

LAWS OF THE WEST INDIES

CHAPTER 1

FEDERAL SUPREME COURT

CHAPTER 1

THE FEDERAL SUPREME COURT
REGULATIONS, 1958.

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Regs.
3/1958.

REGULATIONS made by the Governor-General under section 2 of the West Indies (Federation) Order in Council, 1957.

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LAWS OF THE WEST INDIES

FEDERAL SUPREME COURT

Cap. 1

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1. (1) These Regulations may be cited as the Federal Supreme Court Regulations, 1958. Short title and application.

(2) These Regulations shall apply to the Cayman Islands and the Turks and Caicos Islands:

Provided that Part III hereof shall not so apply until it shall have effect in respect of appeals in criminal matters from the High Court of Justice of Jamaica.

2. (1) In these Regulations, unless the context otherwise requires—

“Chief Justice” means the Chief Justice of the Federation; Interpretation.

“Full Court” means a superior court of two or more judges sitting in banco in the exercise of an original or an appellate jurisdiction;

“order” in Parts II and III of these Regulations includes decision or judgment;

“Record” in relation to an appeal means the aggregate of papers relating to that appeal (including pleadings, proceedings, evidence and judgments) proper to be laid before the Federal Supreme Court, or Her Majesty in Council, as the case may be, on the hearing of the appeal;

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

“rules of court” means rules made by the authority having for the time being power to make rules or orders regulating the practice and procedure of the Federal Supreme Court;

“superior court” means any court that is or forms part of a superior court of record (other than the court established by the West Indian Court of Appeal Act, 1919) established for a Territory and includes the Grand Court of the Cayman Islands and the Supreme Court of the Turks and Caicos Islands. 9 & 10 Geo. 5. C.47.

(2) Wherever in any Act the expression "Full Court" in relation to the Federal Supreme Court occurs, it shall be deemed to refer to the Full Court of the Federal Supreme Court constituted by not less than two of the judges of that Court.

PART I

GENERAL PROVISIONS

Number of
Federal
Justices.

3. Besides the Chief Justice, the judges of the Federal Supreme Court shall be five Federal Justices.

Officers of
Federal
Supreme
Court.

4. (1) There shall be—

(a) a registrar of the Federal Supreme Court, and

(b) such deputy registrars and other officers of the Federal Supreme Court as the Governor-General may consider necessary.

(2) With the consent of the Governor of the Territory concerned, the Governor-General may appoint the registrar of a superior court of that Territory to be a deputy registrar of the Federal Supreme Court.

(3) In this regulation the expression "registrar of a superior court" includes the Clerk of the Grand Court of the Cayman Islands.

Seal.

5. The Federal Supreme Court shall have a seal having a device or impression approved by the Chief Justice with the inscription "The Federal Supreme Court of The West Indies".

Law to be
administered on hearing of
appeals.

6. Subject to the provisions of regulation eight, the Federal Supreme Court shall, in the hearing and determination of an appeal from the decision of a superior court of a Territory, apply to such appeal the law which was applicable to the case in that superior court.

General
powers of
the Federal
Supreme
Court.

7. Subject to the provisions of the Constitution and of any Act, the Federal Supreme Court shall in the exercise of any jurisdiction vested in it, have all the powers and authorities vested in or exercisable by the Supreme Court of Judicature in England on the first day of January, 1958.

8. So far as concerns procedure and practice, all^{Procedure and practice.} appellate jurisdiction vested in the Federal Supreme Court shall be exercised in accordance with the provisions of any Act and rules of court, and where no special provision is contained in any such Act or rules of court, any such jurisdiction, so far as concerns practice and procedure, shall be exercised as nearly as may be in conformity with the law and practice for the time being in force in England—

- (a) in relation to criminal matters in the Court of Criminal Appeal;
- (b) in relation to civil matters, in the Court of Appeal.

9. (1) Save as otherwise provided by any Act or rules^{Evidence and practice when Federal Supreme Court exercises original jurisdiction.} of court, in any case being heard by the Federal Supreme Court in the exercise of its original jurisdiction, the Court shall as regards the^{*}admissibility of evidence, the mode of proof and the sufficiency of evidence and as regards the competency and compellability of witnesses and the course of evidence apply the law of England in force on the first day of January, 1958.

(2) Subject to the provisions of paragraph (1), so far as concerns procedure and practice, the original jurisdiction vested in the Federal Supreme Court shall be exercised in accordance with the provisions of any Act and rules of court, and where no special provision is contained in any such law or rules of court with reference thereto, any such jurisdiction shall, so far as concerns procedure and practice, be exercised as nearly as may be in conformity with the law and practice for the time being in force in the Supreme Court of Judicature in England.

(3) Rules of court may prescribe—

- (a) the official seals and signatures that may be judicially noticed;
- (b) the mode in which evidence of particular facts may be given in any proceedings or on any application in connection with or at any stage of any proceedings.

10. (1) The Federal Supreme Court or any judge thereof^{Administration of oaths.} may require and administer any necessary oath.

(2) Without prejudice to any other power to require an oath to be administered, rules of court may prescribe the occasions on which an oath may be administered and may authorize any of the following persons to administer oaths for any purpose specified in the rules—

- (a) the Registrar or any deputy registrar of the Federal Supreme Court;
- (b) any person duly authorized by or under the law in operation in a Territory to administer oaths for the purpose of a superior court of that Territory.

(3) The form of an oath shall be the same, as nearly as may be, as that which is used in the superior court of the Territory in which the oath is administered.

(4) Any person who, by the law in operation in the Territory in which an oath is to be administered, is entitled to make an affirmation instead of taking an oath, may do so in any cause or matter in the Federal Supreme Court, and shall do so in the form prescribed by that law before any person authorised by or under these Regulations to administer oaths.

Conveyance
overseas of
persons in
custody.

11. (1) A judge of the Federal Supreme Court may issue a warrant—

- (a) for the attendance before that Court or detention in custody, or both the attendance and detention, of any person in custody in any Territory and such warrant shall be full and sufficient authority—
 - (i) for the conveyance in custody of such person on any ship or aircraft to which this regulation applies from the Territory where he is in custody to the Territory in which his attendance is required; and
 - (ii) for the detention of such person in custody in the Territory where his attendance is required for the period between his arrival in that Territory

until his discharge from custody or his departure therefrom in custody (which-ever shall first occur);

- (b) for the return of such person in custody to the Territory where he was originally in custody and such warrant shall be sufficient authority for the conveyance in custody of such person to that Territory on any ship or aircraft to which this regulation applies.

(2) During any period during which such person is detained in custody under the authority of any such warrant in the Territory in which his attendance is required, he shall be detained in such place and manner as prisoners of his category (whether convicted or awaiting trial as the case may be) are detained in accordance with the law in operation in that Territory.

(3) The ships and aircraft to which this regulation applies are any ships and aircraft registered in the Federation and any of Her Majesty's ships and aircraft belonging to the naval or air forces of the United Kingdom or of the Federation.

12. Subject to the provisions of paragraph (3) of article 85 of the Constitution, if the Chief Justice so directs, the Federal Supreme Court may sit in two or more divisions to be constituted in such manner as the Chief Justice may direct, but any judge of the Court may sit in any division.

13. (1) If on an application made by the Attorney General of the Federation under this regulation, the Federal Supreme Court is satisfied that any person has habitually and persistently and without any reasonable ground instituted vexatious legal proceedings in the Federal Supreme Court, and whether against the same person or against different persons, the Court may, after hearing that person or giving him an opportunity of being heard, order that no legal proceedings shall without the leave of the Court or a judge thereof be instituted by him in any federal court and such leave shall not be given unless the Federal Supreme Court or a judge thereof is satisfied that the proceedings are not an abuse of the process of the court and that there is prima facie ground for the proceedings.

(2) A copy of any order made under this section shall be published in the Gazette.

Appeal from order of judge in exercise of original jurisdiction. 14. (1) An appeal shall lie to the Federal Supreme Court from an order in a civil cause or matter made by a single judge sitting alone in the exercise of the original jurisdiction of that court except where any law of the Federal Legislature provides that such order shall be final or otherwise restricts the right of appeal.

(2) A judge who has made the order from which an appeal is brought under this regulation shall not sit on the hearing of the appeal.

(3) Subject to any law of the Federal Legislature or to rules of court, the Federal Supreme Court for the purpose of determining an appeal under this section shall have the same powers as upon an appeal from the order of a superior court of a Territory, and shall follow the same practice and procedure so far as the same is applicable.

PART II

CIVIL APPEALS

Appeals in civil matters. 15. (1) The Federal Supreme Court shall have jurisdiction to hear and determine any matter arising in any civil proceedings upon a case stated or upon a question of law reserved by a Full Court or by a judge of a superior court of a Territory pursuant to any power conferred in that behalf by a law in operation in that Territory.

(2) Subject as otherwise provided in this regulation, an appeal shall lie to the Federal Supreme Court in any cause or matter from any order of a Full Court or of a judge of a superior court (whether made before or after the date on which these Regulations come into force) where such order is—

- (a) final and is not such an order as is referred to in sub-paragraph (f) or sub-paragraphs (g) (i), (g) (ii) or (g) (iii) of this paragraph;
- (b) an order made upon the finding or verdict of a jury;
- (c) an order upon application for a new trial;

- (d) a decree nisi in a matrimonial cause or an order in an admiralty action determining liability;
- (e) declared by rules of court to be of the nature of a final order;
- (f) an order upon appeal from any other court, tribunal, body or person;
- (g) (i) a final order of a judge of a superior court made in chambers or in a summary proceeding;
- (ii) an order made with the consent of the parties;
- (iii) an order as to costs;
- (iv) an order not referred to elsewhere in this paragraph.

(3) No appeal shall lie from an order referred to in sub-paragraph (f) of paragraph (2) of this regulation—

(a) except—

- (i) upon a question of law; or
- (ii) where such order precludes any party from the exercise of his profession or calling, from the holding of public office, from membership of a public body or from the right to vote at the election of a member for any such body;

(b) in any other case, except with the leave of the Federal Supreme Court or of the superior court from which the appeal was brought.

(4) (a) Where it is provided by any law that an appeal shall not lie direct to the Federal Supreme Court from an order of a judge of a superior court referred to in sub-paragraph (g) of paragraph (2) of this regulation but only from the decision of a Full Court on appeal therefrom, an appeal shall lie under this section only from such decision.

(b) No appeal shall lie under this regulation from an order referred to in sub-paragraph (g) of paragraph (2) of this regulation—

- (i) from a decision of a Full Court of a Territory upon appeal from a judge

of a superior court of that Territory, except by leave of the Full Court or of the Federal Supreme Court; or

(ii) in any other case, except by leave of the Full Court or judge making the order or of the Federal Supreme Court.

(c) The expression "law" in this paragraph means any order of Her Majesty in Council or an order made thereunder or any law of the Federal Legislature or of the Legislature of a Territory.

(5) No appeal shall lie under this regulation—

- (a) from any order made in any criminal cause or matter;
- (b) from an order allowing an extension of time for appealing from an order;
- (c) from an order of a judge giving unconditional leave to defend an action;
- (d) from the determination of a Full Court under paragraph (9) of this regulation;
- (e) from an order absolute for the dissolution or nullity of marriage in favour of any party who having had time and opportunity to appeal from the decree nisi on which the order was founded, has not appealed from that decree.

(6) No appeal shall lie under this regulation from any order of a Full Court or of a judge of a superior court where it is provided—

- (a) by any law of the Federal Legislature; or
- (b) by any law of the Legislature of a Territory as respects any matter not included in the Exclusive Legislative List or the Concurrent Legislative List set out in the Third Schedule to the Constitution

that the decision of such judge or court shall be final.

(7) No appeal shall lie under this regulation from any order of a judge of a superior court of a Territory in any case in which it is, on the date on which these Regulations come into force, provided by any law of the Legislature of

that Territory, the principal purpose of which is to regulate or otherwise provide for any matter included in the Exclusive Legislative List or the Concurrent Legislative List set out in the Third Schedule to the Constitution, that the decision of such judge shall be final.

(8) The jurisdiction to hear appeals vested in the Federal Supreme Court under the provisions of this Part of these Regulations shall be to the exclusion of the jurisdiction of any other court in the Federation:

Provided that a judge of a superior court from which an appeal is brought may hear and determine such applications incidental to the appeal and not involving the decision thereof as may be prescribed by rules of court; but an order made on any such application may be discharged or varied by the Federal Supreme Court.

(9) Where any doubt arises regarding the category mentioned in paragraph (2) of this regulation into which an order of a Full Court or of a judge of a superior court falls, such doubt may be determined by a Full Court or by the Federal Supreme Court upon application in a summary way.

16. (1) On the hearing of an appeal from any order of a superior court in any civil cause or matter, the Federal Supreme Court shall have power to—

Powers of
Federal
Supreme
Court on
appeal in
civil
matters.

- (a) confirm, vary, amend, or set aside the order or make any such order as the court from whose order the appeal is brought might have made, or to make any order which ought to have been made, and to make such further or other order as the case may require;
- (b) draw inferences of fact;
- (c) direct the court from whose order the appeal is brought to enquire into and certify its finding on any question which the Federal Supreme Court thinks fit to be determined before final judgment in the appeal.

(2) The powers of the Federal Supreme Court under the foregoing provisions of this regulation may be exercised notwithstanding that no notice of appeal or respondent's notice has been given in respect of any par-

particular part of the decision of the court from whose order the appeal is brought or by any particular party to the proceedings in that court, or that any ground for allowing the appeal or for affirming or varying the decision of that court is not specified in such a notice; and the Federal Supreme Court may make any order, on such terms as the Court thinks just, to ensure the determination on the merits of the real question in controversy between the parties.

(3) The Federal Supreme Court may make such order as to the whole or any part of the costs of an appeal as may be just, and may, in special circumstances, order that such security shall be given for the costs of an appeal as may be just.

(4) The powers of the Federal Supreme Court in respect of an appeal shall not be restricted by reason of any interlocutory order from which there has been no appeal.

Additional
powers of
Federal
Supreme
Court on
hearing
appeals
in civil
matters.

17. On the hearing of an appeal from any order of a superior court in any civil cause or matter, the Federal Supreme Court may, if it thinks fit—

- (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, provided that no person shall be compelled to produce under any such order any writing or other document which he could not have been compelled to produce at the hearing or trial;
- (b) order any witness who would have been a compellable witness at the trial to attend and be examined before the Federal Supreme Court, whether he was or was not called at the trial, or order the examination of any such witness to be conducted in manner provided by rules of court before any judge of the Federal Supreme Court or before any officer of the Federal Supreme Court or justice of the peace or other person appointed by the Federal Supreme Court for the pur-

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pose, and at any place and allow the admission of any deposition so taken as evidence before the Federal Supreme Court;

- (c) receive the evidence, if tendered, of any witness (including any party) who is a competent but not compellable witness, and, if a party makes application for the purpose, of the husband or wife of that party in cases where the evidence of the husband or wife could not have been given at the trial except on such application;
- (d) where the case was not tried by a superior court, remit the case to the court of trial for further hearing, with such instructions as regards the taking of further evidence or otherwise as appear to it necessary; and in all cases, remit the case with such instructions to the superior court from which the appeal was brought;
- (e) where any question arising at the appeal involves prolonged examination of documents or accounts or any scientific or local investigation which cannot, in the opinion of the Federal Supreme Court, conveniently be conducted before the Federal Supreme Court, order the reference of the question in manner provided by rules of court for inquiry and report to a special commissioner appointed by the Federal Supreme Court, and act upon the report of any such commissioner so far as they think fit to adopt it;
- (f) appoint any person with special expert knowledge to act as an assessor in an advisory capacity in any case where it appears to the Federal Supreme Court that such knowledge is required for the proper determination of the case.

Power of
Federal
Supreme
Court as
to new
trials.

18. (1) Subject to the provisions of this regulation, on the hearing of an appeal in any civil cause or matter the Federal Supreme Court shall, if it appears to the Federal Supreme Court that a new trial should be held, have power to set aside the order appealed against and order that a new trial be held.

(2) On the hearing of an appeal in any civil cause or matter, the following provisions shall apply—

- (a) A new trial shall not be ordered on the ground of misdirection, or of the improper admission or rejection of evidence unless in the opinion of the Federal Supreme Court some substantial wrong or miscarriage has been thereby occasioned.
- (b) A new trial may be ordered on any question without interfering with the finding or decision upon any other question; and if it appears to the Federal Supreme Court that any such wrong or miscarriage as is mentioned in sub-paragraph (a) of this paragraph affects part only of the matter in controversy, or one or some only of the parties, the Court may order a new trial as to that part only, or as to that party or those parties only, and give final judgment as to the remainder.

(3) On the hearing of an appeal from an order made in any action tried with a jury the following provisions shall apply—

- (a) The Federal Supreme Court may, if it thinks fit, make any such order as could be made in pursuance of an application for a new trial or to set aside a verdict, finding or judgment of the court below.
- (b) A new trial shall not be ordered because the verdict of the jury was not taken upon a question which the judge at the trial was not asked to leave to them unless in the opinion of the Federal Supreme Court some substantial wrong or miscarriage has been thereby occasioned.

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(c) In any case where the Federal Supreme Court has power to order a new trial on the ground that damages awarded by a jury are excessive or inadequate, the Court may, in lieu of ordering a new trial—

(i) with the consent of all parties concerned, substitute for the sum awarded by the jury such sum as appears to the Court to be proper;

(ii) with the consent of the party entitled to receive or liable to pay the damages, as the case may be, reduce or increase the sum awarded by the jury by such amount as appears to the Court to be proper in respect of any distinct head of damages erroneously included in or excluded from the sum so awarded;

but except as aforesaid the Federal Supreme Court shall not have power to reduce or increase damages awarded by a jury.

19. The Federal Supreme Court shall not grant a new trial or reverse any judgment by reason of the ruling of any court that the stamp upon any document is sufficient or that the document does not require a stamp. Wrong rulings as to sufficiency of stamps.

PART III

CRIMINAL APPEALS

20. In this Part, unless the context otherwise requires— Definitions.

“appeal” means an appeal by a person convicted upon indictment and “appellant” means the person making such appeal;

“Attorney General” in relation to the Territories of Grenada, Saint Lucia, Saint Vincent and Dominica means the Attorney General of the Windward Islands and in relation to the Territories of Antigua, Montserrat and Saint Christopher, Nevis and Anguilla means the Attorney General of the Leeward Islands;

“sentence” includes any order of the court made on conviction with reference to the person convicted or his wife or children, and any recommendation of the convicting court as to the making

of a deportation order, of a restriction order, or of an expulsion order in the case of a person convicted, and the power of the Federal Supreme Court to pass a sentence includes a power to make any such order or recommendation as the convicting court might have made and a recommendation so made by the Federal Supreme Court shall have the same effect for the purposes of any law in operation in the Territory from which the appeal is brought relating to a deportation order, a restriction order or an expulsion order as the certificate and recommendation of the convicting court.

Right of appeal in criminal cases.

21. A person convicted on indictment in a superior court of a Territory on a date after this Part of these Regulations have effect in that Territory may appeal under this Part of these Regulations to the Federal Supreme Court—

- (a) against his conviction on any ground of appeal which involves a question of law alone; and
- (b) with the leave of the Federal Supreme Court or upon the certificate of the judge who tried him that it is a fit case for appeal against his conviction on any ground of appeal which involves a question of fact alone, or a question of mixed law and fact, or any other ground which appears to the Court or judge to be a sufficient ground of appeal; and
- (c) with the leave of the Federal Supreme Court against the sentence passed on his conviction, unless the sentence is one fixed by law.

Determination of appeals in ordinary cases.

22. (1) The Federal Supreme Court on any such appeal against conviction shall allow the appeal if they think that the verdict of the jury should be set aside on the ground that it is unreasonable or cannot be supported having regard to the evidence, or that the judgment of the court before whom the appellant was convicted should be set aside on the ground of a wrong decision of any question of law or that on any ground there was a miscarriage of justice, and in any other case shall dismiss the appeal:

Provided that the court may, notwithstanding that they are of opinion that the point raised in the appeal might

be decided in favour of the appellant, dismiss the appeal if they consider that no substantial miscarriage of justice has actually occurred.

(2) Subject to the special provisions of this Part of these Regulations the Federal Supreme Court shall, if they allow an appeal against conviction, quash the conviction and direct a judgment and verdict of acquittal to be entered, or if the interests of justice so require, order a new trial.

(3) On an appeal against sentence the Federal Supreme Court shall, if they think that a different sentence should have been passed, quash the sentence passed at the trial, and pass such other sentence warranted in law by the verdict (whether more or less severe) in substitution therefor as they think ought to have been passed, and in any other case shall dismiss the appeal.

23. (1) If it appears to the Federal Supreme Court that an appellant, though not properly convicted on some count or part of the indictment, has been properly convicted on some other count or part of the indictment, the Federal Supreme Court may either confirm the sentence passed on the appellant at the trial or pass such sentence in substitution therefor as it thinks proper and as may be warranted in law by the verdict on the count or part of the indictment, on which the Federal Supreme Court considers that the appellant has been properly convicted.

Powers of
Federal
Supreme
Court in
special
cases.

(2) Where an appellant has been convicted of an offence and the jury could on the indictment, have found him guilty of some other offence, and on the finding of the jury it appears to the Federal Supreme Court that the jury must have been satisfied of facts which proved him guilty of that other offence, the Federal Supreme Court may, instead of allowing or dismissing the appeal, substitute for the verdict returned by the jury a judgment of guilty of that other offence and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law for that other offence, not being a sentence of greater severity.

(3) Where on the conviction of the appellant the jury have found a special verdict, and the Federal Supreme Court consider that a wrong conclusion has been arrived at by the court before which the appellant has been convicted on the effect of that verdict, the Federal Supreme Court may, instead of allowing the appeal, order such conclusion to be

recorded as appears to the court to be in law required by the verdict, and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law.

(4) If on any appeal it appears to the Federal Supreme Court that, although the appellant was guilty of the act or omission charged against him, he was of unsound mind at the time the act was done or the omission made so as not to be responsible for his actions according to the law in operation in the Territory from the superior court of which the appeal was brought, the Federal Supreme Court may quash the sentence passed at the trial and order that the appellant be kept in custody in some prison, and thereafter be dealt with in accordance with the law in operation in the Territory from which the appeal was brought in like manner as if a special verdict had been returned or a special finding had been made at the trial that he was guilty of the act or omission charged but was of unsound mind as aforesaid when he did the act or made the omission.

Re-vesting
and restitu-
tion of pro-
perty on
conviction.

24. (1) The operation of any order for the restitution of any property to any person made on a conviction on indictment, and the operation, in case of any such conviction, of the provisions of any law in operation in a Territory from the superior court of which an appeal lies under this Part of these Regulations, as to re-vesting of the property in stolen goods on conviction, shall (unless the court before whom the conviction takes place direct to the contrary in any case in which, in their opinion, the title to the property is not in dispute) be suspended—

- (a) in any case until the expiration of fourteen days after the date of the conviction; and
- (b) in cases where notice of appeal or leave to appeal is given within fourteen days after the date of conviction, until the determination of the appeal;

and in cases where the operation of any such order, or the operation of the said provisions, is suspended until the determination of the appeal, the order or provisions, as the case may be, shall not take effect as to the property in question if the conviction is quashed on appeal. Provision may be made by rules of court for securing the safe custody of any property, pending the suspension of the operation of any such order or of the said provisions.

(2) The Federal Supreme Court may by order annul or vary any order made on a trial for the restitution of any property to any person, although the conviction is not quashed; and the order, if annulled, shall not take effect, and, if varied, shall take effect as so varied.

25. For the purposes of this Part of these Regulations, the Federal Supreme Court may, if it thinks it necessary or expedient in the interests of justice—

Supplementary powers of Federal Supreme Court.

- (a) exercise any or all of the powers conferred by regulation 17 on the Federal Supreme Court (other than those contained in paragraph (d) thereof) but in the application of regulation 17 to an appeal in any criminal cause or matter, for the words "any party" and "that party" in paragraph (c) thereof, there shall be substituted the words "the appellant";
- (b) issue any warrant necessary for enforcing any order or sentence of the Federal Supreme Court.

Provided that—

- (i) in no case shall any sentence be increased by reason of or in consideration of any evidence that was not given at the trial; and
- (ii) whenever the Federal Supreme Court receives further evidence it shall make such order as will secure an opportunity to the parties to the proceedings to examine every witness whose evidence is taken.

26. (1) An appellant who is not admitted to bail shall, pending the determination of his appeal, be treated in such manner as may be directed by a law (or rules made thereunder) in operation in the Territory where such appellant is in custody and relating to prisoners awaiting trial, and in the absence of such law or rules then shall be treated as a prisoner awaiting trial.

Admission of appellant to bail and custody when attending court.

(2) The Federal Supreme Court may, if it seems fit, on the application of an appellant, admit the appellant to bail pending the determination of his appeal.

Computa-
tion and
commence-
ment of
sentence.

27.(1) When an appellant is admitted to bail under these Regulations, the time during which he is at large after being so admitted shall be disregarded in computing the term of any sentence to which he is for the time being subject.

(2) Subject as hereinafter provided, six weeks of the time during which any appellant when in custody is treated pending the determination of his appeal as a prisoner awaiting trial, or the whole of that time if less than six weeks shall be disregarded in computing the term of any sentence to which he is for the time being subject:

Provided that—

- (a) the foregoing provisions of this regulation shall not apply where leave to appeal is granted under this Part of these Regulations or any such certificate as is mentioned in paragraph (b) of regulation 21 has been given for the purpose of the appeal;
- (b) in any other case the Federal Supreme Court may direct that no part of the said time or such part thereof as the Court thinks fit (whether shorter or longer than six weeks) shall be disregarded as aforesaid.

(3) Subject to the foregoing provisions of this regulation, the term of any sentence passed by the Federal Supreme Court in substitution for a sentence passed on the appellant in the proceedings from which the appeal is brought shall, unless the Court otherwise directs, begin to run from the time when it would have begun to run if passed in those proceedings, and references in this regulation to any sentence to which an appellant is for the time being subject shall be construed accordingly.

Time for
appealing

28. (1) Where a person convicted desires to appeal under this Part of these Regulations to the Federal Supreme Court, or to obtain the leave of that court to appeal, he shall give notice of appeal or notice of his application for leave to appeal in such manner as may be directed by rules of court within fourteen days of the date of conviction.

[*Amd. Act*
2/1958.]

(2) Except in the case of a conviction involving sentence of death, 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 Federal Supreme Court.

29. In the case of a conviction involving sentence of death or corporal punishment—^{Stay of Execution}

- (a) the sentence shall not in any case be executed until after the expiration of the time within which notice of appeal or of an application for leave to appeal may be given under regulation 28; and
- (b) if notice is so given, the appeal or application shall be heard and determined with as much expedition as practicable, and the sentence shall not be executed until after the determination of the appeal, or in cases where an application for leave to appeal is finally refused, of the application.

30. The judge of any court before whom a person is convicted shall, in the case of an appeal under this Part of these Regulations against the conviction or against the sentence, or in the case of an application for leave to appeal under these Regulations, furnish to the Registrar, in accordance with rules of court, his notes of the trial; and shall also furnish to the Registrar in accordance with rules of court a report giving his opinion upon the case or upon any point arising in the case. ^{Judge's notes and report to be furnished on appeal.}

31. The Federal Supreme Court may at any time assign to an appellant a solicitor and counsel, or counsel only, in any appeal under this Part of these Regulations or in any proceedings preliminary or incidental to such an appeal in which, in the opinion of the Court or judge, it appears desirable in the interests of justice that the appellant should have legal aid, and that he has not sufficient means to enable him to obtain that aid. ^{Legal assistance to appellant.}

32. (1) On the hearing and determination of an appeal or any proceedings preliminary or incidental thereto under this Part of these Regulations no costs shall be allowed on either side. ^{Costs of appeal.}

(2) The expenses of any solicitor or counsel assigned to an appellant under this Part of these Regulations, and

the expenses of any witness attending on the order of the Federal Supreme Court or examined in any proceedings incidental to the appeal, and of the appearance of an appellant on the hearing of his appeal or on any proceedings preliminary or incidental to the appeal, and all expenses of and incidental to any examination of witnesses conducted by any person appointed by the Court for the purpose, or any reference of a question to a special commissioner appointed by the Court or of any person appointed as assessor to the Court, shall be defrayed out of moneys provided by the Federal Legislature for the purpose, up to an amount allowed by the Court, but subject to any rules of court as to rates and scales of payment and in the manner expressed by such rules of court.

Right of
appellant
to be
present.

33. (1) An appellant, notwithstanding that he is in custody, shall be entitled to be present, if he desires it, on the hearing of his appeal, except where the appeal is on some ground involving a question of law alone, but in that case and on an application for leave to appeal and on any proceedings preliminary or incidental to an appeal, shall not be entitled to be present, except where rules of court provide that he shall have the right to be present, or where the Federal Supreme Court gives him leave to be present.

(2) An appellant who does not appear at the hearing of his appeal by counsel, may present his case and argument in writing, and any case or argument so presented shall be considered by the Court.

(3) The power of the Federal Supreme Court to pass any sentence under these Regulations may be exercised notwithstanding that the appellant is for any reason not present.

Duty of
Attorney
General.

34. (1) It shall be the duty of the Attorney General of the Territory from the superior court of which an appeal is brought to appear or to instruct counsel to appear for the Crown on every appeal brought under this Part of these Regulations.

(2) Provisions shall be made by rules of court for the transmission to such Attorney General of all such documents, exhibits, and other things connected with the proceedings as he may require for the purpose of his duties under this regulation.

35. (1) The Registrar shall take all necessary steps for obtaining a hearing under this Part of these Regulations of any appeal or application, notice of which is given to him under this Part, and shall obtain and lay before the Federal Supreme Court in proper form all documents, exhibits, and other things relating to the proceedings in the court before which the appellant or applicant was tried which appear necessary for the proper determination of the appeal or application.

Duties of Registrar with respect to notices of appeal, etc.

(2) If it appears to the Registrar that any notice of an appeal against a conviction, purporting to be on a ground of appeal which involves a question of law alone, does not show any substantial ground of appeal, the Registrar may refer the appeal to the Court for summary determination, and, where the case is so referred, the Court may, if they consider that the appeal is frivolous and vexatious, and can be determined without adjourning the same for a full hearing, dismiss the appeal summarily, without calling on any persons to attend the hearing or to appear for the Crown thereon.

(3) Any documents, exhibits, or other things connected with the proceedings on the trial of any person on indictment, who, if convicted, is entitled or may be authorised to appeal under this Part of these Regulations, shall be kept in the custody of the court of trial in accordance with rules of court made for the purpose for such time as may be provided by the rules, and subject to such power as may be given by the rules for the conditional release of any such documents, exhibits, or things from that custody.

(4) The Registrar shall furnish the necessary forms and instructions in relation to notices of appeal or notices of application under this Part of these Regulations to any person who demands the same, and to officers of courts, the Superintendents of Prisons or other officers in charge of prisons in each Territory and such other officers or persons as he thinks fit, and the Superintendent or other officer in charge of prisons in each Territory shall cause those forms and instructions to be placed at the disposal of prisoners desiring to appeal or to make any application under this Part and shall cause any such notice given by a prisoner in his custody to be forwarded on behalf of the prisoner to the Registrar.

(5) The Registrar shall report to the Federal Supreme Court or some judge thereof any case in which it appears

to him that, although no application has been made for the purpose, a solicitor and counsel, or counsel only, ought to be assigned to an appellant under the powers given to the Court by this Part of these Regulations.

Powers
which may
be exercised
by a judge
of the
Court.

36. The powers of the Federal Supreme Court under this Part of these Regulations—

- (a) to give leave to appeal,
- (b) to extend the time within which notice of appeal, or of an application for leave to appeal may be given,
- (c) to assign legal aid to an appellant,
- (d) to allow the appellant to be present at any proceedings in cases where he is not entitled to be present without leave, or
- (e) to admit an appellant to bail,

may be exercised by any judge of the Court in the same manner and subject to the same provisions as they may be exercised by the Court; but if the judge refuse an application on the part of the appellant to exercise any such power in his favour, the appellant shall be entitled to have the application determined by the Court as duly constituted for the hearing and determination of appeals under this Part of these Regulations.

Case stated
or question
of law
reserved.

37. (1) Where any person is convicted in a superior court of a Territory on indictment, the judge may state a case or reserve a question of law for the consideration of the Federal Supreme Court and the Federal Supreme Court shall consider and determine such case stated or question of law reserved and may either—

- (a) confirm the judgment given upon the indictment; or
- (b) order that such judgment be set aside and quash the conviction and direct a judgment and verdict of acquittal to be entered; or
- (c) order that such judgment be set aside, and give instead thereof the judgment which ought to have been given at the trial; or
- (d) require the judge by whom such case has been stated or question has been reserved to amend such statement or question when specially entered on the record; or

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(e) make such other order as justice requires.

(2) The Federal Supreme Court, when a case is stated or a question of law reserved for their opinion, shall have power, if they think fit, to cause the case or certificate to be sent back for amendment and thereupon the same shall be amended accordingly.

38. Where a case is stated or a question of law reserved for the consideration of the Federal Supreme Court, the provisions of regulations 26, 27, 29, 31, 32, 33, 34, paragraphs (1), (3) and (5) of regulation 35 and regulation 36 of this Part of these Regulations shall apply to such proceedings in like manner as to an appeal. Provisions of these Regulations applicable to proceedings under regulation 37.

39. In the case of an appeal which involves a question of law alone, the Federal Supreme Court may, if it thinks fit, request the superior court from which the appeal is brought to state the question together with all the circumstances under which the said question has arisen in such manner as may be prescribed by rules of court. Case stated by superior court at request of Federal Supreme Court.

40. (1) Where a superior court makes an order on appeal from an inferior court in a criminal cause or matter, any party to such appeal may appeal to the Federal Supreme Court from the order of the superior court— Appeals from inferior courts.

(a) upon any ground which involves a question of law alone; or

(b) where the appeal to the superior court is against an order which disqualifies the appellant from the exercise of his profession or calling, from the holding of public office, from membership of a public body, or from voting at an election of representatives to any such body, upon any ground of appeal which involves a question of fact alone or a question of mixed law and fact, or any other ground which appears to the Federal Supreme Court to be a sufficient ground of appeal.

(2) No appeal shall lie under sub-paragraph (b) of paragraph (1) of this regulation except with the leave of the Federal Supreme Court or of the superior court from which the appeal was brought.

(3) Upon the determination of an appeal under this regulation, the Federal Supreme Court may affirm or set

aside the order of the superior court and where any such order is set aside, the Federal Supreme Court may make any order which ought to have been made at the trial or make such other order as justice requires.

Provisions
of these
Regulations
applicable
to proceed-
ings under
regulation
40.

41. The provisions of regulations 24, 26, 27, 28, 29 and 31 to 36 inclusive shall apply to the proceedings in any appeal brought under regulation 40 subject to the following modifications—

- (a) as if the word “appeal” in relation to appeals under regulation 40 referred to an appeal from the order of a superior court upon appeal from an inferior court in any criminal cause or matter;
- (b) as if for the words “the date of conviction” in paragraph (1) of regulation 24 and in regulation 28, there were substituted the words “the order of the superior court”;
- (c) in regulation 35—
 - (i) as if all words after the words “and to officers of courts” in paragraph (4) were omitted;
 - (ii) as if after the words “the court before which the appellant or applicant was tried” in paragraph (1) there were added the words “and upon appeal to a superior court”;
 - (iii) as if for paragraph (3), there were substituted the following:—

“(3) The provisions of any law in operation in a Territory relating to the custody of any documents, exhibits or other things connected with proceedings at the trial of any person before an inferior court pending the determination of an appeal in such proceedings to a superior court shall continue to apply until the expiration of fourteen days from the determination by the superior court and in cases where notice of appeal or leave to appeal to the Federal Supreme Court is given within fourteen days after

such determination, then until the determination of the appeal by the Federal Supreme Court”.

42. The jurisdiction conferred on the Federal Supreme Court under this Part of these Regulations to hear and determine appeals, cases stated and questions of law reserved shall be to the exclusion of the jurisdiction of any other court in the Federation.

Jurisdiction of the Federal Supreme Court under Part III exclusive.

43. Nothing in these Regulations shall affect the prerogative of mercy.

Prerogative of mercy.

PART IV

APPEALS TO PRIVY COUNCIL

44. In this Part, unless the context otherwise requires—
“appeal” means an appeal to Her Majesty in Council from a judgment of the Federal Supreme Court;

Interpretation.

“judgment” includes decree, ruling, sentence or decision.

45. Subject to the provisions of this Part of these Regulations and rules of court, an appeal shall lie—

Right of appeal from Federal Supreme Court to Privy Council.

(a) as of right, from any final judgment of the Federal Supreme Court, where the amount in dispute on the appeal amounts to or is of the value of \$1,440 (£300) or upwards, or where the appeal involves, directly or indirectly, some claim or question to or respecting property or some civil right amounting to or of the value of \$1,440 (£300) or upwards; or

(b) at the discretion of the Federal Supreme Court, from any other judgment of the Federal Supreme Court, whether final or interlocutory, if, in the opinion of the Federal Supreme Court, the question involved in the appeal is one which by reason of its great general or public importance, or otherwise, ought to be submitted to Her Majesty in Council for decision.

Applications
for leave
to appeal.

46. Applications to the Federal Supreme Court for leave to appeal shall be made by motion or petition within twenty-one days from the date of the judgment to be appealed from, and the applicant shall give the opposite party notice of his intended application.

Conditional
leave to
appeal.

47. Leave to appeal under regulation 45 of these Regulations shall only be granted by the Federal Supreme Court in the first instance—

- (a) upon condition of the appellant, within a period to be fixed by the Federal Supreme Court, but not exceeding three months from the date of the hearing of the application for leave to appeal, entering into good and sufficient security, to the satisfaction of the Federal Supreme Court, in a sum not exceeding \$2,400 (£500), for the due prosecution of the appeal, and the payment of all such costs as may become payable to the respondent in the event of the appellant not obtaining an order granting him final leave to appeal, or of the appeal being dismissed for non-prosecution, or of the Judicial Committee ordering the appellant to pay the respondent's costs of the appeal (as the case may be); and
- (b) upon such other conditions (if any) as to the time or times within which the appellant shall take the necessary steps for the purpose of procuring the preparation of the record and the despatch thereof to England as the Federal Supreme Court, having regard to all the circumstances of the case, may think it reasonable to impose.

Stay of
Execution.

48. Where the judgment appealed from requires the appellant to pay money or perform a duty, the Federal Supreme Court shall have power, when granting leave to appeal, either to direct that the said judgment shall be carried into execution or that the execution thereof shall be suspended pending the appeal, as to the Federal Supreme Court shall seem just, and in case the Court shall direct the said judgment to be carried into execution, the person in

whose favour it was given shall, before the execution thereof, enter into good and sufficient security, to the satisfaction of the Court for the due performance of such order as Her Majesty in Council shall think fit to make thereon.

49. The preparation of the Record shall be in accordance with rules of court and shall be subject to the supervision of the Federal Supreme Court, and the parties may submit any disputed question arising in connection therewith to the decision of the Court, and the Court shall give such directions thereon as the justice of the case may require.

50. The reasons given by the judge, or any of the judges, for or against any judgment pronounced in the course of the proceedings out of which the appeal arises shall by such judge or judges be communicated in writing to the Registrar, and shall by him be transmitted to the Registrar of the Privy Council at the same time when the Record is transmitted.

51. Upon application by an appellant who has complied with the conditions upon which leave to appeal has been given under regulation 47, the Federal Supreme Court may grant final leave to appeal and the appellant shall thereupon prosecute his appeal in accordance with the rules for the time being regulating the general practice and procedure in appeals to Her Majesty in Council.

52. Where the Judicial Committee directs a party to bear the costs of an appeal incurred in the Federation such costs shall be taxed by the proper officer of the Federal Supreme Court in accordance with the rules for the time being regulating taxation in that Court.

53. Any order which Her Majesty in Council may think fit to make on an appeal from a judgment of the Federal Supreme Court shall be executed by all courts in like manner as any original judgment of the Federal Supreme Court should or might have been executed.

54. All or any of the powers and functions of the Federal Supreme Court under this Part of these Regulations except the exercise of discretion under paragraph (b) of regulation 45 may be exercised by any judge of that Court:

Provided that any judgment of a judge under this regulation may be varied, discharged or reversed by that Court consisting of three judges which may include the judge who gave a judgment under this regulation.

Practice
and pro-
cedure on
appeals to
Privy
Council.

55. (1) (a) The Chief Justice of the Federation and any two other judges of the Federal Supreme Court selected by him may make rules of court regulating the practice and procedure of the Federal Supreme Court in relation to appeals to Her Majesty in Council.

(b) Without prejudice to the generality of subparagraph (a) of this paragraph, rules of court may be made for any of the following purposes—

- (i) the preparation and transmission of the Record and the case;
- (ii) the consolidation of appeals;
- (iii) withdrawal of appeals before despatch of the Record to England;
- (iv) failure to prosecute appeal prior to despatch of the Record to England;
- (v) change of parties;
- (vi) the contents and form of the case of a party to an appeal.

(2) The rules set out in the Schedule to these Regulations shall be deemed to be rules of court made under this regulation and may be amended or revoked in like manner as rules of court.

PART V

TRANSITIONAL PROVISIONS

Provision
regarding
pending
civil
cases.

56. (1) Where in any civil cause or matter notice of appeal from the order of a Full Court or a judge of a superior court to any other court in the Federation has been given before the date on which these Regulations came into force, but proceedings in respect of that appeal are subsequent to that date still pending before such last mentioned court, all such proceedings shall be subject to the provisions of this regulation be heard and determined by the Federal Supreme Court. [Amd. Act 2/1958]

(2) Any appeal or any proceedings in respect of any appeal heard and determined by the Federal Supreme Court under this regulation shall be governed—

(a) as respect the following matters, that is to say—

- (i) the grounds upon which the appeal lies or upon which any proceedings in respect of the appeal might be instituted, or
- (ii) any limitation, restriction or prohibition placed upon the right of appeal or the right to institute proceedings in respect of the appeal (including the necessity for obtaining leave), or
- (iii) in respect of any application pending before the West Indian Court of Appeal on the date when these Regulations came into operation, the power to restore an appeal that stands dismissed under rule 10 of the West Indian Court of Appeal Rules, 1945, and the power to extend the time within which anything may be done under those Rules,

by the law which would have governed the appeal on the proceedings in relation to such matters if these Regulations had not been enacted;

(b) as respect any matters of practice and procedure, other than matters referred to in sub-paragraph (a) of this paragraph and as respect the powers which may be exercised by the Federal Supreme Court upon the hearing and determination of such appeal, by the provisions of these Regulations.

(3) The records, documents and exhibits in any appeal to which the provisions of paragraph (1) of this regulation apply, shall be transmitted by the officer having custody thereof to the Registrar or to a deputy registrar of the Federal Supreme Court in accordance with instructions to be given by the Registrar.

SCHEDULE

FIRST PART

Exclusion
from Record
of irrelevant
matter.

1. (a) The Registrar, as well as the parties, their counsel and solicitors, shall endeavour to exclude from the Record all documents (more particularly such as are merely formal) that are not relevant to the subject-matter of the appeal, and generally to reduce the bulk of the Record as far as practicable, taking special care to avoid duplication of documents and the unnecessary repetition of headings and other merely formal parts of documents; but the documents omitted to be copied or printed shall be enumerated in a list to be placed after the index or at the end of the Record.

(b) Where in the course of the preparation of the Record one party objects to the inclusion of a document on the ground that it is unnecessary or irrelevant, and the other party nevertheless insists upon its being included, the Record, as finally printed (whether in any Territory or Colony or in England), shall, with a view to the subsequent adjustment of the costs of and incidental to such document, indicate in the index of papers, or otherwise, the fact that, and the party by whom, the inclusion of the document was objected to.

Transmis-
sion of
Record.

2. (1) Where the Record is printed in a Territory or Colony, the Registrar shall, at the expense of the appellant, transmit to the Registrar of the Privy Council forty copies of such Record, one of which copies he shall certify to be correct by signing his name on, or initialling, every eighth page thereof and by affixing thereto the seal of the Court.

(2) Where the Record is to be printed in England, the Registrar shall, at the expense of the appellant, transmit to the Registrar of the Privy Council one certified copy of such Record, together with an index of all the papers and exhibits in the case. No other certified copies of the Record shall be transmitted to the agents in England by or on behalf of the parties to the appeal.

(3) Where part of the Record is printed in a Territory or Colony and part is to be printed in England, subsections (1) and (2) of this rule, shall, as far as practicable, apply to such parts as are printed in a Territory or Colony and such as are to be printed in England respectively.

(4) The Registrar shall, with all convenient speed, transmit to the Registrar of the Privy Council a certificate to the effect that the respondent has received due notice of the admission of the appeal and of the transmission of the Record to England.

Consolida-
tion of
appeals.
Failure to
prosecute
appeal.

3. Where there are two or more applications for leave to appeal arising out of the same matter, and the Court is of opinion that it would be for the convenience of the Lords of the Judicial Committee and all parties concerned that the appeals shall be consolidated, the Court may direct the appeals to be consolidated and grant leave to appeal by a single order.

4. (1) Where an appellant, having obtained an order granting him conditional leave to appeal, and having complied with the condi-

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tions imposed on him by such order, fails thereafter to apply with due diligence to the Federal Supreme Court for an order granting him final leave to appeal, the Court may, on an application in that behalf made by the respondent rescind the order granting conditional leave to appeal notwithstanding the appellant's compliance with the conditions imposed by such order, and may give such directions as to the costs of the appeal and the security entered into by the appellant as the Court shall think fit, or make such further or other order in the premises as, in the opinion of the Court, the justice of the case requires.

(2) Where an appellant, having obtained final leave to appeal, fails to show due diligence in taking all necessary steps for the purpose of procuring the despatch of the Record to England, the respondent may, after giving the appellant due notice of his intended application, apply to the Federal Supreme Court for a certificate that the appeal has not been effectually prosecuted by the appellant, and if the Court sees fit to grant such certificate, the appeal shall be deemed, as from the date of such certificate, to stand dismissed for non-prosecution without express order from Her Majesty in Council, and the costs of the appeal and the security entered into by the appellant shall be dealt with in such manner as the Court may think fit to direct.

(3) On an application for final leave to appeal the Federal Supreme Court may inquire whether notice, or sufficient notice, of the application has been given by the appellant to all parties concerned, and, if not satisfied as to the notices given, may defer the granting of the final leave to appeal, or may give such other directions in the matter as in the opinion of the Court the justice of the case requires.

5. (1) An appellant who has obtained an order granting him conditional leave to appeal may at any time prior to the making of an order granting him final leave to appeal withdraw his appeal on such terms as to costs and otherwise as the Federal Supreme Court may direct.

(2) Where an appellant, having obtained final leave to appeal, desires, prior to the despatch of the Record to England, to withdraw his appeal, the Federal Supreme Court may, upon application in that behalf made by the appellant, grant him a certificate to the effect that the appeal has been withdrawn, and the appeal shall thereupon be deemed, as from the date of such certificate, to stand dismissed without express Order of Her Majesty in Council, and the costs of the appeal and the security entered into by the appellant shall be dealt with in such manner as the Federal Supreme Court may think fit to direct.

6. (1) Where at any time between the order granting final leave to appeal and the despatch of the Record to England the Record becomes defective by reason of the death, or change of status, of a party to the appeal, the Federal Supreme Court may, notwithstanding the order granting final leave to appeal, on an application in that behalf made by any person interested, grant a certificate showing who, in the opinion of the Court, is the proper person to be substituted or entered on the Record in place of, or in addition to, the party who has died or under-

gone a change of status, and the name of such person shall thereupon be deemed to be so substituted or entered on the Record as aforesaid without express Order of Her Majesty in Council.

(2) Where the Record subsequently to its despatch to England becomes defective by reason of the death, or change of status, of a party to the appeal, the Federal Supreme Court shall, upon an application in that behalf made by any person interested, cause a certificate to be transmitted to the Registrar of the Privy Council showing who, in the opinion of the Court, is the proper person to be substituted, or entered, on the Record, in place of, or in addition to, the party who has died or undergone a change of status.

The contents of the Case. 7. The Case of each party to an appeal shall be lodged with the Registrar of the Privy Council and shall state as concisely as possible the circumstances out of which the appeal arises, the contention to be argued by the party lodging the same, and the reasons of appeal.

The form of the Case. 8. (1) The Case of each party to the appeal may be printed either in a Territory or a Colony or in England, and shall, in either event, be printed in accordance with the rules set forth in rules 9, 10 and 11 of the Second Part of this Schedule, every tenth line thereof being numbered in the margin, and shall be signed by at least one of the Counsel who attends at the hearing of the appeal, or by the party himself if he conducts his appeal in person.

(2) References in the Case by page and line to relevant portions of the Record as printed, shall, as far as practicable, be printed in the margin, and care shall be taken to avoid, as far as possible, the reprinting in the Case of long extracts from the Record. The Taxing Officer, in taxing costs of the appeal, shall, either of his own motion or at the instance of the opposite party, inquire into any unnecessary prolixity in the Case, and shall disallow the costs occasioned thereby.

SECOND PART

9. The Record may be printed either in England or in any Territory or Colony from a superior court of which an appeal lies to the Federal Supreme Court and shall be printed in accordance with the rules contained in this part of this Schedule.

10. All Records and other proceedings in appeals or other matters pending before Her Majesty in Council or the Judicial Committee which are required by these Rules to be printed shall be printed in the form known as Demy Quarto.

11. The size of the paper used shall be such that the sheet, when folded and trimmed, will be 11 inches in height and 8½ inches in width.

12. The type to be used in the text shall be Pica type, but Long Primer shall be used in printing accounts, tabular matter and notes. The number of lines in each page of Pica type shall be 47 or thereabouts, and every tenth line shall be numbered in the margin.

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13. Records shall be arranged in two groups in the same volume, where practicable, viz:—

Group I. The pleadings and proceedings, the transcript of the evidence of the witnesses, the judgments, decrees, etc., of the courts below, down to the order admitting the appeal.

Group II The exhibits and documents.

14. The Index to Group I shall be in chronological order, and shall be placed at the beginning of the volume.

The Index to Group II shall follow the order of the exhibit mark, and shall be placed immediately after the Index to Group I.

15. Group I shall be arranged strictly in chronological order, i.e., in the same order as the Index.

Group II shall be arranged in the most convenient way for the use of the Judicial Committee, as the circumstances of the case require. The documents shall be printed as far as suitable in chronological order, mixing plaintiff's and defendant's documents together when necessary. Each document shall show its exhibit mark, and whether it is a plaintiff's or defendant's document (unless this is clear from the exhibit mark) and in all cases documents relating to the same matter, such as:—

(a) a series of correspondence, or

(b) proceedings in a suit other than the one under appeal shall be kept together.

The order in the Record of the documents in Group II will probably be different from the order of the Index, and the proper page number of each document shall be inserted in the printed Index.

The parties will be responsible for arranging the Record in proper order for the Judicial Committee, and in difficult cases Counsel may be asked to settle it.

16. The documents in Group I shall be numbered consecutively.

The documents in Group II shall not be numbered apart from the exhibit mark.

17. Each document shall have a heading which shall consist of the number of the exhibit mark and the description of the document in the Index, without the date.

18. Each document shall have a marginal note which shall be repeated on each page over which the document extends, viz:—

Group I

(a) Where the case has been before more than one court, the short name of the court shall first appear. Where the case has been before only one court, the name of the court need not appear.

(b) The marginal note of the document shall then appear consisting of the number and the description of the document in the Index, with the date, except in the case of oral evidence.

- (c) In the case of oral evidence, "Plaintiff's evidence" or "Defendant's evidence" shall appear beneath the name of the court, and then the marginal note consisting of the number in the Index and the witness's name with "examination", "cross-examination", or "re-examination", as the case may be.

Group II

The word "Exhibits" shall first appear.

The marginal note of the exhibit shall then appear consisting of the exhibit mark and the description of the document in the Index, with the date.

19. The parties shall agree to the omission of formal and irrelevant documents, but the description of the document may appear (both in the Index and in the Record), if desired, with the words "not printed" against it.

A long series of documents, such as accounts, rent rolls, inventories, etc., shall not be printed in full, unless Counsel so advise, but the parties shall agree to short extracts being printed as specimens.

20. In cases where maps sent from abroad are of an inconvenient size or unsuitable in character, the appellant shall, in agreement with the respondent, prepare in England, from the materials sent from abroad, maps drawn properly to scale and of reasonable size showing, as far as possible, the claims of the respective parties, in different colours.