

THE CIVIL APPEAL BILL
(No. XXI of 2025)

Explanatory Memorandum

The object of this Bill is to clarify, simplify and standardise the procedures for all appeals in civil matters made –

- (a) to the Court of Civil Appeal from the final decision of the Supreme Court in the exercise of its original jurisdiction in civil matters; and
- (b) to the Supreme Court in the exercise of its appellate jurisdiction in civil matters from the final decision of the subordinate court, such as the District Court, the Intermediate Court, the Industrial Court, the Master and Registrar, the Judge in Chambers or a Tribunal,

and to bring together such appeal procedures into one consolidated legislation.

2. This Bill has been rendered necessary with a view to bringing clarity and certainty in this area of the law, being given that the procedures for making appeals in civil matters are scattered in different pieces of legislation and are not uniform.

3. In addition, the Bill imposes an obligation on any Court, immediately after it gives judgment in a civil matter, to notify any party to the case of his right to appeal.

4. Consequently, the Court of Civil Appeal Act and the Court of Civil Appeal Rules 1965 are being repealed, and the Courts Act, the District and Intermediate Courts (Civil Jurisdiction) Act, the Environment and Land Use Appeal Tribunal Act, the Equal Opportunities Act, the Industrial Court Act and the Sale of Immovable Property Act are being amended.

G.P.C. GLOVER, S.C.
Attorney-General

25 July 2025

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A BILL

To clarify, simplify and standardise the procedures for all appeals in civil matters

ENACTED by the Parliament of Mauritius, as follows –

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Civil Appeal Act 2025.

2. Interpretation

In this Act –

“appellant” means a person who makes an appeal to the Appellate Court;

“Appellate Court” means the Court of Civil Appeal or the Supreme Court in the exercise of its appellate jurisdiction in civil matters;

“Clerk”, in case an appeal is made under Part III against the final decision of –

(a) the District Court, the Intermediate Court or the Industrial Court, means the clerk of the District Court, the Intermediate Court or the Industrial Court, as the case may be; or

(b) the Master and Registrar or the Judge in Chambers, means the Master and Registrar;

(c) a Tribunal, means the Secretary to the Tribunal;

“Court of Civil Appeal” means the Court of Civil Appeal referred to in section 4;

“final decision”, for the purpose of –

(a) Part II, means an order or a judgment of the Supreme Court in the exercise of its original jurisdiction in civil matters;

(b) Part III, means –

(i) in relation to the District Court, the Intermediate Court or the Industrial Court, a judgment of the District Court, the

Intermediate Court or the Industrial Court, as the case may be;

- (ii) in relation to the Master and Registrar, an order or a judgment of the Master and Registrar; or
- (iii) in relation to the Judge in Chambers in the exercise of his original jurisdiction, an order or a judgment of the Judge in Chambers, other than a review of the decision of the Master and Registrar by the Judge in Chambers;
- (iv) in relation to a Tribunal, a judgment of the Tribunal;

“Master and Registrar” includes any officer of the Supreme Court who acts on behalf of the Master and Registrar with the authority of the Chief Justice;

“respondent” means a person who undertakes the defence of an appeal under this Act;

“subordinate court” –

- (a) in so far as it relates to an appeal to the Court of Criminal Appeal, means the Supreme Court in the exercise of its original jurisdiction in civil matters; or
- (a) in so far as it relates to an appeal to the Supreme Court in the exercise of its appellate jurisdiction in civil matters, means the District Court, the Intermediate Court, the Industrial Court, the Master and Registrar, the Judge in Chambers or a Tribunal;

“Supreme Court”, for the purpose of –

- (a) Part II, means the Supreme Court in the exercise of its original jurisdiction in civil matters; or
- (b) Part III, means the Supreme Court in the exercise of its appellate jurisdiction in civil matters;

“Tribunal” means a Tribunal established under any enactment where, under that enactment, a right of appeal is conferred against the final decision of that Tribunal to the Supreme Court in the exercise of its appellate jurisdiction.

3. Notification of right of appeal

Every subordinate court shall, immediately after judgment is given, notify, in writing, any party to the case of his right to appeal under this Act.

PART II – APPEAL BEFORE COURT OF CIVIL APPEAL

Sub-Part A – Court of Civil Appeal

4. Composition of Court of Civil Appeal

(1) The Court of Civil Appeal shall be a superior court of record.

(2) (a) The Chief Justice and the Puisne Judges shall be Judges of the Court of Civil Appeal, and the Chief Justice shall be the President of the Court of Civil Appeal and, in the absence of the Chief Justice, the Senior Puisne Judge shall be the President of the Court of Civil Appeal.

(b) Any direction which may be given by the Chief Justice under this section may, in case of any vacancy in that office or the incapacity of the Chief Justice to act for any reason, be given by the Senior Puisne Judge.

(3) (a) An appeal before the Court of Civil Appeal shall be heard by at least 2 Judges, but shall not include the Judge from whose decision the appeal is made.

(b) The Chief Justice may, either *proprio motu* or on application in writing made to him by any party to an appeal stating the reasons for such application, direct that the case be heard by more than 2 Judges, having regard to the magnitude of the interests at stake or the importance or intricacy of the questions of fact or law involved.

(c) An appeal before the Court of Civil Appeal shall be decided by the unanimous opinion of the Judges and, in case there is no unanimity, in accordance with the opinion of the majority of the Judges.

(d) Where the Court of Civil Appeal is constituted by an even number of Judges and the opinion of the majority of the Judges cannot be reached, their decision shall be suspended until the Court of Civil Appeal is reconstituted with an additional Judge.

(e) Where the Court of Civil Appeal is reconstituted under paragraph (d), the opinion of the majority of the Judges shall be taken to be the decision of the Court of Civil Appeal.

5. Jurisdiction and powers of Court of Civil Appeal

(1) Subject to any other enactment, the Court of Civil Appeal shall have unlimited jurisdiction and powers to hear and determine appeals in civil matters against the final decision of the Supreme Court.

(2) Without prejudice to the right of appeal conferred by any other enactment, the Court of Civil Appeal shall have jurisdiction and powers to hear and determine any question of law referred to it by the Supreme Court pursuant to section 9.

Sub-Part B – Appeal before Court of Civil Appeal

6. Procedure to appeal to Court of Civil Appeal

(1) A person who intends to appeal to the Court of Civil Appeal shall, not later than 21 days after the date –

- (a) of the final decision of the Supreme Court; or
- (b) leave is granted by the Supreme Court or Court of Civil Appeal under section 7,

give written notice of appeal to the Master and Registrar.

(2) The notice of appeal referred to in subsection (1) shall set out the grounds of the appeal and, except with leave of the Court of Civil Appeal, no other grounds than those specified in that notice shall be brought forward when the appeal is heard.

(3) The Master and Registrar shall, on receipt of the notice of appeal under subsection (1), immediately bind the appellant, together with one or more sureties, by recognisance in favour of the respondent and the appellant shall pay such sum as the Master and Registrar may deem sufficient to cover the costs of the appeal.

(4) An appellant shall, not later than 14 days after giving notice of appeal under subsection (1) –

- (a) lodge the appeal in the Registry of the Supreme Court and pay the costs and fees necessary for drawing up the record of the appeal; and
- (b) after lodging the appeal pursuant to paragraph (a), serve the notice of appeal on the respondent and any other party to the

appeal, and file return of service in the Registry of the Supreme Court.

(5) Where an appellant fails to prosecute his appeal not later than 7 days after –

- (a) the 14-day period specified in subsection (4); or
- (b) the end of any extended period for prosecuting the appeal under subsection (4),

the Master and Registrar shall have the right to issue execution upon the final decision appealed against and proceed to estreat and recover the recognisance.

(6) The period within which –

- (a) notice of appeal may be given under subsection (1); or
- (b) an appeal may be prosecuted under subsection (4),

may, in accordance with section 25, be extended.

(7) Notwithstanding section 3, failure to notify any party of his right to appeal under this Part shall not constitute a ground of appeal.

7. Leave to appeal to Court of Civil Appeal

(1) Except with leave of the Supreme Court on an ex parte application, no appeal shall lie to the Court of Civil Appeal –

- (a) from an order as to costs only;
- (b) from an order made by consent of the parties; or
- (c) from an interlocutory judgment or order.

(2) An ex parte application under subsection (1) shall be made not later than 14 days after the order or interlocutory judgment or order, as the case may be, is made.

(3) Where leave is not granted by the Supreme Court on an ex parte application under subsection (1), an ex parte application for a similar purpose may be made to the Court of Civil Appeal not later than 7 days after the date on which leave is not granted by the Supreme Court.

(4) The period within which an ex parte application may be made under subsection (2) or (3) may, in accordance with section 25, be extended.

8. Notice to resist appeal before Court of Civil Appeal

(1) A notice of appeal served under section 6(4)(b) shall contain a warning to the person on whom it is served to the effect that he shall, if he intends to resist the appeal before the Court of Civil Appeal, comply with subsection (2).

(2) Every person who is served with a notice of appeal and who intends to resist the appeal before the Court of Civil Appeal shall, not later 28 days after the date of service of the notice of appeal, serve on the appellant and file in the Registry of the Supreme Court a notice of his intention to resist the appeal.

(3) Any person on whom notice of appeal is served and who fails to comply with subsection (2) shall be deemed to have elected not to resist the appeal.

Sub-Part C – Opinion on Question of Law by Court of Civil Appeal

9. Question of law before Court of Civil Appeal

The Supreme Court may, either *proprio motu* or on the application of any party to the case, reserve for the consideration of the Court of Civil Appeal any question of law which may arise at the hearing of any civil matter and, where it so determines, adjourn the case until such question has been considered and determined.

10. Statement of question reserved by Court of Civil Appeal

The Supreme Court shall, for the purpose of section 9 –

- (a) state the question with the circumstances upon which it has arisen;
and
- (b) direct such statement to be entered upon the record for the opinion of the Court of Civil Appeal.

PART III – APPEAL BEFORE APPELLATE JURISDICTION (CIVIL) OF SUPREME COURT

Sub-Part A – Appellate Jurisdiction (Civil) of Supreme Court

11. Composition of Supreme Court

(1) An appeal before the Supreme Court shall be heard by at least 2 Judges.

(2) The Chief Justice may, either *proprio motu* or on application in writing made to him by any party to an appeal stating the reasons for such application, direct that the case be heard by more than 2 Judges, having regard to the magnitude of the interests at stake or the importance or intricacy of the questions of fact or law involved.

(3) An appeal before the Supreme Court shall be decided by the unanimous opinion of the Judges and, in case there is no unanimity, in accordance with the opinion of the majority of the Judges.

(4) Where the Supreme Court is constituted by an even number of Judges and the opinion of the majority of the Judges cannot be reached, their decision shall be suspended until the Supreme Court is reconstituted with an additional Judge.

(5) Where the Supreme Court is reconstituted under subsection (4), the opinion of the majority of the Judges shall be taken to be the decision of the Supreme Court.

12. Jurisdiction and powers of Supreme Court

(1) The Supreme Court shall have unlimited jurisdiction and powers to hear and determine appeals in civil matters against the final decision of the subordinate court.

(2) Where, under any enactment, it is provided that an appeal shall lie to the Supreme Court against the decision of a body established under that enactment, the procedures to make an appeal under this Part shall, with such modifications, exceptions and adaptations as may be necessary, apply to such an appeal.

(3) Without prejudice to the right of appeal conferred by any other enactment, the Supreme Court shall have jurisdiction and powers to hear and determine any question of law referred to it by the subordinate court pursuant to section 15.

13. Procedure to appeal to Supreme Court

(1) A person who intends to appeal to the Supreme Court shall, not later than 21 days after the date of the final decision of the subordinate court, give written notice of appeal to the Clerk.

(2) The notice of appeal referred to in subsection (1) shall set out the grounds of the appeal and, except with leave of the Supreme Court, no other grounds than those specified in that notice shall be brought forward when the appeal is heard.

(3) The Clerk shall, on receipt of the notice of appeal under subsection (1), immediately bind the appellant, together with one or more sureties, by recognisance in favour of the respondent and the appellant shall pay such sum as the Clerk may deem sufficient to cover the costs of the appeal.

(4) An appellant shall, not later than 14 days after giving notice of appeal under subsection (1) –

- (a) lodge the appeal in the Registry of the Supreme Court and pay the costs and fees necessary for drawing up the record of the appeal; and
- (b) after lodging the appeal pursuant to paragraph (a), serve the notice of appeal on the respondent and any other party to the appeal, and file return of service in the Registry of the Supreme Court.

(5) Where an appellant fails to prosecute his appeal not later than 7 days after –

- (a) the 14-day period specified in subsection (4); or
- (b) the end of any extended period for prosecuting the appeal under subsection (4),

the Clerk shall have the right to issue execution upon the final decision appealed against and proceed to estreat and recover the recognisance.

(6) The period within which –

- (a) notice of appeal may be given under subsection (1); or
- (b) an appeal may be prosecuted under subsection (4),

may, in accordance with section 25, be extended.

(7) Notwithstanding section 3, failure to notify any party of his right to appeal under this Part shall not constitute a ground of appeal.

14. Notice to resist appeal before Supreme Court

(1) A notice of appeal served under section 13(4)(b) shall contain a warning to the party on whom it is served to the effect that he shall, if he intends to resist the appeal before the Supreme Court, comply with subsection (2).

(2) Every person who is served with a notice of appeal and who intends to resist the appeal before the Supreme Court shall, not later than 28 days after the date of service of the notice of appeal, serve on the appellant and file in the Registry of the Supreme Court a notice of his intention to resist the appeal.

(3) Any person on whom notice of appeal is served and who fails to comply with subsection (2) shall be deemed to have elected not to resist the appeal.

Sub-Part B – Opinion on Question of Law by Supreme Court

15. Question of law before Supreme Court

The subordinate court may, either *proprio motu* or on the application of any party to the case, reserve for the consideration of the Supreme Court any question of law which may arise at the hearing of any civil matter and, where it so determines, adjourn the case until such question has been considered and determined.

16. Statement of question reserved by Supreme Court

The subordinate court shall, for the purpose of section 15 –

- (a) state the question with the circumstances upon which it has arisen; and
- (b) direct such statement to be entered upon the record for the opinion of the Supreme Court.

PART IV – MATTERS PENDING CIVIL APPEAL

17. Stay of proceedings

Subject to sections 6(5) and 13(5), an appeal made under this Act to the Appellate Court shall operate as a stay of execution of proceedings of the final decision appealed from.

18. Skeleton arguments and submissions

(1) Every appellant shall, not less than 30 days before the date of the hearing of the appeal, serve on the other parties to the appeal and lodge in the Registry of the Supreme Court skeleton arguments and submissions on the grounds of appeal.

(2) Every other party to the appeal shall, not less than 15 days before the date of the hearing of the appeal, serve on the other parties to the appeal and lodge in the Registry of the Supreme Court skeleton arguments and submissions on the grounds of appeal.

(3) Where an appellant or a party to an appeal fails to comply with subsection (1) or (2), the Appellate Court may make –

- (a) a wasted costs order or any other costs order; or
- (b) any other order as it may, in the circumstances, determine.

PART V – DETERMINATION OF APPELLATE COURT

Sub-Part A – Determination of Appellate Court in Civil Appeal

19. General powers of Appellate Court on appeal

The Appellate Court may affirm, reverse, amend or alter the final decision of the subordinate court, or order a new trial before the subordinate court before a differently constituted bench.

20. New trial

(1) Where, on the hearing of an appeal under this Act, it appears to the Appellate Court that a new trial ought to be granted, the Appellate Court may order that the final decision appealed from be set aside and a new trial be granted, and the new trial shall be heard within 3 months from the decision of the Appellate Court.

(2) A new trial shall not be granted on the ground of improper admission or rejection of evidence unless, in the opinion of the Appellate Court, there has been some substantial wrong or miscarriage of justice.

(3) A new trial may be granted on any question without interfering with the determination or decision upon any other question.

21. Immaterial errors

The final decision of the subordinate court shall not be reversed or substantially varied on appeal, nor a new trial ordered by the Appellate Court on account of any error, defect or irregularity, whether in the decision or otherwise, not affecting the merits, or the jurisdiction of the subordinate court.

22. Frivolous appeals

Notwithstanding any other enactment, where an appeal is made under this Act and the Appellate Court is satisfied that the appeal is frivolous or is an abuse of its process, it may order that interest on the judgment debt be paid at 15 per cent or such other rate as may be prescribed as from the date of judgment of the subordinate court.

23. Other determination of Appellate Court on appeal

(1) On the hearing of an appeal under this Act, the Appellate Court may draw any inference of fact and give any judgment and make any order which ought to have been made, and make such further or other order as the case may require.

(2) No interlocutory order from which there has been no appeal under Part II shall operate so as to bar to, or prejudice, the Court of Civil Appeal from giving such interlocutory order upon the appeal as may be appropriate.

Sub-Part B – Determination of Appellate Court on Question of Law

24. General powers of Appellate Court on question of law

(1) After hearing the interested parties on any question of law referred to it by the subordinate court, the Appellate Court shall determine the question of law for its opinion within 6 months of the question being referred to it.

(2) After the Appellate Court gives its opinion, the subordinate court shall give its final decision within 3 months of the opinion of the Appellate Court is being reported to it.

PART VI – MISCELLANEOUS MATTERS

25. Extension of time

(1) An application to extend the period under –

- (a) section 6(1) or (4) or 7(3) shall be made to the Court of Civil Appeal; or

- (b) section 7(2) or 13(1) or (4) shall be made to the Supreme Court,

by way of motion and affidavit.

(2) The Court of Civil Appeal or Supreme Court, as the case may be, may, on good cause shown, grant the application made under subsection (1) as soon as reasonably practicable.

(3) Failure to notify any party of his right to appeal under this Act may be a ground for extension of time.

26. Costs of appeal

(1) The Appellate Court may make such order as to the whole or any part of the costs of appeal and, where it so determines, the costs of the subordinate court.

(2) Subject to any enactment, where an appeal is dismissed, the subordinate court may, on production of a certificate signed by the Master and Registrar that the appeal has been dismissed and on production of a taxed bill of the costs of the appeal, forthwith issue execution against the appellant for recovery of the judgment and all costs, or against the surety for recovery of the costs of appeal.

27. Rules

The Chief Justice may make such rules as may be necessary for the purposes of this Act.

28. Repeal

- (1) The Court of Civil Appeal Act is repealed.
- (2) The Court of Civil Appeal Rules 1965 are revoked.

29. Consequential amendments

- (1) The Courts Act is amended –
 - (a) by repealing section 70;
 - (b) by repealing section 73 and replacing it by the following section –

73. Power to grant injunction

(1) A Judge may, whether in term time or in vacation, grant an injunction and, subject to an application for review to the Supreme Court to set aside the injunction, the Supreme Court may then set aside or modify it.

(2) An application for review under subsection (1) shall be made to the Court not later than 21 days after the date the injunction is granted.

(c) by repealing sections 70B, 76A and 126; and

(d) by repealing the First Schedule.

(2) The District and Intermediate Courts (Civil Jurisdiction) Act is amended –

(a) in section 21P, by deleting the words “with Part IV” and replacing them by the words “with the Civil Appeal Act 2025”;

(b) by repealing sections 36 and 37.

(3) The Environment and Land Use Appeal Tribunal Act is amended by repealing section 6 and replacing it by the following section –

6. Appeal to Supreme Court

(1) Any person who is dissatisfied with the final decision of the Tribunal, relating to an appeal under section 4, may appeal against that final decision to the Supreme Court.

(2) An appeal under this section shall be prosecuted in accordance with the Civil Appeal Act 2025.

(4) The Equal Opportunities Act is amended, in section 41, by repealing subsection (3) and replacing it by the following subsection –

(3) An appeal under this section shall be prosecuted in accordance with the Civil Appeal Act 2025.

(5) The Industrial Court Act is amended, in section 11(2), by deleting the words “subject to the same conditions as appeals from the decision of a District Magistrate” and replacing them by the words “in accordance with the Civil Appeal Act 2025 or the Criminal Appeal and Criminal Review Act 2025, as the case may be”.

(6) The Sale of immovable Property Act is amended by repealing section 204 and replacing it by the following section –

204. Appeal to Supreme Court

(1) Any person who is dissatisfied with an order or judgment of the Master under this Act may appeal against that order or judgment to the Supreme Court.

(2) An appeal under this section shall be prosecuted in accordance with the Civil Appeal Act 2025.

30. Savings

(1) Any appeal made to the Court of Civil Appeal under the repealed Court of Civil Appeal Act and which is pending on the commencement of this Act shall be dealt with as if this Act had not come into operation.

(2) Any appeal made to the Supreme Court in the exercise of its appellate jurisdiction in civil appeals and which is pending on the commencement of this Act shall be dealt with as if this Act had not come into operation.

31. Commencement

(1) Subject to subsection (2), this Act shall come into operation on a date to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different sections of this Act.
