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1st Session First Legislature Trinidad and Tobago  
11 Elizabeth II

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TRINIDAD AND TOBAGO

**Act No. 12 of 1962**

[L.S.]

C.D. 31.8.1962  
See S. 86.

AN ACT respecting the Supreme Court of Judicature established in accordance with the provisions of the Trinidad and Tobago (Constitution) Order in Council, 1962.

*[Assented to 30th August, 1962]*

BE IT ENACTED by The Queen's Most Excellent Majesty, Enactment by and with the advice and consent of the Senate and House of Representatives of Trinidad and Tobago, and by the authority of the same, as follows:—

1. This Act may be cited as the Supreme Court of Judi- Short title  
cature Act, 1962.

## PRELIMINARY

## Interpretation

## 2. In this Act—

- (a) “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 Crown;
- (b) “cause” includes any action, suit or other original proceeding between a plaintiff and defendant, and any criminal proceeding by the Crown;
- (c) “constitution” means the constitution annexed to the Trinidad and Tobago (Constitution) Order in Council, 1962;
- (d) “defendant” includes every person served with any writ of summons or process, or served with notice of or entitled to attend, any proceeding;
- (e) “former Supreme Court” means the Supreme Court of Trinidad and Tobago in existence immediately before the commencement of this Act;
- (f) “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 Governor General;
- (g) “judgment” includes decree;
- (h) “matter” includes every proceeding in court not in a cause;
- (i) “order” includes decision and rule;
- (j) “party” includes every person served with notice of or attending any proceeding, although not named on the record;
- (k) “petitioner” includes every person making any application to the court, either by petition, motion or summons, otherwise than as against any defendant;
- (l) “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;

- (m) "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;
- (n) "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 Her Majesty in Council, as the case may be, on the hearing of the appeal;
- (o) "Registrar" means the Registrar of the Supreme Court of Judicature;
- (p) "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;
- (q) "the Supreme Court" means the Supreme Court of Judicature constituted under this Act and the constitutional Laws of Trinidad and Tobago;
- (r) "suit" includes action;
- (s) "the Chief Justice" means the Chief Justice of Trinidad and Tobago;
- (t) "the Court of Appeal" means the Court of Appeal constituted under this Act and the constitutional laws of Trinidad and Tobago;
- (u) "the High Court" means the High Court of Justice constituted under this Act and the Constitutional Laws of Trinidad and Tobago.
- (v) "verdict" includes the finding of a jury and the decision of a Judge.

3. (1) Where in any enactment passed before the commencement of this Act, reference is made to the Supreme Court in the exercise of its jurisdiction and powers, other than its appellate jurisdiction and powers, or to any of the

Reference to  
Supreme Court  
deemed reference  
to High Court

judges of that Court, such 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  
Supreme Court  
or Full Court  
deemed reference  
to Court of Appeal

(2) Where in any enactment passed before the commencement of this Act reference is made to the Supreme Court in the exercise of its appellate jurisdiction or to the Full Court, such reference shall, unless the context otherwise requires, be deemed to be a reference to the Court of Appeal.

Acts, proceedings  
in Supreme Court  
deemed Acts, pro-  
ceedings of the  
High Court

(3) Any act done or proceedings taken in respect of any cause or matter whatsoever in the 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.

## PART I

### CONSTITUTION OF THE SUPREME COURT

#### *The Supreme Court*

Supreme Court  
of Judicature

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.

Seal

(2) The Supreme Court shall have a seal having a device or impression approved by the Chief Justice with the inscription "The Supreme Court of Judicature of Trinidad and Tobago" and such duplicate seals as the Chief Justice may consider necessary.

(3) 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.

#### *The High Court*

Constitution of  
High Court

5. (1) The High Court shall consist of the Chief Justice, who shall be *ex-officio* a Judge of the High Court, no fewer than six and no more than eight other judges. The Court, however, shall be deemed to be duly constituted during and notwithstanding any vacancy in the office of any judge.

Powers of  
judges

(2) All the judges of the High Court, save as in this Act otherwise expressly provided, shall have in all respects equal power, authority and jurisdiction.

6-11

*The Court of Appeal*

6. (1) The Court of Appeal shall consist of the Chief Justice who shall be President, and three other judges. 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) 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.

(4) 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.

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

(6) If an even number of judges having heard an appeal under subsection (3) 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.

*Qualifications of Judges, Vacancies, Tenure of Office*

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.

Precedence of judges

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

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

respectively to be duly constituted.

(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

9. (1) There shall be vested in the High Court all such original jurisdiction as is vested in or exercisable by the High Court of Justice in England under the provisions of the Supreme Court of Judicature (Consolidation) Act, 1925, including the jurisdiction—

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

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

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

- (i) the jurisdiction which was vested in or capable of being exercised by all or any one or more of the judges of any such former court sitting in court or chambers or elsewhere when acting as judges or a judge pursuant to any instrument or enactment;

Ch. 3. No. 1

- (ii) all the powers given to any such former court or to any such judge or judges by any instrument or enactment; and
- (iii) all ministerial powers, duties and authorities incidental to any and every part of the jurisdiction so transferred.

**10.** Nothing in this Act shall authorise the High Court to make any decree of dissolution of marriage where the parties to the marriage have been married pursuant to the provisions of the Immigration (Indian) Ordinance or the Muslim Marriage and Divorce Registration Ordinance.

Limitation of jurisdiction in divorce

Ch. 20. No. 1

Ch. 29. No. 4

**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 Her Majesty with the care and commitment of such persons and estates shall be vested in the High Court.

Jurisdiction in Lunacy

**12.** Subject to the provisions of any enactment in operation on the 1st of March, 1848, and to any enactment passed after that date, the Common Law, Doctrines of Equity, and Statutes of general application of the Imperial Parliament 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 the 1st of January, 1889.

Common Law, Doctrines of Equity, Statute Law deemed laws of Territory since 1848

**13.** In any action or proceedings brought by any person alleging that any of the provisions of sections 1, 2, 3, 4, 5 and 7 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 Crown is not a party to the action or proceedings.

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

Practice and  
procedure  
in High Court

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

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 such 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 enactment 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 adminis-  
tered

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 rules following:—

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 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.

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

Equitable  
defences

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

Counterclaims  
and third  
parties

(4) The court or judge shall recognize 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

Equities  
appearing  
incidentally

in England would recognize and take notice of the same in a suit or proceeding duly instituted therein.

Defence or stay  
instead of in-  
junction 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 so to do, 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 recognize and give effect to—

(i) all legal claims and demands, and

(ii) all estates, titles, rights, duties, obligations and liabilities existing by the Common Law, or by Spanish law or by any custom, or by any enactment

in the same manner as the same have hitherto been recognized 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 by 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.

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

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

**23.** (1) An estate for life without any impeachment of waste shall not confer or be deemed to have conferred upon the tenant for life a legal right to commit waste of the description known as equitable waste, unless an intention to confer the right expressly appears by the instrument creating the estate. Equitable waste

(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. Merger by operation of law

(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. Suit by mortgagor for rents and profits

(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. Stipulations not the essence of contracts

(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 or convenient that the order should be Granting of mandamus, &c.

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 assign-  
ment 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 such 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 such debt or thing in action from the date of such 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 such debt or thing in action has had notice that such assignment is disputed by the assignor or anyone claiming under him, or of any other opposing or conflicting claims to such debt or thing in action, he shall be entitled, if he think 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.

25. In the case of any petition for divorce or for nullity of marriage—

- (a) the High Court may, if it thinks fit, direct all necessary papers in the matter to be sent to the Attorney General who may instruct counsel to argue before the High Court any question in relation to the matter which the High Court deems to be necessary or expedient to have fully argued, and the Attorney General shall be entitled to be paid from the general revenue all reasonable costs and expenses incurred in the matter;
- (b) any person may at any time during the progress of the proceedings or before the decree *nisi* is made absolute give information to the Attorney General of any matter material to the due decision of the case, and the Attorney General may thereupon take such steps as he may consider necessary or expedient;
- (c) if in consequence of any such information or otherwise the Attorney General suspects that any parties to the petition are or have been acting in collusion for the purpose of obtaining a decree contrary to the justice of the case, he may, after obtaining the leave of the High Court, intervene and retain counsel and subpoena witnesses to prove the alleged collusion;
- (d) the High Court may order the costs of counsel and witnesses and costs otherwise arising from such intervention to be paid by the parties, or such of them as it shall see fit, including a wife if she has separate property; the High Court may order any costs arising from such intervention to be paid by the Attorney General to the parties or such of them as it shall see fit;

Attorney General  
to act as Queen's  
Proctor

- (e) the Attorney General shall be entitled to be paid from the general revenue all reasonable costs which he may have incurred arising from any such intervention after deducting any costs which may have been paid to him by either of the parties to the petition;
- (f) any rules and regulations for the time being of the High Court of Justice in England with respect to the Queen's Proctor shall, subject to the rules of court, apply to the Attorney General.

Power of courts to award interest on debts and damages

**26.** In any proceedings for recovery of any debt or damages, in the High Court or the Court of Appeal, 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; or
- (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

**27.** (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 an 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 wife, husband, parent or child, 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 expressions "parent" and "child" have the same meanings as they have for the purposes of the Compensation for Injuries Ordinance; Ch. 5. No. 5  
and
- (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 the 24th day of December, 1936; or
- (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

**28.** (1) Subject to the provisions of this section, on the death of any person after the 24th of December, 1936, all cases 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 or to claims by a husband for damages from any person on the ground of adultery with his wife.

(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 Ordinance, 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 Ordinance as it applies in relation to other causes of action not expressly excepted from the operation of subsection (1). Ch. 5. No. 5

(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.

29. (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; provided that— Apportionment of liability in cases of contributory negligence

(a) this subsection shall not operate to defeat any defence arising under a contract;

(b) where any contract or enactment 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 the foregoing subsection 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 27 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.

Ch. 5. No. 5

(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 27 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 Ordinance shall be reduced to a proportionate extent.

Ch. 5. No. 6

(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 enactment 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.

(6) Where any case to which subsection (1) applies is tried with a jury, the jury shall determine the total damage which would have been recoverable if the claimant had not been at fault and the extent to which those damages are to be reduced.

22 and 23 Geo.  
5, c. 36

(7) Article 21 of the Convention contained in the First Schedule to the Carriage by Air Act, 1932 as applied to the Territory 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.

Provisions as  
to workmen and  
employers  
Ord. 24—1960

**30.** Where a workman or his personal representative or dependant has recovered compensation under the Workmen's Compensation Ordinance in respect of an injury caused under circumstances which would give a right to recover reduced damages in respect thereof by virtue of section 29 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 Ordinance, on the person by whom the compensation was paid or on any person called on to pay an indemnity under section 14 of that Ordinance, 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.

31. Sections 29 and 30 shall not apply to any claim to which section 1 of the Maritime Conventions Act, 1911, applies and that Act shall have effect as if those sections were not in force.

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

32. In sections 29 and 30—

Interpretation

“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” means any person for whose benefit an action could be brought under the Compensation for Injuries Ordinance;

Ch. 5. No. 5

“employer” and “workman” have the same meaning as in the Workmen’s Compensation Ordinance;

Ord. No. 24—1960

“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.

33. This High Court may, upon application by or on behalf of the Attorney General, 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 Ordinance or any other Ordinance, 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 such Coroner, whom the High Court thinks fit.

Power to issue writ *ad melius inquirendum*

Ch. 3. No. 5

### *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

Restrictions on institution of vexatious actions

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 *Royal Gazette*.

### PART III

#### JURISDICTION OF THE COURT OF APPEAL

Jurisdiction of  
Court of Appeal

Ch. 3. No. 1

Power to revise  
proceedings of  
inferior courts

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.

36. (1) Upon application by or on behalf of the Attorney General, 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 such inferior court, the Court of Appeal may set aside or vary any judgment or order of proceedings of such 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.

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 for the time being in force in England—

Practice and  
procedure in  
Court of  
Appeal

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

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

#### CIVIL APPEALS FROM HIGH COURT

38. (1) Subject as otherwise provided in this Act or in any other enactment, 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; but an appeal from a judgment or order of the High Court when acting as a Prize Court in accordance with the Naval Prize Acts 1864 to 1916 of the United Kingdom, shall not lie to the Court of Appeal but shall lie to Her Majesty in Council.

Appeals in  
civil matters

(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.

Powers 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,

## CRIMINAL APPEALS FROM HIGH COURT

## Definitions

42. In sections 42 to 62, unless the context otherwise requires—

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

“ Minister ” means the minister designated under subsection (2) of section 70 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 of any question of law or that on any ground there was a miscarriage of justice, and in any other case shall dismiss the appeal : 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 therefor as it thinks ought to have been passed, and in any other case shall dismiss the appeal.

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.

Powers of  
Court in special  
cases

(2) Where an appellant has been convicted of an offence and the jury could on the indictment have found him guilty of some other offence, and on the finding of the jury it appears to the 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 criminal lunatic under the Criminal Procedure Ordinance in the same manner as if a special verdict had been found by the jury under that Ordinance.

Ch. 4. No. 3

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 subsection (1) of section 25 of the Sale of Goods Ordinance, 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—

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

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

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

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— Supplementary powers of Court of Appeal

- (a) receive the evidence, if tendered, of any witness including the appellant, who is a competent but not compellable witness, and, if application be 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 such application ;
- (b) issue any warrant necessary for enforcing any order or sentence of the Court of Appeal:

Provided that—

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

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

(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.

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 contrary on 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 Computation and commencement of sentence

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.

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.

Judge's notes  
and report  
to be furnished  
on appeal

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.

Legal assistance  
to appellant

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

Right of  
appellant to  
be present

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

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

Duty of  
Attorney General

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

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 Crown thereon.

(3) Any documents, exhibits, or other things connected with the proceedings on the trial of any person on indictment, who, if convicted, is entitled or may be authorised to appeal under this Act, shall be kept in the custody of the court of trial in accordance with rules of court made for the purpose, for such as time 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 Superintendent 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.

58. (1) Such shorthand notes 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 notes 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. Shorthand  
notes

(2) A transcript of the notes 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 notes 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 notes to be taken and for the verification of the transcript.

59. The powers of the Court of Appeal under this Act— Powers which  
may be exercised  
by a Judge of  
the Court

(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 such judgment be set aside and quash the conviction and direct a judgment and verdict of acquittal to be entered ;
- (c) order that such 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 their opinion, shall have power, if they think fit, to cause the case or certificate to be sent back for amendment and thereupon the same shall be amended accordingly.

Provision of  
this Act appli-  
cable to proceed-  
ings 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, sub-sections (1), (3) and (5) of section 57 and section 59 shall apply to such proceedings in like manner as to an 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.

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

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

Prerogative  
of mercy

(2) The Governor-General, on the advice of the Minister on the consideration of any petition for the exercise of Her Majesty's mercy 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 Governor-General with their opinion thereon accordingly.

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

Criminal  
information

## PART IV

### GENERAL PROVISIONS

#### *Registrar and other Officers*

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

Registrar

(2) The Registrar shall have custody of the seal of the Supreme 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, in either case of at least five years' standing.

Registrar to  
have powers  
of judge in  
chambers

66. (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 enactment, or by custom, or by the rules and practice of the High Court, are now 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.

Appeal from  
Registrar

(2) A person affected by any order or decision of the Registrar sitting in chambers may appeal to the Court of Appeal as may be provided by rules of court, and the rules of court relating to appeals from a judge in chambers shall apply to an appeal from the Registrar.

Deputy  
Registrar

67. (1) There shall be a Deputy Registrar and a Second Deputy Registrar of the Supreme Court.

(2) The Deputy Registrar and the Second Deputy Registrar shall be in either case a barrister or solicitor of at least three years' standing.

(3) The Deputy Registrar and the Second Deputy Registrar shall in the exercise of their office have all and singular the like authorities, powers, duties, immunities and liabilities of the Registrar except where otherwise provided by rules of court.

Sub-Registrar,  
San Fernando  
and Tobago

68. (1) There shall be a Sub-Registrar of the Supreme Court—

- (a) in San Fernando; and
- (b) in Tobago.

(2) A Sub-Registrar appointed after the commencement of this Act shall be a barrister or solicitor in either case of at least three years' standing.

(3) The Sub-Registrar of San Fernando and the Sub-Registrar of Tobago shall each have custody of duplicate seals of the Supreme Court for use in San Fernando and Tobago respectively.

(4) The Sub-Registrar in San Fernando shall, in the absence of the Registrar, have such powers and perform such duties in reference to proceedings as may be prescribed by rules of court and subject to such rules, such duties shall be analogous to the duties performed by the Registrar.

(5) The Sub-Registrar in Tobago shall, in the absence of the Registrar and subject to rules of court, have such powers and perform such duties in reference to proceedings in Tobago as the Registrar has and performs in reference to proceedings in the Court of Appeal and the High Court in Trinidad.

69. Any act done or document signed by the Registrar or any Sub-Registrar shall not be liable to objection on the ground that it ought to be done or signed by another of them. Common powers of Registrars

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

71. (1) The Deputy Registrar and the Second Deputy Registrar 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. Deputy Marshal

(2) The Sub-Registrars shall be the Deputy Marshals of the Supreme Court in San Fernando and in Tobago respectively.

(3) The Governor-General shall appoint an officer in the Registry of the Supreme Court to be Second Deputy Marshal of the Supreme Court in 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

72. Subject to any enactment, the High Court and each judge thereof shall have power at any time and in any place in the Territory 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 enactment or otherwise may be required to be discharged.

Sittings of  
High Court—

73. (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 *Royal Gazette*.

Special criminal  
sitting

74. The Governor-General may at any time, by warrant under his hand and the Public Seal of the Territory, 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

75. The Court of Appeal shall sit in Port-of-Spain at such times as may be prescribed.

*Rules of Court*

Power to make  
rules of Court

76. 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 ;
  - (b) a judge of the High Court ;
  - (c) the Attorney General or any other officer referred to in Part I of the Schedule to the Law Officers Ordinance, to be nominated by the Attorney General ;
  - (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.

77. (1) Rules of Court may be made under this Act <sup>Rules of Court</sup> for the following purposes :

- (a) for regulating and prescribing the procedure, including the method of pleading, and practice to be followed 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 ;
- (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, 1962 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 ;

- (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 of 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 Her Majesty in 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 appeal prior to despatch of the record to England ;
  - (v) change of parties ;
  - (vi) the contents and form of the case of a party to an appeal.

(2) Rules of Court made under this section shall, within forty days, be subject to negative resolution of the Legislature.

Saving of Rules  
Ch. 3. No. 1

78. (1) The Supreme Court Rules, 1946, made under the Judicature Ordinance and as amended in the First Schedule shall continue in force with the necessary modifications and adaptations as if made under section 77 and may be added to, amended or revoked by rules of court made by the Rules Committee under section 77.

(2) The Divorce and Matrimonial Causes Rules, 1938, and the Legitimacy Rules, 1937, and any other rules made under any Ordinance shall continue in force

with the necessary modifications and adaptations as if made under section 77 and may be added to, amended or revoked by rules of court made by the Rules Committee under section 77.

(3) The Court of Appeal Rules, 1962, set out in the Third Schedule shall be deemed to be rules of court made under section 77 and may be added to, amended or revoked by rules of court made by the Rules Committee under section 77.

(4) The Federal Supreme Court Appeal Rules, 1959 are revoked.

79. Where in any enactment 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

80. (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.

81. (1) A person admitted to practise as a barrister before the former Supreme Court and entitled to practise shall have the right to continue to practise as such in the Supreme Court.

Right of appearance of barrister

(2) After the commencement of this Act, a person called to the Bar of England may be admitted by the High Court to practise as a barrister in the Supreme Court.

## PART V

## APPEALS TO THE PRIVY COUNCIL

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

82. 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.

## PART VI

## TRANSITIONAL POWERS, REPEALS AND COMMENCEMENT

Provisions regarding pending appeals

83. (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.

(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.

Enactments amended

84. The enactments specified in the first column of the Second Schedule have effect subject to amendments specified in relation thereto in the second column of the said Schedule.

Repeals  
Ch. 3. No. 1  
Ch. 3. No. 2

85. The Judicature Ordinance, the Criminal Appeal Ordinance and the Federal Supreme Court Regulations, 1958, in their application to Trinidad and Tobago, are repealed.

Commencement

86. This Act shall come into force on the 31st day of August, 1962.

## FIRST SCHEDULE

(Section 78)

## AMENDMENTS TO THE RULES OF THE SUPREME COURT, 1946.

The Rules of the Supreme Court 1946 are amended as follows :

A. Orders LX and LXA thereof are deleted.

B. Rule 1 of Order LXIII is deleted.

C.1. Paragraph (f) of rule 2 of Order LXVII is deleted and paragraphs (g), (h), (i), (j) and (k) are re-numbered (f), (g), (h), (i) and (j).

2. The following new rule is added as rule 3 thereof :

“ 3. Order III of the Court of Appeal Rules, 1962, that relates to appeals formerly heard and determined in the Full Court applies to all proceedings analogous to proceedings on the Crown side, and on the Revenue side of the Queen's Bench Division in England, including mandamus, prohibition and *quo warranto*. ”

D. By adding at the end thereof the following new rule:

## “ VACATIONS—

In every year the periods from the 26th of June to the 3rd of October, both days inclusive, and from the 20th of December to the 2nd of January next following, both days inclusive, and such other periods as may be appointed by rules of court made pursuant to the Act, shall be observed as vacations by the High Court, but such vacations shall not extend to the trial of criminal cases, or to the trial of civil cases in Tobago. ”

E. Unless the context otherwise requires a reference to the Supreme Court or to a judge thereof in the said Rules shall be construed as a reference to the High Court or to a judge thereof and a reference to the Full Court or to a judge thereof therein shall be construed as a reference to the Court of Appeal or to a judge thereof.

## SECOND SCHEDULE

(Section 84)

FIRST COLUMN	SECOND COLUMN
<i>Short Title</i>	<i>Extent of Amendment</i>
Ch. 4. No. 2 Jury Ordinance	Delete "Judges of the Supreme Court"; occurring in section 7 thereof and substitute therefor—"Judges of the Court of Appeal; Judges of the High Court;"
Ch. 4. No. 3 The Criminal Procedure Ordinance.	<p>(a) Section 2 is repealed and replaced by the following—</p> <p>"2. (1) In this Ordinance "Registrar", "Deputy Registrar" and "Sub-Registrar" means the Registrar, Deputy Registrar, Second Deputy Registrar and Sub-Registrar appointed as such under the Supreme Court of Judicature Act, 1962.</p> <p>(2) The Sub-Registrar, the Deputy Registrar, and the Second Deputy Registrar may perform any duty imposed on the Registrar by sections 18(1), 19, 28, 30, 32, 46, 50, 54, 75 and 81, of this Ordinance."</p>
Ch. 5. No. 4 The Court Deposits Ordinance.	<p>(b) Subsection (2) of section 18 is amended by inserting immediately after the words "Deputy Registrar" the words "the Sub-Registrar and the Second Deputy Registrar".</p> <p>(c) Section 71, 72 and 73 are repealed.</p> <p>The definition of "Registrar" in section 2 is amended by inserting immediately after the words "Deputy Registrar" the following—  " , Second Deputy Registrar. "</p>
Ch. 7. No. 4 The Solicitors Ordinance	There shall be substituted for the words "Full Court" wherever those words occur therein, the words "High Court"

## THIRD SCHEDULE

(Sections 77, 78)

## ORDER I

## PRELIMINARY

Short title

Definitions

1. These Rules may be cited as the Court of Appeal Rules, 1962.
2. In these Rules, unless it is expressly provided to the contrary or the context otherwise requires—
  - “the Act” means the Supreme Court of Judicature Act, 1962;
  - “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;
  - “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 the Territory;
  - “magistrate” includes every person exercising jurisdiction, whether full or limited, in a court of summary jurisdiction under the laws of the Territory;
  - “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 of Judicature and includes, a sub-registrar, the deputy-registrar and the second deputy-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 Crown is not an appellant, means the person who under the provisions of the Act has the duty of appearing for the Crown 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;
- “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.

#### *Appeals Generally*

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. Forms in Appendices A and C to be used
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. Times of sittings and vacation
- (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 :
- Provided that
- (a) appeals under the Summary Courts Ordinance, Ch. 3. No. 4 shall be heard by the Court during the Long Vacation at such times as the Chief Justice may direct ;
- (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
- (e) the several offices of the Court of Appeal shall be open on every day of the year except 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 9 a.m. to 4 p.m., except Saturdays, when the offices will be closed at 12 noon. Days on which offices are to be closed

(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 *Royal 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 *Royal Gazette* post up on the notice board of the Court the cause list of the sitting:

Provided that the Court may in its discretion hear any appeal and deal with any other matter whether or not the same has been included in such cause list so published.

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

Right of audience

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 or the Registrar of the Court below, 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
<p>(a) All documents required to be served—</p> <p style="padding-left: 2em;">(i) on parties to an action who have not filed an address for service; and</p> <p style="padding-left: 2em;">(ii) on a person not a party to the appeal.</p> <p>(b) All documents required to be served on parties who have an address for service.</p>	<p>by personal service on the party or his authorised agent, or on the person not a party.</p> <p>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.</p>

(2) If it be 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.

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## ORDER II

### CIVIL APPEALS FROM HIGH COURT—PART I

#### *Notices of appeal, cross-appeal and preliminary objection*

1. (1) All appeals shall be by way of rehearing and shall be brought by notice, hereinafter called "the notice of appeal", to be filed with the Registrar, which shall set forth the grounds of appeal, state whether the whole or part only of the decision of the Court below is complained of, in the latter case specifying such part, state also the nature of the relief sought and the names and addresses of all parties directly affected by the appeal, and be signed by the appellant or his legal representative.

(2) If the grounds of appeal allege misdirection or error in law particulars of the misdirection or error shall be clearly stated.

(3) The grounds of appeal shall set out concisely and under distinct heads the grounds upon which the appellant intends to rely at the hearing of the appeal without any argument or narrative and shall be numbered consecutively.

(4) No ground which is vague or general in terms or which discloses no reasonable ground of appeal shall be permitted, save the general ground that the judgment is against the weight of the evidence, and any ground of appeal or any part thereof which is not permitted under this rule may be struck out by the Court of its own motion or on application by the respondent.

(5) The appellant shall not without the leave of the Court urge or be heard in support of any ground of objection not mentioned in the notice of appeal, but the Court may in its discretion allow the appellant to amend the grounds of appeal upon payment of the fees prescribed for making such amendment and upon such terms as the Court may deem just.

(6) Notwithstanding the foregoing provisions the Court in deciding the appeal—

(a) shall not be confined to the grounds set forth by the appellant;

(b) shall not rest its decision on any ground not set forth by the appellant unless the respondent has had sufficient opportunity of contesting the case on that ground.

Interlocutory  
order not to  
prejudice  
appeal

(7) No interlocutory order or rule from which there has been no appeal shall operate so as to bar or prejudice the Court from giving such decision upon the appeal as may be just.

Appeal from  
refusal of  
*ex parte*  
application

2. Where an *ex parte* application has been refused by the Court below or a judge thereof an application for a similar purpose may be made to the Court *ex parte* within fourteen days from the date of such refusal or within such enlarged time as the Court or a single judge may allow.

Appeal by  
leave only  
Civil Form 2

3. (1) Where an appeal lies by leave only, any person desiring leave to appeal shall apply for leave within fourteen days, either by notice of motion or by summons (whichever is appropriate) and such application shall be made to the Court and the period of fourteen days shall run from the date of the decision against which leave to appeal is sought.

(2) If leave is granted the appellant shall file a notice of appeal as provided by rule 1 of this Order within fourteen days from the grant of leave and a copy of the order granting leave shall be annexed to the notice of appeal.

(3) If a respondent intends, upon the hearing of an application brought under this rule, to apply for leave to appeal in order to vary the decision of the Court below, he shall within seven days of the service upon him of the summons or notice of motion (or within such time as may be prescribed by special order made on application) give written notice of such intention to any parties who may be affected by such contention, and in such notice shall clearly state the reasons on which he intends to rely, and within the same period he shall file a copy of such notice with the Registrar.

(4) If on the hearing of a motion or summons brought under this rule the respondent is given leave to appeal in order to vary the decision of the Court below, it shall not be necessary for him to comply with the provisions of rule 6.

(5) The provisions of paragraph (3) of rule 6 shall apply to a notice given under paragraph (3) of rule 3 as it does to a notice under rule 6.

Time limits  
for appealing

4. (1) Subject to the provisions of this rule, no appeal shall be brought after the expiration of six weeks from the date of judgment

delivered or order made, against which the appeal is brought, provided that in the case of appeals—

- (a) against an interlocutory order or judgment the period shall be fourteen days; where leave to appeal against such order or judgment is required, fourteen days from the grant of leave;
- (b) against an order or judgment made in the matter of the winding-up of a company, or in the matter of any bankruptcy, the period shall be twenty-one days;
- (c) against an order made on the further consideration of a cause, and on the hearing of a summons to vary the certificate on which such order is made, shall be the same as the time for appealing against the order on further consideration.

(2) An appeal shall be deemed to have been brought when the notice of appeal has been filed with the Registrar.

(3) A Judge of the Court may by order extend the time prescribed in paragraph (1) of this rule within which an appeal may be brought, provided an application for this purpose is made within one month of the expiration of the time so prescribed.

(4) In exceptional circumstances, the Court having power to hear and determine an appeal, may on application extend the time within which an appeal may be brought beyond the period delimited for an application to a judge of the Court under this rule.

(5) Every application for enlargement of time when made to a judge of the Court shall be made by summons, and when made to the Court shall be by motion. Every summons or notice of motion filed shall be supported by an affidavit setting forth good and substantial reasons for the application and by grounds of appeal which *prima facie* show good cause therefor.

(6) A copy of the summons and supporting affidavit and three copies of the notice of motion and supporting affidavit, in addition to the filed copies, shall be left with the Registrar at the time of filing.

(7) When time is so enlarged a copy of the order granting such enlargement shall be annexed to the notice of appeal.

5. (1) A true copy of the notice of appeal shall be served upon all parties directly affected by the appeal and it shall not be necessary to serve any party not so affected; but the Court may direct to be served on all or any parties to the action or other proceedings, or upon any person not a party and in the meantime may postpone or adjourn the hearing of the appeal upon such terms as may be just, and may give such judgment and make such order as might have been given or made if the persons served with such notice had been originally parties.

(2) A true copy of the notice shall be served upon the respondent within seven days after the original notice has been filed.

6. (1) If a respondent intends, upon the hearing of an appeal, to contend that the decision of the Court below should be varied, he shall within fourteen days after service of the notice of appeal, or within such time as may be prescribed by special order made on application, give written notice of such intention to any parties who may be affected by such contention, and in such notice shall clearly state the reason on which

Service of  
notice of  
appeal

Notice by  
respondent  
of contention  
that judgment  
should be varied  
Civil Form 3

he intends to rely and within the same period he shall file a copy of such notice with the Registrar.

(2) A copy of such notice shall be included in the record but if the record has already been filed, the prescribed number of copies shall be prepared forthwith and left with the Registrar by the appellant for transmission to the judges.

(3) The omission to give notice shall not diminish the powers conferred upon the Court but may, in the discretion of the Court, be a ground for the adjournment of the appeal, or for any special order as to costs.

Amendment of  
notice of  
appeal and  
of respondent's  
notice

7. (1) A notice of appeal or respondent's notice may be amended—

(a) by or with the leave of the Court at any time;

(b) without such leave, by supplementary notice served, before the date on which the appeal appears in the cause list, published in accordance with Order I rule 5 upon each of the parties upon whom the notice of appeal or respondent's notice as the case may be was served.

(2) A party by whom a supplementary notice is served under this rule shall, within two days after service of the notice, furnish four copies of the notice to the Registrar.

Notice of  
preliminary  
objection to  
be filed  
Civil Form 4

8. (1) A respondent intending to rely upon a preliminary objection to the hearing of the appeal shall give the appellant three clear days notice thereof before the hearing setting out the grounds of objection and shall file such notice together with three copies thereof with the Registrar at the same time.

(2) If the respondent fails to comply with this rule the Court may refuse to entertain the objection or may adjourn the hearing thereof at the cost of the respondent or may make such other order as it thinks fit.

#### THE RECORD

Settling record  
of appeal  
Civil Form 5

9. (1) The Registrar shall upon an appeal being brought summon the parties before him to settle the documents, which expression shall include any other matter which may form part of a record, to be included in the record and shall, whether any of the parties attend the appointment or not, settle and sign and in due course file a list of such documents.

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

(3) If the Registrar or any party objects to the inclusion of a document on the ground that it is unnecessary or irrelevant and the other party nevertheless insists upon its being included, the document shall be included and the record shall, with a view to the subsequent adjustment of the costs of and incidental to the inclusion of such document, indicate in the index of papers or otherwise the fact that and the party by whom, the inclusion of the document was objected to.

10. When any question of fact is involved in an appeal, the evidence taken in the Court below bearing on such question shall, subject to any special order of the Court, be brought before the Court as follows:—

- (a) as to any evidence taken by affidavit, by the production of office copies of such affidavits;
- (b) as to evidence taken orally, by the production of a copy of the judge's notes certified by the Registrar, or a transcript of the evidence taken by a shorthand writer and certified by him, or such other materials as the Court may deem expedient;
- (d) if, upon the hearing of an appeal, a question arise as to the ruling or direction of the judge to a jury or assessors the Court shall have regard to verified notes or other evidence, and to such other materials as the Court may deem expedient.

Evidence

Evidence as to direction of judge to jury or assessors

11. (1) Where any notes of proceedings whether in shorthand or longhand have been taken by a person employed by any court or taken by the judge of the Court below, copies of such parts of these notes as are required for the record of appeal shall be supplied by the Registrar on payment of the fees prescribed in Appendix B.

Copies of proceedings in Court below

(2) If no written decision is given by the judge at the time of giving judgment such judge shall communicate his reasons for the judgment in writing to the Registrar and such reasons shall be included in the record.

(3) On hearing of an appeal the Court shall have power, if the notes of the judge of the Court below or a transcript of the evidence are not produced, or if there are no such notes or transcript, to hear and determine such appeal upon any other evidence or statement of what occurred before such judge which the Court may deem sufficient.

12. (1) Every document or paper required by these Rules to be filed or left with the Registrar shall be legibly printed, cyclostyled or typewritten with black ink, excluding carbon copies, upon strong white foolscap paper of good quality with an inner margin of not less than two inches and an outer margin of about half-an-inch, and a space of not less than three-eighths of an inch shall be left between every two lines.

Printing or typing of record

(2) There shall be an index to the record and every page thereof shall be numbered consecutively, and every tenth line on a page shall be numbered in the margin. Correspondence and exhibits shall be arranged together at the end of the record.

(3) The Registrar may refuse to file or receive any document not strictly conforming to the requirements of paragraph (1) of this rule and the Court may disallow the costs of any such document which has been so filed or received.

13. (1) Any party may apply for and, on payment of the prescribed fee, obtain an office copy of the exhibits for the purpose of an appeal to the Court or otherwise.

Copy of list of exhibits

(2) All original documents tendered in evidence to the Court below at the trial shall remain in the custody of the Court below until

the record of the appeal has been prepared, and shall then be forwarded with the record to the Court by the Registrar and shall remain in the custody of the Court until the determination of the appeal.

(3) Notwithstanding paragraph (2), the Registrar shall permit a party for the purposes of preparing his record to take copies of all such documents and the Court or Registrar may allow the return of any document to any party pending the hearing of the appeal and subject to such conditions as it or he may impose.

Entering  
appeal

14. (1) The appellant shall within six weeks from the date when the appeal is brought or within such extended time as may be granted by the Court—

(a) file with the Registrar

(i) the record;

Civil Form 6

(ii) an affidavit of service of the notice of appeal; and

(b) leave three copies of the record for the use of the judges.

Civil Form 7

(2) The Registrar shall thereupon give notice in Form 7 to the respondent of the filing of the record.

Registrar  
to keep  
the record

(3) The Registrar shall—

(a) keep the three copies of the record for the use of the judges of the Court;

(b) caused to be served on all parties mentioned in the notice of appeal a notice that the record has been filed;

(c) keep for the use of the judges of the Court three copies of any notice or other document received by him after the record has been filed.

(4) The Registrar upon the record being filed shall set down the appeal for hearing by entering the same in the proper list of appeals.

#### WITHDRAWAL AND NON-COMPLIANCE

Withdrawal  
of appeal  
Civil Form 8

15. If the appellant files with the Registrar a notice that he desires to withdraw his appeal the appeal shall stand dismissed with costs on the date on which such notice is filed. The appellant at the same time shall serve copies of the notice of withdrawal on all or any of the parties with regard to whom the appellant wishes to withdraw his appeal, and any party so served shall be precluded from laying claim to any costs incurred by him after such service unless the Court shall otherwise order.

Default in  
filing record  
and documents

16. (1) It shall be the duty of the Registrar to see that an appellant complies with the provisions of rule 14 of this Order, and before the conclusion of each sitting he shall report to the Court any failure on the part of an appellant so to comply and the Court of its own motion may make any such order as it might make upon an application by the respondent under paragraph (2) of this rule.

(2) If the appellant has failed to comply with the requirements of rule 14 (1) of this Order or any part thereof, the respondent may apply to the Court to dismiss the appeal for want of prosecution and the Court, if satisfied that the appellant has so failed, may dismiss the appeal or make such other order as the justice of the case may require.

(3) An appellant whose appeal has been dismissed under this rule may apply by notice of motion that his appeal be restored and the Court may in its discretion for good and sufficient cause order that such appeal be restored upon such terms as it may think fit.

#### APPLICATIONS

17. (1) In any cause or matter pending before the Court, a single Application to judge of the Court may upon application make orders for— single judge

- (a) giving security for costs to be occasioned by any appeals;
- (b) leave to appeal *in forma pauperis*;
- (c) a stay of execution on any judgment appealed from pending the determination of such appeal;
- (d) an injunction restraining the defendant in the action from disposing or parting with the possession of the subject matter of the appeal pending the determination thereof;
- (e) extension of time;

and may hear, determine and make orders on any other interlocutory application.

(2) Every order made by a single judge of the Court in pursuance of this rule may be discharged or varied by any judges of that Court having power to hear and determine the appeal.

18. (1) An application for leave to appeal *in forma pauperis* may be made *ex parte* by affidavit containing the grounds of the application and the order asked for. Mode of application

(2) Any other application under these Rules shall be made by way of summons or motion on notice. Such application shall be supported by affidavit, a copy of which shall be served with the summons or notice of motion.

(3) Where an application is made *ex parte* under paragraph (1) of this rule, an order may be made requiring any party affected to be served with notice of the application.

(4) Where an application under these Rules is made by summons, an order may be made adjourning the hearing into open court.

(5) Where an application made by summons is heard by the Court, it shall be treated as if it were a motion, and it shall be heard in open court.

19. (1) An appeal shall not operate as a stay of execution or of proceedings under the judgment appealed from, except so far as the Court below may have ordered or the Court may order, and no inter-mediate act or proceeding shall be invalidated, except so far as the Court may direct. Appeal no stay except by order

(2) On an appeal, interest for such time as execution has been delayed by the appeal shall be allowed unless the Court otherwise orders, and the Registrar may compute such interest without any order for that purpose.

20. (1) Before an application for security for costs is made, a written demand shall be made by the respondent and if the demand is refused or if an offer of security be made by the appellant and not accepted by the Application for security for costs

respondent, the Court shall in dealing with the costs of the application consider which of the parties has made the application necessary.

(2) An application for security for costs may be made at any time after the appeal has been brought and must be made promptly thereafter.

(3) An order for security for costs shall direct that in default of the security being given within the time limited therein, or any extension thereof, the appeal shall stand dismissed with costs.

(4) A bond with sureties for securing the costs of an appeal shall be in Civil Form 9.

Bond  
Civil Form 9

Application  
for leave to  
appeal in  
*forma pauperis*

21. (1) An application for leave to appeal *in forma pauperis* shall be accompanied by—

(a) an affidavit stating—

(i) that the appellant is not worth \$120.00 excepting his wearing apparel and tools of trade and his interest in the subject matter of the intended appeal;

(ii) that his usual income from all sources does not exceed \$10.00 a week;

(b) a certificate of counsel that the appellant has reasonable ground of appeal.

(2) Where an appellant obtains leave to appeal *in forma pauperis* he shall not be required to lodge security for the costs of the respondent or to pay any registry fees or any fees for copies of the judge's notes of evidence or the documents required for compiling the record.

#### HEARING AND JUDGMENTS

Interlocutory  
appeals  
Number of judges

22. An appeal against an interlocutory order shall be heard before not less than two judges of the Court.

Dismissal of  
appeal in  
default of  
appearance  
Application  
to re-enter  
appeal dis-  
missed under  
rule 23

23. If the appellant fails to appear when his appeal is called on for hearing, the appeal may be struck out or dismissed with or without costs.

24. (1) When an appeal has been struck out owing to the non-appearance of the appellant the Court may, on application by the appellant by notice to the Court, if it thinks fit, and on such terms as to costs or otherwise as it may deem just, direct the appeal to be re-entered for hearing.

(2) Notwithstanding paragraph (1) of this rule no application under this rule shall be made after the expiration of twenty-one days from the date of the judgment or order sought to be set aside.

Non-appearance  
of respondent

25. If the respondent fails to appear when the appeal is called on for hearing, the Court may proceed to hear the appeal *ex parte*.

Application to  
set aside *ex*  
*parte* judgment

26. (1) Where an appeal has been heard *ex parte* under rule 25 and any judgment has been given therein adverse to the respondent he may apply by motion to the Court to set aside such judgment and re-hear the appeal and the Court may, if it thinks fit and on such terms as to costs or otherwise as it may deem just, direct the appeal to be re-entered for hearing.

(2) No application to set aside any judgment or order and re-hear the appeal under this rule shall be made after the expiration of twenty-one days from the date of the judgment or order sought to be set aside.

(3) Any such application shall be by motion accompanied by an affidavit setting forth the reasons and grounds for the application and the Court may thereupon in its discretion set aside the judgment or order and order that the appeal be re-heard at such time and upon such conditions as to costs or otherwise as it may think fit.

27. Judgments of the Court shall be enforced by the Court below. Execution of Any party may upon payment of the prescribed fee obtain from the judgment by Registrar a certificate under the seal of the Court and the hand of the High Court Registrar setting forth the judgment, and such judgment shall be Civil Form 10 enforced in terms of the certificate.

#### FEES AND COSTS

28. The fees prescribed in Part I of Appendix B shall be charged Court Fees by and paid to the Registrar in stamps.

29. (1) Subject to the provisions of this rule, a Taxing Officer when Legal taxing the fees for professional legal services shall—  
practitioner's fees

- (a) unless the Court when awarding costs, orders otherwise, allow fees all such costs, charges and expenses as shall appear to him to have been necessary or proper for the attainment of justice or for the defending the rights of any party, but save as against the party who incurred the same, no costs shall be allowed which appear to the Taxing Officer to have been incurred or increased through over-caution, negligence or mistake or by payment of special fees to counsel or special charges or expenses to witnesses or other persons, or by other unusual expenses;
- (b) adhere to the Schedule of Allowances in Part II of Appendix B.

(2) In taxing party and party costs the Taxing Officer shall also, unless the Court when awarding costs orders otherwise, allow—

- (a) the reasonable fees consequent upon the engagement of counsel, but he may disallow the fee of more than one counsel in unopposed matters and in matters in which counsel has not appeared on the other side;
- (b) in any matter which does not conclude upon the first day, reasonable refreshers for each day subsequent to the first;
- (c) junior counsel's fee on the basis of two-thirds of the fee allowed to leading counsel, excluding travelling expenses and any special fee allowed to leading counsel, where fees to leading and junior counsel are allowed.

(3) The Taxing Officer may in exceptional cases and for good and sufficient reason depart from any of the provisions of the Schedule of Allowances contained in Part II of Appendix B and in particular in the taxation of solicitor and client bills of costs, where strict adherence to such provisions would be inequitable.

Fees not  
chargeable  
under rules  
28 and 29  
Taxation  
of costs  
Civil Form 11

30. The fees to be charged for interpreters, witnesses, special commissioners and examiners shall be those set forth in Part III of Appendix B.

31. (1) Where the costs of an appeal are allowed they may either be fixed by the Court at the time when the judgment is given or may be ordered to be taxed.

(2) The Registrar or such deputy registrar as the Registrar by general or special direction shall nominate shall be the Taxing Officer.

Objections  
to taxation

(3) Any party who may be dissatisfied with the allowance or disallowance by the Taxing Officer, in any bill of costs taxed by him, of the whole or any part of any items, may, at any time before the certificate or allocatur is signed, or such earlier time as may in any case be fixed by the Taxing Officer, deliver to the other party interested therein, and carry in before the Taxing Officer, an objection in writing to such allowance or disallowance, specifying therein by a list, in a short and concise form the items or parts thereof objected to, and the grounds and reasons for such objections and may thereupon apply to the Taxing Officer to review the taxation in respect of the same. The Taxing Officer may, if he shall think fit, issue pending the consideration of such objections a certificate of taxation or allocatur for or on account of the remainder of the bill of costs and such further certificate or allocatur as may be necessary shall be issued by the Taxing Officer after his decision upon such objections.

Review of  
taxation by  
Taxing Officer

(4) Upon such application the Taxing Officer shall reconsider and review his taxation upon each objections, and he may, if he shall think fit, receive further evidence in respect thereof, and, if so required by either party, he shall state either in his certificate of taxation or allocatur, or by reference to such objection, the grounds and reasons of his decision thereon, and any special facts or circumstances relating thereto. The Taxing Officer may tax the costs of such objections and add them to or deduct them from any sum payable by or to any party to the taxation.

Appeals from  
Taxing Officer  
to Court of  
Appeal

32. (1) Any person aggrieved by an order, decision or ruling of the Taxing Officer may apply to the Court to set aside such order, decision or ruling and to make such further order as it may think fit.

(2) Any application to the Court under the foregoing paragraph shall be by motion accompanied by an affidavit in support and notice of such motion shall be served upon the Taxing Officer and upon all parties having interest therein.

#### APPEALS FROM PETTY CIVIL COURTS—PART II

This order  
to apply to  
appeals from  
Petty Civil  
Courts

33. Subject to the provisions of rules 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45 of this Order, the preceding rules of this Order, shall so far as applicable apply to appeals to the Court from the Petty Civil Court.

Appeal to be by  
notice of motion  
in a summary way

34. All appeals shall be brought by notice of motion in a summary way, and no petition, case or other formal proceeding other than such notice of motion shall be necessary. The appellant may by the notice of motion appeal from the whole or any part of any judgment order or finding, and the notice of motion shall state whether the whole or part only of such judgment order or finding is complained of, and in the latter

case shall specify such part. The appellant or his solicitor shall state on the notice of motion an address for service within three miles of the Court House, Port-of-Spain.

35. Every appeal shall be entered at the Registry, Port-of-Spain, Entry of Appeal and the entry shall be made by filing the notice of motion.

36. The appeal shall be entered and a true copy of the notice of Time for entry of motion shall be served by the appellant or his solicitor upon all parties appeal and for directly affected by the appeal within twenty-eight days from the date service of notice of the judgment, order, or finding complained of; such period shall be of motion calculated from the time at which the judgment or order or finding or any refusal is made or given.

37. Upon notice of appeal being filed the Registrar shall forthwith Application to apply to the judge of the Petty Civil Court from which the appeal is Petty Civil Court brought for a certified copy of the record of the proceedings, of the notes Judge for record of evidence given, and for a statement of his judgment and of his reasons for his decision and his finding on any question of law under appeal and the judge of the Petty Civil Court shall with all convenient dispatch transmit the same together with all exhibits put in evidence in the case in the Petty Civil Court to the Registrar.

38. Upon receipt thereof the Registrar shall as soon as practicable Notice to thereafter send by registered post to the appellant or his solicitor at the Appellant address for service appearing on the notice of motion a notification of his having received such record of the proceedings, notes, and statement, and such notification shall be deemed to have been served at the time when any letter so transmitted would be delivered in the ordinary course of the post.

39. The appellant or his solicitor shall obtain from the Registrar Copies of record upon payment of the proper fee an office copy of such record of the to be furnished proceedings, notes, and statement, and shall within twenty-one days from the date of the notification provided for in the preceding rule file an affidavit of service of the notice of appeal and furnish the Registrar with three copies of the record of the proceedings, of the notes of evidence, of the statement and of the affidavit of service for the use of the judges of the Court.

40. Any other party to the appeal shall be entitled upon payment Fee for copy of the proper fee to obtain from the Registrar an office copy of such of record record of the proceedings, notes, and statement.

41. The appeal shall not operate as a stay of proceedings under the When appeal may decision appealed from unless the Petty Civil Court shall so order or operate as a stay unless within ten days from the said decision a deposit shall be made of, of execution or security given to the satisfaction of such Petty Civil Court for, a sum to be fixed by the Petty Civil Court not exceeding the amount of the money or the value of the property affected by the judgment, order or finding appealed from.

42. The Registrar shall charge and be paid in stamps on all Fees documents filed by the appellant or any party to the appeal the fees prescribed in the second column in Appendix Q to the Rules of the Supreme Court 1946.

## Costs

43. Costs in all cases of appeals from a Petty Civil Court shall be those fixed by the scale of fees in Schedule II in Appendix N to the rules of the Supreme Court 1946.

## Transmission of certificate of judgment of Court

44. After the Court has pronounced judgment on the appeal or made any order thereon the Registrar shall with all convenient dispatch transmit to the judge of the Petty Civil Court a certificate under the seal of the Court and the hand of the Registrar setting forth the judgment of the Court and shall at the same time return to the judge all exhibits.

## Execution

45. A judgment of the Court shall be enforced by the Petty Civil Court.

## APPEALS FROM THE REGISTRAR OF TRADE UNIONS—PART III

## Right of appeal

46. Every appeal by any person aggrieved by a refusal of the Registrar of Trade Unions to register a combination as a Trade Union or by the withdrawal or cancellation of a certificate of registration shall be made to the Court.

## Appeal by summons

47. Every appeal shall be by summons which shall set out in general terms the grounds of appeal.

## Summons to be supported by affidavit

48. The summons shall be supported by an affidavit of such facts as it may be necessary to state to enable the court to decide the question before it.

## Time for appealing

49. The summons shall be filed with the Registrar of the Supreme Court within eight days of the decision or order complained of and shall be served together with copies of the affidavit in support on the Registrar of Trade Unions at least fourteen days before the date of the hearing set out in the summons.

## Power to extend time for appealing or to amend summons

50. The court or a single judge shall have power to extend the time for appealing or to amend the summons upon such terms (if any) as the justice of the case may require.

## Orders made on hearing of appeal to be filed and served

51. All orders made on the hearing of an appeal shall unless the court otherwise directs be drawn up by the Registrar of the Supreme Court and shall be filed by the successful party within seven days from the date that the order was made and the Registrar of the Supreme Court shall forthwith cause to be delivered to the Registrar of Trade Unions a sealed copy of the order so filed as aforesaid.

## TIME—PART IV

## Enlargement of time by consent.

52. The time for delivering, amending or filing any pleading, answer, or other document may be enlarged by consent in writing, without application to the Court or judge.

## Time of day for service.

53. Service of pleadings, notices, summonses, orders, rules and other proceedings, shall be effected before the hour of four in the afternoon except on Saturday, when it shall be effected before noon. Service effected after four in the afternoon or any week day except Saturday shall, for the purpose of computing any period of time subsequent to such service, be deemed to have been effected on the following day. Service effected after noon on Saturday shall for the like purpose be deemed to have been effected on the following Monday.

## ORDER III

## CRIMINAL APPEALS FROM HIGH COURT

*Notices of Appeal*

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 paragraphs (4) and (5) of this rule.

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".

(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.

(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.

(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.

(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

2. (1) 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.

(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.

(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

Notices of Appeal to be signed by Appellant and addressed to Registrar

How notices etc. may be sent or given

Where Appellant unable to write

Appellants' representative may act for him where question of insanity involved

Notice etc., on behalf of corporations

Shorthand note to be certified by the Writer

Transcript to be furnished on application of Registrar

Party interested may obtain transcript from Shorthand Writer

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.

What shorthand notes shall be taken

(8) For the purpose of section 58 of the Act shorthand notes 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.

#### CERTIFICATE OF JUDGE OF TRIAL

Judge's certificate under s. 43

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

(2) The judge of the Court of trial may, in any case in which he considers it desirable so to do, 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, 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 so to do, 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 Form 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

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  
success of  
appeal

(5) If an appellant to whom paragraph (3) of this rule 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.

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

#### CUSTODY OF EXHIBITS USED AT TRIAL

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.

Judge's  
directions  
as to custody  
of exhibits

Record of judge's directions as to custody of exhibits List of exhibits produced before committal to be made by clerk to magistrate or justice

(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.

(3) Whenever a person is committed for trial, it shall be the duty of the clerk to the magistrate or justice committing such person for trial to 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.

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, &c., to be subject to property or a sample &c., being necessary for purposes of appeal

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 subsection (1) of section 25 of the Sales of Goods Ordinance, Ch. 31. No. 9 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 reverts under such subsection as he shall think right in order to secure the production of such sample, portion or facismile representation for use at the hearing of any such appeal.

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

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 shall be 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 Ch. 4. No. 3 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.

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

(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, and 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.

(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.

(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 so to do, direct that the operation 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 shall have been made of the amount therein named. Such security may be to the satisfaction of the person in whose favour the order for payment shall have been made or of any other person as such judge shall direct.

(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 enactment, 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.

(6) Where, upon conviction of any person of any offence, any claim may be made or any proceedings may be taken under any enactment 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

9. The time during which an order of restitution or the operation of subsection (1) of section 25 of the Sales of Goods Ordinance, Ch. 31. No. 9, 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 enactments authorising him so to do, 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

11. (1) The Registrar when he has received a request as mentioned in paragraph (2) of this rule, or a notice of appeal, or a notice of application for leave to appeal under the Act, or a notice of application for extension of the time within which under the Act such notices shall be given, or when the Governor-General shall exercise his powers under section 63 of the Act, shall request the judge of the court of trial to furnish him with his notes of the trial or with a copy of such notes and such judge of the court of trial shall thereupon furnish the same to the Registrar in accordance with such request.

(2) Where a person convicted on indictment intends to appeal under the Act to the Court or to obtain the leave of that Court to appeal or where any such appeal is pending, the convicted person or his Counsel or Solicitor shall upon request made by him to the Registrar be furnished

as soon as practicable thereafter with a copy of the notes of the trial. Such copy shall be supplied on payment of the charges on such scale as the Registrar may fix.

12. (1) The Registrar when he has received a notice of appeal, <sup>Report of</sup> or a notice of application for leave to appeal under the Act, or a notice <sup>judge of</sup> of application for extension of time within which under the Act such <sup>court of trial.</sup> notices shall be given, or when the Governor-General shall exercise his powers under section 63 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 so to do, 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.

13. When the Registrar shall request the judge of the court of trial <sup>Registrar to</sup> to furnish a report under these Rules, he shall send to such judge of the <sup>furnish judge</sup> court of trial a copy of the notice of appeal or notice of application for <sup>of court of</sup> leave to appeal or notice of application for extension of time within which <sup>trial with materials</sup> under the Act such notice shall be given or any other document or <sup>for Report.</sup> information which he shall consider material, or which the Court at any time shall direct 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*

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. <sup>Obligation on Appellants to fill up forms of appeal notices and answer questions thereon.</sup>

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 shall have passed sentence or pronounced final judgment upon him on that day or not. <sup>Time for appealing against conviction to run from verdict.</sup>

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 shall have 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 &c., 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 shall be given, or where the Governor-General shall exercise his powers under section 63 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.

Registrar to require proper officer of court of trial to furnish him with Depositions, Indictments, Pleas, &c., 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 so to do, 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.

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.

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

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.

How application for leave to appeal and other preliminary applications are to be dealt with.

(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 appellant 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.

Procedure where judge of Court of Appeal refuses applications, under s.70 of Act.

(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 present 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.

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

Sittings of a judge under section 59.

PROCEDURE UNDER SECTION 60 OF THE ACT

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 63 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.

Procedure under section 60.

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 ATTORNEY GENERAL

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 Attorney General 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 Attorney General.

Where such prosecutor in the court of trial was the Attorney General, the Registrar shall notify him of such appeal.

Prosecutor to afford all information, documents, &c., to Registrar and Attorney General.

(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 Attorney General, 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 Attorney General 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 shall think right so to do, order that a Law Officer shall take over the defence of the appeal and be responsible on behalf of the Crown 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 so to do, before whom the recognizances of the appellant and his surety or sureties (if any) may be taken.

(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's recognizances.

(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. Appellant and Prison Officer to receive notice of terms of bail.

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

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

(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.

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

(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 so to do, 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: Provided that 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.

Varying order for bail, by Court of Appeal.

(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 so to do, 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.

Provisions for sureties discharging their obligations.

(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 the Territory, 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 thereupon 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.

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 appellant 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 so to do, 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.

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 shall think right.

(15) Nothing in these Rules shall affect 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. Sureties' rights at Common Law preserved.

(16) The Court may on any breach of the recognizances of the appellant, if it thinks right so to do, 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 Ordinance. Estreat of recognizances.

27. It shall be the duty of the Officer in charge of Police of the district in which the appellant shall have 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. Duty of Police to enquire and report as to appellant's means, on request of Registrar.

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 shall consider necessary. Warders, &c., to attend sittings of Court of Appeal.

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

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

(2) The Court may, at any stage of an appeal, whenever they think it necessary or expedient in the interest of justice so to do, 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. Court of Appeal may order production of any document or exhibits, &c.

(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. Service of orders.

## 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, &c., Registrar to notify appellant, Governor-General, and Commissioner of Prisons.

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 Governor-General, and to the Commissioner of Prisons, notice of such determination in the Forms 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 Governor-General

(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 Governor-General and on the final determination of any such appeal by the Court shall forthwith notify the appellant, the Governor-General, 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.

Registrar after appeal to return original depositions, exhibits, indictment, &c., to officer of court of trial when received from him.

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.

## LEGAL AID TO APPELLANTS

Reports as to legal aid under section 63(5).

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.

List of counsel and solicitors for purposes of Act.

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.

(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 so to do 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 those Rules for the purposes of such appeals. Such copies shall be supplied by the Registrar on payment of the charges on such scale as the Registrar may fix. How appellant or respondent may obtain from Registrar copies of documents or exhibits.

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

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

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

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

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. Attendance of witness before Court.

(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. Application to Court to hear witnesses.

(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. Order appointing examiner.

Registrar to furnish examiner with exhibits, &c., 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.

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 Ch. 4 No. 1 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.

Travelling expenses of witnesses before Examiner.

(8) Where any witness shall receive an order or notice to attend before the Court or an Examiner, the Officer serving the same may, if it appears to him necessary so to do, 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.  
Proceedings on order of Reference.

(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.

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 shall 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

37. (1) The Registrar shall keep a register, in such form as he may think right, of all cases in which he shall receive 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, shall consider convenient.

Register of appeals to be kept by the Registrar.

(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 shall think convenient for giving due notice to any parties interested, of the hearing of such cases by the Court.

Registrar to keep general list of appeals.

(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, shall think convenient for giving due notice to any parties interested therein of the hearing of the cases in such list by the Court. Provided that, 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.

List of cases for daily sittings of Court.

Notices to Appellants in custody.

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.

Application not specially provided for, how made.

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 so to do) 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.

Notice by Registrar to Appellant of results of all applications.

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. 4. No.1.

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 Ch. 4. No. 1.

A Petitioner under section 63 (2) (a) to be deemed to be an Appellant for all purposes.

43. When the Governor-General exercises his powers under section 63 (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 63 (2) (b)

44. Where the Governor General refers a point to the Court under section 63 (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.

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

SCHEDULE
Appendix A

COURT OF APPEAL RULES, 1962

Civil Form 1

IN THE COURT OF APPEAL

NOTICE OF APPEAL

Civil Appeal No. ....of 19.....

Between

.....(Plaintiff/Defendant)\* Respondent(s)\*

and

.....(Plaintiff/Defendant)\* Respondent(s)

TAKE NOTICE that the (Plaintiff/Defendant) Appellant being dissatisfied with the decision/that part of the decision\* more particularly stated in paragraph 2 hereof of the.....(Court)

.....contained in the judgment/order\* of.....

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

doth hereby appeal to the Court of Appeal upon the grounds set out in paragraph 3 and will at the hearing of the appeal seek the relief set out in paragraph 4.

And the Appellant further states that the names and addresses including his own of the persons directly affected by the appeal are those set out in paragraph 5.

2. (Insert here whole or part of decision of the Court below complained of)

3. Grounds of Appeal.

(1)

(2)

(3), etc.

4. (Insert here the relief sought from the Court of Appeal)

5. Persons directly affected by the appeal :

Name

Address

(1)

(2)

[(3), etc,

DATED this.....day of.....19.....

..... Appellant(s)

\*Strike out words inapplicable.

If appealing against the whole decision insert "Whole decision".

COURT OF APPEAL RULES, 1962

O.II, r. 2(1)

Civil Form 2

IN THE COURT OF APPEAL

NOTICE OF MOTION FOR SPECIAL LEAVE TO APPEAL

Civil Appeal No. .... of 19.....

Between

.....(Plaintiff/Defendant)\* Appellant(s)

and

.....(Plaintiff/Defendant)\* Respondent(s)

TAKE NOTICE that the Court of Appeal at..... will be moved on the.....day of.....19..... at.....o'clock in the forenoon or as soon thereafter as counsel can be heard on the hearing of an application for special leave to appeal against the decision of the.....(Court).....given on the.....day of.....19.....

AND further take notice that the grounds of this application are :—

DATED this.....day of.....19.....

..... Applicant or his Solicitor

To

The Registrar,  
Supreme Court.

And† .....

\*Strike out words inapplicable.  
†Insert name of respondent.

COURT OF APPEAL RULES, 1962

O.II, r. 6(1)

Civil Form 3

IN THE COURT OF APPEAL

NOTICE BY RESPONDENT OF INTENTION TO CONTEND THAT  
DECISION OF COURT BELOW BE VARIED

Civil Appeal No. .... of 19.....

Between

..... (Plaintiff/Defendant)\* Appellant(s)

and

.....(Plaintiff/Defendant)\* Respondent(s)

TAKE NOTICE that upon the hearing of the above appeal the Respondent herein intends to contend that the decision of the (Court below) dated the.....day of.....19, should be varied as follows :—†

AND TAKE NOTICE that the grounds on which the Respondent intends to rely are as follows :—

- 1.
- 2.
- 3, etc.

DATED this.....day of.....19.....

.....  
*Respondent(s)*

To.....(Appellant)  
and to the Registrar.

\*Strike out words inapplicable.  
†State the variation which will be asked for.

COURT OF APPEAL RULES, 1962

O.II, r. 8(1)

Civil Form 4

IN THE COURT OF APPEAL

NOTICE BY RESPONDENT OF INTENTION TO RELY UPON PRELIMINARY OBJECTION

Civil Appeal No. ....of 19.....

Between

.....(Plaintiff/Defendant)\* Appellant(s)

and

.....(Plaintiff/Defendant)\* Respondent(s)

TAKE NOTICE that the Respondent herein named intends, at the hearing of this appeal, to rely upon the following preliminary objection notice whereof is hereby given to you, viz :—

AND TAKE NOTICE that the grounds of the said objection are as follows :—

- 1.
- 2.
- 3, etc.

DATED this.....day of.....19

.....  
(Plaintiff/Defendant)\* Respondent(s)

To the above-named (Plaintiff/Defendant)\* Appellant(s).

\*Strike out words inapplicable.

COURT OF APPEAL RULES, 1962

O. II r. 9(1)

Civil Form 5

IN THE COURT OF APPEAL

SUMMONS TO PARTIES BY REGISTRAR TO SETTLE RECORDS

Civil Appeal No. .... of 19.....

Between

.....(Plaintiff/Defendant)\* Appellant(s)

and

.....(Plaintiff/Defendant)\* Respondent(s)

TAKE NOTICE that all parties concerned are required to attend before me at the Registry of the Supreme Court at ..... on ..... the ..... day of ..... 19..... at the hour of ..... in the .....noon to proceed with settling of the record of appeal herein.

DATED this ..... day of ..... 19.....

..... Registrar (of Court below)

To

\*Strike out words inapplicable.

COURT OF APPEAL RULES, 1962

O. II, r. 14 (1) a (ii)

Civil Form 6

IN THE COURT OF APPEAL

AFFIDAVIT OF SERVICE OF NOTICE OF APPEAL

Civil Appeal No. .... of 19.....

Between

.....(Plaintiff/Defendant)\* Appellant(s)

and

.....(Plaintiff/Defendant)\* Respondent(s)

I, ..... of ..... (occupation) do make oath and say:—

That notice of appeal in the above appeal filed herein on the ..... day of ..... 19....., was duly served upon ..... the Respondent herein, (here state mode of service) ..... on the ..... day of ..... 19....., in accordance with the Supreme Court of (Appeal) Rules, 1962.

Sworn to at the ..... (address) on the ..... day of ..... 19.....

Before me

..... Commissioner of Affidavits

This affidavit is filed on behalf of .....

\*Strike out words inapplicable.

COURT OF APPEAL RULES, 1962

O. II, r. 14(2)

Civil Form 7

IN THE COURT OF APPEAL

NOTICE TO THE RESPONDENT OF FILING OF RECORD

Civil Appeal No. .... of 19.....

Between

.....(Plaintiff/Defendant)\* Appellant(s)

and

.....(Plaintiff/Defendant)\* Respondent(s)

TAKE NOTICE that the above named Appellant has duly filed the record and documents required to be filed pursuant to Order II rule 14(1) of the Court of Appeal Rules, 1962.

DATED this ..... day of ..... 19.....

.....  
.....  
*Registrar*

To the Respondent, &c.

\*Strike out words inapplicable.

COURT OF APPEAL RULES, 1962

O. II, r. 15

Civil Form 8

IN THE COURT OF APPEAL

NOTICE OF WITHDRAWAL OF APPEAL

Civil Appeal No. .... of 19.....

Between

.....(Plaintiff/Defendant)\* Appellant(s)

and

.....(Plaintiff/Defendant)\* Respondent(s)

TAKE NOTICE that the Appellant(s) herein intend(s) and doth hereby wholly withdraw his/their appeal against (all) the Respondent(s) in the above-named appeal.

DATED this ..... day of ..... 19.....

.....  
Appellant(s)

.....  
The Registrar of Supreme Court

And to ..... Respondent(s)  
and the Registrar of the Court below

\*Strike out words inapplicable.

COURT OF APPEAL RULES, 1962

O. II, r. 20(4)

Civil Form 9

IN THE COURT OF APPEAL

BOND FOR COSTS ON APPEAL

Civil Appeal No.....of 19.....

Know all men, by these presents, that we.....
.....of.....
and.....of.....
and.....of.....
are jointly and severally held and firmly bound to.....
.....of.....in the sum
of.....dollars of lawful money to be paid to
the said.....his executors,
administrators or assigns, for which payment well and truly to be made, we bind
ourselves, and each of us for himself, in the whole our and every of our heirs,
executors and administrators firmly by these presents

(Sgd.) .....(Appellant)
.....(Surety)
.....(Surety)

DATED the.....day of....., in the year
of Our Lord, 19.....

WHEREAS a suit is now depending in the Court at.....
wherein the above-bounden.....
is.....and the said.....
is.....

AND WHEREAS a judgment was given by the Court therein, on the.....
day of.....for the said.....
and the said.....has filed Notice
of Appeal from the said judgment :

AND WHEREAS it is by law provided that the party appealing shall give security
to the satisfaction of the Registrar of the (Court below) for the due prosecution of the
appeal and for the payment of any costs which may be ordered to be paid by the
appellant ;

Civil Form 9—Continued

AND WHEREAS the above-named.....  
and..... at the request of the  
said.....have agreed to enter into  
this obligation for the purposes aforesaid :

Now the condition of this obligation is such, that if the said.....  
.....shall duly prosecute the appeal and if the  
above-bounden.....and.....  
any or either of them shall pay any costs which may be ordered to be paid by the  
appellant this obligation shall be void, otherwise remain in full force.

Signed, sealed and delivered }

in the presence of }

(L.S.)

(L.S.)

(L.S.)

COURT OF APPEAL RULES, 1962

O. II, r. 27

Civil Form 10

IN THE COURT OF APPEAL

CERTIFICATE OF THE ORDER OF THE COURT

Civil Appeal No.....of 19.....

Appeal from the.....
of the.....
dated the.....day of.....19.....

..... Motion

..... Appeal No.

.....(Plaintiff/Defendant)\* Appellant(s).

v.

.....(Plaintiff/Defendant)\*Respondent(s)

† .....

This appeal coming on for hearing on the.....day of.....
19..... before.....in the presence of
.....for the Appellant(s) and.....
for the Respondent(s).

I HEREBY CERTIFY that an Order was made as follows :—

Given under my hand and the Seal of the Court this.....
day of.....19.....

Registrar

\*Strike out words inapplicable.
†Insert "President" or "Presiding Judge".

COURT OF APPEAL RULES, 1962

O. II, r. 31

Civil Form 11

IN THE COURT OF APPEAL  
NOTICE OF TAXATION

Civil Appeal No.....of 19.....

Between

.....(Plaintiff/Defendant)\* Appellant(s)

and

.....(Plaintiff/Defendant)\* Respondent(s)

TAKE NOTICE that the Bill of Costs of the.....  
herein, will be taxed on.....the.....day  
of.....19....., at the hour of.....o'clock in  
the.....noon.

Your absence notwithstanding.

DATED at.....this.....day of.....19.....

.....  
*Taxing Master*

To the above-named Appellant of.....  
and.....(Respondent) of.....

\*Strike out words inapplicable.

## COURT OF APPEAL RULES, 1962

## APPENDIX B

## PART I

## Fees of Court in Civil Appeals

*To be paid in Stamps to the Registrar of the Supreme Court Under Order II*

1. On filing notice of appeal against a final judgment or decision, entering the appeal for hearing and on judgment thereunder an inclusive fee of ... ..	\$12.00
2. On filing respondent's notice of intention to contend that decision of Court below be varied ... ..	\$ 4.80
3. For entering a special case, case stated, point of law or demurrer for argument, entering same for hearing and on judgment thereunder an inclusive fee of ... ..	\$ 7.20
4. On filing notice of appeal against an interlocutory order or decision, entering the appeal for hearing and on judgment thereunder an inclusive fee of ... ..	\$ 7.20
5. On making any application not otherwise specifically provided for, and for filing judgment or order thereunder an inclusive fee of	\$ 4.80
6. On filing bond to secure costs of appeal ... ..	\$ 2.40
7. On filing motion for leave to appeal to Privy Council ... ..	\$ 2.40
8. On filing every bond where the appeal is to Privy Council ... ..	\$ 2.40
9. On filing order for leave to appeal to Privy Council ... ..	\$ 2.40
10. On appointment to settle record on appeal to Privy Council ... ..	\$ 1.20
11. On sealing record on appeal to the Privy Council ... ..	\$ 2.40
12. On filing every document or exhibit for which no special fee is provided ... ..	.60
13. On taxation of bill of costs including certificate ... ..	\$ 2.40
14. On certifying any document as an office copy ... ..	\$ 1.20
15. If in a foreign language, the actual cost of making and examining the copy, and, in addition, for marking and sealing the copy as an office copy ... ..	\$ 1.20
16. For an office copy of a plan, map, section, drawing, photograph or diagram the actual cost of making and examining the copy, and, in addition, for marking and sealing the copy as an office copy	\$ 1.20
17. For a copy of reasons for judgment of a Justice or a Court, per folio of 100 words	
But with a minimum fee, for one set of reasons, of ... ..	\$ 1.20
And with a maximum fee for one set of reasons of ... ..	\$25.20
18. For a copy of a report of a Registrar per folio of 100 words ... ..	.12
19. On perusing and allowing by a Judge or Registrar of any bond ... ..	\$ 1.20
20. On sealing a writ of subpoena not exceeding three persons ... ..	\$ 1.20
21. For certificate of a Registrar for which no special fee is provided...	\$ 1.20

Fees of Court in Civil Appeals—*Continued*

22. On obtaining appointment for examination of a witness before an officer of the Court or other person	...	...	...	\$ 1.20
23. In respect of every witness examined by an officer or other person in his office, for each hour or part of an hour	...	...	...	\$ 1.20
24. For an examination of witnesses away from the office of the examiner, the reasonable travelling and other expenses in addition to the fee chargeable under Item 23	...	...	...	
25. For making every search	...	...	...	.60
26. For an office copy of any document filed in the Registry, per folio of 100 words, for the first folio	...	...	...	.24
For every other folio or part thereof	...	...	...	.12

PART II

Legal Practitioners' Fees in Civil Appeals and in Appeals from the Court exercising its original jurisdiction

SCHEDULE OF ALLOWANCES

[Save in respect of item 19, a folio shall consist of one hundred words (or figures) or parts thereof; four figures to count as a word.]

INSTRUCTIONS

1. Instructions to file notice of appeal (including grounds of appeal)...	\$10.08
2. Instructions to file notice of cross appeal (including grounds of appeal) ... ..	\$10.08
3. Instructions to file any application relative to an appeal ...	\$ 5.04
4. Instructions to appear for the respondent to any application to an appeal ... ..	\$ 5.04
5. Instructions to file case stated or special case having regard to the amount involved in the appeal, its nature, importance and difficulty, the interest of the parties, the other costs to be allowed, the general conduct of the proceedings and all the relevant circumstances ... ..	\$10.08
6. Instructions for affidavit and for any other interlocutory matter, the charge for which is not specified in these scales ... ..	\$ 2.52
7. Instructions for brief to counsel to advise or to settle pleadings. This will be allowed where justifiable under the circumstances of the particular case ... ..	\$ 5.04

DRAWN NOTICES OF APPEAL AND OTHER DOCUMENTS

8. Drawing notice of appeal including grounds of appeal ... }	Per folio for the first 20 folios 72c. and thereafter per folio 36c. (The minimum charge under these items shall be \$5.04 save that the minimum shall not apply in the case of verifying affidavits of service and other formal affidavits).	
9. Drawing notice of motion ... ..		
10. Drawing a case stated ... ..		
11. Drawing notice of cross appeal, including grounds of appeal ... ..		
12. Drawing any order ... ..		
13. Drawing any petition, affidavit, and notice except a formal notice, summons, further particulars or request for further particulars ... ..		
14. Drawing any writs of execution, arrest or attachment and any other important document not otherwise provided for }		
15. Drawing index of record or any index to brief ... }		
16. Drafting Instructions to Counsel with brief on any matter }		
17. Drawing any subpoena or any formal notice—each document ...		\$ 1.20
18. Drafting a letter or telegram ... ..		\$ 1.80
If more than one folio, for each additional folio ... ..		.36
Copy to keep, where necessary, per folio ... ..		.12
19. Drawing Bill of Costs, per folio ... ..		.72

NOTE—A folio is to comprise 72 words, every figure comprised in a column or authorized to be used being counted as one word.

## PART II—Continued

## COPYING

20. Copies of the record on appeal, if prepared by the appellant's attorney or solicitor, such fee for the first copy and such fee for additional copies as the Registrar may consider reasonable. (If not prepared by the appellant's attorney or solicitor the reasonable cost of the record as a disbursement).	
21. Copies of any matter required for the Court, for counsel, for the attorney or for service or for any other necessary purpose, for the first copy per folio ... ..	.24
For each additional copy per folio ... ..	.12

## ATTENDANCES

22. At the Registry (clerk's attendance) ... ..	\$ 1.60
23. On the Registrar in chambers at the rate per hour or part thereof (to be increased at the discretion of the Taxing Officer) ...	\$ 5.04
24. On an opposite party, if necessary and proper, the like as under the preceding items.	
25. On a Judge in chambers—at the rate per hour or part thereof (to be increased at the discretion of the Taxing Officer) ...	\$ 7.56
26. In the Court where matter listed but not reached, on any day for each hour or part thereof necessarily and justifiably spent ...	\$ 5.04
27. Attendance on receipt of letter or telegram ... ..	\$ 1.20
28. Attendance on receipt of formal acknowledgment ... ..	.80
29. Other merely formal attendances including attendances to file, to swear affidavits or to bespeak copies ... ..	\$ 1.60
30. Attendances not purely formal and including attendances on witnesses and others to obtain statements and other materials for brief on trial or for use at trial but not including attendances to represent parties at hearing in Court or chambers; such fee as may be reasonable according to circumstances with a minimum fee of in respect of each hour or part thereof ...	\$ 5.04
31. Attendance to inspect or produce pursuant to notice per hour or part thereof ... ..	\$ 5.04
32. Attendance before a Registrar in chambers on taxation matters for each hour or part thereof ... ..	\$ 5.04
33. Attending at hearing as solicitor of an appeal or any other matter in Court for each day as may be necessary such sum as may, in the opinion of the Taxing Officer be reasonable not being less than	\$15.12
34. Attending Court to hear reserved judgment per hour ... ..	\$ 5.04
35. Attendance upon a shorthand writer to obtain copy of transcript for appellate purposes ... ..	\$ 2.52
36. Attending to issue writ of execution ... ..	\$ 2.52
37. Any attendance not specifically provided for ... ..	\$ 1.80

## PART II—Continued

## ATTENDANCES—Continued

38. Journeys necessarily undertaken.  
An allowance for the time necessarily occupied on the journey and, in the case of a journey to attend the trial, to include an allowance for the time which, in the opinion of the Taxing Officer, a legal representative is necessarily detained at the place of trial. Such sum per day, including Sundays, as the Taxing Officer may think reasonable, not to exceed ... .. \$25.20  
Disbursements for fares, hotel and transport expenses are also to be allowed, but not for normal out of pocket expenses other than board and lodging.  
The disbursement allowed for travelling by motor car shall be at the rate of 1s. per mile provided the total distance travelled exceeds three miles. For journeys under three miles no allowance shall be made for travelling by motor car.
39. Agency correspondence if shown to the satisfaction of the Taxing Officer that such correspondence has been necessary and reasonable. Such sums as would be allowed under items 18 or 40.
40. Letters, messages, &c. Such fee including letters not otherwise allowed between party and party as the Taxing Officer may consider reasonable not exceeding ... .. \$ 2.52

## PERUSALS

41. Perusals of any necessary documents  
For the first 10 folios—per folio ... .. .48  
For each subsequent folio ... .. .12

## DISBURSEMENTS

42. All Court fees, counsel's fees and other fees and payments which, in the opinion of the Taxing Officer have been properly paid, shall be allowed.

## MAPS, PLANS AND MODELS

43. The Taxing Officer may allow such fees for maps, plans and models for use at the trial or hearing as he considers reasonable.

## MARSHAL, SHERIFF AND BAILIFF'S FEES

44. There shall be paid to Sheriffs, Marshals and Bailiffs, such fees and travelling and subsistence allowances as are by Territorial law prescribed for the service or execution of any summons, warrant, writ, or other process of the Supreme Court of the Territory in which the execution or service is sought to be levied or effected.

## PART III

**Witnesses', Interpreters', Special Commissioners', and Examiners', Fees Under Order**

## SUBSISTENCE ALLOWANCES PAYABLE TO WITNESSES

1. Subject to the provisions of this Part, a subsistence allowance shall be paid to a witness at the following rate :—
  - (a) in the case of professional man or a person who is earning at a rate in excess of \$4,800 per annum, \$5.04 per hour but not exceeding \$15.12 per day.
  - (b) in all other cases at the rate prescribed by the rules of the High Court
2. No allowance shall be paid in any criminal proceeding to a witness who is an officer in the public service of the Territory other than an hourly or daily paid employee.
3. A subsistence allowance shall only be paid to a witness in respect of the period during which he is necessarily detained and which is reasonably spent in travelling to and from the place where the Court is sitting.
4. No additional subsistence allowance shall be payable to a witness who gives evidence in more than one case on the same day.
5. By order of the Court a qualifying fee may be allowed to a witness in a proper case at the same rate as would be allowed to him for attending the Court.

## REMUNERATION OF INTERPRETERS

6. Interpreters shall be paid at the rate prescribed by the rules of the Supreme Court of the Territory where the Court is sitting.

No remuneration will be paid in any criminal proceeding to an interpreter who is a member of the Public Services.

The Registrar may increase the scales of remuneration prescribed in this Part if, in his opinion, strict adherence to such scales would cause undue hardship.

## TRAVELLING ALLOWANCES PAYABLE TO WITNESSES, SPECIAL COMMISSIONERS AND ASSESSORS

7. Subject to the provisions of this Part, a witness, special commissioner or assessor who travels by air, rail or other public conveyance shall be entitled to a refund of the actual fare paid by him.
8. If the journey cannot be reasonably performed by air, rail or other public conveyance, a witness, special commissioner or assessor may use his own mode of transport and, in such case, shall be paid a travelling allowance at the following rate—
  - (a) if motor transport is used, 24c. per mile or part thereof;
  - (b) if motor-cycle transport is used, 8c. per mile or part thereof;
  - (c) If cycle transport is used, 4c. per mile or part thereof.
9. If a witness, special commissioner or assessor conveys another person who is a witness, special commissioner or assessor in or on his own conveyance, the rate of allowance payable to him in terms of paragraph 2 shall be increased by an additional 4c. per mile or part thereof in respect of each person so conveyed.
10. A witness, special commissioner or assessor who travels in or on the conveyance of another person who is a witness, special commissioner or assessor shall not be entitled to any travelling allowance.
11. No travelling allowance shall be paid to a witness, special commissioner or assessor who resides within two miles of the place at which the Court is sitting.
12. When two or more modes or routes of travelling are reasonably available to a witness, special commissioner or assessor the travelling allowance payable to such person shall be at the rate for travelling by the mode or route which entails the least cost.
13. When a witness, special commissioner or assessor travels by rail, the travelling allowance payable to him shall be for travel by such class as he might reasonably be expected to travel.

## REMUNERATION OF SPECIAL COMMISSIONERS AND ASSESSORS

14. A special commissioner or assessor shall be remunerated at the rate of \$5.04 per hour or part thereof, but his remuneration shall not exceed \$25.20 per day.

Appendix C

Criminal Form I

O. III, r. 3

SUPREME COURT OF JUDICATURE ACT, 1962

JUDGE'S CERTIFICATE

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

Holden at.....

R. v.

Whereas the said.....was tried and convicted (State shortly the offence, e.g., Larceny, Murder, Forgery, &c.) 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 .....

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, 1962, upon the following grounds :—

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

(Signed)..... Judge

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

Criminal Form II

O. III, r. 17(1)

SUPREME COURT OF JUDICATURE ACT, 1962

R. 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, 1962

Criminal Form III

O. III, r. 20

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, 1962

Criminal Form IV

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

NOTICE OF APPEAL

Question of Law only

To Registrar of the Supreme Court

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

I,.....having been convicted of the offence of..... and being now a prisoner in.....

\*Where appellant for any reason not in custody.

(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—

(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

Fill in all these particulars.

- 1. Date of Trial .....
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, &c., 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 you 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, 1962

Criminal Form V

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

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

To the Registrar of the Supreme Court.

I,....., having been convicted of the offence of..... (Here state the offence e.g., Larceny, and being now a prisoner in.....

(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. \*Where appellant for any reason not in custody.

(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, &c., 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, 1962

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

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

of the offence of.....

and (being now a prisoner in Her Majesty's Prison) at.....

\*Where applicant for any reason not in custody.

(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 said conviction on the grounds hereinafter set forth.

(Signed).....

Applicant

(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 .....

GROUND 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, amount of wages, or salary, &c., and any other facts which you submit show reasons 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

SUPREME COURT OF JUDICATURE ACT, 1962

Criminal Form VII

NOTICE OF APPLICATION FOR LEAVE TO APPEAL AGAINST SENTENCE

To the Registrar of Supreme Court.

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

and being now a prisoner in Her Majesty's Prison at.....

(or\* now living at..... \*Where appellant for any reason not in custody.)

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 these sentence.)

(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 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, &c., 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, 1962

Criminal Form VIII

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 Ordinance, 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, 1962

Criminal Form IX

O. III, r. 21

NOTICE OF APPLICATION FOR EXTENSION OF TIME WITHIN WHICH TO APPEAL

To the Registrar of the Supreme Court.

I,..... having been convicted of the offence of ..... at the Court of ..... held at ..... in this..... of..... on the..... day of....., 19..... and being now a prisoner in..... (or\* now living at.....)

Here state the offence :- e.g., Larceny, murder, Forgery, &c.

\*Where Appellant for any reason not in custody.

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, 1962

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 Her Majesty's 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 our said Majesty the Queen the said sum of....., of good and lawful money of the Territory, to be made and levied of his goods and chattels lands and tenements to the use of our said Majesty the Queen, her heirs and successors 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 the Territory, 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, &c., are to be addressed, will be as follows :—

.....  
.....

(Signed).....  
*Appellant*

SUPREME COURT OF JUDICATURE ACT, 1962

Criminal Form XI

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

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 our Majesty the Queen the several sums following,  
 that is to say, the said .....the sum of....., and the  
 said.....the sum of \$....., of good and lawful money  
 of the Territory, to be made and levied of their goods and chattels, lands and tene-  
 ments, respectively to the use of said (Majesty the Queen, her heirs and successors),  
 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, the  
 and in the meantime not to depart out of the Territory, then this recognizance to  
 be void or else to stand in full force and effect.

SUPREME COURT OF JUDICATURE ACT, 1962

Form XII

NOTICE TO COMMISSIONER OF PRISONS TO RELEASE APPELLANT ON BAIL

R. 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, 1962

Criminal Form XIII

NOTIFICATION TO APPELLANT OF JUDGE'S DECISION UNDER SECTION 59

R. v.

I HEREBY GIVE YOU NOTICE that a Judge of the Court of Appeal having considered your application for :—

- (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 ;

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

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, 1962

Criminal Form XIV

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

NOTICE OF APPEAL BY APPELLANT FROM JUDGE UNDER SECTION 59

R. v.

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

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

- (a) leave to appeal ;
- (b) extension of the 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 ;

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.

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

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

(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, 1962

Criminal Form XV

O. III, r. 26 (3)

CERTIFICATE TO SURETY

R. 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 the Territory. 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, 1962

Criminal Form XVI

O. III, r. 26 (10)

INFORMATION OF SURETY FOR ARREST OF APPELLANT

R. 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.....

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

The said \*.....said as follows :—

.....  
.....  
.....

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

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 in 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 the Territory.

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 the Territory (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, 1962

Criminal Form XVII

O. III, r. 26 (10)

WARRANT ON INFORMATION OF SURETY

To all Constables,

WHEREAS Information hath been duly laid before me the undersigned by

.....of.....for that\* ..... \*Here fill in the Appellant's name.

.....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 the Territory And that the said..... \*Here fill in Surety's name.

.....doth suspect that the said.....

is about to depart out of the Territory (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 the Royal Goal and there to be detained according to law.

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

(Signed).....

Magistrate

SUPREME COURT OF JUDICATURE ACT, 1962

Criminal Form XVIII

O. III, r. 26 (11)

COMMITMENT OF APPELLANT ON SURETY'S INFORMATION

To all Constables and to the Commissioner of Prisons.

(  
to Wit.

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.....

\*(Appellant.)

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 Commit-  
ment and you the said Commissioner of Prisons are required to receive the said  
.....into your custody in the Royal Gaol and there  
safely to keep him according to law.

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

(Signed).....  
*Magistrate*

SUPREME COURT OF JUDICATURE ACT, 1962

Criminal Form XIX

O. III. r. 26 (8), (13)

WARRANT FOR ARREST OF APPELLANT ON BAIL

R. 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 the Royal Goal and there safely to 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, 1962

Criminal Form XX

RECOGNIZANCE OF APPELLANT SENTENCED TO PAYMENT OF A FINE

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.

Here fill in Court of Trial

The said..... doth hereby acknowledge himself to owe to our Lady the Queen the said sum of \$..... of good and lawful money of the Territory to be made and levied of his goods and chattels lands and tenements to the use of our said Lady the Queen her heirs and successors 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 eave 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, 1962

Criminal Form XXI

RECOGNIZANCE OF SURETIES FOR APPELLANT SENTENCED TO A FINE

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

To Wit Here fill in name of Court of Trial.

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, 1962

Criminal Form XXII

O. III r. 4(5)

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

R. 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, 1962, 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, 1962

Criminal Form XXIII

O. III r. 4(5).

NOTICE TO SURETY FOR APPELLANT OF ESTREAT OF RECOGNIZANCE

R. v.

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

\*Here fill in Surety's name and address

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, 1962

Criminal Form XXIV

O. III, r. 36 (7)

CAPTION FOR DEPOSITION OF WITNESS EXAMINED BEFORE EXAMINER

R. v.

The depositions (on oath) taken before me the undersigned, being an Examiner duly appointed by the " Court of Appeal " in that behalf, of..... 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 Solicitors) 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, 1962

Criminal Form XXV

O. III, r. 36 (1)

ORDER TO WITNESS TO ATTEND COURT FOR EXAMINATION

R. v.

To.....of..... Names &c., of witness.

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, 1962

Criminal Form XXVI

O. III, r. 36 (2)

APPELLANT'S APPLICATION FOR FURTHER WITNESSES

R. 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, 1962

Criminal Form XXVII

O. III, r. 36(5)

NOTICE TO WITNESS TO ATTEND BEFORE EXAMINER

R. v.

To.....of ..... Name, &c., of witness.

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.

This is to give you notice to attend\*.....\*Specify place of examination on the.....day of.....19..... before†.....at.....o'clock in the †Fill in examiner's name. ....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 the.....day of....., 19.....

SUPREME COURT OF JUDICATURE ACT, 1962

Criminal Form XXVIII

O. III, r. 31(1)

NOTIFICATION TO APPELLANT OF RESULT OF HIS APPEAL

R. 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 ... or as the case may be).

Signed Registrar of Supreme Court

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

SUPREME COURT OF JUDICATURE ACT, 1962

Criminal Form XXIX

O. III, r. 31(1)

NOTIFICATION TO APPELLANT OF RESULT OF APPLICATION UNDER S. 59

R. 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, 1962

Criminal Form XXX

O. III r. 31 (1)

To His Excellency the Governor-General

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, 1962

Criminal Form XXXI

O III, r. 31 (1)

R. v.

.....  
To His Excellency the Governor-General

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, 1962

## Criminal Form XXXII

O. III, r. 5 (3)

R. 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*

Passed in the House of Representatives this twenty-fourth day of August, 1962.

**J. P. OTTLEY***Acting Clerk of the House of Representatives*

Passed in the Senate this twenty-fifth day of August, 1962.

**J. E. CARTER***Acting Clerk of the Senate*