LAWS OF TRINIDAD AND TOBAGO

SUPREME COURT OF JUDICATURE ACT

CHAPTER 4:01

THE SUPREME COURT OF JUDICATURE OF TRINIDAD AND TOBAGO
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Act
12 of 1962

Amended by

14 of 1964	6 of 1978
29 of 1968	3 of 1979
2 of 1972	45 of 1979
19 of 1973	2 of 1980
2 of 1974	5 of 1980
39 of 1975	49 of 1980
6 of 1976	*19 of 1981
29 of 1976	*20 of 1981
50 of 1976	*21 of 1981
136/1976	*24 of 1981
22 of 1977	*27 of 1981

**See* Note on page 3

Current Authorised Pages

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on

Omissions

The following Rules have been omitted:

1. The Rules of the Supreme Court 1975 (*See* Act 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 (G.N. 190/1973)—which have been published in Chapter 45:51 (Matrimonial Proceedings and Property Act) at page 58, since they relate directly to the subject matter of that Chapter.

Court of Appeal Rules

Order II (dealing with civil appeals from the High Court) has been revoked by L.N. 121/1980.

Omission of Pages

(*a*) Pages 64 to 78—These pages contained Order II (revoked by L.N. 121/1980).

(*b*) Pages 103 to 118—These pages contained Appendices A and B of the Court of Appeal Rules (revoked by L.N. 121/1980).

Note

on

Increase of Fines

The Law Revision (Miscellaneous Provisions) Act 1980 (47 of 1980) section 8 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, Ch. 3:03.

Note

on

Amendments

(*s.* 12 *and s.* 23)

Section 75(3) of Act 19 of 1981, section 192(3) of Act 20 of 1981, section 83(3) of Act 21 of 1981, section 122(3) of Act 24 of 1981 and section 124(3) of Act 27 of 1981 have amended section 12 of this Act.

Also, the Fifth Schedule to Act 20 of 1981 has amended section 23(2), (3), (4) and (7) of this Act.

However, Acts 19, 20, 21, 24 and 27 of 1981 have not up to the date of the last revision of this Act (i.e. 31st December, 1985) been brought into operation.

Corrigendum

In Order III, at page 95, in rule 26(16), in the last line thereof, for the words "section 81" occurring therein, substitute the words "section 76".

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SUPREME COURT OF JUDICATURE ACT

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CHAPTER 4:01

SUPREME COURT OF JUDICATURE

12 of 1962.

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

[31ST AUGUST 1962]

Commencement.

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

Short title.

PRELIMINARY

2. In this Act—

Interpretation. [14 of 1964 39 of 1975 2 of 1980].

"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; Ch. 39:50.

"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;

"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 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;

"roll" means the roll of barristers kept in accordance with section 85;

"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;

"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.

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

(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.

(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

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

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.

(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].

5. (1) There shall be no less than six and no more than fifteen 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].

6. (1) The Judges of the Court of Appeal shall be the Chief Justice who shall be President and six 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 two divisions at the same time.

(4) An appeal to the Court of Appeal from an order of a Judge in Chambers 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 Judge 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

Qualification of Judges of Supreme Court. [14 of 1964].

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 of the Bar of Trinidad and Tobago and is of not less than ten years standing.

(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 of the Bar of Trinidad and Tobago and is of not less than fifteen years standing.

(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.

Precedence of Judges.

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

(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

General jurisdiction of the Court. [2 of 1972].

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

15 and 16 Geo. 5 c. 49.

Justice in England under the provisions of the Supreme Court of 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—

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

(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.

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").

Ch. 45:51.

(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

(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

*By Act 2 of 1972, Schedule 1, sections 176 to 198 of the United Kingdom Act are repealed.

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.

Jurisdiction in lunacy.

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.

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

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.

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 counsel, 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 provi-

sion 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.).

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.

Law and equity to be administered.

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:

Equities of plaintiff.

(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.

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

Equitable defences.

(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 equi-

table 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.

Counterclaims and third parties.

(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 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.

Common law and statutory rights and duties.

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—

(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.

Determination of matter completely and finally.

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.

Rules of equity to prevail.

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.

Declaratory order.

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

Equitable waste.

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, 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.

Effect of absolute assignment of debt.

(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.

Execution of instrument by order of Court.

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 indorse 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.

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.

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

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

(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; Ch. 8:05.

(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.

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 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). Ch. 8:05.

(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.

Provisions as to workmen and employers. Ch. 88:05. [14 of 1964].

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.

Common employment. [50 of 1976].

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.

(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

Restrictions on institution of 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.

(2) If the person against whom an order is sought under this section is unable on account of poverty to retain counsel, the High Court shall assign counsel 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

Jurisdiction of 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.

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

Power to revise proceedings of inferior courts. [136/1976].

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, if it thinks fit, order any judge, 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

Appeals in civil matters. [136/1976].

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.

(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.

Power of Court of Appeal on hearing an appeal.

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—

(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.

Wrong rulings as to sufficiency of stamps.

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.

CRIMINAL APPEALS FROM HIGH COURT

Definitions. [14 of 1964].

42. In sections 42 to 65—

"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.

Right of appeal in criminal cases.

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

(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.

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 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.

Re-vesting and restitution of property on conviction.

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— 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 supended 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.

Admission of appellant to bail, and custody when attending court.

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

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

Computation and commencement of sentence.

49. (1) The time during which an appellant, pending the determination of his appeal, is admitted to bail, and subject to any directions which the Court of Appeal may give to the con-

trary 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.

(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.

Time for appealing.

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 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.

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.

Legal assistance to appellant.

53. The Court of Appeal may at any time assign to an appellant a solicitor and counsel, or counsel only, 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.

Right of appellant to be present.

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.

(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.

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

55. (1) It shall be the duty of the Director of Public Prosecutions by himself or by other counsel 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.

(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.

Costs of appeal.

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.

(2) The expenses of any solicitor or counsel 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, a solicitor and counsel, or counsel only, ought to be assigned to an appellant under the powers given to that Court by this Act.

Records. [14 of 1964].

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.

(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.

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

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;

(*c*) to assign legal aid to an appellant;

(*d*) to allow the appellant to be present at any proceedings in cases where he is not entitled to be present without leave; or

(*e*) to admit an appellant to bail;

may be exercised by any Judge of the Court 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.

Provisions of this Act applicable to proceedings under section 60.

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.

Case stated by Judge of High Court at request of Court of Appeal.

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.

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

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.

(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 counsel on behalf of, the Attorney General; and

(*b*) if the acquitted person desires to present any argument to the Court, by counsel 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 counsel 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.

64. (1) Nothing in this Act shall affect the prerogative of mercy. **Prerogative of mercy. [136/1976].**

(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.

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

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 in Chambers as may from time to time be assigned to a Master by Rules of Court. **Masters of the High Court. [2 of 1980].**

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

(2) The Masters shall, save as this Act or Rules of Court 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 a member of the Bar of Trinidad and Tobago and has practised as such for not less than seven years; or

(*b*) is a solicitor of the Supreme Court and has practised as such for not less than seven years; or

(*c*) is a barrister or solicitor 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

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.

Powers of Master. [2 of 1980].

65B. (1) Where under this Act a Master has jurisdiction in relation to any matter, then, subject to this Act, 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 sitting in Chambers to make an order in the matter and such an order may include provision for costs, certificate for counsel or other consequential matters; and any such order made by a Master shall, subject to this Act, have the same effect as if it had been made by the Court or by a Judge.

(2) Where under this Act 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 privileges of a Judge;

(*b*) any party to the proceedings may, if he so desires, appear by counsel or solicitor.

Appeals. [2 of 1980].

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.

(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].

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 Chambers 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 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 a barrister or a solicitor.

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

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 in Chambers.

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

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

(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 a barrister or solicitor, 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 and immunities and liabilities of the Registrar, except where otherwise provided by rules of court.

Custody of duplicate seal. [14 of 1964].

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.

Common powers of Registrars. [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.

Registrar to be Marshal.

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.

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.

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

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

Special criminal sitting.

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 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.

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

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.

(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

Power to make rules of court. [14 of 1964].

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:

(*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;

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*Amendment by Act 14 of 1964, s. 19(2), deemed to have come into operation on 1st August, 1962.

(*d*) the Registrar of the Supreme Court;

(*e*) a practising barrister nominated by the Bar Council who shall hold office for three years; and

(*f*) a practising solicitor nominated by the Trinidad Incorporated Law Society, who shall hold office for three years.

Rules of Court. [14 of 1964 19 of 1973 6 of 1976 45 of 1979 2 of 1980]

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

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

(*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. (1958 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;

(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 a barrister admitted to practice before the Supreme Court and for establishing a Disciplinary Committee for the purpose;

(*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.

(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.

Saving. [19 of 1973].

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.

(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.

(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 reinstitution of disciplinary proceedings against a barrister 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.

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. Reference to Chief Justice acting with others to make rules.

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. Saving of procedure.

(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.

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 Trial with assessors. [6 of 1976].

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.

Roll of barristers. [19 of 1973 39 of 1975 22 of 1977].

85. (1) The Registrar shall keep, in accordance with this section and any rules made by the Chief Justice for the purpose, an alphabetical list of all persons entitled to practise as barristers in Trinidad and Tobago.

(2) The Registrar shall have the custody of the roll and of all documents relating thereto and shall allow any person to inspect the roll during office hours without payment.

(3) The Registrar shall, as soon as practicable after the commencement of the Supreme Court of Judicature (Amendment) Act 1975 (that is, 2nd October 1975), cause to be registered on the roll the name of every person who immediately before that date was entitled to practise as a barrister in Trinidad and Tobago, including any person entitled to enjoy the rights and privileges of a barrister under the Judicial and Legal Service Act.

39 of 1975.

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(4) Thereafter, the Registrar shall, subject to section 90(1), cause to be registered on the roll the name of every person who becomes entitled to practise as a barrister in Trinidad and Tobago.

(5) Upon the publication of a notice under section 5 of the Judicial and Legal Service Act to the effect that a person has been appointed to, or holds an office in Part I of the Third Schedule to that Act, the Registrar shall enter such person's name on the roll and upon publication of a notice under that section to the effect that the person has relinquished or no longer holds the office, the Registrar shall strike out the person's name from the roll.

(6) A special part of the roll shall be reserved by the Registrar for the names of Legal Officers to be entered on the roll under subsection (3) or (5).

(7) The Registrar shall enter on the roll a note of the death, or the suspension from practice, of any person registered on the roll, shall strike out the name of any person

on the roll who ceases to be entitled to practise as a barrister and shall re-enter the name of such person on the roll if he becomes again entitled to practise as a barrister.

(8) Any person aggrieved by any default on the part of the Registrar in the performance of his functions under this section may apply to the High Court for relief and the High Court may make an order requiring the Registrar to take such action as the Court thinks necessary for the purpose of complying with the provisions of this section.

Qualifications for admission as a barrister. [39 of 1975 29 of 1976 49 of 1980].

86. A person shall be qualified to be admitted as a barrister if—

(*a*) he is the holder of a Legal Certificate of Education awarded by the Council of Legal Education; or

(*b*) he was called to the Bar of England.

Admission of barrister. [39 of 1975].

87. (1) A person who applies to be admitted as a barrister and who satisfies the Court that—

(*a*) he is a commonwealth citizen and is qualified to be admitted as a barrister under the provisions of section 86; or

(*b*) he is a person qualified under section 88 or 89,

shall be admitted by the Court to practise as a barrister in Trinidad and Tobago.

(2) Where an applicant under this section is registered on the roll of solicitors under section 3 of the Solicitors Act, Ch. 6:50. he shall state that fact in his application, and if the Court admits him as a barrister his name shall be struck off the roll of solicitors.

Eligibility of non-citizen who has obtained Legal Education Certificate to be admitted as barrister. [39 of 1975].

88. (1) The Minister may by Order provide that, subject to such exceptions, conditions and modifications as he may specify, a national of a country to which this section applies who has been awarded the Legal Education Certificate shall be eligible to be admitted by the High Court to practise as a barrister in Trinidad and Tobago.

(2) This section applies to a country that is a party to the Agreement if the Minister, after consultation with the Chief Justice, is satisfied—

(*a*) that the law of that country relating to the admission of barristers to practise as a barrister in a Superior Court of Jurisdiction in that country is such as to ensure that a national of Trinidad and Tobago, who has obtained the qualifications and satisfied the conditions which would entitle a national of that country to be admitted to practise as a barrister in that country, is entitled, or would if an Order were made under subsection (1) be or become entitled, to admission as a barrister of the Superior Courts of Jurisdiction of that country; and

(*b*) that the entitlement to admission would be on terms as favourable as those which nationals of that country would if an Order were made under subsection (1) be or become entitled to admission as barristers in Trinidad and Tobago.

Reciprocal admission. [39 of 1975].

89. (1) The Minister may by Order provide that, subject to such exceptions, conditions and modifications as he may specify, any person of a country to which this section applies who is entitled to practise as a barrister in that country shall, as from a specified date, be eligible to be admitted by the High Court to practise as a barrister in Trinidad and Tobago.

(2) This section applies to a particular country if the Minister, after consultation with the Chief Justice, is satisfied—

(*a*) that the law of that country relating to the admission of barristers to practise in a Superior Court of Jurisdiction is such as to ensure that such barristers possess suitable qualifications and competence;

(*b*) that by the laws of that country barristers of Trinidad and Tobago are entitled, or would if an Order were made under subsection (1) be

or become entitled to admission as barristers of the Superior Courts of that country; and

(*c*) that the entitlement or admission would be on terms as favourable as those on which barristers of that country would, if an Order were made under subsection (1), be or become entitled to admission as barristers in Trinidad and Tobago.

Entitlement to practise as a barrister. [39 of 1975].

90. (1) Upon production by the person admitted of a certified copy of the order of the Court admitting him under section 87 and on payment by such person of the prescribed fee, if any, he shall become entitled to practise as a barrister and the Registrar shall enter his name on the roll.

(2) The provisions of subsection (1) are without prejudice to the operation of any written law restricting the right of any person to enter, or to remain in Trinidad and Tobago.

Court may issue directions or order person to furnish evidence. [39 of 1975].

91. The Court may issue directions as to the manner in which the various qualifications for admission enumerated in section 87, 88 or 89 may be proved and may order any person to furnish such evidence as may be required for the purposes of an application under that section.

Enquiry and report by Registrar. [39 of 1975].

92. Before any person is admitted as a barrister the Registrar shall enquire whether the person has fulfilled all the conditions for admission laid down by law, and, if the Registrar is satisfied that the person has done so, he shall report accordingly to the Court.

Barrister's oath. [39 of 1975].

93. The Court before admitting any person as a barrister, shall administer or cause to be administered to the person the oath of allegiance and the following oath:

> I swear (or solemnly affirm) that I will exercise the practice and profession of an advocate counselling and advising all persons who may seek my assistance conscientiously and to the best of my ability that I will not support an unjust cause and when I find myself engaged in one I will desert it taking care not to accuse the subject of the State unjustly. (So help me God).

Certificate of enrolment. [39 of 1975].

Schedule.

94. (1) The Registrar shall, on request, issue to every barrister duly enrolled under this Act a certificate of his enrolment in the form set forth in the Schedule under the seal of the Court and signed by the Registrar.

(2) The production of the certificate shall be *prima facie* evidence that the person named therein is duly enrolled as a barrister of the Court, and the certificate shall be admissible in evidence without further proof of the sealing and signing thereof by the Registrar.

Disciplinary proceedings. [39 of 1975].

95. (1) Without prejudice to any other rule of law or to any rule of practice whereby the Supreme Court is empowered to take disciplinary action against a person admitted to practise as a barrister before it, it is hereby declared that the High Court has the power to take disciplinary action in accordance with rules of court made for the purpose with respect to his professional conduct against any person admitted to practise as a barrister in the Supreme Court before or after the commencement of this Act, and in particular the High Court may make any one or more of the following orders, namely:

(*a*) an order disbarring the barrister against whom disciplinary proceedings have been instituted, permanently from practising at the Bar of Trinidad and Tobago;

(*b*) an order suspending the barrister from practice for such time as the High Court seems fit;

(*c*) such order as to costs, as regards both the proceedings before it and the proceedings before the Disciplinary Committee established under section 78 as to the High Court seems fit;

(*d*) such further or other order as the circumstances of the case may require.

(2) In the exercise of the powers under subsection (3) the High Court shall sit as a full court consisting of an uneven number of Puisne Judges being not less than three, as is prescribed by rules of court.

(3) The Attorney General or the barrister whose professional conduct is the subject of any disciplinary proceedings before the High Court shall be entitled as of right to appeal to the Court of Appeal from any decision or other determination of the High Court in such proceedings.

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.

Section 94.
[39 of 1975].

SCHEDULE

CERTIFICATE OF ENROLMENT AS A BARRISTER OF THE SUPREME COURT OF TRINIDAD AND TOBAGO

I hereby certify that.....

was on .....duly admitted and enrolled as a barrister of the Supreme Court.

Given under my hand and the seal of the said Court at Port-of-Spain, Trinidad and Tobago this .....day of....., 19.....

.....
Registrar of the Supreme Court

SUBSIDIARY LEGISLATION

COURT OF APPEAL RULES

ARRANGEMENT OF RULES

RULE

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(Revoked by L.N. 121/1980)

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   Where appellant unable to write.
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RULE

Suspension of disqualifications consequent on conviction.
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Suspension of proceedings or claims consequent on conviction.
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12. Report of Judge of Court of trial.
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14. Obligation on appellants to fill up forms of appeal notices and answer questions thereon.
15. Time for appealing against conviction to run from verdict.
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17. Registrar to require proper officer of Court of trial to furnish him with particulars etc. of trial.
Registrar to require proper officer of Court of trial to furnish him with depositions, indictments, pleas, etc. for use of Court of Appeal.
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20. Abandonment of appeal.
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Sittings of a Judge under section 59.

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26. Bail. Court of Appeal to specify amount and before whom recognizances to be taken.
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Varying order for bail, by Court of Appeal.
Provisions for sureties discharging their obligations.
How appellant on bail to be dealt with on arrest at instance of sureties.
Arrest and commitment of appellant to be notified to Registrar by Clerk.
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Estreat of recognizances.
27. Duty of Police to enquire and report as to appellant's means, on request of Registrar.
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RULE

thinks necessary, to obtain documents, exhibits, etc., for purposes of appeal, and same to be open for inspection.
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30. Exhibits to which rule 5 relates to be returned to persons producing the same subject to order of Court.

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31. On final determination of appeals, etc., Registrar to notify appellant, Minister, and Commissioner of Prisons.
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Registrar to notify officer of Court of trial results of appeal.
Officer of Court of trial to enter decision of Court on records.

32. Registrar after appeal to return original depositions, exhibits, indictment, etc., to officer of Court of trial when received from him.

LEGAL AID TO APPELLANTS

33. Reports as to legal aid under section 57(5).
34. List of counsel and solicitors for purposes of Act.
Legal aid to be provided from such lists.

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39. Notice by Registrar to appellant of results of all applications.
40. Non-compliance with Rules not wilful may be waived by Court.
41. Enforcing duties under Rules.
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44. Reference to Court under section 63(2)(*b*).
45. Sittings during vacation.
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APPENDIX A—Civil Forms (Revoked by L.N. 121/1980)

APPENDIX B—Fees of Court in Civil Appeals (Revoked by L.N. 121/1980)

APPENDIX C—Criminal Forms

*COURT OF APPEAL RULES

deemed to have been made under section 78

12 of 1962.
[14 of 1964
53/1965
32/1974
54/1974
121/1980].

ORDER I

PRELIMINARY

1. These Rules may be cited as the Court of Appeal Rules. Citation.

2. In these Rules—. Interpretation. [14 of 1964].

"appellant" means the party appealing from a judgment, conviction, sentence or order and includes his legal representative;

"Attorney General" means the Attorney General of Trinidad and Tobago;

"Chief Justice" means the Chief Justice of Trinidad and Tobago;

"Court" means the Court of Appeal;

"Court below" means the Court from which the appeal is brought;

"exhibits" includes all books, papers, and documents, and all other property, matters and things whatsoever connected with the proceedings against any person who is entitled or may be authorised to appeal under the Act, if the same have been forwarded to the Court of trial on the person accused being committed for trial or have been produced and used in evidence during the trial of, or other proceedings in relation to a person entitled or authorised under the Act to appeal, and any written statement handed in to the Judge of the Court of trial by such person, but does not include the original depositions of witnesses examined before the committing Magistrate or Justice nor any indictment or inquisition against any such person nor any plea filed in the Court of trial;

See Note on Subsidiary Legislation on page 2, and also section 81(2).

"file" means file in the Supreme Court;

"filed" and "filing" have corresponding meanings;

"Judge" includes the presiding officer of any Court from which an appeal lies to the Court;

"legal representative" means any barrister, advocate, solicitor, attorney or legal practitioner admitted to practise in the courts of Trinidad and Tobago;

"Magistrate" includes every person exercising jurisdiction whether full or limited, in a Court of summary jurisdiction under the laws of Trinidad and Tobago;

"order" includes decree, judgment, sentence or decision of a Court below or a Judge thereof;

"party" means any party to the appeal and includes his legal representative;

"prison authority" means the head or the person in charge of the prisons in Trinidad and Tobago and includes his deputy or other officer discharging his duties;

"proper officer of the Court of trial" means the Registrar of the Supreme Court, from conviction before or the sentence of which a person desires to appeal under the Act;

"Registrar" means the Registrar of the Supreme Court and includes the Deputy Registrar and an Assistant Registrar:

"respondent"—

(*a*) in a civil appeal means any party, other than the appellant, directly affected by the appeal;

(*b*) in a criminal appeal where the State is not an appellant, means the person who under the provisions of the Act has the duty of appearing for the State or who undertakes the defence of the appeal;

"shorthand writer" means the person or persons appointed from time to time as such for the purposes of section 58 of the Act.

APPEALS GENERALLY

Forms in Appendices A and C to be used.

3. The forms set out in Appendices A and C or forms as near thereto as circumstances permit, shall be used in all cases to which forms are applicable.

Times of sittings and vacation. [32/1974 54/1974].

4. (1) Sittings of the Court shall be held at such times between the 2nd day of October and the 22nd day of December and between the 10th day of January and the 1st day of August in each year as the Chief Justice may direct.

(2) The Court shall be in vacation from the 22nd day of December to the 10th day of January (both days inclusive) and from the 1st day of August to the 2nd day of October (both days inclusive) and between the Wednesday before and the Wednesday after Easter:

However,

(a) appeals under the Summary Courts Act, shall be heard by the Court during the Long Vacation at such times as the Chief Justice may direct; Ch. 4:20.

(b) in urgent cases applications may be heard and determined during the vacations by the Court or a single Judge thereof;

(c) the Chief Justice may direct any sittings of the Court to be held during the Long Vacation for the purpose of hearing Criminal and Civil Appeals;

(d) the Court shall not sit on Sundays and public holidays and on such other days as the Chief Justice may direct; and

Days on which offices are to be closed.

(e) the several offices of the Court of Appeal shall be open on every day of the year except Saturdays, Sundays, Good Friday, Easter Eve, Monday and Tuesday in Easter week, Corpus Christi, Whit Monday, Christmas Day and the next following working day and all other days appointed to be observed as public holidays, from the hours of 8 a.m. to 4 p.m.

(3) In this rule the expression "Long Vacation" means the period from the 1st day of August to the 2nd day of October (both days inclusive).

Notice of sittings.

5. (1) Notice of each sitting shall be published by the Registrar in the *Gazette* at least ten days before the date appointed for the commencement of the sitting.

(2) The Registrar shall on the publication of the said notice in the *Gazette* post up on the notice board of the Court the cause list of the sitting; but the Court may in its discretion hear any appeal and deal with any other matter whether or not the same has been included in the cause list so published.

(3) This rule shall not apply to the hearing of any matter by a single Judge.

Right of audience. [14 of 1964].

6. (1) In all proceedings before the Court, the parties may appear in person or be represented on appeal by any person, who is entitled to practise as a barrister.

(2) In all proceedings before the Registrar, and in all preliminary and interlocutory proceedings and applications except such as are heard before the Court, the parties thereto may be represented and appear by a solicitor alone.

Register of appeals brought.

7. (1) The Registrar shall keep separate registers of all civil and criminal appeals brought before the Court including in the criminal appeal register notices of application for leave to appeal.

(2) Each register shall contain particulars of the date on which—

(a) the notice of appeal or of application for leave to appeal was lodged;

(b) any interlocutory order was made;

(c) the record of the appeal was received;

(d) the appeal was heard;

(e) judgment was delivered.

Enlargement of time and departure from Rules.

8. Subject to the provisions of section 50(2) of the Act (relating to the time within which an appeal may be brought in a capital case to the Court), and to Order II, rule 3(3), of these Rules, the Court may enlarge the time prescribed by these Rules, for the doing of anything to which these Rules apply, or may direct a departure from these Rules in any other way where this is required in the interest of justice.

Service of documents.

9. Subject to any provisions contained in these Rules relating to the service of any particular document—

(1) Service of the documents mentioned in the first column hereunder shall be served by leaving a true copy thereof in the manner specified in the second column—

Column 1	Column 2
(a) All documents required to be served— (i) on parties to an action who have not filed an address for service; and (ii) on a person not a party to the appeal.	by personal service on the party or his authorised agent, or on the person not a party.

(*b*) All documents required to be served on parties who have an address for service.	by leaving the document at the address for service with a person resident at or belonging to such place; or by registered post to such address, in which case, the time of service thereon shall be the time such document would be delivered in the ordinary course of post.

(2) If it is made to appear to a Judge of the Court below upon application supported by affidavit that prompt personal service of a document cannot be effected he may make such order for substituted service by advertisement or otherwise as may be just.

ORDER II

Civil Appeals from High Court

Order II and Appendices A and B of these Rules have been revoked by the Supreme Court (Amendment) Rules 1980 L.N. 121/1980.

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*Pages 64 to 78 (which contained Order II) have been omitted.

ORDER III

Criminal Appeals from High Court

Notices of Appeal

Notices of appeal to be signed by appellant and addressed to Registrar

1. (1) Every notice of appeal or notice of application for leave to appeal or notice of application for extension of time within which such notice shall be given under the Act shall be signed by the appellant himself, except under the provisions of subrules (4) and (5).

Any other notice required or authorised to be given for the purposes of the Act or these Rules shall be in writing and signed by the person giving the same or by his solicitor. All notices required or authorised to be given for the purposes of the Act or these Rules to the Court of Appeal shall be addressed to "The Registrar of the Supreme Court".

How notices etc. may be sent or given.

(2) Any notice or other document which is required or authorised by the Act or these Rules to be given or sent shall be deemed to be duly given or sent if forwarded by registered post addressed to the person to whom such notice or other document is so required or authorised to be given or sent.

Where appellant unable to write.

(3) When an appellant or any other person authorised or required to give or send any notice of appeal or notice of any application for the purposes of the Act or of these Rules is unable to write he may affix his mark thereto in the presence of a witness who shall attest the same and thereupon such notice shall be deemed to be duly signed by such appellant.

Appellant's representative may act for him where question of insanity involved.

(4) Where, on the trial of a person entitled to appeal under the Act, it has been contended that he was not responsible according to law for his actions on the ground that he was insane at the time the act was done or the omission made by him, any notice required by these Rules

to be given and signed by the appellant himself, may be given and signed by his solicitor or other person authorised to act on his behalf.

Notice etc. on behalf of corporations.

(5) In the case of a body corporate where by the Act or these Rules any notice or other document is required to be signed by the appellant himself, it shall be sufficient compliance therewith if such notice or other document is signed by the secretary, clerk, manager or solicitor of such body corporate.

Shorthand Writers and Transcript of Notes

Shorthand notes to be certified by the writer. [53/1965].

2. (1) Where a recording of the proceedings (or any part thereof) at the trial of a person convicted on indictment is taken by means of shorthand notes, the shorthand writer shall sign the shorthand note taken by him of any trial or proceeding, or of any part of such trial or proceeding, and certify the same to be a complete and correct shorthand note thereof, and shall retain the same unless and until he is directed by the Registrar to forward such shorthand note to him.

Transcript to be furnished on application of Registrar.

(2) The shorthand writer shall, on being directed by the Registrar, furnish to him for the use of the Court a transcript of the whole or of any part of the shorthand note taken by him of any trial or proceeding in reference to which an appellant has appealed under the Act.

Party interested may obtain transcript from shorthand writer.

(3) The shorthand writer shall furnish to a party interested in a trial or other proceeding in relation to which a person may appeal under the Act, and to no other person, a transcript of the whole, or of any part of the shorthand note of any such trial or other proceeding on payment by

such party interested of the charges on such scale as the Registrar may fix.

Party interested may obtain transcript from Registrar.

(4) A party interested in an appeal under the Act may obtain from the Registrar a copy of the transcript of the whole or of any part of such shorthand note as relates to the appeal subject to the provisions of section 58 of the Act.

Definition of party interested.

(5) For the purposes of this rule, "a party interested" shall mean the prosecutor or the person convicted, or any other person named in, or immediately affected by, any order made by the Judge of the Court of trial, or other person authorised to act on behalf of a party interested, as herein defined; but shall not include the Attorney General, to whom a copy of such transcript shall be furnished free of charge.

Transcript to be made by writer thereof or some other person on Registrar's directions.

(6) Whenever under the Act or these Rules a transcript of the whole or of any part of such shorthand note is required such transcript may be made by the shorthand writer who took and certified the shorthand note, or by such other competent person as the Registrar may direct.

Verification of transcript for use of Court.

(7) A transcript of the whole or any part of the shorthand note relating to the case of any appellant which may be required for the use of the Court shall be typewritten and verified by the person making the same by the statutory declaration in the Form VIII in Appendix C that the same is a correct and complete transcript of the whole, or of such part, as the case may be, of the shorthand note purporting to have been taken, signed, and certified by the shorthand writer who took the same.

Form VIII. Appendix C.

What record shall be taken.

(8) For the purpose of section 58 of the Act a record shall be taken of the summing up of the Judge of the

Court of trial, and of such other parts of the proceedings as the Judge of the Court of trial may consider expedient and order to be taken in the course of the trial.

Such record shall comprise either shorthand notes or a recording on electro-magnetic tape or by any other mechanical means, or partly such notes and partly such recording, as the Court may think fit.

(9) Where the record or any part thereof comprises a recording as aforesaid, the recording shall be preserved and form part of the record of the Court of trial, and subrules (4), (5), (6) and (7) shall apply in relation thereto or any part thereof as they apply in relation to a short-hand note.

Certificate of Judge of Trial

Judge's certificate under section 43. Form I. Appendix C.

3. (1) The certificate of the Judge of the Court of trial under section 43 of the Act may be in the Form I in Appendix C.

Judge's certificate may be given at trial without application. Form I. Appendix C.

(2) The Judge of the Court of trial may, in any case in which he considers it desirable to do so, inform the person convicted before or sentenced by him that the case is in his opinion one fit for an appeal to the Court under section 43 of the Act, and may give to such person a certificate to that effect in the Form I in Appendix C.

Appeals Where Fine only Is Inflicted

Where fine imposed on conviction to be retained pending appeal.

4. (1) Where a person has, on his conviction, been sentenced to payment of a fine, and in default of payment to imprisonment, the person lawfully authorised to receive such fine shall, on receiving the same, retain it until the determination of any appeal in relation thereto.

(2) If such person remains in custody in default of payment of the fine, he shall be deemed, for all purposes of the Act or these Rules, to be a person sentenced to imprisonment.

Person in custody in default of payment of fine, deemed to be person sentenced to imprisonment.

(3) Where any person has been convicted and is thereupon sentenced to the payment of a fine, and, in default of such payment, to imprisonment and he intimates to the Judge of the Court of trial that he is desirous of appealing against his conviction to the Court, either upon grounds of law alone, or, with the certificate of the Judge of the Court of trial, upon any grounds mentioned in section 43 of the Act, such Judge may, if he thinks right to do so, order such person forthwith to enter into recognizances in such amount, and with or without sureties in such amount as such Judge may think right, to prosecute his appeal; and, subject thereto, may order that payment of the said fine shall be made at the final determination of his said appeal, if the same be dismissed, to the Registrar or as such Court may then order. The recognizance under this rule shall be in the Forms X and XI in Appendix C. A surety becoming duly bound by recognizance under this rule, shall be deemed to be, for all purposes and shall have all the powers of a surety under the provisions of rule 26.

Person fined may in certain cases intimate appeal, and not pay fine. Power of Court of trial in such cases to impose recognizances.

Forms X, XI. Appendix C.

The proper officer of the Court of trial shall forward the recognizances of the appellant and his surety or sureties to the Registrar.

(4) An appellant who has been sentenced to the payment of a fine, and has paid the same in accordance with such sentence, shall, in the event of his appeal being successful, be entitled, subject to any order of the Court, to the return of the sum or any part thereof so paid by him.

Fine to be repaid on succcess of appeal.

How appellant committing breach of recognizance unler this rule may be dealt with.

(5) If an appellant to whom subrule (3) applies does not serve, in accordance with these Rules, a notice of appeal upon grounds of law alone, or with the certificate of the Judge of the Court of trial upon any grounds mentioned in section 43 of the Act, within fourteen days from the date of his conviction and sentence, the Registrar shall report such omission to the Court, who may, after notice in the Forms XXII and XXIII in Appendix C has been given to the appellant and his sureties, if any, order an estreat of the recognizances of the appellant and his sureties in the manner provided by rule 26, and may issue a warrant for the apprehension of the appellant and may commit him to prison in default of payment of his fine, or may make such other order as it thinks fit.

Forms XXII, XXIII Appendix C.

Custody of Exhibits used at Trial

Judge's directions as to custody of exhibits.

5. (1) The Judge of the Court of trial may make an order if he thinks fit for the custody, disposal, or production of any exhibits in the case, but unless he makes any such order, exhibits shall be kept in the custody of the proper officer of the Court of trial for a period of fourteen days from the date of conviction, and if an appeal is pending, then until the final determination of such appeal; if no appeal or application for leave to appeal is lodged during the said period of fourteen days, then exhibits shall be returned to the custody of the person producing the same or of the solicitor for the prosecution or defence respectively.

Record of Judge's directions as to custody of exhibits.

(2) The proper officer of the Court of trial shall keep a record of any order or direction of the Judge thereof given under this rule.

List of exhibits produced before committal to be made by clerk to Magistrate or Justice.

(3) Whenever a person is committed for trial, the clerk to the Magistrate or Justice committing such person for trial shall

make and forward, with the depositions taken in relation to such person, a complete list of such exhibits as have been produced and used in evidence for or against him during any proceedings before such Magistrate or Justice to the Court before which such person is to be tried. Such list shall be in the Form XXXII in Appendix C, subject to the necessary modifications, and shall be signed by such clerk. The exhibits appearing on such lists shall be marked with consecutive numbers for the purpose of readily identifying the same.

Form XXXII. Appendix C.

Any exhibits put in for the first time at the trial shall be added to such list by the proper officer of the Court of trial and marked as herein provided.

ORDER MADE AT TRIAL. CONSEQUENTIAL ORDERS AND SUSPENSION OF SAME PENDING APPEAL

Varying order of restitution of property. Persons affected may appear on appeal.

6. Where, upon the trial of a person entitled to appeal under the Act against his conviction, an order of restitution of any property to any person has been made by the Judge of the Court of trial, the person in whose favour or against whom the order of restitution has been made, any person in whose favour or against whom an order to which rule 7 relates has been made, and, with the leave of the Court, any other person, shall, on the final hearing by the Court of an appeal against the conviction on which such order of restitution was made, be entitled to be heard by the Court before any order under the provisions of section 46(2) of the Act, annulling or varying such order of restitution, is made.

Non-suspension of orders of restitution, etc., to be subject to property or a sample etc., being necessary for purposes of appeal. Ch. 82:30.

7. Where the Judge of the Court of trial is of opinion that the title to any property the subject of an order of restitution made on a conviction of a person before him, or any property to which the provisions of section 25(1) of the Sale of Goods Act apply, is not in dispute, he, if he should be of opinion that such property or a sample or portion or facsimile representation thereof is reasonably necessary to be produced for use at the hearing of any appeal, shall give such directions to or impose such terms upon the person in whose favour the order of restitution is made, or in whom such property revests under such subsection as he thinks right in order to secure the production of such sample, portion or facsimile representation for use at the hearing of any such appeal.

Temporary suspension of orders made on conviction, as to money rewards, costs etc.

8. (1) Where, on the conviction of a person, the Judge of the Court of trial makes an order condemning such person to the payment of the whole or of any part of the costs and expenses of

the prosecution for the offence of which he is convicted out of any moneys taken from such person on his apprehension or otherwise or where such Judge makes any order under sections 54, 55 or 56 of the Criminal Procedure Act or where such Judge lawfully makes on the conviction of any person before him any order for the payment of money by such convicted person or by any other person or any order affecting the rights or property of such convicted person, the operation of such orders shall in any of such cases be suspended until the expiration of fourteen days after the day on which any such orders were made. And in cases where notice of appeal or notice of application for leave to appeal is given within fourteen days from and after the verdict against such person, such orders shall be further suspended until the determination of the appeal against the conviction in relation to which they were made. The Court may, by order, annul any order to which this rule refers on the determination of any appeal under the Act, or may vary such order, and such order, if annulled, shall not take effect, and, if varied, shall take effect as so varied.

Ch. 12:02.

The proper officer of the Court of trial shall keep a record of any order to which this rule refers.

Judge's direction as to property of convicted person pending appeal.

(2) Where the Judge of the Court of trial makes any such order on a person convicted before him, as in this rule mentioned, he shall give such directions as he thinks right as to the retention by any person, of any money or valuable securities belonging to the person so convicted and taken from such person on his apprehension or of any money or valuable securities at the date of his conviction in the possession of the prosecution for the period of fourteen days, or in the event of an appeal, until the determination thereof by the Court of Appeal. The proper officer of the Court of trial shall keep a record of any directions given under this rule.

Suspension of disqualifications consequent on conviction.

(3) Where upon conviction of any person of any offence any disqualification, forfeiture or disability attaches to such person by reason of such conviction, such disqualification, forfeiture or disability shall not attach for the period of fourteen days from the date of the verdict against such person nor in the event of an appeal under the Act to the Court of Appeal until the determination thereof.

Judge's direction as to securing payment of money by convicted person pending appeal.

(4) When the Judge of the Court of trial on the conviction of a person before him, makes any order for the payment of money by such person or by any other person upon such conviction, and, by reason of this rule, such order would otherwise be suspended, such Judge may, if he thinks right to do so, direct that the opera-

tion of such order shall not be suspended unless the person on whom such order has been made shall in such manner and within such time as the said Judge shall direct give security by way of undertaking or otherwise for the payment to the person in whose favour such order has been made of the amount therein named. Such security may be to the satisfaction of the person in whose favour the order for payment has been made or of any other person as such Judge shall direct.

Suspension of order of destruction or forfeiture of property.

(5) Where on a conviction any property, matters or things the subject of the prosecution or connected therewith, are to be or may be ordered to be destroyed or forfeited under the provisions of any written law, the destruction or forfeiture or order for destruction or forfeiture thereof shall be suspended for the period of fourteen days from and after the date on which the verdict on such indictment was returned, and in the event of an appeal under the Act, shall be further suspended until the determination thereof by the Court.

Suspension of proceedings or claims consequent on conviction.

(6) Where, upon conviction of any person of any offence, any claim may be made or any proceedings may be taken under any written law against such person or any other person in consequence of such conviction, such proceedings shall not be taken until after the period of ten days from the date on which the verdict against such person was returned nor in the event of an appeal under the Act to the Court until the determination thereof.

Any person affected by any orders which are suspended under this rule may, with the leave of the Court, be heard on the final determination of any appeal, before any such orders are varied or annulled by the Court.

Period of suspension of orders under section 56 of Act. Ch. 82:30.

9. The time during which an order of restitution or the operation of section 25(1) of the Sale of Goods Act, suspended under section 46 of the Act, shall commence to run from the day on which the verdict of the jury was returned, and, in cases where notice of appeal or notice of application for leave to appeal is duly given within fourteen days after such day, the period of suspension of such order or of the operation of the subsection shall continue until the determination of the appeal.

Certificate of conviction not to issue for fourteen days after conviction.

10. (1) The clerk of the Court of trial or other officer thereof, having the custody of the records of such Court, or the deputy of such clerk or other officer, shall not issue, under any written laws authorising him to do so, a certificate of conviction of any person convicted on indictment in the Court to which he is such clerk,

officer or deputy, for the period of fourteen days after the actual day on which such conviction took place, nor in the event of such clerk, officer or deputy receiving information from the Registrar of the Court within such fourteen days that a notice of appeal or of application for leave to appeal has been given under the Act, until the determination thereof.

After fourteen days from conviction, clerk to be satisfied no appeal pending before issuing certificate of conviction.

(2) Where an application is made to such clerk, officer or deputy to issue such certificate of conviction as in this rule mentioned after the expiration of the said period of fourteen days he shall require, before issuing the same, to be satisfied that there is no appeal then pending in the Court against such conviction. A person desirous of obtaining a certificate of conviction from such clerk, officer or deputy shall be entitled to obtain from the Registrar a certificate in such form as the said Registrar may think right for the purpose of satisfying by the production thereof, such clerk, officer or deputy that no appeal against such conviction is then pending. After the expiration of two months from the date of the conviction a certificate thereof may be issued by such clerk, officer or deputy as heretofore, except in cases in which he has had notice of an appeal still undetermined.

For the purposes of this rule the expression "conviction" shall mean the verdict or plea of guilty and any final judgment passed thereon.

Judge's notes to be furnished to the Registrar on request. [53/1965].

11. (1) The Registrar when he has received a notice of appeal, or a notice of application for leave to appeal under the Act or a notice for extension of the time within which under the Act such notices shall be given, or when the Minister exercises his powers under section 64 of the Act, shall request the Judge of the Court of trial to furnish him with the whole or any part of his notes of the trial or any part thereof in accordance with subrule (2) or (3); and such Judge of the Court of trial shall thereupon furnish the same to the Registrar in accordance with such request.

(2) In capital cases the Registrar shall request the whole of the Judge's notes.

(3) In other cases the Registrar shall request—

(a) such part of the notes as relates to any particular piece of evidence which is referred to in the notice of appeal or other notice mentioned in subrule (1), as upon the application of any party he considers is necessary; or

(b) the whole or such part of the notes as the Court may by order direct.

(4) Copies of the whole or part of the notes furnished to the Registrar under subrule (2) or (3) shall be supplied—

(a) to the Attorney General without charge;

(b) to any other party interested on payment of the charges on such scale as the Registrar may fix.

Report of Judge of Court of trial.

12. (1) The Registrar when he has received a notice of appeal, or a notice of application for leave to appeal under the Act, or a notice of application for extension of time within which under the Act such notices shall be given, or when the Minister exercises his powers under section 64 of the Act, or whenever it appears to be necessary for the proper determination of any appeal or application, or for the due performance of the duties of the Court under the said section may and, whenever in relation to any appeal under the Act the Court or any Judge thereof directs him to do so, shall request the Judge of the Court of trial to furnish him with a report in writing, giving his opinion upon the case generally or upon any point arising in the case, and the Judge of the Court of trial shall furnish the same to the Registrar in accordance with such request.

(2) The report of the Judge shall be made to the Court, and except by leave of the Court or a Judge thereof the Registrar shall not furnish to any person any part thereof.

Registrar to furnish Judge of Court of trial with materials for report.

13. When the Registrar requests the Judge of the Court of trial to furnish a report under these Rules, he shall send to such Judge of the Court of trial a copy of the notice of appeal or notice of application for leave to appeal or notice of application for extension of time within which under the Act such notice shall be given or any other document or information which he considers material, or which the Court at any time directs him to send, or with which such Judge may request to be furnished by the Registrar, to enable such Judge to deal in his report with the appellant's case generally or with any point arising thereon.

NOTICES OF APPEAL AND PERIOD FOR APPEALING

Abandonment of Appeals

Obligation on appellants to fill up forms of appeal notices and answer questions thereon.

14. A person desiring, under the provisions of the Act, to appeal to the Court of Appeal against his conviction or sentence, shall commence his appeal by sending to the Registrar a notice of appeal or notice of application for leave to appeal, or notice of

application for extension of time within which such notice shall be given, as the case may be, in the form of such notices respectively set forth in the Appendix C, and in the notice or notices so sent, shall answer the questions and comply with the requirements set forth thereon, subject to the provisions of rule 40.

Appendix C.

Time for appealing against conviction to run from verdict.

15. The time within which a person convicted shall give notice of appeal or notice of his application for leave to appeal to the Court against his conviction shall commence to run from the day on which the verdict of the jury was returned, whether the Judge of the Court of trial has passed sentence or pronounced final judgment upon him on that day or not.

Time for appealing against sentence to run from pronouncement of sentence.

16. The time within which a person convicted and sentenced, shall give notice of appeal or notice of application for leave to appeal against such sentence under the Act to the Court, shall commence to run from the day on which such sentence has been passed upon him by the Judge of the Court of trial.

Registrar to require proper officer of Court of trial to furnish him with particulars etc., of trial.

17. (1) When the Registrar has received a notice of appeal, or a notice of application for leave to appeal, or a notice of application for extension of time within which, under the Act, such notices are given, or where the Minister exercises his powers under section 64 of the Act, he shall forthwith apply to the proper officer of the Court of trial for the particulars of the trial and conviction according to the Form II in the Appendix C, or a copy thereof so far as the same refers to the appellant, and such officer shall forthwith furnish the same to the Registrar.

Form II. Appendix C.

Registrar to require proper officer of court of trial to furnish him with depositions, indictments, pleas, etc., for use of Court of Appeal.

(2) The Registrar may, if it appears to him to be necessary for the proper determination of any appeal or application or for the due performance of the duties of the Court of Appeal under section 44 of the Act or whenever in any such cases he is directed by the Court to do so shall require the proper officer of the Court of trial to furnish him with the original depositions of witnesses examined before the committing Magistrate or Justice, or with any exhibit retained by such officer, and with the indictment or indictments or inquisition against the appellant, or with an abstract or copy thereof or any part thereof or with any plea filed in the Court of trial, and such officer shall forthwith furnish the same to the Registrar.

Prosecutor at trial to be ascertained.

18. The proper officer of the Court of trial shall ascertain and record in every case the name and address of the person, whether a private prosecutor or not, who is responsible for and is carrying

on a prosecution in such Court, and the name and address of the solicitor, if any, for the prosecution.

Notice of application for leave to appeal.

19. Where the Court has, on a notice of application for leave to appeal duly served, and in the form provided under these Rules, given an appellant leave to appeal, it shall not be necessary for such appellant to give any notice of appeal, but the notice of application for leave to appeal shall in such case be deemed to be a notice of appeal.

Abandonment of appeal.

Form III. Appendix C.

20. An appellant at any time after he has duly served notice of appeal or of application for leave to appeal, or of application for extension of time within which under the Act such notice shall be given, may abandon his appeal by giving notice of abandonment thereof in the Form III in the Appendix C to the Registrar and upon such notice being given the appeal shall be deemed to have been dismissed by the Court.

Notice of application for extension of time for appealing. Form IX. Appendix C.

21. An application to the Court of Appeal for an extension of time within which notices may be given, shall be in the Form IX in Appendix C. Every person making an application for such extension of time, shall send to the Registrar together with the proper form of such application, a form, duly filled up, of notice of appeal, or of notice of application for leave to appeal, appropriate to the ground or grounds upon which he desires to question his conviction or sentence, as the case may be.

PROCEEDINGS BEFORE JUDGE OF THE COURT UNDER SECTION 59 OF THE ACT

How application for leave to appeal and other preliminary applications are to be dealt with. Forms IV, V, VI, VII. Appendix C.

22. (1) Notice of application for leave to appeal or for extension of time within which notice of appeal or notice of application for leave to appeal shall be given under the Act in the forms in Appendix C, and the answers to the questions on Forms IV, V, VI, and VII, which an appellant is by these Rules required to make, in reference to legal aid being assigned to him, or to leave being granted to him to be present at the hearing of his appeal, shall be deemed to be applications to the Court in such matters respectively.

Procedure where Judge of Court of Appeal refuses applications.

(2) The Registrar when any application mentioned in this rule has been dealt with by the Judge shall notify to the appellant the decision. In the event of the Judge refusing all or any of such applications the Registrar on notifying such refusal to the appel-

Form XIV. Appendix C.

lant shall forward to him Form XIV in Appendix C which form the appellant is hereby required to fill up and forthwith return to the Registrar. If the appellant does not desire to have his said application or applications determined by the Court as duly constituted for the hearing of appeals under the Act, or does not return within five days to the Registrar Form XIV duly filled up by him, the refusal of his application or applications by such Judge shall be final. If the appellant desires that his said application or applications shall be determined by the Court as duly constituted for the hearing of appeals under the Act and is not legally represented he may, if the Court give him leave, be present at the hearing and determination by the Court of his said application: Provided that an appellant who is legally represented shall not be entitled to be present without special leave of the Court.

(3) When an appellant duly fills up and returns within the prescribed time to the Registrar Form XIV expressing a desire to be present at the hearing and determination by the Court of the applications mentioned in this rule, such form shall be deemed to be an application by the appellant for leave to be so present. And the Registrar, on receiving the said form, shall take the necessary steps for placing the said application before the Court. If the said application to be presented is refused by the Court, the Registrar shall notify the appellant; and if the said application is granted, the Registrar shall notify the appellant and the officer in charge of the prison wherein the appellant is in custody, as provided by these Rules. For the purpose of constituting a Court the Judge who has refused any such application may sit as a member of such Court, and take part in determining such application.

Sittings of a Judge under section 59.

(4) A Judge of the Court sitting under the provisions of section 59 of the Act may sit and act wherever convenient.

PROCEDURE UNDER SECTION 60 OF THE ACT

Procedure under section 60.

23. (1) Where a person is entitled to appeal under the Act on grounds of appeal involving a question of law alone, and his appeal is not dealt with under the provision of section 64 an application by him or by the respondent may at any time be made to the Court that the questions of law raised in such appeal should be decided by the Court in accordance with the procedure under section 60 of the Act.

The Court may upon such application, or upon a report made to them by the Registrar that the procedure would, in his opinion,

be a more convenient method of dealing with the points of law raised in such appeal, make an order that the same shall be so dealt with.

Materials to be supplied to Judge for statement of special case.

(2) When an order has been made under this rule, the Registrar shall notify the Judge of the Court of trial thereof, and shall forward to him for the purpose of giving to him facilities in the statement of the case, a copy of the notice of appeal and any supplemental or explanatory statement furnished by the appellant to the Registrar and any other information or material which the Registrar may think necessary or such Judge may require.

Judge to forward special case to Registrar and copies to be supplied to appellant and respondent.

(3) The Judge of the Court of trial shall forward a case stated by him in pursuance of this rule to the Registrar, together with all documents or other material received from the Registrar, who shall on receiving the same send a copy of such case to the appellant and respondent respectively.

These Rules to apply to convicted persons where case stated under section 60.

(4) Where under the provisions of section 60 the Judge of the Court of trial states a case for the consideration of the Court, the person convicted shall for the purposes of these Rules be deemed to be an appellant who has appealed under section 43 of the Act: Provided that in such case section 57(2) thereof shall not apply.

DUTIES OF DIRECTOR OF PUBLIC PROSECUTIONS

Registrar's duties as to ascertaining respondent.

24. (1) When the Registrar has received a notice of appeal, or a notice of appeal on grounds of law alone, which does not, in his opinion, fall within the provisions of section 57(2) of the Act, or where leave to appeal is granted to any appellant, he shall forthwith ascertain from the person specified in Form II in Appendix C as the prosecutor, unless such person shall be the Director of Public Prosecutions or a Government Department, or from the solicitor of such person, whether the prosecutor intends to undertake the defence of the appeal. And in the event of the prosecutor declining to undertake the defence of the appeal, notice to that effect shall be sent by the Registrar to the Director of Public Prosecutions.

Form II. Appendix C.

Where such prosecutor in the Court of trial was the Director of Public Prosecutions, the Registrar shall notify him of such appeal.

Prosecutor to afford all information, documents, etc., to Registrar and Director of Public Prosecutions

(2) It shall be the duty of a prosecutor who declines to undertake the defence of an appeal, and of his solicitor, to furnish to the Registrar and the Director of Public Prosecutions, or either of them, any information, documents, matters, and things in his possession or under his control connected with the proceedings

against the appellant, which the Registrar or Director of Public Prosecutions may require for the purposes of their duties under the Act.

Court may at any stage substitute a Law Officer for a private prosecutor.

25. Where the defence of an appeal is undertaken by a private prosecutor the Court may, at any stage of the proceedings in such appeal, if it thinks right to do so, order that a Law Officer shall take over the defence of the appeal and be responsible on behalf of the State for the further proceedings in the same.

PROCEDURE ON APPLICATIONS FOR BAIL; RIGHTS OF SURETIES; ESTREAT OF RECOGNIZANCES

Bail. Court of Appeal to specify amount and before whom recognizances to be taken.

26. (1) When the Court under the Act admits an appellant to bail pending the determination of his appeal on an application by him duly made in compliance with these Rules, the Court shall specify the amounts in which the appellant and his surety or sureties (if any be required) shall be bound by recognizance and shall direct, if they think right to do so, before whom the recognizances of the appellant and his surety or sureties (if any) may be taken.

Appellant's recognizances.

(2) In the event of the Court not making any special order or giving special directions under this rule, the recognizances of the appellant may be taken before a justice of the peace at the prison in which he shall then be confined or the officer in charge thereof, and the recognizances of his surety or sureties (if any) may be taken before any Magistrate.

Appellant and prison officer to receive notice of terms of bail.

(3) The Registrar shall notify the appellant and the officer in charge of the prison within which he is confined, the terms and conditions on which the Court shall admit the appellant to bail under the Act.

Police of district to assist Magistrate in inquiring as to surety's sufficiency.

(4) The said Magistrate shall be entitled to require the assistance of the constabulary acting within his district for the purpose of making inquiry as to the sufficiency or otherwise, of any person offering himself as a surety on behalf of any appellant who has, under the Act, been granted bail, and it shall be the duty of such constabulary to give such assistance to and as and when required by a Magistrate under this rule.

Appellant's and surety's recognizances to be forwarded to Registrar. Clerk to give surety certificate of recognizances.

(5) After the recognizance of a surety has been duly taken under these Rules by such Magistrate, the clerk of the court of such Magistrate shall forward such recognizance to the Registrar, and the officer in charge of the prison in which the appellant is then confined shall, after the appellant's recognizance has been

duly taken in pursuance of this rule, forward the same to the Registrar. The clerk shall after the recognizances of a surety are taken give to him a certificate in the Form XV in Appendix C which such surety shall sign and retain.

Form XV. Appendix C.

(6) The Registrar on being satisfied that the recognizances of the appellant and his surety or sureties (if any) are in due form and in compliance with the order of the Court admitting the appellant to bail, shall send in the Form XII in Appendix C a notice to the officer of the prison in which the appellant shall then be confined. This notice, when received by the said officer, shall be sufficient authority to him to release the appellant from custody.

Registrar on receiving recognizances in due form to notify officer of prison to release appellant. Form XII. Appendix C.

(7) The recognizances provided for in this rule shall be in the Forms X and XI in Appendix C.

Form of recognizance. Forms X, XI. Appendix C.

(8) An appellant who has been admitted to bail under the Act shall, by the order of the Court or a Judge thereof under which he was so admitted to bail, be ordered to be and shall be personally present at each and every hearing of his appeal, and at the final determination thereof. The Court may, in the event of such appellant not being present at any hearing of his appeal, if they think right to do so, decline to consider the appeal, and may proceed to summarily dismiss the same, and may issue a warrant for the apprehension of the appellant in the Form XIX in the Appendix C. However, the Court may consider the appeal in his absence, or make such other order as they think right.

Presence of appellant on bail, at hearing of his appeal.

Form XIX. Appendix C.

(9) When an appellant is present before the Court of Appeal, such Court may on an application, made by any person, or, if they think right to do so, without any application, make any order admitting the appellant to bail, or revoke or vary any such order previously made, or enlarge from time to time the recognizance of the appellant or of his sureties or substitute any other surety for a surety previously bound as they think right.

Varying order for bail, by Court of Appeal.

(10) Where the surety or sureties for an appellant under the Act, upon whose recognizances such appellant has been released on bail by the Court, suspects that the said appellant is about to depart out of Trinidad and Tobago, or in any manner to fail to observe the conditions of his recognizances on which he was so released, such surety or sureties may lay an information before a Magistrate acting in and for the magisterial district in which the said appellant is, or is by such surety or sureties believed to be, or in which such surety or sureties may then be, in the Form XVI in Appendix C, and such Magistrate shall there-

Provisions for sureties discharging their obligations.

Form XVI. Appendix C.

Form XVII. Appendix C.

upon issue a warrant in the Form XVII in Appendix C for the apprehension of the said appellant.

How appellant on bail to be dealt with on arrest at instance of sureties.

(11) The said appellant shall, on being apprehended under the said warrant, be brought before the Court in and for which the said Magistrate acts before whom the said information was laid, or some other Magistrate's Court specified in the said warrant. The said Court shall on verification of the said information by oath of the informant, by warrant of commitment in the Form XVIII in Appendix C, commit him to the prison to which persons charged with indictable offences before such Court are ordinarily committed. The officer in charge of such prison shall, unless such prison was the prison from which the appellant was released on bail under these Rules, notify the Commissioner of Prisons of such commitment, as in this rule mentioned.

Form XVIII. Appendix C.

Where the appellant is by such Court committed to a prison which was not the prison from which he was released on bail after his conviction, the Commissioner of Prisons, subject to any order of the Court, may transfer him to the prison from which he was so released.

Arrest and commitment of apellant to be notified to Registrar by clerk.

(12) The clerk of the said Court, on the commitment of any such appellant, shall forthwith notify the Registrar to that effect, and forward to him the said information and the deposition in verification thereof taken before such Court together with a copy of the said warrant of commitment.

Power of Court of Appeal to revoke order for bail.

(13) At any time after an appellant has been released on bail under the Act, the Court of Appeal may, if satisfied that it is in the interest of justice to do so, revoke the order admitting him to bail, and issue a warrant in the Form XIX in Appendix C for his apprehension, and order him to be committed to prison.

Form XIX. Appendix C.

Officer in charge of prison on commitment of appellant to notify Registrar.

(14) When an appellant has been released on bail and has, under a warrant under these Rules or by his surety or sureties, been apprehended and is in prison, the officer in charge thereof shall forthwith notify the Registrar who shall take steps to inform the Court thereof, and the Court of Appeal may give to the Registrar such directions as to the appeal or otherwise as they think right.

Sureties' rights at Common Law preserved.

(15) Nothing in these Rules shall effect the lawful right of a surety to apprehend and surrender into custody the person for whose appearance he has become bound, and thereby to discharge himself of his suretyship.

Estreat of recognizances.

(16) The Court may on the breach of the recognizances of the appellant, if it thinks right to do so, order such recognizances

and those of his surety or sureties to be estreated, and the manner of such estreat shall be similar to that provided for estreating recognizances under section 81 of the Criminal Procedure Act. Ch. 12:02.

Duty of Police to enquire and report as to appellant's means, on request of Registrar.

27. It shall be the duty of the Officer in charge of Police of the district in which the appellant has resided before his conviction, or of the district from which he was committed, to enquire as to and to report to the Registrar when applied to by him, upon the means and circumstances of any appellant where a question as to his means and circumstances arises under the Act or these Rules.

Warders, etc., to attend sittings of Court of Appeal.

28. (1) The Commissioner of Prisons shall on notice from the Registrar cause from time to time such sufficient number of male and female warders to attend the sittings of the Court, as having regard to the list of appeals thereat he considers necessary.

Appellant to surrender on appeal, be searched, and remain in custody until further dealt with.

(2) An appellant who is not in custody, shall, whenever his case is called on before the Court, surrender himself to such persons as the Court shall from time to time direct, and thereupon shall be searched by them, and shall be deemed to be in their lawful custody until further released on bail or otherwise dealt with as the Court shall direct.

Registrar on application of appellant or respondent, or where he thinks necessary, to obtain documents, exhibits, etc., for purposes of appeal, and same to be open for inspection.

29. (1) The Registrar may, on an application made to him by the appellant or respondent in any appeal, or where he considers the same to be necessary for the proper determination of any appeal or application, or shall, where directed by the Court of Appeal to do so, obtain and keep available for use by the Court any documents, exhibits or other things relating to the proceedings before the Court, and pending the determination of the appeal such documents, exhibits, or other things shall be open, as and when the Registrar may arrange, for the inspection of any party interested.

Court of Appeal may order production of any document or exhibit, etc.

(2) The Court may, at any stage of an appeal, whenever they think it necessary or expedient in the interest of justice to do so, on the application of an appellant or respondent, order any document, exhibit or other thing connected with the proceedings, to be produced to the Registrar or before them, by any person having the custody or control thereof. Any order of the Court under this rule may be served as in this rule provided.

Service of orders.

(3) Service of any order made under this rule shall be personal service, unless the Court otherwise order, and for the purpose of effecting due service thereof the Registrar may require the assistance of the constabulary, and it shall be the duty of the

constabulary to carry out any directions of the Registrar under this rule.

EXHIBITS IN COURT OF TRIAL, HOW DEALT WITH

Exhibits to which Rule 5 relates to be returned to persons producing the same subject to order of Court.

30. Exhibits, other than such documents as are usually kept by the proper officer of the Court of trial shall, subject to any order which the Court may make, be returned to the person who originally produced the same, provided that any such exhibit to which the provisions of section 52 of the Act relate shall not be so returned except under the direction of the Court.

NOTIFYING RESULT OF APPEALS

On final determination of appeals, etc., Registrar to notify appellant, Minister and Commissioner of Prisons. Forms XXVIII, XXIX, XXX, XXXI. Appendix C.

31. (1) On the final determination of any appeal under the Act or of any matter under section 59 of the Act, the Registrar shall give to the appellant, if he is in custody and has not been present at such final determination, and to the Minister, and to the Commissioner of Prisons, notice of such determination in the Forms XIII, XXVIII, XXIX, XXX and XXXI respectively provided for such cases in Appendix C.

In cases of death sentence, notice of appeal and of final determination to be sent to Minister.

(2) In any case of an appeal in relation to a conviction involving sentence of death, the Registrar shall, on receiving the notice of appeal or of application for leave to appeal, send a copy thereof to the Minister and on the final determination of any such appeal by the Court shall forthwith notify the appellant, the Minister, and the Commissioner of Prisons.

Registrar to notify officer of Court of trial results of appeal.

(3) The Registrar at the final determination of an appeal shall notify in such manner as he thinks most convenient to the proper officer of the Court of trial the decision of the Court in relation thereto and also any orders or directions made or given by the Court under the Act or these Rules, in relation to such appeal or any matter connected therewith.

Officer of Court of trial to enter decision of Court on records.

(4) The proper officer of the Court of trial shall, on receiving the notification referred to in this rule, enter the particulars thereof on the records of the Court of which he is such officer.

32. Upon the final determination of an appeal for the purposes of which the Registrar has obtained from the proper officer of the Court of trial any original depositions, exhibits, indictment, inquisition, plea or other documents usually kept by the said officer, or forming part of the record of the Court of trial, the Registrar shall cause the same to be returned to such officer.

Registrar after appeal to return original depositions, exhibits, indictment, etc., to officer of Court of trial when received from him.

LEGAL AID TO APPELLANTS

33. A report made by the Registrar under section 57(5) of the Act shall be made to a Judge of the Court, and any directions given thereupon by such Judge shall be final.

Reports as to legal aid under section 57(5).

34. (1) The Registrar shall cause to be prepared, in such form as he thinks most convenient, a list of counsel who are willing to act as counsel for appellants if and when nominated under the Act.

List of counsel and solicitors for purposes of Act.

(2) The Registrar shall also cause to be prepared in such form as he thinks most convenient a list of solicitors who are willing to act as solicitors on behalf of appellants if and when nominated to do so under the Act.

(3) When legal aid is assigned to an appellant, the Court may give such directions as to the stage of the appeal at which such legal aid shall commence and whether counsel only, or counsel and solicitor, shall be assigned or otherwise as they think right.

Legal aid to be provided from such lists.

(4) The Registrar shall thereupon, subject to any special order of the Court, select from such lists or otherwise a counsel and a solicitor or a counsel only for the purpose of affording legal aid to an appellant under the directions of the Court, having regard in so doing to the place at which the appellant was tried and the counsel and solicitor, if any, who represented the appellant at his trial and the nature of the appeal.

COPIES OF DOCUMENTS FOR USE OF APPELLANTS

35. (1) At any time after notice of appeal or notice of application for leave to appeal has been given under the Act or these Rules, an appellant or respondent, or the solicitor or other person representing either of them, may obtain from the Registrar copies of any documents or exhibits in his possession under the Act or these Rules for the purposes of such appeals. Such copies shall be

How appellant or respondent may obtain from Registrar copies of documents or exhibits.

supplied by the Registrar on payment of the charges on such scale as the Registrar may fix.

Counsel and solicitor assigned to appellant may receive copies of documents and exhibits free on his request.

(2) Where solicitor and counsel, or counsel only, are assigned to an appellant under the Act, copies of any documents or exhibits which they or he may request the Registrar to supply shall without charge be supplied unless the Registrar thinks that they are not necessary for the purpose of the appeal.

Transcript of shorthand notes not to be supplied free except on order of Judge.

(3) A transcript of the shorthand notes taken of the proceedings at the trial of any appellant shall not be supplied free of charge, except by an order of the Court of Appeal or a Judge thereof, upon an application made by an appellant or by his counsel or solicitor assigned to him under the Act.

Poor appellant not legally represented may obtain copy of documents or exhibits free.

(4) Where an appellant, who is not legally represented, requires from the Registrar a copy of any document or exhibit in his custody for the purposes of his appeal, he may obtain it free of charge if the Registrar thinks, under all the circumstances, it is desirable or necessary to supply the same to him.

PROCEDURE AS TO WITNESSES BEFORE COURT OF APPEAL, AND THEIR EXAMINATION BEFORE EXAMINER

Attendance of witness before Court.

Form XXV. Appendix C.

36. (1) Where the Court of Appeal has ordered any witness to attend and be examined before the Court under section 47 of the Act, an order in the Form XXV in Appendix C shall be served upon such witness specifying the time and place at which to attend for such purpose.

Application to Court to hear witnesses.

Form XXVI. Appendix C.

(2) Such order may be made on the application at any time of the appellant or respondent, but if the appellant is in custody and not legally represented the application shall be made by him in the Form XXVI in Appendix C.

Order appointing examiner.

(3) Where the Court orders the examination of any witness to be conducted otherwise than before the Court itself, such order shall specify the person appointed as examiner to take and the place of taking such examination and the witness or witnesses to be examined thereat.

Registrar to furnish examiner with exhibits, etc., necessary for examination.

(4) The Registrar shall furnish to the person appointed to take such examination any documents or exhibits and any other material relating to the said appeal as and when requested to do so. Such documents and exhibits and other material shall after the examination has been concluded be returned by the examiner

together with any depositions taken by him under this rule to the Registrar.

Notification of date of examination.

(5) When the examiner has appointed the day and time for the examination he shall request the Registrar to notify the appellant or respondent and their legal representatives, if any, and when the appellant is in prison, the Commissioner of Prisons. The Registrar shall cause to be served on every witness to be so examined a notice in the Form XXVII in Appendix C.

Form XXVII. Appendix C.

Evidence to be given on oath.

(6) Every witness examined before an examiner under this rule shall give his evidence upon oath to be administered by such examiner, except where any such witness if giving evidence as a witness on a trial on indictment need not be sworn.

Deposition of witness, how to be taken.

(7) The examination of every such witness shall be taken in the form of a deposition in the same manner as is prescribed by the Indictable Offences (Preliminary Enquiry) Act and unless otherwise ordered shall be taken in private. The caption in the Form XXIV in Appendix C shall be attached to any such deposition.

Ch. 12:01.

Form XXIV. Appendix C.

Travelling expenses of witnesses before Examiner.

(8) Where any witness receives an order or notice to attend before the Court or an Examiner, the Officer serving the same may, if it appears to him necessary to do so, pay to him a reasonable sum not exceeding the amount of the scale for the travelling expenses of such witness from his place of residence to the place named in such notice or order, and the sum so paid shall be certified by such Officer to the Registrar. Any expenses certified by the Registrar under this rule shall be paid as part of the expenses of a prosecution.

Service of notices and orders under rule.

(9) Any order or notice required by this rule to be given to any witness may be served as an order may be served under rule 29(3), and any such notice shall be deemed to be an order of the Court on such witness to attend at the time and place specified therein.

Presence of parties at examination of witnesses.

(10) The appellant and respondent, or counsel or solicitor on their behalf, shall be entitled to be present at and take part in any examination of any witness to which this rule relates.

Proceedings on order of reference.

When an order of reference is made by the Court under the Act, the question to be referred and the person to whom as special commissioner the same shall be referred shall be specified in such order. The Court may in such order or by giving directions as and when they from time to time think right, specify whether the appellant or respondent or any person on their behalf may

present at any examination or investigation or at any stage thereof as may be ordered under the Act, and specify any and what powers of the Court under the Act or these Rules may be delegated to such special commissioner, and may require him from time to time to make interim reports to the Court upon the question referred to him under the Act, and may, if the appellant is in custody, give leave to him to be present at any stage of such examination or investigation and give the necessary directions to the officer in charge of the prison in which such appellant is, accordingly and may give directions to the Registrar that copies of any Report made by such special commissioner shall be furnished to the appellant and respondent or to counsel or solicitor on their behalf.

CAUSE LISTS

Register of appeals to be kept by the Registrar.

37. (1) The Registrar shall keep a register, in such form as he may think right, of all cases in which he receives a notice of appeal, or notice of application for leave to appeal under the Act, which register shall be open for public inspection in such place and at such hours as the Registrar, subject to the approval of the Court, considers convenient.

Registrar to keep general list of appeals.

(2) The Registrar shall also take the necessary steps for preparing from time to time, a general list of cases to be dealt with by the Court when fully constituted for hearing appeals under the Act or for considering applications which a Judge of the Court has, when sitting, under section 59 of the Act, refused to grant, and shall cause such list to be published at such times in such a manner and at such places as subject to the approval of the Court of Appeal he thinks convenient for giving due notice to any parties interested, of the hearing of such cases by the Court.

List of cases for daily sittings of Court.

Notices to appellants in custody.

(3) The Registrar shall also prepare from such general list a list of appeals and applications which have been refused by a Judge of the Court when sitting under section 59 of the Act, which the Court may consider on the days on which the Court as fully constituted shall sit, and shall cause such list to be published at such times, in such places, and in such a manner as he, subject to the approval of the Court, thinks convenient for giving due notice to any parties interested therein of the hearing of the cases in such list by the Court. However, where an appellant is in custody and has obtained leave or is entitled to be present at the hearing and determination of his application or appeal, the Registrar shall notify the appellant, the officer in charge of the prison in

which the appellant then is, and the Commissioner of Prisons, of the probable day on which his appeal or application will be heard. The Commissioner of Prisons shall take steps to transfer the appellant to a prison convenient for the appearance before the Court, at such a reasonable time before the hearing as shall enable him to consult his legal adviser, if any.

Application not specially provided for, how made.

38. Except where otherwise provided in these Rules, any application to the Court may be made by the appellant or respondent, or by Counsel on their behalf, orally or in writing, but in regard to such applications if the appellant is unrepresented and is in custody and is not entitled or has not obtained leave to be present before the Court, he shall make any such application by forwarding the same in writing to the Registrar, who shall take the proper steps to obtain the decision of the Court thereon.

Notice by Registrar to appellant of results of all applications.

39. When the Court has heard and dealt with any application under the Act or these Rules, the Registrar shall (unless it appears to him unnecessary to do so) give to the appellant (if he is in custody and has not been present at the hearing of such application) notice of the decision of the Court of Appeal in relation to the said application.

Non-compliance with Rules not wilful may be waived by Court.

40. Non-compliance on the part of an appellant with these Rules or with any rule of practice for the time being in force under the Act shall not prevent the further prosecution of his appeal if the Court or a Judge thereof consider that such non-compliance was not wilful, and that the same may be waived or remedied by amendment or otherwise. The Court or a Judge thereof may in such manner as they or he think right, direct the appellant to remedy such non-compliance, and thereupon the appeal shall proceed. The Registrar shall forthwith notify to the appellant any directions given by the Court or the Judge thereof under this rule, where the appellant was not present at the time when such directions were given.

Enforcing duties under Rules.

41. The performance of any duty imposed upon any person under the Act or these Rules may be enforced by order of the Court.

Warrants for arrest of appellants to be deemed to be warrants issued under Ch. 12:01.

42. Any warrant for the apprehension of an appellant issued by the Court shall be deemed to be, for all purposes, a warrant issued by a Magistrate for the apprehension of a person charged with any indictable offence under the provisions of the Indictable Offences (Preliminary Enquiry) Act.

A petitioner under section 64(2)(*a*) to be deemed to be an appellant for all purposes.

43. When the Minister exercises his powers under section 64(2)(*a*) of the Act and refers the whole case to the Court, the petitioner whose case is so dealt with shall be deemed to be for all the purposes of the Act or these Rules a person who has obtained from the Court leave to appeal, and the Court of Appeal may proceed to deal with his case accordingly.

Reference to Court under section 64(2)(*b*).

44. Where the Minister refers a point to the Court under section 64(2)(*b*) of the Act, such Court shall, unless it otherwise determines, consider such point in private.

Sittings during vacation.

45. The Judges of the Court shall make arrangements for any sittings that may be necessary during vacation.

Saving as regard Summary Courts procedure.

Ch. 4:20.

46. Nothing in this Order shall apply to appeals under the Summary Courts Act or under any other written law to which the procedure regulating appeals under the Summary Courts Act is applied.

(Pages 103 to 118 have been omitted—*See* Note on Court of Appeal Rules at page 2.)

For Appendix C (Criminal Forms)—*See* page 119.

APPENDIX C

SUPREME COURT OF JUDICATURE ACT

Criminal Form I

JUDGE'S CERTIFICATE O. III, r. 3.

In the Supreme Court of Trinidad and Tobago (Criminal).

Holden at .....

THE STATE v.

.....

Whereas the said .....was tried and convicted before me the undersigned, in the said court on the.....day of ....., on an indictment charging him with .....and was thereupon sentenced by me to ..... (State shortly the offence, e.g., Larceny, Murder, Forgery; etc.).

I do Hereby Certify that the case is a fit case for an Appeal by the said..... .....to the Court of Appeal under section 43 of the Supreme Court of Judicature Act, upon the following grounds:

..... Here specify in general terms the grounds on which Certificate granted.

.....

.....

(Signed).....
Judge

Dated this.....day of....., 19.....

(For Criminal Form II *See* page 121).

SUPREME COURT OF JUDICATURE ACT

Criminal Form II O.III, r. 17(1).

THE STATE v.

.....

PARTICULARS OF TRIAL

(1) Where tried .....

(2) When tried .....

(3) Name of Judge who tried .....

(4) Verdict of Jury .....

(5) Sentence, and any orders made consequent thereon .....

.....

(a) Restitution of property.
(b) Orders referred to in Section 2.

(6) Copy of the list of exhibits directed by these Rules to be kept by the proper officer of the court of Trial .....

(7) Whether a certificate under Section 5*(b)* was given .....

(8) Name and address of the Prosecutor. State names of Counsel and/or Solicitor for prosecution, and address of Solicitor .....

.....

(9) Whether Appellant was defended by Counsel and Solicitor privately or by Counsel at request of Court. Give name of Counsel and/or Solicitor for Appellant and address of Solicitor .....

.....

(10) Name and address of Shorthand Writer .....

(11) Whether Appellant bailed before trial if so in what amount, and whether with sureties, if so in what amount .....

.....

(Signed) .....
Officer of the Court Trial

Dated this .....day of....., 19....

SUPREME COURT OF JUDICATURE ACT

O.III, r. 20.

Criminal Form III

NOTICE OF ABANDONMENT

I, ...having been convicted

of .....at .....
and having been desirous of appealing and having duly sent notice to that effect to the Court of Appeal against my said conviction (or the sentence of .....passed upon me on my said conviction) do hereby give notice that I do not intend further to prosecute my appeal, but that I hereby abandon all further proceedings in regard thereto as from the date hereof.

(Signed) .....

(Witness) .....

Dated this .....day of ....., 19....

To the Registrar of the Supreme Court.

SUPREME COURT OF JUDICATURE ACT

Criminal Form IV O.III, r. 14, 22(1).

NOTICE OF APPEAL

Question of Law only

To Registrar of the Supreme Court

I, ...having been convicted

of the offence of ..... (Here state the offence, e.g., Larceny, Murder, Forgery, etc.).

and being now a prisoner in .....

(or* now living at .....
do hereby give you Notice of Appeal against my conviction (particulars of which hereinafter appear) to the Court of Appeal on questions of law, that is to say— *Where appellant for any reason not in custody.

..... (Here state as clearly as you are able the question or questions of law on which you desire to appeal).

.....

(Signed) .....
Appellant

(or Mark) .....

.....

.....
Signature and address of Witness attesting Mark

Dated this .....day of....., 19....

PARTICULARS OF TRIAL AND CONVICTION

1. Date of Trial ..... Fill in all these particulars.
2. In what Court tried .....
3. Sentence .....
4. Whether above questions of law were raised at the Trial .....

You are required to answer the following questions:

1. If you desire to apply to the Court of Appeal to assign you legal aid on your appeal, state your position in life, and amount of wages, or salary, etc., and any other facts which you submit show reason for legal aid being assigned to you.
2. Do you desire to be present on the hearing of your appeal by the Court of Appeal? If you do so desire, state the reasons upon which you submit the said Court should give you leave to be present.
3. The Court of Appeal will, if you desire it, consider your case and argument if put into writing by you or on your behalf, instead of your case and argument being presented orally. If you desire to present your case and argument in writing set out here as fully as you think right your case and argument in support of your appeal.

SUPREME COURT OF JUDICATURE ACT

O.III, r. 14, 22(1).

Criminal Form V

NOTICE OF APPEAL UPON CERTIFICATE OF THE JUDGE OF THE COURT OF TRIAL

To the Registrar of the Supreme Court.

I, ...having been convicted

(Here state the offence, e.g., Larceny, Murder, Forgery, etc.).

of the offence of .....

and now being a prisoner in .....

*Where appellant for any reason not in custody.

(or* now living at .....)

and having duly obtained a Certificate which is hereto annexed from the Judge before whom I was tried for the said offence, that it is a fit case for appeal, Do Hereby Give You Notice of Appeal against my said conviction (particulars of which hereinafter appear) to the Court of Appeal.

(Signed) .....
Appellant

(or Mark) .....

.....

.....

.....
Signature and address of Witness attesting Mark

Dated this .....day of....., 19....

PARTICULARS OF TRIAL AND CONVICTION

Fill in all these particulars.

1. Date of Trial .....

2. In what Court tried .....

3. Sentence .....

You are required to answer the following questions:

1. If you desire to apply to the Court of Appeal to assign you legal aid on your appeal, state your position in life, amount of wages, or salary, etc., and any other facts which you submit show reasons for legal aid being assigned to you.
2. Do you desire to be present on the hearing of your appeal by the Court of Appeal?
3. The Court of Appeal will, if you desire it, consider your case and argument if put in writing by you or on your behalf instead of your case and argument being presented orally. If you desire to present your case and argument in writing, set out here as full as you think right your case and argument in support of your appeal.

You must send with this Notice to the Registrar the Certificate of the Judge who tried you.

SUPREME COURT OF JUDICATURE ACT

Criminal Form VI

O.III, r. 14, 22(1).

NOTICE OF APPLICATION FOR LEAVE TO APPEAL AGAINST A CONVICTION UNDER SECTION *5(b)*

To the Registrar of the Supreme Court.

I, ...having been convicted of the offence of ..... (Here state the offence, e.g., Larceny, Murder, Forgery, etc.).

and (being now a prisoner in Prison) at .....

(or* now living at .....)

and being desirous of appealing against my said conviction Do Hereby Give You Notice that I apply to the Court of Appeal for leave to appeal against my conviction on the grounds hereinafter set forth.

*Where applicant for any reason not in custody.

(Signed) .....
Applicant

(or Mark) .....

.....

.....
Signature and address of Witness attesting Mark

Dated this .....day of....., 19....

PARTICULARS OF TRIAL AND CONVICTION

1. Date of Trial ..... Fill in all these particulars.
2. In what Court tried .....
3. Sentence .....

GROUNDS FOR APPLICATION

..... (Here state as clearly and concisely as possible the grounds on which you desire to appeal against your conviction.)

.....

You are required to answer the following questions:

1. If you desire to apply to the Court of Appeal to assign you legal aid on your appeal, state your position in life, and amount of wages, or salary, etc., and any other facts which you submit show reason for legal aid being assigned to you.
2. If you desire to be present when the Court of Appeal considers your present application for leave to appeal, state the grounds on which you submit that the Court of Appeal should give you leave to be present thereat.
3. The Court of Appeal will, if you desire it, consider your case and argument if put into writing by you or on your behalf, instead of your case and argument being presented orally. If you desire to present your case and argument in writing set out here as fully as you think right your case and argument in support of your appeal.

State if you desire to be present at the final hearing of your appeal.

L.R.O. 1/1980

SUPREME COURT OF JUDICATURE ACT

O.III, r. 22(1).

Criminal Form VII

NOTICE OF APPLICATION FOR LEAVE TO APPEAL AGAINST SENTENCE

To the Registrar of the Supreme Court.

(Here state the offence, e.g., Larceny, Murder, Forgery, etc.).

I, ...having been convicted of the offence of .....

and now being a prisoner in Prison at .....

*Where appellant for any reason not in custody.

(or* now living at .....)
Do hereby Give You Notice that I desire to apply to the Court of Appeal for leave to appeal to the said Court against the sentence of ..... passed upon me for the said offence, on the following grounds:

(Here set forth the grounds on which you desire to question the sentence.)

.....

.....

.....

(Signed) .....
Appellant

(or Mark) .....

.....

.....

.....
Signature and address of Witness attesting Mark

Dated this .....day of....., 19....

Fill in all these particulars.

PARTICULARS OF TRIAL AND CONVICTION

1. Date when sentence passed .....

2. In what Court tried .....

You are required to answer the following questions:

1. If you desire to apply to the Court of Appeal to assign you legal aid on your appeal, state your position in life, wages, salary, etc., and any other facts which you submit show reason for legal aid being assigned to you.
2. If you desire to be present when the Court of Appeal considers your present application for leave to appeal, state the grounds on which you submit that the Court of Appeal should give you leave to be present thereat.

   State if you desire to be present at the final hearing of your appeal.
3. The Court of Appeal will, if you desire it, consider your case and argument if put into writing by you or on your behalf instead of your case and argument being presented orally. If you desire to present your case and argument in writing set out here as fully as you think right your case and argument in support of your appeal.

SUPREME COURT OF JUDICATURE ACT

Criminal Form VIII O.III, r. 2(7).

DECLARATION VERIFYING TRANSCRIPT OF SHORTHAND NOTES

I, ... of .....
do solemnly and sincerely declare that, having been required by the Registrar of Supreme Court to furnish him a transcript of the shorthand note relating to the trial (or other proceeding) in relation to which shorthand note is now produced and shown to me marked .....,
and purporting to have been signed and certified by .....
(or signed and certified by me), I have made a correct and complete transcript thereof to the best of my skill and ability in pursuance of the said requirement, which said transcript is now shown to me marked "B". And I make this declaration conscientiously believing the same to be .....
and according to the Statutory Declarations Act, and I am aware that if there is any statement in this declaration which is false in fact, which I know or believe to be false or do not believe to be true, I am liable to fine and imprisonment.

Dated this .....day of....., 19....

(Signed) .....

SUPREME COURT OF JUDICATURE ACT

O.III, r. 21.

Criminal Form IX

NOTICE OF APPLICATION FOR EXTENSION OF TIME WITHIN WHICH TO APPEAL

To the Registrar of the Supreme Court.

I, ...having been convicted

(Here state the offence, e.g., Larceny, Murder, Forgery, etc.).

of the offence of .....

at the Court of .....

held at .....

in this .....

of .....on the .....day of....., 19....

and now being a prisoner in .....

*Where Appellant for any reason not in custody.

(or* now living at .....)

Give You Notice, that I hereby apply to the Court of Appeal for an extension of the time within which I may give Notice of Appeal (or Notice of Application for leave to appeal), on the grounds following:

Here set out clearly and concisely the reasons for the delay in giving such Notice, and the grounds on which you submit the Court should extend the time.

(Signed) .....
Appellant

(or Mark) .....

.....

.....

.....
Signature and address of Witness attesting Mark

Dated this .....day of....., 19....

You are required to send to the .....of Supreme Court, duly filled up, and with the questions appearing thereon properly answered, Form IV, if your proposed appeal involves a question of law alone; or Form V if you have obtained the Certificate of the Judge of the Court of Appeal; or Form VI if you have not obtained such Certificate; or Form VII if you desire to appeal against your sentence only, together with this Notice.

SUPREME COURT OF JUDICATURE ACT

Criminal Form X

O.III. r. 4(3), 26(7).

RECOGNIZANCE OF BAIL OF APPELLANT

Be it remembered that whereas .....was convicted of .....on the ..... day of ....., 19.... (and was thereupon sentenced to .....), and now is in lawful custody in Prison at .....and has duly appealed against his conviction (and sentence) to the Court of Appeal, and has applied to the said Court for bail pending the determination of his appeal, and the said Court has granted him bail on entering into his own recognizances in the sum of $..... (and with ..... sureties each in the sum of $.....), the said ..... personally cometh before me the undersigned and acknowledges himself to owe to the State the said sum of ....., of good and lawful money to be made and levied of his goods and chattels, lands and tenements to the use of the State if he the said ..... fail in the .....condition endorsed.

Taken and acknowledged this .....day of ....., 19.... at the .....

before me,

.....
Justice of the Peace

CONDITION

The condition of the within written recognizance is such that if he the said .....shall personally appear and surrender himself at and before the Court of Appeal at each and every hearing of his appeal to such Court and at the final determination thereof and then and there abide by the Judgment of the said Court and not to depart or be absent from such Court at any such hearing without the leave of the said Court, and in the meantime not to depart out of Trinidad and Tobago, then this recognizance to be void or else to stand in full force and effect.

The following to be filled up by the Appellant and signed by him:

When released on bail my residence, to which any Notices, etc., are to be addressed, will be as follows:

.....

.....

(Signed) .....
Appellant

SUPREME COURT OF JUDICATURE ACT

O.III, r. 4(3), 26(7).

Criminal Form XI

RECOGNIZANCE OF APPELLANT'S SURETIES

Be it remembered that on this .....day of....., 19.... .....of .....(occupation) and .....of .....(occupation) personally came before me the undersigned Justice of the Peace at ..... in the .....of .....and severally acknowledged themselves to owe to the State the several sums following, that is to say, the said ..... the sum of $....., and the said ..... the sum of $....., of good and lawful money to be made and levied of their goods and chattels, lands and tenements, respectively to the use of the State if..... now in lawful custody in ....., fail in the condition hereon endorsed.

Taken and acknowledged before (us) the undersigned, the day and year first above-mentioned.

.....
Justice of the Peace,

County of.....

CONDITION

The condition of the within written Recognizance is such that whereas the said..... having been convicted of ..... and now in such lawful custody as before-mentioned (under a sentence of ....for such offence), has duly appealed to the Court of Appeal against his said conviction (and sentence), and having applied to the said Court for bail, pending the determination of his said appeal, has been granted bail on his entering into recognizance in the sum of $....., with .....sureties each in the sum of $....., if the said .....shall personally appear and surrender himself at and before the said Court at each and every hearing of his said appeal to such Court and at the final determination thereof, and to there and then abide by the Judgment of the said Court, and not depart or be absent from the said Court at any such hearing without leave of the Court, and in the meantime not to depart out of Trinidad and Tobago, then this recognizance to be void or else to stand in full force and effect.

SUPREME COURT OF JUDICATURE ACT

Criminal Form XII O.III, r. 26(6).

NOTICE TO COMMISSIONER OF PRISONS TO RELEASE APPELLANT ON BAIL

THE STATE v.

.....

To the Commissioner of Prisons,

Whereas .....has duly appealed to the Court of Appeal against his conviction for .....(and sentence of.....), and having duly applied to the said Court has been granted bail by the said Court pending the determination of his said appeal on entering into recognizances himself in the sum of $....., (and with .....sureties each in the sum of $.....), in the forms provided under the said Act. And Whereas I, the Registrar of the said Court, have been given to understand that the said ..... is now in your lawful custody in the said prison under the said conviction and sentence. And Whereas I have received a recognizance of the said .....from you (and Recognizances from .....sureties for the said .....) and the said recognizances are in due form and in compliance with the order of the said Court of Appeal, admitting the said ..... to bail.

Now I do Give you Notice that if the said ..... do remain in your custody under the said conviction (and sentence) and for no other cause you shall on receipt of this Notice suffer him to go at large. And this Notice shall be your authority in that behalf.

(Signed).....
Registrar of Supreme Court

Dated the.....day of....., 19....

SUPREME COURT OF JUDICATURE ACT

O.III, r. 31(1).

Criminal Form XIII

NOTIFICATION TO APPELLANT OF JUDGE'S DECISION UNDER SECTION 59

THE STATE v.

.....

I hereby Give you Notice that a Judge of the Court of Appeal having considered your application for—

Strike out any of them which have not been made or have been granted.

(a) leave to appeal;

(b) for extension of time within which Notice of Appeal or of Application for leave to appeal may be given;

(c) legal aid to be assigned to you;

(d) permission to you to be present at the hearing of any proceedings in relation to your appeal;

has refused the applications marked .....(and) granted your applications marked .....).

If you desire to have the above mentioned applications which have been refused determined by the Court of Appeal, you are required to fill up the enclosed form and return it to me forthwith.

Dated this .....day of ....., 19....

(Signed) .....
Registrar

To the above-named .....

SUPREME COURT OF JUDICATURE ACT

Criminal Form XIV

O.III, r. 22(2),(3).

NOTICE OF APPEAL BY APPELLANT FROM JUDGE UNDER SECTION 59

THE STATE v.

.....

I, ...having received your notification that my Applications for—

(a) leave to appeal;

(b) extension of time within which Notice of Appeal or Application for leave to appeal may be given;

(c) legal aid to be assigned to me;

(d) permission to me to be present at the hearing of any proceedings in relation to my appeal;

Strike out any of those which have not been made or or which have been granted.

have been refused;
do hereby give you notice that I desire that the said applications shall be considered and determined by the Court of Appeal.

(*and that as I am not legally represented I desire to be present at the determination of my said applications).

*Strike out this if you do not desire to be present.

(Signed) .....
Appellant

.....
Witness Attesting Mark

To the Registrar of Supreme Court

Dated this .....day of....., 19....

If you desire to state any reasons in addition to those set out by you in your original notice upon which you submit that the Court of Appeal should grant your said applications, you may do so in the space below—

.....

.....

.....

SUPREME COURT OF JUDICATURE ACT

O.III, r. 26(5).

Criminal Form XV

CERTIFICATE TO SURETY

THE STATE v.

.....

*Here fill in Surety's name and address.

This is to Certify that you* .....of ..... whose signature is below have been accepted by the Magistrate for the County of ....., on this .....day of ....., 19...., as surety for the above-named ..... in the sum of $ ..... for the due appearance of the said .....before the "Court of Appeal" at each and every hearing of his appeal and at the final determination thereof, and that the said ....., shall then and there abide by the Judgment of the said Court and not depart or be absent from such Court at any such hearing without the leave of the said Court, and in the meantime not to depart out of Trinidad and Tobago. And that your said recognizance will be duly forwarded by me to the Registrar of Supreme Court.

(Signed) .....
Clerk of the Peace

County of .....

I acknowledge that the above Certificate is correct.

(Signed) .....
Surety

SUPREME COURT OF JUDICATURE ACT

Criminal Form XVI O.III, r. 26(10).

INFORMATION OF SURETY FOR ARREST OF APPELLANT

THE STATE v.

.....(Appellant)

The Information of * .....of .....(.....) laid before me the undersigned upon an application for a Warrant for the apprehension of * .....and the deposition of the said in support thereof on the .....day of.....

The said * .....said as follows:

*Here state Appellant's name and address if known.

.....

.....

.....

I, ...* do say that the above-named * ....having been granted bail by the Court of Appeal, himself in the sum of $....., and with .....surety in the sum of $..... was released on such bail on condition that he should personally appear and be present at and before the Court of Appeal at each and every hearing of his appeal and at the final determination thereof and to then and there abide by the Judgment of the said "Court" and not to depart or be absent from such Court on any such hearing without the leave of the said Court and in the meantime not to depart out of Trinidad and Tobago.

*Here fill in the name, description, and address of Surety.

And that I became surety for the performance of the said conditions by the said .....in the sum of $....., a Certificate whereof signed by the Clerk of the Peace of .....and by me is now shown to me marked *(a)*.

And that I suspect that the said .....is about to depart out of Trinidad and Tobago (or state in what manner the Appellant is believed to be about to fail in the observance of this recognizances) and I therefore desire to surrender the said ..... into custody and, thereby discharge myself from my said recognizances. I verily believe that the said ....is now in .....

(Signed).....
Surety

Laid before me day and year first above written.

(Signed).....
Magistrate

SUPREME COURT OF JUDICATURE ACT

O.III, r. 26(10).

Criminal Form XVII

WARRANT ON INFORMATION OF SURETY

To all Constables,

Whereas Information hath been duly laid before me the undersigned by .....
.....of.....for that* .....
.....having been released on bail by the Court of Appeal on recognizances conditioned to appear and to be present at and before the Court of Appeal at each and every hearing of his appeal and at the final determination thereof and to then and there abide by the Judgment of the said Court and not to depart or be absent from such Court on any such hearing without the leave of the said Court and in the meantime not to depart out of Trinidad and Tobago and that the said .....
.....doth suspect that the said ..... is about to depart out of Trinidad and Tobago (or as the case may be) and that the said .....is believed to be within the .....these are therefore to authorise you the said Constables forthwith to apprehend the said .....and to bring him before the Magistrate's Court of..... to the intent that he may be committed to Jail and there to be detained according to law.

*Here fill in the Appellant's name.

*Here fill in Surety's name.

Given under my hand this .....day of....., 19....

(Signed).....
Magistrate

SUPREME COURT OF JUDICATURE ACT

Criminal Form XVIII O.III, r. 26(11).

COMMITMENT OF APPELLANT ON SURETY'S INFORMATION

To all Constables and to the Commissioner of Prisons.

Whereas on the .....day of .....Information was laid before the Magistrate of the County of ..... upon an application for a warrant for the apprehension of ..... for that he being a prisoner released on bail by the Court of Appeal was believed and suspected of being about to fail to observe the conditions of his recognizance by the said .....his surety. And that the said .....was then desirous of surrendering the said .....

And Whereas the said * .....being now before the Magistrate of ..... and surrendered by the said .....in discharge of his recognizances. You are therefore hereby commanded forthwith to deliver him the said .....to the Commissioner of Prisons at ..... together with his Warrant of Commitment and you the said Commissioner of Prisons are required to receive the said .....into your custody in Jail and there safely keep him according to law. *(Appellant).

Given under my hand this .....day of....., 19....

(Signed).....
Magistrate

SUPREME COURT OF JUDICATURE ACT

Criminal Form XIX O.III, r. 26(8), (13).

WARRANT FOR ARREST OF APPELLANT ON BAIL

THE STATE v.

..... In the Court of Appeal.

To all Constables and to the Commissioner of Prisons.

Whereas .....an Appellant in the Court of Appeal has been released by the said Court on bail and it has now been ordered by the said Court that a Warrant be issued for the apprehension of the said .....

These are therefore to command you the said Constables forthwith to apprehend the said .....and to bring him to the Commissioner of Prisons, and there deliver him with this Warrant into the custody of the said Commissioner and you the said Commissioner are hereby required to receive the said .....into your custody in Jail and there safely keep him until further order of the said Court.

(Signed).....
(President of the Court of Appeal)

Dated this .....day of....., 19....

SUPREME COURT OF JUDICATURE ACT

Criminal Form XX

RECOGNIZANCE OF APPELLANT SENTENCED TO PAYMENT OF A FINE

Here fill in Court of Trial.

Be it remembered that whereas ..... of .....was on the .....day of ..... 19...., convicted of ..... and was thereupon sentenced to pay the sum of $ ..... as a fine for his said offence by the .....and has intimated to the said Court that he desires to appeal against his said conviction on a question of law alone (or upon a certificate of the Judge of the said Court that his is a fit case for appeal). And whereas the said Court considers that the said Appellant may in lieu of payment at and upon his said conviction of the said sum, be ordered to enter into recognizance of bail himself in the sum of $ ..... and with sureties, each in the sum of $ ..... to prosecute his said appeal before the Court of Appeal.

The said .....doth hereby acknowledge himself to owe to the State the said sum of $ ..... of good and lawful money to be made and levied of his goods and chattels, lands and tenements to the use of the State if the said .....fail in the condition indorsed.

Taken and acknowledged this ..... day of .....at the said Court, at and before the Judge of the said Court.

(Signed) .....

CONDITION

The Condition of the within written recognizance is such that if the said .....of ..... shall personally appear and be present at and before the Court of Appeal at each and every hearing of his appeal to such Court, and at the final determination thereof and then and there to prosecute his said appeal and abide by the Judgment of the said Court, and not to depart or be absent from such Court at any such hearing without leave of the said Court, and to pay the said sum of $ ....., or such sum as the said Court may order to the Registrar thereof, then this recognizance shall be void, otherwise of full force and effect.

SUPREME COURT OF JUDICATURE ACT

Criminal Form XXI

RECOGNIZANCE OF SURETIES FOR APPELLANT SENTENCED TO A FINE

To Wit Here fill in name of Court of Trial.

Be it remembered that on the .....day of .....19...., ...of .....(occupation) and..... of .....(occupation) personally came before the Court of .....and severally acknowledged themselves to owe to the State the several sums following, that is to say, the said ..... the sum of $..... and the said ..... the sum of $..... of good and lawful money to be made and levied of their goods and chattels, lands and tenements respectively to the use of the State if .....now before the said Court fail in the condition hereon endorsed.

Taken and acknowledged before the said Court of ..... on the day and year first above mentioned.

(Signed)

.....

CONDITION

The condition of the within written recognizance is such that whereas the said .....having been convicted of .....and having been sentenced to pay a fine of $..... for his said offence, and having now intimated his desire to appeal on a question of law alone (or with the certificate of the Judge of this Court) to the Court of Appeal against the said conviction, and having in lieu of payment at and upon his said conviction of the said sum of $....., been ordered to enter into recognizance of bail himself in the sum of $ .....and with .....sureties in the sum of $..... if the said .....shall personally appear and be present at and before the Court of Appeal at each and every hearing of his appeal to such Court and at the final determination thereof, and then and there to prosecute his said appeal and abide by the Judgment of the said Court, and not depart or be absent from such Court at any such hearing without leave of the said Court, then this recognizance to be void, or else to stand in full force and effect.

SUPREME COURT OF JUDICATURE ACT

O.III, r. 4(5).

Criminal Form XXII

NOTICE TO APPELLANT SENTENCED TO FINE, OR BREACH OF HIS RECOGNIZANCES

THE STATE v.

.....

To the above named .....Appellant

Whereas you were convicted on the ..... day of ..... 19...., of the offence of .....and were sentenced to the payment of $....., and in default of such payment to imprisonment, and that under the Court of Appeal Rules, you entered into recognizances in the sum of $....., with sureties in the sum of $..... each to prosecute your Appeal, and whereas fourteen days have elapsed since your said conviction, and no Notice of Appeal has been served by you, Now I Hereby Give you Notice that unless you attend at the sitting of the Court of Appeal to be holden on .....day, the .....day of .....and then shew good cause to the contrary, the Court may order an estreat of your recognizances and those of your sureties, or may otherwise deal with you according to law.

(Signed).....
Registrar of Supreme Court

SUPREME COURT OF JUDICATURE ACT

O.III, r. 4(5).

Criminal Form XXIII

NOTICE TO SURETY FOR APPELLANT OF ESTREAT OF RECOGNIZANCE

THE STATE v.

.....

*Here fill in Surety's name and address.

To * .....
of .....

Whereas you the above named, became duly bound in recognizances as surety, for the said .....having been convicted of .....and for his said offence fined the sum of $....., should duly prosecute an appeal in relation to his said conviction before the "Court of Appeal", and whereas the said .....has not so prosecuted his appeal, now I Hereby Give you Notice that at the sitting of the Court of Appeal on .....next your recognizances may be ordered to be estreated, unless you then shew good cause to the contrary.

(Signed).....
Registrar of Supreme Court

SUPREME COURT OF JUDICATURE ACT

Criminal Form XXIV O.III, r. 36(7).

CAPTION FOR DEPOSITION OF WITNESS EXAMINED BEFORE EXAMINER

THE STATE v.

.....

The depositions (on oath) taken before me the undersigned, being an Examiner duly appointed by the "Court of Appeal" in that behalf, of .....and of..... witnesses examined before me under an order of the said Court dated.....day of....., 19...., in the presence of the said .....Appellant (or of his Counsel and Solicitor) the Respondent (or of his Counsel and Solicitor) at .....on the .....day of..... which said .....Appellant and Respondent (personally) or by their Counsel and Solicitors respectively had full opportunity of asking question of the said witnesses to whom the depositions following were read by me before being signed by them the said witnesses respectively.

The deposition.....of .....who (upon oath duly administered by me) saith as follows:

.....

(here follows deposition)

.....

(Signed).....
Witness

Taken before me this.....day of....., 19....

.....
Examiner

SUPREME COURT OF JUDICATURE ACT

O.III, r. 36(1). **Criminal Form XXV**

ORDER TO WITNESS TO ATTEND COURT FOR EXAMINATION

THE STATE v.

.....

Names, etc., of witness.

To ..... of .....

Whereas on good cause shown to the Court of Appeal you have been ordered to attend and be examined as a witness before such Court upon the appeal of the above named ..... This is to Give you Notice to attend before the said Court on .....the ..... day of ....., 19...., ...at .....o'clock in the .....noon. You are also required to have with you at the said time and place any books, papers or other things relating to the said appeal which you may have had notice so to produce.

(Signed) .....
Registrar of Supreme Court

Dated this .....day of....., 19....

SUPREME COURT OF JUDICATURE ACT

Criminal Form XXVI O.III, r. 36(2).

APPELLANT'S APPLICATION FOR FURTHER WITNESSES

THE STATE v.

.....

I, ..., having appealed to the Court of Appeal hereby request you to take notice that I desire that the said Court shall order the witness(es) hereinafter specified to attend the Court and be examined on my behalf.

(Signed) .....
Appellant

(or Mark) .....

.....
Signature of Witness attesting Mark

Dated this .....day of ....., 19....

You are required to fill up the following form and sign the same.

1. Name and address of witness .....

.....

2. Whether such witness has been examined at Trial .....

3. If not, state the reason why he was not so examined .....

.....

4. On what matters do you wish him to be examined on the appeal .....

.....

.....

State shortly the evidence you think he can give .....

.....

.....

SUPREME COURT OF JUDICATURE ACT

O.III, r. 36(5).

Criminal Form XXVII

NOTICE TO WITNESS TO ATTEND BEFORE EXAMINER

THE STATE v.

.....

Name, etc., of witness.

To .....of .....

Whereas on good cause shown to the Court of Appeal you have been ordered to be examined as a witness upon the appeal of the above-named, and your deposition to be taken for the use of the said Court.

*Specify place of examination.

†Fill in examiner's name.

This is to give you notice to attend* ..... on the .....day of ..... 19...., before† .....at.....o'clock in the .....noon.

You are also required to have with you at the said time and place any books, papers or other things under your control or in your possession in any manner relating to the said appeal of which you may have notice so to produce.

.....
Registrar of Supreme Court

Dated this .....day of....., 19....

SUPREME COURT OF JUDICATURE ACT

O.III, r. 31(1).

Criminal Form XXVIII

NOTIFICATION TO APPELLANT OF RESULT OF HIS APPEAL

THE STATE v.

.....

To the above-named Appellant

This is to give you notice that the Court of Appeal having considered the matter of your appeal, have finally determined the same and have this day given judgment to the effect following (here shortly state the judgment of the Court, e.g., that your appeal be dismissed or that the sentence against which you appealed be altered from .....to .....or as the case may be).

Signed .....
Registrar of Supreme Court

Dated this .....day of....., 19....

SUPREME COURT OF JUDICATURE ACT

Criminal Form XXIX O.III, r. 31(1).

NOTIFICATION TO APPELLANT OF RESULT OF APPLICATION UNDER S. 59

THE STATE v.

.....

To the above-named Appellant.

This is to give you notice that the "Court of Appeal" have considered the matter of your Application for—

(a) leave to appeal to the said Court;

(b) leave to extend the time within which you may give Notice of Appeal or of Application for leave to appeal;

(c) legal aid to be assigned to you;

(d) permission to be present during the proceedings in your appeal;

and finally determined the same and have this day given judgment to the effect following (here set out decision of Court of Appeal, e.g., that

you have .....days from the .....day of .....within which you may give Notice of Appeal or that you may be admitted to bail in your own recognizances in the sum of $ ..... with two sufficient sureties in the sum of $ ..... each, as the case may be).

Signed .....
Registrar of Supreme Court

Dated this .....day of ....., 19....

SUPREME COURT OF JUDICATURE ACT

O.III, r. 31(1). **Criminal Form XXX**

THE STATE v.

.....

To The Minister

To the Commissioner of Prisons

This is to give you Notice that the above-mentioned having applied for—

(a) leave to appeal to the said Court;

(b) leave to extend the time within which he may give Notice of Appeal or of an Application for leave to appeal;

(c) legal aid to be assigned to him;

(d) permission to be present during the proceedings in his Appeal;

(e) his admission to bail;

under the said Act, the Court of Appeal has this day finally determined his said Applications and has given judgment to the effect following:

.....
(here set out the decision of the Court)

Signed .....
Registrar of Supreme Court

Dated this .....day of....., 19....

SUPREME COURT OF JUDICATURE ACT

O.III, r. 31(1). **Criminal Form XXXI**

THE STATE v.

.....

To The Minister

To the Commissioner of Prisons

This is to give you Notice that the above-named having appealed against his conviction of the offence of .....at .... (or, the sentence of ..... passed upon him for the offence of .....at ....) the Court of Appeal has finally determined the said appeal and has this day given judgment therein, to the effect following (here set out the decision of the Court).

(Signed) .....
Registrar of Supreme Court

Dated this .....day of....., 19....

SUPREME COURT OF JUDICATURE ACT

Criminal Form XXXII O. III, r. 5(3).

THE STATE v.

.....

LIST OF EXHIBITS

Number or other identifying mark on Exhibit	Short description of Exhibit	Production by Prosecution or Defence	Direction of the Judge of the Court of Trial, with name and address of person retaining Exhibit

(Signed).....
Coroner

.....
Clerk to Committing Justice

.....
Officer of Court of Trial

BARRISTERS (DISCIPLINARY PROCEEDINGS) RULES

*51/1965.
[150/1966
200/1973
15/1974
68/1974
170/1977
95/1980
121/1980].

made under section 78

ARRANGEMENT OF RULES

RULE

1. Citation.
2. Disciplinary Committee established.
3. Tenure of office of members.
4. Quorum.
5. Secretary.
6. Petition for disciplining barrister.
7. Consideration of petition by Committee.
8. Withdrawal of application.
9. Inspection of documents.
10. Enquiry into petition by Committee.
11. Report of Committee.
12. Provision as regards costs.
13. Recovery of costs.
14. Record of proceedings.
15. Waiver of Rules by Committee.
16. Extension of time.
17. Reference of case to Chief Justice and Attorney General.
18. (Revoked by L.N. 121/1980).
18. Service of documents.
19. Forms.

SCHEDULE.

Citation.

1. These Rules may be cited as the Barristers (Disciplinary Proceedings) Rules.

Disciplinary Committee established.
[150/1966
200/1973
15/1974
68/1974
170/1977
95/1980].

2. (1) There shall be established a Disciplinary Committee which shall consist of—

(*a*) the Solicitor General; and

(*b*) fifteen members of the Bar of Trinidad and Tobago, who shall be appointed by the Chief Justice.

---

*Deemed by section 81(3) of the Act to have been validly made on 23rd June, 1965.

(2) The Solicitor General may divide the Committee into two or more divisions and any such division shall have all the powers and authorities vested in, and accordingly shall be entitled to perform all or any of the functions of, the Committee.

(3) The Solicitor General shall be Chairman of the Committee and of any division which he attends; and in his absence from any meeting the senior member of the Bar present shall preside.

(4) The Solicitor General may nominate a legal officer to attend any meeting of the Committee or of a division which he is unable to attend.

Tenure of office of members.

3. (1) Subject to subrules (2) and (3), the members of the Committee appointed by the Chief Justice shall hold office for a term of three years from the date of their appointment, but shall be eligible for reappointment.

(2) The Chief Justice may at any time revoke the appointment of any member appointed by him and appoint another person to the Committee for the unexpired period of that member's term.

(3) A member of the Committee other than the Solicitor General may resign his office by letter addressed to the Chief Justice.

Quorum. [150/1966 200/1973 15/1974 68/1974 95/1980].

4. (1) The quorum of the Committee shall be seven, which shall include the Solicitor General or his nominee.

(2) The quorum of a division shall be three.

Secretary. 95/1980].

5. The Registrar of the Supreme Court or the Deputy Registrar or an Assistant Registrar designated by the Registrar shall be a Secretary to the Committee or to a division.

Petition for disciplining barrister.

6. (1) An application at the instance of any person that disciplinary action be taken against a barrister shall be addressed to the Judges of the High Court.

Form 1. Schedule.

(2) Every such application shall be in the form of a petition in triplicate in the prescribed form and shall contain the matters of fact relating to the charge against the barrister and shall be signed by the applicant and verified by his affidavit in the prescribed form.

Form 2. Schedule.

(3) The petition and affidavit shall be filed with the Registrar.

(4) If the applicant is unable to prepare his application, he may request the Secretary to assist him in so doing and the Secretary shall comply with the request. Where the applicant is unable to read or write, the Secretary shall cause the petition to be read over and explained to the applicant who shall affix his mark (or, if he is able to sign his name, his signature) thereto in the presence of the Secretary who shall attest the same.

Consideration of petition by Committee.

7. (1) The Registrar shall furnish two original copies of the petition and a certified copy of the affidavit to the Committee, and shall when directed by the Committee cause an original copy of the petition and a certified copy of the affidavit each sealed with the seal of the High Court to be served on the barrister personally, together with a notice in the prescribed form as provided for by this rule.

Form 3. Schedule.

(2) Where in the opinion of the Committee allegations made in the petition disclose no case of misconduct against the barrister, the Committee may reject the application without requiring the barrister to whom it relates to answer the allegations and without hearing the applicant. In such case the notice mentioned in subrule (1) shall state that the Committee propose to take no action in the matter, and the applicant shall be notified accordingly.

(3) Where the Committee consider that the petition is fit for investigation, the notice mentioned in subrule (1) shall require the barrister to deliver to the Secretary his answer to the allegations in the petition, together with an address for service, within fourteen days of the service on him of the petition.

(4) Before delivering his answer the barrister may, if the circumstances of the case so warrant, apply to the Secretary for further or better particulars of any allegation made in the petition, and the Secretary may make an order accordingly and extend the time for delivering the answer.

(5) On receipt of the answer of the barrister the Secretary shall submit the same to the Committee who, if they think fit, may direct the Secretary to serve a copy thereof on the applicant who may deliver to the Secretary a reply thereto within fourteen days of the receipt thereof.

(6) On receipt of the answer and of the reply, if any, or where there has been no answer or no reply as required by them, the Committee, if they are of the opinion that a formal enquiry should be held, shall fix a day for the holding thereof, and at their request the Secretary shall, not less than twenty-one days from the date fixed for the hearing, give notice thereof to the applicant and to the barrister in the prescribed form.

Form 4. Schedule.

8. No application may be withdrawn after it has been sent to the Committee except by leave of the Committee. The Committee may grant leave subject to such terms as to costs or otherwise as they shall think fit.

Withdrawal of application.

9. (1) A party to the inquiry shall not less than fourteen days prior to the date fixed for hearing—

Inspection of documents.

(*a*) furnish to the Secretary for the use of the Committee copies of all documents on which he proposes to rely; and

(*b*) furnish to every other party a list of the said documents.

(2) Any party to the inquiry may inspect the documents included in the list furnished by any other party, and a copy of any such document shall on application be furnished to the party applying by such other party within seven days after the receipt of the application. The cost of any such copy shall be costs in the petition.

10. (1) The Secretary shall cause subpoenas to be issued in the prescribed form to such witnesses as either party or the Committee may consider should be heard.

Enquiry into petition by Committee. Forms 5 and 6. Schedule.

(2) Every such inquiry shall be heard *in camera* and the evidence of witnesses shall be taken either on oath or on affirmation as in an ordinary action, and for this purpose every oath or affirmation shall be administered by the Secretary in the presence of the Committee.

(3) Any party to the inquiry may be represented by counsel or solicitor.

(4) If any party fails to appear at the hearing the Committee may upon proof of service of the notice of hearing proceed on the inquiry in his absence.

(5) Upon any inquiry under these Rules the Committee may make such order as to the costs of the inquiry as they may think fit.

(6) The Committee may at their own motion or upon the application of either party adjourn the inquiry upon such terms as to costs or otherwise as to the Committee appear just.

(7) If upon the hearing it appears to the Committee that the allegations in the petition require to be amended or added to, the Committee may permit such amendment or addition, and may require the same to be embodied in a further petition if in the judgment of the Committee such amendment or addition is not within the scope of the original petition.

(8) If such amendment or addition as is mentioned in subrule (7) shall be such as to take the barrister by surprise or prejudice the conduct of the inquiry, the Committee may grant an adjournment upon such terms as to costs or otherwise as to the Committee appear just.

Report of Committee.

11. The Committee shall state their findings in writing and a copy of the evidence (if any) taken by them and the report of the Committee, signed by the Chairman, shall be filed in the office of the Registrar together with all documents admitted at the inquiry.

Provision as regards costs.

12. Upon the hearing or determination of any application the Committee may, without finding any misconduct proved against the barrister, nevertheless order him to pay the costs of the proceedings if, having regard to his conduct and to all the circumstances of the case, it appears just to the Committee so to do.

Recovery of costs.

13. Any costs ordered by the Committee to be paid by one party to another shall be recoverable in the same manner as costs ordered to be paid in civil proceedings in the High Court.

Record of proceedings.

14. (1) A record of the proceedings before the Committee shall be taken by a person appointed by the Committee and such record may be by any means authorised by the Committee.

(2) Transcripts of the record shall be made available to the Committee and, on payment of such fee as the Secretary may fix, to any party to the proceedings but to no other person.

(3). Subject to these Rules, the Secretary shall not permit any person other than the applicant and the barrister in respect of whom the application is made or the counsel or solicitor of either party to have access to or inspect any petition or other documents forming part of the record of the proceedings which may be delivered to him in connection with the application, and shall not furnish certified or other copies of any such document except on the written requisition of either party to the application or his counsel or solicitor.

Waiver of Rules by Committee.

15. The Committee may dispense with any of the requirements of these Rules respecting notices, affidavits, documents, service or time in any case where it appears to the Committee to be just to do so.

Extension of time.

16. The Committee may extend the time for doing anything under these Rules.

Reference of case to Chief Justice and Attorney General. [121/1980].

17. Where the Committee is of opinion that a case has been made out which may justify disciplinary action against the barrister, the Committee shall forward to the Chief Justice and the Attorney General a copy of the record of the proceedings before them and their findings thereon.

(18. This rule has been revoked and rules 19 and 20 have been renumbered as rules 18 and 19 respectively).

Service of documents. [121/1980].

18. Subject to rule 7(1), service of any notice or document required by these Rules to be served may be effected—

(*a*) personally;

(*b*) by delivery at such address as a party may give to the Secretary as an address for service; or

(*c*) by registered post addressed to the last known place of abode or business of the person to be served and proof that the letter was so addressed and posted shall be proof of service.

Forms. Schedule. [121/1980].

*19. The forms set out in the Schedule to these Rules shall be prescribed forms appropriate to the subject matter specified therein.

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*See page 155 for Schedule to these Rules.

SCHEDULE

Rule 20.

FORM 1

Rule 6(2).

Petition against a Barrister

In the High Court of Justice

In the matter of .....a Barrister
(Full Name)
and
In the matter of the Barristers (Disciplinary Proceedings) Rules.
To: The Honourable the Chief Justice and The Honourable the Judges of the High Court of Justice.

The Humble Petition of .....of
(Name of Petitioner)

.....in the Island of .....
(Address)

.....
(Occupation)

Respectfully showeth as follows:

1. That .....of .....
(Full Name) *(Business Address)*

Barrister-at-Law .....

.....
(Here set out allegations of misconduct against barrister)

2. Your petitioner accordingly hereby makes application—

(a) that the said .....may be required to
(Name of Barrister)
answer the allegations contained in this petition; and

(b) that such disciplinary action may be taken against the said .....
(Name of Barrister)
as the Court shall think fit;

(c) that such further or other order be made as the circumstances of the case may require.

In witness whereof I have hereunto set my hand this .....

day of....., 19....

.....
Signature

.....
Address

.....
Address for Service

.....
Profession, Business or Occupation

(To be endorsed at the back if the applicant did not personally prepare the petition).

I, ...
(Full name, address and description of person who prepared application)
hereby certify that I read over and explained the contents of this petition to the petitioner before he (or she) signed it or placed his (or her) mark thereto and he (or she) appeared to have understood the same and approved of it.

.....
Secretary

Rule 6(2).

FORM 2

Affidavit accompanying Petition against a Barrister

In the High Court of Justice

In the matter of C.D. .....a Barrister
(Full Name)
and
In the matter of the Barristers (Disciplinary Proceedings) Rules.

I, ...of .....
(Full Name) *(Address and Description)*

make oath and say as follows:

1. I am the petitioner mentioned in the petition hereto annexed and marked "A".
2. The facts set out in paragraphs .....and .....of the said petition are true and correct.
3. The facts set out in paragraphs .....and .....are to the best of my information and belief true and correct.

Sworn to at .....
(Place Sworn)

the .....day of .....19....

Before me

.....
Commissioner of Affidavits

If person is illiterate insert—

"I, having first read over and explained the contents of this affidavit before he (or she) signed it and he (or she) seemed perfectly to have understood it and approved of it by placing his (or her) mark thereto".

FORM 3 Rule 7(1).

Notice forwarding Petition to Barrister

In the High Court of Justice

To: C.D., Barrister of .....
Business Address

Take Notice that a petition has been presented to the Honourable the Chief Justice and the Judges of the High Court of Justice and verified by affidavit. A copy of the said petition and affidavit are served herewith.

2. *Either:* You are required to deliver your answer to the allegations contained in the said petition within fourteen days after service on you of this Notice. Such answer shall be delivered to the Secretary to the Barristers Disciplinary Committee.

Or: The Committee propose to take no action in relation to the said petition.

Dated this .....day of....., 19....

.....
Registrar

Rule 7(6).

FORM 4

Notice to Parties of date of hearing

In the matter of C.D. .....a Barrister
(Full Name)
and
In the matter of the Barristers (Disciplinary Proceedings) Rules.

Take Notice that the .....day of ....., 19.... is the day fixed by the Disciplinary Committee constituted under the Barristers (Disciplinary Proceedings) Rules, for the hearing of the above matter.

The Committee will sit at ..... at .....o'clock in the .....noon.

If you fail to appear the Committee may, in accordance with the Barristers (Disciplinary Proceedings) Rules, proceed in your absence.

In accordance with the said Rules you are hereby required to furnish at least fourteen days before the said day—

(a) to the secretary to the Committee for the use of the Committee, copies of all documents on which you propose to rely; and

(b) to every other party, a list of all the said documents.

Any party may inspect the documents included in the list furnished by any other, and a copy of any document mentioned in the list of any party must on application by the party requiring it be furnished to that party by the other within seven days after receipt of such application.

If any party shall fail to appear and the Committee decide to proceed in his absence, any party appearing must be prepared to prove service of the list of documents and any other notice or correspondence since the lodging of the application.

Dated this .....day of ....., 19....

.....
Secretary to the Committee

To: A.B. .....of .....
(Full Name) *(Address)*

and C.D. .....of .....
(Full Name) *(Address)*

FORM 5 Rule 10(1).

Subpoena ad Testificandum

In the matter of C.D. ....., a Barrister
(Full Name)
and
In the matter of the Barristers (Disciplinary Proceedings) Rules.

To: .....

You are hereby commanded to attend before the Disciplinary Committee constituted under the Barristers (Disciplinary Proceedings) Rules, at .....on .....day, the .....day of ....., 19...., until the petition in the above matter is heard, to give evidence on behalf of .....
Witness .....
Chief Justice of the Supreme Court of Trinidad and Tobago, the .....
day of ....., 19....

FORM 6 Rule 10(1).

Subpoena Duces Tecum

In the matter of C.D. ....., a Barrister
(Full Name)
and
In the matter of the Barristers (Disciplinary Proceedings) Rules.

To: .....

You are hereby commanded to attend before the Disciplinary Committee constituted under the Barristers (Disciplinary Proceedings) Rules, at .....on .....day, the .....day of ....., 19...., at the hour of .....o'clock in the .....noon, and so from day to day until the petition in the above matter is heard, to give evidence on behalf of and also to bring with you and produce at the time and place aforesaid (specify documents to be produced) .....

.....

Witness .....

Chief Justice of the Supreme Court of Trinidad and Tobago, the .....

day of ....., 19....

SUBSIDIARY LEGISLATION

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.

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—

Ch. 4:01.

"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*) summarize 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.

Notice of reference.

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

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

(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 counsel 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.

Withdrawal of amendment of reference

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.

Form B.

(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 C.

(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.

Amendment of respondent's argument.

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.

(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.

(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.

Form D.

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 day 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.

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.

Ch. 3:01.

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 19

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 Counsel 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 , 19

CRIMINAL FORM B [Rule 5(2)]

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 19.....

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 , 19

Attorney General

*Delete as appropriate.

CRIMINAL FORM C [Rule 5(3)

Attorney General's Reference No. of 19
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 19
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 19
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 19 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 19

**Attorney General/Respondent*

*Delete as appropriate.