

Seychelles

Courts Act

## Courts (Transfer of Civil Suits) Rules

Statutory Instrument 49 of 1960

Legislation as at 1 December 2014

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## Courts (Transfer of Civil Suits) Rules

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# Seychelles

## Courts Act

### Courts (Transfer of Civil Suits) Rules

#### Statutory Instrument 49 of 1960

Commenced on 4 July 1960

*[This is the version of this document at 1 December 2014.]*

*[SI. 49 of 1960]*

#### 1. Citation

These rules may be cited as the Courts (Transfer of Civil Suits) Rules.

#### 2. Transfer from Supreme Court to Magistrates' Court

- (1) Where a suit has been instituted in the Supreme Court and it appears that the suit could have been instituted in the Magistrates' Court, the Supreme Court shall require the plaintiff to show cause why the suit should not be transferred to the Magistrates' Court and unless the plaintiff satisfies the Supreme Court that the suit is one which, if instituted in the Magistrates' Court ought to be transferred to the Supreme Court in accordance with these rules, the Supreme Court shall order the suit to be transferred to the Magistrates' Court.
- (2) Where a suit is so transferred all the costs incurred which would not have been incurred if the suit had been instituted in the Magistrates' Court shall be paid by the plaintiff in any event.

#### 3. Transfer from Magistrates' Court to Supreme Court

- (1) Where a suit in the Magistrates' Court raises issues connected Magistrates' with those in a suit in the Supreme Court any party to either suit may apply to the Supreme Court to order that the suit in the Magistrates' Court be transferred to the Supreme Court and there consolidated with, or tried concurrently with, the connected suite in the Supreme Court and, if it appears that such transfer would tend to the shortening or expediting of the litigation or the saving of costs or the convenience of the witnesses or be otherwise in the interests of efficient administration of justice, the Supreme Court shall order the suit to be transferred and give such directions for consolidation or separate trial as the circumstances require.
- (2) On an application under this rule the Supreme Court may, in the exercise of discretion, instead of making an order for transfer make an order that proceedings in any suit concerned in the application be stayed until the conclusion of the proceedings in the Supreme Court, or in the Magistrates' Court, as the case may be, in any other suit so concerned.
- (3) An application under this rule, if made by a party to the suit in the Supreme Court, shall be made by an interlocutory motion in that suit and in any other event such an application shall be made by originating motion.
- (4) Unless the court otherwise orders, the costs of a successful application under this rule shall be paid by the party ultimately ordered to pay the costs of the suit transferred or of the consolidated proceedings, as the case may be, and the costs of an unsuccessful application shall be paid by the applicant.
- (5) A copy of the order of the Supreme Court on every application under this rule shall be sent by the Registrar to the Magistrates' Court and there filed in the suit concerned.

#### 4. Appeal and continuation

- (1) Where a suit instituted and heard in the Magistrates' Court has been dismissed under subsection (5) of section 40 of the Courts Act and no appeal against such dismissal is pending any party to the suit may apply to the Supreme Court by originating motion to order that the suit be transferred to the Supreme Court and there continued.
- (2) Where an appeal against such dismissal is brought, any party may make such an application at the hearing of the appeal, without other process.
- (3) Where a suit is continued in the Supreme Court under this rule the parties shall be bound by either pleadings and by the evidence recorded by the Magistrate unless for special reasons the Supreme Court grants leave to amend the pleadings or to adduce further evidence. On the hearing of a suit so continued the Supreme Court shall ordinarily act on the evidence recorded by the Magistrate but may, in the exercise of discretion, call any particular witness for further examination *fviva voce*.d In deciding questions of fact the Supreme Court shall consider, but shall not be bound by, the Magistrate's findings of fact.
- (4) Where a suit is continued in the Supreme Court under this rule the applicant shall pay to the registrar the difference between the total amount of the fees actually charged on all the proceedings in the suit in the Magistrates Court and the amount chargeable thereon according to the Supreme Court scale.
- (5) Unless the Supreme Court otherwise orders—
  - (a) the costs of a successful application under paragraph (1) of this rule shall be costs in the continued suit;
  - (b) the costs of an unsuccessful application under paragraph (1) shall be paid by the applicant;
  - (c) the costs of an application under paragraph (2) shall be costs in the appeal