

Supreme Court Rules 2024 Review

OALP Dispute Resolution Practice Newsletter

INTRODUCTION

In our previous newsletter of 03.09.2024, we provided a concise review of the key highlights and innovations in the Supreme Court Rules 2024 (the “**New SC Rules**” or the “**New Rules**”). Now, we have undertaken a deeper dive into the full breadth of the Rules, offering a deeper analysis. This expanded review builds upon our initial overview, providing a comprehensive analysis of the transformative changes introduced by the Rules.

The New Rules, a substantial departure from the outdated Supreme Court Rules of 1985 (the “**Old SC Rules**”), introduce significant reforms to practice and procedures at the Supreme Court (the “**Court**”). With a broader scope encompassing 22 Orders, compared to the previous 10 in the Old SC Rules, the New Rules prioritize efficiency, technological integration, and streamlined processes to enhance the user experience for both litigants and legal professionals.

The New SC Rules not only introduce innovative concepts such as electronic filing, virtual hearings, and a Case Management System, but also substantially modify existing procedures, including those related to service of processes, hearing of applications in chambers, timelines for filing, and administration of costs. These reforms aim to create a more agile and responsive legal system, capable of addressing the contemporary challenges faced by the Court.

In this detailed review, we dissect each Order of the New SC Rules examining how they expand upon or depart from

the Old SC Rules. We spotlight the innovative provisions, assess their practical impact on practice and procedure in the Court, and discuss their broader impact on litigants, legal practitioners, and administration of justice in general.

KEY INNOVATIONS OF THE NEW RULES

Order 1 - General Definitions

Order 1 of the New Rules offers a comprehensive definition of terms used in the Rules, aiming to improve clarity in the understanding and application of the Rules. In contrast to the Old SC Rules, which defined only a handful of terms, the New Rules introduce a broader universe of defined terms. Notable additions to the defined terms include Applicant, Bailiff, Cause, and Indigent Person as well as Electronic Media, Electronic Device and Recording, reflecting the Supreme Court's acknowledgment of the growing role of technology in legal proceedings.

In addition to introducing new defined terms, the New SC Rules also revises and expands the definitions of certain terms that were originally included in the Old SC Rules. For instance, under the Old SC Rules, an appeal included an application for leave to appeal. However, the New SC Rules defines an appeal as ‘entry of Appeal after the record of appeal has been transmitted from the Court below’.

Under the Old SC Rules, the broader definition of ‘appeal’ allowed the Supreme Court to consider applications for leave to appeal as valid and pending appeals, upon which

a party seeking stay of execution,¹ stay of proceedings or an injunction pending appeal can predicate such applications. However, the New SC Rules' more restrictive definition of 'appeal' might suggest that unless an appeal has been entered at the Supreme Court after the record of appeal has been transmitted from the Court of Appeal within the time allowed by the New Rules or such time extended by the Court, there is no pending appeal. On this view, the ability of parties to seek stays based solely on applications for leave to appeal could be potentially constrained, thereby limiting the opportunity to seek preservative injunctions before leave is granted. While the New SC Rules have significantly improved clarity for practitioners, the narrower definition of 'appeal' could have negative consequences for applicants who require urgent preservation of their rights before leave to appeal is granted. The New SC Rules also broadened the definition of "record" beyond the limitations of the Old SC Rules, which previously referred only to physical files. Under the New Rules, records can now include electronic devices as well as paper documents.

Another important addition is the introduction of a Supremacy Clause, which establishes that the New Rules will prevail over any conflicting Rules of Practice.² This centralises authority and reduces ambiguity in instances where other procedural rules may otherwise conflict.

Order 2 – Administration

Unlike the broader scope of Order 2 in the Old SC Rules, which covered administration, general procedure, service, fees and applications, Order 2 of the New SC Rules focuses solely on administrative matters and introduces significant changes aimed at aligning the administration of the Supreme Court with global best practices.

Whilst the Old SC Rules only recognised a physical version of the Supreme Court's Seal and required physical files for pleadings and documents in relation to an appeal, the New Rules make provision for electronic version of the Seal of the Supreme Court and mandate the Registrar to furnish the electronic unit of the Registry copies of filed processes, within 15 days to facilitate the creation of electronic files.³ Although the stated purpose of electronic files in the New SC Rules is to facilitate access by the Justices of the Court, this shift to electronic filing can also

improve continuity and efficiency, especially in cases of physical record loss or delays.⁴

The New SC Rules extend the closing time of the Court's Registry from 1PM to 4PM increasing accessibility for litigants. Additionally, the establishment of an electronic unit within the Registry,⁵ which operates daily (including holidays),⁶ allows for continuous filing of documents electronically.

A notable departure from the Old SC Rules is the transfer of the responsibility to set aside or vary an act done by the Registrar from the Chief Justice to the Chief Registrar under Order 2 Rule 8. This shift is beneficial for several reasons. By delegating administrative matters to the Chief Registrar, the Chief Justice can concentrate on significant issues, leading to a more efficient and timely resolution of cases. Furthermore, this change helps to expedite the handling of procedural errors or administrative complaints, reducing delays in the judicial process.

Previously, notifications about Supreme Court sittings and cases were published in the Federal Gazette. This was logistically challenging. The New SC Rules streamline this process by allowing direct communication with parties through their physical or electronic addresses.⁷ The introduction of electronic service for hearing notices is a significant advancement that will reduce delays and minimise the logistical challenges and costs associated with physical service. Additionally, the New SC Rules require the Registrar to publish a weekly cause list every Friday, detailing the cases scheduled for the following week and available on both the official notice board and the website of the Supreme Court,⁸ further enhancing accessibility and transparency. However, the New Rules also give the Supreme Court the discretion to hear any appeal or address any matter, regardless of whether it appears in the published cause list.⁹ This flexibility ensures that urgent matters are not unnecessarily delayed.

These changes promote a more efficient and cost-effective process for notifying parties of court proceedings, especially in urgent cases. The use of electronic communication minimizes the chances of parties claiming they did not receive notices, thereby addressing a common source of dispute.

1. In *Dickson Ogunselinde Virya Farms Ltd v. Societe Generale Bank Ltd & Ors* [2018] LPELR-43710(SC), 11-12, paras D-A.

2. Order 1 Rule 4 of the New Rules

3. Order 2 Rules 4, 5 and 7 of the New Rules

4. This will help prevent unfortunate implications of missing or destroyed physical files which ultimately occasions significant delays to the justice system. An

example being the aftermath of the 2020 EndSARS unrest in Lagos State.

5. Order 2 Rule 7(2) of the New Rules

6. Order 2 Rule 9 of the New Rules

7. Order 2 Rule 11 of the New Rules.

8. Order 2 Rule 10 of the New Rules.

9. See Proviso to Order 2 Rule 11 of the New Rules

Another innovation in Order 2 of the New SC Rules is the regulation of the number of Counsel that may appear in a matter in any particular proceeding. According to Order 2 Rule 13(2), a Senior Advocate of Nigeria (SAN) may not appear with more than five Counsel. If more than one SAN appear for the same party, the total number of Counsel for that party must not exceed eight, including the SANs. This provision aims to improve court efficiency by reducing the time spent on announcing legal representation and making better use of the limited seating space in the courtroom.

Order 3 – Service

Order 3 of the New SC Rules aims to address one of the longstanding procedural issues in the Supreme Court: the valid service of a notice of appeal. Under the Old SC Rules, challenges to the validity of service were common, primarily due to the narrow definition of an address for service, which permitted only a physical location for document delivery. This restriction often led to unnecessary procedural objections and delays in the appeal process.¹⁰

In contrast, the New SC Rules have expanded the definition of address for service to include not only physical or postal addresses but also electronic mail addresses, mobile telephone numbers, and any other available modes of communication.¹¹ This represents a significant advancement by incorporating modern communication methods and expanding the options for serving notices, thereby reducing the procedural bottlenecks that previously impacted the appeal process. In addition, the New SC Rules provide that a notice of appeal shall either be served personally or on the legal practitioner who represented the Respondent at the court of appeal or via electronic means.¹²

This expanded approach eliminates the rigidity of personal service and offers greater flexibility, particularly in cases where physical service might be challenging or impractical. It also helps reduce frivolous objections related to service, ensuring that cases can proceed more efficiently.

Although these changes are progressive, the New Rules still maintain, in Order 3 Rule 2(b), the requirement for

personal service of notice of appeal from the Old SC Rules. While this might seem contradictory, the proviso to Rule 2(b) addresses any potential concerns by expressly stating that no objection shall lie on the grounds of non-personal service if the notice was served through any of the alternative, permissible modes of service.

The New Rules also address a common issue where legal practitioners, who cease to represent a client, fail to notify the Court, resulting in improper service and subsequent objections. To resolve this, the New SC Rules impose a 7-day deadline for any legal practitioner who no longer represents a client to inform the Registrar accordingly after receipt of service. This change is significant as the New SC Rules also stipulate that failure to notify the Court will not only incur costs but will also be considered as an act of professional misconduct.¹³

Another key innovation in the New SC Rules is found in Order 3 Rule 6(2), which allows parties to personally serve any process, except for notice of appeal, on the other parties. This is subject to the requirement that the serving party must depose to an affidavit of service.

Still regarding service, the New Rules stipulate, under Order 3 Rule 7, that failure to endorse an address for service on any process to be filed will not be treated as a mere irregularity. According to this provision, the Registry will not accept for filing, any process without an endorsed address for service. If such a process is mistakenly accepted, it will not be considered properly filed.

Order 4 – Applications

Order 4 of the New SC Rules outlines the procedure for applications to the Supreme Court. Unlike the Old SC Rules, which only required that applications should be made by Notice of Motion and supported by an affidavit, the New SC Rules specify that every application shall be brought by a way of Motion on Notice, supported by an affidavit and written address not exceeding 10 pages. The New SC Rules also stipulate that a Respondent has 14 days to respond to the motion with a counter affidavit, and a written address not exceeding 7 pages. The Applicant may also file a reply address not exceeding 5 pages within 5 days.

10. *The majority decision of the Supreme Court in Odey v. Alaga [2021] 13 NWLR (Pt. 1792) 1 at 63, paras G- H is to the effect that a Notice of Appeal must be served personally and failure to serve it personally renders the appeal incompetent. However, the Supreme Court in Amaechi v. Gov. Rivers State [2022] 17 NWLR (Pt. 1858) 1 at 45, paras E – F relying on its decision in A.G. Fed v. Anuebunwa [2022] 14 NWLR (Pt. 1850) 211 wherein it departed from the decision in Odey v. Alaga and applied the proviso to Rule 3(1) of Order 2 of the Supreme Court Rules to the effect that where the facts show that the*

notice of appeal was served on the Respondent’s counsel at the lower court at the address indicated in the notice of appeal personal service of the court is satisfied that it has been communicated to the Respondent.

11. *Order 3 Rule 1 of the New Rules.*

12. *Order 3 Rule 2(1) of the new Rules.*

13. *This provision mirrors Order 2, Rule 9 of the Court of Appeal Rules and included that it will be treated as a professional misconduct as against mere payment of cost.*

One of the significant changes introduced by the New SC Rules relates to the applications for extension of time to appeal or for leave to appeal. The Old SC Rules required the inclusion of the judgment being appealed and any necessary supporting documents, such as transcripts of proceedings, to establish a prima facie reason for the appeal. The New Rules now add the requirement for a certified true copy of the lower court's decision (where leave to appeal was refused), the order of refusal, and a written address in support of the application. Additionally, any application for leave to appeal that was refused by the Court of Appeal must be made to the Supreme Court within 21 days of such refusal.¹⁴

The implication of these procedural enhancements is significant. By imposing stricter requirements and clear deadlines, the New SC Rules ensure that only well-prepared and meritorious applications proceed to the Supreme Court, thus preventing frivolous and dilatory appeals.

Another notable innovation is the provision allowing the Supreme Court to hear an application in chambers, provided that the Respondent files a notice of non-contention within 14 days of service of the application, indicating their intention not to oppose it. This provision reduces the burden of formal hearings in uncontested matters, freeing up valuable court time.¹⁵

The New SC Rules also extend the notice period for preliminary objections. Under the Old SC Rules, the Respondent was required to give 3 days' notice and file 10 copies with the registry. However, the New Rules extend this to 5 clear days' notice, with 11 copies to be filed.¹⁶

Additionally, the preliminary objection must now be argued in the Respondent's brief of argument, except where the Respondent's brief has already been filed, in which case a written address must accompany the notice of objection. These changes ensure that procedural objections are properly incorporated into the overall argument, rather than being treated as isolated issues, thus aligning the Supreme Court's procedure with contemporary legal practice.

A particularly commendable change is the automatic extension of time for filing processes. The New SC Rules eliminate the need for an application for an extension of time, except in appeals against death sentences. Instead,

the time for filing is automatically extended once for the same period initially prescribed. A further extension may be granted upon payment of a penalty for the period in default, provided it does not exceed the originally prescribed time, with no additional extensions allowed thereafter.¹⁷ This shift aims to curb tardiness and indifference towards abiding by the timeliness prescribed by the Rules.

In cases of non-compliance with the Rules, Order 4 Rule 14 outlines a strict framework for setting aside proceedings. The New Rules recognise that applications for this purpose may be made, but they require that such applications must be brought timeously and before the applicant takes any further steps upon becoming aware of the irregularity. If any further steps are taken, the right to challenge the non-compliance is considered waived. This provision prevents parties from exploiting procedural irregularities as a tactic to delay proceedings after having actively participated.

Order 5 – Fees

The New SC Rules establish separate provisions for fees, previously addressed alongside other matters in the Old SC Rules. A significant change is the inclusion of local government and government agencies as entities exempt from paying Supreme Court fees, aligning with broader efforts to minimise financial burdens on public bodies.

Furthermore, the provision of the Old SC Rules which allowed for the recovery of costs from individuals ordered to pay the government or governmental bodies (even if fees were waived) was not retained in the New SC Rules. Subject to the Court's interpretation, this would seem to suggest that costs may no longer be recoverable from individuals in respect of fees that have been waived. This change could signify a shift in the financial responsibilities associated with litigation involving the government.

Additionally, the New SC Rules retain the exemption of filing fees for poor persons, while introducing new exemptions for Appellants in capital offences and those granted legal aid. This reinforces the Supreme Court's commitment to facilitating access to justice for economically disadvantaged litigants and those facing severe sentences, such as the death penalty. These fee exemptions aim to lower barriers to accessing justice and ensuring that financial limitations do not hinder the pursuit of justice for those most in need.

14. Order 4 Rule 8 of the New Rules

15. Order 4 Rule 12 of the New Rules

16. Order 4 Rule 13 of the new Rules

17. Order 4 Rule 15 of the New Rules

18. Order 8 Rule 1

Order 6 – Record of Appeal

The New Rules do not make significant changes to the provisions concerning the Record of Appeal, but they do introduce several important modifications. In addition to the requirement of physical copies, the New Rules now mandate the inclusion of electronic copies of documents in the Record of Appeal, reflecting a clear shift towards digitisation of the Court’s records.

Another new requirement under Order 6 Rule 3(5) is that, within 21 days of filing a Notice of Appeal or before the transmission of the records, the Appellant must provide proof that all costs ordered to be paid have been deposited in an escrow account at a commercial bank in the name of the Chief Registrar of the Supreme Court. While this ensures compliance with orders as to cost, it does not extend to the deposit of judgment sums, which would have further strengthened the Court’s efforts to ensure Appellants fulfill their obligations before proceeding.

Unlike the Old SC Rules which stipulated that the Record of Appeal should be transmitted within a minimum of 6 months from the date of filing the appeal, the New SC Rules have reduced the timeline to 3 months. Additionally, to enhance expediency, Order 6 Rule 7 states that if the registrar fails to transmit the record within 30 days after the notice of appeal is filed, the Appellant is required to compile the record of appeal themselves and transmit same within 30 days of the registrar’s failure.

Order 7 – Entry of Appeal

This section of the New SC Rules introduces important provisions regarding the entry of an appeal and the powers of the Supreme Court. Order 7 Rule 1 states that an appeal is entered at the Supreme Court when the Record of Appeal from the Court of Appeal has been received in the Registry of the Supreme Court within the time frame set by the Rules or any extended time granted by the Court. Order 7 rule 2(1) stipulates that once an appeal has been entered, the Supreme Court becomes seized of the matter, and all applications must be made thereto except as otherwise provided.

With respect to interlocutory appeals, Order 7 Rule 2(2) provides that no stay of proceedings will be granted in matters before the Court of Appeal pending the decision of the Supreme Court on an interlocutory appeal. This provision aims to prevent unnecessary delays in lower

court proceedings caused by interlocutory appeals, allowing cases to progress while interlocutory appeals are heard.

Order 7 Rule 4 notably grants the Supreme Court the authority to receive further evidence on questions of fact in appeals where judgment has been delivered after hearing and trial on the merit. For such cases, the New SC Rules provide that evidence as to matters which occurred after the trial and hearing may be admitted on special grounds.

Another notable innovation is found in Order 7 Rule 5, which grants the Supreme Court the discretion to order a new trial on a specific issue without interfering with other parts of the judgment being appealed. Additionally, the Supreme Court could proceed to determine such part of the matter set down for new trial in the interest of justice where remitting the matter to the trial court would occasion a serious miscarriage of justice.

Order 8 – Original Jurisdiction of the Supreme Court

This order provides detailed procedures for the commencement and determination of actions under the original jurisdiction of the Supreme Court. Pursuant to section 233(1) of the Constitution of the Federal Republic of Nigeria (the Constitution) and section 1 of Additional Original Jurisdiction for the Supreme Court Act 2002, which outline the instances in which the Supreme Court may exercise its original jurisdiction, this order specifies the procedure for such matters.

A key innovation in the New SC Rules is the provision that any procedure in the exercise of the Supreme Court’s original jurisdiction, not explicitly provided for in the New SC Rules, shall be conducted in accordance with the practice and procedure of the Federal High Court. This ensures clarity of applicable rules and prevents procedural gaps.¹⁸

Order 8 Rule 6(1) provides that the Originating Summons procedure shall be the mode of commencement of non-contentious actions on the construction of the Constitution or other enactments. However, the Court is empowered to direct parties to file pleadings if it appears that the matter should not have been commenced by way of Originating Summons. The New SC Rules also introduce a 30-day timeline for a Respondent to file a response to an action commenced by Originating Summons, a provision absent from the Old SC Rules. While the

14. Order 4 Rule 8 of the New Rules
 15. Order 4 Rule 12 of the New Rules
 16. Order 4 Rule 13 of the new Rules

17. Order 4 Rule 15 of the New Rules
 18. Order 8 Rule 1

timelines for filing of defence and reply remain unchanged, the New Rules have abridged the timeline for entering a defence to a summons before the Supreme Court from 21 days to 14 days,¹⁹ promoting faster resolution of disputes.

Order 9 - Case Stated

This order governs the procedure for appeal by case stated to the Supreme Court. The provisions in the Old SC Rules regarding case stated remain unchanged in the New SC Rules. As with the Old SC Rules, the New Rules allow that at any stage of a proceeding (initiated by a statement of claim, originating summons, or originating motion), the parties may agree to present a question of law for the Court's opinion in the form of a case stated.²⁰

The New SC Rules maintain the Old SC Rules' structure for case stated, which includes provisions allowing parties to submit written and oral agreements. Moreover, the prohibition on reopening issues already resolved through the case stated remains in effect unless there is mutual agreement between the parties to revisit the matter.

Order 10 – References as to Constitutional Questions and Reserved Questions of Law

Order 8 Rule 6(1) specifies that Originating Summons shall be the mode for commencing non-contentious actions involving the interpretation of the Constitution or other statutes.

This order outlines the procedure for the determination of a case stated involving questions regarding the interpretation of the Constitution or reserved points of law. It covers the filing of briefs, persons with the right of audience, and the presentation of arguments before the Supreme Court.

The New SC Rules introduce a significant addition in Order 10 Rule 1, which provides specific forms for cases stated involving constitutional interpretation or application,²¹ as detailed in the First Schedule to the Rules. Ten hard copies and one electronic copy of such forms must be filed with the Registrar. The forms differ depending on the type of case stated. Form 18 is to be used when the facts are disputed, Form 19 for when the facts are not disputed and Form 20, when the case stated involves the determination of the constitutional validity of a law.

This addition is a commendable improvement, providing a structured and uniform process for cases involving constitutional questions. The forms reflect the importance and gravity of such issues, emphasising the Court's commitment to handling constitutional matters with the appropriate reverence and precision.

Order 11 – Civil Appeals

This order outlines the general procedure for conducting civil appeals before the Supreme Court. It outlines the contents of a notice of appeal, the amendment process for a notice of appeal, the dismissal of appeals for incompetent grounds and the withdrawal of appeals. The order also provides for rules concerning parties in civil appeals such as substitution of parties, death of parties, and change of names of parties.

A significant innovation of the New SC Rules in this order is the provision that a notice of appeal in a civil matter may be filed electronically.²² The New SC Rules also specify that a notice of appeal may be signed either by the Appellant in person or by their legal practitioner, expanding flexibility in the filing process.²³

While the Old SC Rules allowed the Supreme Court to strike out an appeal upon the death of an Appellant, the New SC Rules include a proviso that the Court will not strike out an appeal if there is a pending application for substitution, intervener, or other appropriate remedies.²⁴ Furthermore, the New SC Rules provide a specific procedure for applying to change the name of a party and introduce a 60-day deadline for restoring an appeal dismissed for non-compliance with this order.²⁵

The clear stipulation of a 60-day timeline for filing a Notice of Motion to restore an appeal, upon showing exceptional grounds, is an improvement. It addresses the gap in the Old SC Rules, which lacked a specific deadline for such applications. The defined limitation period will help prevent delays.

Order 12 – Costs

This order governs the award of costs, including when they may be paid, who is liable to pay them, and penalties for non-compliance with cost orders. It also addresses the liability of legal counsel and individuals with limited means²⁶ in relation to costs.

19. Order 8 Rule 9(1)

20. Order 9 Rule 1

21. Forms 18, 19 And 20

22. Order 11 Rule 2(1)

23. Order 11 Rule 2(4)

24. Order 11 Rule 12

25. Order 11 Rule 17 (4)

26. Under Order 2 Rules 14 of the New Rules

Although the Old SC Rules did not contain a distinct order focused on costs, some aspects of the New SC Rules reflect existing provisions of the Old SC Rules on costs, such as allowing costs on appeal²⁷ and imposing liability for costs on indigent parties.²⁸ However, the New SC Rules introduce several novel provisions, emphasizing the principle that the successful party should be indemnified.

A significant development is the potential for counsel to be held personally liable for costs in cases of abuse of process.²⁹ Additionally, the New SC Rules establish the minimum amounts to be awarded in specific cases.³⁰ For instance, a successful party in a civil appeal is entitled to minimum of N2 million, whilst costs in an application in a civil appeal; for delay of hearing; and for abuse of process are set at a minimum of N500,000, N1 million, N2 million respectively.

According to Order 12 Rule 5, costs may be awarded personally against counsel representing the Federal, State, Local government or any governmental department. These costs, as well as any costs imposed personally on a Counsel must be paid within 90 days of the order and certificate of compliance must be filed within this timeframe.³¹ A party in default will lose their right of audience in any Court of law in Nigeria until compliance.³²

The imposition of high minimum costs emphasizes the Supreme Court's seriousness in addressing frivolous appeals and procedural abuses. This is consistent with the stance of the Supreme Court in recent years where it has slammed significant cost on counsel for various reasons, particularly for filing and prosecuting frivolous appeals and applications.

Order 13 – Criminal Appeals

This order outlines the general procedure for conducting criminal appeals before the Supreme Court, including matters such as signing of notices of appeal, applications in criminal appeals, and withdrawals of an appeal. It also addresses attendance and examination of witnesses, notification of final order on appeal and dealing with frivolous appeals, amongst other matters.

While the New Rules did not make sweeping changes to the Old SC Rules in this order, they notably eliminated the

provision allowing for oral applications in criminal appeals. Additionally, the New SC Rules delete the provision of the Old SC Rules which provided that the court may deem an application for leave to appeal when granted as a notice of appeal.³³ The provision of the Old SC Rules which provided that the Supreme Court may entertain an appeal without strict compliance with the Order 9 Rule 3 of the Old SC Rules (now Order 13 Rule 3 of the New Rules)³⁴ in the interest of justice has also been deleted.

Order 13, Rule 5 of the New Rules clarifies who is authorized to sign a notice of appeal, addressing a long-standing source of controversy. Under the Old SC Rules, as seen in cases like *Ikuopenikan v. State*,³⁵ a notice of appeal signed by a legal practitioner in criminal matters was often struck out due to incompetence. However, in the subsequent case of *Amuda v. FRN*,³⁶ the Supreme Court determined that the proviso to Order 9, Rule 3 of the Old SC Rules permitted a notice of appeal signed by counsel to be considered competent in the interest of justice and for good cause. This, however, did not provide a definitive resolution, leaving the matter to the Court's discretion on a case-by-case basis and allowing for future challenges.

By clearly stating that a notice of appeal may be signed by either the Appellant or their legal practitioner, the expectation is that the New SC Rules have resolved the issue definitively.

Additionally, the New SC Rules clarify who can sign on behalf of a body corporate, stating that any notice or document required to be signed by a body corporate may be signed by the Company's Secretary, Director, Manager or Legal Practitioner.³⁷ Furthermore, the New SC Rules provide that an interlocutory application to be made by an Appellant can be made by a legal practitioner on behalf of an Appellant.³⁸

The New SC Rules also provide for the summary determination and dismissal of frivolous and vexatious appeals. For instance, appeals involving solely grounds of law which do not disclose substantial grounds of appeal may be summarily determined. The Registrar is required to refer such appeals to a Justice of the Supreme Court and if the Justice concurs, the appeal will be referred to

27. Order 8 Rule 17 of the Old SC Rules, Now Order 12 Rule 1 of the New Rules

28. Order 8 Rule 20 of the Old SC Rules Now Order 12 Rule 8 of the New Rules

29. Order 12 Rule 3

30. Order 12 Rule 4

31. Order 12 Rule 6

32. Order 12 Rule 7

33. Order 9 Rule 3(2) of the Old SC Rules

34. The rule provides for where a notice of appeal may be filed, the contents of the

notice of appeal and who may sign a notice of appeal.

35. [2015] 9 NWLR (Pt. 1465) 518

36. [2021] 7 NWLR (Pt. 1774) 130

37. Order 13 Rule 5(6)

38. Order 13 Rule 2

39. Order 13 Rule 20

the Court for summary determination. If the Court considers the appeal to be vexatious or frivolous the Court may dismiss same without adjourning for full hearing.³⁹ It remains to be seen how this provision will interact with the provisions of the Constitution which guarantees the right to access to court and fair hearing.⁴⁰

The New SC Rules also provide for the summary determination and dismissal of frivolous and vexatious appeals. For instance, appeals involving solely grounds of law which do not disclose substantial grounds of appeal may be summarily determined. The Registrar is required to refer such appeals to a Justice of the Supreme Court and if the Justice concurs, the appeal will be referred to the Court for summary determination. If the Court considers the appeal to be vexatious or frivolous the Court may dismiss same without adjourning for full hearing.³⁹ It remains to be seen how this provision will interact with the provisions of the Constitution which guarantees the right to access to court and fair hearing.⁴⁰

Order 14 – Fast Track of Criminal Appeals

This Order governs criminal appeals and interlocutory appeals related to terrorism, rape, kidnapping, corruption, money laundering and human trafficking (**Fast Track Offences**). This represents an innovation absent in the Old SC Rules.

The New SC Rules mandate the Court to prioritize these cases, with hearings to be scheduled daily, where possible, until final determination.⁴¹ Specific timelines are set for these fast-track appeals. For instance, compilation and transmission of records of appeal are required to be within 15 days of filing a notice of appeal, with the Respondent being entitled to compile additional records within 5 days of service of the records on him.⁴² Appellant’s briefs are required to be filed within 10 days from receiving the records from the Court of Appeal. The Respondent brief must be filed within 7 days of receiving the Appellant’s brief, and the reply brief is due no later than 3 days from receipt of the Respondent’s brief.⁴³

Order 15 – Procedure in Election Matters

Order 15 introduces a completely new framework for pre-election appeals or election appeals, effectively replacing the Supreme Court Pre-Election and Election Appeals Practice Directions of 2023 (“the Election Practice Directions”). This Order encompasses various aspects

including the filing of notices of appeal, transmission of records, filing of briefs and the presentation of oral arguments.

While Order 15 of the New SC Rules closely mirrors the Election Practice Directions, there are notable differences. For instance, the New SC Rules increase the limit of written briefs in election matters from 40 pages (as specified in the Election Practice Directions), to 45 Pages. The page limit of a reply brief on points of law is 10 pages.

In contrast to the Election Practice Directions, the New SC Rules provide that a written brief or reply failing to comply with the specified limits regarding page count, paper size, font and line spacing will not be accepted by the Registry for filing, and where inadvertently accepted, they shall be deemed improperly filed.

Order 15 Rule 2 provides that an Appellant intending to appeal against a ruling or judgment in a pre-election or election matter shall do so within 14 days from the date of the delivery of the ruling or judgment in question. The rules also establish stringent timelines for the filing of briefs of argument to facilitate the timely resolution of pre-election and election appeals in accordance with section 285 of the Constitution.

With respect to oral arguments of cross-appeals under this Order, Order 15 Rule 9 requires cross-appeals to be argued together with the appeal as one case within the allotted time.

Order 16 – Brief of Argument

Order 16 of the New SC Rules provides the procedural guidelines for briefs of arguments, including form, content, filing deadlines and the consequence for late filings. The New SC Rules significantly shorten time limits, and set out time requirements in days, not weeks.

Under the Old SC Rules, the Appellant’s brief was required to be filed within 10 weeks of receipt of the record of appeal. The New SC Rules reduce this period to 45 days. Similarly, the Respondent’s brief which was required to be filed within 8 weeks of service of the Appellant’s brief, is now to be filed within 30 days. The timeline for filing a reply brief has also changed from 4 weeks of service of the Respondent’s brief to 14 days. Furthermore, while the Old SC Rules allowed each side up to 1 hour of oral arguments, the New SC Rules limit this to just 15 minutes.

40. Section 36 of the Constitution

41. Order 14 rule 6

42. Order 14 rule 3

43. Order 14 rule 5

Order 16 Rule 7 introduces the option for 'joint and several briefs', permitting parties with identical or joint interests to file a joint brief. Also, where there are multiple Appellants who file more than one brief, a Respondent may file a single brief in response, with time to respond only beginning to run when all the briefs filed by the Appellants have been served on him.

Another important feature of the New SC Rules is Order 16 Rule 12 which empowers the Court to order accelerated hearing or waive compliance with the provisions of Order 16 in relation to the preparation and filing of brief or argument in the interest of justice.

To deal with unforeseen circumstances that may disrupt normal Court operation, Order 16 Rule 13 provides that the computation of time to do any act provided by the rules shall be exempted during the occurrence of any event which disrupts the normal conduct of the business of the Court.

Lastly, Order 16 Rule 14 allows parties to file additional authorities, provided they notify the Court and other parties at least 5 days before the date of hearing. Where the decision to be relied upon was published less than 5 days to the hearing date, the party seeking to rely on such authority is simply required to give reasonable notice to the Court and other parties.

Order 17 – Electronic Filing

Order 17 of the New SC Rules introduces a new electronic filing system for the Court, detailing the procedure for electronic filing, the payment of fees, and the use of electronic signatures. Under this order, parties are required to file all processes, documents or applications through the Nigeria Case Management System (NCMS) E-filing platform. Additionally, a date set by the Chief Justice of Nigeria will mark when only this mode of filing will be

accepted. To meet the requirement for signing or sealing of any document, it will suffice for such a document to be filed in accordance with the parameters allowed by the NCMS E-Filing Portal, and electronic signatures on electronically signed processes shall be valid.

The New SC Rules also empower the Chief Justice of Nigeria to periodically issue Practice Directions on the regulation and administration of the Court's electronic filing system.

Order 18 – Virtual Hearing

Order 18 of the New SC Rules outlines the procedure for virtual hearings, addressing aspects such as dress code, etiquette, and notification of parties. Similar to E-filing, the Chief Justice of Nigeria is empowered by the New SC Rules to periodically issue Practice Directions for the regulation of virtual hearings.

Order 19 - Electronic Case Scheduling and Management

Order 19 requires the Court to implement an electronic case scheduling and management platform for the efficient and effective management of case-loading and case scheduling. It empowers the Chief Justice of Nigeria to make practice directions in this regard.

Order 20 - Judgment

Order 20 outlines the procedure for Judgments of the Court. Unlike the Old SC Rules which included the procedure for judgments under Order 8 for Civil Appeals, the New SC Rules deal with judgments as a standalone Order. Under Order 20 Rule 1, the judgment of the Court may now be pronounced during virtual hearings or in open Court.

Order 20 Rule 2 now provides that if Counsel, duly notified of the date for pronouncement of judgment, fails to appear, it will be considered an act of disrespect to the Court.

Order 21 – Vacation

Order 21 specifies the Court's vacation period and empowers the Chief Justice of Nigeria to constitute panel(s) to sit during the annual vacation for the hearing and determination of urgent matters. The Order further stipulates that the time of filing shall not run during vacation.

Order 22 – Miscellaneous

Order 22 of the New SC Rules contains miscellaneous provisions. By virtue of this Order, the Court is permitted to depart from the New SC Rules and to waive compliance with any part of the rules where it is in the interest of justice to do so, thereby granting the Court the flexibility to prioritize substantial justice over procedural technicalities.

CONCLUSION

The New SC Rules represent a significant step forward in the administration of justice in Nigeria. By incorporating modern technological advancements and addressing longstanding procedural ambiguities, these rules aim to streamline judicial processes and expedite the delivery of justice.

The introduction of E-Filing and the Case Scheduling and Management System is a commendable development that promises to enhance efficiency and transparency. These digital tools have the potential to revolutionize the way cases are filed, processed, and managed, reducing delays and improving access to justice.

However, the success of these reforms' hinges on their effective implementation. Furthermore, the Supreme Court must prioritize the training of Court staff to familiarize them with the new procedures and technologies. Adequate technical infrastructure and support are also necessary to facilitate the smooth operation of the E-Filing system and the Case Scheduling and Management System.

By diligently implementing the New SC Rules, the Supreme Court can significantly enhance its capacity to deliver timely and just decisions, thereby strengthening the administration of justice in Nigeria.

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