



REPUBLIC OF NAURU

# NAURU COURT OF APPEAL RULES 2018

---

SL No. 19 of 2018

---

Notified: 18<sup>th</sup> July 2018

## Table of Contents

<b>PART 1 - PRELIMINARY .....</b>	<b>4</b>
1 Citation .....	4
2 Commencement.....	4
3 Definition .....	4
4 Objectives Of The Rules.....	4
5 Rules To Be Complied With.....	5
6 Appeal To Be Confined To Grounds Of Appeal .....	5
7 Application Of Practice And Procedure Of England .....	5
8 Sitting In Chambers.....	5
9 Reference To The Court Includes A Single Justice Of Appeal .....	5
<b>PART 2 - APPEALS IN CIVIL PROCEEDINGS.....</b>	<b>5</b>
10 Notice of appeal .....	5
11 Security for cost .....	6
12 Stay of execution or proceeding.....	7
13 Respondent's notice.....	8
14 Application for leave to appeal .....	9
15 Application for extension of time .....	10
16 Application to admit fresh evidence.....	10
17 Application of Civil Procedure Rules .....	11
<b>PART 3 - APPEALS IN CRIMINAL PROCEEDINGS.....</b>	<b>11</b>
18 Application of this Part.....	11
19 Notice of appeal.....	11

20	Bail pending appeal or intended appeal.....	12
21	Stay of sentence, restoration of compensation or any other appropriate order .....	13
22	Respondent's notice.....	14
23	Application for leave to appeal under sections 30 and 31 of the Act .....	14
24	Appeals on certification by Supreme Court.....	15
25	Consolidation of appeals .....	15
26	Extension of time to appeal or seeking leave to appeal.....	16
27	Notice of appeal by a serving prisoner .....	16
28	Application to admit fresh evidence.....	16
	<b>PART 4 – RULES OF GENERAL APPLICATION TO CIVIL OR CRIMINAL APPEALS .....</b>	<b>17</b>
29	Intervention by a non-party .....	17
30	Interlocutory application.....	19
31	Abandonment of appeal or Respondent's notice.....	19
32	Dismissal for want of prosecution of the appeal .....	20
33	Abridgment or Extension of time for service or doing of an act.....	20
34	Court may order costs .....	20
35	Supplementing the records.....	20
36	Amendment of Notice of appeal or Respondent's notice .....	21
37	Date of hearing .....	22
38	Order of address in Court.....	22
39	Death of a party in Civil Appeal.....	23
40	Death of a person convicted and sentenced in Criminal Appeal .....	24
	<b>PART 5 – SERVICE .....</b>	<b>24</b>
41	Service of Notice of appeal on person affected.....	24
42	Death of Respondent before service of Notice of appeal.....	24
43	Respondent, Intervener etc to give address for service.....	24
	<b>PART 6 – APPEAL RECORD BOOK, CHRONOLOGY AND WRITTEN SUBMISSIONS .....</b>	<b>25</b>
44	Compiling of appeal record book for Civil Appeal.....	25
45	Compiling appeal record book for Criminal Appeal .....	26
46	Chronology and Written Submissions.....	27
	<b>PART 7 – REFUGEE APPEALS.....</b>	<b>28</b>
47	Refugee appeals.....	28
48	Application of the Rules to refugee appeals.....	28
49	Identity of appellant or respondent .....	28
50	Intitule of a refugee appeal .....	28
	<b>PART 8 - GENERAL .....</b>	<b>29</b>
51	Forms .....	29
52	Documents to be filed.....	29
53	Intitule.....	29
54	Backing sheet .....	30
55	Provision for address for service.....	30
56	Notification by the Registrar.....	30

57	Computation of time .....	31
58	Hours for filing Documents .....	31
59	Maintenance of Register .....	31
60	Documents to be sealed.....	32
61	Refusal to accept documents filed out of time .....	32
62	Signature on the documents.....	33
63	Sitting of the Court .....	33
64	Notice of hearing .....	33
65	Change of Legal representative .....	33
66	Number of copies of document to be filed .....	33
67	Affidavits.....	33
68	Sealing of Orders .....	34
	<b>PART 9 – MISCELLANEOUS.....</b>	<b>34</b>
69	Correction of inadvertent slip or omission.....	34
70	Judgment and Interest.....	34
71	Practice Directions .....	35
72	Fees .....	35
	<b>PART 10 - TRANSITIONAL.....</b>	<b>35</b>
73	Filing of appeal or application for Leave to appeal during Transitional Period .....	35
	<b>SCHEDULE 1 .....</b>	<b>36</b>
	<b>SCHEDULE 2 .....</b>	<b>88</b>

In exercise of the powers conferred upon me under *section 59* of the Nauru Court of Appeal Act 2018, I hereby make the following Rules of the court:

## **PART 1 - PRELIMINARY**

### **1 Citation**

These Rules may be cited as the *Nauru Court of Appeal Rules 2018*.

### **2 Commencement**

The Rules commence on the day they are notified in the Gazette.

### **3 Definition**

In these Rules:

**'Act'** refers to the Nauru Court of Appeal Act 2018;

**'applicant'** refers to an intended appellant, appellant, respondent or intervener who makes an application under the Act or the Rules for an intended appeal, appeal or review;

**'application'** refers to any interlocutory application made under the Act or Rules;

**'appellant'** means a person who has filed an appeal to the Court against a judgment, decision or order of the Supreme Court or of any other adjudicating body under a written law;

**'Civil Procedure Rules'** refers to the Civil Procedure Rules 1972 or any other subsequent rules amending or successor to those Rules;

**'the Court'** unless otherwise stated refers to the Nauru Court of Appeal including when constituted by a single Justice of Appeal under the Act;

**'chamber'** does not include an open court hearing;

**'legal representative'** has the same meaning as provided for in Article 15 of the Constitution and the Nauru Court of Appeal Act 2018;

**'Registrar'** has the same meaning as provided for in section 13 of the Nauru Court of Appeal Act 2018;

**'respondent'** refers to a party against whom an application or appeal is filed;

**'the Rules'** refers to the Nauru Court of Appeal Rules 2018.

### **4 Objectives of the Rules**

(1) The objectives of the Rules are to:

- (a) provide for the orderly, expeditious and inexpensive disposal of applications and appeals; and

(b) enable the parties to an application or appeal to prepare and present their cases and responses to the other parties, comprehensively and fairly.

(2) The objectives of the Rules shall be the guiding factor in the interpretation and application of the Rules.

## **5 Rules to be complied with**

(1) The Rules shall be complied with unless waived by the Court.

(2) Any documents filed contrary to the Act or Rules shall not be read, admitted as evidence or form part of a proceeding, without the prior leave of the Court.

(3) In waiving the non-compliance of the Rules under sub rule (1), the Court may:

(a) direct the party to rectify the non-compliance in accordance with the applicable rule; or

(b) where it deems fit, order costs against the defaulting party.

## **6 Appeal to be confined to grounds of appeal**

Subject to any amendments to the grounds of appeal made under the Rules, the Court shall confine the appellant or respondent to the grounds of appeal contained in the notice of appeal or Respondent's notice.

## **7 Application of practice and procedure of England**

Where no provision is made by the Rules or any other written law, the practice and procedure of the Court of Appeal of England shall apply.

## **8 Sitting in chambers**

A single Justice of Appeal may conduct a hearing and deliver judgment, decision or order in chambers.

## **9 Reference to the Court includes a single Justice of Appeal**

Where under the Rules a reference is made to the Court, a single Justice of Appeal may exercise those powers and jurisdiction of the Court vested to him or her under sections 27 and 43 of the Act.

# **PART 2 - APPEALS IN CIVIL PROCEEDINGS**

## **10 Notice of appeal**

(1) A notice of appeal under Part 6 of the Act may be given in respect of whole or part of a judgment, decision or order of the Supreme Court.

(2) The notice of appeal shall: