

Chapter 37.  
***Supreme Court Act 1975.***

Certified on: / /20 .



INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 37.

***Supreme Court Act 1975.***

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

*Supreme Court Act 1975,*

Being an Act to implement Subdivision VI.5.C (*the Supreme Court of Justice*) of the *Constitution* by making further provision in relation to the Supreme Court of Justice.

**PART I. – PRELIMINARY.**

**1. INTERPRETATION.**

(1) In this Act, unless the contrary intention appears—

“**appeal**” includes the reservation of a case, a point in a case or a question of law for the consideration of the Supreme Court under Section 15 or 21;

“**appellant**” includes a person who wishes to appeal under this Act;

“**charge**” includes an indictment and an information;

“**defendant**” includes a person against whom relief is sought in a matter or who is required to attend the proceeding in a matter as a party to the proceedings and, in relation to a criminal proceeding, includes the accused person;

“**Judge**” means a Judge of the Supreme Court;

“**judgement**” includes a finding, decree, order, rule, conviction, verdict and sentence, a decree, order or rule nisi, and a refusal to make a finding, decree, order or rule;

“**matter**” or “**proceeding**” includes any proceedings in the Supreme Court or the National Court whether or not between parties, and also any incidental proceedings in any proceedings;

“**party**” includes, in relation to criminal proceedings, a prosecutor and a defendant;

**“plaintiff”** includes a person seeking relief against another person by any form of proceedings in the Supreme Court or the National Court and, in relation to criminal proceedings, includes the prosecutor;

**“the Registrar”** means the Registrar of the Supreme Court;

**“the Rules of Court”** means the Rules of Court of the Supreme Court.

(2) For the purposes of this Act, where a person is acquitted on the ground of unsoundness of mind which was not set up by him, he shall be deemed to have been convicted, and any order to keep him in custody shall be deemed to be a sentence.

**PART II. – THE SUPREME COURT.**

**2. JUDGE SITTING ON APPEAL FROM HIS OWN JUDGEMENT.**

(1) Subject to Subsection (2), a Judge shall not sit as a member of the Supreme Court if he has previously adjudicated (whether on appeal or otherwise) on the merits of the case.

(2) A Judge is not precluded from sitting as a member of the Supreme Court in cases where he has given an interlocutory judgement only, or any other judgement not going to the merits of the case.

**3. CONTINUATION OF APPEAL NOTWITHSTANDING ABSENCE OF JUDGE.**

(1) Where in the course of an appeal before the Supreme Court and at any time before the delivery of the judgement, a Judge hearing the appeal is unable, through illness or any other cause, to attend the proceedings or otherwise to exercise his functions as a Judge—

- (a) the hearing of the appeal shall, subject to Subsection (2), continue; and
- (b) the judgement shall be given by the remaining Judges; and
- (c) the Court shall be deemed to be duly constituted.

(2) Where—

- (a) either party does not agree to the remaining Judges continuing to hear the appeal; or
- (b) in any case, there is only one Judge remaining able to hear the appeal,

the appeal shall be reheard.

**PART III. – APPEALS TO THE SUPREME COURT.**

***Division 1.***

***General.***

**4. RIGHT OF APPEAL FROM NATIONAL COURT.**

(1) An appeal in accordance with this Act lies to the Supreme Court from a judgement of the National Court.

(2) An appeal lies in any civil or criminal proceedings, to the Supreme Court from a Judge of the National Court sitting on appeal–

- (a) on a question of law; or
- (b) on a question of mixed fact and law; or
- (c) with the leave of the Supreme Court, on a question of fact.

**5. INCIDENTAL DIRECTIONS AND INTERIM ORDERS.**

(1) Where an appeal is pending before the Supreme Court–

- (a) a direction not involving the decision on the appeal; or
- (b) an interim order to prevent prejudice to the claims of the parties; or
- (c) an order in any proceedings (other than criminal proceedings) for security for costs; or
- (d) an order dismissing an appeal in any proceedings (other than criminal proceedings) for default in furnishing security; or
- (e) an order admitting an appellant to bail,

may be made by a Judge.

(2) A direction or order made under Subsection (1) shall be deemed to be a direction or order of the Supreme Court.

(3) A direction or order made under Subsection (1) may be discharged or varied by the Supreme Court.

**6. APPEAL TO BE BY WAY OF REHEARING.**

(1) An appeal to the Supreme Court shall be by way of rehearing on the evidence given in the court the decision of which is appealed against, subject to the right of the Supreme Court–

- (a) to allow fresh evidence to be adduced where it is satisfied that the justice of the case warrants it; and
- (b) to draw inferences of fact.



(2) For the purposes of hearing and determining an appeal, the Supreme Court has all the powers, authority and jurisdiction of a Judge exercising the jurisdiction of the National Court.

**7. JUDGEMENTS OF THE SUPREME COURT.**

(1) Subject to Subsection (2), a judgement of the Supreme Court shall be in accordance with the opinion of the majority of the Judges present.

(2) If in an appeal the opinions of the Judges are divided in such a way that there is no majority opinion, the judgement appealed against stands.

**8. SUPPLEMENTAL POWERS OF SUPREME COURT.**

(1) For the purposes of this Act, the Supreme Court may, if it thinks it necessary or expedient in the interests of justice to do so—

- (a) order the production of any document, exhibit or other thing connected with the proceedings the production of which appears to it necessary for the determination of the case; and
- (b) order any persons who would have been compellable witnesses at the trial to attend and be examined before the Court, whether or not they were called at the trial, or order any such person to be examined on oath before—
  - (i) a Judge of the National Court; or
  - (ii) an officer of the Supreme Court; or
  - (iii) a magistrate of a court of summary jurisdiction; or
  - (iv) any other person appointed by the Court for the purpose,

and may admit as evidence any deposition so taken; and

- (c) receive the evidence, if tendered, of any witness (including the appellant) who is a competent but not compellable witness, and, if the appellant consents, of the husband or wife of the appellant in cases where the evidence of the husband or wife could not have been given at the trial except with that consent; and
- (d) where any question arising on the appeal involves prolonged examination of documents or accounts or any scientific or local investigation that cannot, in the opinion of the Court, conveniently be conducted before the Court—order the reference of the question for inquiry and report, in accordance with Part IV., by a referee appointed by the Court and act on the report of the referee so far as it thinks fit to adopt it; and
- (e) exercise in relation to the proceedings of the Court any other powers that may for the time being be exercised by the National Court on appeals or applications; and

- (f) issue any warrants necessary for enforcing the orders or sentences of the Court.

(2) The Supreme Court shall not increase a sentence in a criminal proceeding by reason of, or in consideration of, any evidence given under Subsection (1).

**9. ATTENDANCE OF APPELLANT IN CUSTODY.**

Except with the consent of the appellant, the hearing of an appeal to the Supreme Court shall not take place in the absence in custody of the appellant unless he so conducts himself as to render the continuance of the proceedings in his presence impracticable and the Court orders him to be removed and the hearing of the appeal to continue in his absence.

**10. POWERS THAT MAY BE EXERCISED BY JUDGE.**

(1) Any power of the Supreme Court under this or any other Act—

- (a) to give leave to appeal; or
- (b) to extend the time within which notice of appeal or of an application for leave to appeal may be given; or
- (c) to admit an appellant to bail,

may be exercised by a Judge in the same manner as it may be exercised by the Court.

(2) Where a Judge refuses an application in relation to a matter specified in Subsection (1), the appellant may apply to the Supreme Court to have the matter determined by that Court.

**11. FRIVOLOUS OR VEXATIOUS APPEALS.**

(1) Notwithstanding this Act, where the Registrar is of the opinion that a notice of appeal, or a notice of an application for leave to appeal, does not show any substantial ground of appeal, the Registrar may refer the appeal to the Supreme Court for summary determination.

(2) Where the Registrar refers a notice of appeal, or notice of an application for leave to appeal, to the Supreme Court under Subsection (1), and the Court is satisfied that the appeal—

- (a) is frivolous or vexatious; and
- (b) can be determined without a full hearing,

it may, notwithstanding anything in this Act or any other law, dismiss the appeal summarily without calling on any person to attend the hearing.

**12. JUDGEMENTS BY LESS THAN THE FULL NUMBER OF JUDGES.**

(1) When any cause or matter, after being fully heard before the Supreme Court, is ordered to stand for judgement, it is not necessary that all the Judges

before whom it was heard be present together in Court to declare their opinions on it, but the opinion of any of them—

- (a) may be reduced to writing; and
- (b) may be read or handed down to the parties or their counsel by any other Judge at any subsequent sitting of the Supreme Court at which judgement in the cause or matter is appointed to be delivered.

(2) In a case referred to in Subsection (1), the question shall be decided in the same manner, and the judgement of the Court has the same force and effect, as if the Judge whose opinion is so read or handed down had been present in Court and had declared his opinion in person.

### *Division 2.*

#### *Additional Provisions Relating to Appeals in Civil Cases.*

#### **13. APPLICATION OF DIVISION 2.**

This Division applies to and in relation to proceedings other than criminal proceedings.

#### **14. CIVIL APPEALS TO THE SUPREME COURT.**

(1) Subject to this section, an appeal lies to the Supreme Court from the National Court—

- (a) on a question of law; or
- (b) on a question of mixed fact and law; or
- (c) with the leave of the Supreme Court, on a question of fact.

(2) An appeal does not lie from an order of the National Court made by consent of the parties.

(3) No appeal lies to the Supreme Court without leave of the Supreme Court—

- (a) from an order allowing an extension of time for appealing or applying for leave to appeal; or
- (b) from an interlocutory judgement made or given by the National Court except—
  - (i) where the liberty of the subject or the custody of infants is concerned; or
  - (ii) in cases of granting or refusing an injunction or appointing a receiver; or
  - (iii) in such other cases prescribed by the Rules of Court as are in the nature of final decisions; or
- (c) from an order of the National Court as to costs only that by law are left to the discretion of the National Court.

(4) An order refusing unconditional leave to defend an action shall not be deemed to be an interlocutory judgement.

#### **15. CASES OR POINTS OF LAW RESERVED FOR SUPREME COURT.**

(1) A Judge or Judges of the National Court sitting in the exercise of any jurisdiction other than criminal jurisdiction—

- (a) may reserve any case or any point in a case for the consideration of the Supreme Court; or
- (b) may direct any case or point in a case to be argued before the Supreme Court,

and the Supreme Court may hear and determine any such case or point so reserved or directed to be argued.

(2) Except where the contrary intention expressly appears in a law, the powers conferred by Subsection (1) may be exercised in relation to any appeal or matter that comes before a Judge or the National Court under any law by which a Judge or that Court is designated as the Judge, Court, arbitrator or person appointed to hear and determine the appeal or matter, notwithstanding that the determination of the Judge or of the Court is expressed to be final or without appeal.

#### **16. DECISION, ETC., ON APPEAL.**

On the hearing of an appeal, the Supreme Court shall inquire into the matter and may—

- (a) adjourn the hearing from time to time; or
- (b) affirm, reverse or modify the judgement; or
- (c) give such judgement as ought to have been given in the first instance; or
- (d) remit the case in whole or in part for further hearing; or
- (e) order a new trial.

#### **17. TIME FOR APPEALING UNDER DIVISION 2.**

Where a person desires to appeal to or to obtain leave to appeal from the Supreme Court, he shall give notice of appeal, or notice of his application for leave to appeal, as the case may be, in the manner prescribed by the Rules of Court within 40 days after the date of the judgement in question, or within such further period as is allowed by a Judge on application made to him within that period of 40 days.

#### **18. SECURITY FOR APPEAL.**

(1) The Supreme Court or a Judge may, in special circumstances, order that just security be given for the costs of an appeal or an application for leave to appeal and, if an application is granted, for the prosecution of the appeal.

(2) If any security ordered under Subsection (1) is not given in accordance with the order, the appeal, or the application for leave to appeal, as the case may be, shall be deemed to have been abandoned.

**19. STAY OF PROCEEDINGS ON APPEAL.**

Unless otherwise ordered by the Supreme Court or a Judge, an appeal, or an application for leave to appeal, to the Supreme Court does not operate as a stay of proceedings.

***Division 3.***

***Additional Provisions Relating to Appeals in Criminal Cases.***

**20. APPLICATION OF DIVISION 3.**

This Division applies to and in relation to criminal proceedings.

**21. RESERVATION OF POINTS OF LAW.**

(1) When any person is indicted, the National Court shall, on the application of counsel for the accused person made before verdict, and may in its discretion, before or after verdict without such application, reserve any question of law that arises on the trial for the consideration of the Supreme Court.

(2) If the accused person is convicted, and a question of law has been reserved under Subsection (1) before judgement, the National Court may—

- (a) pronounce judgement on the conviction and respite execution of the judgement; or
- (b) postpone the judgement until the question has been considered and decided,

and may—

- (c) commit the person convicted to prison; or
- (d) admit him to bail on recognizance, with or without sureties, and in such sum as the Court thinks proper, conditioned to appear at such time and place as the Judge directs, and to render himself in execution, or to receive judgement, as the case may be.

(3) The National Court shall state, in the case signed by the Judge or Judges exercising the jurisdiction of the Court, the question of law reserved under Subsection (1), with the special circumstances on which it arose, and the case shall be transmitted to the Supreme Court.

(4) Any question reserved under Subsection (1) shall be heard and determined by the Supreme Court.

(5) Any question reserved under Subsection (1) shall be heard and determined after argument by and on behalf of the prosecution, and of the accused or convicted

person or persons, if they desire that the question shall be argued, and the Supreme Court may—

- (a) affirm the judgement given at the trial; or
- (b) set aside the verdict and judgement and order a verdict of not guilty or other appropriate verdict to be entered; or
- (c) arrest the judgement; or
- (d) amend the judgement; or
- (e) order a new trial; or
- (f) make such other order as justice requires,

or the Court may send the case back to be amended or restated.

## **22. CRIMINAL APPEALS.**

A person convicted by the National Court may appeal to the Supreme Court—

- (a) against his conviction, on any ground that involves a question of law alone; and
- (b) against his conviction, on a question of mixed fact and law; and
- (c) with the leave of the Supreme Court, or on the certificate of the National Court that it is a fit case for appeal, against his conviction on any ground of appeal—
  - (i) that involves a question of fact alone; or
  - (ii) that appears to the Supreme Court to be a sufficient ground of appeal; and
- (d) with the leave of the Supreme Court, against the sentence passed on his conviction, unless the sentence is one fixed by law.

## **23. DETERMINATION OF APPEALS IN ORDINARY CASES.**

(1) Subject to Subsection (2), on an appeal against a conviction the Supreme Court shall allow the appeal if it thinks that—

- (a) the verdict should be set aside on the ground that under all the circumstances of the case it is unsafe or unsatisfactory; or
- (b) the judgement of the Court before which the appellant was convicted should be set aside on the ground of a wrong decision on any question of law; or
- (c) there was a material irregularity in the course of the trial,

and in any other case shall dismiss the appeal.

(2) Notwithstanding that the Supreme Court is of the opinion that the point raised in the appeal might be decided in favour of the appellant, it may dismiss the appeal if it considers that no miscarriage of justice has actually occurred.

(3) If the Supreme Court allows an appeal against conviction, it shall, subject to this Act, quash the conviction and direct a verdict of not guilty be entered.

(4) On an appeal against sentence, if the Supreme Court is of opinion that some other sentence, whether more or less severe, is warranted in law and should have been passed, it shall quash the sentence and pass the other sentence in substitution for it, and in any other case shall dismiss the appeal.

**24. APPEAL BY PUBLIC PROSECUTOR AGAINST SENTENCE.**

(1) In this section “**sentence**” includes any order made on conviction with reference to the person convicted or his property.

(2) The Public Prosecutor may appeal to the Supreme Court against any decision of the National Court, whether on appeal or sitting as a court of first instance, as to sentence, and the Supreme Court may in its discretion vary the sentence and impose such sentence as it thinks proper.

**25. APPEAL AGAINST QUASHING OF CONVICTION.**

Where the National Court has given a judgement quashing a conviction, or any count or part of a charge, the Public Prosecutor may appeal to the Supreme Court against the judgement, and the Supreme Court may—

- (a) determine the appeal; and
- (b) if the appeal is sustained make such order for the prosecution of the trial as it thinks necessary or desirable.

**26. REFERENCE OF POINT OF LAW FOLLOWING ACQUITTAL ON INDICTMENT.**

(1) Where a person tried on indictment has been acquitted whether in respect of the whole or part of the indictment and the Attorney-General desires the opinion of the Supreme Court on a point of law that has arisen in the case—

- (a) the Attorney-General may, within 40 days after the acquittal, refer the point to the Supreme Court; and
- (b) the Court shall, in accordance with this section, consider the point and give its opinion on it.

(2) For the purpose of its consideration of a point referred to it under this section, the Supreme Court shall hear argument—

- (a) by, or by counsel on behalf of, the Attorney-General; and
- (b) if the acquitted person desires to present any argument to the Court, by counsel on his behalf or, with the leave of the Court, by the acquitted person himself; and
- (c) by, or by counsel on behalf of—
  - (i) the Public Prosecutor; and

(ii) the State Solicitor,

or either of them, if they desire to present any argument to the Court.

(3) No report of proceedings under this section shall be published that discloses the name or identity of any person charged at the trial or affected by the decision given at the trial.

(4) Any publication in contravention of Subsection (3) is punishable as contempt of the Supreme Court.

(5) A reference under this section does not affect the trial in relation to which the reference is made or any acquittal in that trial.

## **27. POWERS OF SUPREME COURT IN SPECIAL CASES.**

(1) If it appears to the Supreme Court that an appellant, though not properly convicted on some charge, or on some count or part of the charge, has been properly convicted on some other charge, or on some other count or part of the charge, the Court may—

- (a) affirm the sentence passed on the appellant; or
- (b) pass such sentence in substitution for it as it thinks proper and is warranted in law by the verdict on the charge or on the count or part of the charge, on which the Court considers that the appellant has been properly convicted.

(2) Where an appellant has been convicted of an offence and he could on the charge have been found guilty of some other offence, and the Supreme Court is satisfied as to facts that proved him guilty of that other offence, instead of allowing or dismissing the appeal the Court may—

- (a) substitute for the verdict a verdict of guilty of the other offence; and
- (b) pass such sentence in substitution for the sentence passed at the trial as is proper and as is warranted in law for that other offence, not being a sentence of greater severity.

(3) If on appeal it appears to the Supreme Court that although the appellant committed the act or made the omission charged against him he was not of sound mind at the time when the act or omission alleged to constitute the offence occurred, so as not to be responsible for it according to law, the Court may—

- (a) quash the judgement given at the trial; and
- (b) order the appellant to be kept in strict custody in the same manner as if that fact had been found under Section 592 of the *Criminal Code 1974*.

## **28. NEW TRIAL.**

(1) If on an appeal against conviction, the Supreme Court thinks that—

- (a) a miscarriage of justice has occurred; and



- (b) having regard to all the circumstances, the miscarriage of justice can be more adequately remedied by an order for a new trial rather than by any other order that the Court has power to make,

the Court may, of its own motion or on the application of the appellant, order a new trial in such manner as it thinks proper.

(2) Where a new trial is ordered, the Supreme Court may make such order as it thinks proper for the safe custody of the appellant or for admitting him to bail.

**29. TIME FOR APPEALING UNDER DIVISION 3.**

(1) Subject to Subsection (2), where a person convicted desires to appeal or to obtain leave to appeal to the Supreme Court, he shall give notice of appeal, or notice of his application for leave to appeal, as the case may be, in the manner prescribed by the Rules of Court within 40 days after the date of conviction.

(2) The time within which notice of appeal, or notice of an application for leave to appeal, may be given may be extended at any time by the Supreme Court on application made within 40 days after the date of conviction.

(3) In the case of a conviction involving a sentence of death or of corporal punishment—

- (a) the sentence shall not be carried out until after the expiration of 40 days, or such further time as is allowed under this section, after the date of conviction; and
- (b) if notice is given in accordance with Subsection (1), the sentence shall not be carried out until after the determination of the appeal, or where an application for leave to appeal is finally refused, of the application.

**30. SUSPENSION OF ORDER FOR RESTORATION OF PAYMENT OF COMPENSATION OR EXPENSES.**

(1) The operation—

- (a) of any order made on conviction by the court of first instance or by the National Court on appeal for—
  - (i) the payment of compensation or of any of the expenses of the prosecution; or
  - (ii) the restoration of any property to any person; and
- (b) of any provision of any law re-vesting, in the case of any such conviction, in the original owner or his personal representative the property in stolen goods,

is (unless the court of first instance or the National Court directs to the contrary in any case in which in its opinion the title to the property is not in dispute) suspended—

- (c) in any case until the expiration of 40 days after the date of the conviction, or where the Supreme Court or a Judge allows, under

Section 29(2), a further period for giving notice of appeal, or notice of an application for leave to appeal, until the expiration of the further period; and

- (d) where notice of appeal, or notice of an application for leave to appeal, is given in accordance with this Act, until the determination of the appeal or where an application for leave to appeal is finally refused, of the application.

(2) Where the operation of an order or provision is suspended under Subsection (1), the order or provision does not take effect as to the property in question if the conviction is quashed on appeal.

(3) Where the operation of an order or provision is suspended under Subsection (1), the Supreme Court or a Judge may give such directions as it or he thinks proper for the custody, during the suspension, of any property or goods involved.

(4) The Supreme Court may, by order, annul or vary an order made for—

- (a) the payment of compensation or of any of the expenses of the prosecution; or
- (b) the restoration of any property to any person even if the conviction is not quashed,

and the order, if annulled does not take effect, and if varied takes effect as so varied.

(5) In Subsection (4), “**order**” includes direction referred to in Subsection (1).

### 31. COSTS OF APPEAL.

(1) On the hearing and determination of an appeal, no costs shall be allowed to either side.

(2) The expenses—

- (a) of any witness attending on the order of the Supreme Court or examined in any proceedings incidental to the appeal; and
- (b) of the appearance of an appellant, when in custody, on the hearing of his appeal or on any proceedings preliminary or incidental to the appeal; and
- (c) of and incidental to—
  - (i) any examination of witnesses conducted by any person appointed by the Court for the purpose; or
  - (ii) any reference of a question to a referee appointed by the Court under Section 8(1)(d), shall be paid out of the Consolidated Revenue Fund to an amount allowed by the Court, subject to any provision as to rates and scales of payment made by the Rules of Court.

**32. DUTIES OF REGISTRAR WITH RESPECT TO NOTICES OF APPEAL, ETC., IN CRIMINAL PROCEEDINGS.**

(1) The Registrar shall furnish the necessary forms and instructions in relation to notices of appeal, or notices of application for leave to appeal, under this Act in criminal proceedings to—

- (a) any person who asks for them; and
- (b) officers of courts; and
- (c) officers in charge of correctional institutions, rural lock-ups and police lock-ups; and
- (d) other officers or persons as he thinks fit.

(2) The officer in charge of a corrective institution, rural lock-up or police lock-up shall cause—

- (a) the forms and instructions referred to in Subsection (1) to be placed at the disposal of detainees desiring to appeal or to make any application under this Act; and
- (b) any such notice given by a detainee in his custody to be forwarded on behalf of the detainee to the Registrar.

**PART IV. – REFEREES.**

**33. POWERS AND REMUNERATION OF REFEREES.**

(1) Where a reference is made under Section 8(1)(d), the referee—

- (a) subject to the Rules of Court, has such authority and shall conduct the reference in such manner as the Supreme Court directs; and
- (b) shall be deemed, for the purpose of the conduct of the reference to be an officer of the Supreme Court.

(2) The report of a referee shall, unless set aside by the Supreme Court, be deemed to be a finding of fact.

(3) Referees shall be paid such fees and expenses as are prescribed by the Rules of Court.

**34. DIRECTIONS BY SUPREME COURT.**

A referee may seek the directions of the Supreme Court, and shall comply with any such directions whether or not sought by him.

**35. POWER OF SUPREME COURT TO IMPOSE TERMS AS TO COSTS, ETC.**

Where an order is made under Section 8(1)(d) in any proceedings (other than criminal proceedings), the Supreme Court may impose such terms as to costs or otherwise as the Court thinks proper.

**PART V.<sup>1</sup> – ADMINISTRATION.****36. PRINCIPAL SEAT OF SUPREME COURT.**

<sup>2</sup>The Chief Justice, after consultation with the other Judges, shall determine the Principal Seat of the Supreme Court.

**37. SITTINGS AND REGISTRIES OF THE SUPREME COURT.**

<sup>3</sup>The Chief Justice, after consultation with the other Judges, shall determine—

- (a) the place and frequency of sittings of the Supreme Court; and
- (b) the location and number of registries of the Court.

**38. SEAL OF THE COURT.**

<sup>4</sup>(1) The Supreme Court shall have a seal of the Court for the sealing of all writs and other instruments and documents issued out of the Court and requiring to be sealed.

(2) In addition to the seal provided for by Subsection (1), the Supreme Court shall, for the purposes of authentication, have a seal or stamp with which any summons, office copy, certificate, report or other document requiring authentication may be sealed or stamped.

**39. REGISTRAR AND OFFICERS.**

<sup>5</sup>(1) The Judicial and Legal Services Commission may appoint persons to the following offices of the Court:—

- (a) a person (including the Registrar of the National Court) to the office of Registrar of the Supreme Court;
- (b) such other offices as the Judicial and Legal Services Commission considers necessary for the proper administration of justice by the Court.

(2) A person appointed under Subsection (1) is an officer of the Court and is not, while acting as such, subject to direction or control by any person other than the Chief Justice and the other Judges.

(3) The terms and conditions of service of a person appointed under Subsection (1) (other than the Registrar of the National Court and appointed as Registrar of the Supreme Court) are as determined by the Judicial and Legal Services Commission, after consultation with the Departmental Head of the Department responsible for personnel management matters within the National Public Service.

<sup>1</sup> Part V repealed and replaced by the *Supreme Court (Amendment) Act 1987* (No. 14 of 1987).

<sup>2</sup> Section 36 repealed and replaced by the *Supreme Court (Amendment) Act 1987* (No. 14 of 1987).

<sup>3</sup> Section 37 repealed and replaced by the *Supreme Court (Amendment) Act 1987* (No. 14 of 1987).

<sup>4</sup> Section 38 repealed and replaced by the *Supreme Court (Amendment) Act 1987* (No. 14 of 1987).

<sup>5</sup> Section 39 repealed and replaced by the *Supreme Court (Amendment) Act 1987* (No. 14 of 1987).

**40. POWERS OF THE REGISTRAR.**

<sup>6</sup>The Registrar may administer oaths and perform such duties in respect of any proceedings pending in the Supreme Court as are assigned to him by the Rules of Court or by any special order of the Court.

**41. RULES OF COURT.**

<sup>7</sup>Subject to Section 184 (*rules of court*) of the *Constitution*, the Judges of the Supreme Court may make Rules of Court.

**42. PRACTICE AND PROCEDURE.**

<sup>8</sup>The practice and procedure in and in relation to a matter in the Supreme Court shall be the practice and procedure provided by law or the Rules of Court in relation to matters of that kind except as directed by the Supreme Court at any stage of the matter.

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<sup>6</sup> Section 40 repealed and replaced by the *Supreme Court (Amendment) Act 1987* (No. 14 of 1987).

<sup>7</sup> Section 41 repealed and replaced by the *Supreme Court (Amendment) Act 1987* (No. 14 of 1987).

<sup>8</sup> Section 42 repealed and replaced by the *Supreme Court (Amendment) Act 1987* (No. 14 of 1987).