

Seychelles

Constitution of the Republic of Seychelles

## Seychelles Court of Appeal Rules, 2005

Statutory Instrument 13 of 2005

Legislation as at 1 June 2020

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**Seychelles**  
**Constitution of the Republic of Seychelles**  
**Seychelles Court of Appeal Rules, 2005**  
**Statutory Instrument 13 of 2005**

Commenced on 7 March 2005

*[This is the version of this document as it was at 1 June 2020 to 26 November 2020.]*

*[Amended by [Seychelles Court of Appeal \(Amendment\) Rules, 2013 \(Statutory Instrument 49 of 2013\)](#) on 6 June 2013]*

*[Amended by [Seychelles Court of Appeal \(Amendment of Schedules\) Rules, 2020 \(Statutory Instrument 18 of 2020\)](#) on 10 February 2020]*

*[SI. 124 of 1978; SI. 77 of 1991; SI. 31 of 2000; SI. 49 of 2000; SI. 22 of 2001; SI. 2 of 2004; SI. 13 of 2005; SI. 6 of 2007; SI. 11 of 2007; SI. 57 of 2009; SI. 49 of 2013; SI. 18 of 2020]*

## 1. Citation and commencement

These Rules may be cited as the Seychelles Court of Appeal Rules, 2005 and shall come into operation three months after their publication in the *Gazette*.

## 2. Interpretation

(1) These Rules, unless inconsistent with the context—

“**advocate**” means a barrister or attorney admitted to practise in the Supreme Court and includes any person having under these Rules the right of audience on behalf of another person in the Court;

“**appeal**” includes revision, review, reference, case stated and point of law reserved;

“**Attorney General**” means the Attorney General of Seychelles appointed under section 76 of the Constitution;

“**Chief of Justice**” means the Chief Justice of the Supreme Court of Seychelles and includes a Judge designated to perform or exercise the functions of Chief Justice;

“**Court**” means the Seychelles Court of Appeal;

“**Court day**” means any day other than a Saturday, Sunday or public holiday;

“**he**” includes “she” unless the context otherwise indicates;

“**Judge**” means a Justice of Appeal acting as such;

“**President**” means the President of the Seychelles Court of Appeal appointed as such in terms of Article 123 of the Constitution;

“**Registrar**” means the Registrar of the Court and includes a Deputy Registrar;

“**Registrar of the Supreme Court**” includes an Assistant Registrar of that Court;

“**Rules**” means these Rules or any amendment thereof;

“**Supreme Court**” means the Supreme Court of Seychelles;

(2) Any reference to a party to an appeal shall include the advocate acting for him in the appeal, but an advocate shall not be deemed to be so acting merely by reason of having acted for the party in the proceeding from which the appeal is brought.

- (3) In the Computation of time#  
“**days**” means court days;  
“**month**” means a calendar month;  
“**week**” means seven days inclusive of Saturdays, Sundays and Public Holidays except that if the last day of the computation falls on a Sunday or Public Holiday, that last day shall be deemed to be the day following the Sunday or Public Holiday in question.
- (4) In computing the number of days, the first day as well as the last day shall be excluded.

### **3. Practice and procedure of the Court, and cases not provided for**

- (1) The procedure and practice of the Court shall be as prescribed in these Rules, but the Court may direct a departure from these Rules at any time when this is required in the interest justice.
- (2) In any matter for which provision is not made by these Rules or other legislation, the President may on application or informally give directions as to the procedure to be adopted.

### **4. Selection of Judges**

In respect of any appeal, the Court shall consist of those Judges, not being less than three, whom the President shall select to sit for the purposes of hearing that appeal.

### **5. Power of a single Judge**

Save for an application for special leave to appeal to the Court, the President or a single Judge designated by the President may alone exercise any power vested in the Court not involving the merits of the appeal.

### **6. Locus of appeals, and notice of sittings**

- (1) The Court shall sit at any place in Seychelles as the President may direct.
- (2) The sittings of the Court and the matters to be disposed of at such sittings shall be notified in such manner as the President may direct.

### **7. Registry**

The Registry shall be situated at any place in Seychelles as the President may direct.

### **8. Registrar**

Any advocate of the Supreme Court may with the concurrence of the Chief Justice be appointed by name or office by the President to be the Registrar or a Deputy Registrar of the Court.

### **9. Process of the Court and service**

- (1) All summonses, warrants, orders, rules, notices and mandatory processes whatsoever of the Court may be signed by a Judge or by the Registrar and shall be sealed with the seal of the Court. Every order of the Court shall be dated as the date on which the judgment was given or order made.
- (2) Process of the Court may be served in such manner as the Court may direct. Service shall ordinarily be personal, but where a party to any proceeding has given an address of service, such service may be affected by delivery at that address. The Court may order substituted service of any process and may order that service be deemed to have been effected at any time and in any manner.
- (3) Subject as aforesaid and unless the Court shall otherwise direct, service of any process shall be effected in such manner as would be appropriate if it were a process of the Supreme Court.

- (4) Where any person out of the jurisdiction is a necessary or proper party to a proceeding, the Court may allow service out of the jurisdiction of any document required to be served upon such party or that notice of such document be served in lieu thereof.
- (5) Proof of service may be given when necessary by affidavit, unless in any case the Court shall require proof by oral evidence.
- (6) If the person to be served is in prison, service may be effected by transmitting the document to the officer in charge of the prison for delivery to the prisoner, and service on the prisoner may be proved by a letter purporting to be signed by the officer in charge of the prison and certifying that the document was delivered to the prisoner on a specified date.
- (7) Where by these Rules a party is required to serve any document on another party within a limited time, and by virtue of this Rule or any other written law or order of Court such document is required to be served by or through a process server or other officer of any Court, the party shall be deemed to have served the document in due time if within the time limited for service he files the same in the Registry together with any necessary copies and a requisition for service and pays all fees and charges payable in respect thereof:

Provided that, if the party is required to assist the officer by identifying the person to be served or otherwise, he shall do so with all due diligence and in default of so doing shall be deemed to have failed to serve the other party in due time.

## 10. Form of proceedings

- (1) All proceedings in the Court shall be on foolscap paper; or unless the nature of the document renders it impracticable, and shall be clear and easily legible and may be printed, mimeographed, typewritten, written or reproduced in photostat, or in any combination of those media. Only one side of the paper shall be used and a margin of not less than one inch shall be left on the left hand side of each sheet to permit of binding in book form.
- (2) Whatever medium of reproduction may be adopted, the taxing master shall on taxation allow only those costs which would in his opinion have been incurred by using the most economical method permitted.

## 11. Powers of the President or the Court

- (1) The President or the Court may
  - (a) memo motu or on application, extend or reduce any time period prescribed in these Rules and may condone non-compliance with these Rules;
  - (b) give such directions in matters of practice, procedure and the disposal of any appeal, application or interlocutory matter as the President or the Court may consider just and expedient.
- (2) Any power or authority vesting in the President in terms of these Rules, save the power to make Rules of Court, may be exercised by a Judge or Judges designated by the President for that purpose.

## 12. Adjournment

The Court shall have power to adjourn any proceedings before it from time to time.

## 13. Amendment

- (1) The Court shall have power to allow amendment of any proceedings in the Court and of any proceedings in the Supreme Court preparatory or incidental to, or consequential upon, proceedings in the Court.

- (2) The Court may of its own motion or on application correct any slip or accidental error arising in its proceedings, so as to give effect to the manifest intention of the Court, notwithstanding that the proceedings have terminated and the Court is otherwise *functus officio* in respect thereof.

#### **14. Right of audience**

- (1) In all proceedings in the Court, a party may appear in person or by any advocate who is entitled for the time being to practise before the Supreme Court.
- (2) A person not resident in Seychelles may appear by lawfully authorised attorney.
- (3) The President or the Chief Justice may by licence under his hand and on payment of the prescribed fee grant right of audience in respect of any one appeal, including any cross-appeal heard therewith, or in respect of any two or more appeals to be heard together under order of consolidation, to any person who, in his opinion is suitably legally qualified to assist the Court in the appeal.
- (4) A corporation may appear by advocate or by a director or other officer or the secretary thereof.
- (5) A person under disability may appear by advocate or by his guardian or curator in person as the case may be.
- (6) The Attorney-General shall have the right of audience and shall take precedence over all other advocates. Other legal officers of the State shall have the right of audience in all causes and matters within the scope of their official duties.

#### **15. Notice dispensed with**

It shall not be necessary to serve notice of hearing on any person who has signified that he does not intend to appear at the hearing, but the Court may in its discretion permit any such person to appear at the hearing in person or by advocate.

#### **16. Application to the Supreme Court first**

Whenever an application may be made to the Court or to the Supreme Court, it should normally be made in the first instance to the Supreme Court.

#### **17. Application for special leave to appeal**

- (1) In every matter where special leave to appeal to the Court is required by law in a criminal matter, an application therefore shall be made by way of a notice of motion supported by affidavits.
- (2) The notice of motion together with supporting affidavits and all relevant documents including the judgment of the Supreme Court appealed against shall be delivered within fourteen days of the date of judgment or order of the Supreme Court. A copy of such notice of motion shall be served upon the Attorney General or the respondent as the case may be.
- (3) Four copies of the notice of motion and all documents together with the original shall be filed with the Registrar.
- (4) Within fourteen days of the service of the notice of motion upon him/her, answering affidavits may be delivered on behalf of the Attorney General or the respondent as the case may be.
- (5) The applicant may file replying affidavits within seven days of the service upon him/her of such affidavits of the Attorney General or the respondent as the case may be.
- (6) Every application, answer and reply.
  - (a) shall—
    - (i) be clear, succinct and to the point;

- (ii) furnish fairly all such information as may be necessary to enable the Court to decide the application;
  - (iii) deal with the merits of the appeal only in so far as in necessary for the purpose of explaining and supporting the particular grounds upon which special leave to appeal is sought or apposed;
  - (iv) be properly and separately paginated; and
- (b) shall not—
- (i) be accompanied by the record, or
  - (ii) traverse extraneous matters.
- (7) The times fixed within the Rule may be extended on good cause shown by the President or a Judge duly designated by the President or by the Court.
- (8) Where an application for special leave to appeal in a civil matter is required by law, the provisions of sub-rules (1) to (7) inclusively shall *mutatis mutandis* apply.
- (9) If the Court grants special leave to appeal, it may fix the time within which the record may be prepared and, in a civil matter, it may order the appellant to give security to the satisfaction of the Registrar for the costs of the other parties.
- (10) The decision of the Registrar on the form and the amount of security in the event of a dispute shall be final.
- (11) A notice of motion shall be substantially in the form A in the First Schedule hereto.

## 18. Notice of appeal

- (1) Every appeal shall be brought by notice in writing (hereinafter called “the notice of appeal”) which shall be lodged with the Registrar of the Supreme Court within thirty days after the date of the decision appealed against.
- (2) Every notice of appeal shall set forth the grounds of the appeal and shall state whether the appeal is against conviction only or sentence only or both conviction and sentence or against some decision of the court below other than conviction or sentence.
- (3) Such grounds of appeal shall set forth in separate numbered paragraphs the findings of fact and conclusions of law to which the appellant is objecting and shall also state the particular respect in which the variation of the judgment or order is sought.
- (4) Every notice of appeal shall contain a full and sufficient address at which notices or documents connected with the appeal may be served upon the appellant or his advocate, and shall be signed by the appellant or his advocate.
- (5) The Registrar of the Supreme Court shall forthwith transmit one copy of the notice of appeal to the Registrar who shall enter the appeal in the register of the Court and inform the Registrar of the Supreme Court of the serial number assigned thereto. The Registrar of the Supreme Court shall also forthwith transmit one copy of the notice of appeal to the Attorney General.
- (6) Where more person than one have been jointly tried and any two or more of them desire to appeal, they may at their option file separate or joint notices of appeal. Every notice of appeal shall be deemed to constitute one appeal, but where more appeals than one are brought from convictions at the same trial they shall, unless the Court otherwise orders, be deemed to have been consolidated and shall proceed as one appeal.
- (7) No ground of appeal which is vague or general in terms shall be entertained, save the general ground that the verdict is unsafe or that the decision is unreasonable or cannot be supported by the evidence.

- (8) The appellant shall not without leave of the Court be permitted, on the hearing of that appeal, to rely on any grounds of appeal other than those set forth in the notice of appeal:
- Provided that nothing in this sub-rule shall restrict the power of the Court to make such order as the justice of the case may require.
- (9) Notwithstanding the foregoing provisions, the Court in deciding the appeal shall not be confined to the ground set forth by the appellant:
- Provided that the Court shall not, if it allows the appeal rest its decision on any ground not set forth by the appellant unless the respondent has had sufficient opportunity of contesting the case on that ground.
- (10) A notice of appeal shall be substantially in the form B in the First Schedule in criminal appeals and in the form C in the civil appeals:
- Provided that, notwithstanding that the provision contained in subrules (2) or (3) or (6) of this rule have not been strictly complied with, the Court may, in the interest of justice and for good and sufficient cause shown, entertain an appeal if satisfied that the intending appellant has exhibited a clear intention to appeal to the Court against the decision of the Court below.

## **19. Cross-appeal**

- (1) Every respondent who wishes to cross-appeal shall deliver a notice of his/her cross-appeal within fourteen days after receiving the appellant's notice of appeal.
- (2) The notice of cross-appeal shall comply with the provisions of sub-rules (2), (3), (6), (7), (8), (9) and (10) herein and shall be substantially in the form D in the First Schedule hereto.

## **20. Appeal not to operate as a stay of execution**

- (1) An appeal shall not operate as a stay of execution or of proceedings under the decision appealed from:
- Provided that the Supreme Court or the Court may on application supported by affidavits, and served on the respondent, stay execution on any judgment, order, conviction, or sentence pending appeal on such terms, including such security for the payment of any money or the due performance or non-performance or any act or the suffering of any punishment ordered by or in such judgment, order, conviction, or sentence, as the Supreme Court or the Court may deem reasonable.
- (2) No intermediate act or proceeding shall be invalidated except in so far as the Supreme Court or the Court may direct.

## **21. Setting down appeal for hearing**

- (1) Three months after service of the record, the Registrar shall, after consultation with the President, set down the appeal for hearing and shall take necessary steps to ensure that the parties concerned are informed in writing of the date on which the appeal shall be heard.
- (2) A registered letter forwarded to a party's last known address shall be deemed to be sufficient notice of the date of hearing.
- (3) If the applicant or appellant fails to appear on the date thus notified, the appeal shall be dismissed for lack of prosecution, unless the Court otherwise directs.

## 22. Withdrawal of appeal

- (1) An appellant may at any time after filing the notice of appeal and before the appeal is called for hearing serve on the parties to the appeal and file a notice with the Registrar to the effect that he does not intend further to prosecute the said appeal.
- (2) If all the parties to the appeal consent to the withdrawal of the appeal without an order of the Court, the appellant may file with the Registrar the document or documents signifying such consent and signed by the parties or by their advocates, and the appeal shall thereupon be deemed to have been withdrawn and shall be struck out of the list of appeals by the Registrar who shall thereupon inform the Registrar of the Supreme Court accordingly. In such event any sum lodged in the Registry of the Supreme Court as security for the costs of the appeal shall be paid out to the appellant.
- (3) If any stay of execution has been granted, the sentence or order of the trial court thus stayed shall forthwith be enforced upon the withdrawal of any appeal unless the parties agree otherwise in writing.
- (4) If all the parties do not consent to the withdrawal of the appeal as aforesaid, the appeal shall remain on the list and shall come on for the hearing of any issue as to costs or other remaining outstanding issue between the parties, and for the making of an order as to the disposal of any sums lodged in Court as security for the costs of the appeal.
- (5) If an appellant is alleged to be unsound mind, his appeal shall not be withdrawn without leave of the Court.
- (6) In withdrawing an appeal, the appellant or respondent in cross-appeal shall tender costs unless the other party has agreed to waive them in writing.

## 23. Record

- (1) The preparation of the record of appeal shall be undertaken by the Registrar of the Supreme Court as soon as possible after the notice of appeal has been lodged and upon payment of the prescribed charges. Such record shall be subject to the supervision of the Supreme Court.
- (2) The parties may submit any disputed question arising in connection with the record to the decision of the Supreme Court and that Court shall give such directions thereon as the justice of the case may require.
- (3)
  - (a) The copies of the record shall be clearly typed on A4 standard paper in double-spacing in black ink, on one side of the paper only.
  - (b) Legible documents that were types or printed in the original, including all process in the court a quo forming part of the record on appeal, and documents such as types or printed contracts and cheques (whether handwritten, typed or printed) and the like shall not be retyped but a clear photocopy shall be provided instead.
  - (c) The pages shall be numbered clearly and consecutively, and every tenth line on each page shall be numbered and the pagination used in the court a quo shall be retained where possible.
  - (d)
    - (i) At the top of each page containing evidence, the name of the witness and, at the top of each page containing exhibits, the number of the exhibit shall appear.
    - (ii) All references in the appeal record to page numbers of exhibits in the original record shall be transposed to reflect the page numbers of such exhibits in the appeal record.
  - (e) The record shall be divided into separate conveniently - sized volumes of approximately 100 pages each.

- (f) The record shall be securely bound in book from disclosing—
- (i) the case number;
  - (ii) the names of the parties;
  - (iii) the volume number and the numbers of the pages contained in that volume;
  - (iv) the total number of volumes in the record;
  - (v) the court appealed from; and
  - (vi) the names and addresses of all parties for service.
- (g) (i) The volume number and the numbers of the pages contained in a volume shall also appear on the upper third of the spine of the volume.
- (i) Each volume shall be so bound that upon being cases open it will lie open without any manual or other restraint and upon being opened and thereafter repeatedly closed the binding shall not fail.
- (h) In all cases tried by a jury the most complete available note of any charge or summing-up of the Judge of the trial court shall be included in and form part of the record of proceedings.
- (i) If the record consists of more than one volume, each of the following documents shall be contained in a separate volume:—
- (a) the judgment and order appealed against;
  - (b) the judgment and order giving leave to appeal; and
  - (c) the notice of appeal.
- (j) The record, in the first or in a separate volume, shall contain a correct and complete index of the evidence, documents and exhibits in the case, the nature of the documents and exhibits being briefly stated therein.
- (k) The documents omitted to be copied shall be enumerated in a list to be placed after the index.
- (l) Where part or parts only of any lengthy document are directly relevant to the subject matter of the appeal, it shall be permissible to omit to copy such parts of the document as are neither directly relevant to the subject matter of the appeal nor necessary for the proper understanding of the part or parts that are so relevant.
- (m) If the Registrar of the Supreme Court or any party objects to the inclusion of a document on the ground that it is unnecessary or irrelevant and the other party nevertheless insists upon its being included, the document shall be included and the record shall, with a view to the subsequent adjustment of the costs of and incidental to the inclusion of such document, indicate in the index of papers or otherwise such fact including the party by whom the inclusion of the document was objected to.
- (n) On the completion of the preparation of the record of appeal, the Registrar of the Supreme Court shall certify the correctness of each copy thereof. He shall then cause to be served, upon payment of the prescribed charges by the appellant, a copy of the certified record on each party who has been served with the notice of appeal and has filed notice of address for service:
- Provided that if more respondents than one are represented by one advocate it shall be sufficient to serve one copy on him.
- (o) The Registrar of the Supreme Court shall transmit four certified copies of the record to the Registrar.



## 24. Heads of argument

- (1) Unless the President otherwise directs#
  - (a) The appellant shall lodge with the Registrar five copies of the appellant's main heads of argument within two months from the date of service of the record. Two copies of such main heads of argument shall be served one each respondent.
  - (b) The respondent shall lodge with the Registrar five copies of the respondent's main heads of argument within one month from the receipt of the appellant's heads of argument. Two copies of such main heads of argument shall be served on the appellant.
- (2)
  - (a) The heads of argument shall be set out in separate paragraphs for each head, stating when evidence is to be referred to, the page and lines where such evidence appears in the record.
  - (b) The heads of argument shall be clear, succinct and shall not contain unnecessary elaboration.
  - (c) The heads of argument shall not contain lengthy quotations from the record or authorities.
  - (d) Reference to authorities and the record shall not be general but to specific pages and paragraphs.
  - (e)
    - (i) The appellant's heads of argument shall be accompanied by a written chronology of events relevant to the appeal and duly cross referenced but without argument;
    - (ii) if the respondent disputes the correctness of the chronology of events in a material respect, the respondent's heads of argument shall be accompanied by the respondent's version of the chronology of events.
  - (f) The heads or argument shall be accompanied by a list of authorities to be cited in support of the argument and shall indicate the authorities to which particular reference will be made during argument.
  - (g) The heads of argument shall define the form of order sought from the Court.
  - (h) All heads of argument shall be accompanied by five copies of the front page and relevant portions of all statutory provisions, regulations, rules and unreported decisions to which reference is made.
  - (i) Where at the date fixed for hearing of the appeal the appellant has not lodged heads of argument in terms of this Rule, the appeal shall be deemed to be abandoned and shall accordingly be struck out unless the Court otherwise directs on good cause shown.
  - (j) Where at the date fixed for hearing of the appeal the respondent has not lodged heads of argument in terms of this Rule, the respondent shall not be entitled to be heard unless the Court otherwise directs on good cause shown.
  - (k) Nothing in this Rule shall be deemed to limit the discretion of the Court to hear an appeal or application notwithstanding that heads of argument have not been filed.

## 25. Interlocutory matters

- (1) In this Rule, an interlocutory matter means any matter relevant to a pending appeal the decision of which will not involve the decision of the appeal.
- (2) An interlocutory matter, other than an application for special leave to appeal, may be brought before the President or a single Judge designated by the President:

Provided that the President or the Judge before whom the matter is brought may in his discretion hear or refuse to hear or transfer the application to the full Court.

- (3) Interlocutory matters shall be brought by way of notice of motion which shall be substantially in the Form A in the First Schedule hereto and shall be supported by affidavits.
- (4) The opposing party may deliver answering affidavits within fourteen days of the service of the notice of motion.
- (5) The applicant may file replying affidavits within seven days of the service of the answering affidavits.

## 26. Extension of time

The times fixed within these Rules may, on good cause shown, be extended by the President or a Judge designated by the President or may be extended by the Court.

## 27. Security for costs

- (1) Within fourteen days after filling the notice of appeal, or, in a case where leave to appeal is necessary within fourteen days after being granted leave or special leave to appeal, the appellant shall provide good and sufficient security to the satisfaction and within the discretion of the Registrar for the payment of all such costs of the appeal as may become payable by him.
- (2) A person may provide security in any manner that the Registrar may approve in his case and such security may, with the approval of the Registrar, consist in whole or in part of a deposit of money.
- (3) If the security approved by the Registrar is not furnished or given within the time limit mentioned in sub-rule (1) of this Rule, the notice of appeal shall be deemed to have been withdrawn, and the appellant shall pay to the respondent the costs of the abortive appeal:

Provided that nothing in this sub-rule shall be deemed to limit or respect the power of the Court to extend time.

## 28. Poor persons (*in forma pauperis*)

- (1) Any party who is a natural person and who is of the opinion that he is a poor or indigent may apply to the Court for leave to prosecute or defend an appeal *in forma pauperis*.
- (2) A party shall be deemed to be a poor person or indigent if he can satisfy the Court that, except for household goods, wearing apparel and tools of trade, he is not possessed of property or financial means to the amount of Rs.10,000 and that he has failed to obtain legal aid.
- (3) No such application shall be made unless the opposite party has been asked and has failed or refused to consent to the applicant proceeding *in forma pauperis* within one month thereafter.
- (4) Upon being satisfied that the applicant, is a poor person or indigent, the Court may#
  - (a) assign an advocate to such applicant;
  - (b) direct payment to such advocate of such remuneration as may be appropriate out of the general revenues and may direct that the amount of such remuneration shall be a first charge on any money or property recovered by the party on or in consequence of the appeal, and that such amount or part thereof which may be recovered shall be refunded to the general revenues;
  - (c) direct that no Court fees, or any specified amount less than the prescribed Court fees, be paid in respect of an appeal;
  - (d) direct that no security for costs be lodged, or that any specified sum less than would have been otherwise prescribed be lodged in Court as security for costs;

- (e) direct that the record of appeal be prepared by the Registrar of the Supreme Court without payment therefor, or on payment of any specified sum less than the prescribed charges therefore.

## 29. Consolidation of appeals

Where the Court is of the opinion that it would be for its convenience and that of all parties concerned that two or more appeals should be consolidated, it may, of its own motion or on the application of any party, direct the appeals to be consolidated and treated as one appeal.

## 30. Hearing of appeal

- (1) At the hearing of an appeal, the appellant or his advocate shall first address the Court:  
Provided that the Court in its discretion may call upon the respondent or his advocate to address it first.
- (2) If the appellant is represented by more than one advocate, all of them shall be entitled to address the Court but not on the same aspect or aspects of the appeal.
- (3) After the close of the appellant's address, the respondent or his advocate shall be entitled to address the Court:  
Provided that if the respondent is represented by more than one advocate, all of them shall be entitled to address the Court but not on the same aspect or aspects of the appeal.
- (4) The appellant shall be entitled to reply on a point of law after the respondent or his advocate has concluded his address:  
Provided that if the appellant is represented by more than one advocate, one only shall be entitled to reply.
- (5) After the arguments have been concluded, the Court may give judgment immediately or may reserve judgment until a later date.
- (6) (a) The judgment shall be delivered by the President or the Senior Judge presiding:  
Provided that the President or Senior Judge presiding, as the case may be, may request the scribe or any other member of the Court hearing the appeal to deliver such judgment.  
(b) Such judgment may be pronounced notwithstanding the absence of the Judges who composed the Court or any of them.

## 31. Power of the Court on appeal

- (1) Appeals to the Court shall be by way of re-hearing and the Court shall have all the powers of the Supreme 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) Upon appeals from a judgment, decree or order, after trial or hearing of any cause or matter upon the merits, such further evidence, save as to matters which have occurred after the day of the decision from which the appeal is brought, shall be admitted on special grounds only and not without leave of the Court.
- (3) The Court may draw inferences of fact, and give any judgment, and make any order which the Supreme Court ought to have given or made, and make such further or other orders as the case requires.
- (4) The aforesaid powers 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, who have not appealed from or complained of the decision.

- (5) In its judgment, the Court may confirm, reverse or vary the decision of the trial court with or without an order as to costs, or may order a re-trial or may remit the matter with the opinion of the Court thereon to the trial court, or may make such other order in the matter as to it may seem just, and may by such order exercise any power which the trial court might have exercised:

Provided that the Court may, notwithstanding that it is of opinion that the point or points raised in the appeal might be decided in favour of the appellant, dismiss the appeal if it considers that no substantial miscarriage of justice has occurred.

### **32. Formal order of the Court**

- (1) Every judgment of the Court shall be embodied in a formal order prepared by the Registrar after consultation with the parties to the appeal.
- (2) If the parties do not agree upon the form of the order, the draft thereof shall be settled by the President or by such Judge as the President may designate and the parties shall be entitled to be heard thereon if they so desire.
- (3) The Registrar shall send a sealed or certified copy of the order to the Registrar of the Supreme Court.

### **33. Fees of the Court**

The fees set out in the Second Schedule hereto shall be payable in respect of applications and appeals in relation to the Court and in respect of applications and appeals in relation to the Court and in respect of applications and proceedings in the Supreme Court preparatory or incidental to, or consequential upon and appeal to the Court.

### **34. Taxation of costs**

- (1) The costs incurred in any appeal or application shall, unless assessed by the Court, be taxed by the Registrar in accordance with the rules and scales set out in the Third Schedule hereto.
- (2) In exercising his function under this Rule, the Registrar shall be called the taxing master.

### **35. Repeal of Rules**

The Seychelles Court of Appeal Rules 1978 as amended from time to time are hereby repealed and superceded by these Rules:

Provided that any proceedings already commenced under the repealed Rules may continue thereunder, save in so far as the Rules herein contained may be applicable thereto without injustice or increased costs to any of the parties.

## **First Schedule**

### **Form A (Rules 17 and 25)**

In the Seychelles Court of Appeal

In the matter between

\_\_\_\_\_ Appellant

and

\_\_\_\_\_ Respondent

Case No \_\_\_\_\_ of 20 \_\_\_\_\_

#### NOTICE OF MOTION

Take notice that on \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_ at \_\_\_\_\_ o'clock or so soon thereafter as the matter may conveniently be heard Mr/Mrs/Miss \_\_\_\_\_ Advocate for the above named Applicant will move the Court for an order in the following terms:#

*(set out)*

Take further notice that the accompanying affidavit of \_\_\_\_\_ is annexed in support of the application.

If you intend to oppose this application, you are required to file your answering affidavit in support of your opposition, after prior service upon the Applicant, with the Registrar within fourteen days of the service of the notice of motion upon you.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Advocate for the Applicant

Address for service

To: \_\_\_\_\_ (Respondent)

Address for service

And to: The Registrar

Seychelles Court of Appeal

### Form B (Rule 18)

In the Seychelles Court of Appeal

\_\_\_\_\_ Appellant

and

\_\_\_\_\_ Respondent

Case No \_\_\_\_\_ of 20 \_\_\_\_\_

#### NOTICE OF APPEAL

Take Notice that \_\_\_\_\_ hereby appeals to the Seychelles Court of Appeal against the decision of Mr Justice \_\_\_\_\_ given at the Supreme Court on the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_ upon the grounds set out in paragraph 2 and will at the hearing of the appeal seek the relief set out in paragraph 3.

The appeal is against conviction only/sentence only/both conviction and sentence.

#### 2. Grounds of Appeal

- (1) \_\_\_\_\_
- (2) \_\_\_\_\_
- (3) \_\_\_\_\_ etc.

## 3. Relief sought from the Seychelles Court of Appeal

The appellant desires/does not desire + - to attend the hearing

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_

Advocate for the Appellant

Address for service

To: The Respondent

Address

And to: The Registrar

Seychelles Court of Appeal

And to: The Registrar of the Supreme Court

### Form C (Rule 18)

In the Seychelles Court of Appeal

In the matter between

\_\_\_\_\_ Appellant

and

\_\_\_\_\_ Respondent

Civil Side No \_\_\_\_\_ of 20 \_\_\_\_\_

#### NOTICE OF APPEAL

Take Notice that \_\_\_\_\_ being dissatisfied with the decision of Mr Justice \_\_\_\_\_ given at the Supreme Court/Constitutional Court on the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_ hereby appeals to the Seychelles Court of Appeal against the whole of the decision (or against such part of the decision as the case may be) that \_\_\_\_\_ (setting out details) upon the grounds set out in paragraph 2 and will at the hearing of the appeal seek the relief set out in paragraph 3.

And the Appellant further states that the names and addresses of the persons directly affected by the appeal are those set out in paragraph 4.

## 2. Grounds of Appeal

(1) \_\_\_\_\_

(2) \_\_\_\_\_

(3) \_\_\_\_\_ etc.

## 3. Relief sought from the Seychelles Court of Appeal.

## 4. Persons directly affected by the appeal:

Name \_\_\_\_\_ Address \_\_\_\_\_

(1) \_\_\_\_\_

(2) \_\_\_\_\_

(3) \_\_\_\_\_ etc.

Dated at \_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_

\_\_\_\_\_  
Advocate for the Respondent

Address

To: The Respondent

Address

And to: The Registrar

Seychelles Court of Appeal

And to: The Registrar of the Supreme Court/Constitutional Court

### Form D (Rule 19)

In the Seychelles Court of Appeal

In the matter between

\_\_\_\_\_ Appellant

and

\_\_\_\_\_ Respondent

NOTICE OF CROSS-APPEAL

Take Notice that, on the hearing of this appeal \_\_\_\_\_ the above named respondent, will contend that the decision herein ought to be varied/affirmed to the extent and in the manner and on the grounds hereinafter set out, namely:

*(set out)*

Dated this day \_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_

\_\_\_\_\_  
(Advocate for the) Respondent

The address for service of the respondent above named is \_\_\_\_\_

Filed the \_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_ at \_\_\_\_\_

\_\_\_\_\_  
Advocate for the Respondent

Address

To: The Advocate for the Respondent

And to: The Registrar

Seychelles Court of Appeal

And to: The Registrar of the Supreme Court/Constitutional Court

## Second Schedule (Rule 33)

### Fees

1. The fees and percentages set out in this Schedule shall be taken and paid in respect of all civil causes, matters and proceedings in the court, and in respect of applications and proceeding in the Supreme Court, preparatory or incidental to, or consequential upon, a civil appeal to the Court of Appeal.
2. The Court of Appeal may, on application, permit the filing of an appeal without the payment of the court fees detailed in this Schedule where—
  - (a) the request is made by application supported by affidavit; and
  - (b)
    - (i) the requesting party is the Attorney General, a ministry, department or body of the Government of Seychelles; or
    - (ii) it is in the interests of ensuring access to justice that court fees be waived.



		<b>Fees (SCR)</b>
1.	Upon filing Notice of Appeal	1000
2.	Upon filing Notice of address for service	200
3.	Upon filing Notice of Cross-Appeal	1000
4.	Upon filing Notice of Motion	500
5.	Upon filing an Affidavit	200
6.	Upon sealing an Order	200
7.	Upon a reference from the Registrar to the President or a Judge designated by the President	300
8.	Upon filing a bill of costs for taxation	100
9.	Upon the certificate or allocation of the result of taxation of a bill of costs where the costs of any matter are assessed by the Court and ordered to be paid, the appropriate fee under this item shall be payable.	2% of final payment minimum of 200
10.	Upon taking an Affidavit	200
11.	Upon marking an exhibit to an affidavit	100
12.	Preparing, settling and certifying record	2000
13.	(a) On physical copy of any documents, record, evidence, or other proceedings	100

	(b) Digital copy of whole document	50
14.	Service of any process or proceedings required to be served by the Court:	
	(a) On Mahe within five kilometres from the Court	75
	(b) On Mahe more than kilometres, for every extra kilometer (to be charged both ways)	50
	(c) On Praslin and La Digue and other inner islands	1000
15.	Upon a bond, for every party executing the same	200

*[Schedule 2 amended by rule 2 of [SI 18 of 2020](#) w.e.f. 10 February 2020]*

### **Third Schedule (Rule 33)**

#### **Taxation**

##### **1. Taxation of costs**

Unless assessed by the Court, costs incurred in proceedings in the Court and in proceedings in the Supreme Court preparatory or incidental to, or consequential upon, proceedings in the Court shall be taxed by the Registrar (hereinafter referred to as the taxing master) in accordance with the rules and scales hereinafter set out:

Provided that as regards proceedings in the Supreme Court for which no provision is made in these rules or scales, the rules and scales applicable to the Supreme Court shall be followed:

Provided further that where the Court directs taxation of costs as between attorney and client or where a party requests such costs to be taxed, the Registrar shall tax such costs under and in accordance with the direction of the Court.

##### **2. Order for costs**

No costs shall be payable as between party and party or out of any fund unless so ordered by the Court. If costs are ordered to be paid without further direction, they shall be taxed as between party and party.

##### **3. Notice of taxation to be given by taxing master**

Whenever an advocate shall have lodged a bill for taxation with the necessary papers and vouchers, the taxing master shall thereupon issue a notice fixing the time at which the taxation shall be proceeded with.

##### **4. Reference to President or Judge**

The taxing master or any party may within twenty days of the allocatur refer any matter in dispute arising out of the taxation of a bill for the opinion of the President or a Judge designated by the President.

5. **Bills not to be altered after being lodged**

No addition or alteration shall be made in costs after a bill has been lodged for taxation except by consent of the parties or by permission or direction of the taxing master or the President or a Judge designated by the President.

6. **Default of advocate to attend taxation**

Any advocate who shall without reasonable excuse after due notice fail to appear on the date fixed for taxation or on any date to which such taxation is adjourned or who shall in any way delay or impede the taxation, or put any other party to any unnecessary or improper expenses relative to such taxation shall, unless the taxing master otherwise directs, forfeit the fees on which he would otherwise be entitled for drawing his bill of costs and for attending the taxation and shall in addition be liable to pay for any unnecessary or improper expense to which he has put any other party.

7. **Discretion of taxing master**

On every taxation the taxing master shall allow all such costs, charges and expenses as shall appear to him to have been necessary or proper for the attainment of justice or for defending the rights of any party, but save as against the party who incurred the same, no costs shall be allowed which appear to the taxing master to have been incurred or increased through overpayment, extravagance overcaution, negligence, or mistake or by payment of special charges or expenses to witnesses or other persons, or by other unusual expenses.

8. **Excessive claims**

If more than one-quarter of the amount of costs claimed is disallowed on taxation, the costs of preparing, filing and serving the bill and of attending taxation shall be disallowed.

9. **Costs of more than one advocate**

Costs of more than one advocate shall not be allowed unless the Court shall so direct.

10. **Costs improperly incurred by advocate**

If in any case it shall appear to the Court or the President, a Judge designated by the President that costs have been improperly or without reasonable cause incurred or that by reasons of any undue delay in proceeding under any judgement or order, of any misconduct or default of the advocate, any costs properly incurred have nevertheless proved fruitless to the person incurring the same, the Court or the President or Judge designated by the President may call on the advocate by whom such costs have been so incurred to show cause why such costs should not be disallowed as between the advocate and his client, and also (if the circumstances of the case shall require) why the advocate should not repay to his client any costs which his client may have been ordered to pay to any other person and thereupon may make such order as the justice of the case may require.

The court or the President or a Judge designated by the President may if they or he thinks fit refer the matter to the taxing master for enquiry and report, and may direct the advocate in the first place to show cause before the taxing officer.

11. **Party not appearing**

Notice of taxation need not be given to any party who did not appear in person or by advocate at the hearing of the appeal or matter in question.

12. **Party entitled to costs refusing to lodge bill for taxation**

When any party entitled to costs refuses or neglects to bring in his costs for taxation or to procure the same to be taxed and thereby prejudices any other party, the taxing master shall be at liberty to certify the costs of the other parties and certify such refusal or neglect, or may allow such party refusing or neglecting a nominal sum or other sum for such costs, so as to prevent any other party being prejudiced by such refusal or neglect.

**13. Manner of preparing bills for taxation**

Bills of costs shall be entitled and filed in the proceedings and shall be prepared in five columns:

The first or left-hand column for dates showing year, month, days;

The second for the serial number of the items;

The third for the particulars of the services charged for;

The fourth for the professional charges;

The fifth for the taxing master's deductions;

Disbursements shall be shown separately at the foot of the bill.

Every bill of costs which shall be lodged for taxation shall be endorsed with the name and address of the advocate by whom it is lodged, and also the name and address of the advocate (if any) for whom he is agent and shall include at the end thereof a form of certificate or allocatur for signature by the Registrar certifying the result of the taxation.

**14. Vouchers to be produced on taxation**

Vouchers for all disbursements charged in a bill of costs, together with documents or drafts or copies thereof shall be produced on taxation if so required by the taxing officer.

All drafts and other documents the preparation of which is charged for per folio shall have the folios thereof consecutively numbered in the margin of the same, and the number of the folios shall be endorsed thereon in figures. The length of all documents not vouched by attested copies or other satisfactory evidence shall be certified by the advocate, and if such certificate be erroneous the taxing master may disallow the costs of the document so erroneously certified or any part thereof

**15. Costs where advocate is employed by two or more parties**

Where the same advocate is employed for two or more parties and separate proceedings are had by or for any two or more such parties, the taxing master shall consider in the taxation of such advocate's bill of costs, either as between party and party, or as between attorney and client, whether such separate proceedings were necessary or proper, and if he is of opinion that any part of the costs occasioned thereby have been unnecessarily or improperly incurred, the same shall be disallowed.

**16. Appearance of party not interested**

Where any party appears upon any application or proceeding in court or in chambers, in which he is not interested or upon which, according to the practice of the Court, he ought not to attend, he shall not be allowed any costs of such appearance unless the court shall otherwise order.

**17. Time and adjournment**

The taxing master shall have power to limit or extend the time for any proceeding before him, and to adjourn the same from time to time.

**18. Witnesses**

Expenses of parties attending Court as such shall not be allowed but an allowance may be made for attendance of any necessary witnesses and/or including parties of such amount as would be allowed to such persons for attendance in the Supreme Court.

**19. Meaning of "folio"**

The expression "folio" where used in this Schedule shall mean 100 words, a single figure or a group of figures up to seven being counted as one word.

**20. Overriding discretion**

Notwithstanding anything in this Schedule contained, if the taxing master or the President or a Judge designated by the President is of opinion that, having regard to all the circumstances, the amount of a bill of costs after taxation is excessive, the taxing master any time before signing his allocatur, or the President or a Judge designated by the President on reference to him, may make such deduction from the total sum allowed or to be allowed as will in his opinion render the total sum reasonable. The President or a Judge designated by the President may similarly cancel or reduce any deduction made by the taxing master under this rule.

**Scale A**

*[Scale A in Schedule 3 amended by [SI 18 of 2020](#) w.e.f. 10 February 2020]*

<b>(Civil causes and matters)</b>		
<b>Instructions</b>		
		<b>Fee (SCR)</b>
1.	Instructions to file Notice of Appeal	1000
2.	Instructions to act for a Respondent	1000
3.	In any case where a Notice of Appeal has been filed but no appeal is subsequently lodged, the Respondent shall be entitled to an inclusive sum for costs of any application made to the Supreme Court or the Court)	2000
4.	Instructions to file any application	1000
5.	Instructions to appear for the Respondent to any application	1000
<b>Drawing</b>		
6.	Notice of Appeal	1500
7.	Notice of Motion	750
8.	Affidavit	200
9.	Notice of address for service	200
10.	Notice of Cross-Appeal	1000
11.	Bill of Costs	100
12.	Copy of bill of costs to opposite party	100

13.	Proof of witness	100
14.	Order	200
15.	Any other necessary document to be filed or used in Court	100
<b>Attendances</b>		
16.	On the Registrar	500
17.	On the President or a Judge in chambers	1000
18.	In court, on the hearing of any application or appeal, for the first half hour of the hearing	2000
	And for each subsequent half hour	1000
	But subject to a maximum for this first day of	3000
	And for each subsequent day of	2000
19.	In court to hear judgment	500

**Scale B**  
**(Second appeals in criminal cases)**

This scale shall apply only for taxation of costs ordered to be taxed and paid as between party and party of an appeal to the Court from a decision of the Supreme Court given in its appellate jurisdiction in a criminal cause or matter.

1. A fee for instructions, to include all work done in and about the appeal other than that chargeable under the subsequent item at the discretion of the taxing officer, which unless for special reasons to be recorded, shall not be less than Rs. 200 or exceed Rs. 1,500.
2. A fee for each necessary attendance in Court or chambers, as allowed under item 16 to 19 inclusive of Scale A, but in every case at one half of the amount shown for such item in that scale.