

TONBOFA
Law Practice
PROVIDING LEGAL SERVICES TO THE BUSINESS COMMUNITY



COURT OF APPEAL RULES

2021

SALIENT CHANGES

On the 1st day of November 2021, the amended Court of Appeal Rules came into force.

This Court of Appeal Rules 2021 upon coming into force repealed the Court of Appeal Rules 2016.

The new rules have put pen to paper noteworthy innovations which we have highlighted in this article.



SALIENT CHANGES



SERVICE OF NOTICE OF APPEAL

Service of Notice of Appeal can now be done electronically by sending to the electronic email address of the Respondent- Order 2 Rule 1.



DUTIES OF THE REGISTRAR

The rules now mandates that books kept by the registrar must be both in manual and electrical format- Order 3 Rule 6.

SALIENT CHANGES

SEAL OF COURT

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Order 3 rule 4 has provided that the court may have and use a seal having a device or impression approved by the President bearing the inscription “ the Court of Appeal” or an electronic version of it.

By this provision, an electronic version on the Court of Appeal seal has been approved for use upon the approval of the President.

The number of days a Respondent is to file his notice of address has been reduced from 30days to 14 days. The number of copies of “notice of address” has also been reduced from 20 copies to 10 copies.

The Respondent is also mandated to file an electronic copy of the notice, his full and sufficient address for service with the registrar of the lower court - Order 2 Rule 4.

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RESPONDENT’S NOTICE AND ADDRESS OF SERVICE

SALIENT CHANGES

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APPEARANCE OF COUNSEL AT SESSIONS

The court is now mandated to regulate the number of counsel to appear before it in any matter. For Senior Advocate of Nigeria, they are not to appear with more than 5 counsel. Where there are more than one Senior Advocate of Nigeria appearing for the same party, they should not appear with more than 5 counsel. Other Learned counsel are not to appear with more than 2 juniors- Order 3 Rule 11 .

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PUBLICATION OF CAUSE LIST

The registrar of the Court is mandated to post every Friday the weekly cause list on the official Notice Board of the court and the official website of the Court setting out the arrangement of causes for each day of the following week- Order 3 Rule 12(1)

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RESERVATION OF DAYS FOR JUDGMENT

The presiding justice of a particular division of the Court may direct that a certain day of the week be reserved for rulings and judgments- Order 3 rule 14.

SALIENT CHANGES

8 POWERS TO MAKE ORDER OF INJUNCTION

- By Order 4 Rule 6 (1), the court has now added some conditions to the making of an order for injunction or the appointment of a receiver or manager :
 - (a.) an undertaking by the applicant to diligently prosecute the appeal.
 - (b). For appeals relating to monetary judgment ,bonds, guarantee or other like instruments from an Eligible Institution shall deposit the judgment sum or the like sums the court might determine in an interest yielding account in the name of the Chief registrar of the Court.
 - (c) for appeals relating to land, an undertaking to pay damages if the appeal is unsuccessful.
- Order 4 Rule 6 (2) further provides that where an applicant has filed an application for stay of execution with a prima facie evidence of the satisfaction of the conditions in Order 4 Rule 6 (1)(a-c), then no steps shall be taken to enforce the judgment appealed against pending the determination of the application for Stay.

SALIENT CHANGES

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CONTROL OF PROCEEDINGS DURING PENDENCY OF A SUIT

Order 4 Rule 11(2) now clarifies that its provision that “once an appeal has been entered no application should be made to the court below” by stating that the provisions of Sub-rule 1 should not be construed that the Lower Court should Stay proceedings or adjourn sine die proceedings in the lower court that are not related to the appeal entered.

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APPLICATIONS TO COURT

Order 6 Rule 1 (a) now provides that applications to the Court shall be by Motion on Notice, supported by an Affidavit and a Written Address. It further provides that the Respondent is to respond to the notice within 5 days and the Applicant had a right of reply within 3 days. Order 6 Rule 1 (b) the Written Address should not exceed 5 pages and the Reply on points of law shall not exceed 3 pages.

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DEPARTURE FROM THE RULES

Order 8 Rule 6 provides that where the Notice of Appeal has been filed, the Appellant can apply for the departure from the rules to file and transmit records of appeals to allow for accelerated hearing and determination of the appeal.

SALIENT CHANGES

TRANSMISSION OF RECORDS

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By Order 8 Rule 10 (1 & 2) where a registrar compiles records of appeal, the record is to be transmitted with (a) a certificate of service or non-service of the Notice of appeal, (b) a physical or electronic case file of case at the lower court containing all records or documents filed by parties in the matter.

Order 8 Rule 11 (1) now specifies the amount to be deposited as security for cost by an Appellant to be an amount not less than N50,000 to the Deputy Chief Registrar of that division.

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DEPOSITS AGAINST COSTS

SALIENT CHANGES



FAILURE TO COMPILE AND TRANSMIT RECORDS

Where the registrar or the appellant fails to compile and transmit records within the time the Respondent may move to strike out the appeal and get cost on full indemnity against the Appellant- Order 8 Rule 18 (2).

By Order 8 Rule 3 where an appeal is struck out, an application for relisting is to be brought within 7 days. The Court may relist an appeal where the Appellant shows good cause for the same.



SCHEDULE OF FEE

By Order 12 Rule 2 the President has now been given the power to issue an amended schedule of fees as the president deems fit.

SALIENT CHANGES

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FORWARDING OF PROCEEDINGS OF LOWER COURT

The registrar of the lower court shall within 60 days of the filing of a notice of appeal, prepare the records of the appeal encrypt the same and forward it electronically through the electronic mail address of the registry of the division of the Court. It also reduces the numbers of hard copies of the record from 20 copies to 10 copies. The registrar is also required to forward to the parties to the appeal both hard and electronic copies of the records of appeal – Order 17 rule 8 .

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RECORDS IN CRIMINAL APPEALS

Order 17 Rule 11 (1) (a) further clarifies that an index of a record of appeal should include particulars of proceedings from the lower court. It also requests for the records of the proceedings from the trial court to be submitted to the lower court together with the Notice of appeal and other relevant documents.

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RECORD OF APPEAL FROM COURT MARTIALS AND TRIBUNALS

Registrars of the Court are now required in preparing the records of appeal, to encrypt and transmit it electronically to the court through the electronic mail address of the registry of the judicial division of the court where the appeal is to be entered. The registrar of the Court is also required to forward to the parties both the hard and electronic copy of the record-By Order 18 Rule 1 (b).

SALIENT CHANGES

CROSS APPEAL OR RESPONDENT'S NOTICE

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Within 30 days of service of the Cross Appellants brief on the Appellant, the Appellant is to file a Cross Respondent brief. The Cross Appellant may within 14 days of receipt of the Cross Respondent brief file and serve his reply brief on the Cross Respondent which is to deal with new points or challenge of the appeal- Order 19

By Order 19 Rule 10 an additional provision was inserted to allow the hearing an appeal without the necessity of an Application by an Appellant to hear an appeal on the Appellant's brief alone. This however is based on the satisfaction to the Court that the Respondent has been served with the Appellant's brief and has been served with hearing notice.

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CONSEQUENCES OF FAILURE TO FILE A BRIEF

SALIENT CHANGES

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FAILURE TO COMPILE AND TRANSMIT RECORDS

A 24 hour electronic filing system is mandated to be established by the Registry of the Court to be functional in all judicial divisions of the Court for the electronic filing of processes and documents. An electronic unit has also been established to handle the electronic filing and management of the documents filed . Electronic filing is to run parallel manual filings as in the rules. More so, electronic signature is said to constitute the signature of parties on any electronic process passed- Order 20.

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COMPUTATION OF TIME

Time stops running whenever there is an occurrence of events that disrupts the normal business of the court- Order 19 Rule 12 . The insertion of this provision is to help the Judicial system deal with issues that arise in cases of force majeure.

SALIENT CHANGES

VIRTUAL HEARING

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The Court is now permitted to conduct virtual hearing as it deems fit. Where the Court opts to proceed with virtual hearing, the registrar is mandated to notify parties of this. Justices and Counsel are to be fully robed for the virtual hearing. All rules and practices on decorum and etiquette during physical hearing are to be observed during virtual hearing by counsel and parties.- Order 21

The court has now specified under the rules according to practice a mandatory annual vacation not exceeding 10 weeks between July and September of each year. The Time for filing briefs of Argument is not to run during the periods of annual vacation. The Court is also mandated not to sit during Easter, Sallah and Christmas periods except as provided by the President- Order 24

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VACATION



Law is dynamic in nature and as such it must adapt to changing times. The Amended Court of Appeal Rules 2021 comes in time to suit the changing climate our Judicial system in Nigeria is going through.

This article is intended to serve as information to the public. It should not be taken as legal advice and does not create a client-lawyer relationship between you and our law firm. If you have any inquiries, kindly contact us.

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