidavit in support of an application for leave to appeal shall contain the following matters:

- (i) the court in which the suit or proceeding originated;
- (ii) a brief description of the action or other proceeding;
- (iii) the date of and a brief description of the order made by the court of first instance;
- (iv) if the proceedings originated in a subordinate court, then the date of and a brief description of the order made by the High Court; and
- (v) a brief statement of the grounds upon which the applicant relies in seeking the leave to appeal.

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- (3) Without prejudice to subrule (2), an affidavit in support of an application for leave to appeal may contain any other matter which is necessary and relevant to the application.
- (4) Where leave to appeal is granted the appellant shall file—
 - (a) notice of appeal within a period of fourteen days from the date the leave to appeal is granted; and
 - (b) the memorandum and copies of the documents specified in subrule 18(4), at the Registry within ninety days from the date on which leave to appeal was granted or within such further time as the court may allow.
- (5) Where leave to appeal is granted the court may—
 - (a) give the respondent leave to file a cross-appeal at any time after the entry of the appeal but not later than ten days after the service on him of the record of appeal;
 - (b) determine the questions or issues which ought to be heard in the appeal; and
 - (c) give such other directions in the matter as the justice of the case may require.

28B. Application to review Court's order.

- (1) Where the Court of Appeal is the apex court, parties may file an application for leave to review the decision of refusing leave to appeal.
- (2) All application for review of the decision of refusing leave to appeal shall be made by Notice of Motion with a payment of the prescribed fee.
- (3) The Court's decision on the application to review leave to appeal shall be final and binding on the parties.

29. Certificate of final decision of the court.

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

PART IV *Address for service and Service* 30. Rules of Court 2012.

The provisions of the Rules of Court 2012 as to address for service and service shall apply *mutatis mutandis* to any appeal or proposed appeal to the Court of Appeal.

PART IV *Paupers* 31. Admission as pauper.

Any party to any appeal or proposed appeal who has been admitted to sue or defend in the proceedings in respect of which the said appeal is brought or proposed to be brought by the High Court against whose decision such appeal is brought or proposed to be brought may with the leave of the Court be admitted to be a pauper for all the purposes of this Part.

32. Application to proceed as a pauper.

- (1) Any poor person who has not been admitted to be a pauper under rule 31 may at any time apply to the Court for leave to proceed in any appeal as a pauper.
- (2) The application shall be supported by an affidavit. The affidavit shall set forth fully all the material facts of the case and shall state that the applicant is not possessed of property excluding wearing apparel and the subject matter of the proceedings, exceeding one thousand ringgit in value, and shall be verified by the oath or affirmation of the applicant.
- (3) The Registrar shall make such enquiry as he may think proper as to the means of the applicant and may require him to attend to answer questions on oath or affirmation.
- (4) A copy of the application shall be served on every other party to the appeal or proposed party to the appeal.

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(5) On the hearing of such application and after consideration of the report of the Registrar on the enquiry made by him under subrule (3) the Court may admit the applicant to proceed as a pauper and shall thereupon appoint a solicitor to represent such pauper.

(6) A solicitor appointed under subrule (5) shall not refuse to act unless he satisfies the Court or a Judge that he has good reason for refusal.

33. No Court fees or security for costs.

(1) No Court fees shall be charged in respect of any application under rule 32 nor, except as is hereinafter provided, shall any pauper be liable for any Court fees payable after his admission as a pauper.

(2) No pauper shall be required to give security for the costs of his appeal.

(3) When costs have been awarded to be paid to a pauper, the fees of the Court, which would have been payable by him if not a pauper shall be a first charge upon any sums recovered by him.

(4) When any sum has been recovered by him and not applied in payment of such fees of Court as aforesaid, the Registrar may refuse to allow any further proceedings on behalf of such pauper to be taken until the sum recovered has been applied in payment of such fees.

34. Pauper's solicitor not to take fees.

(1) Subject to rules 37 and 38, a pauper's solicitor shall not take or agree to take or seek to obtain from the pauper any fee, profit, or reward for the conduct of the proceedings.

(2) If it appears to the Court or a Judge that any pauper has given or agreed to give any such fee, profit, or reward, he shall be forthwith dispaupered and shall not afterwards be admitted to proceed as a pauper in the same cause or matter.

35. Leave of Court or Judge to discontinue, settle or compromise.

(1) No pauper and no pauper's solicitor in any proceedings shall discontinue, settle or compromise such proceedings without the leave of the Court or of a Judge.

(2) No pauper shall discharge his solicitor without the leave of the Court or of a Judge.

(3) No pauper's solicitor shall be at liberty to discontinue his services unless he satisfies the Court or a Judge that he has reasonable grounds for so discontinuing.

36. Notice of motion, etc., to be signed by solicitor.

Every notice of motion or any application on behalf of a pauper (except on application for the discharge of his solicitor) shall be signed by his solicitor.

37. Costs.

(1) Unless the Court or a Judge shall otherwise order, no pauper shall be liable to pay costs to any other party, or be entitled to receive from any other party any profit costs or charges; and where costs are ordered to be paid to a pauper they shall be taxed, and on such taxation the Registrar may allow any out-of-pocket expenses (but not office expenses) properly incurred in the course of the proceedings.

(2) When it appears to the Court or a Judge that the special circumstances of the case require it, the Court or Judge may order that such costs shall include profit costs and charges, but not fees to counsel.

38. Solicitor's fee out of any money received by pauper.

The Court or a Judge may order payment to the pauper's solicitor, out of any money received by the pauper in the cause, or may charge in favour of the pauper's solicitor any property so recovered by a pauper, or of or with such sum in respect of costs (not including fees of counsel) as would have been allowed to the pauper's solicitor on taxation between himself and his client if he had been retained by his client in the ordinary manner (less such amount as may be recovered from any other party) or such other sum in respect of costs as to the Court or a Judge may seem fit:

Provided that the total amount so to be paid out for profit costs, or so charged upon the said property for profit costs, shall not in either case exceed one-fourth of the amount or value recovered and remaining after the deduction of all proper disbursements made by the pauper's solicitor.

39. Deprivation of privilege as a pauper.

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(1) Any person admitted under these Rules to proceed as a pauper may for any sufficient reason be deprived by the Court of all the privileges of such admission.

(2) Any such order may be made of the Court's own motion or on application by another party to the proceedings. PART VI *Change of Parties by Death, etc*40. Action not abated where cause of action continues.

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

41. Order to carry on proceedings.

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

42. Service of order to continue action.

An order obtained under rule 41 shall, unless the Court shall otherwise direct, be served upon the continuing party or parties, or their solicitors, and also upon each such new party, unless the person making the application be himself the only new party, and the order shall from the time of such service, subject to rules 43 and 44, be binding on the person served therewith, and every person served therewith, and every person served therewith who is not already a party to the cause or matter shall be bound to enter an appearance thereto within the same time and in the same manner as if he had been served with a writ of summons.

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

When any person who is under no disability or under no disability other than coverture, or being under any disability other than coverture, but having a guardian *ad litem* in the cause or matter, shall be served with such order mentioned in rule 41, such person may apply to the Court to discharge or vary such order at any time within twelve days from the service thereof.

44. By person under disability having no guardian.

Where any person being under any disability other than coverture, and not having a guardian *ad litem* in the cause or matter, is served with any order as in rule 41, such person may apply to the Court to discharge or vary such order at any time within twelve days from the appointment of a guardian *ad litem* for such party, and until such period of twelve days shall have expired such order shall have no force or effect as against such last mentioned person.

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

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

PART VII *Evidence and Affidavits*46. Evidence to be by affidavit.

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

47. Provision as to affidavits and filing.

The provisions of the Rules for the time being in force in any High Court as to affidavits shall *mutatis mutandis* apply to all affidavits used in any proceeding relating to any appeal or proposed appeal against any decision of the said

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High Court.

PART VIII *Motions and Other Applications* 48. Application by motion.

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

49. Where notice of motion to be given.

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

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

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

51. Adjournment of hearing.

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

52. Statement of persons to be served with applications.

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

53. Length of notice of application.

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

PART IX *Costs* 54. Costs to be in the discretion of the Court.

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

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

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

PART X *Court Fees* 56. Second Schedule.

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

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

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

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57. Manner of payment of fees.

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

CHAPTER THREE CRIMINAL APPEALS PART I *Court Fees* 58. Notice.

(1) Within fourteen days of the decision of the High Court or within such extended timers the Court may allow the appelland shall file in the Registry of the High Court at the place where the decision appealed against was given a Notice of Appeal and eight copies thereof. A copy of the Notice of Appeal shall be sent by the appelland to the Registrar of the Court of Appeal.

(2) The Notice of Appeal shall be substantially in Form 5 in the First Schedule.

(3) As soon as Notice of Appeal is filed by the Public Prosecutor as in subrule (1), the Court of Appeal may on an application by the Public Prosecutor issue a warrant directing that the accused be arrested and brought before it and may remand him to prison pending the disposal of the appeal or admit him to bail in accordance with the provisions of [section 56A](#) of the Courts of Judicature Act 1964 [Act 91].

(4) The application under subrule (3) may be made by motion *ex parte* and for the purpose of this subrule, rules 71 and 72 shall apply.

59. Notice where person appealing is in prison.

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

(2) The officer in charge of the prison on receiving any such communication as in subrule (1) shall complete Form 6 in the First Schedule and eight copies thereof which shall be signed by the person who wishes to appeal and by the officer in charge of the prison; and the officer in charge of the prison shall deliver the same or send the same by registered post to the Registry of the High Court at the place where the decision appealed against was given, and a copy to the Registrar of the Court of Appeal.

(3) A Form completed and filed in accordance with this rule shall for all purposes be treated as a Notice of Appeal and as a Petition of Appeal for the purposes of rule 65 and shall be deemed to have been filed in accordance with these Rules:

Provided that nothing in this rule shall prevent any person from filing a Petition of Appeal in pursuance of rule 65.

60. Notice to be forwarded to the Registrar.

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

61. Papers.

(1) As soon as practicable after the filing of a Notice of Appeal in his Registry, the Registrar of the High Court shall forward to the Registrar of the Court at Putrajaya particulars of the proceedings in the High Court in Form 7 in the First Schedule together with seven copies of the following papers:

- (a) the High Court Judge's Notes of Proceedings;
- (b) the Notes of Proceedings in the subordinate court; where applicable;
- (c) all documentary exhibits produced at the proceedings of the High Court and the subordinate court, where applicable, except such as are of so voluminous a nature that the copying thereof in the opinion of the Registrar of the High Court will cause undue delay;
- (d) where the trial has been with the aid of a jury or assessors a note (verbatim if available) of the charge or summing-up to the jury or assessors;
- (e) where the trial or appeal has been by a Judge alone a written judgment delivered by the trial Judge or where no such written judgment has been delivered a statement in writing by the trial Judge of the grounds of his decision; and

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(f) a list of the exhibits at the proceedings in the High Court and in the subordinate court, where applicable.

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

62. More than one who appeal.

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

63. Services of papers.

As soon as may be practicable the Registrar of the High Court shall cause copies of all the papers mentioned in rule 61 to be served on both parties to the appeal.

64. Service of documents.

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

65. Petition of Appeal.

(1) Within a period of ten days after service upon him of the papers mentioned in rule 63 or within such extended period as the Court may allow the appellant shall file with the Registrar a Petition of Appeal and eight copies thereof.

(2) A Petition of Appeal shall be substantially in Form 8 in the First Schedule.

(3) On receipt of a Petition of Appeal the Registrar shall send a copy thereof to the Registrar of the High Court and shall send a copy of the same to the respondent.

66. Legal Aid.

In an appeal where a party thereto is not legally represented, the Registrar of the Court shall assign a solicitor to represent him in—

(a) every case where the person has been sentenced to death; and

(b) any other case where the President considers it is in the interest of justice that legal aid should be given.

67. Fees.

(1) No fee shall be charged in respect of any appeal or any proceedings therein.

(2) No fee shall be charged for any papers which by these Rules are required to be supplied to any party to the appeal.

PART II *Applications* 68. Applications.

(1) All applications to the Court shall unless otherwise provided be made by motion and shall be heard in open court.

(2) A Notice of Motion shall be substantially in Form 9 in the First Schedule.

(3) A Notice of Motion shall be served on the parties concerned not less than four days before the return day, unless the Court otherwise orders. Applications for leave to give shorter notice may be made by motion *ex parte*.

69. How and where made.

(1) All applications to the Court in pending appeals shall be made by filing the Notice of Motion and every affidavit intended to be used in support thereof. Seven copies must be filed unless the application is made to a single Judge of the Court in which case two copies only need be filed. These documents shall be filed in the Registry with a copy filed in the High Court at the place where the judgment, order or decision complained of was given or made. Copies of such application and affidavit shall at the same time be sent to all necessary parties.

(2) The Registrar of the Court and the Registrar of the High Court shall follow a procedure similar so far as possible to the procedure relating to the entry of appeals and the Registrar of the Court shall forthwith inform the Public Prosecutor and the applicant and any other necessary party to the application of the place and date of hearing of the application.

70. Place of hearing.

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

71. Judge.

Every application other than an application under subsection 66(1) of the [Courts of Judicature Act 1964 \[Act 91\]](#) or under rule 72 may be heard by a single Judge of the Court as may be nominated by the President.

72. Application to vary or discharge order.

(1) Every application to discharge or vary an order made by a single Judge shall be made by separate Notice of Motion filed within ten days from the date of such order.

(2) On such application no further evidence shall be admissible without the special leave of the Court.

(3) Such motion shall be filed in the Registry of the High Court at the place where the order sought to be discharged or varied was made and shall be accompanied by sufficient copies of all relevant papers for the use of the Judges. A copy of the motion shall be sent to the Registrar of the Court.

(4) In the case of an application to discharge or vary any order of a Judge refusing any extension of time or refusing bail such application shall be made in Form 10 in the First Schedule and shall for all the purposes of these Rules be deemed to be a Notice of Motion.

73. Withdrawal of appeal.

(1) Where an appellant, at any time before the commencement of the hearing, wishes to withdraw or discontinue his appeal, he may do so without the leave of the Court by filing in duplicate with the Registrar of the Court a notice in Form 11 in the First Schedule. A copy of the Notice shall be sent to the Registrar of the High Court.

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

PART III *Presentation of Case, etc.* 74. Presentation of case.

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

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

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

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

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

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

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

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

75. Security.

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

PART IV *Miscellaneous* 76. Ancillary powers of the Court.

The Court shall exercise, for all purposes incidental to or arising from any application or appeal, all the powers which, under the provisions of any written law in force in the place of trial at first instance, were vested in the trial

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Judge, whether before, during or after the trial, to the extent that such powers may be applicable to the circumstances of an application or appeal to the Court.

CHAPTER FOUR MISCELLANEOUS PART I *The Registry* 77. Directions by President.

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

78. Official seals.

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

79. Sealed copies, *etc.*, receivable in evidence.

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

80. Date upon documents filed.

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

80A. Electronic filing.

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

81. Searches.

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

82. Certificate of proceedings in cause or matter.

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

83. Restrictions on removal of documents from Registry.

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

84. Fees of officer required to attend away from where documents are kept.

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

85. Forms to be used.

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

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86. Other forms.

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

PART II *Sittings and Vacations* 87. Regulations regarding vacations.

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

88. Days on which offices are to be open.

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

89. Office hours.

Save as hereinafter provided, the office hours for the Registry shall be from 8.00 a.m. to 5.00 p.m. except on Friday the office hours shall be from 8.00 a.m. to 12.15 p.m. and from 2.45 p.m. to 5.00 p.m..

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

(a) on Monday until Thursday between the hours of 8.30 a.m. to 4.00 p.m.; and

(b) on Friday between the hours of 8.30 a.m. to 12.15 p.m. and from 2.45 p.m. to 4.00 p.m..

90. "Month".

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

91. Exclusion of holiday.

Where any act or proceeding is directed or allowed to be done or taken within any time less than six days from or after any date or event, a weekly holiday and public holiday shall not be reckoned in the computation of such time.

92. Time expiring on holiday.

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

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

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

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

94. Enlargement of time by consent.

The time for delivering, amending, or filing any document may be enlarged once only by consent in writing without application to the Court or a Judge, but such enlargement shall not exceed fourteen days.

95. Number of days, how computed.

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

96. Costs to be in the discretion of the Court or Judge.

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

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

PART III *Notices, Printing, Paper, Copies, Office Copies, Minutes, etc.* 97. All notices to be in writing.

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

98. Regulations for printing.

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

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

(3) Any other document required for use in any proceeding in the Court shall either be printed or reproduced as prescribed in subrules (1) and (2) or shall be clearly and legibly written or typewritten.

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

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

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

99. Affidavits printed or written.

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

100. Regulations as to printing and copies.

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

- (a) the party printing shall, on demand in writing, furnish to any other party any number of printed copies, not exceeding ten, upon payment therefor at the rate of twenty-five sen per folio for every copy;
- (b) as between a solicitor delivering any printed copies and his client, credit shall be given by the solicitor for the whole amount payable by any other party for such printed copies;
- (c) the party entitled to be furnished with a print shall not be allowed any charge in respect of a written copy, unless the Court shall otherwise direct;
- (d) the party by whom or on whose behalf any affidavit, or certificate is filed shall leave a copy with the officer with whom the same is filed who shall examine it with the original and mark it as an office copy; such copy shall be a copy printed as above provided where such affidavit is to be printed;
- (e) where any party is entitled to a copy of any affidavit, proceeding, or document filed or prepared by or on behalf of another party, which is not required to be printed, such copy shall be furnished by the party by whom or on whose behalf the same has been filed and prepared;

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- (f) the party requiring such copy, or his solicitor, has to make a written application to the party by whom the copy is to be furnished, or to his solicitor, with an undertaking to pay the proper charges, and thereupon such copy is to be made and ready to be delivered at the expiration of twenty-four hours after the receipt of such request and undertaking, or within such other time as the Court may in any case direct, and is to be furnished accordingly upon demand and payment of the proper charges;
- (g) it shall be stated in a note at the foot of every affidavit filed on whose behalf it is so filed, and such note shall be printed on every printed copy of an affidavit or set of affidavits, and copied on every office copy and copy furnished to a party;
- (h) the name and address of the party or solicitor by whom any copy is furnished is to be endorsed thereon in like manner as upon proceedings in Court, and such party or solicitor is to be answerable for the same being a true copy of the original, or of an office copy of the original, of which it purports to be a copy, as the case may be;
- (i) in case any party or solicitor who shall be required to furnish any such written copy as aforesaid shall either refuse or, for forty-eight hours from the time when the application for such copy has been made, neglect to furnish the same, the person by whom such application shall be made shall be at liberty to procure an office copy from the office in which the original shall have been filed, and in such case no costs shall be payable to the solicitor so making default in respect of the copy so applied for;
- (j) where, by any order of the Court' any document is ordered to be printed, the Court may order the expense of printing to be borne and allowed, and printed copies to be furnished by and to such parties and upon such terms as shall be thought fit.

101. Document shall be in national language.

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

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

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

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

PART IV *Effect of Non-Compliance* 102. Non-compliance with Rules not to render proceedings void.

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

103. Application to set aside for irregularity when allowed.

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

104. Objections of irregularity.

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

PART V *Inherent powers of the Court* 105. Inherent powers of the Court.

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

(MY) RULES OF THE COURT OF APPEAL 1994 (P.U.(A) 524/1994)

FIRST SCHEDULE FORM 1

(Rules 5 and 17)

IN THE COURT OF APPEAL OF MALAYSIA

(Appellate Jurisdiction)

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

Between

A.B..... Appellant

and

CD..... Respondent

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

in the High Court in..... at.....

Between

.....

and

.....)

NOTICE OF APPEAL

Take notice that.....being dissatisfied with the decision (s) of the Honourable Mr. Justice..... given at.....on the..... day of 19.....appeals to the Court of Appeal against

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

(Set out details)

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

.....

Appellant

Solicitor for the Appellant

To

The Registrar,

The Court of Appeal,

.....

and to

The Registrar,

(MY) RULES OF THE COURT OF APPEAL 1994 (P.U.(A) 524/1994)

The High Court in..... at.....

and to

.....
.....

The address for service for the Appellant is.....

.....

FORM 2

(Rule 8)

IN THE COURT OF APPEAL OF MALAYSIA

(Appellate Jurisdiction)

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

Between

A.B.....Appellant

and

CD.....Respondent

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

in the High Court in..... at.....

Between

.....

and

.....)

NOTICE OF CROSS-APPEAL

Take notice, that on the hearing of the above appeal, CD., the Respondent above-named, will contend that the decision's) of the Honourable Mr. Justice.....

given at..... on the..... day of..... 19..... ought to be varied to the extent and on the grounds hereinafter set out:

(Set out in numbered paragraphs—

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

(MY) RULES OF THE COURT OF APPEAL 1994 (P.U.(A) 524/1994)

.....
Respondent
Solicitor for the Respondent

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

.....
Registrar

To the Appellant above-named or his Solicitor,

.....

The address for service of the Respondent is

.....

FORM 3

(Rule 18)

IN THE COURT OF APPEAL OF MALAYSIA

(Appellate Jurisdiction)

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

Between

A.B.....Appellant

and

CD.....Respondent

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

in the High Court in.....at.....Between

.....

and

.....)

MEMORANDUM OF APPEAL

A.B. the Appellant above-named appeals to the Court of Appeal against the whole / part of the decision of the Honourable Mr. Justice..... given at.....on the...day of 19..... on the following grounds:

(Set out in numbered paragraphs)

(MY) RULES OF THE COURT OF APPEAL 1994 (P.U.(A) 524/1994)

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

.....
Appellant
Solicitor for the Appellant

FORM 4

(Rule 27)

IN THE COURT OF APPEAL OF MALAYSIA

(Appellate Jurisdiction)

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

Between AB.....Appellant/Applicant

and

C.D.....Respondent

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

in the High Court in..... at.....

Between

.....

and

.....

decided by the Honourable Mr. Justice..... at.....

the.....day of.....19.....)

NOTICE OF MOTION

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

(Here set out the order sought)

.....
Solicitor for the

Dated at... the.....day of...19.....

To

(MY) RULES OF THE COURT OF APPEAL 1994 (P.U.(A) 524/1994)

.....

or his solicitor Mr.....

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

FORM 4A

(Deleted by P.U.(A) 26/2018)

FORM 5

(Rule 58)

IN THE COURT OF APPEAL OF MALAYSIA

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

Between

..... Appellant

and

..... Respondent

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

in the High Court in.....at.....

Between

The Public Prosecutor

and

.....

NOTICE OF APPEAL

Take notice that.....appeals to the Court against the decision of the Honourable Mr. Justice.....given at on the day of..... 19..... whereby the Appellant/Respondent was convicted/acquitted on a charge of..... and sentenced to.....

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

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

(MY) RULES OF THE COURT OF APPEAL 1994 (P.U.(A) 524/1994)

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

.....
Appellant/Respondent

To
The Registrar
The Court of Appeal

.....

and to

The Registrar,
The High Court in..... at.....

and to

(the Respondent)

The address of the Appellant is.....

*
Delete whichever is inapplicable.

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

FORM 6

(Rule 59)

NOTICE ON BEHALF OF PRISONER
IN THE COURT OF APPEAL OF MALAYSIA

Public Prosecutor v.

To the Registrar of the High Court in..... at.....

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

conviction *
to the Court of Appeal against his
sentence *

(MY) RULES OF THE COURT OF APPEAL 1994 (P.U.(A) 524/1994)

conviction and sentence*

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

(See Note)

.....
Signature of Officer in Charge of Prison

.....
Signature or mark of Appellant

*
Delete whichever is inapplicable.

NOTE:

1. If the prisoner has made an oral statement insert the substance of the same here.
2. If the prisoner has made a written statement it is sufficient to say so and attach a copy.
3. A copy of this notice must be sent to the Registrar of the Court of Appeal at Putrajaya.

FORM 7

(Rule 61)

IN THE COURT OF APPEAL OF MALAYSIA

High Court in.....

Criminal Appeal No of 19.....

Public Prosecutor v.

Particulars of Trial/Appeal

1. Where was the trial/appeal held?
2. Date of trial/appeal.
3. Name of High Court Judge.
4. For what offence was the conviction?
5. What was the sentence?

Were any consequential orders made for restitution of property or otherwise?

6. Annex hereto a copy of the list of exhibits.
7. Was Appellant defended by a solicitor privately, or at request of the Court?

(MY) RULES OF THE COURT OF APPEAL 1994 (P.U.(A) 524/1994)

- 8. State the name of the solicitor (if any).
- 9. Was the Appellant admitted to bail before trial?

If so, in what amount? Were there sureties?

If so, what amount?

(Signed).....

Registrar of High Court

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

FORM 8

(Rule 65)

IN THE COURT OF APPEAL OF MALAYSIA

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

Between

.....Appellant

and

.....Respondent

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

The Appellant above-named having given notice of appeal to the Court of Appeal against the decision of the Honourable Mr. Justice.....given in the High Court in.....at.....on the.....day of.....19.....states the following grounds for his said appeal:

(Set out in numbered paragraphs)

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

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

.....
Appellant
Solicitor for the Appellant

The address of the Appellant is.....

(MY) RULES OF THE COURT OF APPEAL 1994 (P.U.(A) 524/1994)

*
Delete whichever is inapplicable.

FORM 9

(Rule 68)

IN THE COURT OF APPEAL OF MALAYSIA

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

Between

A.B.....Appellant /Applicant

and

C.D.....Respondent

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

Between

.....

and

.....

decided by the Honourable Mr. Justice.....at.....the

..... day of 19.....)

NOTICE OF MOTION

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

(Here set out the order sought)

.....

Solicitor for the.....

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

.....

Registrar

To.....

or his Solicitor.....

The address of the Appellant is.....

FORM 10

(Rule 72)

IN THE COURT OF APPEAL OF MALAYSIA

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

**NOTICE OF APPLICATION TO THE COURT TO VARY OR
DISCHARGE THE ORDER OF A JUDGE**

..... V.

I,..... having applied for—

and my application having been refused

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

(Signed).....

Appellant

To the Registrar of the High Court in.....

at.....

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

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

*
Delete if you do not wish to be present.

(Rule 73)

IN THE COURT OF APPEAL OF MALAYSIA

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

..... Appellant

v.

The Public Prosecutor..... Respondent

FORM 11

(MY) RULES OF THE COURT OF APPEAL 1994 (P.U.(A) 524/1994)

I,..... having been convicted
of..... in Criminal Trial No.....
in..... and having been desirous of appealing
do hereby give notice that I do not intend further to prosecute my appeal.

..... Witness

.....
Appellant

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

To the Registrar of the Court of Appeal

And to the Public Prosecutor.

*Delete if you do not wish to be present.

SECOND SCHEDULE

SECOND SCHEDULE

Court Fees

(rule 56)

		RM
1.	Notice of Appeal and Notice of Cross-Appeal	1,000.00
2.	Any interlocutory application	200.00
3.	Memorandum of Appeal	150.00
4.	On application preparing the Index	100.00
5.	(a) Order on any interlocutory application	150.00
	(b) Final order on appeal	300.00
6.	Notice of Motion	200.00
7.	Amended Notice of Motion	100.00
8.	Search Fee	30.00
9.	Notice of Motion for leave to appeal	1,000.00
10.	Notice of Motion for review against leave application to appeal—	
	(a) First application	1,000.00
	(b) Subsequent application	2,000.00
11.	Notice of Motion for review against decision in full appeal—	

(MY) RULES OF THE COURT OF APPEAL 1994 (P.U.(A) 524/1994)

		RM
	(a) First application	2,000.00
	(b) Subsequent application	4,000.00
12.	Photostat (copy/per pages)	4.00
13.	Affidavit	20.00
14.	Supplementary Appeal Record	50.00
15.	Notice of Discontinuance	20.00
16.	Certificate of Urgency	100.00
17.	Certified true copy	4.00

Made the 1st August 1994.

[PN. (PU²) 153/A.]

.....
TUN DATO' SERI ABDUL
HAMID BIN HJ. OMAR,

Chief Justice, Malaysia

.....
TAN SRI DATO' HJ. MOHD.

EUSOFF BIN CHIN,

Chief Judge, Malaya

.....
TAN SRI DATO' AMAR
HJ. MOHD. JEMURI BIN SERJAN,

Chief Judge, Sabah and Sarawak

.....
TAN SRI DATUK EDGAR
JOSEPH JR.,

Judge Federal Court

.....
DATUK CHARLES HO NYEN
CHEUNG, *Judge High Court*

.....
DATO' ANUAR BIN DATO'
ZAINAL ABIDIN, *Judge High Court*

.....
DATO'HELILIAH BINTI
HJ. MOHD. YUSOF,

Solicitor General

.....
DATIN PADUKA NUR HAYATIU
BINTI MOHAMED,

Secretary General, Ministry of Law

.....
ABU BAKAR BIN AWANG,

Senior Sessions Court Judge

.....
JOHN KO WAI SENG,

Advocate

(MY) RULES OF THE COURT OF APPEAL 1994 (P.U.(A) 524/1994)

(To be laid before the Dewan Rakyat pursuant to subsection 1(5) of the Courts of Judicature Act 1964.)

A m e n d i n g l a w	Citation	In force from
P . U . (A) 3 8 0 / 1 9 9 8	Rules of the Court of Appeal (Amendment) 1998	30-10-1998
P . U . (A) 1 9 6 / 2 0 0 2	Rules of the Court of Appeal (Amendment) 2002	16 -05-2002
P . U . (A) 2 5 2 / 2 0 0 3	Rules of the Court of Appeal (Amendment) 2003	17-07-2003
P . U . (Rules of the Court of Appeal (Amendment) 2011	01-03-2011

(MY) RULES OF THE COURT OF APPEAL 1994 (P.U.(A) 524/1994)

A) 2 0 9 / 2 0 1 1		
P . U . (A) 2 3 4 / 2 0 1 2	Rules of the Court of Appeal (Amendment) 2012	01-08-2012
P . U . (A) 6 6 / 2 0 1 3	Rules of the Court of Appeal (Amendment) 2013	01-03-2013
P . U . (A) 2 6 / 2 0 1 8	Rules of the Court of Appeal (Amendment) 2018	01-03-2018