

Seychelles

Courts Act

Appeal Rules

Statutory Instrument 11 of 1961

Legislation as at 1 December 2014

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Appeal Rules

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Seychelles
Courts Act
Appeal Rules
Statutory Instrument 11 of 1961

Commenced on 27 February 1961

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

[SI. 11 of 1961]

1. Citation

These rules may be cited as the Appeal Rules.

2. Interpretation

In these rules, unless the context otherwise requires—

“**advocate**” means a barrister or attorney;

“**appellant**” includes a party intending to appeal;

“**court**” means the trial court;

“**Registrar**” means the Registrar of the Supreme Court and includes an Assistant Registrar

3. Scope

- (1) These rules govern all civil appeals from the Magistrates Court and apply to all other appeals to the Supreme Court as provided in rule 27.
- (2) An appeal from the Registrar to the Judge is not an appeal to the Supreme Court.

4. Service and proof of service of process

Service, and proof of service, of process shall be in accordance with the Magistrates’ Court (Civil Procedure) Rules, and with rules amending or replacing the same.

5. Extension of time

Any party desiring an extension of the time prescribed for taking any step may apply to the Supreme Court by motion and such extension as is reasonable in the circumstances may be granted on any ground which the Supreme Court considers sufficient.

Civil appeals from magistrates

6. Notice of appeal

- (1) Every appeal shall be commenced by a notice of appeal.
- (2) The notice of appeal shall be delivered to the clerk of the court within fourteen days from the date of the decision appealed against unless some other period is expressly provided by the law which authorises the appeal.
- (3) The notice shall be accompanied by as many copies as there are respondents.

- (4) The appellant shall pay the prescribed fees and deposit the amount of the cost of preparation of the record as estimated by the clerk of the court.
- (5) The clerk of the court shall cause the notice to be served on each respondent as soon as is practicable.
- (6) If there are two or more appellants they may sign a joint notice of appeal with one address for service or each may sign a separate notice.

Preparation of the record of appeal

7. Preparation of the record

The clerk of the court shall prepare the record as soon as is practicable.

8. List of exhibits

The record shall contain a list of the exhibits.

9. Directions as to copying of documents

Where documentary exhibits are lengthy the magistrate shall to copying of give directions for such portions only as are necessary to be copies for the record.

10. Copy of record to be served on applicant

The clerk of the court shall cause to be served on the appellant or his advocate a copy of the record complete save for the memorandum of appeal hereinafter referred to.

11. Memorandum of appeal

If the appellant wishes to proceed with the appeal he shall, within fourteen days from the date of the service of the copy of the record referred to in the preceding rule, deliver to the clerk of the court a memorandum of appeal.

12. Contents of memorandum

The memorandum shall contain a concise statement in numbered paragraphs of the point or points on which the judgment is alleged to be erroneous, without any argument or narrative, and a concise prayer for the relief claimed.

13. Security

The appellant shall deliver with the original memorandum as many copies as there are respondents and shall at the same time pay the fees for service and hearing and give security for the costs of the appeal. Such security shall be to the amount of Rs.50 and shall be given, as the Registrar may decide, by deposit of money or by bound with one surety to the satisfaction of the Registrar.

14. When appeal deemed withdrawn

If the appellant has not complied with rules 11, 12 and 13 within the time prescribed, the appeal shall be deemed to have been withdrawn.

15. Service of memorandum

The clerk of the court shall forthwith cause the memorandum to be served on the respondent.

16. Despatch of record

As soon as the memorandum has been served, the clerk of the court shall add it to the record and send the record to the Registrar, and shall at the same time send the file of the suit and, subject to rule 17, the original exhibits.

17. Exhibits

- (1) The originals of any documentary or other exhibits which can conveniently be sent to the Supreme Court shall be sent with the record.
- (2) Books of accounts or other bulky exhibits shall not be sent unless and until the Supreme Court so directs.

18. Notice of hearing

The Registrar shall set the appeal down for hearing and notify the parties or their advocates of the date fixed.

19. Written answer

The respondent is not required to file any answer to the memorandum but he may, at any time before the hearing, file a written answer with a copy thereof for each separate appellant and the Registrar shall send the copies to the appellants.

Procedure at hearing

20. Hearing

- (1) When the appeal is called for hearing the appellant or his advocate, if present, shall be heard in support of the appeal; the respondent or his advocate, if present, shall be heard if necessary and in that event the appellant or his advocate may reply.
- (2) If the appellant does not appear but the respondent appears, the Judge shall consider the record and if necessary hear the respondent and may allow the appeal, in whole in part, or vary the judgment and may make any order as to the merits or as to costs which the justice of the case requires.
- (3) If neither party appears the appeal shall be dismissed unless for special reasons the Judge orders an adjournment.

21. Only grounds pleaded may be argued

An appellant shall not be permitted to put forward at the hearing any grounds of appeal not explicitly stated in his memorandum of appeal, unless in special circumstances by leave of the Supreme Court and subject to such terms as the Supreme Court thinks fit, but in deciding the appeal the Supreme Court shall not be restricted to issues raised by the memorandum.

22. Further evidence

No further evidence either oral or documentary, shall be adducted at the hearing of the appeal without the leave of the Supreme Court previously given under rule 26.

23. Judgment on appeal

If the judgment appealed from is reversed or varied the Judge shall record the reasons.

24. Costs

The Supreme Court may make such order as to the whole or any part of the costs of an appeal as may be just and may assess the same or direct taxation thereof.

25. Execution

The Registrar shall send a copy of the judgment or order finally disposing of the appeal to the trial court and thereupon the judgment or order, and subject to its terms the judgment or order of the trial court, may be enforced as an order of the trial court.

26. Leave for further evidence

- (1) Any party to an appeal desiring to adduce at the hearing further evidence, either oral or documentary, or to contend that a new trial should be ordered by reason of such evidence having become available may apply to the Supreme Court, by motion, for leave so to do.
- (2) The Affidavit shall state the substance of the proposed evidence and exhibit a copy of the material parts of any relevant document.
- (3) Such a motion shall, if practicable, be heard before the day fixed for the hearing of the appeal.
- (4) If the applicant satisfies the Judge—
 - (a) that he could not by the exercise of reasonable diligence, have adduced the proposed evidence at the trial, and
 - (b) that the proposed evidence is cogent and likely to be decisive of the appeal, or at least of one of the main issues in the appeal, and
 - (c) that he made the application at the earliest reasonable opportunity, the Judge may, in his discretion, grant leave to adduce such evidence on such terms as he thinks fit.
- (5) If leave is granted the respondent shall have a reasonable opportunity to answer or rebut the further evidence and the hearing of the appeal shall be adjourned or postponed if necessary for that purpose.

Appeals from other tribunals

27. Application of rules

- (1) Where an Act allows an appeal to the Supreme Court from an order or decision of any commissioner or other tribunal or officer the procedure in such an appeal shall be in accordance with such Act and regulations thereunder and subject thereto, and in respect of all matters for which they do not provide, in accordance with these rules.
- (2) For the purpose of any such appeal the terms “magistrate” “court” and “clerk of the court” mean respectively the officer who, or the presiding officer of the tribunal which, made the order or decision, the office or other place where the records of the proceedings are kept and the clerk or other person in charge of those records and these rules shall be construed accordingly and with any other modifications required in the circumstances of particular cases.