

UNOFFICIAL

SUPREME COURT OF JUDICATURE ACT

CHAPTER 4:01

Act		
12 of 1962		
Amended by		
14 of 1964	45 of 1979	5 of 1996
29 of 1968	2 of 1980	28 of 1996
2 of 1972	5 of 1980	46 of 2000
19 of 1973	49 of 1980	55 of 2000
2 of 1974	*19 of 1981	23 of 2003
39 of 1975	*20 of 1981	30 of 2005
6 of 1976	*21 of 1981	4 of 2010
29 of 1976	*24 of 1981	*20 of 2011
50 of 1976	*27 of 1981	*6 of 2016
136/1976	21 of 1986	168/2016
22 of 1977	4 of 1991	*10 of 2017
6 of 1978	23 of 1992	*15 of 2018
3 of 1979	18 of 1994	*29 of 2020
	21 of 1994	
	3 of 1996	

(*See Notes on pages 2 and 3)

Current Authorised Pages

Pages (inclusive)	Authorised by L.R.O.
1-73	..

CONSOLIDATION

Index of Subsidiary Legislation

	<i>Page</i>
Criminal Appeal (Reference of Points of Law) Rules (LN 87/1981) ...	67

Note on Omissions

The following Rules have been omitted:

1. The Rules of the Supreme Court 1975 (*See* Act No. 6 of 1976 validating these Rules).
2. The Legitimacy Rules, 1937 continued in force by section 81 of this Act.
3. The Matrimonial Causes Rules (GN 190/1973) [These Rules have been published in Chapter 45:51 (Matrimonial Proceedings and Property Act), since they relate directly to the subject matter of that Chapter].
4. Legitimation Rules, 1927 [*See* under Status of Children Act, 1981 (Chap. 46:07)].
5. Land Tenants (Security of Tenure) Rules, 1982 (LN 54/1982) (*See* Order 94A of Supreme Court Rules).
- *6. Family Proceedings Rules, 1998.
- *7. Civil Proceedings Rules, 1998.

*N.B. *See* the Current Edition of the *Consolidated Index of Acts and Subsidiary Legislation* for amendments to these Rules.

Note on Court of Appeal Rules

Order II (dealing with civil appeals from the High Court) has been revoked by LN 121/1980. The Court of Appeal Rules have been revoked by LN 377/2023.

Note on Amendments

The Act has been amended by the following Acts:

- A. Landlord and Tenant Act, 1981 (Act No. 19 of 1981). **(N.B. This Act had not been brought into operation at the date of revision of the Supreme Court of Judicature Act).**
- B. Land Law and Conveyancing Act (Act No. 20 of 1981). **(N.B. This Act had not been brought into operation at the date of the revision of the Supreme Court of Judicature Act).**

C. Trustee Act, 1981 (Act No. 21 of 1981). **(N.B. This Act had not been brought into operation at the date of the revision of the Supreme Court of Judicature Act).**

D. Land Registration Act, 1981 (Act No. 24 of 1981). **[N.B. This Act was repealed by the Registration of Titles to Land Act, 2000 (Act No. 16 of 2000) and had not been brought into operation on the date of the revision of the Supreme Court of Judicature Act].**

E. Succession Act (Ch. 9:02) **[See the Current Edition of the *Consolidated Index of Acts and Subsidiary Legislation* for the commencement dates of the various sections and Parts of this Act (i.e., Chap. 9:02)].**

F. Family and Children Division Act, 2016 (Act No. 6 of 2016). **(N.B. The amendments made to this Act by Act No. 6 of 2016 took effect on 15th May 2017 by LN 38/2017).**

G. Miscellaneous Provisions (Trial By Judge Alone) Act, 2017 (Act No. 10 of 2017). **(N.B. The amendments made to this Act by Act No. 10 of 2017 took effect on 1st February 2019 by LN 25/2019).**

H. Miscellaneous Provisions (Supreme Court of Judicature and Children) Act, 2018 (Act No. 15 of 2018). **(N.B. The amendments made to this Act by Act No. 15 of 2018 took effect on 31st December 2018 by LN 191/2018).**

I. Miscellaneous Provisions (Administration of Justice) Act (Act No. 29 of 2020). **(N.B. The amendments made to this Act by Act No. 29 of 2020 took effect on 24th December 2020 by LN 411/2020).**

J. Administration of Justice (Indictable Proceedings) Act, 2011 (Act No. 20 of 2011). **(N.B. The amendments made to this Act by Act No. 20 of 2011 took effect on 12th December 2023 by LN 374/2023).**

Note on Increase of Fines

Section 8 of the Law Revision (Miscellaneous Provisions) Act, 1980 (Act No. 47 of 1980) provides that as from 31st July 1981 (date of publication of the *Revised Edition of the Laws of Trinidad and Tobago*) a fine prescribed by any written law not published in the Revised Edition shall be increased in accordance with the provisions of paragraph 1(b), (c) and (d) of the Second Schedule to the Law Revision Act, Chap. 3:03.

CHAPTER 4:01

SUPREME COURT OF JUDICATURE ACT

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.

PRELIMINARY

2. Interpretation.
3. Reference to former Supreme Court deemed reference to High Court.
Reference to former Supreme Court or Full Court deemed reference to Court of Appeal.
Acts, proceedings in former Supreme Court deemed Acts, proceedings of the High Court.

PART I

CONSTITUTION OF THE SUPREME COURT

THE SUPREME COURT

4. Supreme Court of Judicature and seal.
5. Number of Puisne Judges.
6. Number of Justices of Appeal.

QUALIFICATION OF JUDGES, VACANCIES, PRECEDENCE

7. Qualification of Judges of Supreme Court.
8. Precedence of Judges.

PART II

JURISDICTION AND LAW

JURISDICTION OF THE HIGH COURT

9. General jurisdiction of the Court.
10. Jurisdiction in Muslim marriages.
11. Jurisdiction in lunacy.
12. Common Law, Doctrines of Equity, Statute Law deemed laws of Trinidad since 1848.
13. Right of audience of Attorney General in Proceedings for enforcement of protective rights of Constitution.

SECTION

14. Practice and procedure in High Court.
- 14A. Chief Justice may issue directions.
15. Powers of single Judge.
16. Hearing of an action and subsequent proceedings.
17. Law and equity to be administered.
 - Equities of plaintiff.
 - Equitable defences.
 - Counterclaims and third parties.
 - Equities appearing incidentally.
18. Defence or stay instead of injunction or prohibition.
19. Common law and statutory rights and duties.
20. Determination of matter completely and finally.
21. Rules of equity to prevail.
22. Declaratory order.
23. Equitable waste.
 - Merger by operation of law.
 - Suit by mortgagor for rents and profits.
 - Stipulations not the essence of contracts.
 - Granting of mandamus, etc.
 - Granting of injunction in certain cases.
 - Effect of absolute assignment of debt.
24. Execution of instrument by order of Court.
- 24A. Investment of moneys paid into Court.
- 24B. Interest on moneys in financial institutions.
25. Power of Courts to award interest on debts and damages.
- 25A. Interest on judgment debt.
26. Proceedings against, and contribution between, joint and several tortfeasors.
27. Effect of death on certain causes of action.
28. Apportionment of liability in cases of contributory negligence.
29. Provisions as to workmen and employers.
30. Common employment.
31. Saving for Maritime Conventions Act, 1911 and past cases.
32. Interpretation.
33. Power to issue writ *ad melius inquirendum*.

ARRANGEMENT OF SECTIONS—*Continued*

SECTION

VEXATIOUS ACTIONS

34. Restrictions on institution of vexatious actions.

PART III

JURISDICTION OF THE COURT OF APPEAL

35. Jurisdiction of Court of Appeal.
36. Power to revise proceedings of inferior Courts.
37. Practice and procedure in Court of Appeal.

CIVIL APPEALS FROM HIGH COURT

38. Appeals in civil matters.
39. Power of Court of Appeal on hearing an appeal.
40. Power of Court of Appeal as to new trials.
41. Wrong rulings as to sufficiency of stamps.

CRIMINAL APPEALS FROM HIGH COURT

42. Definitions.
43. Right of appeal in criminal cases.
44. Determination of appeals in ordinary cases.
45. Power of Court in special cases.
46. Re-vesting and restitution of property on conviction.
47. Supplementary powers of Court of Appeal.
48. Admission of appellant to bail, and custody when attending Court.
49. Computation and commencement of sentence.
50. Time for appealing.
51. Stay of execution.
52. Judge's notes and report to be furnished on appeal.
53. Legal assistance to appellant.
54. Right of appellant to be present.
55. Duty of Director of Public Prosecutions.
56. Costs of appeal.
57. Duties of Registrar with respect to notices of appeal, etc.
58. Records.

SECTION

- 59. Powers which may be exercised by a Judge of the Court.
- 60. Case stated or question of law reserved.
- 61. Provisions of this Act applicable to proceedings under section 60.
- 62. Case stated by Judge of High Court at request of Court of Appeal.
- 63. Reference to Court of Appeal of point of law following acquittal on indictment.
- 64. Prerogative of mercy.
- 65. Criminal information.

PART IIIA

MASTERS OF THE HIGH COURT

- 65A. Masters of the High Court.
- 65B. Powers of Master.
- 65C. Appeals.
- 65D. Procedure where cases are not concluded by Master.

PART IIIB

APPEALS BY THE DIRECTOR OF PUBLIC PROSECUTIONS

- 65E. Right of Director of Public Prosecutions to appeal.
- 65F. Time for appealing.
- 65G. Power of Court on appeal from acquittal.
- 65H. Power of Court on appeal against sentence by the Director of Public Prosecutions.
- 65I. Judge's notes and report.
- 65J. Right of respondent to be present.
- 65K. Legal assistance to respondent.
- 65L. Costs of appeal.
- 65M. Duties of Registrar.
- 65N. Powers which may be exercised by a Judge of the Court.
- 65O. Appeals to the Judicial Committee.
- 65P. Sections 42 to 65 to apply.
- 65Q. Interpretation.
- 65R. Referral of a person to the Drug Treatment Process.

ARRANGEMENT OF SECTIONS—*Continued*

SECTION

PART IV

GENERAL PROVISIONS

REGISTRAR AND OTHER OFFICERS

- 66. Registrar.
- 67. Registrar to have powers of Judge.
- 68. Deputy Registrar and Assistant Registrars.
- 69. Custody of duplicate seal.
- 70. Common powers of Registrars.
- 71. Registrar to be Marshal.
- 72. Deputy Marshal.

SITTINGS OF THE SUPREME COURT

- 73. Power to sit at any time.
- 74. Sittings of High Court.
- 75. Special criminal sitting.
- 76. Sitting of Court of Appeal.

RULES OF COURT

- 77. Power to make Rules of Court.
 - 78. Rules of Court.
 - 79. Form of publication.
 - 80. Inclusion or removal of pages to be authorised by order.
 - 81. Saving.
 - 82. Reference to Chief Justice acting with others to make Rules.
 - 83. Saving of procedure.
 - 84. Trial with assessors.
 - 85.)
 - to)
 - 95.)
- (*Repealed by Act No. 21 of 1986*).

SECTION

PART V

APPEALS TO THE PRIVY COUNCIL

96. Application of provisions of Trinidad and Tobago (Procedure in Appeals to Privy Council).

PART VI

TRANSITIONAL POWERS

97. Provisions regarding pending appeals.

SCHEDULE—*(Repealed by Act No. 21 of 1986).*

CONSOLIDATION

CHAPTER 4:01

SUPREME COURT OF JUDICATURE ACT

12 of 1962. **An Act respecting the Supreme Court of Judicature established in accordance with the provisions of the Constitution.**

Commencement. [31ST AUGUST 1962]

Short title. **1.** This Act may be cited as the Supreme Court of Judicature Act.

PRELIMINARY

Interpretation.
[14 of 1964
39 of 1975
2 of 1980
21 of 1986
20 of 2011
29 of 2020].

2. In this Act—

“action” means a civil proceeding commenced by writ or in such other manner as may be prescribed by Rules of Court, and does not include a criminal proceeding by the State;

“the Agreement” means the Agreement for the establishment of the Council of Legal Education;

“cause” includes any action, suit or other original proceeding between a plaintiff and defendant and any criminal proceeding by the State;

“the Chief Justice” means the Chief Justice of Trinidad and Tobago;

“Commonwealth citizen” has the meaning assigned to it in section 15 of the Constitution;

“the Council of Legal Education” means the Council incorporated by the Council of Legal Education Act;

“the Court of Appeal” means the Court of Appeal constituted under this Act and the Constitution;

“defendant” includes every person served with any writ of summons or process, or served with notice of or entitled to attend, any proceeding;

“A Drug Treatment Court Process” means a process where a person is referred by a Judge, Master or District Court Judge in accordance with the Rules made by the Rules Committee

Ch. 39:50.

established under section 77 of the Supreme Court of Judicature Act, to an intensive treatment and counselling programme and other services that require the person to be monitored by a Judge, Master or District Court Judge and to abandon successfully the use of the drug or alcohol and to be held accountable by the Judge, Master or District Court Judge for meeting his obligations to the Court, society, himself and his family;

“former Supreme Court” means the Supreme Court of Trinidad and Tobago in existence immediately before the commencement of this Act;

“the High Court” means the High Court of Justice constituted under this Act and the Constitution;

“inferior Court” means the Court of any Master, Magistrate or Justice or Justices, any Petty Civil Court and any Tribunal that may be prescribed by Order of the President;

“judgment” includes decree;

“Justices of Appeal” means the Judges of the Court of Appeal, other than the Chief Justice;

“Legal Education Certificate” means a certificate awarded by the Council of Legal Education to any person on satisfactory completion of a course of study and professional training at one of the Law Schools established by the Council of Legal Education;

“Master” means a Master of the High Court;

“matter” includes every proceeding in Court not in a cause;

“national” means a citizen of a country that is a party to the Agreement, and includes a person regarded under any law in force in that country as belonging to that country;

“order” includes decision and rule;

“party” includes every person served with notice of or attending any proceeding, although not named on the record;

“petitioner” includes every person making any application to the Court, either by petition, motion or summons, otherwise than as against any defendant;

“plaintiff” includes every person asking any relief otherwise than by way of counterclaim as a defendant, against any other person by any form of proceeding whether it is taken by action, suit, petition, motion, summons or otherwise;

“pleading” includes any petition or summons, and also includes the statements in writing of the claim or demand of any plaintiff, and of the defence of any defendant thereto, and of the reply of the plaintiff to any counterclaim of a defendant;

“Puisne Judge” means a Judge of the High Court, other than the Chief Justice;

“record” in relation to an appeal means the aggregate of papers relating to that appeal, including pleadings, proceedings, evidence, judgments and decisions proper to be laid before the Court of Appeal or Judicial Committee, as the case may be, on the hearing of the appeal;

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

“Rules of Court” includes the Rules in force by virtue of this Act, as well as any other Rules to be made under the authority of this Act, and also includes forms;

“substance” means any dangerous drug as defined in the Dangerous Drugs Act and includes alcohol;

“the Supreme Court” means the Supreme Court of Judicature constituted under this Act and the Constitution;

“suit” includes action;

“verdict” includes the finding of a jury and the decision of a Judge.

Reference to former Supreme Court deemed reference to High Court. [14 of 1964].

3. (1) Where in any written law passed before the commencement of this Act, reference is made to the former Supreme Court in the exercise of its jurisdiction and powers, other than its appellate jurisdiction and powers, or to any of the Judges of that Court, the reference shall be deemed to be a reference to the High Court or to a Judge of the High Court, as the case may be.

Reference to former Supreme Court or Full Court deemed reference to Court of Appeal.

(2) Subject to this Act, where in any written law passed before the commencement of this Act reference is made to the former Supreme Court in the exercise of its appellate jurisdiction or

to the Full Court, the reference shall, unless the context otherwise requires, be deemed to be a reference to the Court of Appeal.

(3) Any act done or proceedings taken in respect of any cause or matter whatsoever in the former Supreme Court or before a Judge thereof prior to the commencement of this Act shall be deemed to have been done or taken in the High Court or before a Judge thereof.

Acts,
proceedings in
former Supreme
Court deemed
Acts,
proceedings of
the High Court.

(4) A reference to the Chief Justice of the former Supreme Court in any written law passed before the commencement of this Act shall be read and construed as a reference to the Chief Justice of Trinidad and Tobago.

PART I

CONSTITUTION OF THE SUPREME COURT

THE SUPREME COURT

4. (1) There shall be a Supreme Court of Judicature of Trinidad and Tobago consisting of a High Court of Justice and a Court of Appeal with such jurisdiction and powers as are conferred respectively on these Courts by this Act and the Constitution.

Supreme Court
of Judicature
and seal.
[14 of 1964].

(2) The Court of Appeal and the High Court shall each have a seal bearing a device or impression approved by the Chief Justice.

(3) The seal of the Court of Appeal shall bear the inscription "The Court of Appeal Trinidad and Tobago" and the seal of the High Court shall bear the inscription "The High Court of Justice Trinidad and Tobago".

(4) There shall be duplicate seals of the High Court for use in San Fernando and in Tobago respectively and such further duplicate seals of the Court of Appeal and of the High Court as the Chief Justice may consider necessary.

(5) All Judges of the Supreme Court of Judicature shall be addressed in the manner customary in addressing the Judges of the former Supreme Court immediately before the commencement of this Act.

Number of
Puisne Judges.
[14 of 1964
29 of 1968
3 of 1979
5 of 1980
4 of 1991
3 of 1996
23 of 2003
4 of 2010
6 of 2016
15 of 2018].

5. (1) There shall be no less than six and no more than sixty-four Puisne Judges and the Chief Justice shall be *ex officio* a Judge of the High Court.

(2) The Puisne Judges shall, save as in this Act otherwise expressly provided, have in all respects equal power, authority and jurisdiction.

Number of
Justices of
Appeal.
[14 of 1964
29 of 1968
6 of 1978
3 of 1979
3 of 1996
4 of 2010
6 of 2016
15 of 2018].

6. (1) The Judges of the Court of Appeal shall be the Chief Justice who shall be President and fifteen other Justices of Appeal; the Court, however, shall be deemed to be duly constituted during and notwithstanding any vacancy in the office of any Judge.

(2) Subject to this section, for the purpose of exercising its jurisdiction the Court of Appeal shall be constituted in accordance with the directions of the Chief Justice and shall consist of an uneven number of Judges such number being not less than three.

(3) The Court may, if the Chief Justice so directs, sit in three divisions at the same time.

(4) An appeal to the Court of Appeal from an order of a Judge or from an order of an inferior Court shall be heard before no fewer than two Judges of the Court of Appeal.

(5) In any cause or matter pending before the Court of Appeal any direction incidental thereto not involving the decision of the appeal may be given by a single Judge of that Court and a single Judge of that Court may at any time during vacation make any interim order to prevent prejudice to the claims of any parties pending an appeal as he may think fit.

(6) Every order made by a single Judge of the Court of Appeal in pursuance of this section may be discharged or varied by any Judges of that Court having power to hear and determine the appeal.

(7) If an even number of Judges having heard an appeal under subsection (4) differ in an opinion, the case shall, on the application of any party to the appeal, be re-argued and determined by three Judges of the Court of Appeal.

QUALIFICATION OF JUDGES, VACANCIES, PRECEDENCE

7. (1) A person shall not be appointed to be a Judge of the High Court unless he is a member of the Bar of England or any Commonwealth country, or is an Attorney-at-law within the meaning of the Legal Profession Act and is of not less than ten years standing.

Qualification of Judges of Supreme Court. [14 of 1964 21 of 1986 15 of 2018]. Ch. 90:03.

(2) A person shall not be appointed to be a Judge of the Court of Appeal unless—

(a) he has been a Judge of the former Supreme Court or of the High Court for not less than three years; or

(b) he is a member of the Bar of England or any Commonwealth country, or is an Attorney-at-law within the meaning of the Legal Profession Act and is of not less than fifteen years standing.

Ch. 90:03.

(3) The High Court and the Court of Appeal shall, during and notwithstanding any vacancy of the office of a Judge thereof, be deemed respectively to be duly constituted.

8. (1) The Chief Justice shall have precedence over all other Judges of the Supreme Court of Judicature.

Precedence of Judges.

(2) The Judges of the Court of Appeal shall rank among themselves according to the priority of the dates on which they respectively became Judges of the Court of Appeal and shall have precedence over Judges of the High Court.

(3) The Judges of the High Court shall rank among themselves according to the priority of the dates on which they respectively became Judges of the High Court.

PART II

JURISDICTION AND LAW

JURISDICTION OF THE HIGH COURT

9. (1) There shall be vested in the High Court all such original jurisdiction as is vested in or exercisable by the High Court of Justice in England under the provisions of the Supreme Court of

General jurisdiction of the Court. [2 of 1972]. 15 and 16 Geo. 5 c. 49.

Judicature (Consolidation) Act, 1925 of the United Kingdom,
(*other than sections 176 to 198) including the jurisdiction—

- (a) in relation to matrimonial causes and matters; and
- (b) with respect to declarations of legitimacy and of validity of marriage.

(2) There shall also be vested in the High Court—

(a) all original jurisdiction which was vested in the former Supreme Court by the Judicature Ordinance and such jurisdiction shall include—

- (i) the jurisdiction which was vested in or capable of being exercised by all or any one or more of the Judges of any such former Court sitting in Court or Chambers or elsewhere when acting as Judges or a Judge pursuant to any instrument or written law;
- (ii) all the powers given to any such former Court or to any such Judge or Judges by any instrument or written law; and
- (iii) all ministerial powers, duties and authorities incidental to any and every part of the jurisdiction so transferred.

Ch. 3, No. 1.
(1950 Ed.).

Jurisdiction in
Muslim
marriages.
[2 of 1972
19 of 1973].
Ch. 45:02.

10. (1) Subject to subsection (2), nothing in section 9 shall prevent the institution of proceedings for dissolution or annulment of marriage under the Muslim Marriage and Divorce Act (in this section referred to as “the Act of 1961”).

(2) Where proceedings under the Act are brought subsequent to the institution of proceedings under the Matrimonial Proceedings and Property Act (in this section referred to as “the Act of 1971”) or are, on the commencement of the Act of 1971 (that is, 15th November 1973), pending—

- (a) the proceedings under the Act of 1971 in respect of such a marriage shall operate as a stay of proceedings under the Act of 1961; and

Ch. 45:51.

*By Act No. 2 of 1972, Schedule 1, sections 176 to 198 of the United Kingdom Act are repealed.

(b) upon the final determination of the proceedings under the Act of 1971, the proceedings brought under the Act of 1961 shall be deemed to have been concluded in the same manner and to the same extent as the proceedings under the Act of 1971, if those proceedings allege the same or substantially the same facts or grounds as proceedings under the Act of 1971.

(3) Without prejudice to the provisions of subsection (4), where proceedings instituted under the Act of 1961 are finally determined, no further proceedings, alleging the same or substantially the same facts or grounds may be brought under the Act of 1971.

(4) For the purposes of the exercise of the jurisdiction conferred by section 9 in accordance with Parts II and IV of the Act of 1971 in a case where a decree of divorce, having the same effect as a decree of divorce or nullity of marriage, has been made under the Act of 1961, the decree of divorce shall be deemed to be a decree of divorce or nullity of marriage made by the Court in exercise of the jurisdiction so conferred and any order made under section 17 of the Act of 1961 shall be construed accordingly.

11. All such jurisdiction in relation to the custody of the persons and estates of persons of unsound mind as is in England vested in the Lord Chancellor or other person or persons entrusted by the British Crown with the care and commitment of such persons and estates shall be vested in the High Court.

Jurisdiction in lunacy.

12. Subject to the provisions of any written law in operation on 1st March 1848, and to any written law passed after that date, the Common Law, Doctrines of Equity, and Statutes of general application of the Parliament of the United Kingdom that were in force in England on that date shall be deemed to have been enacted and to have been in force in Trinidad as from that date and in Tobago as from 1st January 1889.

Common Law, Doctrines of Equity, Statute Law deemed laws of Trinidad since 1848.

Right of audience of Attorney General in proceedings for enforcement of protective rights of Constitution.

13. In any action or proceedings brought by any person alleging that any of the provisions of sections 4, 5, 6, 7, 11 and 13 of the Constitution has been, is being or is likely to be contravened in relation to him, the High Court shall give notice of the question arising in such proceedings to the Attorney General who shall be entitled as of right to be heard either in person or by an Attorney-at-law, notwithstanding that the State is not a party to the action or proceedings.

Practice and procedure in High Court.

14. The jurisdiction vested in the High Court shall, so far as regards procedure and practice be exercised in the manner provided by this Act or by Rules of Court and where no special provision is contained in this Act or in Rules of Court with reference thereto any such jurisdiction shall be exercised as nearly as may be in the same manner as that in which it might have been exercised by the former Supreme Court under the Judicature Ordinance (repealed by this Act).

Ch. 3, No. 1. (1950 Ed.).

Chief Justice may issue directions. [29 of 2020].

14A. The Chief Justice may, when the circumstances warrant, issue directions as deemed necessary for regulating and prescribing the manner in which—

- (a) criminal and civil trials may be conducted by audio and video link; and
- (b) evidence may be given by audio and video link or other communication medium, from a remote point both in criminal and non-criminal matters.

Powers of single Judge.

15. Any single Judge sitting in the High Court may exercise all or any part of the jurisdiction by this Act vested in that Court, and when sitting for the purpose of the exercise shall be deemed to constitute a Court; and any single Judge sitting in Chambers may exercise all or any part of the jurisdiction aforesaid in all such causes and matters and in all such proceedings in any causes or matters as hitherto have been heard in Chambers by a single Judge.

Hearing of an action and subsequent proceedings.

16. Subject to any instrument or written law every action and proceeding and all business arising out of the same shall, so far as is practicable and convenient, be heard, determined and disposed of before a single Judge; and all proceedings in an action subsequent to the hearing or trial and down to and including the

final judgment or order, except any proceedings on appeal, shall, so far as is practicable and convenient, be had and taken before the Judge before whom the trial or hearing took place.

17. In every civil cause or matter commenced in the High Court, law and equity shall be administered by the High Court and the Court of Appeal, as the case may be, according to the following Rules:

Law and equity to be administered.

(1) If a plaintiff or petitioner claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against a deed, instrument or contract, or against a right, title or claim whatsoever asserted by a defendant or respondent in such cause or matter, or to any relief founded upon a legal right which before the commencement of the Judicature Ordinance (that is, 20th March 1880) could only have been given by a Court of Equity, the High Court shall give to the plaintiff or petitioner such relief as would be given by the High Court of Justice in England in a suit or proceeding for the same or a like purpose.

Equities of plaintiff.

Ch. 3. No. 1. (1950 Ed.).

(2) If a defendant claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against a deed, instrument or contract, or against a right, title or claim asserted by a plaintiff or petitioner or alleges any ground of equitable defence to any claim of the plaintiff or petitioner in such cause or matter, the Court or Judge shall give to each equitable defence so alleged such and the same effect by way of defence against the claim of the plaintiff or petitioner as the High Court of Justice in England would give if the same or like matters had been relied on by way of defence in a suit or proceeding instituted in that Court for the same or like purpose.

Equitable defences.

(3) The Court or Judge may grant to a defendant respecting an equitable estate or right or other matter of equity and also respecting a legal estate, right or title claimed or asserted by him, all such relief against a plaintiff or petitioner as the defendant has properly claimed by his pleading, and as might properly have been granted in any suit instituted for that purpose by the same defendant against the same plaintiff or petitioner, and also all such relief relating to or connected with the original subject of the cause

Counterclaims and third parties.

or matter and in like manner claimed against any other person, whether already a party to the same cause or matter or not, who has been duly served with notice in writing of the claim pursuant to this Act or any Rules of Court or an Order of the High Court, as might properly have been granted against such person if he had been a defendant to a cause duly instituted by the same defendant for the like purpose. Every person served with any such notice as aforesaid shall thenceforth be deemed a party to the cause or matter with the same rights in respect of his defence against the claim as if he had been duly sued in the ordinary way by the defendant.

Equities
appearing
incidentally.

(4) The Court or Judge shall recognise and take notice of all equitable estates, titles and rights, and of all equitable duties and liabilities appearing incidentally in the course of any cause or matter, in the same manner in which the High Court of Justice in England would recognise and take notice of the same in a suit or proceeding duly instituted therein.

Defence or stay
instead of
injunction or
prohibition.

18. (1) No cause or proceeding at any time pending in the High Court or the Court of Appeal shall be restrained by prohibition or injunction but every matter of equity on which an injunction against the prosecution of any such cause or proceeding might formerly have been obtained whether unconditionally or on any terms or conditions, may be relied on by way of defence thereto.

(2) Nothing in this section shall disable either the High Court or the Court of Appeal, if it thinks fit to do so, from directing a stay of proceedings in any cause or matter pending before it and any person, whether a party or not to any such cause or matter at any time pending in the Court—

(a) who would have been entitled formerly to apply to a Court to restrain the prosecution thereof; or

(b) who may be entitled to enforce by attachment or otherwise any judgment, decree, rule or order in contravention of which all or any part of the proceedings in the cause or matter have been taken,

may apply to the High Court or the Court of Appeal, as the case may be, by motion in a summary way, for a stay of proceedings

in the cause or matter, either generally or so far as might be necessary for the purposes of justice, and the High Court or the Court of Appeal shall thereupon make such order as shall be just.

19. Subject to the provisions of this Act for giving effect to equitable rights and other matters of equity, the High Court or the Court of Appeal and each Judge thereof shall recognise and give effect to—

Common law and statutory rights and duties.

- (a) all legal claims and demands; and
- (b) all estates, titles, rights, duties, obligations and liabilities existing by the Common Law, or by Spanish law or by any custom, or by any written law,

in the same manner as the same have hitherto been recognised and given effect to.

20. The High Court and the Court of Appeal respectively in the exercise of the jurisdiction vested in them by this Act and the Constitution shall in every cause or matter pending before the Court grant, either absolutely or on such terms and conditions as to the Court seems just, all such remedies whatsoever as any of the parties thereto may appear to be entitled to in respect of any legal or equitable claim properly brought forward by him in the cause or matter, so that, as far as possible, all matters in controversy between the parties may be completely and finally determined, and all multiplicity of legal proceedings concerning any of those matters avoided.

Determination of matter completely and finally.

21. In all matters in which there is any conflict, or variance between law and equity with reference to any matter, the rules of equity shall prevail.

Rules of equity to prevail.

22. No action shall be open to objection on the ground that a merely declaratory decree or order is sought.

Declaratory order.

23. (1) An estate for life without any impeachment of waste shall not confer or be deemed to have conferred upon the tenant for life a legal right to commit waste of the description known as

Equitable waste.

equitable waste, unless an intention to confer the right expressly appears by the instrument creating the estate.

Merger by operation of law.

(2) There shall not be a merger by operation of law only of any estate the beneficial interest in which would not be deemed to be merged or extinguished in equity.

Suit by mortgagor for rents and profits.

(3) A mortgagor entitled for the time being to the possession or receipt of the rents and profits of any land, as to which no notice of his intention to take possession or to enter into receipt of the rents and profits thereof has been given by the mortgagee, may sue for possession, or for the recovery of such rents or profits, or to prevent or recover damages in respect of any trespass or other wrong relating thereto in his own name only, unless the cause of action arises upon a lease or other contract made by him jointly with any other person and in that case he may sue or distrain jointly with the other person.

Stipulations not the essence of contracts.

(4) Stipulations in contracts, as to time or otherwise, which are not deemed to be or to have become of the essence of the contracts in a Court of Equity shall receive in all Courts the same construction and effect as they would have received in equity.

Granting of mandamus, etc.

(5) A mandamus or an injunction may be granted or a receiver appointed by an interlocutory order of the Court or Judge in all cases in which it appears to the Court or Judge to be just as convenient that the order should be made, and any such order may be made either unconditionally or upon such terms and conditions as the Court or Judge thinks just.

Granting of injunction in certain cases.

(6) If an injunction is asked, either before, or at, or after the hearing of a cause or matter, to prevent a threatened or apprehended waste or trespass, the injunction may be granted if the Court or Judge thinks fit—

(a) whether the person against whom the injunction is sought—

- (i) is or is not in possession under a claim or title or otherwise; or
- (ii) if out of possession, does or does not claim under any colour of title a right to do the act sought to be restrained; and

(b) whether the estates claimed by both or by either of the parties are legal or equitable.

(7) Any absolute assignment, by writing under the hand of the assignor (not purporting to be by way of charge only), of any debt or other legal thing in action, of which express notice in writing has been given to the debtor, trustee, or other person from whom the assignor would have been entitled to receive or claim the debt or thing in action, shall be and be deemed to have been effectual in law (subject to all equities which would have been entitled to priority over the right of the assignee if this Act had not passed) to pass and transfer the legal right to the debt or thing in action from the date of the notice, and all legal and other remedies for the same, and the power to give a good discharge for the same, without the concurrence of the assignor; but if the debtor, trustee, or other person liable in respect of the debt or thing in action has had notice that the assignment is disputed by the assignor or anyone claiming under him, or of any other opposing or conflicting claims to the debt or thing in action, he shall be entitled, if he thinks fit, to call upon the several persons making claim thereto to interplead concerning the same.

Effect of absolute assignment of debt.

24. Where any person neglects or refuses to comply with a judgment or order directing him to execute any conveyance, contract or other document, or to endorse any negotiable instrument, the High Court may on such terms and conditions, if any, as may be just, order that the conveyance, contract or other document shall be executed or that the negotiable instrument shall be endorsed by such person as the High Court may nominate for that purpose and a conveyance, contract, document or instrument so executed or endorsed shall operate and be for all purposes available as if it had been executed or endorsed by the person originally directed to execute or endorse it.

Execution of instrument by order of Court.

24A. Notwithstanding any written law to the contrary, all moneys paid into the High Court in any cause or matter, and all

Investment of moneys paid into Court. [30 of 2005].

moneys paid under the control of, or subject to the order of the Court or a Judge or Master of the Court, may be invested—

- (a) in securities that are authorised by the Rules of the Supreme Court or by any written law for the investment of moneys under the control of the Court;
- (b) by depositing such moneys in an interest bearing account in a financial institution as defined in the Financial Institutions Act, to the credit of an account in the name of the Registrar of the Supreme Court or in such name as a Judge or Master of the Court shall order, with the addition of the words “in trust” to the title of every such account.

Ch. 79:09.

Interest on moneys in financial institutions. [30 of 2005].

24B. Moneys deposited in a financial institution may be deposited to any amount in any particular case and shall bear interest, and such interest shall be paid on any such deposits, irrespective of amount, as shall from time to time be paid to depositors in such institution.

Power of Courts to award interest on debts and damages. [6 of 1976].

25. In any proceedings tried in any Court of record for recovery of any debt or damages, the Court may, if it thinks fit, order that there shall be included in the sum for which judgment is given interest at such rate as it thinks fit on the whole or any part of the debt or damages for the whole or any part of the period between the date when the cause of action arose and the date of the judgment, but nothing in this section—

- (a) shall authorise the giving of interest upon interest;
- (b) shall apply in relation to any debt upon which interest is payable as of right whether by virtue of any agreement or otherwise; or
- (c) shall affect the damages recoverable for the dishonour of a bill of exchange.

25A. (1) Every judgment debt entered up carries interest at the rate of five per cent per annum from the time of entering up the judgment, until the same shall be satisfied and such interest may be levied under a writ of execution on such judgment.

Interest on judgment debt. [46 of 2000 168/2016].

(2) The Minister of Finance may, by Order subject to negative resolution of Parliament, vary the rate of interest prescribed in subsection (1).

26. (1) Where damage is suffered by any person as a result of a tort, whether a crime or not—

Proceedings against, and contribution between, joint and several tortfeasors. [50 of 1976].

- (a) judgment recovered against any tortfeasor liable in respect of that damage shall not be a bar to any action against any other person who would, if sued, have been liable as a joint tortfeasor in respect of the same damage;
- (b) if more than one action is brought in respect of that damage by or on behalf of the person by whom it was suffered, or for the benefit of the estate, or of the dependants of that person, against tortfeasors liable in respect of the damage, whether as joint tortfeasors or otherwise, the sums recoverable under the judgments given in those actions by way of damages shall not in the aggregate exceed the amount of the damages awarded by the judgment first given; and in any of those actions, other than that in which judgment is first given, the plaintiff shall not be entitled to costs unless the Court is of opinion that there was reasonable ground for bringing the action;
- (c) any tortfeasor liable in respect of that damage may recover contribution from any other tortfeasor who is, or would if sued have been, liable in respect of the same damage, whether as a joint tortfeasor or otherwise, so however, that no person shall be entitled to recover contribution under this section from any person entitled to be

indemnified by him in respect of the liability in respect of which the contribution is sought.

(2) In any proceedings for contribution under this section the amount of the contribution recoverable from any person shall be such as may be found by the Court to be just and equitable having regard to the extent of that person's responsibility for the damage; and the Court shall have power to exempt any person from liability to make contribution, or to direct that the contribution to be recovered from any person shall amount to a complete indemnity.

(3) For the purposes of this section—

(a) the expression “dependants” has the meaning assigned to it by section 2 of the Compensation for Injuries Act;

(b) the reference in this section to “the judgment first given” shall, in a case where that judgment is reversed in appeal, be construed as a reference to the judgment first given which is not so reversed, and, in a case where a judgment is varied on appeal, be construed as a reference to that judgment as so varied.

(4) Nothing in this section shall—

(a) apply with respect to any tort committed before 24th December 1936;

(b) affect any criminal proceedings against any person in respect of any wrongful act; or

(c) render enforceable any agreement for indemnity which would not have been enforceable if this section had not been passed.

Ch. 8:05.

Effect of death
on certain
causes of
action.
[2 of 1972].

27. (1) Subject to the provisions of this section, on the death of any person after 24th December 1936, all causes of action subsisting against or vested in him shall survive against or, as the case may be, for the benefit of, his estate; but this subsection shall not apply to causes of action for defamation or seduction or for inducing one spouse to leave or remain apart from the other.

(2) Where a cause of action survives as aforesaid for the benefit of the estate of a deceased person, the damages recoverable for the benefit of the estate of that person—

- (a) shall not include any exemplary damages;
- (b) in the case of a breach of promise to marry shall be limited to such damage, if any, to the estate of that person as flows from the breach of promise to marry;
- (c) where the death of that person has been caused by the act or omission which gives rise to the cause of action, shall be calculated without reference to any loss or gain to his estate consequent on his death, except that a sum in respect of funeral expenses may be included.

(3) No proceedings shall be maintainable in respect of a cause of action in tort which by virtue of this section has survived against the estate of a deceased person, unless either—

- (a) proceedings against him in respect of that cause of action were pending at the date of his death; or
- (b) the cause of action arose not earlier than six months before his death and proceedings are taken in respect thereof not later than six months after his personal representative took out representation.

(4) Where damage has been suffered by reason of any act or omission in respect of which a cause of action would have subsisted against any person if that person had not died before or at the same time as the damage was suffered, there shall be deemed, for the purposes of this section, to have been subsisting against him before his death such cause of action in respect of that act or omission as would have subsisted if he had died after the damage was suffered.

(5) The rights conferred by this section for the benefit of the estates of deceased persons shall be in addition to and not in derogation of any rights conferred on the dependants of deceased persons by the Compensation for Injuries Act, and so much of

Ch. 8:05.

this section as relates to causes of action against the estates of deceased persons shall apply in relation to causes of action under the said Act as it applies in relation to other causes of action not expressly excepted from the operation of subsection (1).

(6) In the event of the insolvency of an estate against which proceedings are maintainable by virtue of this section, any liability in respect of the cause of action in respect of which the proceedings are maintainable shall be deemed to be a debt provable in the administration of the estate, notwithstanding that it is a demand in the nature of unliquidated damages arising otherwise than by a contract, promise or breach of trust.

Apportionment
of liability in
cases of
contributory
negligence.
[6 of 1976].

28. (1) Where any person suffers damage as the result partly of his own fault and partly of the fault of any other person or persons, a claim in respect of that damage shall not be defeated by reason of the fault of the person suffering the damage, but the damages recoverable in respect thereof shall be reduced to such extent as the Court thinks just and equitable having regard to the claimant's share in the responsibility for the damage. However, this subsection shall not operate to defeat any defence arising under a contract; and where any contract or written law providing for the limitation of liability is applicable to the claim, the amount of damages recoverable by the claimant by virtue of this subsection shall not exceed the maximum limit so applicable.

(2) Where damages are recoverable by any person by virtue of subsection (1), subject to such reduction as is therein mentioned, the Court shall find and record the total damages which would have been recoverable if the claimant had not been at fault.

(3) Section 26 shall apply in any case where two or more persons are liable or would, if they had all been sued, be liable by virtue of subsection (1) in respect of the damage suffered by any person.

(4) Where any person dies as the result partly of his own fault and partly of the fault of any other person or persons, and accordingly if an action were brought for the benefit of the estate

under section 26 the damages recoverable would be reduced under subsection (1), any damages recoverable in an action brought for the benefit of the dependants of that person under the Compensation for Injuries Act shall be reduced to a proportionate extent. Ch. 8:05.

(5) Where, in any case to which subsection (1) applies, one of the persons at fault avoids liability to any other such person or his personal representative by pleading the Limitation of Personal Actions Ordinance or any other written law limiting the time within which proceedings may be taken, he shall not be entitled to recover any damages or contributions from that other person or representative by virtue of the said subsection. Ch. 5. No. 6. (1950 Ed.).

(6) Article 21 of the Convention contained in the First Schedule to the Carriage by Air Act, 1932 of the United Kingdom as applied to Trinidad and Tobago which empowers a Court to exonerate wholly or partly a carrier who proves that the damage was caused by or contributed to by the negligence of the injured person, shall have effect subject to the provisions of this section. 22 and 23 Geo. 5 c. 36.

29. Where a workman or his personal representative or dependant has recovered compensation under the Workmen's Compensation Act in respect of an injury caused under circumstances which would give a right to recover reduced damages in respect thereof by virtue of section 28 from some person other than the employer, hereinafter referred to as "the third party", any right conferred by section 15 of the Workmen's Compensation Act on the person by whom the compensation was paid or on any person called on to pay an indemnity under section 14 of that Act to be indemnified by the third party shall be limited to a right to be indemnified in respect of such part only of the sum paid or payable by the said person as bears to the total sum so paid or payable the same proportion as the said reduced damages bear to the total damages which would have been recoverable if the workman had not been at fault. Provisions as to workmen and employers. Ch. 88:05. [14 of 1964].

30. (1) It is not a defence, to an employer who is sued in respect of personal injuries caused by the negligence of a person employed by him, that that person was, at the time the injuries were caused, in common employment with the person injured. Common employment. [50 of 1976].

(2) Any provision contained in a contract of service or apprenticeship or in an agreement collateral thereto [including a contract or agreement entered into before this section comes into operation (that is, 31st March 1977)] is void in so far as it would have the effect of excluding or limiting any liability of the employer in respect of personal injuries to the person employed or apprenticed by the negligence of persons in common employment with him.

(3) In this section “personal injuries” means any disease and any impairment of a person’s physical or mental condition, and the expression “injured” shall be construed accordingly.

Saving for Maritime Conventions Act, 1911 and past cases. 1 and 2 Geo. 5 c. 57.

31. Sections 28 and 29 shall not apply to any claim to which section 1 of the Maritime Conventions Act, 1911 of the United Kingdom applies and that Act shall have effect as if those sections were not in force.

Interpretation. [14 of 1964 50 of 1976].

32. In sections 28 and 29—

“Court” means, in relation to any claim, the Court or Commissioner by or before whom the claim falls to be determined;

“damage” includes loss of life and personal injury;

“dependant” has the meaning assigned to it by section 2 of the Compensation for Injuries Act;

Ch. 8:05.

“employer” and “workman” have the meanings assigned to them in the Workmen’s Compensation Act;

Ch. 88:05.

“fault” means negligence, breach of statutory duty or other act or omission which gives rise to a liability in tort or would, apart from this Act, give rise to the defence of contributory negligence.

Power to issue writ *ad melius inquirendum*. [14 of 1964 136/1976]. Ch. 6:04.

33. The High Court may, upon application by or on behalf of the Director of Public Prosecutions, if it appears to the High Court that any inquest is, either by reason of the defective report of a District Medical Officer or for any other cause, inadequate, notwithstanding anything in the Coroners Act or any other Act,

issue a writ *ad melius inquirendum*, directed either to the Coroner whose inquest is inadequate, or to such Coroner together with any other person or persons, or to any person or persons other than the Coroner, whom the High Court thinks fit.

VEXATIOUS ACTIONS

34. (1) If, on an application made by the Attorney General under this section to the High Court, the High Court is satisfied that any person has habitually and persistently and without reasonable ground instituted vexatious legal proceedings, whether in the Court of Appeal, the High Court, or in an inferior Court, and whether against the same person or against different persons, the High Court may, after hearing that person or giving him an opportunity of being heard, order that no legal proceedings shall without leave of the High Court or a Judge thereof be instituted by him in any Court and such leave shall not be given unless the High Court 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.

Restrictions on institution of vexatious actions.

(2) If the person against whom an order is sought under this section is unable on account of poverty to retain an Attorney-at-law, the High Court shall assign an Attorney-at-law to him.

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

PART III

JURISDICTION OF THE COURT OF APPEAL

35. Subject to the Constitution, to the provisions of this Act and to the Rules of Court, the Court of Appeal shall have all the jurisdiction and powers formerly vested in the former Supreme Court in the exercise of its appellate jurisdiction under the Judicature Ordinance.

Jurisdiction of Court of Appeal.

36. (1) Upon application by or on behalf of the Director of Public Prosecutions in criminal matters and by or on behalf of the Attorney General in any other matter, the Court of Appeal may,

Ch. 3, No. 1 (1950 Ed.).

Power to revise proceedings of inferior Courts. [136/1976 20 of 2011].

if it thinks fit, order any Judge, Master, Magistrate, or Justice presiding in any inferior Court, to send to the Registrar the record of proceedings in any case, and may also, if it thinks fit, require in addition to such record a statement showing in detail the proceedings taken in reference to the whole case or any particular matter, and if it appears to the Court of Appeal that there has been any material error in the proceedings of the inferior Court, the Court of Appeal may set aside or vary any judgment or order of proceedings of the inferior Court and pass such judgment and remit the case or matter to the inferior Court with such directions as justice requires.

(2) It shall be in the discretion of the Court of Appeal to exercise the powers given to it by this section either without hearing any person or after hearing such persons as it thinks fit, and the Court of Appeal may, if it thinks fit, direct that an order *nisi* be served upon such persons as the Court thinks fit, and upon making absolute any such order *nisi*, may order the cost to be paid by all or any of the parties served as the Court thinks just.

Practice and
procedure in
Court of
Appeal.

37. (1) The jurisdiction of the Court of Appeal so far as it concerns practice and procedure in relation to appeals from the High Court shall be exercised in accordance with the provisions of this Act and Rules of Court and where no special provisions are contained in this Act or Rules of Court any such jurisdiction so far as concerns practice and procedure in relation to appeals from the High Court shall be exercised as nearly as may be in conformity with the law and practice in force in England on 30th August 1962—

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

Ch. 4:20.

(2) Subject to Rules of Court the provisions of the Summary Courts Act regulating appeals shall apply in respect of appeals under that Act or under any other written law to which the procedure in respect of such appeals is applied.

CIVIL APPEALS FROM HIGH COURT

38. (1) Subject as otherwise provided in this Act or in any other written law, the Court of Appeal shall have jurisdiction to hear and determine appeals from any judgment or order of the High Court, in all civil proceedings and for the purposes of and incidental to the hearing and determination of any appeal, and the amendment, execution and enforcement of any judgment or order made thereon, the Court of Appeal shall have all the power, authority and jurisdiction of the High Court.

Appeals in civil matters. [136/1976].

(2) No appeal shall lie, except by leave of the Judge making the order or of the Court of Appeal from—

- (a) an order made with the consent of the parties;
- (b) an order as to costs;
- (c) a final order of a Judge of the High Court made in a summary proceeding.

(3) No appeal shall lie—

- (a) except as provided by this Act, from any order made by a Judge of the High Court 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 of the High Court giving unconditional leave to defend an action;
- (d) 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.

39. (1) On the hearing of an appeal from any order of the High Court in any civil cause or matter, the Court of Appeal shall have the power to—

Power of Court of Appeal on hearing an appeal.

- (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 nature of 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 Court of Appeal thinks fit to be determined before final judgment in the appeal.

(2) The powers of the Court of Appeal under this section may be exercised notwithstanding that no notice of appeal or respondent's notice has been given in respect of any particular part of the decision of the High Court by any particular party to the proceedings in 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 Court of Appeal may make any order, on such terms as the Court of Appeal thinks just, to ensure the determination on the merits of the real question in controversy between the parties.

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

(4) The Court of Appeal 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.

Power of Court of Appeal as to new trials. [6 of 1976].

40. (1) Subject to the provisions of this section, on the hearing of an appeal in any civil cause or matter the Court of Appeal shall, if it appears to the Court of Appeal 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, a new trial may be ordered on any question without interfering with the finding or decision upon any other question and the Court of Appeal may make such final or other order as the circumstances of the case may require.

41. The Court of Appeal 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.

CRIMINAL APPEALS FROM HIGH COURT

42. In sections 42 to 65—

Definitions.
[14 of 1964].

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

“Minister” means the Minister designated under section 87(2) of the Constitution;

“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 or of an expulsion order in the case of a person convicted, and the power of the Court of Appeal 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 Court of Appeal shall have the same effect for the purposes of any law under which such recommendation is permitted to be made, as the certificate and recommendation of the convicting Court.

43. A person convicted on indictment may appeal under this Act to the Court of Appeal—

Right of appeal in criminal cases.

- (a) against his conviction on any ground of appeal which involves a question of law alone; and
- (b) with the leave of the Court of Appeal 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 to be a sufficient ground of appeal; and
- (c) with the leave of the Court of Appeal against the sentence passed on his conviction, unless the sentence is one fixed by law.

Determination
of appeals in
ordinary cases.
[10 of 2017].

44. (1) The Court of Appeal on any such appeal against conviction shall allow the appeal if it thinks that the verdict of the jury or Judge as the case may be, 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 on any question of law or that on any ground there was a miscarriage of justice, and in any other case shall dismiss the appeal; but 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 Act, the Court of Appeal shall, if it allows an appeal against conviction, either 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 Court of Appeal shall, if it thinks 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 therefore as it thinks ought to have been passed, and in any other case shall dismiss the appeal.

Power of Court
in special cases.

45. (1) If it appears to the Court of Appeal 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 Court of Appeal may either affirm 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 Court of Appeal considers that the appellant has been properly convicted.

(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 Court of Appeal that the jury must have been satisfied of facts

which proved him guilty of that other offence, the Court of Appeal may, instead of allowing or dismissing the appeal, substitute for the verdict found by the jury a verdict 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 Court of Appeal considers 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 Court of Appeal may, instead of allowing the appeal, order such conclusion to be recorded as appears to the Court of Appeal 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 Court of Appeal that, although the appellant was guilty of the act or omission charged against him, he was insane at the time the act was done or omission made so as not to be responsible according to law for his actions, the Court of Appeal may quash the sentence passed at the trial and order the appellant to be kept in custody as a person found guilty but insane under the Criminal Procedure Act in the same manner as if a special verdict had been found by the jury under that Act.

Ch. 12:02.

46. (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 section 25(1) of the Sale of Goods Act, as to the 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—

Re-vesting and restitution of property on conviction.

Ch. 82:30.

(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. Provisions 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 Court of Appeal 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.

Supplementary
powers of Court
of Appeal.

47. For the purposes of an appeal in any criminal cause or matter, the Court of Appeal may, if it thinks it necessary or expedient in the interest of justice—

- (a) receive the evidence, if tendered, of any witness including the appellant, who is a competent but not compellable witness, and, if application is made for the purpose, of the husband or wife of the appellant in cases where the evidence of the husband or wife could not have been given at the trial except on the application;
- (b) issue any warrant necessary for enforcing any order or sentence of the Court of Appeal.

However,

- (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 Court of Appeal receives further evidence it shall make such order as will afford an opportunity to the parties to the proceedings to examine every witness whose evidence is taken.

48. (1) An appellant who is not released on bail shall, pending the determination of his appeal, be treated in like manner as prisoners awaiting trial.

Admission of appellant to bail, and custody when attending Court. [18 of 1994].

(2) The Court of Appeal may, if it seems fit, on the application of an appellant, grant him bail pending the determination of his appeal.

49. (1) The time during which an appellant, pending the determination of his appeal, is released on bail, and subject to any directions which the Court of Appeal may give to the contrary to any appeal, the time during which the appellant, if in custody, is specially treated as an appellant under this section, shall not count as part of any term of imprisonment under his sentence, and, in the case of an appeal under this Act, any imprisonment under the sentence of the appellant, whether it is the sentence passed by the Court of trial or the sentence passed by the Court of Appeal, shall, subject to any directions which may be given by the Court of Appeal, be deemed to be resumed or to begin to run, as the case requires, if the appellant is in custody, as from the day on which the appeal is determined, and, if he is not in custody, as from the day on which he is received into prison under the sentence.

Computation and commencement of sentence. [18 of 1994].

(2) Provision shall be made by prison rules for the manner in which an appellant, when in custody, is to be brought to any place at which he is entitled to be present for the purposes of this Act or to any place to which the Court of Appeal or any Judge thereof may order him to be taken for the purposes of any proceedings of that Court, and for the manner in which he is to be kept in custody while absent from prison for such purpose; and an appellant whilst in custody in accordance with those Rules shall be deemed to be in legal custody.

50. (1) Where a person convicted desires to appeal under this Act to the Court of Appeal, 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. Such Rules shall enable any convicted person to present his case

Time for appealing. [55 of 2000].

and his argument in writing instead of by oral argument if he so desires. Any case or argument so presented shall be considered by the Court of Appeal.

(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 Court of Appeal.

(3) Notwithstanding subsection (2), where a person is convicted of an offence for which a confiscation order may be made against him, the person shall give notice of his intention—

- (a) to appeal his conviction, within fourteen days of the date of conviction; and
- (b) to appeal his sentence, within fourteen days of the date of sentencing.

Stay of execution.

51. In the case of a conviction involving sentence of death or corporal punishment—

- (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 this section; 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.

Judge's notes and report to be furnished on appeal.

52. The Judge before whom a person is convicted shall, in the case of an appeal under this Act against the conviction or against the sentence or in the case of an application for leave to appeal under this Act, 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.

53. The Court of Appeal may at any time assign to an appellant an Attorney-at-law in any appeal or proceedings preliminary or incidental to an appeal in which, in the opinion of the Court, 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.

54. (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 Court gives him leave to be present.

Right of appellant to be present.

(2) The power of the Court of Appeal to pass any sentence under this Act may be exercised notwithstanding that the appellant is for any reason not present.

55. (1) It shall be the duty of the Director of Public Prosecutions by himself or by other Attorney-at-law designated by him to appear for the State on every criminal appeal to the Court of Appeal under this Act, except so far as a private prosecutor in the case of a private prosecution, undertakes the defence of the appeal.

Duty of Director of Public Prosecutions. [136/1976].

(2) Provisions shall be made by Rules of Court for the transmission to the Director of Public Prosecutions of all such documents, exhibits, and other things connected with the proceedings as he may require for the purpose of his duties under this section.

56. (1) On the hearing and determination of a criminal appeal from the High Court or any proceedings preliminary or incidental thereto under this Act, no costs shall be allowed on either side.

Costs of appeal.

(2) The expenses of any Attorney-at-law assigned to an appellant under this Act, and the expenses of any witnesses attending on the order of the Court of Appeal 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 up to an amount allowed by the Court, but subject to any Regulations as to rates and scales of payment made by the Rules Committee.

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

57. (1) The Registrar shall take all necessary steps for obtaining a hearing under this Act of any appeals or applications, notice of which is given to him under this Act, and shall obtain and lay before the Court of Appeal 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.

(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 of Appeal for summary determination, and, where the case is so referred, the Court of Appeal may, if it considers that the appeal is frivolous or 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 State 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 Act, 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 Act to any person who demands the same, and to officers or persons as he thinks fit, and the Commissioner of Prisons shall cause those forms and instructions to be placed at the disposal of prisoners desiring to appeal or to make any application under this Act, 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 Court of Appeal or some Judge thereof any case in which it appears to him that, although no application has been made for the purpose, an Attorney-at-law ought to be assigned to an appellant under the powers given to that Court by this Act.

58. (1) Such records in such manner, whether in writing or by recordings on electro-magnetic tape or by any other means as may be prescribed by Rules of Court shall be taken of the proceedings at the trial of any person on indictment who, if convicted, is entitled or may be authorised to appeal under this Act; and on any appeal or application for leave to appeal a transcript of the records or any part thereof shall be made if the Registrar so directs, and furnished to the Registrar for the use of the Court of Appeal or any Judge thereof.

Records.
[14 of 1964].

(2) A transcript of the records taken under subsection (1) shall be furnished to any party interested upon the payment of such charges as may be fixed by Rules of Court.

(3) The Minister may also, if he thinks fit in any case, direct a transcript of such records to be made and furnished to him for his use.

(4) Rules of Court may also make such provision as is necessary for securing the accuracy of the records to be taken and for the verification of the transcript.

59. The powers of the Court of Appeal under this Act—

- (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;

Powers which
may be
exercised by a
Judge of the
Court.
[18 of 1994].

- (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 grant bail to an appellant,

may be exercised by any Judge of the Court of Appeal in the same manner as they may be exercised by the Court of Appeal, and subject to the same provisions; but, if the Judge refuses 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 determining of appeals under this Act.

Case stated or
question of law
reserved.

60. (1) Where any person is convicted on indictment, the trial Judge may state a case or reserve a question of law for the consideration of the Court of Appeal and the Court of Appeal shall consider and determine such case stated or question of law reserved and may either—

- (a) confirm the judgment given upon the indictment;
- (b) order that the judgment be set aside and quash the conviction and direct a judgment and verdict of acquittal to be entered;
- (c) order that the judgment be set aside, and give instead thereof the judgment which ought to have been given at the trial;
- (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
- (e) make such other order as justice requires.

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

61. Where a case is stated or a question of law reserved for the consideration of the Court of Appeal, the provisions of sections 48, 49, 51, 53, 54, 55, and 56, section 57(1), (3) and (5) and section 59 shall apply to such proceedings in like manner as to an appeal.

Provisions of this Act applicable to proceedings under section 60.

62. In the case of an appeal which involves a question of law alone, the Court of Appeal may, if it thinks fit, request the Judge of the High Court 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 Judge of High Court at request of Court of Appeal.

63. (1) Where a person tried on indictment has been acquitted (whether in respect of the whole or part of the indictment) the Attorney General may, if he desires the opinion of the Court of Appeal on a point of law which has arisen in the case, refer that point to the Court, and the Court shall, in accordance with this section, consider the point and give their opinion on it.

Reference to Court of Appeal of point of law following acquittal on indictment. [45 of 1979].

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

- (a) by, or by an Attorney-at-law on behalf of, the Attorney General; and
- (b) if the acquitted person desires to present any argument to the Court, by an Attorney-at-law on his behalf or, with the leave of the Court, by the acquitted person himself.

(3) Where the Court of Appeal has given its opinion on a point referred to it under this section, the Court may, of its own motion or in pursuance of an application in that behalf, refer the point to the Judicial Committee of the Privy Council if it appears to the Court that the point ought to be considered by the Judicial Committee.

(4) If a point is referred to the Judicial Committee under subsection (3), the Judicial Committee shall consider the point and give their opinion on it accordingly.

(5) Where, on a point being referred to the Court of Appeal under this section or further referred to the Judicial Committee of the Privy Council, the acquitted person appears by an Attorney-at-law for the purpose of presenting any argument to the Court or the Judicial Committee, he shall be entitled to his costs, that is to say to the payment out of public funds of such sums as are reasonably sufficient to compensate him for expenses properly incurred by him for the purpose of being represented on the reference or further reference; and any amount recoverable under this subsection shall be ascertained, as soon as practicable, by the Registrar.

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

Prerogative of
mercy.
[136/1976].

64. (1) Nothing in this Act shall affect the prerogative of mercy.

(2) The President on the advice of the Minister on the consideration of any petition for the exercise of the President's power of pardon having reference to the conviction of a person on indictment or to the sentence, other than sentence of death, passed on a person so convicted, may at any time—

(a) refer the whole case to the Court of Appeal, and the case shall then be heard and determined by the Court as in the case of an appeal by a person convicted; or

(b) if he desires the assistance of the Court of Appeal on any point arising in the case with a view to the determination of the petition, refer that point to the Court for their opinion thereon, and the Court shall consider the point so referred and furnish the President with their opinion thereon accordingly.

Criminal
information.

65. This Act shall apply in the case of convictions on criminal information as it applies in the case of convictions on indictment.

PART IIIA

MASTERS OF THE HIGH COURT

***65A.** (1) There shall be attached to the High Court not less than two Masters who shall respectively exercise such authority and jurisdiction of a Judge as may from time to time be assigned to a Master by Rules of Court or any other written law.

Masters of the High Court. [2 of 1980, 20 of 2011, 6 of 2016].

(2) The Masters shall, save as this Act, Rules of Court or any other written law may otherwise expressly provide, have in all respects equal power, authority and jurisdiction but shall rank among themselves according to the priority of the dates of their respective appointments as Masters.

(3) No person shall be appointed to be a Master unless he either—

- (a) is an Attorney-at-law within the meaning of the Legal Profession Act and has practised as such for not less than seven years; or
- (b) is an Attorney-at-law of the Supreme Court and has practised as such for not less than seven years; or
- (c) is an Attorney-at-law of the Supreme Court or of a Superior Court of jurisdiction in a Commonwealth Country and has either—
 - (i) practised as such for not less than seven years; or
 - (ii) after he became qualified so to practise, has served in the judicial or legal department of Trinidad and Tobago or of any Commonwealth Country for not less than seven years; or

Ch. 90:03.

has so practised and so served for periods which together amount to not less than seven years.

(4) The office of Master shall be an office to which section 111 of the Constitution applies.

*Sections 65A to 65D contained in Part IIIA came into operation on 1st June 1981—
See LN 56/1981.

Powers of
Master.
[2 of 1980
20 of 2011
6 of 2016].

65B. (1) Where under this Act or any other written law a Master has jurisdiction in relation to any matter, then, subject to this Act or the written law, he shall have and may exercise in relation to that matter all the powers of the Court or of a Judge of the High Court to make an order in the matter and such an order may include provision for costs, certificate for Attorney-at-law or other consequential matters; and any such order made by a Master shall, subject to this Act or the written law have the same effect as if it had been made by the Court or by a Judge.

(2) Where under this Act or any other written law a Master exercises jurisdiction in relation to any matter, then—

- (a) in relation to such matter, the Master shall have all the rights, powers, immunities and privileges of a Judge;
- (b) any party to the proceedings may, if he so desires, appear by Attorney-at-law.

Appeals.
[2 of 1980
20 of 2011].

65C. (1) An appeal shall be to the Court of Appeal from any order or decision of the Master made in the exercise of any jurisdiction conferred on him under this Act or any other written law.

(2) No appeal from an order or a decision of a Master under this section shall operate as a stay of proceedings unless such Master or the Court of Appeal so orders.

Procedure
where cases are
not concluded
by Master.
[2 of 1980
6 of 2016].

65D. Where the hearing of any proceedings has commenced before a Master and he ceases, either temporarily or permanently, to hold that office prior to the conclusion of the hearing—

- (a) if he has reserved judgment and ceases as aforesaid before he has delivered his judgment, he may at any time lodge with the Registrar such judgment in writing and such judgment shall as soon as possible thereafter be read in accordance with the directions of the Chief Justice, and shall take effect in all respects as if the person who reserved judgment had continued to be a Master and had delivered judgment;
- (b) he may, whether or not he has reserved judgment as aforesaid, be assigned at any time to be a Master for the purpose of concluding such hearing.

PART IIIB

APPEALS BY THE DIRECTOR OF PUBLIC
PROSECUTIONS

65E. (1) Section 63 notwithstanding, the Director of Public Prosecutions may appeal to the Court of Appeal—

Right of
Director of
Public
Prosecutions to
appeal.
[28 of 1996].

- (a) against a judgment or verdict of acquittal of a trial Court in proceedings by indictment when the judgment or verdict is the result of a decision by the trial Judge to uphold a no case submission or withdraw the case from the jury on any ground of appeal that the decision of the trial Judge is erroneous in point of law;
- (b) with leave of the Court of Appeal or a Judge thereof, against the sentence passed by a trial Court in proceedings by indictment, unless that sentence is one fixed by law.

(2) For the purposes of this section a judgment or verdict of acquittal includes an acquittal in respect of an offence specifically charged notwithstanding that the accused has on the trial thereof been convicted of another offence.

65F. (1) Where the Director of Public Prosecutions proposes to appeal to the Court of Appeal 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 prescribed by Rules of Court within fourteen days of the date of the verdict of acquittal or sentence passed.

Time for
appealing.
[28 of 1996].

(2) The Court of Appeal or a Judge thereof may at any time extend the time within which notice of appeal or notice of an application for leave to appeal may be given.

65G. On an appeal from an acquittal the Court of Appeal may—

- (a) dismiss the appeal; or
- (b) allow the appeal, set aside the verdict, and order a new trial.

Power of Court
on appeal from
acquittal.
[28 of 1996].

Power of Court on appeal against sentence by the Director of Public Prosecutions. [28 of 1996].

65H. Where an appeal brought by the Director of Public Prosecutions is against the sentence, the Court of Appeal shall consider the adequacy of the sentence appealed against, and may upon such evidence as it thinks fit to require or receive—

- (a) vary the sentence, within the limits prescribed by law, for the offence of which the accused was convicted; or
- (b) dismiss the appeal.

Judge's notes and report. [28 of 1996].

65I. (1) Where, under this Part, an appeal is lodged or an application for leave to appeal is made, the Judge who presided at the trial shall furnish the Court of Appeal, in accordance with Rules of Court, a report giving his opinion upon the case or upon any point arising in the case.

- (2) A copy or transcript of—
 - (a) the evidence taken at the trial;
 - (b) the charge to the jury, if any, and the reasons for judgment, if any, shall be furnished to the Court of Appeal except in so far as it is dispensed with by order of a Judge of that Court.

(3) A copy of the Judge's charge to the jury, if any, and any objections that were made to it shall, before the copy or transcript is transmitted to the Court of Appeal pursuant to subsection (2), be submitted to the Judge who presided at the trial, and if the Judge refuses to certify that the charge and objections are accurately set out, he shall immediately certify to the Court of Appeal—

- (a) the reasons for his refusal; and
- (b) the charge that was given to the jury, if any, and any objections that were made to it.

(4) A party to the appeal is entitled to receive upon payment of such charges as may be fixed by Rules of Court a copy or transcript of any material that is prepared under subsections (1), (2) and (3).

65J. (1) A respondent, notwithstanding that he is in custody, shall, on the hearing of an appeal under this Part, be entitled to be present in Court if he so desires, except where the appeal is on a ground involving a question of law alone.

Right of respondent to be present. [28 of 1996].

(2) On an application for leave to appeal or on any proceedings preliminary or incidental to an appeal, a respondent shall not be entitled to be present, except where Rules of Court otherwise provide, or where the Court gives him leave to be present.

(3) The power of the Court of Appeal to make an order under this Part may be exercised notwithstanding that the respondent is for any reason not present.

65K. The Court of Appeal may at any time assign to a respondent an Attorney-at-law, in any appeal or proceedings preliminary or incidental to an appeal in which, in the opinion of the Court, it appears desirable in the interest of justice that the respondent should have legal aid, and that he has not sufficient means to enable him to obtain that aid.

Legal assistance to respondent. [28 of 1996].

65L. On the hearing and determination of an appeal or any proceedings preliminary or incidental thereto under this Part, the Court may make such order as to costs as it sees fit.

Costs of appeal. [28 of 1996].

65M. (1) The Registrar shall take all necessary steps for obtaining a hearing under this Part of any appeal or application, notice of which is given to him under this Act, and shall obtain and lay before the Court of Appeal in proper form all documents, exhibits, and other things relating to the proceedings in the Court before which the respondent was tried which appear necessary for the proper determination of the appeal or application.

Duties of Registrar. [28 of 1996].

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

(3) Any documents, exhibits, or other things required in connection with an appeal or on a motion for leave to appeal under this Part 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) Where a person named as a respondent in a notice of appeal or in an application for leave to appeal made under this Part is in prison, all documents relating to such notice or application shall be served upon him at the prison in which he is detained.

(5) The Registrar shall report to the Court of Appeal or a Judge thereof any case in which it appears to him that, although no application has been made for the purpose, an Attorney-at-law ought to be assigned to a respondent under the powers given to that Court by this Part.

Powers which may be exercised by a Judge of the Court. [28 of 1996].

65N. The powers of the Court of Appeal under this Part—

- (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 a respondent; or
- (d) to allow the respondent to be present at any proceedings in cases where he is not entitled to be present without leave,

may be exercised by any Judge of the Court of Appeal in the same manner as they may be exercised by the Court of Appeal, and subject to the same provisions; but, if the Judge refuses an application on the part of the respondent to exercise any such power in his favour, the respondent shall be entitled to have the application determined by the Court as duly constituted for the hearing and determining of appeals under this Act.

Appeals to the Judicial Committee. [28 of 1996].

65O. An appeal from a decision of the Court of Appeal under this Part shall lie to the Judicial Committee as of right.

65P. Where this Part does not make provision for any of the matters provided for in sections 42 to 65, those sections, as suitably modified, shall apply.

Sections 42 to 65 to apply. [28 of 1996].

65Q. In this Part “respondent” means the person whose acquittal or whose sentence is the subject of an appeal by the Director of Public Prosecutions.

Interpretation. [28 of 1996].

65R. (1) A Judge, Master or District Court Judge may refer a person to a Drug Treatment Court Process, where it is satisfied that the person has a history of alcohol abuse or substance use and is—

Referral of a person to the Drug Treatment Process. [29 of 2020].

- (a) before the Court in any criminal or traffic matter other than a violent offence;
- (b) a party to a family matter;
- (c) a parent, guardian or person with responsibility for a child who has come to the attention of the Children’s Authority as a child at risk; or
- (d) with the agreement of the person, a member of the household of—
 - (i) a child who is convicted of an offence which is punishable, in the case of a person eighteen years of age or over, by imprisonment;
 - (ii) a child who would be liable to be imprisoned, in the case of a person eighteen years of age or over, in default of payment of any fine, damages or costs; or
 - (iii) a child, if the child is a child at risk and the substance use by the member of the household is negatively affecting the child.

(2) The Court may refer to a Drug Treatment Court Process, a person who has also been sentenced to Community Service, is on probation, or is on a bond to keep the peace.

(3) The Rules Committee established under section 77 of the Supreme Court of Judicature Act may make Rules prescribing the procedure of Drug Treatment Court Processes for—

- (a) persons charged with offences; and
- (b) persons other than those charged with offences.

PART IV

GENERAL PROVISIONS

REGISTRAR AND OTHER OFFICERS

Registrar.
[14 of 1964].

66. (1) There shall be a Registrar of the Supreme Court.

(2) The Registrar shall have custody of the seal of the Court of Appeal and of the High Court and of all records, documents, and papers of the Court.

(3) The Registrar shall have such power and authority and perform such duties as shall be necessary for the due conduct and discharge of the business of the Supreme Court and as the Judges thereof shall direct.

(4) The Registrar shall perform such duties as may be prescribed by Rules of Court, and shall also have powers and discharge duties corresponding to the powers and duties of the Queen's Coroner and Attorney and Master of the Crown Office attached to the Queen's Bench Division of the High Court of Justice in England so far as such powers or duties relate to any judicial proceedings.

(5) The Registrar shall be an Attorney-at-law.

Registrar to
have powers of
Judge.
[19 of 1973
6 of 1976
6 of 2016].

67. (1) The Registrar shall have power and jurisdiction to do such of the things and transact such of the business as by virtue of any written law, or by custom, or by the Rules and practice of the High Court, are done and transacted by a Judge of the High Court sitting in Chambers as may from time to time be prescribed by Rules of Court; but the Registrar shall have no jurisdiction in respect of matters relating to the liberty of the subject.

(2) A person affected by any order or decision of the Registrar sitting in Chambers may appeal to the High Court or to the Court of Appeal, as the case may be, in such cases as may be provided for by Rules of Court. The Rules of Court relating to appeals from the Registrar to the High Court or to the Court of Appeal, shall be—

- (a) in the case of the High Court, such as are prescribed by Rules of Court; and
- (b) in the case of the Court of Appeal, the Rules of Court relating to appeals from a Judge.

68. (1) There shall be a Deputy Registrar of the Supreme Court.

Deputy Registrar and Assistant Registrars. [14 of 1964 29 of 1968].

(2) There shall be at least three Assistant Registrars of the Supreme Court, one of whom shall be for Port-of-Spain, one for San Fernando and one for Tobago.

(3) The Deputy Registrar and every Assistant Registrar shall be an Attorney-at-law and shall be public offices to which section 111 of the Constitution applies.

(4) The Deputy Registrar and every Assistant Registrar shall in the exercise of his office have all and singular the like authorities, powers, duties, immunities and liabilities of the Registrar, except where otherwise provided by Rules of Court.

69. The Assistant Registrar for San Fernando and the Assistant Registrar for Tobago shall each have custody of the duplicate seals of the High Court for use in San Fernando and Tobago respectively.

Custody of duplicate seal. [14 of 1964].

70. Any act done or document signed by the Registrar, the Deputy Registrar or an Assistant Registrar shall not be liable to objection on the ground that it ought to be done or signed by another of them.

Common powers of Registrars. [14 of 1964].

71. The Registrar shall be Marshal of Trinidad and Tobago and shall perform all the duties, have all the rights and powers, and be subject to all the liabilities and obligations appertaining to the office immediately before the commencement of this Act.

Registrar to be Marshal.

Deputy Marshal.
[14 of 1964].

72. (1) The Deputy Registrar and the Assistant Registrar for Port-of-Spain shall be the Deputy Marshals of the Supreme Court in Port-of-Spain, and the senior Principal Officer in the Registry of the Supreme Court shall be the Second Deputy Marshal of the Supreme Court in Port-of-Spain.

(2) The Assistant Registrars for San Fernando and Tobago shall be the Deputy Marshals of the Supreme Court for San Fernando and Tobago respectively.

(3) There shall be a Second Deputy Marshal of the Supreme Court for San Fernando who shall be an officer in the Registry of the Supreme Court at San Fernando.

(4) The Deputy Marshals and the Second Deputy Marshals shall, subject to Rules of Court, have all the powers and may perform all the duties of the Marshal.

SITTINGS OF THE SUPREME COURT

Power to sit at
any time.

73. Subject to any written law, the High Court and each Judge thereof shall have power at any time and in any place in Trinidad and Tobago to sit and act for the transaction of any part of the business of the High Court or a Judge thereof in the discharge of any duty that by any written law or otherwise may be required to be discharged.

Sittings of High
Court.
[21 of 1994].

74. (1) Sittings of the High Court for the trial of civil and criminal cases shall be held at Port-of-Spain, San Fernando, Scarborough and any other place in Trinidad and Tobago designated by the Chief Justice at such times as the Chief Justice with the concurrence of a Judge of the High Court shall appoint.

(2) Notice of the places designated and the times appointed for the sittings of the High Court under this section shall be published in the *Gazette*.

Special criminal
sitting.
[21 of 1994
5 of 1996].

75. The President may at any time, by warrant under his hand and seal, require the Judges of the High Court to appoint special sittings, to be held at such time or times and in such place or places in Trinidad and Tobago as may be directed by the warrant, for the trial of any particular criminal case or cases or class of criminal cases; and the Judges shall appoint and hold sittings accordingly

and, in order to comply with the exigencies of the warrant, shall lay aside all other business as is necessary.

***76.** (1) Subject to subsection (2) the Court of Appeal shall sit in Port-of-Spain at such times as may be prescribed for the hearing and determination of all appeals.

Sitting of Court
of Appeal.
[2 of 1974].

(2) In addition to the sitting of the Court of Appeal in accordance with subsection (1), sittings of the Court of Appeal for the hearing and determination of such classes of appeals as may be prescribed, may be held at San Fernando and Scarborough at such times between the periods prescribed by Order 1, Rule 4 of the Court of Appeal Rules, as the Chief Justice may direct.

Sub. Leg.

RULES OF COURT

77. Rules of Court may be made by the Chief Justice together with any four of the following persons who shall form the Rules Committee, namely:

Power to make
Rules of Court.
[14 of 1964
21 of 1986
23 of 1992].

- (a) a Judge of the Court of Appeal[†] to be nominated by the Chief Justice;
- (b) a Judge of the High Court[†] to be nominated by the Chief Justice;
- (c) the Attorney General or any legal officer referred to in Part I, II or III of the First Schedule to the Judicial and Legal Service Act, to be nominated by the Attorney General;
- (ca) a Master of the High Court to be nominated by the Chief Justice;
- (d) the Registrar of the Supreme Court; and
- (e) two practitioner members of the Law Association nominated by the Council of the Law Association and who shall hold office for three years.

Ch. 6:01.

78. (1) Rules of Court may be made under this Act for the following purposes:

Rules of Court.
[14 of 1964
19 of 1973
6 of 1976
45 of 1979
2 of 1980
21 of 1986
23 of 1992
29 of 2020].

- (a) for regulating and prescribing the procedure, including the method of pleading, and practice

*See Note on Court of Appeal Rules at page 2.

[†]Amendment by Act No. 14 of 1964, s. 19(2), deemed to have come into operation on 1st August 1962.

to be followed and the fees to be taken in the Court of Appeal and the High Court respectively in all causes and matters whatsoever in or with respect to which those Courts respectively have for the time being jurisdiction, and any matters incidental to or relating to any such procedure or practice, including but without prejudice to the generality of the foregoing provision, the manner in which and the time within which, any applications which under this or any other Act are to be made to the Court of Appeal or to the High Court shall be made;

- (aa) for making provision for the High Court in which any proceedings are pending, in such circumstances as may be specified in the Rules, to make an order requiring a party to the proceedings to make an interim payment of such amount as may be specified in the order, either by payment into Court or, if the order so provides, by paying it to another party to the proceedings;
- (ab) for making provision for the charging of administrative fees by the Supreme Court;
- (b) for regulating and prescribing the procedure on appeals from any Court or person to the Court of Appeal, and the procedure in connection with the transfer of proceedings from an inferior Court to the High Court or from the High Court to an inferior Court;
- (c) for regulating the places and time of the sittings of the Court of Appeal and the High Court;
- (d) for regulating any matters relating to the costs of proceedings in the Court of Appeal or the High Court;
- (e) for prescribing in what cases trials in the High Court are to be with a jury and in what cases they are to be without a jury;
- (f) for regulating the means by which particular facts may be proved, and the mode in which evidence

thereof may be given, in any proceedings or on any application in connection with or at any stage of any proceedings, including for providing for orders being made at any stage of any proceedings directing that specified facts may be proved at the trial by affidavit with or without the attendance of the deponent for cross-examination and that he may be produced for that purpose;

- (g)* for regulating or making provision with respect to any other matters with respect to which provision is made in the Court of Appeal Rules, or which were regulated by or with respect to which provision was made by the Rules of the former Supreme Court under the Judicature Ordinance immediately before the commencement of this Act or with respect to applications and proceedings relating to legitimacy declarations; Sub. Leg.
Ch. 3, No. 1.
(1950 Ed.).
- (h)* for regulating the procedure and the practice of the High Court with respect to non-contentious or common form probate business;
- (i)* for regulating the vacations to be observed by the High Court and the Court of Appeal and in the offices of the said Courts respectively;
- (j)* for the hearing during vacation by the Judges of the High Court and the Court of Appeal respectively all such applications as may require to be immediately or promptly heard;
- (k)* for regulating the practice and procedure of the Court of Appeal in relation to appeals to the Judicial Committee of the Privy Council and in particular for 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;

*See Note on Court of Appeal Rules at page 2.

- (iv) failure to prosecute appeals 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;
- (l) for regulating and prescribing the procedure in disciplinary proceedings against Attorneys-at-law;
- (m) for providing safeguards in respect of disclosure of the identity of an acquitted person where a point of law arising out of his trial is submitted by the Attorney General to the Court of Appeal in accordance with section 63; and, also the form of reference and other procedural matters [including applications to the Judicial Committee of the Privy Council under section 63(3)];
- (n) for regulating the investment of all moneys transferred, paid into or deposited in the Supreme Court in any cause or matter or any moneys under the control of, or subject to the order of the Supreme Court.

(1A) Rules of Court may prescribe the cases in which the powers, authority and jurisdiction of a Master may be exercised.

(2) Rules of Court may prescribe the cases in which jurisdiction or powers of the High Court or a Judge of the High Court may be exercised by a referee appointed by the Court or a referee agreed upon by the parties and, without prejudice to the generality of the foregoing provision, may in particular—

- (a) authorise the whole of any cause or matter or any question or issue therein to be ordered to be tried before, or any question arising in any cause or matter to be ordered to be referred for enquiry and report to, any such referee; and
- (b) authorise powers of attachment and committal to be exercised by any referee appointed by the Court (but not by any other referee),

and may make any provision incidental to any such provisions as aforesaid.

(3) The decision of a referee, agreed upon by the parties, may be called in question in such manner, whether by an appeal to the Court of Appeal or by an appeal or application to the Court as may be prescribed by Rules of Court; but Rules of Court may provide either generally or to a limited extent for a decision of a referee appointed by the Court to be called in question only by appeal on a question of law.

(3A) Rules of Court made under subsection (1)(aa) may include provision for enabling a party to any proceedings who, in pursuance of such an order, has made an interim payment to recover the whole or part of the amount of the payment in such circumstances, and from such other party to the proceedings, as may be determined in accordance with the Rules.

(3B) Any Rules of Court made by subsection (1)(aa) may include such incidental, supplementary and consequential provisions as the Rules Committee may consider necessary or expedient.

(3C) Nothing in subsection (1)(aa) shall be construed as affecting the exercise of any power relating to costs, including the power contained in subsection (1)(d).

(3D) In subsection (1)(aa)—

(a) “interim payment”, in relation to a party to any proceedings means a payment on account of any damages, debt or other sum (excluding any costs) which that party may be held liable to pay to or for the benefit of another party to the proceedings if a final judgment or order of the Court in the proceedings is given or made in favour of that other party; and

(b) any reference to a party to any proceedings includes a reference to any person who for the purposes of the proceedings acts as next friend or guardian of a party to the proceedings.

(3E) Subject to Rules made by the Rules Committee under this Act or under any other written law, the Court may charge such administrative fees as the Chief Justice may, by Order, determine, for costs associated with—

- (a) the filing of documents;
- (b) the service of documents;
- (c) the use of alternative modes of service;
- (d) the use of mediation;
- (e) the use of technology;
- (f) conveniences;
- (g) transactions;
- (h) the use of interpretation and translation services; and
- (i) any other service that may be prescribed.

(4) Rules of Court made under this section shall be subject to negative resolution of Parliament.

Form of publication.
[6 of 1976].

79. The Rules of the Supreme Court, 1975 (hereinafter referred to as “the Rules”) may be published in loose-leaf form or in such other form as the Rules Committee may determine and shall include such pages as may be authorised to be included therein under section 80(1).

Inclusion or removal of pages to be authorised by order.
[6 of 1976].

80. (1) The Rules Committee may with the approval of the President by Order authorise the inclusion in the Rules of any page to be comprised therein containing any amendments to the Rules made under section 78 or any other written law and every page so authorised shall form part of the Rules.

(2) The Rules Committee may with the approval of the President by Order direct the removal of pages from the Rules and any page so directed to be removed shall cease to form part of the Rules.

(3) Every page included in the Rules under subsection (1) shall bear on its face or overleaf a reference to the Revised Rules of Court Order by which its inclusion in the Rules is authorised.

(4) A page bearing a reference prescribed by subsection (3) and appearing in every respect to be part of the Rules shall for all purposes be presumed to be a page of the Rules.

(5) A person who prints, publishes or knowingly has in his possession any page falsely purporting to be a page of the Rules or so closely resembling a page of the Rules as to be mistaken for such page is liable on summary conviction to a fine of one thousand dollars or to imprisonment for twelve months.

81. (1) The Legitimacy Rules, 1937, and any other Rules made under any Act shall continue in force with the necessary modifications and adaptations as if made under section 78 and may be added to, amended or revoked by Rules of Court made by the Rules Committee under section 78.

Saving.
[19 of 1973
21 of 1986
23 of 1992].

*(2) The Court of Appeal Rules formerly set out in the Third Schedule shall be deemed to be Rules of Court made under section 78 and may be added to, amended or revoked by Rules of Court made by the Rules Committee under section 78.

Sub. Leg.
Third Schedule.

†(3) The Barristers (Disciplinary Proceedings) Rules made by the Rules Committee on 23rd June 1965 shall, as from that date, be deemed to have been validly made.

Sub. Leg.

(4) Nothing in subsection (3) shall be construed as authorising the reinstatement of disciplinary proceedings against an Attorney-at-law in respect of any allegation of misconduct where a motion in respect of that allegation was dismissed by the High Court, before the commencement of the Supreme Court of Judicature (Amendment) Act, 1973 (that is, 15th November 1973).

19 of 1973.

‡(5) Orders for interim payments made by the Supreme Court in pursuance of the Rules of Court made prior to the commencement of the Supreme Court of Judicature (Amendment) Act, 1992 and all payments made in pursuance of such orders and all acts and things done under the said Rules of Court relative to such orders which would have been lawful if the said Rules of Court had been validly made shall be deemed to have been lawfully made or done.

‡23 of 1992.

*The Court of Appeal Rules have been revoked by LN 377/2023.

†See section 66(1) of the Legal Profession Act, 1986 (Act No. 21 of 1986) which repealed these Rules.

‡The Supreme Court of Judicature (Amendment) Act, 1992 came into operation on 24th December 1992 (the date of Assent of the Act).

Reference to Chief Justice acting with others to make Rules.

82. Where in any written law provision is made for the making of Rules of Court by the Chief Justice or by the Chief Justice in concurrence with a Judge or other person or body of persons, that provision shall be read as if it were a reference to the Rules Committee under this Act.

Saving of procedure.

83. (1) Save as is otherwise provided by this Act or by Rules of Court, all forms and methods of procedure which, under or by virtue of any law, custom, general order or Rules whatsoever, were formerly in force in any of the Courts the jurisdiction of which is vested in the High Court or the Court of Appeal respectively, and which are not inconsistent with this Act or with Rules of Court, may continue to be used in the High Court and the Court of Appeal respectively in the like cases and for the like purposes as those in and for which they have been applicable in the former respective Courts.

(2) Subject to Rules of Court, the practice and procedure in all criminal causes and matters whatsoever in the High Court shall be the same as the practice and procedure in force at the commencement of this Act in relation to similar causes and matters.

Trial with assessors. [6 of 1976].

84. (1) In any cause or matter before the High Court or the Court of Appeal, other than a criminal proceeding by the State the Court may, if it thinks it expedient to do so, call in the aid of one or more assessors specially qualified and try and hear the cause or matter wholly or partially with their assistance.

(2) The remuneration, if any, to be paid to an assessor shall be determined by the Court.

85. }
to } (*Repealed by Act No. 21 of 1986*).
95. }

PART V

APPEALS TO THE PRIVY COUNCIL

96. The provisions of the Trinidad and Tobago (Procedure in Appeals to Privy Council) Order in Council, 1962 shall apply to all appeals from the Court of Appeal to the Judicial Committee of the Privy Council.

Application of provisions of Trinidad and Tobago (Procedure in Appeals to Privy Council). S.I. 1962 No. 1876 (U.K.).

PART VI

TRANSITIONAL POWERS

97. (1) Where in any civil or criminal cause or matter notice of appeal from the judgment or order of the Full Court or a Judge of the former Supreme Court to the British Caribbean Court of Appeal has been given before the date of the commencement of this Act, all proceedings in respect of that appeal may be continued before the Court of Appeal.

Provisions regarding pending appeals.

(2) Where in any civil or criminal cause or matter, notice of appeal from an order or judgment of the Supreme Court or from any decision of an inferior Court has been given to the Full Court before the date of the commencement of this Act but proceedings in respect of that appeal are subsequent to that date still pending before such last mentioned Court, all such proceedings shall be continued before the Court of Appeal.

SCHEDULE

(Repealed by Act No. 21 of 1986).

SUBSIDIARY LEGISLATION

UNOFFICIAL

***COURT OF APPEAL RULES**

(Revoked by LN 377/2023)

BARRISTERS (DISCIPLINARY PROCEEDINGS) RULES

(Repealed by section 66 of Act No. 21 of 1986)

**See Note on Court of Appeal Rules at page 2.*

CONSOLIDATION

**CRIMINAL APPEAL (REFERENCE
OF POINTS OF LAW) RULES**

ARRANGEMENT OF RULES

RULE

1. Citation.
2. Interpretation.
3. Form of reference.
4. Notice of reference.
5. Withdrawal of amendment of reference.
6. Amendment of respondent's argument.
7. Application under section 63(3).
8. Non-disclosure of respondent's identity.
9. Service on respondent.
10. Service on Registrar.

SCHEDULE.

CONSOLIDATION

87/1981.

***CRIMINAL APPEAL (REFERENCE OF
POINTS OF LAW) RULES**

made under section 77

Citation. **1.** These Rules may be cited as the Criminal Appeal (Reference of Points of Law) Rules.

Interpretation. **2.** In these Rules—
“the Act” means the Supreme Court of Judicature Act;
“the Court” means the Court of Appeal;

Schedule. “Form” means a criminal form set out in the Schedule;
“reference” means a reference of a point of law to the Court in pursuance of section 63 of the Act;
“Registrar” means the Registrar of the Supreme Court of Judicature;
“respondent”, in relation to a reference, means the acquitted person in whose case the point of law referred to arose.

Form of reference. **3.** (1) A reference shall be in writing, and shall—
(a) specify the point of law referred and, where appropriate, such facts of the case as are necessary for the proper consideration of the point of law;
(b) summarise the arguments intended to be put to the Court; and
(c) specify the authorities intended to be cited,
but no mention shall be made in the reference of the proper name of a person or place that is likely to lead to the identification of the respondent.

(2) A reference shall be entitled “Reference by the Attorney General to the Court of Appeal under section 63 of the Supreme Court of Judicature Act”, together with the year and number of the reference and shall be addressed to, and served on the Registrar within forty-two days of the acquittal.

*These Rules came into operation on 1st August 1981.

4. (1) The Registrar shall cause to be served on the respondent a copy of the reference and a notice in Form A.

Notice of reference. Form A.

(2) In the notice the Registrar shall—

- (a) inform the respondent that the reference will not affect the trial in relation to which it is made or on acquittal in that trial; and
- (b) invite the respondent, within twenty-eight days from the date of service of the notice, to inform the Registrar if the respondent wishes to present any argument to the Court and, if so, whether he wishes to present the argument in person or by an Attorney-at-law on his behalf.

(3) When the respondent wishes to present any argument he shall serve a notice to that effect on the Registrar within the time specified in paragraph (2) and such notice shall summarise the argument and specify the authorities intended to be cited.

(4) The Court shall not hear argument by or on behalf of the Attorney General until the period specified in paragraph (2) has expired, unless the respondent agrees.

5. (1) The Attorney General may withdraw or amend the reference at any time before the Court has begun the hearing or, after that, and until the Court has given its opinion, may withdraw or amend the reference by leave of the Court.

Withdrawal of amendment of reference.

(2) Notice of withdrawal or amendment under sub-rule (1) shall be in Form B and shall be served by the Attorney General on the Registrar and on the respondent.

Form B.

(3) An application by the Attorney General for leave to amend or withdraw the reference after the termination of the hearing and before the Court gives its opinion shall be in Form C and a copy thereof shall be served by the Attorney General on the respondent.

Form C.

6. (1) Where a notice of amendment is served on the respondent under rule 5 he may within twenty-eight days thereafter serve on the Attorney General and on the Registrar a notice amending his argument.

Amendment of respondent's argument.

(2) The respondent may also amend his argument at any time before the Court has begun the hearing, or after that, and until the Court has given its opinion, by leave of the Court.

Form D.

(3) An application by the respondent for leave to amend his argument after the termination of the hearing and before the Court gives its opinion shall be in Form D and a copy thereof shall be served by the respondent on the Attorney General.

Application under section 63(3).

7. (1) An application under section 63(3) of the Act for a reference of a point of law to the Judicial Committee of the Privy Council may be made within fourteen days after the Court gives its opinion.

Form E.

(2) The application shall be in Form E addressed to the Registrar, and a copy thereof shall be served by the applicant on the respondent or on the Attorney General, as the case may be, within fourteen days after the Court gives its opinion.

Non-disclosure of respondent's identity.

8. (1) Where a reference is made by the Attorney General under section 63(1) of the Act no matter likely to lead members of the public to identify the respondent shall either be published in a written publication available to the public or be broadcast or televised, except as authorised by the Court.

(2) The Court shall ensure that the identity of the respondent is not disclosed during the proceedings on a reference, except where the respondent has given his consent to the use of his name in the proceedings.

Service on respondent.

Ch. 3:01.

9. For the purpose of these Rules, service of a document on the respondent may be effected in an appropriate manner prescribed by section 23(2) of the Interpretation Act.

Service on Registrar.

10. For the purpose of these Rules, service of a document on the Registrar may be effected by addressing it to him and posting it to or leaving it at his office at the Court of Appeal, Hall of Justice, Knox Street, Port-of-Spain.

SCHEDULE

Section 2(1).

CRIMINAL FORM A

Rule 4(1).

Attorney General's Reference No. of 20.....
NOTICE TO RESPONDENT of Reference by the Attorney General under
section 63(1) of the Supreme Court of Judicature Act, and rule 4(1) of the
Rules of the Criminal Appeal (Reference of Points of Law) Rules.

To:

TAKE NOTICE that, by virtue of section 63(1) of the Supreme Court of
Judicature Act, the Attorney General has referred the following point of law
for the opinion of the Court of Appeal arising out of the matter of the
State v. which was determined by your acquittal on
before Mr. Justice

(State point of law)

And further take notice that *the reference will not have any effect either on the
trial in relation to which it is made or on your acquittal but is solely to
determine a point of law which arose therein.*

You may within twenty-eight days from the date of service of this notice upon
you, inform the Registrar whether you wish to present any argument to the
Court on the said point of law and if so whether you wish to present such
argument personally or by Attorney-at-law on your behalf. For this purpose
please complete the attached notice and return to:

The Registrar,
Court of Appeal,
Hall of Justice,
Knox Street,
Port-of-Spain.

.....
Registrar

Served on the respondent by at

on the day of, 20.....

72 **Chap. 4:01** *Supreme Court of Judicature*
[Subsidiary] *Criminal Appeal (Reference of Points of Law) Rules*

Rule 5(2).

CRIMINAL FORM B

NOTICE TO RESPONDENT of withdrawal or amendment by Attorney General of Reference under rule 5 of the Criminal Appeal (Reference of Points of Law) Rules.

Attorney General's Reference No. of 20.....

To:

TAKE NOTICE that by virtue of rule 5 of the Criminal Appeal (Reference of Points of Law) Rules, the Attorney General has *withdrawn/amended his reference.

*The amendment is as follows:

Dated this day of, 20.....

.....
Attorney General

*Delete as appropriate.

Rule 5(3).

CRIMINAL FORM C

Attorney General's Reference No. of 20.....
APPLICATION by Attorney General to *withdraw/amend his reference under rule 5 of the Criminal Appeal (Reference of Points of Law) Rules.

TAKE NOTICE that the Attorney General hereby applies to the Court of Appeal to *withdraw/amend his reference.

*The amendment is as follows:

.....
Attorney General

*Delete as appropriate.

CRIMINAL FORM D

Rule 6(3).

Attorney General's Reference No. of 20.....
APPLICATION by respondent to amend his argument under rule 6 of the
Criminal Appeal (Reference of Points of Law) Rules.

TAKE NOTICE that the respondent hereby applies to the Court of Appeal to
amend his argument.

The amendment is as follows:

.....
Respondent

CRIMINAL FORM E

Rule 7(2).

Attorney General's Reference No. of 20.....
APPLICATION for Reference of Point of Law to the Judicial Committee of the
Privy Council under section 63(3) of the Supreme Court of Judicature Act and
rule 7 of the Criminal Appeal (Reference of Points of Law) Rules.

TAKE NOTICE that the Attorney General/Respondent, being dissatisfied with
the opinion given by the Court of Appeal on the day of
20..... hereby applies to the Court of Appeal to refer the point of law to the
Judicial Committee of the Privy Council and that this application will be heard
by the Court on the day of 20.....

.....
**Attorney General/Respondent*

.....
*Delete as appropriate.

CONSOLIDATION

UNOFFICIAL