

Order 7

Records of Appeal in Civil and Criminal Proceedings

1. (1) The provisions of Rules 2, 3, and 4 of this Order shall apply to appeals to the Court from final decisions of the Court of Appeal in civil and criminal cases other than decisions of a High Court.
- (2) The provisions of Rules 6 and 7 of this Order shall apply to any decision of the Court of Appeal in respect of –
 - (a) An interlocutory decision made by it;
 - (b) A decision made by it on appeal from an interlocutory decision of a High Court;
 - (c) A decision made by it affirming or reversing an order for summary judgment; or
 - (d) A decision made by it in cases –
 - (i) Where the liberty of a person or the custody of an infant is concurred,
 - (ii) where an injunction or the appointment of a receiver is granted or refused,
 - (iii) relating to or connected with the winding up of companies,
 - (iv) Of a decree nisi in a matrimonial cause,
 - (v) Affecting the Revenue of the Government of the Federation or of a State;
 - (e) such other cases as the Court in its discretion may direct.
2. (1) As soon as an appellant has filed his Notice of Appeal in the court below, the Registrar of that court or (in the case to which Rules 6 and 7 of this Order apply) the appellant, shall, with all due expedition, start to prepare the Record in accordance with the provisions of this order.
- (2) The Record shall contain the following documents in the order set out -
 - (a) the index;
 - (b) A statement by the Registrar of the Court of Appeal giving brief particulars of the case and including a schedule of the fees paid in the Court of Appeal;
 - (c) Copies of the documents and proceedings constituting the Record of Appeal before the Court of Appeal;

- (d) Copies of all documents and proceedings before the Court of Appeal;
- (e) A copy of the order for leave to appeal whether made by the Court or by the Court of Appeal;
- (f) A copy of the Notice of Appeal;
- (g) A certificate by the Registrar of the Court of Appeal certifying that the notice of Appeal was duly served upon the respondent;
- (h) a certificate by the Registrar of the Court of Appeal certifying that the appellant has duly and punctually complied with the conditions of appeal imposed upon him; and
- (i) A certificate by the Registrar of the Court of Appeal certifying that the appellant and the respondent have either collected their copies of the record respectively or that they have been duly notified that such record is ready for collection.

(3) In respect of the documents and proceedings referred to in paragraphs (c) and (d) of sub-rule (2) of this Rule, it shall not be necessary to copy any documents which the appellant with the consent of the respondent considers should be excluded:

Provided that whenever such document has been included on the insistence of the respondent, the Registrar of the court below shall make a note to that effect.

- (4) It shall not be necessary to copy the notes or minutes of the proceedings taken by every member of the Court of Appeal and the notes of minutes signed by the Presiding Justice shall be deemed to be the proceedings of the court below.
- (5) It shall not be necessary for copies of individual documents to be separately certified by the Registrar of the court below shall certify as correct each copy of the Record transmitted by him in accordance with these Rules.

3. (1) When the appellant or his agent files his Notice of appeal, he shall be informed of the amount assessed by the Registrar of the Court of Appeal as the cost of the preparation and transmission of the Record to the Court and (in the case of civil appeals) as the amount of security and the due prosecution of the appeal.

(2) The appellant shall within a period of not more than 14 days pay the amount so assessed and deposit the amount prescribed as security for costs and the due

prosecution of the appeal or in lieu thereof give security by bond with one or more sureties to the satisfaction of the Registrar: Provided that –

(a) The amount of such security shall not exceed twice the costs awarded in favour of the successful party before the Court of Appeal; and

(b) No deposit or security shall be required where the deposit would be payable by the Government of the Federation or of a State, by any Government department, by a local government, or by a corporation directly established by a law enacted by the legislature of the Federation or of a State.

(3) The appellant shall within such time as the Registrar of the court below directs deposit with him a sum fixed to cover the estimated expense of making up and forwarding the record of appeal calculated at the full cost of one copy for the appellant and one-tenth cost for each of the ten copies for the use of the Court.

(4) The Court may, where necessary, require security for costs or for performance of the orders to be made on appeal, in addition to the sum determined under this Rule.

4. (1) The Registrar of the court below shall within a period of not more than six months from the date of the filing of the notice of appeal transmit the record when ready together with –

(a) A certificate of service of the notice of appeal;

(b) A certificate that the conditions imposed under this Order have been fulfilled;

(c) Ten copies of the record for the use of the Justices;

(d) The docket or file of the case in the court below and the court of first instance containing all papers or documents filed by the parties in connection therewith, to the Registrar of the Court; and

(e) A certificate indicating date of service of records on the parties.

(2) The Registrar of the court below shall also cause to be served on all parties mentioned in the notice of appeal who have filed an address for service a notice that the record has been forwarded to the Registrar of the Court who shall in due course, enter the appeal in the cause list.

5. (1) The Court may in any case in which it considers it necessary or expedient so to do in the interest of justice, or in any case in which it makes an order for accelerated hearing of the appeal, direct a departure from Rules, 2, 3 and 4 of this Order.
 - (2) Where a direction for such departure is made by the Court, the provisions of Rules 6 and 7 of this Order shall apply to the appeal notwithstanding the fact that it is an appeal of the type mentioned in sub-rule (1) of Rule 1 of this Order:
Provided that the Court may give further or other directions for the purpose of procuring a Record for the hearing and determination of the appeal.
6. It shall not be necessary for the Registrar of the Court of Appeal to prepare a Record in respect of an appeal of the type mentioned in Sub-Rule (2) of Rule 1 of this Order unless the Court otherwise directs, and accordingly, the Record for the purpose of such appeals shall be prepared in the manner set forth in Rule 7 of this Order.
7. (1) The appellant shall, in appeals to which this Rule applies either simultaneously with filing his Notice of Appeal or within 14 days thereafter, prepare for the use of the Justices a Record comprising –
 - (a) The index;
 - (b) Office copies of documents and proceedings which the appellant considers relevant to the appeal; and
 - (c) A copy of the notice of appeal.
 - (2) If the respondent considers that the documents and proceedings filed by the appellant are inaccurate or are not sufficient for the purposes of the appeal, he shall, within a period of 7 days after service on him of the Record filed by the appellant, file any further or other documents that he wished to file.
 - (3) All documents filed by either party shall be verified by the affidavit of a person who has read them compared them with authentic or certified true copies.
 - (4) In the case of the documents and proceedings mentioned in Rule 7 (1)(b) and (c) of this Order, the party filing them shall lodge certified true copies thereof with the Registrar of the Court.

8. (1) When the Registrar of the court below has complied with the requirements of Rule 4 of this Order, he shall deliver a copy of the Record to the parties after receiving any fees that may be due or payable under the Second Schedule to these Rules.

(2) In respect of criminal appeals, the Registrar of the court below shall forward a copy of the Record to the Attorney-General or the Solicitor-General of the State from which the appeal emanates or (as the case may require) to the Attorney-General or the Federation.

Appellate Jurisdiction