



**UDO UDOMA &  
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# **Use it or Lose it:**

**No More Extension  
of Time for Filing  
Processes in the  
Nigerian Supreme  
Court.**



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## The Nigerian Supreme Court- Establishment and Jurisdiction

The Nigerian Supreme Court is established under section 230 of the 1999 Constitution as the apex court in Nigeria. In addition to its original jurisdiction over any dispute between the Federation and a State or between States, the Court is vested with jurisdiction to hear and determine appeals from the Court of Appeal. Whereas there is only one Supreme Court for the entire Nigerian Federation, there are currently twenty Divisions of the Court of Appeal across the 36 federating States in Nigeria and the Federal Capital Territory, Abuja. Given the number of channels through which appeals come to the Supreme Court, it is unsurprising that the Supreme Court is today saddled with a huge backlog of appeals.

### The 2024 Supreme Court Rules

Recently, the Supreme Court issued a new set of procedural rules, which took effect on 1<sup>st</sup> August 2024 (the "**2024 Rules**"). The 2024 Rules which repealed and replaced the 1985 Supreme Court Rules (the "**1985 Rules**") contain several innovative provisions aimed at ensuring efficient case management and expeditious disposal of cases at the Supreme Court.

One of the most significant provisions of the 2024 Rules is Order 4 Rule 15 which deals with extension of the time limits prescribed in the 2024 Rules for filing processes in the Supreme Court. Order 4 Rule 15 of the 2024 Rules provides that:

**"The time provided by the Rules for filing of any process shall be automatically extended in the first instance for the same period. In the second instance with payment of penalty for the time the applicant is in default but not exceeding the prescribed time. Thereafter, no application for extension of time shall be entertained except in an appeal against a death sentence."**



The net effect of Order 4 Rule 15 of the 2024 Rules is that (a) once the time period prescribed for the filing of a process has lapsed, the party in default shall be entitled to two automatic extensions for the same time period, (b) the first automatic extension shall be without payment of penalty for late filing of the relevant process, (c) the second automatic extension shall attract the prescribed penalty for late filing, (d) if the party in default still fails to file the required process after the expiration of the automatically extended time periods, then he shall be foreclosed from filing the required process as the Supreme Court will not entertain an application for extension of time outside of the extension of time scheme contained in Order 4 Rule 15 of the 2024 Rules unless the appeal is against a death sentence affirmed or imposed by the Court of Appeal.

### **Clarification of Order 4 Rule 15 of the 2024 Rules by the Chief Justice of Nigeria**

On 19 November 2024, the Chief Justice of Nigeria, Justice Kudirat M.O. Kekere-Ekun (the "**Chief Justice**"), issued a Memorandum to clarify the application of Order 4 Rule 15 of the 2024 Rules. In the Memorandum, the Chief Justice clarified that by Order 4 Rule 15 of the 2024 Rules, the Supreme Court will no longer entertain an application for extension of time to file any process in civil and criminal appeals, except in a criminal appeal involving capital punishment. Thus, once the three opportunities (one as of right and two automatic extensions) to file a process have lapsed, the affected party will lose the right to file the process because the Supreme Court will no longer entertain any application for extension of time.

The Memorandum further clarified that if a process was filed out of time but there is a pending application in the Supreme Court to regularise such process that was filed before the commencement date of the 2024 Rules, such application will be considered by the Court.

Based on the provisions of Order 4 Rule 15 of the 2024 Rules and the Clarificatory Memorandum issued by the Chief Justice, the registry of the Supreme Court stopped accepting for filing applications seeking extension of time to file a process unless such applications related to appeals against death sentences affirmed or imposed by the Court of Appeal.

The effect of the 2024 Rules on appeals pending in the Supreme Court before the effective date of the 2024 Rules in which a party has filed a process out of time but did not file an application for the regularization of such process by way of an application for extension of time is that such party would no longer be able to regularise such process, which would be incompetent and cannot be relied on during the hearing of the appeal. Clearly, Order 4 Rule 15 of the 2024 Rules has far-reaching implications for the right of a party to prosecute or defend an appeal where that party has not filed his process within the time prescribed by the 2024 Rules. Expectedly, the impact of Order 4 Rule 15 of the 2024 Rules on pending appeals became an issue of concern for the Nigerian legal community and litigants.

To address the concerns of the legal community and litigants, the Supreme Court, by a Public Notice dated 4th February 2025 ("**Public Notice**"), issued by the Chief Registrar of the Supreme Court, announced the Chief Justice's approval of a 30-day transitional period regarding the application of Order 4, Rule 15 of the 2024 Rules, commencing on 10th February and ending on 12th March 2025.

During the transitional period, litigants who failed to file their processes within the stipulated timeframe and did not file an application for extension of time within which to file such processes before the effective date of the 2024 Rules can do so within the 30-day transitional window, after which the Supreme Court will not accept for filing any applications for extension of time.

It is expected that the provision of Order 4 Rule 15 of the 2024 Rules, as clarified by the Chief Justice in the Clarificatory Memorandum, will encourage litigants to be more diligent in prosecuting their appeals at the Supreme Court by ensuring that filing timelines prescribed in the 2024 Rules are strictly adhered to. It is hoped that this will, in turn, lead to expeditious disposal of cases at the Supreme Court because the time that the Court would otherwise have spent in hearing thousands of applications for extension of time/ regularisation of processes that were filed out of time will be freed up and used for other pressing judicial business.

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