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S.I. 93 of 2023**THE COURT OF APPEAL OF SEYCHELLES RULES 2023**

In exercise of the powers conferred on me by Article 136(1) of the Constitution, I.

ANTHONY FRANCIS TISSA FERNANDO

President of the Court of Appeal do hereby make the following Rules —

Citation and Commencement

1. These Rules may be cited as the Court of Appeal of Seychelles Rules, 2023 and shall come into operation two months after their publication in the Gazette.

Interpretation

2.(1) In these Rules, unless inconsistent with the context —

“Appeal” means an appealable decision as set out in article 120(2) of the Constitution;

“Attorney-At-Law” means a person duly admitted to practice in the Supreme Court under the Legal Practitioners Act and includes any person having under these Rules the right of audience on behalf of another person in the Court;

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

“Chief Justice” means the Chief Justice of the Supreme Court of Seychelles appointed under article 127 of the Constitution and includes a judge appointed to perform the functions of Chief Justice in accordance with article 128(1) of the Constitution;

“Court” means the Court of Appeal of Seychelles established

under article 120 of the Constitution, and includes a single Justice exercising any power vested in him sitting alone;

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

“Court session” means the period during which the court sittings are held;

“Judge” means a person appointed in accordance with article 127 and a person appointed to act as a judge in accordance with article 128(2) of the Constitution;

“Justice of Appeal” means a person appointed in accordance with article 123 and a person appointed to act as a Justice of Appeal in accordance with article 124(2) of the Constitution or a Judge selected to sit for the purpose of hearing an appeal under article 121(b) of the Constitution;

“Masculine gender” includes the feminine gender and vice versa, unless the context otherwise indicates”;

“President” means the President of the Court of Appeal of Seychelles appointed in accordance with article 123 of the Constitution and includes a Justice of Appeal appointed to perform the functions of the office of the President in accordance with article 124(1) of the Constitution;

“Registrar” includes the Deputy Registrar and the Assistant Registrar of the Court;

“Registrar of the Supreme Court” includes the Deputy Registrar of that court;

“Registry” means the Registry of the Court;

“Rules” means these Rules or any amendment thereof;

“Singular” includes the plural and vice versa, unless the context otherwise indicates;

“Supreme Court” means the Supreme Court of Seychelles as established under article 125 of the Constitution.

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

(3) In the Computation of time —

“days” means Court days.

“week” means seven days inclusive of Saturdays, Sundays and Public Holidays.

“month” means a calendar month inclusive of Saturdays, Sundays and Public Holidays;

- (4) (a) Where a period is expressed to begin after or to be from a specified day, the period shall exclude that day;
- (b) Where a period is expressed to end at, on or with a specified day, the period shall include that day;
- (c) Where the first or last day of a specified period is a Saturday, Sunday or a public holiday, the period shall include the next following Court day.

(5) Where no time is prescribed in the Rules for the doing of any act or thing, it shall be done without unreasonable delay.

(6) Where the Court is empowered by these Rules to extend the period of time within which any act or proceeding is permitted or required to be done or taken, the power may be exercised notwithstanding that the period has then expired.

Practice and procedure of the Court and cases not provided for

3.(1) The procedure and practice of the Court and the disposal of any appeal, application or interlocutory matter shall be as prescribed in these Rules, but the Court may direct a departure from these Rules at any time when this is considered expedient, just, and in the interest of justice, with the approval of the President.

(2) In any matter for which provision is not made by these Rules or the Seychelles Code of Civil Procedure or other legislation, the President may informally or on application give directions as to the procedure to be adopted.

Selection of Justices of Appeal

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

Power of a single Justice of Appeal

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

Locus of appeals and notice of sittings

6.(1) The Court shall sit at any place in Seychelles as the President may direct —

Provided that in the event of any inability of the President or any Justice of Appeal, to be physically present in Seychelles, due to unavoidable circumstances, the sitting of the Court shall be by virtual hearing by any method as the President may decide and 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.

(3) Following the approval of the President, a Justice of Appeal who is present in Seychelles, but due to unavoidable circumstances cannot be physically present in Court, may in any proceeding before the Court, participate by use of any communication technology.

(4) In advance of a proceeding referred to in sub-rules (1) and (3), the Registrar, where feasible, may inform all parties and their Attorneys at Law of remote participation by a Justice of Appeal.

Registry

7. The Registry shall be situated at the Court of Appeal of Seychelles, Palais de Justice, Ile du Port, Mahe.

Registrar of the Supreme Court and the Registrar

8.(1) Any Attorney-At-Law of the Supreme Court may with the concurrence of the Chief Justice be appointed by the President of Seychelles to be the Registrar of the Supreme Court.

(2) A person who in the opinion of the President is suitably qualified, may be appointed to be the Registrar with the concurrence of the Chief Justice.

Process of the Court and service

9.(1) All summonses, warrants, orders, rules, notices and mandatory processes whatsoever of the Court shall be signed by a Justice of Appeal or by the Registrar and be sealed with the seal of the Court. Every order of the Court shall be dated as of 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 for service, such service may be effected 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 as 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, on application being made 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. In the case of a notice of appeal referred to in Rule 18, such application for service out of jurisdiction shall be made at the time of lodging the notice of appeal or no sooner it is discovered that a person is out of the jurisdiction.

(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. In default of complying with the said requirements, a party shall be deemed to have failed to serve the other party in due time.

Form of proceedings

10.(1) All proceedings in the Court shall be on standard A4 size paper, and shall be double-spaced in black ink; unless the nature of the document

renders it impracticable, and shall be clear and easily legible and may be printed, mimeographed, typewritten 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) Every document intended to be filed shall be printed, without blotting, or erasure, and without any such alteration as to cause material disfigurement

(3) The Registrar may refuse to file any document which contravenes the provisions of this rule, and the taxing officer may disallow the costs of any such document.

(4) Whatever medium or 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.

(5) Any person who is dissatisfied with the decision of the Registrar rejecting a document under the powers conferred upon this rule, may require the matter to be referred to the President or a Justice of Appeal designated by the President for a decision. An application under this rule may be made informally at the time when the decision is given or in writing within seven days after that date.

Powers of the President or the Court

11.(1) Any power or authority vested in the President in terms of these Rules, save the power to make Rules of Court, may be exercised by a Justice of Appeal designated by the President for that purpose.

(2) The President may *mero motu* or on an application by notice of motion supported by affidavit, condone non-compliance with these Rules.

Adjournment

12. The Court shall with the concurrence of the President —

(a) Adjourn any proceedings before it from time to time;

- (b) Adjourn an appeal, fixed for hearing at a Court session upon an application of any of the parties to the appeal only in exceptional circumstances.

Amendment

13.(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.

Right of audience

14.(1) In all proceedings in the Court, a party may appear in person or by an Attorney-At-Law who is entitled for the time being to practice before the Supreme Court.

(2) A person not resident in Seychelles may appear by lawfully authorized attorney.

(3) The President or the Chief Justice may by licence under his hand 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 an Attorney-At-Law, a director, a secretary or other officer thereof.

(5) A person under disability may appear by Attorney-At-Law or by his guardian or curator in person as the case may be.

(6) A party's representative or Attorney-At-Law may at any stage in the proceedings apply to the Court to cease acting for such a party and he shall notify the other party involved.

(7) The Attorney General shall have the right of audience and shall take precedence over all other Attorneys-At-Law. Other legal officers of the State shall have the right of audience in all causes and matters within the scope of their official duties.

Notice dispensed with

15. 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 an Attorney-At-Law.

Application to the Supreme Court first

16. 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.

Application for special leave to appeal

17.(1) In every matter where special leave to appeal to the Court is required by law in a civil or criminal matter, an application therefor shall be made by way of a notice of motion supported by affidavit.

(2) The notice of motion together with supporting affidavit 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 seven days of the service of the notice of motion, 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 affidavit within seven days of the service upon him of such affidavit 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 is necessary for the purpose of explaining and supporting the particular grounds upon which special leave to appeal is sought or opposed;

(iv) be properly and separately paginated; and

(b) shall not —

(i) be accompanied by the record, or

(ii) traverse extraneous matters.

(7) 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.

(8) The decision of the Registrar on the form and the amount of security in the event of a dispute shall be final.

(9) A notice of motion shall be substantially in the form A in the First Schedule hereto.

Notice of Appeal

18.(1) Every appeal shall be brought by notice in writing (hereinafter called “the notice of appeal”) by the appellant which shall be lodged with the Registrar of the Supreme Court within thirty days of the decision appealed against.

(2) Every notice of appeal shall in a criminal case state whether the appeal is against both conviction and sentence or conviction or sentence only or any decision made on the conviction, and in a civil case whether the appeal is against the whole or any part of the decision of the Supreme Court.

(3) Every notice of appeal shall set forth the grounds of appeal 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 Attorney-At-Law, and the respondent or his Attorney-At-Law and shall be signed by the appellant or his Attorney-At-Law.

(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 forthwith transmit one copy of the notice of appeal to the Attorney General in all criminal cases and where the Attorney General or Government is a party.

(6) Where more persons than one have been jointly tried and any two or more of them desire to appeal, they may at their option, file separate 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. The aforesaid provisions shall apply mutatis mutandis in respect of an appeal from a civil matter where there is more than one party who desires to appeal.

(7) No ground of appeal which is vague or general in terms shall be entertained, such as, 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 civil appeals. In the event of failure to comply with sub-rules (1) (2) and (3) and the failure to state the address of the respondent in the notice of appeal or make an application under sub-rule 4 of rule 9 where it is deemed necessary, the appeal shall be deemed not to have been filed within the prescribed time —

Provided that, notwithstanding that the provisions contained in sub-rules (2) or (3) or (7) 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.

Cross-appeal

19.(1) Every respondent who wishes to cross-appeal shall lodge with the Registrar of the Supreme Court a notice of his 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) of rule 18 and shall be substantially in the form D in the First Schedule hereto.

Appeal not to operate as a stay of execution

20.(1) 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 affidavit, 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 of 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.

Setting down appeal for hearing

21.(1) 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 and their Attorneys at Law are informed in writing of the Court session in 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 that the appeal shall be heard during that Court session.

(3) Once the Cause List for the particular Court session has been determined by the President, the Registrar shall take necessary steps to ensure that the parties concerned and their Attorneys at Law are informed in writing of the date on which the appeal shall be heard.

(4) The Registrar shall also inform the parties concerned and their Attorneys at Law if the case is to be mentioned on a date prior to the hearing for purposes of case management.

(5) If the applicant or appellant fails to appear on any one of the dates thus notified, the appeal shall be dismissed for lack of prosecution, unless the Court otherwise directs.

Withdrawal of appeal

22.(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 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 Attorneys-At-Law, 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 up 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 costs of the appeal.

(5) If an appellant is alleged to be of 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.

(7) A notice of withdrawal of appeal shall be substantially in the Form E in the First Schedule.

Record

23.(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 typed or printed in the original, including all process in the court *a quo* forming part of the record on appeal, and documents such as typed or printed contracts and cheques (whether handwritten and, 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 form and numbered chronologically, 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 the 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.
 - (ii) Each volume shall be so bound that upon being eased open without any manual or other restraint and thereafter upon being repeatedly opened and 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 —
 - (i) the judgment and order appealed against;
 - (ii) the judgment and order giving leave to appeal; and

- (iii) the notice of appeal.
- (iv) the information or charge in a criminal case and the complaint, petition and defence in a civil case.
- (v) a list of all exhibits put in at the trial;
- (vi) all documentary exhibits put in at the trial, including depositions read in consequence of the absence of an intended witness, photographs and plans: provided that in the case of books of account or other documents of great length, extracts of the relevant portions thereof only shall be included;
- (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 notice of appeal or cross-appeal and has filed notice of address for service —

Provided that if more respondents than one are represented by one Attorney-At-Law it shall be sufficient to serve one copy on that Attorney-At-Law.

- (o) The Registrar of the Supreme Court shall transmit four certified copies of the record to the Registrar together with the Supreme Court's original record of proceedings.

Heads of argument

24.(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 one month from the date of service of the record. A copy of such heads of arguments shall be served on each of the respondents at the same time.
- (b) The respondent shall lodge with the Registrar five copies of the respondent's main heads of argument within two weeks from the receipt of the appellant's heads of argument. A copy of such main heads of argument shall be served on each of the appellants at the same time.
- (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 of argument shall be accompanied by a list and copies of authorities to be cited in support of the argument, and clearly highlighted. Any additional authorities not attached to the heads of arguments sought to be presented at the hearing of the appeal shall require leave of the Court. Such leave shall be granted when the Court deems it just and expedient and in the interest of justice, with or without accompanying conditions.
- (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 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 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.

Interlocutory matters

25.(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 Justice of Appeal designated by the President —

Provided that the President or the Justice of Appeal 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 within fourteen days upon leave being refused at first instance by the Supreme Court, 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 affidavit within seven days of the service of the answering affidavit.

Extension of time

26. The times fixed within these Rules may, on good cause shown by notice of motion supported by affidavit, be extended by the President or the Court.

Security for costs

27.(1) Within fourteen days after filing the notice of appeal, or, in a case where leave or special 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.

Poor persons (in forma pauperis)

28.(1) Any party who is a natural person and who is of the opinion that he is a poor person 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 his disposal income does not exceed the level of subsistence declared for the time being under section 22 of the Social Security Act and that he is eligible for legal aid under the Legal Aid Act.

(3) Upon being satisfied that the applicant, is a poor person or indigent, the Court may —

- (a) assign an Attorney-At-Law to such applicant;
- (b) direct payment to such Attorney-At-Law 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 therefor.

Consolidation of appeals

29. 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.

Hearing of appeal

30.(1) At the hearing of an appeal, the appellant or his Attorney-At-Law shall first address the Court —

Provided that the Court in its discretion may call upon the respondent or his Attorney-At-Law to address it first.

(2) If the appellant is represented by more than one Attorney-At-Law, all of them shall be entitled to address the Court but not on the same aspects of the appeal.

(3) After the close of the appellant's address, the respondent or his Attorney-At-Law shall be entitled to address the Court:

Provided that if the respondent is represented by more than one

Attorney-At-Law, 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 Attorney-At-Law has concluded his address.

Provided that if the appellant is represented by more than one Attorney-At-Law, one only shall be entitled to reply.

(5) After all the arguments have been concluded, the Court may give judgment immediately or may reserve judgment until a later date.

Provided that the Court may unanimously *suo moto* decide or any one of the Justices of Appeal who heard the appeal may, where there is no unanimity request the President, in the interest of justice, to reconvene the Court before the date fixed for judgment to seek any clarifications pertaining to the appeal, and in the latter instance, the President may give such direction as he deems just and expedient for the Court to reconvene.

(6) (a) The judgment shall be delivered by the President or the Justice of Appeal who is the scribe —

Provided that the President as the case may be, may request any other Justice of Appeal who heard the appeal to deliver such judgment.

(b) Such judgment may be pronounced by the President or any other Justice of Appeal assigned by the President notwithstanding the absence of the Justices of Appeal who constituted the Court or any of them —

Provided that no amendment to the Judgment shall be made at the stage of pronouncement without the written consent of and endorsement by the absent Justices of Appeal.

Power of the Court on appeal

31.(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 case or matter upon the merits, such further evidence, save as to matters which have occurred after the date 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.

(6) In the case of an appeal against both conviction and sentence or only against conviction or sentence, the Court may vary the sentence by either decreasing or increasing the same, where it finds that the sentence imposed by the Supreme Court is either excessive or inadequate given the specific circumstances of the appeal.

Formal order of the Court

32.(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 Justice of Appeal 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.

Fees of the Court

33. 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 proceedings in the Supreme Court preparatory or incidental to, or consequential upon an appeal to the Court.

Taxation of costs

34.(1) The costs incurred in any appeal or any application preparatory or incidental to or consequential upon an 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.

Repeal of Rules

35. The Seychelles Court of Appeal Rules 2005 as amended from time to time are hereby repealed and superseded 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 Court of Appeal of Seychelles

In the matter between

..... Applicant/Appellant

and

..... Respondent

Case No of 20

NOTICE OF MOTION

Take notice that on the day of 20 at o'clock or so soon thereafter as the matter may conveniently be heard Mr/Mrs/MissAttorney-At-Law for the above named Applicant/Appellant 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 need to oppose this application, you are required to file your answering affidavit in support of your opposition, after prior service upon the Applicant/Appellant, with the Registrar within fourteen days of the service of the notice of motion upon you.

Dated atthis day of 20.....

.....
Attorney-At-Law for the Applicant/Appellant
Address for service

To: (Respondent)
Address for service
And to: The Registrar
The Court of Appeal of Seychelles

FORM B

(RULE 18)

In the Court of Appeal of Seychelles

In the matter between

..... Appellant

and

..... Respondent

Criminal Side No of 20

NOTICE OF APPEAL

Take Notice that hereby appeals to the Court of Appeal of Seychelles 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 both conviction and sentence/conviction only/sentence only.

- 2 Grounds of Appeal
 - (1)
 - (2)
 - (3) etc.

- 3 Relief sought from the Court of Appeal of Seychelles
The appellant desires/does not desire to attend the hearing.

Dated at this day of 20

.....
Attorney-At-Law for the Appellant
Address

To: The Respondent
Address

And to: The Registrar
The Court of Appeal of Seychelles

And to: The Registrar of the Supreme Court

FORM C

(RULE 18)

In the Court of Appeal of Seychelles

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 of20..... hereby appeals to the Court of Appeal of Seychelles 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)
Etc.

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

4. Persons directly affected by the appeal.

Name..... Address
(1)
(2)
Etc.

Dated at this day of 20

.....
Attorney-At-Law for the Appellant

Address

To: The Respondent
Address:

And to: The Registrar
The Court of Appeal of Seychelles

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

FORM D

(RULE 19)

In the Court of Appeal of Seychelles

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 of 20

.....
Attorney-At Law for the Respondent

The address for service of the respondent above named is

Dated at this day of 20

.....
Attorney-At -Law for the Respondent
Address

To: *The Attorney-At-Law for the Appellant*

And to: *The Registrar*
The Court of Appeal of Seychelles

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

FORM E (Rule 22)

IN THE COURT OF APPEAL OF SEYCHELLES

Between

.....

Appellant

v/s

.....

Respondent

Civil Appeal No.

**NOTICE OF WITHDRAWAL OF APPEAL UNDER RULE 22 OF THE
COURT OF APPEAL OF SEYCHELLES RULES**

To: The Registrar Court of Appeal of Seychelles

Notice is hereby given that the Appellant does not intend further to prosecute the above appeal.

AND FURTHER take Notice that the Respondent consents to the withdrawal of the appeal in terms of rule 22(2) and documents signifying such consent is herewith attached.

Made at Victoria, Mahe, this day of , 2023

.....

(signed)

ATTORNEY FOR THE APPELLANT

The..... Respondent hereby consent to the withdrawal of the Appeal.

(Signed)

*Attorney for Respondent
Address*

To: *The Attorney-At-Law for the Respondent
Address*

And to: *The Registrar
The Court of Appeal of Seychelles*

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

SECOND SCHEDULE**(RULE 33)****COURT 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 interest of ensuring access to justice that court fees be waived.

		FEES (SCR)
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
16.	Postage and forwarding expenses of the record to the Non-Resident Justices of Appeal. <i>Note</i> The Registrar may require a sum to cover the estimated cost of travel to be deposited.	(The actual cost thereof)
17.	In all proceedings in the Supreme Court preparatory or incidental to an appeal to the Court, or consequential thereon, the fees, if not herein before specified, shall be in accordance with the provisions of law applicable to the Supreme Court.	

THIRD SCHEDULE**(RULE 34)****TAXATION****Taxation of costs**

1. 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.

Order for costs

2. 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.

Notice of taxation to be given by taxing master

3. Whenever an Attorney-At-Law 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.

Reference to President or Justice of Appeal

4. 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 Justice of Appeal designated by the President.

Bills not to be altered after being lodged

5. 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 Justice of Appeal designated by the President.

Default of Attorney-At-Law to attend taxation

6. Any Attorney-At-Law 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 of the 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.

Discretion of taxing master

7. 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.

Excessive claims

8. 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.

Costs of more than one Attorney-At-Law

9. Costs of more than one Attorney-At-Law shall not be allowed unless the Court shall so direct.

Costs improperly incurred by Attorney-At-Law

10. If in any case it shall appear to the Court or the President or a Justice of Appeal 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 judgment or order, or any misconduct or default of the Attorney-At-Law, any costs properly incurred have nevertheless proved fruitless to the person incurring the same, the Court or the President or a Justice of Appeal designated by the President may call on the Attorney-At-Law by whom such costs have been so incurred to show cause why such costs should not be disallowed as between the Attorney-At-Law and his client, and also (if the circumstances of the case shall require) why the Attorney-At-Law 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 Justice of Appeal 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 Attorney-At-Law in the first place to show cause before the taxing master.

Party not appearing

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

Party entitled to costs refusing to lodge bill for taxation

12. 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.

Manner of preparing bills for taxation

13. 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 Attorney-At-Law by whom it is lodged, and also the name and address of the Attorney-At-Law (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.

Vouchers to be produced on taxation

14. 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 master.

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 Attorney-At-Law, and if such certificate be erroneous the taxing master may disallow the costs of the document so erroneously certified or any part thereof.

Costs where Attorney-At-Law is employed by two or more parties

15. Where the same Attorney-At-Law 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 Attorney-At-

Law'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.

Time and adjournment

16. 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.

Witnesses

17. 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.

Meaning of folio

18. 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.

Overriding discretion

19. Notwithstanding anything in this Schedule contained, if the taxing master or the President or a Justice of Appeal 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 Justice of Appeal 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 Justice of Appeal designated by the President may similarly cancel or reduce any deduction made by the taxing master under this rule.

SCALE A (Civil causes and matters) Instructions		
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
Drawing		
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
Attendances		
16.	On the Registrar	500
17.	On the President or a Justice of Appeal 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 the first day of hearing	3000
	And for each subsequent day of hearing	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 instruction, to include all work done in and about the appeal other than that chargeable under the subsequent item at the discretion of the taxing master, 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.

MADE this 9th day of November, 2023.

**ANTHONY FRANCIS TISSA FERNANDO
PRESIDENT OF THE COURT OF APPEAL OF SEYCHELLES**
