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THE JUDICIARY

THE COURT OF APPEAL


REGISTRY MANUAL



THE JUDICIARY



THE COURT OF APPEAL

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE:	13 MAY 2021
	DAY: THURSDAY
TABLED BY:	leader of Majority Party Hon. Ames Kimani @mp
CLERK-AT THE-TABLE:	A. Shubuko

VISION

The ultimate custodian of appellate justice delivered with fairness, ease of access, integrity, effectiveness, responsiveness, transparency and accountability to all.

MISSION

To uphold the Constitution of Kenya, the rule of law, advance indigenous and robust Jurisprudence that can be bench marked regionally and globally and provide access to appellate justice for all.

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FOREWORD



The Sustaining Judiciary Transformation (SJT): A Service Delivery Agenda, 2017-2021 blue print launched by His Lordship the Chief Justice David K. Maraga, EGH, in 2017, lays emphasis on the attainment of quality service delivery to enhance access to justice through a series of interventions. These include; Automation, Digitization and Improvement of work methods; Enhancing individual accountability; Enhancing institutional accountability; Entrenching performance measurement , monitoring and evaluation; and Entrenching policies and manuals developed.

In this regard we are called upon to ensure that as an institution we reduce any obstacles that may hinder public access to court services and simplify court processes and procedures so that our court users derive the full benefits of efficient court processes. Court registries are the first stop for litigants and as such, efficiencies created around registry processes go a long way in enhancing access to justice and ultimately ensure effective and efficient service delivery.

This manual coming as it has, in the midst of a global pandemic, COVID-19, which has left in its wake disruptions in the work environment, revolutionizing the way we have traditionally carried out our duties, will ensure that registry processes and procedures adopted, whether virtual or physical are efficient, predictable, responsive and user friendly.

It is my firm belief that in the implementation of the provisions of this manual, all staff will be guided by a high degree of commitment, integrity and accountability that should be the hallmark of our service delivery agenda.

HON. WILLIAM OUKO, EBS
JUDGE /PRESIDENT, COURT OF APPEAL

ACKNOWLEDGEMENT



The Court of Appeal Registries are central to its effective operations and service delivery to the members of Public. It is the place where a litigant makes a first contact with the Court of Appeal and the experience thereto forms a long-lasting impression. In line with the principal mandate given to the Judiciary under **Article 159** of the Constitution of Kenya, 2010 *inter alia* that; justice shall be done to all, irrespective of status; that justice shall not be delayed and justice shall be administered without undue regard to procedural technicalities. These principles also cut across the strategic blueprint of the Judiciary – Sustaining Judiciary Transformation (SJT) 2017-2021, which places an emphasis on enhancing service delivery in the Judiciary. What this therefore portends is that the Court of Appeal Registry procedures and processes must be, in writing, be understood by the users and be accessible across all the registries and sub- registries of the Court.

The Court of Appeal Registry Manual sets out to align service standards and registry procedures across all the registries of the Court and to provide a harmonized customer experience across the board.

On behalf of the Registry Committee that I was privileged to Chair, in Planning and executing the development of the Manual, I wish to sincerely thank the President of the Court of Appeal, the **Honourable Mr. Justice William Ouko** and the Registrar of the Court of Appeal, the **Honourable Moses K. Serem** whose guidance and support was invaluable and saw the completion of the Manual. I thank all the Judges of the Court for providing their insights to the content and in particular the **Honourable Mr Justice Kathurima M’noti** for rendering his legislative drafting skill to the Manual. I commend the Deputy Registrars of the Court of Appeal, **Honourable Joan Wambilyanga, Honourable Harrison Adika Honourable Lorraine Ogombe** for supporting this process right from inception to its finalisation and Mr. Anthony Sissey from PAC-U for support in the design and layout.

Development of this Registry Manual benefited immensely from the craftsmanship of **Ms. Muthoni Njungé** whose drafting skills and dedication was unequalled. I acknowledge the input of the Heads of Sections and staff of the Court of Appeal who provided the raw data from their stations which has been extremely invaluable in the development of this Manual. This has culminated into a comprehensive roadmap for achieving the Court’s overall goal of a court that delivers on its mandate effectively and efficiently.

Lastly, I wish to thank all the members of Court Users Committee of the Court of Appeal specifically **K. Fraser, SC**, Mr. Allen Gichuhi and Kevin M’Court to mention just a few who have rendered their technical advice and supported the Registry in rolling out the case management strategy. It is my prayer the implementation of this Registry Manual will enhance the Court’s service delivery and exceedingly meet the expectations of all our stakeholders and users of the Court.

THE HONOURABLE LADY JUSTICE MARTHA KOOME
JUDGE OF APPEAL, HEAD OF THE CRIMINAL DIVISION OF THE COURT OF APPEAL
AND CHAIR OF THE COURT OF APPEAL REGISTRY MANUAL COMMITTEE

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PART A

INTRODUCTION

PART A: INTRODUCTION

1. Background

About the Court of Appeal

The Court of Appeal is established under Article 164 (1) of the Constitution. The Court is organized and administered in the manner prescribed by the Court of Appeal (Organisation and Administration) Act. It is headed by the President of the Court of Appeal who is elected by the appellate Judges from amongst themselves. It has jurisdiction to hear appeals from the High court and other courts of equal status and tribunals prescribed by an Act of Parliament. The Court of Appeal is headquartered in Nairobi and is decentralized to three other regions namely Nyeri, Kisumu and Mombasa and has sub-registries at Malindi, Eldoret and Nakuru. The Registrar of the Court of Appeal is the administrator of the Court assisted by Deputy Registrars and other court officials.

About The Court of Appeal Registry Manual

The Court of Appeal Registry Manual aligns service standards and registry procedures across all the registries. This is in realisation of the provision of Article 159 of the Constitution of Kenya, 2010 which mandates the courts to adhere to the principles inter alia that justice shall be done to all, irrespective of status; that justice shall not be delayed and justice shall be administered without undue regard to procedural technicalities. Moreover, the strategic blueprint of the Judiciary – Sustaining Judiciary Transformation (SJT) 2017-2021 – places an emphasis on enhancing access to justice, clearance of case backlog, addressing the challenge of integrity and the institutional mechanisms to deal with this problem. This provides the framework and impetus for the transformation of court procedures and processes where access to justice may have been hampered by complex court processes, unfriendly and unresponsive systems, lack of information and inefficiencies of court systems and procedures.

The Court of Appeal Registry Manual therefore standardizes and provides a harmonized customer experience across the board. This is vital towards building a culture of responsive, friendly, accountable and effective service delivery, and to inspire public confidence in the Judiciary. The decentralization of the Court of Appeal has also necessitated the streamlining of standards in order to offer uniform service experience in all regions.

The Process of developing the Manual

The Manual was developed through a consultative and participatory process that was led by the Honourable Lady Justice Koome assisted by Ms Muthoni Njungé who collected and synthesized the raw data to draft the Manual. The Honourable Lady Justice Koome held focus group discussions with Judges, the Registrar, Deputy Registrars and the Court of Appeal Staff in all the Court of Appeal stations between 2016 and 2020 to review and evaluate the courts' operation procedures with the aim of developing an all-encompassing registry manual.

This Manual will serve as a simple and brief reference guide for the staff, advocates, litigants and members of the public to understand the jurisdiction of the Court of Appeal and the registry operations and procedures.

2. Objectives of the Manual

This Manual seeks to achieve the following objectives:

- Provide simplified and standardized operating procedures in all registries.
- Ensure uniform customer experience in all registries.
- Achieve greater efficiency in registry operations.
- Clearly define roles of staff in the registries and ensure accountability.
- Orient new employees on the processes and procedures in the registries.
- To sustain the Court's institutional memory through proper documentation of the court processes.

The Manual shall be reviewed biennially to reflect policy changes, policy directions and amendments in the law.

3. Guiding Principles and Values

In carrying out its mandate, the Court of Appeal will be guided by the following values;

- **Independence:** We will protect the right of every person to have their case decided solely on the basis of the law and evidence.
- **Professionalism:** We will exhibit the highest levels of competence, good judgement and continually promote excellence.
- **Integrity:** We will uphold the highest standards of honesty, truthfulness, openness and sincerity and remain fair and ethical in service delivery.
- **Collegiality:** We will commit to the values of the Constitution of Kenya, the values of the Court, our oath of office, to the truth and do quality service delivery.
- **Courage:** We will have the courage to take action, to face any hardship, to confront fear and tackle uncertainty.

In the execution of their duties, all officials of this Court are bound by:

- The national values and principles of governance under Article 10 of the Constitution of Kenya
- The principles of leadership and integrity outlined under Chapter Six of the Constitution of Kenya
- The Court of Appeal (Organization and Administration Act), 2015
- The Appellate Jurisdiction Act, Cap 9
- The Public Officer Ethics Act, 2003
- The Leadership and Integrity Act, 2012
- The Court of Appeal Rules, 2020
- Sustaining Judiciary Transformation Framework, 2017-2021

- The Judiciary Strategic Plan, 2019-2023
- The Court of Appeal Strategic Plan, 2020-2024
- The Court of Appeal Civil Appeals and Applications Practice Directions, 2015
- The Court of Appeal Criminal Appeals and Applications Practice Directions, 2020
- Practice Directions on Electronic Case Management, 2020
- Any other practice directions and circulars as may be issued from time to time.

PART B

JURISDICTION OF THE COURT OF APPEAL

PART B: JURISDICTION OF THE COURT OF APPEAL

1. The Court System

The system of courts is established under Article 162 of the Constitution of Kenya, 2010. The **Superior Courts** are:

- The Supreme Court
- The Court of Appeal
- The High Court
- The Employment and Labour Relations Court
- The Environment and Land Court

The **Subordinate Courts** comprise:

- The Magistrates' Courts
- The Kadhis' Courts
- The Courts Martial
- Any other Court or local tribunal established by an Act of Parliament

2. Jurisdiction of the Court of Appeal

The Court of Appeal is established as a Superior Court under Article 164 of the *Constitution of Kenya, 2010*, with jurisdiction to hear appeals and applications from the High Court, and any other Court of equal status or tribunal as may be prescribed by an Act of Parliament.

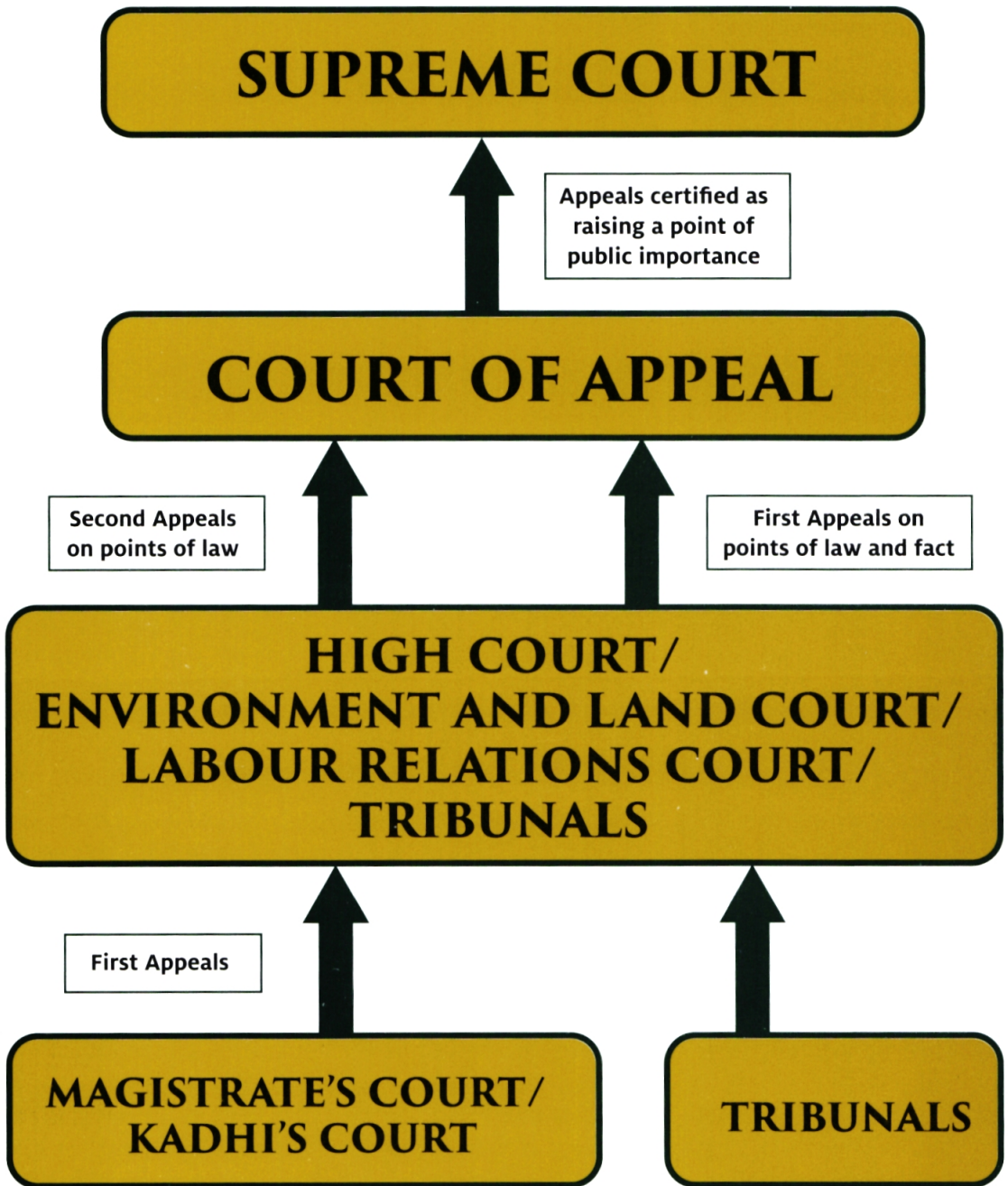
Appeals may be of a civil or criminal nature.

First Appeals are appeals from the High Court and courts of equal status having exercised its original jurisdiction, and are on both points of law and fact. **Second Appeals** are appeals from the High Court and Courts of equal status having exercised its appellate jurisdiction, and are on points of law only.

Appeals may be lodged from the Court of Appeal to the Supreme Court in two instances:

- a) As of right in any case involving the interpretation or application of the Constitution; and
- b) In any other case in which the Supreme Court, or the Court of Appeal, certifies that a matter of general public importance is involved. A certification by the Court of Appeal may be reviewed by the Supreme Court, and either affirmed, varied or overturned.

2.1. Hierarchy of Appeals



Key

First appeals from the High Court

- These are appeals from the High Court and Courts of equal status exercising their original jurisdiction and are on both points of law and fact

Second Appeals from the High Court

- Are appeals from the High Court and Courts of equal status exercising their appellate jurisdiction and are on points of law only

PART C

REGISTRY OPERATIONS

PART C: REGISTRY OPERATIONS

1. Registry Officials

The guiding principle in the registry procedures and processes is having due regard and utmost care for customers. In the execution of their duties, all registry officials are bound by the following values:

- Respect
- Courtesy
- Integrity
- Accountability
- Humility
- Openness
- Patriotism
- Results orientation
- Sensitivity to persons with special needs and vulnerable groups

2. Working Hours

- Court registries are open from Monday to Friday except on public holidays or as otherwise directed by the President in consultation with the Chief Justice.
- The official working hours are 8.00 am to 5.00 pm, unless otherwise directed by the President in consultation with the Chief Justice.
- There shall be a duty judge and/or duty bench during court recess to attend to matters listed during that period.

3. Service Counters

3.1. Enquiries

- There is an Information and Enquiries desk at every registry, where all enquiries are received and directed to the relevant officers or offices. The officers in these registries will inform the client on the processes or payments required to obtain or collect the information needed.
- Enquiries can be made through automated services such as SMS and email.
- The Customer Care desk maintains;
 - An *'Enquiry Register'* to record details of clients attended to, services sought and office or officer directed to for action.
 - linkages and networks with registries so as to obtain and communicate important information to the clients.
 - a suggestion box where concerns and comments can be anonymously raised.
 - a general notice board at every registry to publicize any information to the public from the Court of Appeal.

4. Registries

4.1. Civil Registry

4.1.1. Civil Appeals Registry

The registry of the Court is located in Nairobi, Nyeri, Kisumu and Mombasa. There are Sub-registries located in the following regions: Eldoret, Nakuru and Malindi, Kisii, Busia, Garissa and Meru.

The civil appeals registry receives records of appeal arising from the decisions of the High Court and Courts of equal status.

This Registry is responsible for registration which entails the following processes;

- a)** Receiving of the record of appeal at the registry counter or through the e-filing system. A proper Record of Appeal contains;
 - ✓ A cover (of stout paper in case of physical filing) indicating the title of the record, nature and origin of the appeal, parties and their physical and postal addresses for service, email addresses and phone numbers.
 - ✓ Certificate of Record of Appeal.
 - ✓ Index of all the documents in the Record of Appeal with the number of pages they appear.
 - ✓ Statement of Address for service of the Appellant(s) and respondent(s) (indicating the parties and their physical and postal addresses for service, email addresses and phone numbers).
 - ✓ Memorandum of Appeal
 - ✓ Pleadings.
 - ✓ Proceedings of the trial Court.
 - ✓ Exhibits and/or annexures.
 - ✓ Judgment/Ruling appealed against.
 - ✓ A certified Decree/Order.
 - ✓ Notice of Appeal.In case of delay;
 - ✓ Letter requesting for Proceedings.
 - ✓ Certificate of delay (if any).
- b)** Verification of pleadings and documents for completeness to ascertain compliance with the Court of Appeal Rules, 2020 and the Practice Directions, which include;
 - i. Pagination
 - ii. Legibility
 - iii. Every tenth line marked at the right hand margin
 - iv. One-sided photocopies
- c)** Assessment of court fees.
- d)** Verification of court fees deposit slip or the e-receipt
- e)** Registration of Appeal and Assignment of appeal number.
- f)** Issuance of court fees receipt by the cashier if need be
- g)** Date stamping of the records of appeal.

- h)** Entry of Judgments/Orders in the register.
- i)** Attending to customers over the counter and the electronic platforms.
- j)** Filing of documents/pleadings in their respective files/records.
- k)** Filing and retrieval of records of appeal.
- l)** Preparation and issuance of notices for case management, mentions, hearings, and delivery of judgments, rulings and taxation.
- m)** Maintenance of the Court diary.

Contents of Memorandum of Appeal

- ✓ Consecutively numbered grounds of objection to the decision appealed against, specifying the points which are alleged to have been wrongly decided, and the nature of the order which it is proposed to ask the Court to make. (Annexure A)

4.1.2. Civil Applications Registry

Applications to the Court of Appeal shall be by way of Notice of Motion.

The following applications among others can be filed at this registry;

- a)** Applications for striking out
- b)** Applications for additional evidence
- c)** Applications for amendment of memorandum of appeal
- d)** Application for leave to file a supplementary record of appeal
- e)** Application for substitution of parties
- f)** Application to cease acting
- g)** Applications for stay of execution/proceedings
- h)** Applications for deposit of security
- i)** Applications for Injunction
- j)** Applications to seek enjoinder in an Appeal
- k)** Certification Applications (Supreme Court)

Applications are presented at the registry counter or through e-filing to check whether they conform with the Court of Appeal Rules and Practice Directions.

The registry officials ensure that the application filed contains;

- ✓ Index
- ✓ Certificate of urgency, where applicable
- ✓ Affidavit in support of the certificate of urgency, where applicable
- ✓ Notice of motion
- ✓ Affidavit in support of the motion
- ✓ Judgement or ruling appealed against
- ✓ Notice of Appeal
- ✓ Any other annexures

The application should conform to the following requirements:

- ✓ One-sided Photocopies
- ✓ Legibility of the document
- ✓ No more than 500 pages in a single volume
- ✓ Indexing
- ✓ Pagination
- ✓ Every tenth line marked at the right hand margin

The other processes involved are;

- ✓ Assessment of the documents for payment
- ✓ Registration of the Application after proof of payment
- ✓ Record verification
- ✓ A number may be assigned for Applications filed under certificate of urgency as per the court's diary (urgency forms are prepared under Rule 47 and forwarded to the Registrar for lodging of the motion.).
- ✓ Registry prepares a certification slip for onward transmission to the Duty Judge for certification.
- ✓ An informal application may be made under Rule 47(5) of the Court of Appeal Rules where the matter is not certified as urgent.
- ✓ Applications filed without certificate of urgency await the queue with other files
- ✓ Hearing notices are then sent out to the parties/advocates.

4.2. Criminal Registry

The criminal registry handles both Criminal Appeals and Applications which emanate from decisions of the High Court. This Registry is responsible for registration which entails the following processes;

- a) Receiving and filing the Notices of Appeal
 - i. The Notice of Appeal is substantially in the form in **Annexure C**.
 - ii. It receives, registers and gives a serial number to a copy of the Notice of Appeal that is transmitted by the Deputy Registrar of the High Court in accordance with the provisions of Rule 61 of the Court of Appeal Rules.
 - iii. Then the registry notifies the Deputy Registrar the number assigned to the Notice of Appeal and sends a copy to the Appellant, his counsel and to the Director of Public Prosecutions.
- b) Receiving of the record of appeal at the registry counter or through the e-filing system.

When the Deputy Registrar of the High Court transmits the Record of Appeal in accordance with Rule 63 of the Court of Appeal Rules the registry receives, files and sends a notification to the Deputy Registrar of the High Court and a copy of the said notification to the Appellant, his Counsel and the Director of Public Prosecutions

- c) Verification of pleadings and documents for completeness to ascertain compliance with the Court of Appeal Rules, 2020 and the Practice Directions.
Upon receiving the Record of Appeal, the registry subjects the said record to a thorough scrutiny to ensure that the said record complies with the provisions of Rule 62 of the Court of Appeal Rules.
- d) Assessment of court fees.
- e) Verification of court fees deposit slip or the e-receipt.
- f) Registration of Appeal and Assignment of appeal number.
- g) Issuance of court fees receipt by the cashier if need be.
- h) Date stamping of the records of appeal.
- i) Entry of Judgments/Orders in the register.
- j) Attending to customers over the counter and the electronic platforms.
- k) Filing of documents/pleadings in their respective files/records.
- l) Filing and retrieval of records of appeal.
- m) Preparation and issuance of invitation of notices for case management, mentions, hearings and delivery of judgments and rulings.
- n) Issuing of notices of hearing.
- o) Maintenance of the Court diary.
- p) Allocation of pro bono briefs

PART D

REGISTRY PROCEDURES

PART D: REGISTRY PROCEDURES

1. Civil Registry

1.1. Civil Appeals

The Civil registry maintains a register for civil appeals filed in the registry with the following entries:

Date of lodging the Record of Appeal	Civil Appeal No.	Appellant(s)	Respondent(s)	Particulars (Court, Judge(s), Date of Decision)	Original No.	Result of Appeal, Date and Bench
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The processes involved are as follows;

- a. Receipt and registration of the Notice of Appeal within fourteen (14) days of the date of judgment. (Rule 75)
- b. Service of Notice of Appeal by appellant to the respondent(s) within seven (7) days of lodging the notice of appeal. (Rule 77)
- c. Receipt of the Record of Appeal within sixty (60) days after lodging the Notice of Appeal. (Rule 82 and Annexure D)
- d. Certificate of delay from the High Court may be incorporated in the Record of Appeal where the appeal has not been filed in time owing to a delay in issuance of proceedings from the High Court.
- e. A record of appeal filed out of time without a Certificate of Delay from the High Court should be accepted and marked '*Lodged Out of Time*'.
- f. Acceptance or rejection of the Record of Appeal by the Registrar as per Rule 86, 87 of the Court of Appeal Rules.
- g. Assessment of Court fees.
- h. Notification and transmission of documents from the sub-registry to the Registrar or the Deputy Registrar. (Rule 91)
- i. Queue management – First in first out with the following exceptions;
 - (i) Appeals certified urgent by the court
 - (ii) As directed by the President or the Presiding Judge of the Court of Appeal
- j. Case management as per the Practice Directions.
- k. Lodging of written submissions or as per the case management directions.
- l. Hearing notices are issued and served at least fourteen (14) days prior to the hearing date or as otherwise directed by the Court. (Rule 101)
- m. Certified copies of judgments to be issued upon request and payment.
- n. Certified proceedings to be issued upon request and payment of requisite court fees except where an appeal was heard and determined by way of written submissions.
- o. Issuance of orders by the Deputy Registrar as provided for under Rule 34.
- p. Taxation by the Deputy Registrar.
- q. If a party is not satisfied with (p) above, file a reference on taxation to a single judge or full bench.
- r. Execution of court orders by the High Court.
- s. File archived as per the Court of Appeal Records Management Policy.

1.2. Civil Applications

A register for civil applications filed in the registry is maintained in all civil registries, with the following entries;

Date of Lodging Application	No. of Application	Urgency Number	Applicant(s)	Respondent(s)	Nature of Application	Particulars (Court, Judge(s), Date of Decision)	Original High Court No.	Result of Application, Date and Bench
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The process shall be as follows;

- a. A Notice of Motion clearly outlining prayers sought and an affidavit in support of the motion is filed in the civil registry.
- b. The registry immediately assigns an application number.
- c. Queue management – First in first out with the following exceptions;
 - i. Applications certified urgent by the court
 - ii. As directed by the President or the Presiding Judge of the Court of Appeal
- d. If it is an urgent matter, a certificate of urgency and an affidavit in support of the certificate is also filed together with the Notice of motion.
- e. The file is placed before the Deputy Registrar for lodging and immediately transmitted to the duty Judge for certification directions. (Rule 47)
- f. If the matter is certified urgent, the President or the Presiding Judge of the Court of Appeal fixes a hearing date and assigns a bench to hear the matter.
- g. Any party not agreeable with the assigned date may, by way of a letter to the President or the Presiding Judge of the Court of Appeal, request for a more favourable date.
- h. If the urgency application is declined, the applicant may move the court for a reference, by way of letter, to the Registrar (Rule 47(5))
- i. Upon assessment of costs at the registry, the reference is listed for an inter parte hearing as per the Judges' directions.
- j. Hearing notices are issued and served at least fourteen (14) days prior to the hearing date or as otherwise directed by the Court
- k. Hearing of the Application.
- l. Certified copies of ruling to be issued upon request and payment of relevant fees.
- m. Certified proceedings are to be issued upon request and payment of requisite court fees except where an application was heard and determined by way of written submissions.
- n. Issuance of orders is done as per Rule 34.
- o. If a party does not approve the orders issued, the party may apply for settling of the terms of orders before a single Judge in chambers.
- p. Signing and sealing of the orders is done by the Deputy Registrar.
- q. Execution of orders by the High Court.
- r. File archived as per the Court of Appeal Records Management Policy.

1.2.1. Single Judge Applications

The following applications shall be heard by a single Judge:

- (a) an application for extension of time;
- (b) an application for substitution of a deceased party;
- (c) an application to file an appeal as a pauper
- (d) an application to cease acting

- (e) an application for abatement
- (f) an application for leave to withdraw an appeal

Provided that where the Court of Appeal rules allow any of the applications above arising during hearing before a full court, the full court can give appropriate orders.

1.2.2. Lodging and Service of Bill of Costs

- Where costs are to be taxed, the party to whom the costs were awarded shall lodge his or her bill of costs with the taxing officer.
- The party lodging the Bill of Costs should serve a copy of it on the advocate for the party liable to pay it.
- A bill of costs shall be lodged as soon as practicable after the making of the order for costs and not later than twenty-one days after a request in writing therefore by the party liable, or such further time as the Registrar may allow.
- A bill of costs may not be lodged by an advocate who is not on the record.
- The Bill of Costs shall be in the form as shown in Annexure B.

2. Criminal Registry

2.1. Criminal Appeals

The Criminal Registry maintains a register for criminal appeals filed in the registry, with the following entries:

Appeal No.	High Court No.	Parties	Charge	Date Notice of Appeal Received	Date Record of Appeal Received	Result of Appeal, Date and Bench

The process is as follows;

- a. Six copies of the Notice of Appeal are lodged in the High Court within 14 days of date of judgment and the notice of appeal constitutes an appeal (Rule 59).
- b. The Notice of Appeal shall be transmitted by the Deputy Registrar of the High Court to the Court of Appeal within 7 days of filing.
- c. The Deputy Registrar of the Court of Appeal immediately assigns an Appeal Number.
- d. The Court then notifies the Appeal Number to the Deputy Registrar of the High Court with a copy to the appellant(s) and the Director of Public Prosecutions within 14 days.
- e. The Record of Appeal shall be prepared within 60 days of the notification of the Appeal Number.
- f. The Record of Appeal is then subjected to the checklist by the Deputy Registrar of the Court of Appeal to ensure compliance of Rule 62.
- g. Hearing is queued on a first in, first out basis with the exception of;
 - i. Appeals certified urgent
 - ii. Age of appeal from original court (displayed on the face of the record)
 - iii. As directed by the President or the Presiding Judge of the Court of Appeal

- h. Case Management according to the Criminal Appeals and Applications Practice Directions
- i. The notice of hearing is to be given not less than 7 days before the date of hearing or as otherwise directed by the Court
- j. Copies of the Judgment are issued to the parties, the Court's library, and the prisons authority where applicable within 7 days of delivery.
- k. Orders issued therein are extracted within 24 hours of delivery of judgment.

2.2. Criminal Applications

The Criminal Registry maintains a register for criminal applications filed in the registry, with the following entries:

Date of Lodging Application	No. of Application	Applicant(s)	Respondent(s)	Nature of Application	Particulars (Court, Judge(s), Date of Decision)	Original High Court No.	Result of Application, Date and Bench

The process is as follows;

- a. The application is made by way of a Notice of Motion accompanied by an affidavit in support of the motion.
- b. The registry then assigns an application number.
- c. The file is then placed before the Deputy Registrar for lodging.
- d. Applications are dealt with on a first in first out basis with the following exceptions;
 - i. Applications certified urgent by the court
 - ii. As directed by the President or the Presiding Judge of the Court of Appeal
- e. If the application is filed under a certificate of urgency, the application should include a certificate of urgency accompanied by an affidavit in support of the urgency.
- f. The file is then immediately placed before the duty Judge for certification.
- g. If the matter is certified urgent, the President or the Presiding Judge of the Court of Appeal fixes a hearing date and assigns a bench.
- h. Applications are heard on a first in first out basis with the exception of;
 - a. Matters certified urgent
 - b. Age of application from original court (to be displayed on the face of the record)
- i. The notice of hearing is to be served not less than 14 days before the date of hearing or as otherwise directed by the Court
- j. Copies of the ruling are to be issued to the parties, library and the prisons authority where applicable within 7 days of delivery.
- k. Orders issued therein are extracted within 24 hours of delivery of ruling.

2.3. Application for Bail Pending Appeal

The process is as follows;

- a) The application is assigned a number. If there is an existing criminal appeal, the number given will be that of the appeal.

- b) After receiving the application, the application is forwarded to the Deputy Registrar for lodging.
- c) Upon lodging by the Deputy Registrar, a hearing date is allocated and a hearing notice is issued as per the Court's diary
- d) After hearing of the application, orders are issued.
- e) If the application is dismissed, the applicant must wait for the hearing of the appeal.
- f) If the applicant is granted cash bail, the orders are extracted and must be complied with before release.
- g) If the applicant is granted a bond, the orders are extracted and the surety appears before the Deputy Registrar for examination and approval. If the bond terms are complied with, security is deposited with the Deputy Registrar, and the surety signs the bond form.

3. Other Applications

3.1. Supreme Court Applications

All registries shall maintain a register for Supreme Court applications filed in the Court of Appeal registry with the following entries:

Date of Lodging Application	No. of Application	Applicant(s)	Respondent(s)	Nature of Application	Original Court of Appeal No.	Results
-----------------------------	--------------------	--------------	---------------	-----------------------	------------------------------	---------

The process is as follows;

- a) Application for leave to appeal to the Supreme Court is to be filed in the Court of Appeal within fourteen (14) days of delivery of judgment or ruling.
- b) If the application for leave to appeal is denied by the Court of Appeal, the aggrieved party may apply for review in the Supreme Court within fourteen (14) days of the ruling.
- c) Similarly, if the application for leave to appeal is granted by the Court of Appeal, a party against such orders may apply to the Supreme Court for review within fourteen (14) days of the ruling.
- d) Application for extension of time or an application to lodge an appeal out of time is made to the Supreme Court.
- e) Application for stay of a Court of Appeal decision to the Supreme Court is made by way of Notice of Motion accompanied by an affidavit in support of the motion for the following orders;
 - i. Interlocutory orders pending the hearing of the appeal before a single judge,
 - ii. Interim orders pending the hearing of the appeal before a single judge, or
 - iii. Conditional stay before a five (5) judge-bench.
- f) All applications to the Supreme Court should contain the following;
 - ✓ Index
 - ✓ Certificate of Urgency, where applicable
 - ✓ An affidavit in support of the urgency, where applicable
 - ✓ A Notice of Motion

- ✓ An affidavit in support of the motion
- ✓ Any other necessary annexures
- ✓ A copy of the judgment or ruling sought to be appealed
- ✓ Notice of Appeal

- g) If the application for leave to appeal is an urgent matter, the application is placed before the duty Judge for certification.
- h) If certified urgent, the President of the Court or the Presiding Judge assigns a hearing date and appoints a bench to hear the application.
- i) If certification for urgency is denied, the application is subjected to the normal queue in the registry.
- k) Certified copies of the ruling are to be issued upon request and payment of the requisite court fees.
- l) Certified proceedings are to be issued upon request and payment of requisite court fees except where an application was heard and determined by way of written submissions.

3.2. Pauper Briefs

- a. The procedure for filing for a pauper brief is done by way of Notice of Motion to the Court at no cost to the applicant.
- b) The application is placed before the Registrar for commendation on pauperism or lack thereof.
- c. The application is then fixed for hearing before the Court for appropriate orders.

3.3. Pro Bono Services

Pro bono services shall be offered in capital cases.

- a) Every registry maintains a register for the allocation of pro bono services.
- b) They are allocated equitably to the advocates appointed by Pro Bono Committee of the Court.
- c) The Deputy Registrar shall formally inform the advocates allocated pro bono briefs.
- d) Advocates requested to take up pro bono briefs are supposed to communicate their acceptance or rejection of the allocation within seven (7) working days.
- e) Upon completion of the brief or discharge by the Court, the advocate shall submit a fee note for approval by the *Pro Bono* Committee.
- f) A certificate of payment is then prepared by the Deputy Registrar for payment.

3.4. Refund of Deposits

- a) Furnishing security for costs is mandatory when filing civil appeals.
- b) Cash deposits, bank guarantees and/or insurance bonds deposited with the Court cannot be refunded or released without Court orders.
- c) The order directing the refund or release of cash deposits, bank guarantees and/or insurance bonds is granted by the Judge or bench issuing a ruling or judgment on the same.
- d) The order directing the refund or release of security for costs is granted by the Registrar.

PART E
APPENDICES

MEMORANDUM OF APPEAL

In the Court of Appeal at

.....
Civil Appeal No. of 20
Between
..... Appellant
and
..... Respondent

(Appeal from a (¹) of the High Court of at
..... (Hon. Justice) dated the
..... day of, 20, in Civil Case (²) Civil Appeal/Bankruptcy Cause/
Matrimonial Cause/Miscellaneous Cause No. of, 20

MEMORANDUM OF APPEAL

....., the above-named appellant appeals to the Court of Appeal against the
whole/part (³) of the above-named decision on the following grounds, namely—

- 1.
- 2.
- 3.
- 4.
- 5.

It is proposed to ask the Court for an order that (⁴)

Signed Appellant _____
Advocate for the Appellant

To: –
The Honorable the Judges of the Court of Appeal Copies to be served on
lodged in the Registry/Sub-registry at on the day of, 20
.....Registrar

(¹) Insert conviction, sentence, order, or as the case may be.
(²) Delete and amend as necessary.
(³) Set out order which it is intended to as court to make.

**NOTICE OF APPEAL
(CIVIL APPEAL)**

TAKE NOTICE that being dissatisfied with the decision of the Honourable Justice given at on the day of, 20 intends to appeal to the Court of Appeal against the whole of the said decision/such part of the said decision as decides that ⁽¹⁾, ⁽²⁾.

The address for service of the appellant isIt is intended to serve copies of this notice on ⁽³⁾

Dated this day of, 20

Signed Appellant _____ Advocate for the appellant

To: –

The Registrar of the High Court of at lodged in the High Court of at this day of, 20

.....
Registrar

⁽¹⁾ Delete as appropriate.

⁽²⁾ Specify part complained of.

⁽³⁾ Copies of the notice should be served on all persons directly affected by the appeal.

ANNEXURE C

BILL OF COSTS

Serial Numbers of the items	Dates of the items	Particulars of the services charged for	Amount Claimed	Amount Taxed Off

Name of Advocate Lodging Bill of Costs.....

Address.....

PARTIES SERVED

Name.....

Address

Name.....

Address

I HEREBY CERTIFY that the number of folios in respect of any item in the bill charged for by the folio is correct.

.....

Signature by the Advocate

ANNEXURE D

**NOTICE OF APPEAL
(CRIMINAL APPEALS)**

TAKE NOTICE that appeals to the Court of Appeal against the decision of the Honourable Mr/Lady Justice given at on the day of, 20 whereby the appellant was convicted of and sentenced to The appeal is against conviction only/conviction and sentence/ sentence only (¹). The appellant intends/does not intend (¹) to be present at the hearing of the appeal. The address for service of the appellant is Dated this day of, 20

Signed Appellant
Advocate for the Appellant

(Retained only to prepare this notice /Retained to appear at the hearing of the appeal/Assigned to appear at the hearing of the appeal (¹).)

To; –
The Registrar of the High Court at
Lodged in the High Court of at on the day of, 20
.....*Registrar*

(¹) Delete inappropriate words or amend as necessary

ANNEXTURE E

SCHEDULE FOR ASSESSMENT OF COURT FEES

Court Fees in respect to civil appeals are assessed pursuant to **Rule 105** and the **Second Schedule Parts 1, 3, 4 and 5** of the Court of Appeal Rules as hereunder;

- Notice of Address for Service 100/=
- Notice of Change of Address for Service 100/=
- Notice of Appointment of Advocates 100/=
- Notice of Change of Advocates 100/=
- Notice of Cross-Appeal 300/=
- Notice of Grounds for Affirming the Decision 150/=
- Notice of Appeal to Supreme Court 450/=
- Notice of Withdrawal of an Appeal 200/=
- Notice of Preliminary Objection 200/=
- Letter of Consent 200/=
- Written Submissions 200/=
- Security for Costs 6,000/=
- Service fees (within Nairobi City) 400/=
- Service fees (outside Nairobi City) 1,000/=
- Sealing of an Order 250/=
- Certified Copies of an Order/Judgment/Ruling 20/= per folio
- Bill of Costs 750/=
- Reference on Taxation 1,000/=
- Applying for inspection of record of appeal/notice of motion..... 300/=
- Notice of Motion 500/=
- Certificate of urgency 250/=
- An Affidavit other than affidavit annexed to notice of motion 150/=
- Annexure(s) 10/= each
- Reference under Rule 47(5) of the Court of Appeal Rules 3,000/=
- Reference under Rule 55(1) of the Court of Appeal Rules 3,000/=
- Appeal from an interlocutory decision 1,500/=
- Appeal from Award or refusal to award less than Kshs.210,000/=.....2,000/=
- Appeal from an award or refusal to award more than Kshs.210,000/=to be calculated pursuant to the Second Schedule of Fees Part 3 (g) (c) of the Court of Appeal Rules as follows;

$$\begin{aligned} & \text{Amount awarded or not ---- } X \\ & \text{The 1}^{\text{st}} \text{ Kshs.210, 000----3,000/=} \\ & \text{Then } (X-210,000) = Y \\ & (Y \text{ times } 100) \text{ divide by } 2000) + 3000 = Z \end{aligned}$$

COURT FEES/DEPOSITS ASSESSMENT FORM

FROM.....
ADVOCATES

DATE.....

THE CASHIER
COURT OF APPEAL
NAIROBI

CIVIL/CRIMINAL/APPEAL/APPLICATION NO.

Please collect court fees/legal deposits as hereunder in the above matter

	SHS.	CTS
...../.....	
..		
...../.....	
.		

RECEIPT NO. _____

TOTAL _____

.....
SIGNATURE OF OFFICER ASSESSING FEES

ANNEXURE G

PRO BONO SERVICES APPLICATION FORM

THE COURT OF APPEAL
PRO BONO SERVICES APPLICATION FORM

1. DATE OF APPLICATION:
2. NAME OF APPLYING ADVOCATE:
3. **CONTACTS:**
PHYSICAL ADDRESS
- STREET/ROAD.....
- BUILDING..... FLOOR..... ROOM.....
- P. O. BOX..... TOWN.....
- CELL PHONE.....
- EMAIL.....
4. LSK ADMISSION NO.....
5. CURRENT PRACTISING CERTIFICATE SERIAL NO.....
6. PRO BONO SERVICES AT THE COURT OF APPEAL IN.....
7. NATURE OF BRIEF (PLEASE TICK):
A. CRIMINAL [] B. CHILDREN []
8. APPLICANT'S SIGNATURE.....

FOR OFFICIAL USE ONLY

9. DATE RECEIVED.....
10. RECEIVED BY.....
11. ACTION: A. APPROVED [] B. REJECTED [] C. DEFERRED []
REASONS FOR (B) AND (C).....
12. SIGNATURE OF CHAIRPERSON.....

ANNEXURE H

APPEALS AND APPLICATIONS CHECKLISTS

Civil Appeals

- ✓ A cover (of stout paper in case of physical filing) indicating the title of the record, nature and origin of the appeal, parties and their physical and postal addresses for service, email addresses and phone numbers.
- ✓ Certificate of Record of Appeal.
- ✓ Index of all the documents in the Record of Appeal with the number of pages they appear.
- ✓ Statement of Address for service of the Appellant(s) and respondent(s) (indicating the parties and their physical and postal addresses for service, email addresses and phone numbers).
- ✓ Memorandum of Appeal
- ✓ Pleadings.
- ✓ Proceedings of the trial Court.
- ✓ Exhibits and/or annexures.
- ✓ Judgment/Ruling appealed against.
- ✓ A certified Decree/Order.
- ✓ Notice of Appeal.

In case of delay;

- ✓ Letter requesting for Proceedings.
- ✓ Certificate of delay (if any).

Civil Applications

- ✓ Index
- ✓ Certificate of urgency, where applicable
- ✓ Affidavit in support of the certificate of urgency, where applicable
- ✓ Notice of motion
- ✓ Affidavit in support of the motion
- ✓ Judgement or ruling appealed against
- ✓ Notice of Appeal
- ✓ Any other annexures

Criminal Appeals

First Appeals

- ✓ Index
- ✓ Memorandum of Appeal
- ✓ Committal Proceedings (if any)
- ✓ Information/Charge Sheet
- ✓ Proceedings
- ✓ Trial within a trial (if any)
- ✓ Summing up to the Assessors (if any)
- ✓ Submissions (if any)
- ✓ List of Witnesses
- ✓ List of Exhibits
- ✓ Documentary Exhibits
- ✓ Judgment
- ✓ Mitigation
- ✓ Sentence
- ✓ Notice of Appeal

Second Appeals (Ordinary)

- ✓ Index
- ✓ Memorandum of Appeal
- ✓ Charge Sheet
- ✓ Proceedings
- ✓ List of Witnesses
- ✓ List of Exhibits
- ✓ Documentary Exhibits
- ✓ Lower Court Judgment
- ✓ Petition of Appeal
- ✓ Admission Form
- ✓ Judge's Notes
- ✓ Submissions (If any)
- ✓ High Court Judgment
- ✓ Application under Rule 113 (if any) and Supporting Affidavit
- ✓ Notice of Appeal

Second Appeals (Capital)

- ✓ Memorandum of Appeal
- ✓ Charge Sheet
- ✓ Proceedings
- ✓ List of Witnesses
- ✓ List of Exhibits
- ✓ Documentary Exhibits
- ✓ Lower Court Judgment
- ✓ Petition of Appeal
- ✓ Admission Form
- ✓ Judges' Notes
- ✓ Submissions (if any)
- ✓ High Court Judgment
- ✓ Application under Rule 113 (if any) and Supporting Affidavit
- ✓ Notice of Appeal

Criminal Applications

Supreme Court Applications

- ✓ Index
- ✓ Certificate of Urgency, where applicable
- ✓ An affidavit in support of the urgency, where applicable
- ✓ A Notice of Motion
- ✓ An affidavit in support of the motion
- ✓ Any other necessary annexures
- ✓ A copy of the judgment or ruling sought to be appealed
- ✓ Notice of Appeal

CIVIL APPEALS CASE MANAGEMENT

CIVIL APPEAL NUMBER _____ **OF 20** _____

NATURE OF THE APPEAL: - _____

DATE: _____

CORAM:

DEPUTY REGISTRAR

COURT ASSISTANT

PARTIES IN ATTENDANCE:

.....APPELLANT(S)

Name of advocate/Party in person:

Physical address:.....

Email address:

Mobile telephone:

Versus

.....RESPONDENT(S)

Physical address:.....

Email address:

Mobile telephone:

CASE MANAGEMENT CHECKLIST

Appeal/Appl. filed on _____	Cross-appeal filed on _____	Notice of Grounds to Affirm filed on _____
--------------------------------	--------------------------------	---

S/N	Checklist Item	Directions by Deputy Registrar
	Whether there is an application pending in the appeal	
	Whether parties want to settle the appeal out of Court	
	The appellant(s) to file and serve written submissions on or before the day of2020	
	The respondent(s) to file and serve written submissions on or before day of 2020	

Mention date to confirm complianceday of 20

Or

Hearing Date by Consent day of 2020

SIGNED BY:

Counsel for/Appellant(s)/Applicant(s)

Counsel for/Respondent(s)

This **day of****20**

I hereby **certify** that all matters which are necessary for the preparation of this appeal for hearing have been done and that the appeal **may now be set down for hearing.**

DEPUTY REGISTRAR **DATE****20**

**CRIMINAL APPEALS CASE MANAGEMENT
CONFIRMATION OF COMPLIANCE**

DATE:
APPEAL NO.
CORAM:
DEPUTY REGISTRAR:

COURT ASSISTANT:

PARTIES IN ATTENDANCE:

Appellant:
 Counsel for Appellant:
 Physical Address:
 Telephone No:
 Email Address:

COUNSEL FOR RESPONDENT:

Physical Address:
 Telephone No:
 Email Address:

CONFIRMATION OF THE COMPLIANCE

S/NO:	CHECK LIST ITEM	CONFIRMATION BY THE DEPUTY REGISTRAR
1.	Has counsel filed a Supplementary Memorandum of Appeal within the required period?	
2.	Has the Appellant filed his/her Notice/Memorandum/Grounds of Appeal within the required period?	
3.	Has Counsel/Appellant filed submissions within the required period?	
4.	Has Counsel/Appellant filed Authorities?	
5.	Has the respondent filed his response to the submissions within the required period?	
6.	Is the appeal ready for hearing	

Hearing Date by Consent Day of 2020

SIGNED BY:

Appellant:
 Counsel for Appellant(S):
 Counsel for Respondent(S):

I hereby **certify** that all issues that are necessary for the preparation of this appeal/application for hearing have been sorted out and this appeal **may now be set down for hearing.**

THIS DAY OF20

DEPUTY REGISTRAR

