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Land Court Rules 1969  
NIUE LAWS  
LEGISLATION AS AT DECEMBER 2006

## **LAND COURT RULES 1969**

1969 – 1 November 1969

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## SCHEDULES

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### 1 Title

These are the Land Court Rules 1969.

### 2 Interpretation

(1) In these Rules –

"Act" means the Niue Act 1966;

"applicant" includes an appellant;

"application" includes a notice of appeal;

"Court" means the High Court or the Court of Appeal as the case may require;

"Commissioner" means a Commissioner of the High Court;

"Judge" means a Judge of the High Court or a Judge of the Court of Appeal as the case may require;

"party" means any person who has made an application to the Court; and includes any person whose rights or interests are affected by an application or by any order made pursuant to an application; and also includes any Leveki Mangafaoa or trustee in respect of any such person;

"Registrar" means a Registrar of the High Court or of the Court of Appeal as the case may require, and includes a Deputy Registrar.

(2) A reference to a numbered form is a reference to the form so numbered in Schedule 1.

### 3 [Spent]

### 4 Forms

(1) The forms set out in Schedule 1 shall be used with such modifications as the case may require, and, if no form is prescribed by these rules, such form shall be used as a Judge or the Registrar may direct or approve.

(2) In any case an equivalent form in the Niuean language may be used, and shall be sufficient.

### 5 Attestation

Where these rules require that the signature of any person to any application or other document shall be attested, that signature must be attested by any person mentioned in section 720 of the Act.

### 6 Failure to comply with rules

A failure to comply with these rules shall not render any proceedings void unless the Court so directs; but any such proceedings may be set aside, either wholly or in part, as irregular, or may be amended or otherwise dealt with in such manner and upon such terms as the Court may direct.

### 7 Service of notices

(1)

(a) Subject to rules 12(5)(f), 23(2) and 29(4) a notice or other document required or authorised by these Rules to be served on any person may be delivered to him either personally or, where that person is in Niue, by posting it by letter to that person at his last-known place of abode or business in Niue.

(b) A notice or other document so posted shall be deemed to have been served at the time when the letter would in the ordinary course of post be delivered.

(2)

(a) If the person is absent from Niue, the notice or other document may be delivered as aforesaid to his agent in Niue.

(b) If he is deceased, the notice may be delivered as aforesaid to his personal representative in Niue.

(3) If the person is not known, or is absent from Niue and has no known agent in Niue, or is dead and has no personal representative in Niue, the notice or other document shall be delivered in such a manner as may be directed by an order of a Judge.

(4) Notwithstanding rule 7(1)-(3), a Judge may in any case make an order directing the manner in which a notice or document (other than a summons to a witness to show cause) is to be delivered, or dispensing with the delivery.

#### 8 Court office

- (1) There shall be an office of the Court situated at such place in Niue as Cabinet appoints.
- (2) The Court office shall be open for business from 10am to 3pm on every day, not being a Saturday, Sunday, or Court holiday.
- (3) The administration work of the Court shall be carried out at the Court office.

#### 9 Court records

The records and other documents of the Court shall be deposited and kept at the Court office in the custody of the Registrar and, except as provided in these rules, none of those records or other documents shall be taken out of the Court office save with the leave or pursuant to the direction of a Judge.

#### 10 Times and places of sittings

- (1) The Court shall sit at such times and places as the Chief Justice appoints.
- (2) The Registrar shall cause the times and places of the sittings of the Court to be duly and conveniently advertised in the Gazette.
- (3) Notwithstanding paragraphs (1) and (2), a sitting of the High Court may be held at any time and place appointed by a Judge, without notice of that sitting being given in the Gazette by the Registrar, but no matter shall be heard or determined at any such sitting other than a matter of which due notice has been given to the parties or which, under the Act or these Rules, may be heard and determined ex parte.

#### 11 Cancelling, opening, and adjourning sittings

- (1) The Chief Justice may, at any time before the commencement of any sitting of the Court, cancel the sitting.
- (2) Any Judge, or any person authorised in that behalf by a Judge, may open a sitting of the Court.
- (3) After the opening of any sitting of the Court, the presiding Judge or, in his absence, any person authorised in that behalf by him, may adjourn the sitting or any part of the business notified to be dealt with at the sitting, either sine die or to some other time or place.
- (4) The Registrar shall give notice of any cancellation or adjournment made under this rule to such persons and in such manner as a Judge may direct.

(5) Any matter adjourned sine die may be heard at such time and place and upon such notice to the parties and others as a Judge may direct.

## 12 Commencement of proceedings

(1) All proceedings in the High Court shall be commenced by application.

(2) An application to the High Court shall be in form 1.

(3) All proceedings in the Court of Appeal shall be commenced by notice of appeal.

(4) A notice of appeal shall be in form 2, and shall be attested.

(5) Every application shall be in writing, and shall set forth, in a legible fashion –

(a) The full names, address, and occupation of the applicant;

(b) Each statutory provision, section of the Act and rule in reliance upon which the application is made;

(c) The nature of the order sought by the applicant;

(d) The grounds on which the application is made;

(e) The full names of the person filing the application;

(f) An address, in Niue, at which notices and other documents relating to the application may be served on the applicant, which address shall, for the purposes of rule 7 (1) be deemed to be the last-known place of business in Niue of the applicant.

(6) Every application shall be signed by the applicant or his duly authorised agent.

(7) Every ex parte application shall be marked "ex parte".

(8) An application shall be filed by delivering it at the Court office to the Registrar, or to some other officer of the Court duly authorised in writing by the Registrar to receive it.

(9) No application for the partition of Niuean land shall be heard or determined by the Court until all previous partition orders made with respect to the same land have been sealed and signed.

(10) Every application shall have annexed thereto all documents that are, by the provisions of any Act required to be filed with the application.

(11) An application for an interlocutory injunction may be made ex parte.

(12) Any party to any proceedings may apply ex parte to the Court for an interlocutory order for directions or with reference to any other interlocutory matter in the proceedings.

(13) If, in the opinion of the Registrar, an application is not properly made, he may refuse to accept it, unless he is directed by a Judge to accept it.

### 13 Register of applications

(1) The Registrar shall keep a register of applications.

(2) The Registrar shall cause to be recorded in the register and upon each application accepted by him –

(a) The date on which the application was filed;

(b) The date on which any fee payable in respect of the filing of the application was paid.

(3) The Registrar shall cause a distinctive number to be inscribed on each application, and that number shall correspond with the number of the application in the register.

### 14 Annexure of documents to applications

The Registrar shall cause to be endorsed on or annexed to each application all such particulars and extracts from the records of the Court as may be necessary, in his opinion, to enable the Court to deal effectively with the application at the hearing of the application.

### 15 Definition of person under disability

(1) In this rule and in rules 16 and 17, "person under disability" means –

(a) Any person who is under the age of 16 years; or

(b) Any person who is unable, wholly or partly to manage his own affairs by reason of –

(i) his age; or

(ii) his physical or mental infirmity; or

(iii) his intemperate or recklessly extravagant habits; or

(iv) his improvidence; or

(c) Any person who is of unsound mind; or

(d) Any person who is in prison or other place of detention; or

(e) Any other person who is, or whose interests are, in the opinion of a Judge, in need of special care and protection which that person is unable himself personally to provide.

### 16 Application on behalf of a person under disability

(1)

(a) Any person who desires to make an application to the Court on behalf of a person under disability may apply ex parte to a Judge for an order that the applicant be appointed the agent of the person under disability to make the application on behalf of the person under disability.

(b) With any application for such an order there shall be filed a draft of the application which the agent (if appointed) desires to make on behalf of the person under disability.

(2) On the hearing of any such application for appointment, the Judge may, by order –

(a) Refuse the application; or

(b) Grant the application upon such conditions as to the liability of the agent for the costs of the person under disability, the giving of security for those costs, or otherwise, as the Judge thinks fit, and the agent shall not act on behalf of the person under disability contrary to those conditions and shall, on filing any application on behalf of the person under disability, be bound by those conditions.

(3) Where –

(a) An application has been filed by an agent duly appointed under this rule on behalf of a person under disability; and

(b) That person, on ceasing to be a person under disability, elects himself to proceed with the application –

that person shall be liable for all the costs of the proceedings in the same manner as if he himself had commenced them after ceasing to be a person under disability.

(4) An application made by an agent on behalf of a person under disability shall be attested and shall be made in the name of the agent, but the agent shall state, in the application, that he is making it on behalf of the person under disability.

#### 17 Guardian ad litem

(1) A Judge may (whether on application made to him ex parte, or of his own motion, or otherwise) make an order appointing a guardian ad litem for any person under disability whose interests are affected by any application not filed by or on behalf of the person under disability.

(2) A guardian ad litem so appointed shall not be personally liable for costs unless they are occasioned by his person negligence, dishonesty, or other misconduct.

(3) No person shall be appointed a guardian ad litem without his written consent.

#### 18 Restrictions on persons under the age of 16 years and on persons of unsound mind

No person who is under the age of 16 years or of unsound mind shall, otherwise than with the leave of a Judge –

(a) Make any application to the Court or act as a party to any proceedings in the Court, otherwise than by and through an agent or guardian ad litem appointed pursuant to rule 16 or rule 17; or

(b) Act as an agent or representative in or with respect to any proceedings in the Court on behalf of any other person.

#### 19 Registrar to give notice

(1) Subject to any directions of a Judge, the Registrar shall give in the Gazette at least 14 clear days' notice of the hearing of an application.

(2) The Registrar shall also give, in writing, at least 3 clear days' notice of the date of the commencement of the sitting of the Court at which an application is intended to be heard to –

(a) The applicant; and

(b) Every person who has filed a notice of intention to appear; and

(c) Such other persons as the Registrar thinks fit; and

(d) Such other persons as a Judge may direct.

(3) All such notices shall be in a form and contain such particulars as a Judge or the Registrar thinks necessary.

#### 20 No notice required for ex parte applications

Notwithstanding any other provision of these Rules, an application which may be made ex parte may, in his discretion, be heard and determined by a Judge, without notification, at any time and place specified by a Judge.

#### 21 Court may direct that notice be given

The Court may, before hearing or proceeding further with the hearing of an application, require the Registrar or the applicant or any other party to the proceedings to give such notice as the Court thinks necessary to any persons who appear to the Court to be affected by the application.

#### 22 Attendance of Clerk of the Court

(1) The Registrar shall arrange for the attendance, at every sitting of the Court, of a Clerk of the Court.



(2) The Clerk of the Court shall, unless the Court otherwise directs, be a skilled interpreter of the Niuean language into the English language and vice versa.

(3) The Registrar shall transmit all applications, to be heard at a sitting of the Court, together with all other documents ancillary thereto and the necessary Court records, to the Clerk of the Court, who shall be responsible for their custody and safety and shall, as and when required, produce them to the Court.

#### 23 Persons affected by applications

(1) Any person interested in or who may be affected by any application shall be entitled to appear and be heard on the application.

(2)

(a) Any person who is not named in an application and who wishes to be a party to and be heard on the application shall, before the commencement of the hearing of the application, file in the Court office or in the Court a written notice in form 3 of his intention to appear, stating whether he supports or opposes the application and setting forth the grounds of any such support or opposition, and specifying an address in Niue at which notices and other documents relating to the application may be served on him, which address shall, for the purposes of rule 7 (1) be deemed to be his last-known place of business in Niue;

(b) No such person shall be debarred from appearing and being heard on an application by reason only of his failure to file a notice of intention to appear; but any person who has so failed shall be allowed to appear and be heard on the application subject to such reasonable and proper conditions as the Court thinks fit to impose.

(c) The Crown, the Minister, or the Registrar shall be entitled to appear and be heard on any application without filing or giving any notice of intention to appear.

(3)

(a) Subject to rule 18 any person entitled to appear in any proceedings in the Court may appear either personally or, with the leave of the Court, by an agent or representative;

(b) Such leave may be given on such terms as the Court thinks fit, and may at any time be withdrawn.

#### 24 Senior Judge to preside at sitting of Land Division

If more than one Judge is present at a sitting of the Court, the senior Judge present shall preside.

#### 25 Recording proceedings

The Judge or, if more than one Judge is present, one of the Judges nominated by the presiding Judge, shall record the proceedings of the Court in a minute book, which book shall be a record of the Court.

## 26 Powers of Court

(1) The Court may dismiss or grant any application, in whole or in part, or, upon such terms as the Court thinks fit, give leave to extend, amend, or withdraw an application, in whole or in part.

(2) The Court may dismiss an application on the grounds of the non-appearance of the applicant or for want of proper prosecution, but any such dismissal shall be without prejudice to the right of the applicant to make a fresh application in respect of the same matter, or to the power of the Court to reinstate an application so dismissed.

(3) Every order or decision made by the Court shall be recorded in the minute book referred to in rule 25.

## 27 Evidence of witnesses

(1) Unless the Court otherwise directs, the evidence of witnesses at the hearing of an application shall be given orally and upon oath or affirmation.

(2) The Court may accept evidence given by affidavit or declaration.

(3) Affidavits to be filed in the Court shall –

(a) If made in Niue, be made under section 78 (1) of the Act as if they were affidavits in the High Court;

(b) If made outside Niue, be made under the same rules as are in force for the time being with respect to affidavits in the High Court of New Zealand.

(4) Declarations to be filed in the Court shall –

(a) If made in Niue, be made in accordance with section 720 of the Act;

(b) If made outside Niue, be made in accordance with the Oaths and Declarations Act 1957 of New Zealand relating to declarations.

(5) The Court, in its discretion and on such terms as it thinks fit as to costs or otherwise, may in any proceedings where it appears necessary make an order for the examination on oath or affirmation before any officer of the Court or before the Maori Land Court of New Zealand or a Judge thereof or before any other person or persons, and at any place either in or out of New Zealand, of any witness or other person, and may order any deposition so taken to be filed in the Court as evidence in the proceedings.

## 28 Expenses of witnesses

A witness shall be allowed such reasonable expenses and allowances as the Court thinks fit to award.

#### 29 Summons to witness

(1) Any party to any proceedings shall be entitled to apply ex parte to a Judge for an order that a summons to a witness be issued by the Court.

(2) A summons to a witness shall be in form 4, and may be addressed to any number of persons not exceeding three.

(3) Every such summons shall be signed by a Judge or the Registrar and shall be dated and shall be under the Seal of the Court.

(4)

(a) Notwithstanding anything in these rules, service of any such summons shall be personal.

(b) A Judge may direct that service of a summons (other than service of a summons to show cause) in any particular case may be made in such other manner as will, in his opinion, be sufficient to bring the summons to the knowledge of the person to be served.

(5) Personal service of such a summons may be effected by leaving with the witness a true copy of the summons, sealed with the Seal of the Court, and it shall not be necessary to produce the original summons to the person served.

(6) Such a summons shall be served by –

(a) An officer of the Court; or

(b) A constable; or

(c) A person duly authorised in writing in that behalf by the person who applied for the order under which the summons was issued; or

(d) Such other person as a Judge or the Registrar specifies in writing.

(7) Unless the Judge otherwise directs in writing, there shall be paid or tendered to a witness at the time of the service of a summons (other than a summons to show cause) upon him, or at a reasonable time before the day on which he is ordered to attend the Court, such reasonable sum of conduct money as is specified in the summons by the Judge making the order granting the issue of the summons, to enable the witness to go to, stay at, and return from the place of hearing.

(8) Service of a summons may be proved on affidavit or, at the hearing, on oath.

(9) A summons to a witness to show cause shall be in form 5.

(10) Notwithstanding the foregoing provisions of this rule, a Judge may, without application and of his own motion, direct that a summons to a witness shall be issued.

### 30 Application for rehearing

No application under section 45 of the Niue Amendment Act (No 2) 1968 for a rehearing shall be made after the expiration of 14 clear days after the making of the order or determination in the matter in respect of which the rehearing is sought.

### 31 Submission of drafts of orders

The Court or the Registrar may require any party in whose favour an order has been made to submit a draft of the order to the Registrar.

### 32 Form of order

(1) An order shall be in form 6, unless the Court otherwise directs.

(2) The form of an order shall be finally settled by a Judge or the Registrar.

(3) Every order shall have annexed thereto such plans and other documents as the Court may require.

(4) Every order shall be under the hand of a Judge or the Registrar and the Seal of the Court.

(5) Duplicates of all orders shall be kept in and form part of the records of the Court, and all duplicates of orders shall be marked "duplicate".

(6) No order shall be issued out of the Court to the person entitled, other than an order in favour of the Crown, the Minister, Cabinet or the Registrar until all Court fees, other fees, duties, charges, and other money payable in respect thereof have been duly paid.

(7) It shall be the duty of the Registrar, without any unnecessary delay, to draw up and complete as far as possible all orders made by the Court.

(8) Nothing in these Rules shall restrict the power of the Court to make interlocutory orders in respect of any matter as to which the Court is empowered to make a final order.

(9) Where any order of the Court of Appeal makes provision for the payment of any sum of money or for the imposition of any charge, then, for the purposes of enforcing that provision or charge, the order shall be deemed to be an order of the High Court.

### 33 Amendment of defects

(1) The Court shall have power in the course of any proceedings, and whether with or without the application of any party, to amend all defects or errors in the proceedings, whether there is anything in writing to amend or not, and whether or not the defect or error is that of a party applying to amend.

(2) All such amendments may be made on such terms as the Court thinks fit, and all amendments shall be made which are necessary for exercising as fully and beneficially as possible the jurisdiction of the Court.

#### 34 Amendment of records

(1) A Judge may at any time make or authorise to be made in any order, warrant, record or other document made, issued, or kept by the Court all such amendments as he considers necessary to give effect to the intended determination or decision of the Court or to record the actual course and nature of any proceedings in the Court.

(2) Any such amendment shall take effect as at the date of the order, warrant, record, or other document amended, but no such amendment shall take away or affect any right, title, or interest acquired in good faith and for value before the making of the amendment.

#### 35 Costs

In any proceedings the Court may make such order as it thinks fit for the payment of the costs thereof, or of any matters incidental or preliminary thereto, by or to any person who is a party to the proceedings, whether the parties by and to whom all costs are so made payable are parties in the same or different interests.

#### 36 Security for costs

(1) In any proceedings and at any stage the Court may require any party to deposit with the Registrar or the Clerk of the Court or any other person specified by the Court any sum of money as security for costs, and, in default of that deposit being made, the Court may stay the proceedings, either wholly or in respect of the party so in default.

(2) When any sum has been so deposited as security for costs, it shall be disposed of in such manner as the Court directs.

(3) Notwithstanding any other provision of these Rules, neither the Crown, nor the Minister, nor Cabinet, nor the Registrar shall in any case be liable to give security for costs in respect of any application to or proceeding in the Court.

#### 37 Charging orders for costs

(1) Where in any proceedings any order is made by the Court affecting or relating to Niuean land, the Court may, in addition to or instead of making an order under rule 35 make an order charging the whole or any part of those costs on the rents, revenues, income, or profits arising or to arise from the land or upon the share of any person in any such rents, revenues, income, or profits.

(2) Any such order shall be deemed to be a deed of assignment, valid and effectual in all respects, enuring for the person in whose favour the order is made.

#### 38 Powers and duties of Chief Justice in relation to notices of appeal

(1)

(a) The Registrar, on receiving a notice of appeal, shall forthwith transmit it, or a true copy thereof duly certified by the Registrar as being such a copy, to the Chief Justice.

(b) On receipt thereof, the Chief Justice may, in his discretion and without the necessity of hearing parties, if he is of the opinion that the grounds of appeal are insufficiently stated in the notice, direct that a more explicit statement of such grounds be lodged by the appellant with the Registrar within a time to be fixed by the Chief Justice, to be computed from and including the day on which notice of the direction is given to the appellant.

(c) The Registrar shall forthwith give notice in writing of the direction to the appellant accordingly.

(2)

(a) On the receipt of a notice of appeal or a true copy thereof, the Chief Justice shall, in his discretion and without hearing parties, decide whether security for the costs of the appeal shall be given by the appellant.

(b) If he decides that such security shall be given, he shall fix the amount thereof and the time within which the security shall be given, that time to be computed from and including the day on which notice of the requirement of security is given to the appellant.

(c) The Registrar shall forthwith give notice in writing of the requirement to the appellant accordingly.

(3) Security for the costs of an appeal shall in all cases be given by depositing the amount in money with the Registrar, or any other person specified by the Chief Justice.

(4)

(a) Should the appellant fail to lodge a more explicit statement of grounds of appeal or fail to give security for costs under this rule, the Chief Justice may, on application by any person interested in the appeal or of his own motion, make an order dismissing the appeal or an order enlarging the time in which the appellant shall lodge a more explicit statement of grounds of appeal or give security for costs.

(b) The Registrar shall give notice in writing of any such order to the appellant accordingly.

(5)

(a) If, within the time enlarged as aforesaid, the appellant fails to lodge a more explicit statement of grounds of appeal or fails to give security for costs paragraph (4) shall apply;

(b) Should an appellant not lodge a more explicit statement of the grounds of appeal or give security for costs within a period of 2 years computed from and including the date on which

he was first given notice in that regard by the Registrar, the appeal shall be deemed to have been heard and finally dismissed by the Court.

### 39 Appeal from Commissioner

(1) Any party to any proceedings before a Commissioner may appeal from any order or decision of the Commissioner to a Judge of the High Court.

(2) Every such appeal shall be by way of an application in form 1 to the High Court, and shall be filed in the Court office within 28 clear days after the date of the order or decision appealed from.

(3) On the filing of such an appeal, the Commissioner shall, unless a Judge otherwise orders, stay further proceedings on the order or decision appealed from.

(4) Every such appeal shall be by way of rehearing.

(5) Before hearing an appeal, a Judge may impose such conditions on the appellant as the Judge thinks fit as to security for costs or otherwise.

(6) If the appellant fails to prosecute the appeal with due diligence, or fails to observe or perform any of the conditions imposed on him under paragraph (5), the Judge may dismiss the appeal.

(7)

(a) The appellant may, at any time before the hearing of the appeal, discontinue his appeal, either wholly or in part, by filing in the Court a notice of discontinuance.

(b) If an appeal is wholly discontinued, the order or decision may be immediately carried into effect and the appeal shall be deemed to have been dismissed under paragraph (6) and the Court shall give directions as to the disposal of any sum deposited as security for costs.

(8) A Commissioner may at any stage of any proceedings before him adjourn the proceedings for hearing and determination by a Judge.

(9) No appeal from an order or decision of a Commissioner shall, save with the leave of the Court or the Court of Appeal, be brought in the Court of Appeal.

### 40 Withdrawal of appeal

(1) Without limiting rule 39, an appellant may before the hearing of his appeal by notice in writing given to the Registrar, or at any time after the hearing has begun by oral application made in open Court, apply to the Court for leave to withdraw his appeal.

(2) Leave to withdraw an appeal may be given on such terms as the Court thinks fit to impose, and the Court shall, in granting such leave, give directions as to the disposal of any sum deposited as security for costs.

(3) Any appeal so withdrawn shall be deemed to have been finally dismissed by the Court.

(4) This rule shall apply to –

(a) Any appeal from an order or decision of a Commissioner;

(b) Any appeal to the Court of Appeal.

41 Appeals to be by way of rehearing

(1) All appeals to the Court of Appeal shall be by way of rehearing.

(2)

(a) On the hearing of any appeal the parties shall be restricted to the evidence adduced at the hearing upon which the order or decision appealed from was made.

(b) The Court of Appeal may allow such further evidence to be adduced as may in its opinion be necessary to enable it to come to a just decision upon the matters in issue.

(c) The Court of Appeal may refer to any record or other document filed or held in the records of the Court although the same may not have been produced or referred to at the hearing in the High Court.

(3) The evidence adduced at the hearing upon which the order or decision appealed from was made shall be proved by the records of the High Court, and no other proof thereof, except by leave of the Court of Appeal shall be admitted.

42 Court of Appeal

(1) On the hearing of an appeal to the Court of Appeal no person other than the appellant shall, except with the leave of the Court, be heard in support of the appeal or put forward any claim contrary to the order or decision appealed from, and no other person shall be heard save a person who satisfies the Court that he is a person interested in the proceedings.

(2) No appeal shall be allowed on any ground not set out in the notice of appeal, or in a more explicit statement of the grounds of appeal, or in an amended statement of the grounds of appeal, unless the Court is of the opinion that the appeal may be so allowed without injustice to all other parties interested in the appeal.

43 Exemptions from payment of fees

(1) No fee shall be payable on any application by the Crown, the Minister, Cabinet, or the Registrar.

(2) No fee shall be payable on the filing of a notice of intention to appear referred to in rule 23.



#### 44 Scale of fees

(1) Subject to rule 43, there shall be paid in respect of the matters described in Schedule 2 the fees set out there.

(2) Subject to rule 45, no document shall be filed in the Court without the leave of a Judge or the Registrar unless the prescribed fee has been paid.

#### 45 Reduction and remission of fees

The Court or a Judge may reduce or remit any fee.

#### 46 Certified and sealed copies

Unless otherwise directed by a Judge, the Registrar, upon payment of the fee prescribed in Schedule 2, shall furnish to any person applying for the same a certified or sealed copy of any order or document made by or filed or lodged in the Court.

#### 47 Arrangement of business

The Court may arrange the order of its business as it thinks fit.

#### 48. Matters not provided for

In any matter for which no provision is made by these Rules, the Court may proceed as it thinks fit, and shall dispose of the matter as nearly as may be in accordance with any rules affecting any similar case or, if there be no such rules, in such manner as the Court thinks best calculated to promote the ends of justice.

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## SCHEDULES

### SCHEDULE 1

#### FORM 1

#### Rule 12 (1)

#### (EX PARTE) APPLICATION TO THE HIGH COURT

Number \_\_\_\_\_

IN THE HIGH COURT OF NIUE

IN THE MATTER OF

I,

of

HEREBY APPLY for an ORDER  
UPON THE GROUNDS:

Dated this .....day of..... 20 .....

This application is made in reliance upon

\_\_\_\_\_  
Applicant (Agent for Application).

Witness (where rule 16(4) applies)\_\_\_\_\_

Fee:\$\_\_\_\_\_

This application was filed by

And notices and other documents relating to this application may be served on the applicant at

For Court use only. Initials

1. Date of filing of application: \_\_\_\_\_

2. Date fee paid:\_\_\_\_\_

3. Notes:\_\_\_\_\_

FORM 2

Rule 12 (4)

NOTICE OF APPEAL

Number\_\_\_\_\_

IN THE COURT OF APPEAL OF NIUE

IN THE MATTER OF

I,

of

GIVE NOTICE that I hereby APPEAL from the order or decision of the High Court, which order or decision is set out in the Schedule herein enforced or hereto annexed, UPON THE GROUNDS:

AND upon those grounds, I HEREBY APPLY to the Court of Appeal for an ORDER

Dated this .....day of..... 20.....

This notice of appeal is given in reliance upon

SCHEDULE

Appellant (Agent for Appellant)

Fee: \$15.00

Witness: \_\_\_\_\_

This notice of appeal was filed by

And notices and other documents relating to this appeal may be served on the appellant at

For Court use only. Initials

1. Date of filing of notice of appeal: \_\_\_\_\_

2. Date fee paid: \_\_\_\_\_

3. Notes: \_\_\_\_\_

FORM 3

Rule 23 (2)

NOTICE OF INTENTION TO APPEAR

Number \_\_\_\_\_

IN THE COURT OF APPEAL OF NIUE

IN THE MATTER of Rule 23 of the Land Rules 1969

AND

IN THE MATTER of an application (appeal) by for

I,

of

claiming to be interested in or affected by the above-mentioned application (appeal)

HEREBY GIVE NOTICE that I intend to appear in support of (opposition to) the same  
UPON THE GROUNDS:

Dated this .....day of .....20 .....

Claimant.

Address for service:

No fee.

For Court use only. Initials

1. Date of filing of notice: \_\_\_\_\_

2. Notes: \_\_\_\_\_

FORM 4

Rule 29 (2)

SUMMONS TO WITNESS

Number \_\_\_\_\_

IN THE COURT OF APPEAL OF NIUE

IN THE MATTER of Rule 29 of the Land Rules 1969

AND

IN THE MATTER of an application (appeal) by for

To:

of

YOU ARE HEREBY SUMMONED to attend the .....Court at .....on the .....of 20 .....at the hour of..... o'clock in the .....noon, and from day to day until required, to give evidence in the above matter and YOU ARE HEREBY REQUIRED then and there to have and produce to the Court all the documents mentioned in the Schedule hereto, and all other documents of whatsoever nature relating to that matter in your possession, custody, or control. Should you fail to obey this summons, you will be liable, for that failure, to such punishment or penalty as is by law provided, if there was paid or tendered to you, in accordance with the abovementioned role, conduct money in the sum of \$

THIS SUMMONS was issued at the request of .....

AS WITNESS the hand of the Judge (Registrar) (Deputy Registrar) and the Seal of the Court this .....day of .....20 .....

SCHEDULE

I, .....

Judge (Registrar) (Deputy Registrar)  
a Judge of the above-mentioned

Court hereby direct, pursuant to rule 29(4) of the Rules of the Court, that service of this summons may be effected in the following manner, namely, by

Dated this .....day of .....20 .....

\_\_\_\_\_  
Judge

I,

of

make oath and say that I served the above-named..... with a summons, of which the copy of the summons upon which this affidavit is endorsed is a true copy, by delivering it to him (her) personally at .....  
.....on the .....day of.....  
20 .....at .....o'clock in the .....noon and that at the same time I paid (tendered) to him (her) the amount of the conduct money specified in the summons.

SWORN by the above-mentioned

.....at .....this .....day of  
.....before me:

FORM 5

Rule 29 (5)

SUMMONS TO WITNESS TO SHOW CAUSE

IN THE COURT OF APPEAL OF NIUE

IN THE MATTER of Rule 29 of the Land Rules 1969

AND

IN THE MATTER of an application by for

To:

of

YOU ARE HEREBY SUMMONED to attend the .....Court at .....on the .....day of .....20 .....at..... o'clock in the .....noon, to SHOW CAUSE why you should not be dealt with according to law for your failure to observe the provisions of a summons dated the .....day of .....20.....

Issued in the matter of the above-mentioned application and duly served upon you: AND TAKE NOTICE that if you fail to observe this summons the matter may be determined in your absence.

AS WITNESS the hand of the Judge (Registrar) (Deputy Registrar) and the Seal of the Court  
this .....day of.....20 .....

\_\_\_\_\_  
Judge (Registrar) (Deputy Registrar)

I, .....of .....  
make oath and say that I served the above-named.....  
with a .....summons, of which the copy of the summons upon  
which this affidavit is endorsed is a true copy by delivering the same to him (her) personally  
at .....on the..... day of .....20 .....at  
.....o'clock in the.....  
noon  
SWORN by the above-mentioned .....  
.....at .....  
this .....day of .....20.....

before me:

FORM 6

Rule 32 (1)

ORDER

Number

IN THE COURT OF APPEAL OF NIUE

IN THE MATTER of

At a sitting of the Court held on the .....day of.....20, .....  
Before .....Esquire(s), .....Chief Judge, Judge(s)  
(Commissioner)

UPON HEARING the application (appeal) of  
Dated the .....day of .....20 .....in the matter of

IT IS HEREBY ORDERED, pursuant to the provisions of

THAT

AS WITNESS the hand of the Chief Judge (Judge) (Commissioner) (Registrar) (Deputy Registrar) and the Seal of the Court.

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Chief Judge (Judge) (Commissioner)  
(Registrar) (Deputy Registrar)

Court of Appeal

Minute Book References Volume(s) \_\_\_\_\_ Folio(s) \_\_\_\_\_

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## SCHEDULE 2

### FEES

\$

- 1 On filing of application to the High Court which may be made ex parte 10.00
- 2 On filing an application to a Judge of the High Court by way of appeal from a decision of a Commissioner 35.00
- 3 On filing of any other application to the High Court:
  - (1) Determination of Title 10.00
  - (2) Leveki Mangafaoa 5.00
- 4 On filing a notice of appeal to the Court of Appeal 55.00
- 5 On filing of any application not mentioned before in this Schedule 10.00
- 6 On furnishing a certified or sealed copy under rule 46:
  - (1) Of any application or order 10.00
  - (2) Of any other document 10.00
- 7 For registering any instrument 10.00
- 8 For entry of any memorial of registration 5.00
- 9 For any power of attorney deposited 15.00
- 10 For revocation of any power of attorney 15.00
- 11 For registering any caveat 15.00
- 12 For cancellation or withdrawal of caveat for any notice to any caveat 10.00
- 13 For any instrument deposited for safe custody 20.00
- 14 For registering or noting anything not otherwise provided 20.00
- 15 For every single search 2.00
- 16 For every general search 5.00
- 17 Certified copies:
  - (1) Of any instrument or extract from Register 10.00



(2) Of any page or part thereof supplied by photocopy or any processed reproduction:

(1) A4 1.00

(2) Foolscap 2.00

18 Provisional and final plans:

Prov A3 5.00

Final A2 10.00

19 Survey charge deposit – for redefining boundaries of titled land, missing posts, etc. 30.00

20 Registration of incorporated societies 30.00

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