



BELIZE

**COURT OF APPEAL ACT
CHAPTER 90**

REVISED EDITION 2011

**SHOWING THE SUBSTANTIVE LAWS AS AT 31ST
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This is a revised edition of the Substantive Laws, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, Chapter 3 of the Substantive Laws of Belize, Revised Edition 2011.

By virtue of amendments made to the Belize Constitution, Cap. 4, by Act No. 4 of 2010, appeals from this Court now go to the Caribbean Court of Justice.

CHAPTER 90

COURT OF APPEAL

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CHAPTER 90

COURT OF APPEAL

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[20th May, 1968]

PART I

Preliminary

Short title.

1. This Act may be cited as the Court of Appeal Act.

Interpretation.

2. In this Act, unless the context otherwise requires,

“appellant” includes a person who has been convicted and desires to appeal to the Court of Appeal;

“Court” means the Court of Appeal established by the Belize Constitution, Cap. 4;

“high judicial office” means the office of judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court;

“judge” means a Justice of Appeal of the Court and includes the President of the Court;

“judgment” or “sentence” includes any Order of any court made consequent upon the conviction of an appellant with reference to the appellant or his wife or his children;

“order” includes decision, judgment or decree;

“President” means the President of the Court;

“Registrar” means the Registrar of the Court appointed under section 9 of this Act;

“rules of court” means rules of court made under section 11 of this Act;

“Supreme Court” means the Supreme Court of Belize established under the Belize Constitution, Cap. 4.

3.—(1) There shall be in and for Belize a Court of Appeal having such powers and jurisdiction as are hereinafter provided.

Constitution of
Court of Appeal.

(2) The judges of the Court shall be a President and four other judges,

Provided that, subject to the quorum of the Court as prescribed in section 10 of this Act, the Court shall be deemed to be duly constituted during and notwithstanding any vacancy in the office of any judge.

(3) A person shall be qualified to be appointed as a judge of the Court if, and shall not be qualified to be so appointed unless, either,

(a) he holds or has held high judicial office; or

(b) he is qualified to practise as an advocate in a court in England, Scotland, Northern Ireland or any other part of the Commonwealth having unlimited jurisdiction in either civil or criminal causes or matters and has been so qualified for not less than fifteen years.

(4) Any power exercisable by a single judge of the Court may at any time when there is no such judge present in Belize and able to perform the functions of his office be exercised by a justice of the Supreme Court as if that justice were a judge of the Court.

Tenure of office of judges of Court of Appeal.

4.—(1) Subject to the following provisions of this section, the office of a judge of the Court shall become vacant upon the expiration of the period of his appointment to that office or if he resigns therefrom by writing under his hand addressed to the Governor-General.

(2) Where the office of any person has become vacant under subsection (1) of this section, he may, if qualified, again be appointed as a judge of the Court in accordance with the Belize Constitution, Cap. 4.

(3) A judge of the Court may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, and shall not be so removed except in accordance with the Belize Constitution, Cap. 4.

Salaries of judges of Court.

5.—(1) There shall be charged on the Consolidated Revenue Fund and paid thereout to the judges of the Court such salaries and allowances as may from time to time be approved by the Cabinet.

(2) The salary of a judge of the Court and his conditions of service other than allowances shall not be altered to his disadvantage during his continuance in office.

Oaths to be taken by judges of Court.

6. Before entering upon the functions of his office, every judge of the Court shall make and subscribe before the Governor-General, or some other person authorised in that behalf by the Governor-General, oaths or affirmations of allegiance and for the due execution of his office.

PART II

General Provisions

Judges of Court.

7.—(1) The judges of the Court shall be such as are laid down in section 3(2) of this Act and shall be appointed and shall hold office in all respects in accordance with that section.

(2) The President shall be the senior judge of the Court and subject thereto, the judges shall hold seniority in order of their appointments or, if two or more judges are appointed on the same day, then in order of

their seniority to high judicial office. In the absence of the President the senior judge present at any sitting of the Court shall preside at the sitting.

(3) Except as otherwise provided in this Act all judges shall have and enjoy in all respects equal power, authority and jurisdiction.

8. The President shall cause a seal to be provided for the Court.

Seal.

9.-(1) There shall be a Registrar of the Court who shall, until some other person be appointed by the Public Services Commission, be the Registrar of the Supreme Court.

Registrar and other officers.

(2)The Registrar shall take all necessary steps for obtaining a hearing under this Act of all appeals and applications made to the Court and shall obtain and lay before the Court in proper form all documents, exhibits and other things relating to the proceedings in respect of which the appeal or application has been brought and which appear necessary for the proper determination thereof by the Court.

(3) The Registrar shall have such other powers and authority and perform such other duties as shall be necessary for the due conduct and discharge of the business of the Court and as the President shall direct.

(4) There shall be attached to the Court such other officers as may from time to time be required and as may be authorised by the Public Services Commission.

10.-(1) For the purpose of hearing and determining any appeal, the Court shall be duly constituted if it consists of three judges,

Quorum of Court.

Provided that if prescribed by rules of court one judge may hear and determine any interlocutory matter.

(2) The determination of any question before the Court shall be according to the opinion of the majority of the judges hearing the appeal.

Rules of Court.

11.—(1) The President may, subject to this Act, make rules of court,

- (a) prescribing the times and places for sessions of the Court;
- (b) prescribing all such matters as are to be or may be prescribed under this Act; and
- (c) generally with respect to all matters of practice and procedure relating to the exercise of the jurisdiction of the Court.

(2) Rules of court shall be published in the *Gazette* and shall have effect, unless otherwise provided therein, as from the date of such publication.

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

Procedure and
practice.

12. Where in any case no special provision is contained in this or any other Act, or in rules of court, with reference to any jurisdiction of the court in relation to appeals in criminal and civil matters such jurisdiction shall be exercised by the Court as nearly as may be in conformity with the law and practice for the time being in force in England in the Court of Appeal.

PART III

Civil Appeals

Jurisdiction of
Court.

13.—(1) Subject to this Part and to rules of court, the Court shall have jurisdiction to hear and determine appeals from judgments and orders of the Supreme Court given or made in civil proceedings and for all purposes of and incidental to the hearing and determination of any such appeal.

(2) The Court shall have jurisdiction to hear and determine any matter arising in any civil proceedings upon a case stated or upon a question of law reserved by the Supreme Court or a judge thereof pursuant to any power conferred in that behalf by any law.

14.-(1) An appeal shall lie to the Court in any cause or matter from any order of the Supreme Court or a judge thereof where such order is,

When appeals lie.

- (a) final and is not such an order as is referred to in paragraph (f) or (g) of this subsection;
- (b) an order made upon the finding or verdict of a jury;
- (c) an order upon the application for a new trial;
- (d) a decree *nisi* in a matrimonial cause or an order in an Admiralty action determining liability;
- (e) an order declared by rules of court to be of the nature of a final order;
- (f) an order upon appeal from any other court, tribunal, body or person;
- (g)
 - (i) a final order of a judge of the Supreme Court made in Chambers;
 - (ii) an order made with the consent of the parties;
 - (iii) an order as to costs;
- (h) an order not referred to elsewhere in this subsection.

(2) No appeal shall lie from any order referred to in paragraph (f) of subsection (1) of this section,

- (a) except,

- (i) upon a question of law;
 - (ii) where such order precludes any party from the exercise of his profession or calling, from the holding of public office, from membership of a public body or from the right to vote at the election of a member for any such body;
 - (b) in any other case, except with the leave of the Supreme Court or, if it refuses, of the Court.
- (3) No appeal shall lie from any order referred to in paragraph (g) or (h) of subsection (1) of this section,

- (a) except,
 - (i) where the liberty of the subject or the custody of infants is concerned;
 - (ii) where an injunction or the appointment of a receiver is granted or refused;
 - (iii) in the case of a decision determining the claim of any creditor or the liability of any director or other officer under the Companies Act, Cap. 250 in respect of misfeasance or otherwise;
 - (iv) in the case of an order on a special case stated under the Arbitration Act, Cap. 125;
 - (v) in the case of an order refusing unconditional leave to defend an action;
- (b) in any other case, except with the leave of the Supreme Court, or, if it refuses, of the Court.

(4) No appeal shall lie under this Part,

- (a) from any order made in any criminal cause or matter;
- (b) from an order allowing an extension of time for appealing from an order;
- (c) from an order of a judge of the Supreme 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, except on some point which would not have been available to such party on such appeal;
- (e) from any order of the Supreme Court or a judge thereof where it is provided by any law of Belize that the decision of such Court or judge shall be final;
- (f) where an order has been made against a party in default of his appearing or filing a defence or where the party is otherwise in default,

Provided that nothing in this paragraph shall be deemed to affect the right of such party to move the court of first instance for the setting aside of the default order.

(5) Where any doubt arises regarding the category set out in subsection (1) of this section into which an order of the Supreme Court or a judge thereof falls,

- (a) if such doubt arises on an application to the Supreme Court or a judge thereof for leave to appeal, it shall be determined by the said court or a judge thereof, subject to a right of appeal to the Court;
- (b) in all other cases it shall be determined by the Court.

22 of 1999.

(6) Notwithstanding subsection (4) (a) of this section, an appeal shall lie to the Court from the decision of the Supreme Court, with the leave of that court or of the Court of Appeal, against any decision of the Supreme Court granting or refusing a writ of *habeas corpus*.

Date from which appeal in civil matters shall lie.

15. An appeal shall lie under this Part in respect of orders made from and after the coming into force of this Act.

Time for appealing.

16.-(1) Where a person desires to appeal under this Part to the Court 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 twenty-one days from the date on which the order of the Supreme Court or a judge thereof was signed, entered or otherwise perfected.

(2) The appellant shall file notice of his grounds of appeal within twenty-one days after he has been notified by the Registrar that the record is ready for his use.

(3) The Court may, subject to such terms and conditions as it thinks fit, extend the time limits mentioned in subsections (1) and (2) of this section, if the appellant shows to the satisfaction of the Court that he has been unavoidably prevented from filing his notice of appeal or grounds of appeal, as the case may be,

Provided that on the hearing of any application for an extension of time under this subsection, the opposite party shall have an opportunity of being heard and, if the Court thinks fit, of adducing evidence against the granting of leave.

Setting down of appeal for hearing.

17. No appeal shall be set down for hearing earlier than twenty-one days after the respondent has been served with notice of the grounds of appeal. After the twenty-one days have elapsed either party may set down the appeal for hearing.

Security for costs.

18. The Court may make any 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. The Supreme Court may in special circumstances, in any case in

which application has to be made to that court for leave to appeal, order that such security shall be given for the costs of an appeal as may be just.

19.—(1) On the hearing of an appeal under this Part, the Court shall have power to,

Powers of Court in appeals in civil matters.

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

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

20. On the hearing of an appeal from any order of the Supreme Court or of a judge thereof in any civil cause or matter, the Court may, if it thinks fit,

Additional powers of Court in hearing appeals in civil matters.

- (a) order the production of any document, exhibit or other thing connected with the proceedings, the production of which appears to be necessary for the determination of the case, provided that no person shall be compelled to produce under any such order

any writing or other document which he could not have been compelled to produce at the hearing or trial;

- (b) order any witness who would have been a compellable witness at the trial to attend and be examined before the Court whether or not he was called at the trial, or order the examination of any such witness to be conducted in manner provided by rules of court before any judge of the Supreme Court or before any officer of the Supreme Court or other suitably qualified person appointed by the Court for the purpose, and at any place and allow the admission of any deposition so taken as evidence before the Court;
- (c) receive the evidence, if tendered, of any witness (including any party) who is a competent but not compellable witness and, if a party makes application for the purpose, of the husband or wife of that party in cases where the evidence of the husband or wife could not have been given at the trial except on such application;
- (d) where the case was not tried by the Supreme Court, remit the case to the court of trial for further hearing, with such instructions as regards the taking of further evidence or other-wise as appear to it necessary; and in all cases, remit the case with such instructions of the Supreme Court;
- (e) where any question arising at the appeal involves prolonged examination of documents or accounts or any scientific or local investigation which cannot, in the opinion of the Court, conveniently be conducted before the Court, order the reference of the question in manner provided by rules of court for inquiry and report to a special commissioner appointed by the Court and act upon the report of any such commissioner so far as it thinks fit to adopt it;

- (f) appoint any person with special expert knowledge to act as an assessor in an advisory capacity in any case where it appears to the Court that such knowledge is required for the proper determination of the case.

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

Power of Court as to new trials.

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

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

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

- (a) the Court may, if it thinks fit, make any such order as could be made in pursuance of an application for a new trial or to set aside a verdict, finding or judgment of the court below;

- (b) a new trial shall not be ordered because the verdict of the jury was not taken upon a question which the judge at the trial was not asked to leave to them unless in the opinion of the Court some substantial wrong or miscarriage has been thereby occasioned;
- (c) in any case where the Court has power to order a new trial on the ground that damages awarded by a jury are excessive or inadequate, the Court may, *in lieu* of ordering a new trial,
 - (i) with the consent of all parties concerned, substitute for the sum awarded by the jury such sum as appears to the Court to be proper;
 - (ii) with the consent of the party entitled to receive or liable to pay the damages, as the case may be, reduce or increase the sum awarded by the jury by such amount as appears to the Court to be proper in respect of any distinct head of damages erroneously included in or excluded from the sum so awarded,

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

22. The Court shall not grant a new trial or reverse any judgment by reason of the ruling of any court that the stamp upon any document is sufficient or that the document does not require a stamp.

Wrong rulings as to sufficiency of stamps.

PART IV

Criminal Appeals

23.—(1) A person convicted in the Supreme Court on indictment or on information filed by the Director of Public Prosecutions may appeal under this Part to the Court,

Right of appeal against conviction on indictment.

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

1 of 1969.

(2) For the purposes of subsection (1) (c) of this section, “sentence” includes,

- (i) any recommendation of the Supreme Court as to the making of an expulsion order in the case of the person convicted; and
- (ii) any recommendation of the Supreme Court as to the making of a deportation order or a restriction order or a security order in conjunction with either of these orders, in the case of a convicted person.

Right of appeal against deportation and expulsion orders.

24.—(1) Where a judge of the Supreme Court in chambers has held an inquiry pursuant to Immigration Act, Cap. 156, any party to that proceeding may, with the leave of the Court or upon the certificate of the judge, appeal to the Court against any finding of fact or any conclusion on a question of law contained in the report of such judge, and the person charged may, with the leave of the Court, appeal to that Court against any recommendation of such judge as to the making of a deportation order or a restriction order or a security order in his case.

(2) Where the Supreme Court or a judge thereof, on an appeal against an expulsion order,

- (a) dismisses the appeal, the appellant may, with the leave of the Court or upon the certificate of the judge, appeal further to the Court against the order dismissing the appeal;
- (b) allows the appeal, the respondent may, with the leave of the Court or upon the certificate of the judge, appeal further to the Court against the order allowing the appeal.

Appeals from inferior courts.

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

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

(2) Upon the determination of an appeal under this section, the Court may affirm or set aside the order of the Supreme Court and where any such order is set aside the Court may make any order which ought to have been made at the trial, or make such other order as justice requires.

26. An appeal shall lie in respect of sentences passed and convictions, reports of a judge under Immigration Act, Cap. 156, or orders of the Supreme Court, made from and after the coming into force of this Part.

Date from which appeals shall lie.

27.-(1) Where a person convicted in the Supreme Court on indictment or information desires to appeal to the Court or to obtain the leave of the 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 appeal rules of court within twenty-one days of the date of conviction if the appeal is against conviction, or of the date of sentence if the appeal is against sentence alone.

Time for appealing.

(2) Where a party to any inquiry under Immigration Act, Cap.156, desires to apply for leave to appeal to the Court he shall give notice of his application for leave to appeal in such manner as may be directed by rules of court within twenty-one days after receipt by him of a copy of the judge's report.

(3) In all other cases where a person entitled to appeal or to apply for leave to appeal to the Court desires to exercise that right, he shall give notice of his appeal or notice of his application for leave to appeal in such manner as may be directed by rules of court within twenty-one days of the date on which the order against which he desires to appeal was signed, entered or otherwise perfected.

28.-(1) On every appeal or application for leave to appeal to the Court notice of the grounds of appeal shall be filed within twenty-one days after receipt by the intending appellants from the Registrar,

Filing of notice of grounds of appeal.

- (a) in the case of an appeal against conviction by the Supreme Court on indictment or information, of a copy of the record which shall include a copy of the judge's summing up;

- (b) in the case of an appeal in respect of the report of a judge under Immigration Act, Cap. 156 of a copy of the judge's notes of evidence;
- (c) in all other cases, of a copy of the order against which the Court of Appeal desires to appeal and the judgment on which it was based and the judge's notes of evidence, if any.

(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 or filed may be extended at any time by leave of the Supreme Court, or if such extension is refused, by leave of the Court.

Costs of appeal.

29.—(1) No appellant shall be required to give security for the costs of his appeal or his application for leave to appeal.

(2) On the hearing and determination of an appeal or any proceedings preliminary or incidental thereto, no costs shall be allowed on either side.

Determination of appeals in ordinary cases.

30.—(1) The Court 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 which the appellant was convicted should be set aside on the ground of a wrong decision of any question of law or that on any ground there was a miscarriage of justice, and in any other case shall dismiss the appeal,

Provided that the Court may, notwithstanding that it is of the opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if it considers that no substantial miscarriage of justice has actually occurred.

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

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

(4) The power of the Court to pass a sentence includes a power to make any such order or recommendation as the convicting court might have made and a recommendation so made by the Court shall have the same effect as the certificate and recommendation of the convicting court.

31.—(1) If it appears to the Court that an appellant, though not properly convicted on some count or part of the indictment, has been properly convicted on some other count or part of the indictment, the Court may either confirm the sentence passed on the appellant at the trial or pass such sentence in substitution therefore 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 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 that the jury must have been satisfied of facts which proved him guilty of that other offence, the Court may, instead of allowing or dismissing the appeal, substitute for the verdict returned by the jury a judgment of guilty of that other offence and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law for the other offence, not being a sentence of greater severity.

32.—(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 the case of such conviction of any law as to re-vesting of the property in stolen goods on conviction shall (unless the court before which the conviction takes place directs to the contrary in any case in which in its opinion, the title to the property is not in dispute) be suspended,

Re-vesting and
restitution of prop-
erty on conviction.

(a) in any case, until the expiration of twenty-one days after the date of the conviction; and

- (b) in cases where notice of appeal or leave to appeal is given within twenty-one days after the determination of the appeal,

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

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

33. For the purposes of this Part, the Court may, if it thinks it necessary or expedient in the interests of justice,

- (a) exercise any or all of the powers conferred by section 20 of this Act on the Court (other than those contained in paragraph (d)) but in the application of section 20 to an appeal in any criminal cause or matter, for the words “any party” and “that party” in paragraph (c), there shall be substituted the words “the appellants”;
- (b) issue any warrant necessary for enforcing any order or sentence of the Court,

Provided that,

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

Supplementary
powers of Court.

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

Admission of appellant to bail.

(2) An appellant who is not admitted to bail shall, pending the determination of his appeal, be treated as a prisoner awaiting trial.

35.—(1) Where an appellant is admitted to bail under this Act, the time during which he is at large after being admitted shall be disregarded in computing the term of any sentence to which he is for the time being subject.

Computation and commencement of sentence.

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

Provided that,

- (a) the foregoing provisions of this section shall not apply where leave to appeal is granted under this Part or any such certificate as is mentioned in section 23 (1) (b) of this Act, has been given for the purpose of the appeal;
- (b) in any other case the Court may direct that no part of the said time or such part thereof as the Court thinks fit (whether shorter or longer than six weeks) shall be disregarded as aforesaid.

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

Stay of execution.

36. In the case of a conviction involving sentence of death,

- (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 section 27 of this Act; and
- (b) if notice is 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.

Stay of order pending appeal.
18 of 1998.

37. In any case where an appeal is filed to the Court under this Part, the Court may upon the application of the appellant, stay the judgment or order appealed from pending the determination of such appeal.

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

38. The judge of any court before whom a person is convicted shall, in the case of an appeal under this Part 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 he shall also furnish to the Registrar in accordance with rules of court a report giving his opinion upon the case or upon any point arising in the case.

Legal aid in capital cases.

39.—(1) The Court may at any time assign to an appellant who has been sentenced to death an attorney-at-law in any appeal under this Part or in any proceedings preliminary or incidental to such 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.

(2) The expenses of any attorney-at-law assigned to an appellant under this Part and the expenses of any witness attending on the order of the Court or examined in any proceedings incidental to the appeal and of the appearance of an appellant on the hearing of his appeal or on any proceedings preliminary or incidental to the appeal and all expenses of

and incidental to any examination of witnesses conducted by any person appointed by the Court for the purpose or any reference of a question to a special commissioner appointed by the Court or of any person appointed as assessor to the Court, shall be defrayed out of monies provided by the National Assembly for that purpose up to an amount allowed by the Court but subject to any rules of court as to rates and scales of payment and in the manner expressed by such rules of court.

40.—(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.

Right of appellant to be present.

(2) An appellant who does not appear at the hearing of his appeal by an attorney-at-law, may present his case and argument either in person or writing if he so desires and any case or argument so presented shall be considered by the Court.

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

41. It shall be the duty of the Director of Public Prosecutions to appear or to instruct an attorney-at-law to appear for the Crown on every appeal brought under this Part.

Duty of Director of Public Prosecutions.
1 of 1969.

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

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

(2) If it appears to the Registrar that any notice of an appeal against conviction, purporting to be on a ground of appeal which involves a question of law alone, does not show any substantial ground of appeal, the Registrar may refer the appeal to the Court for summary determination and, where the case is so referred, the Court may, if they consider the appeal is frivolous and vexatious and can be determined without

adjourning the same for a full hearing, dismiss the appeal summarily, without calling on any persons to attend the hearing or to appear for the Crown thereon.

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

(4) The Registrar shall furnish the necessary forms and instructions in relation to notices of appeal or notices of application under this Part to any person who demands them and to officers of courts, the Superintendent of Prisons and such other persons or officers 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 Part and shall cause any such notice given by a prisoner in his custody to be forwarded on behalf of the prisoner to the Registrar.

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

43.-(1) The powers of the Court under this Act,

- (a) to extend the time within which notice of appeal or of an application for leave to appeal may be given;
- (b) to assign an attorney-at-law to an appellant;
- (c) to grant leave for an appellant to be present at any proceedings of the court;
- (d) to admit an appellant to bail; and

Powers which may be exercised by a single judge.

- (e) to grant a stay of the judgment or order appealed from pending the determination of such appeal,

18 of 1998.

may be exercised by a single judge in the same manner as they may be exercised by the Court and subject to the same provisions.

(2) Any single judge may deliver in open court the judgment or judgments of the Court in any appeal or other matter heard by the Court, notwithstanding that some or all of the judges who heard and determined such appeal or other matter may be absent when such judgments are read.

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

Case stated or question of law reserved.

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

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

Provisions of this Act applicable to case stated or question of law reserved.

45. Where a case is stated or a question of law reserved for the consideration of the Court, sections 29, 34, 35, 36, 39, 40, 41, 42 and 43 of this Act, shall apply to such proceedings in like manner as to an appeal.

Case stated by Supreme Court at request of Court.

46. In the case of an appeal which involves a question of law alone, the Court may, if it thinks fit, request the Supreme Court or a judge thereof to state the question together with all the circumstances under which the question has arisen in such manner as may be prescribed by rules of court.

Provisions of this Act applicable to appeals from inferior courts.

47. Sections 27, 29, 32, 35, 36, 39, 40, 41, 42 and 43 of this Act, shall apply to the proceedings in any appeal brought under section 25 of the Act, subject to the following modifications,

- (a) as if the word “appeal” in relation to appeals under section 25 of this Act referred to an appeal from the order of the Supreme Court upon appeal from an inferior court in any criminal cause or matter;
- (b) as if for the words “the date of conviction” in section 32 (1) of this Act there were substituted the words “the order of the Supreme Court” ,
- (c) in section 42 of this Act,
 - (i) as if after the words “the court before which the appellant or applicant was tried” in subsection (1) of this section there were added the words “and upon appeal to the Supreme Court”;
 - (ii) as if for subsection (3) of this section there were substituted the following,

“(3) The provisions in any law relating to the custody of any documents, exhibits or other things connected with proceedings at the trial of any person before an inferior court pending the determination of an appeal in such proceedings to the Supreme Court shall continue to

apply until the expiration of twenty-one days from the determination by the Supreme Court and in cases where notice of appeal or leave to appeal to the Court is given within twenty-one days after such determination, then until the determination of the appeal by the Court.”;

- (iii) as if all the words after the words “and to officers of courts” in subsection (4) of this section were omitted.

48. Nothing in this Act shall affect the prerogative of mercy but the Minister on an application made to him by a person convicted on indictment or without any such application may, if he thinks fit, at any time either,

Prerogative of mercy.

- (a) refer the whole case to the Court and the case shall then be treated for all purposes as an appeal to the Court by the person convicted; or
- (b) if he desires the assistance of the Court on any point arising in the case refer that point to the Court for its opinion thereon and the Court shall consider the point so referred and furnish the Minister with its opinion thereon accordingly.

49.—(1) Without prejudice to any right of appeal granted to the prosecution by any other provision of this Act, an appeal shall lie to the Court at the instance of the Director of Public Prosecutions in the following cases,

Appeal by Director of Public Prosecutions.

- (a) where a person tried on indictment has been acquitted by the direction of the Judge at the close of the case for the prosecution whether in respect of the whole or part of the indictment; or
- (b) where the Judge quashes the indictment; or
- (c) against the sentence passed on conviction on a trial on indictment.

(2) An appeal under subsection (1) of this section may be made on the following grounds,

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

(3) On any such appeal against acquittal the Court may, if it thinks that a miscarriage of justice has occurred, allow the appeal and order a retrial.

(4) On an appeal against sentence, the Court may, if it thinks that the sentence passed by the trial court was unduly lenient, pass such other sentence in substitution therefore as it thinks ought to have been passed.

(5) Subject to this section, the foregoing provisions of this Part respecting the time for appealing, filing of notice of grounds of appeal, costs of appeal and the powers of the court shall *mutatis mutandis* apply to appeals under this section, and the Court may make all such orders and issue all such directions as it considers necessary to give effect to its decision.

SCHEDULE

COURT OF APPEAL ACT

Court of Appeal Rules
[Section 11 (3)]

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ORDER I**ORDER I**

Short title.

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

Interpretation.

2.—(1) In these rules, unless it is expressly provided to the contrary or the context otherwise requires,

“Act” means the Court of Appeal Act, Cap. 90;

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

“attorney-at-law” means any person admitted and enrolled as an attorney-at-law of the Supreme Court under the Supreme Court of Judicature Act, Cap. 91.

“Court” means the Court of Appeal established under the Court of Appeal Act, Cap. 90;

“court below” means the Supreme Court of Belize;

“file” means file in a Registry;

“judge” includes the presiding officer of any court from which an appeal lies to the Court;

“magistrate” includes every person exercising jurisdiction in a court of summary jurisdiction;

“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;

“President” means the President of the Court of Appeal;

“Prison Authority” means the head or person in charge of Her Majesty’s Prisons in Belize and includes his deputy or other officer discharging his duties;

ORDER I

“proper officer of the court below” means the Registrar of the court from whose order the appeal is brought;

“record” means the aggregate of papers relating to an appeal (including the pleadings, proceedings, evidence and judgments) and required by these rules to be filed or laid before the Court on the hearing of the appeal;

“Registrar” means the Registrar of the Court of Appeal and includes the assistant registrar and a deputy-registrar or other officer for the time being discharging the duties of the Registrar or deputy-registrar;

“respondent” means,

- (a) in a civil appeal, any party (other than the appellant) directly affected by the appeal;
- (b) in a criminal appeal where the Crown is not an appellant, the person who under the Act has the duty of appearing for the Crown or who undertakes the defence of the appeal.

(2) The Interpretation Act shall apply to the interpretation of these rules as they apply to the interpretation of an Act, Cap. 1.

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

Use of Forms in Appendices A and C in Appeals.

4.-(1) Sittings of the Court shall be held at such times as the President may direct.

Times of sittings and vacation.

(2) The Court shall not sit on Sundays and shall not sit on days that are public holidays and on such other days as the President may direct.

(3) The Registry of the Court shall be open on every day of the year except Sundays and all other days appointed to be observed as public holidays from the hours of 8 a.m. to 4 p.m. except Saturdays when the offices of the Registry will be closed at 12.30 p.m.

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Provided that as long as the Registrar of the Supreme Court is the Registrar, the office hours shall be 8.30 a.m. to 3.30 p.m. except on Saturdays when the office of the Registry shall close at 12 noon.

Notice of sittings.

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

(2) The Registrar shall on the publication of the said notices in the *Gazette* post up on the notice board of the Court the cause list of the sittings.

Provided that the Court may in its discretion hear any appeal and deal with any other matter whether or not it 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. In all proceedings before the Court, the Registrar or the Registrar of the Supreme Court, the parties may appear in person or be represented by an attorney-at-law.

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.

Service of documents.

8. Subject to any provision contained in these rules relating to the service of any particular document,

ORDER II

non-compliance and thereupon the appeal shall proceed. The Registrar shall forthwith notify the appellant of any directions given by the Court under this rule where the appellant was not present at the time when such directions were given.

ORDER II**CIVIL APPEALS***Notices of appeal, cross-appeal and preliminary objection*

Notice and grounds
of appeal.

1.-(1) All appeals shall be brought by notice (hereinafter called “the notice of appeal”), to be filed together with a copy thereof 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.

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(6) Notwithstanding the foregoing provisions the Court in deciding the appeal shall not be confined to the grounds set forth by the appellant,

Provided that the Court 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.

(7) The Registrar shall send one copy of the notice of appeal to the Registrar of the court below.

2.-(1) Where an appeal lies by leave only, any person desiring leave to appeal shall apply for leave within twenty-one days, either by notice of motion or by summons (whichever is appropriate) and such application shall be made to the Court or to the court below or to the judge who made the order; the period of twenty-one days shall run from the date of the decision against which leave to appeal is sought.

Appeal by leave only.

(2) If leave is granted the appellant shall file a notice of appeal as provided by rule 1 of this Order within twenty-one 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 5 of this Order.

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(5) Paragraph (3) of rule 5 of this rule shall apply to a notice given under paragraph (3) of this rule as it does to a notice under rule 5.

3.-(1) Subject to this rule, no appeal shall be brought after the expiration of twenty-one days from the date of judgment delivered or order made, against which the appeal is brought.

Time limits for
appealing.

(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 four 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.

4.-(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 notice of appeal to be served on all or any parties to the action or other proceeding, 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

Service of notice
of appeal.

ORDER II

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.

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

Notice by respondent of contention that judgment should be varied.

(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 for transmission to the judges.

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

6.-(1) A notice of appeal or respondent's notice may be amended by or with the leave of the Court at any time.

Amendment of notice of appeal and of respondent's notice.

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

7.-(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 four copies thereof with the Registrar within the same time.

Notice of preliminary objection to be filed.

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(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.

8.-(1) The Registrar of the court below 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 insists upon it 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.

Evidence.

9. 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 affidavit;

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- (b) as to evidence taken orally, by the production of a copy of the judge's notes certified by the Registrar of the court below, 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.

10.—(1) Where any notes of proceedings whether in shorthand or long hand 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 of the court below on payment of the fees prescribed in Appendix B to these rules.

Copies of proceedings in Court below.
Appendix B,
Fees.

(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 of the Court below 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.

11.—(1) Every document or paper required by these rules to be filed or left with the Registrar or the Registrar of the court below 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.

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

Copy of list of exhibits.

12.-(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.

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

Provided that the Registrar shall permit a party for the purposes of preparing his record to take copies of all such documents and that the Court or Registrar may allow the return of any documents to any party pending the hearing of the appeal and subject to such conditions as it or he may impose.

Entering appeal.
S.I. 39 of 1979.

13.-(1) The appellant shall within three months from the dates when the appeal is brought or within such extended time as may be granted by the Court below or the Court,

- (a) file with the Registrar,
 - (i) the record;
 - (ii) an affidavit of service of the notice of appeal; and
- (b) leave four copies of the record for the use of the judges and the Registrar of the Court.

Civil Form.

(2) The Registrar shall thereupon give notice in Civil Form 7 to the respondent of the filing of the record and shall set down the appeal for hearing by entering the same on the proper lists of appeals.

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Withdrawal and non-compliance

14.-(1) If the appellant files with the Registrar a notice that he desires to withdraw his appeal, together with a copy thereof, 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.

Withdrawal of appeal.

(2) The Registrar shall send one copy of the notice of withdrawal to the Registrar of the Court below.

15.-(1) It shall be the duty of the Registrar to see that an appellant complies with rule 13 of this Order, and before the conclusion of each general 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.

Default in filing record and documents.

(2) If the appellant has failed to comply with the requirements of rule 13 (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

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

Applications to single Judge.

(a) giving security for costs to be occasioned by any appeals;

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- (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.

Application to
Court below.

17.—(1) Applications referred to in rule 16 shall ordinarily be made to a judge of the Court, but, where this may cause undue inconvenience or delay, a judge of the Court below may exercise the powers of a single judge of the Court under that rule.

(2) The Registrar of the Court below shall send to the Registrar one copy of any application made to a judge of the Court below and of the order made thereon.

Mode of applica-
tion.

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.

(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.

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(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 or the Court may order, and no intermediate 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 respondent, the Court or the Court below shall in dealing with the costs of the application consider which of the parties has made the application necessary.

Application for security for costs.

(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 Form 9 of Appendix A.

Form of bond.

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

Application for leave to appeal *in forma pauperis*.

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- (a) an affidavit stating,
 - (i) that the appellant is not worth \$100 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 \$8.00 a week;
- (b) a certificate of an attorney-at-law that the appellant has reasonable grounds 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 Judgment

Interlocutory appeals.
Number of judges.

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

Dismissal of appeal in default of appearance.

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.

Application to re-enter appeal dismissed under rule 23.

24. 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 think just, direct the appeal to be re-entered for hearing; but 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 of this Order 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

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rehear 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. The judgments of the Court shall normally be delivered by the judges who heard the appeal but if one or more judges of the Court is not prepared or is otherwise unable to deliver judgment before the conclusion of the sitting,

Delivery of judgment.

- (a) judgment may be delivered at a sitting of the Court for the purpose of delivering such judgment the Court may be constituted by one, two or three judges; and
- (b) a judge whether or not present at the hearing of an appeal may deliver the judgment of the Court (being the judgment of all or of the majority present thereat) and may read the reasons for such judgment or for the concurrence or dissent of any judge who was a member of the Court at the hearing.

28. Judgments of the Court shall be enforced by the Court below and a certificate under the seal of the Court and the hand of the Registrar setting forth the judgment shall be transmitted by the Registrar to such other Court, and the latter shall enforce such judgment in terms of the certificate.

Execution of judgment by court below.

Fees and Costs

29.—(1) Except as hereinafter provided, the fees prescribed in Appendix B shall be charged in respect of the matters to which they are respectively

Court fees. Appendix B Fees.

ORDER II

assigned. The fees chargeable under Part I of Appendix B shall be paid to the Registrar and those chargeable under Part II shall be paid to the Registrar of the court below.

(2) No fees shall be payable by the Crown or any person suing or being sued on behalf of the Crown in respect of any civil appeal to which the Crown or any person so suing or being sued is a party,

Provided that a judgment in favour of the Crown or any person so suing or being sued for costs to be paid by any party, not being the Crown, or any person so suing or being sued, shall, unless the Court otherwise orders, include the amount of any fees which would have been payable if the appeal or suit had been brought or instituted by or against a private person.

30.—(1) Subject to this rule, the Taxing Officer when taxing the fees for professional legal services shall, unless the Court when awarding costs orders otherwise, allow all such costs, charges and expenses as appear to him to have been necessary or proper for the attainment of justice or for the defending of the rights of any party, but except as against the party who incurred them, 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.

(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,

Provided that 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;

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- (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.

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

Fees not chargeable under rules 29 and 30. S.I. 91 of 1982.

32.-(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.

Taxation of costs.

(2) The Registrar shall be the Taxing Officer.

(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 thinks 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.

(4) Upon such application the Taxing Officer shall reconsider and review his taxation upon such 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.

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(5) Any person aggrieved by any 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.

(6) Any application to the Court under paragraph (5) of this rule, shall be by motion accompanied by an affidavit in support and notice in such motion shall be served upon the Taxing Officer and upon all parties having interest therein.

ORDER III**APPEALS AGAINST CONVICTION ON INDICTMENT***Institution of Appeals*

1. A person desiring to appeal to the Court against conviction or sentence shall commence his appeal by sending to the Registrar of the Court below 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 set forth in Form 1 or 2 in Appendix C, and, in the notice or notices so sent, shall answer the questions and comply with the requirements set forth thereon, subject to Order I, rule 9. The answers to the questions which an appellant is by this rule required to make in support of his request to be present at the hearing of his appeal shall be deemed to be applications to the Court in such matter.

2.-(1) The certificate of the judge of the Court below under section 23 (1)(b) of this Act shall be in Form 3 in Appendix C.

(2) The judge of the Court below may, in any case in which he considers it desirable to do so, inform the person convicted before or sentenced by him that the case is in his opinion one fit for an appeal to the Court under section 23 (1)(b) of this Act and may give to such person a certificate to that effect in Form 3 in Appendix C.

3.-(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

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

Judge's certificate under section 23 (1) (b).

Notices to be signed by appellant.

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shall be given shall be signed by the appellant himself, except under paragraphs (4) and (5) of this rule.

Any other notice required or authorised to be given shall be in writing and signed by the person giving it or by his legal representative. All notices required or authorised to be given shall be addressed to the Registrar of the Court below to be forwarded by him to the Registrar of the Court.

(2) Where an appellant or applicant is a prisoner in prison it shall be sufficient service to deliver the document at the prison to the officer in charge or person appearing to be the officer in charge thereof, who shall cause it to be served on the prisoner.

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

(4) Where, on the trial of a person entitled to appeal, 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 to be given and signed by the appellant himself may be given and signed by his legal representative.

(5) In the case of a body corporate, where 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 legal representative of such body corporate.

4. 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.

Time for appealing against conviction to run from verdict.

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

5. 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 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.

Notice of application for extension of time for appealing.

6. An application to the Court for an extension of time within which notices may be given, shall be in Form 2 in Appendix C. Every person making an application for such extension of time, shall send to the Registrar of the Court below 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.

Copies of Proceedings, etc.

Forwarding of proceedings in court below to Registrar.

7.-(1) The Registrar of the Court below when he has received a notice of appeal or a notice of application for leave to appeal, or a notice of application for extension of the time within which under the Act such notice shall be given, shall forward to the Registrar four copies of the proceedings in the Court below and if any record has been made of the summing up or direction of the judge of the Court below, four copies thereof or if no such record has been made, a statement giving to the best of such judge's recollection the substance of the summing up or direction. He shall also forward the original exhibits in the case as far as practicable and any original depositions, information, inquisition, plea or other documents usually kept by him, or forming part of the record of the Court below.

1 of 1969.

(2) One copy of the proceedings and one copy of the summing up shall be sent by the Registrar of the Court below to the Director of Public Prosecutions at the same time as he complies with paragraph (1) of this rule.

(3) For the purposes of this rule copies of proceedings shall contain,

(a) the indictment or charge and the plea;

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- (b) the verdict, any evidence given thereafter, and the sentence;
- (c) notes of any particular part of the evidence or cross-examination relied on as a ground of appeal; and
- (d) such other notes of evidence as the Registrar of the Court below or the Registrar may direct to be included in the copies of proceedings,

Provided,

- (i) in capital cases, copies of the notes of all the evidence shall be supplied; and
- (ii) upon application by either party to an appeal, a single judge of the Court or the Court itself may direct that copies of any particular part, or the whole, of the evidence be supplied to the Court and to the Director of Public Prosecutions.

8.-(1) Where any trial is had with a jury and, by direction of the judge of the Court below, notes in long hand or in shorthand or typewritten or a tape recording shall have been taken of the summing up or direction of the judge and of such parts of the proceedings as the judge of the Court below may consider expedient, such record or a transcription of such tape recording shall be accepted by the Court as accurate unless the Court has reason to doubt its accuracy.

Records of summing up.

Where it is provided by the law of Belize that any notes of the summing up or directions of the judge or notes of any part of the proceedings shall be taken and the direction of the judge of the Court below is not therefore required, such notes shall be accepted by the Court as provided in paragraph (1) of this rule.

(2) Where in such a trial the judge of the Court below does not give any directions for recording any summing up or direction given by him and a shorthand note thereof is not taken under the provisions of any law,

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his statement giving his recollection of the summing up or direction shall be accepted as accurate unless the Court sees reason to the contrary.

(3) The shorthand writer shall sign the shorthand note taken by him of any trial or proceedings, or of any part of such trial or proceedings, and certify it to be a complete and correct shorthand note thereof; and such

shorthand note shall be kept in such custody as the Registrar of the Court below shall, either specially or generally, direct.

(4) The shorthand writer shall, on being directed by the Registrar of the Court below, 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 proceedings in reference to which an appellant has appealed under the Act.

(5) 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 a statutory declaration in Form 4 in Appendix C that it 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 it.

(6) Where no notes in long hand or in short hand have been taken by direction of the judge of the Court below of any other parts of the proceedings required for the purpose of an appeal, the judge of the Court below shall furnish to the Registrar of the Court below his notes of the trial or such part thereof as may be required for such purpose.

(7) On the application of a party interested in a trial or other proceedings in relation to which a person may appeal the Registrar of the Court below shall direct the shorthand writer to furnish to such party, and to no other person, a transcript of the whole, or of any part of the shorthand note of any such trial or other proceedings, on payment to the proper officer of the Court below of such fees as may be prescribed for copies of proceedings required on appeal in any criminal cause or matter.

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(8) A party interested in an appeal under the Act may obtain from the Registrar of the Court below a copy of the transcript of the whole or of any part of such shorthand note as relates to the appeal on payment to the proper officer of the Court below of such fees as may be prescribed for copies of proceedings required on appeal in any criminal cause or matter.

(9) For the purpose 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 below, or other person authorised to act on behalf of a party interested, as herein defined; but shall not include the Director of Public Prosecutions, to whom a copy of such transcript shall be furnished free of charge.

(10) A transcript of the shorthand notes taken of the proceedings at the trial (or a copy of the judge’s notes of the trial) of any appellant shall not be supplied free of charge except by an order of the Court or a judge thereof, upon an application made by an appellant or by his attorney-at-law assigned to him under the Act.

Judge’s Report

9.—(1) The Registrar of the Court below shall, if in relation to any appeal the Court directs him to do so, request the judge of the Court below to furnish him with a report in writing, giving his opinion upon the case generally or upon any point arising upon the case of the appellant, and such judge shall furnish it to the Registrar.

Report of judge of Court below.

(2) The report of the judge shall be made to the Court, and, the Registrar shall on request, furnish a copy thereof to the appellant and respondent.

10. When the Registrar of the Court below requests the judge of the Court below to furnish a report under these rules, he shall send to such judge a copy of the notice of appeal or notice of application for leave to appeal or any other document or information which he shall consider material, or which the Court at any time shall direct him to send or with

Furnishing judge of Court below with materials in report.

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which the judge may request to be furnished by the Registrar, to enable the judge to deal in his report with the appellant's case generally or with any point arising thereon.

Copies of documents for use of Appellant or Respondent

11.-(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 attorney-at-law or other person representing either of them, may obtain from the Registrar of the Court below copies of any documents (other than notes of proceedings) or exhibits in his possession under the Act or these rules for the purposes of such appeals. Such copies shall be supplied by the Registrar on payment to the proper officer of the Court below of such fee as may be prescribed for copies of proceedings required on appeal in any criminal cause or matter.

(2) Where an attorney-at-law is assigned to an appellant under the Act, copies of any such documents or exhibits which 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.

(3) Where an appellant, who is not legally represented, requires from the Registrar a copy of any such 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 it to him.

Conduct of Prosecution and Defence

12.-(1) Whenever the Registrar has received a notice of appeal or a notice of application for leave to appeal or a notice of application for an extension of time within which such notices shall be given he shall forthwith apply to the Registrar of the Court below for the following particulars,

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

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

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- (a) name and address of the prosecutor. State names and addresses of counsel for prosecution;
- (b) whether appellant was defended by counsel privately or by counsel at request of Court. Give names and addresses of attorney-at-law for appellant.

(2) When the Registrar has received a notice of appeal or where leave to appeal is granted to any appellant, he shall,

- (a) notify the Director of Public Prosecutions; or
- (b) if the prosecutor is a private person, enquire if he intends to defend the appeal and if the answer is in the negative, so inform the Director of Public Prosecutions.

1 of 1969.

(3) It shall be the duty of a prosecutor, who declines to resist an appeal and of his attorney-at-law, to furnish to the Registrar and the Director of Public Prosecutions, or either of them, any information, documents, matters and things in his possession or under his control connected with the proceedings against the appellant, which the Registrar or Director of Public Prosecutions may require for the purposes of their duties under the Act.

Legal Aid to Appellants

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

List of counsel and attorney-at-law for purposes of the Act.

(2) 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.

(3) The Registrar shall thereupon, subject to any special order of the Court, select from such list an attorney-at-law 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

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and the attorney-at-law, if any, who represented the appellant at his trial and the nature of the appeal.

Proceedings before a single judge

Procedure on decision of application to single judge.

14.-(1) Where any application has been dealt with by a single judge, the Registrar shall notify to the appellant the decision in Form 5 in Appendix C. 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 6 in Appendix C. If the appellant does not desire to have the 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 6 duly filled up by him, the refusal of his application or applications by such judge shall be final. If the appellant desires that his 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 application or applications: Provided that an appellant who is legally represented shall not be entitled to be present without special leave of the Court.

(2) When an appellant duly fills up and returns within the prescribed time to the Registrar Form 6 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. The Registrar, on receiving the said form, shall take the necessary steps for placing the application before the Court. If the application to be present is refused by the Court, the Registrar shall notify the appellant; and if the 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.

(3) Except where otherwise provided in these rules, any application to the Court may be made by the appellant or respondent, or by an attorney-at-law on their behalf, orally or in writing; but in regard to such

ORDER II

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 it in writing to the Registrar who shall take the proper steps to obtain the decision of the Court thereon.

15. Where the Court has, on a notice of application for leave to appeal duly served and in Form 1 in Appendix C, 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.

Notice of application for leave to appeal deemed to be notice of appeal if application granted.

Suspension of Orders and Admission to Bail.

16.—(1) Where a person has, on his conviction, been sentenced to payment of a fine, and in default of payment to imprisonment, and such person remains in custody in default of payment of the fine, he shall be deemed, for purposes of appeal, to be a person sentenced to imprisonment.

Person in custody in default of payment of fine.

(2) Where any person has been convicted and is thereupon sentenced to the payment of a fine and, in default of such payment, to imprisonment, and he intimates to the judge of the Court below that he is desirous of appealing to the Court against his conviction, such judge may, if he thinks right to do so, order such person forthwith to enter into recognisances 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 fine shall be made at the final determination of his appeal, if it be dismissed, to the Registrar of the Court below, or as the Court may then order. The recognisances under this rule shall be in Forms 7 and 8 in Appendix C.

The Registrar of the Court below shall forward the recognisances of the appellant and his surety or sureties to the Registrar.

(3) If an appellant to whom paragraph (2) of this rule applies does not serve in accordance with these rules a notice of appeal or of abandonment of his appeal within twenty-one days from the date of his conviction or sentence, the Registrar of the Court below shall report such omission to the Court, which may, after notice in Forms 9 and 10 in Appendix C has

ORDER II

been given to the appellant and his sureties, if any, order an estreat of the recognisances of the appellant and his sureties, and the manner of such estreat shall be that provided for estreating recognisances, 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 may think right.

(4) An appellant who has been sentenced to the payment of a fine and has paid it or part thereof 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.

17.–(1) Where, on the conviction of a person, the judge of the Court below makes an order condemning such person to the payment of the whole or of any part of the costs and expenses of the prosecution for the offence of which he is convicted out of any moneys taken from such person on his apprehension or otherwise or where the 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 of property of such convicted person, the operation of such orders shall in any of such cases be suspended until the expiration of twenty-one days after the day on which any of such orders were made. And in cases where notice of appeal or notice of application for leave to appeal is given within twenty-one days from and after the date of 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 below shall keep a record of any orders to which this rule refers.

(2) Where upon the conviction of any person of any offence, the trial court orders that any disqualification, forfeiture or disability attach to such person and notice of appeal or notice of application to appeal is

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

ORDER II

given in respect of such conviction, sentence or order, the Court may upon application suspend such disqualification, forfeiture or disability until the determination of the proceedings upon appeal.

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

(4) When the judge of the Court below on the conviction of a person before him makes any order for the payment of money by such person or by any other person upon such conviction, and, by reason of this rule, such order would otherwise be suspended, such judge may, if he thinks right to do so, direct that the 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 judge shall direct, give security by way of undertaking or otherwise for the payment to the person in whose favour such order has been made to the amount therein named.

Such security may be to the satisfaction of the person in whose favour the order for payment has been made or of any other person as the 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 rule, regulation, statute, or other law, the destruction or forfeiture or order for destruction or forfeiture thereof shall be suspended for the period of twenty-one days from and after the date on which the verdict on the indictment was returned, and in the event of an appeal under the Act, shall be further suspended until the determination thereof by the Court.

ORDER II

(6) Where, upon conviction of any person of any offence, any claim may be made or any proceedings may be taken under any rule, regulation, statute or other law against such person or any other person in consequence of such conviction, such proceedings shall not be taken until after the period of twenty-one 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.

(7) 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.

Procedure on application for bail. Right of Sureties. Estreat of Recognisances.

18.—(1) Where the Court admits an appellant to bail pending the determination of his appeal on an application by him duly made, the Court shall specify the amounts in which the appellant and his surety or sureties (unless the Court directs that no surety is required) shall be bound by recognisance, and shall direct, if it thinks right to do so, before whom the recognisances of the appellant and his surety or sureties (if any) may be taken.

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

(3) In the event of the Court not making any special order or giving any special directions under this rule, the recognisances of the appellant and of his surety or sureties (if any) may be taken before a magistrate or justice of the peace and shall be sent to the Registrar of the Court.

(4) The recognisances provided for in this rule shall be in Forms 11 and 12 in Appendix C.

(5) The Registrar, on being satisfied that the recognisances 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

Appellant and surety's recognisances before whom to be taken.

ORDER II

shall send in Form 13 in Appendix C a notice to the officer of the prison in which the appellant is then confined. This notice, when received by the officer, shall be a sufficient authority to him to release the appellant from custody.

(6) An appellant who has been admitted to bail 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 it thinks right to do so, decline to consider the appeal, and may proceed summarily to dismiss it, and may issue a warrant for the apprehension of the appellant in Form 14 in Appendix C,

Provided that the Court may consider the appeal in his absence, or make such other order as it may think fit.

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

(8) At any time after an appellant has been released on bail, the Court may, if satisfied that it is in the interest of justice to do so, revoke the order admitting to bail, and issue a warrant in Form 14 in Appendix C for his apprehension, and order him to be committed to prison.

(9) The Court may on any breach of the recognisances of the appellant, if it thinks right to do so, order such recognisances and those of his surety or sureties to be estreated, and the manner of such estreat shall be that provided under the law.

(10) Where the surety or sureties for an appellant upon whose recognisances such appellant has been released on bail by the Court suspects or suspect that the appellant is about to depart out of Belize or in any manner to fail to observe the conditions of his recognisances on which he was so released, such surety or sureties may lay an information before a magistrate acting in and for the judicial district in which the

ORDER II

appellant is, or is by such surety or sureties believed to be, or in which such surety or sureties may then be and such magistrate shall thereupon issue a warrant for the apprehension of the said appellant.

(11) The appellant shall, on being apprehended under the warrant, be brought before the Court in and for which the magistrate acts, before whom the said information was laid or some other magistrate's court specified in the warrant. The Court shall, on verification of the information by oath of the informant, by warrant of commitment, 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 Prison Authority of such commitment as mentioned in this rule.

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 Prison Authority, subject to any order of the Court, may transfer him to the prison from which he was so released.

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

(13) 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 may give to the Registrar such directions as to the appeal or otherwise as it shall think right.

Abandonment of Appeal

19.-(1) An appellant may, at any time after he has duly served notice of appeal or of application for leave to appeal, or of application for

Abandonment of appeal.

ORDER II

extension of time within which such notice shall be given, abandon his appeal by giving notice of abandonment thereof in Form 15 in Appendix C to the Registrar, and upon such notice being given the appeal shall be deemed to have been dismissed by the Court.

(2) Upon receipt of a notice of abandonment duly completed and signed or marked by the appellant or the party authorised to sign notices under rule 3 of this Order, the Registrar shall give notices thereof in Form 16 in Appendix C to the respondent, the Prison Authority and the Registrar of the Court below, and, in the case of an appeal against a conviction involving a sentence of death, shall in like manner give notice to the Secretary to the Governor-General, for the information of the Governor-General, and the Registrar shall also return to the Registrar of the Court below any original documents and exhibits received from him.

Determination of Appeal

20. Where, upon the trial of a person entitled to appeal against his conviction, an order of restitution of any property to any person has been made by the judge of the Court below, the person in whose favour or against whom the order of restitution 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 annulling or varying such order of restitution is made.

Varying order of restitution of property.

21.-(1) Unless the Court directs to the contrary in cases where, in the opinion of the Court, the question for decision is a question of law on which it would be convenient that separate judgments should be pronounced by the judges of the Court, the judgment of the Court shall be pronounced by the presiding judge or such other judge of the Court hearing the appeal as he may direct, and no judgment with respect to the determination of any question shall be separately pronounced by any other member of the Court.

Judgments of the Court.

(2) At a sitting of the Court for the purpose of delivering a single judgment, the Court may be constituted by one, two or three judges.

ORDER III

Notification on final determination of appeals.

22.—(1) On the final determination of any appeal or of any application to the Court, the Registrar shall give to the appellant if he be in custody and has not been present at such final determination, and to the respondent and the Prison Authority, notice of such determination in Forms 17 to 20 in Appendix C.

(2) In any case of an appeal in relation to a conviction involving a sentence of death, the Registrar shall, on receiving the notice of appeal or of any application for leave to appeal, send copies thereof to the Secretary to the Governor-General for the information of the Governor-General and to the Prison Authority and on the final determination of any such appeal by the Court shall forthwith notify the appellant, the Secretary to the Governor-General for the information of the Governor-General, the respondent and the Prison Authority.

Notification of result of appeal. Entry of decision of Court on records.

23.—(1) The Registrar, at the final determination of an appeal, shall notify in such manner as he thinks most convenient to the Registrar of the Court below, the decision of the Court in relation thereto and also any orders or directions made or given by the Court in relation to such appeal or any matter connected therewith.

(2) The Registrar of the Court below shall on receiving the notification referred to in this rule, enter the particulars thereof on the records of such Court.

Restrictions on issue of certificate of conviction.

24. The Registrar of the Court below shall not issue under any law authorising him to do so, a certificate of conviction of any person convicted in the Court below if notice of appeal or notice of application for leave to appeal is given, until the determination or abandonment thereof.

Return of original depositions, etc.

25. Upon the final determination of an appeal for the purposes of which the Registrar has obtained from the Registrar of the Court below any original depositions, exhibits, information, inquisition, plea or other documents usually kept by the Registrar of the Court below, or forming part of the record of the Court below, the Registrar shall, where practicable, cause them to be returned to the Registrar of the Court below.

ORDER III*Procedure as to Witnesses before Court and their examination before examiner.*

26.—(1) Where the Court has ordered any witness to attend and be examined before the Court, an order in Form 21 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 the 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 in Form 22 in Appendix C.

(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.

(4) The Registrar shall furnish to the person appointed to take such examination any documents or exhibits and any other material relating to the 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.

(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 Prison Authority thereof. The Registrar shall cause to be served on every witness to be examined a notice in Form 23 in Appendix C.

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

ORDER III

(7) The examination of every such witness shall be taken in the form of a deposition and unless otherwise ordered shall be taken in private. The caption in Form 24 in Appendix C shall be attached to any such deposition.

(8) Where any witness shall receive an order or notice to attend before the Court or an examiner, the Registrar may, if it appears to him necessary to do so, pay to such witness a reasonable sum for his expenses.

(9) The appellant and his legal representative (if any) and the respondent shall be entitled to be present at and take part in any examination of any witness to which this rule relates.

Proceedings on
reference.

27. When an order of reference is made by the Court to a special commissioner, the question to be referred and the person to whom as special commissioner it is referred, shall be specified in the order. The Court may in such order, or by giving directions as and when it from time to time thinks right, specify whether the appellant or respondent or any person on their behalf may be present at any examination or investigation or at any stage thereof as may be ordered, and specify any and what powers of the Court 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, 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 Prison Authority 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.

Case stated under section 44 of the Act.

Judge to forward
special case to
Registrar and cop-
ies to be supplied
to appellant and
respondent.

28.—(1) The judge of the Court below shall forward any case stated by him in pursuance of section 44 of the Act to the Registrar who shall on receiving it send a copy of the case to the appellant and respondent respectively.

ORDER III

(2) Where under section 44 of the Act the judge of the Court below 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 23 of this Act, provided that in such case section 42 (2) of the Act thereof shall not apply.

(3) Where a case is stated or a question of law reserved for the consideration of the Court under section 44 of the Act, paragraphs (1) and (4) only of rule 29 of this Order shall apply.

Duties of Registrar

29. Subject to rule 28 of this Order,

- (a) the Registrar shall take all necessary steps for obtaining a hearing under Part III of the Act of any appeal or application, notice of which is given to him under that Part and shall obtain and lay before the Court in proper form all documents, exhibits and other things relating to the proceedings in the Court before which the appellant or applicant was tried which appear necessary for the proper determination of the appeal or application;
- (b) if it appears to the Registrar that any notice of appeal against a conviction, purporting to be on a ground of appeal which involves a question of law alone, does not show any substantial ground of appeal, the Registrar may refer the appeal to the Court for summary determination, and, where the case is so referred, the Court may, if they consider that the appeal is frivolous and vexatious, and can be determined without adjourning the same for a full hearing, dismiss the appeal summarily, without calling on any persons to attend the hearing or to appear for the Crown thereon;

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

ORDER III

- (c) the Registrar shall furnish the necessary forms and instructions in relation to notices of appeal or notices of application under Part III of the Act to any person who demands it and to officers of courts, the Prison Authority and such other officers or persons as he thinks fit, and the Prison Authority shall cause those forms and instructions to be placed at the disposal of prisoners desiring to appeal or to make any application under Part III of the Act and shall cause any such notices given by a prisoner in his custody to be forwarded on behalf of the prisoner to the Registrar;
- (d) the Registrar shall report to the Court or some judge thereof any case in which it appears to him that, although no application has been made for the purpose, an attorney-at-law ought to be assigned to an appellant under the powers given to the Court by Part III of the Act.

ORDER IV

**APPEALS FROM SUPREME COURT'S ORDER ON APPEAL
FROM INFERIOR COURTS IN ANY CRIMINAL CAUSE OR
MATTER**

Institution of appeals under section 25 of the Act.

1. The provisions of rules 1, 6 and 15 of Order III shall apply to a person desiring to appeal under section 25 of the Act to the Court from an order of the Supreme Court made on appeal from an inferior court except that the references to Forms 1 and 2 in Appendix C shall be deemed to be references to Forms 25 and 26 respectively in that Appendix.

Certificate of Registrar of Supreme Court granting leave to appeal.

2. Where leave to appeal to the Court is granted by the Supreme Court, the Registrar of the Supreme Court shall so certify and such certificate shall be attached to the notice of appeal.

Ascertainment of date of order of Supreme Court.

3. In this Order, the date of an order of the Supreme Court shall be deemed to be the date on which judgment is delivered or the order made.

4. The time within which a person desirous of appealing shall give notice of appeal or notice of his application for leave to appeal to the Court shall commence to run from the day of the date of the order of the Supreme Court.

ORDER IV

Time limit for appealing.

5. An application to the Court for an extension of time within which notices may be given, shall be in Form 26 in Appendix C. Every person making an application for such extension of time shall send to the Registrar of the Court below, 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 the order of the Court below.

Notice of application for extension of time for appealing.

6.-(1) Rule 3 of Order III shall apply to an appeal under section 25 of this Act except that the first sentence of paragraph (1) of this rule shall not apply when the appeal is brought by the prosecution.

Signature and service of notices.

(2) A prosecutor-appellant shall serve copies of any notices in Form 25 or 26 issued by him on the respondent; and the Registrar of the Court below shall send to the prosecutor-respondent copies of any such notices delivered by a defendant-appellant.

7.-(1) The Registrar of the Court below, when he has received a notice of appeal or a notice of application for leave to appeal, or a notice of application for extension of the time within which under these rules such notice shall be given, shall forward to the Registrar four copies of the proceedings in the Court below; and shall also forward the original exhibits in the case as far as practicable and relevant to the appeal.

Record of appeal.

(2) For the purposes of this rule, copies of proceedings shall contain,

- (a) the record on appeal to the Supreme Court and notes of any fresh evidence admitted at the hearing of the appeal insofar as such record and notes are relevant to the grounds of appeal;
- (b) the order of the Supreme Court and the reasons given by the judge thereof.

ORDER IV

Application of Rules 11, 13 and 14 of Order III.

8. The following rules contained in Order III shall apply in the case of appeals brought under section 25 of this Act,

- (a) rule 11 (Copies of documents required by appellant);
- (b) rule 14 (Applications to a single judge).

Presence of appellant at proceedings in the Court.

9.—(1) A defendant-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, he shall not be entitled to be present except where the Court gives him leave to be present.

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

(3) When an appeal is brought by the prosecution it shall be the duty of the Registrar to ascertain whether the appellant desires to be present when the Court considers his appeal.

Notification of application if granted.

10.—(1) Where any application is made by the prosecution and is granted in the absence of the respondent, the prosecution shall serve notice on the respondent of the order of the Court or judge and where any application is made by a defendant and is granted in the absence of the prosecution, the defendant shall serve notice of such order on the prosecution, unless he is in custody in which case the Registrar shall notify the prosecution of such order.

1 of 1969.

(2) Where leave to appeal is granted to a defendant-appellant the Registrar, if the prosecutor is a private person, shall inquire if he intends to defend the appeal and, if the answer is in the negative, the Registrar shall so inform the Director of Public Prosecutions.

Bail.

11.—(1) Where any person who has appealed to the Supreme Court is in custody and intimates to a judge of that Court that he is desirous of

ORDER IV

appealing to the Court against the order of the Supreme Court, such judge may, if he thinks right to do so, order such person forthwith to enter into recognisances in such amount and with or without sureties in such amount, as such judge may think right, to prosecute his appeal. The Registrar of the Court below shall forward the recognisances of the appellant and his surety or sureties to the Registrar.

(2) If an appellant to whom paragraph (1) of this rule applies does not serve in accordance with these rules a notice of appeal or of abandonment of his appeal within twenty-one days from the order of the Supreme Court, the Registrar of the Court below shall report such omission to the Court who may after due notice to the appellant or his sureties, if any, order an estreat of the recognisances of the appellant and his sureties, and the manner of such estreat shall be that provided for estreating recognisances under the law, and may issue a warrant for the apprehension of the appellant and may commit him to prison.

(3) Where bail is granted by the Court or by the Supreme Court rule 18 of Order III shall apply,

Provided that in paragraph (8) of this rule, reference to the court before which he was convicted shall be deemed to be a reference to the Supreme Court.

12.-(1) Where any order of an inferior court is made of the kind referred to in paragraphs (1) and (5) of rule 17 of Order III and such order has been suspended pending an appeal to the Supreme Court, such suspension shall continue for twenty-one days after the order of the Supreme Court made on such appeal. In case leave to appeal to the Court is granted within such twenty-one days, such order shall be further suspended until the determination of the appeal to the Court. 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.

Temporary suspension of orders.

(2) Where the Supreme Court itself on affirming the order of an inferior court orders that any disqualification, forfeiture or disability attach to a party to an appeal from the order of the Supreme Court, the

ORDER IV

Court may upon application suspend such disqualification, forfeiture or disability until the determination of the proceedings upon appeal.

(3) In any appeal, where any order is suspended as provided by paragraph (1), the judge of the Supreme Court shall give the directions

specified in paragraph (3) of rule 17 of Order III and may direct that such order be not suspended unless the person to whom such order refers shall give security as prescribed in paragraph (4) of rule 17 of Order III.

(4) No proceedings shall be taken on claims under any law against a party to any appeal under section 25 of this Act which are based on the validity of the order of the Supreme Court from which the appeal is brought for the period of twenty-one days from the order of the Supreme Court and, in case leave to appeal to the Court is granted within such twenty-one days, until the determination thereof.

(5) Paragraph (7) of rule 17 of Order III shall apply to an appeal under section 25 of this Act.

Varying order
of restitution or
property.

13. Any person in whose favour or against whom an order of restitution has been made in any criminal cause or matter shall, on the hearing of an appeal brought in such cause or matter under section 25 of this Act, be entitled to be heard by the Court before any order annulling or varying such order of restitution is made.

Application of
rules 19, 22 (1),
23, 25, 26, and 27
of Order III.

14. The following rules contained in Order III shall apply in the case of appeals brought under section 25 of this Act,

- (a) rule 19-(Abandonment);
- (b) rules 22 (1) and 23-(Notification of result of appeal);
- (c) rule 25-(Return of Exhibits); and
- (d) rules 26 and 27-(Taking of evidence before the Court, an examiner or a special commissioner).

APPENDIX A

CIVIL FORMS

Index to Forms

<i>Form No.</i>	<i>Appeal Rules No.</i>	<i>Description of Form</i>
1	Order II-r. 1 (1)	Notice of Appeal.
2	” ” 2 (1)	Notice of Motion for special leave to appeal.
2A	” ” 2 (3)	Application for leave to appeal by respondent.
3	” ” 5 (1)	Notice by Respondent of intention to contend that decision of Court below be varied.
4	” ” 7 (1)	Notice by Respondent of intention to rely upon preliminary objection.
5	” ” 8 (1)	Summons to Parties by Registrar to settle Record.
6	” ” 13 (1) (i) (b)	Affidavit of Service of Notice of Appeal.
7	” ” 13 (2)	Notice to Respondent of filing of Record.
8	” ” 14	Notice of Withdrawal of Appeal.

9	”	” 20 (4)	Bond for Costs on Appeal.
10	”	” 28	Certificate of the Order of the Court.
11	”	” 32	Notice of Taxation.

CIVIL FORM I O. II, r. 1 (1)

IN THE COURT OF APPEAL

Notice of Appeal

Civil Appeal No..... of 20.....

Between

.....	(Plaintiff/Defendant)*	Appellant(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* ofdated the
 day of..... 20..... 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 lower Court 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 thisday of20.....

.....
Appellant (s)

*Strike out words inapplicable.

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

CIVIL FORM 2

0. II, r.2 (1)

IN THE COURT OF APPEAL

Notice of Motion For Special Leave to Appeal

Civil Appeal No..... of 20.....

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.....20..... 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 of20.....

AND FURTHER take notice that the grounds of this application are,

(insert grounds)

DATED this.....day of20.....

..... Applicant or his Attorney-at-law.

To

The Registrar,
Court of Appeal.

And +

*Strike out words inapplicable.
+Insert name of respondent.

CIVIL FORM 2A

O. II, r.2 (3)

IN THE COURT OF APPEAL

Application for Leave to Appeal by Respondent

Civil Appeal No20.....

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

and

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

TAKE NOTICE that upon the hearing of the application for leave to appeal the Respondent herein intends to apply for leave to appeal and to contend that the decision of the (Court below) dated..... day of 20 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 20

.....

Respondent (s)

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

* Strike out the words inapplicable
+ Strike the variation which will be asked for

CIVIL FORM 3

O. II, R. 5 (1)

IN THE COURT OF APPEAL

Notice by Respondent of Intention to contend that Decision of Court Below be varied

Civil Appeal No.....of 20.....

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 20..... 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 of20.....

..... Respondent (s)

To..... (Appellant)

and to the Registrar.

*Strike out words inapplicable.

+State the variation which will be asked.

CIVIL FORM 4

O. II, r. 7 (1)

IN THE COURT OF APPEAL

Notice by Respondent of Intention to Rely upon Preliminary Objection

Civil Appeal No of 20.....

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 thisday of.....20.....

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

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

*Strike out words inapplicable.

CIVIL FORM 5

O. II, r.8 (1)

IN THE COURT OF APPEAL

Summons to Parties by Registrar to Settle Record

Civil Appeal

No.....of 20.....

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 20..... at the hour of in the noon to settle the record of appeal herein.

DATED thisday of.....20.....

To

.....

Registrar (of Court below)

*Strike out words inapplicable.

CIVIL FORM 6 O.II, r. 13 (1) (i)(b)

IN THE COURT OF APPEAL

Affidavit of Service of Notice of Appeal

Civil Appeal No.....of 20.....

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 20..... was duly served
upon..... the Respondent herein, (here state mode
of service).....on the day of 20.....
..... in accordance with the Court of Appeal Rules, Chapter .

Sworn to at the.....)
(address))
on theday of.....))
)
)
.....20.....)

Before me

Justice of the Peace.

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

*Strike out words inapplicable.

CIVIL FORM 7 O. II, r. 13 (2)

IN THE COURT OF APPEAL
Notice to the Respondent of Filing of Record

Civil Appeal No..... of 20.....

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 13 (1) of the Court of Appeal Rules, 1967.

DATED this day of20.....

.....

Registrar (of Court below)

To the Respondent, etc.

.....
*Strike out words inapplicable.

CIVIL FORM 8 O. II, r. 14

IN THE COURT OF APPEAL

Notice of Withdrawal of Appeal

Civil Appeal Noof 20.....

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-mentioned appeal.

DATED thisday of20.....

.....
Appellant(s)

.....

The Registrar,
Court of Appeal

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

*Strike out words inapplicable.

CIVIL FORM 9 O. II, r. 20 (4)
IN THE COURT OF APPEAL
Bond for Costs on Appeal

Civil Appeal Noof 20.....

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, 20.....

WHEREAS a suit is now pending 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 offor 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:

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 } (L. S.)
in the presence of } (L. S.)
 (L. S.)

CIVIL FORM 10

O. II, r. 28

IN THE COURT OF APPEAL

Certificate of the Order of the Court

Civil

Appeal No.....of 20.....

Appeal from the.....

Of the.....

Dated the.....day of20.....

..... Motion

.....Appeal No.

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

v.

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

This appeal coming on for hearing on theday of20.....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 20.....

..... Registrar

*Strike out words inapplicable.

CIVIL FORM 11

O.II, r. 32

IN THE COURT OF APPEAL

Notice of Taxation

Civil Appeal No.....of 20.....

Between

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

and

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

TAKE NOTICE that the Bill of Costs of the herein, will be taxed onthe..... day of 20at the hour ofo'clock in thenoon.

Your absence notwithstanding.

DATED atthisday of20.....

.....

Taxing Master

To the above-named Appellant of.....

and(Respondent) of

*Strike out words inapplicable

COURT OF APPEAL

APPENDIX B

PART I

*Fees of Court in Civil Appeals
To Be Paid to the Registrar of the Court of Appeal under
Order II Rule 29*

\$ ¢

1. On filing notice of appeal against a final judgment or decision, entering the appeal for hearing and on judgment thereunder, an inclusive fee of30.00
2. On filing respondent's notice of intention to contend that decision of court below be varied15.00
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.....20.00
4. On filing notice of appeal against an interlocutory order or decision, entering the appeal for hearing and on judgment thereunder, an inclusive fee of15.00
5. On making any application not otherwise specifically provided for, and for filing judgment or order thereunder, an inclusive fee of15.00
6. On filing bond to secure costs of appeal.....7.50
7. On filing motion for leave to appeal to Privy Council10.00

8. On filing every bond where the appeal is to Privy Council.....7.50
9. On filing order for leave to appeal to Privy Council.....7.50
10. On appointment to settle record on appeal to Privy Council.....5.00
11. On sealing record on appeal to the Privy Council..... 5.00
12. On filing every document or exhibit for which no special fee is provided7.50
13. On taxation of bill of costs, including certificate.20.00
14. On certifying any document as an office copy5.00
15. If in a foreign language, the actual cost of marking and examining the copy, and, in addition, for marking and sealing the copy as an office copy5.00
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.....5.00
17. For a copy of reasons for judgment of a judge or a court, per *folio* of 100 words.1.00
But with a minimum fee,
for one set of reasons, of.....5.00
And with a maximum fee,
for one set of reasons, of.....50.00
18. For a copy of a report of a Registrar, per folio of 100 words.....1.00

19. On perusing and allowing by a judge or Registrar of any bond.....5.00
20. On sealing a writ of *subpoena* not exceeding three persons.....5.00
21. For a certificate of a Registrar for which no special fee is provided5.00
22. On obtaining appointment for examination of a witness before an officer of the Court.....5.00
23. In respect of every witness examined by an officer or other person in his office, for each hour or part of an hour.....10.00
24. For an examination of a witness 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.....5.00
26. For an office copy of any document filed in the Registry per folio of 100 words, or part thereof1.00

PART II

*Fees Payable to Court from which Appeal is Brought under Order II
Rule 29*

\$ c

1. On office copies of any document to be included in record including judge's notes of evidence, for the first folio to consist of 100 words.....1.00 S.I. 91 of 1982
2. On certifying any document as an office copy5.00
3. Transcript of shorthand writers' notes, such fee as may be determined by the Registrar. The fees to be taken in the offices of the Sheriff, Marshal or a Deputy Marshal in respect of any proceeding or act are the same as those which, by the practice of the Supreme Court, are taken or by law are authorised or required to be taken by the Sheriff, Marshal or Deputy Marshal in respect of a like proceeding or act in a cause pending in that court.

PART III

S.I. 91 of 1982

Witnesses', Interpreters', Special Commissioners' and Examiners' Fees

UNDER ORDER II RULE 31

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 a professional man or a person who is earning at a rate in excess of \$4,800.00 *per annum*, \$5.00 per hour but not exceeding \$15.00 per day;
 - (b) in all other cases, at the rate prescribed by the rules of

the Supreme Court.

2. No allowance shall be paid in any criminal proceeding to a witness who is an officer in the public service 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.

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

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, 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, 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, 20 cents per mile or part thereof;
- (b) if motor-cycle transport is used, 10 cents per mile or part thereof;
- (c) if cycle transport is used, 5 cents 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 8

- (a) of this rule shall be increased by an additional 5 cents 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.

Remuneration of Special Commissioners and Assessors

13. A special commissioner or assessor shall be remunerated at the rate of \$5.00 per hour or part thereof, but his remuneration shall not exceed \$25.00 per day.

APPENDIX C

CRIMINAL FORMS

Index of Forms

<i>Form No</i>	<i>Appeal</i>	<i>Description of Form Rules No.</i>
1.	Order III, r 1 & 15	Notice of appeal or application for leave to appeal against conviction or sentence.
2.	” ” 1 & 6	Notice of application for extension of time within which to appeal.
3.	” ” 2 (1)	Judge’s certificate.
4.	” ” 8 (5)	Declaration verifying transcript of shorthand notes.
5.	” ” 14	Notification to appellant of single judge’s decision.
6.	” ” 14	Notice of appeal by appellant from refusal of a single judge.
7.	” ” 16 (2)	Recognisance of appellant Sentenced to payment of a fine.
8.	Order III, r. 16 (2)	Recognisance of sureties for appellant sentenced to a fine.
9.	” ” 16 (3)	Notice of breach of his recognisance to appellant sentenced to a fine.
10.	” ” 16 (3)	Notice to surety for appellant of estreat of recognisances.
11.	” ” 18 (3)	Recognisance of bail of appellant convicted on indictment.

Index of Forms-continued

<i>Form No</i>	<i>Appeal</i>	<i>Description of Form Rules No.</i>
12.	” ” 18 (3)	Recognition of appellant’s sureties.
13.	” ” 18 (5)	Notice to Officer in Charge of Prisons to release appellant on bail.
14.	” ” 18 (6)& (8)	Warrant for arrest of appellant on bail.
15.	” ” 19 (1)	Notice of abandonment.
16.	” ” 19 (2)	Notification of abandonment of appeal.
17.	” ” 22 (1)	Notification to appellant of result of application.
18.	” ” 22 (1)	Notice to authorities of result of application.
19.	” ” 22 (1)	Notification to appellant of the result of his appeal.
20.	Order III, r, 22 (1) & 23 (1)	Notice to authorities of result of appeal.
21.	Order III, r.26 (1)	Order to witness to attend court for examination.

- | | | | | |
|-----|--------------------|---|--------|---|
| 22. | ” | ” | 26 (2) | Appellant’s application for further witness. |
| 23. | ” | ” | 26 (5) | Notice to witness to attend before an examiner |
| 24. | ” | ” | 26 (7) | Caption for deposition of witness examined before examiner. |
| 25. | Order IV, r. 6 (2) | | | Notice of appeal or application. for leave to appeal from an order of the Supreme Court made upon appeal under section 25 of the Act. |
| 26. | ” | ” | 5 | Notice of application for extension of the time within which to appeal. |

CRIMINAL FORM 1 O.III, rr. 1 & 15

IN THE COURT OF APPEAL

Notice of Appeal or Application for Leave to Appeal Against Conviction or Sentence

Criminal Appeal Noof 20.....

TO THE REGISTRAR OF THE COURT OF APPEAL

Name of appellant
Convicted at the (1).....held at.....
Offence of which convicted (2).....
Sentence.....
Date when convicted (3).....
Date when sentence passed (3).....
Name of Prison (4).....

I, the above-named appellant, hereby give you notice that I desire to

appeal to the Court of Appeal against my (5)..... on the grounds hereinafter set forth on page 2 of this notice.

(Signed) (6).....
.....Appellant

DATED this (7)..... day of20.....

QUESTIONS (8)

1. Did the judge before whom you were tried grant you a certificate that it was a fit case for appeal?
2. Do you desire the Court of Appeal to assign you legal aid?
.....

If your answer to this question is “Yes” then answer the following questions,

- (a) What was your occupation and what wages, salary or income were you receiving before your conviction?
.....
.....
- (b) Have you any means to enable you to obtain legal aid for yourself?
3. Is any attorney-at-law now acting for you? If so, give his name and address.....
4. Do you desire to be present when the Court considers your appeal?
- (9)
5. Do you desire to apply for leave to call any witnesses on your appeal?

If your answer to this question is “Yes”, you must also fill in Form 22 and send it with this notice.....

Grounds of Appeal or Application (10)

- (1) Criminal Sessions.
- (2) e.g. Larceny, Forgery.
- (3) Set out the actual date upon which the appellant was convicted.
- (4) If not in custody, here set out appellant's address in full.
- (5) If the appellant wishes to appeal against conviction he must write the word "conviction." If he wishes to appeal against sentence he must write the word "sentence." If he wishes to appeal against both conviction and sentence he must write the words "conviction and sentence".
- (6) This notice must be signed by the appellant. If he cannot write he must affix his mark in the presence of a witness. The name and address of such attesting witness must be given.
- (7) If this notice is signed more than twenty-one days after conviction or sentence appealed against the appellant must also fill in Form 2 and send it with this notice.
- (8) The appellant must answer each of these questions.
- (9) An Appellant is not entitled to be present on the hearing of an application for leave to appeal.
- (10) These must be filled in before the notice is sent to the Registrar. The appellant must here set out the grounds or reasons he alleges why his conviction should be quashed or his sentence reduced.

If one of the grounds set out is "misdirection" by the judge, particulars of such alleged misdirection must be set out in this notice.

The appellant can also, if he wishes, set out, in addition to his above reasons, his case and argument fully.

CRIMINAL FORM 2 O. III, rr. 1 & 6

IN THE COURT OF APPEAL

Notice of Application for Extension of the Time within which to Appeal

Criminal Appeal No..... of 20.....

TO THE REGISTRAR OF THE COURT OF APPEAL:

I, having been convicted of the offence of..... in the.....Court held at..... on the day of..... 20 and being now a prisoner in Her Majesty's Prison at.....* (or now living at),

give you notice that I hereby apply to the Court for an extension of time within which I may give Notice of Appeal (or Notice of Application for leave to Appeal) on the grounds following:-

(Signed)
(or mark)

.....

Applicant

Signature and address of witness attesting mark.

DATED thisday of20.....

You are required to send to the Registrar of the Court, duly filled up Form 1, together with this Notice.

*When applicant for any reason not in custody.

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.

CRIMINAL FORM 3

O. III, r. 2(1)

IN THE COURT OF APPEAL

Judge's Certificate

Criminal Appeal No of 20.....

REG. v.

In theCourt.....
holden at.....

WHEREAS the said..... was
tried and convicted before me, the undersigned, in the said Court on
theday of
on a charge of
and was thereupon sentenced by me to.....
.....

State shortly the
Offence e.g. larceny,
murder, forgery,
etc.

I DO HEREBY CERTIFY that the case is a fit case for an appeal
by
the saidto the Court
upon the following grounds:-

.....

Judge

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

DATED thisday of20.....

CRIMINAL FORM 4 O. III, r. 8 (5)

IN THE COURT OF APPEAL

Declaration Verifying Transcript of Shorthand Notes

Criminal Appeal No..... of 20.....

REG.v.

I,

of.....

do solemnly and sincerely declare that, having been required by the Registrar of the Court of Appeal 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 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 true 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 of20.....

(Signed).....

CRIMINAL FORM 5

O. III, r. 14

IN THE COURT OF APPEAL

Notification to Appellant of a Single Judge's Decision

Criminal Appeal No..... of 20.....

REG. v.

I hereby give you notice that a Judge of the Court of Appeal having considered your application (s) for,

- (a) Leave to appeal;
- (b) Extension of time within which notice of appeal or of application for leave to appeal may be given;
- (c) Permission to be present during the hearing of any proceedings in my appeal;
- (d) Admission to bail;

has refused the application (s) marked.....(and has granted your application (s) marked

If you desire to have the above-mentioned application (s), which have been refused determined by the Court, you are required to fill up the enclosed form and return it to me forthwith.

DATED thisday of20.....

Signed.....
Registrar,
Court of Appeal.

To the above-named.

CRIMINAL FORM 6 O. III, r. 14

IN THE COURT OF APPEAL

Notice of Appeal by Appellant from Refusal of a Single Judge

Criminal Appeal No..... of 20.....

REG. v.

TO THE REGISTRAR OF THE COURT OF APPEAL

I,having received your notification that my application (s) for,

- (a) Leave to appeal;
- (b) Extension of the time within which notice of appeal or application for leave to appeal may be given;
- (c) Permission to me to be present during the hearing of any proceedings in your appeal;
- (d) Admission to bail;

has/have been refused;

DO HEREBY GIVE YOU NOTICE that I desire that the said application(s) shall be considered and determined by the Court (and that as I am not legally represented I desire to be present at the determination of my said application(s))*

(Signed)
(or mark)

.....

Appellant

Signature and address of.....
witness attesting mark.

DATED this.....day
of.....20.....

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 should grant your said application(s) you may do so in the space below.

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

IN THE COURT OF APPEAL

Recognisance of Appellant sentenced to Payment of a Fine

Criminal Appeal Noof 20.....

REG. v.

*Here fill in the Court of trial.

TO WIT: Be it remembered that whereas.....
of..... was on the.....
.....day of.....20.....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 recognisance of
bail himself in the sum of \$.....
..... and with sureties each in the sum of \$
.....to prosecute his said appeal before the Court
of Appeal.

The said.....
.... doth hereby acknowledge himself to owe to Our Lady the Queen the
said sum of \$ of good and lawful money,
to be made and levied of his goods and chattels, land and tenements,
to the use of Our said Lady the Queen, her heirs, and successors, if
he the said fail in the condition
endorsed.

TAKEN and acknowledged this day
of..... 20 at the said Court at and before the judge
of the said Court.

(Signed).....

CONDITION

The condition of the within written recognisances is such that whereas the said
 of 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 prosecute his said appeal and abide by the judgment of such Court, and not depart or be absent from such Court, at any such hearing without leave of such Court, and pay the said sum of \$
 or such sum as such Court may order to the Registrar thereof, then this recognisance shall be void, otherwise of full force and effect.

(Signed).....
Appellant

CRIMINAL FORM 8 O. III, r. 16 (2)

IN THE COURT OF APPEAL

RECOGNISANCE OF SURETIES FOR APPELLANT SENTENCED

TO A FINE

Criminal Appeal No..... of 20.....

REG. v.

TO WIT: Be it remembered that on theday of..... 20..... of.....and.

personally came before the*..... 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, 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.

TAKEN and acknowledged before the said Court on the day and year first above-mentioned.

(Signed)..... Magistrate (etc.)

CONDITION

The condition of the within written recognisance is such that whereas the said..... having been convicted of..... and having been sentenced to pay a fine of \$.....

* Here fill in the name of court of trial.

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 recognisance of bail himself in the sum of \$and withsureties in the sum of \$if the saidshall 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 prosecute his said appeal and abide by the judgment of such Court, and not depart or be absent from such Court at any such hearing without the leave of such Court, then this recognisance shall be void, otherwise of full force and effect.

(Signed).....
Surety

(Signed).....
Surety

CRIMINAL FORM 9 O. III, r. 16 (3)

IN THE COURT OF APPEAL

Notice of Breach of his Recognisances to Appellant sentenced to a Fine

Criminal Appeal No.....of 20.....

REG. v.

TO the above-named.....
appellant

WHEREAS YOU were convicted on theday of
.....20....., of the offence of.....
.....
.....
and were sentenced to the payment of \$....., and in default
of such payment to imprisonment, and you entered into recognisances
in the sum of.....with.....sureties
in the sum ofeach, to prosecute your appeal, and
whereas twenty-one 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 to be holden on
the.....day of
20and then show good cause to the contrary, the court may
order an estreat of your recognisances and those of your sureties, or may
otherwise deal with you according to law.

(Signed).....

*Registrar,
Court of Appeal*

CRIMINAL FORM 10 O. III, r. 16 (3)

IN THE COURT OF APPEAL

Notice to Surety for Appellant of Estreat of Recognisances

Criminal Appeal No..... of 20.....

TO.....

Here fill in Surety's name and address.

of

WHEREAS you the above-named, became duly bound in recognisances as surety, for that the said..... having been convicted of.....and for his said offence fined the sum of \$.....should duly prosecute an appeal in relation to the said conviction before the Court, and whereas the said..... has not so prosecuted his appeal, now I hereby give you notice that at the sitting of the Court on..... next your recognisances may be ordered to be estreated, unless you then show good cause to the contrary.

(Signed).....

*Registrar,
Court of Appeal*

CRIMINAL FORM 11 O. III, r. 18 (3)

IN THE COURT OF APPEAL

Recognisance of Bail of Appellant convicted on Indictment

Criminal Appeal No.....of 20.....

REG. v.

BE IT REMEMBERED THAT WHEREAS.....

was convicted of.....on the
 day of20.....
 (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,
 and has applied for bail pending the determination of his appeal, and has
 been granted bail on entering into his own recognisances in the sum of
 with.....
 sureties, each in the sum of
 the said.....
 personally cometh before me
 the undersigned, being the and
 acknowledges himself to owe to Our Lady the Queen the said sum of
 of good and lawful money, to be made and
 levied of his goods and chattels, lands and tenements to the use of Our
 said Lady the Queen, her heirs and successors, if he the said
 fail in the condition endorsed.

State office.

State office.

TAKEN and acknowledged thisday of.....20.....
atbefore me.

(Signed).....

Office: Magistrate, etc.

CONDITION

The condition of the within written recognisance is such that if 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 such Court and not depart or be absent from such Court at any such hearing without the leave of such Court, and in the meantime not depart from his usual place of abode without the leave of such Court, then this recognisance shall be void, otherwise of full force and effect.

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

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

(Signed).....
Appellant

CRIMINAL FORM 12 O. III, r. 18 (3)

IN THE COURT OF APPEAL

Recognisance of Appellant's Sureties

Criminal Appeal Noof 20.....

REG. v.

BE IT REMEMBERED that on this.....
 day of20.....
and.....
of.....
of.....
 personally came before me the undersigned being the
 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, 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 in lawful custody in Her Majesty's Prison at
fail in the condition hereon endorsed.

TAKEN and acknowledged before me the undersigned, the day and year first above-mentioned

.....
Magistrate, etc.

CONDITION

The condition of the within written recognisance is such that whereas the said.....having been convicted ofand 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 such Court for bail, pending the determination of his said appeal, has been granted bail on his entering into recognisances in the sum of \$.....if the said..... shall personally appear and surrender himself at and before such Court at each and every hearing of his said appeal to such Court and at the final determination thereof, and then and there abide by the judgment of such Court, and not depart or be absent from such Court at any such hearing without the leave of such Court and in the meantime not depart from his usual place of abode without the leave of such Court, then this recognisance shall be void, otherwise of full force and effect.

(Signed).....
Surety

(Signed).....
Surety

CRIMINAL FORM 13 O. III, r. 18 (5)

IN THE COURT OF APPEAL

Notice to Officer in Charge of Prisons to Release Appellant on Bail

Criminal Appeal No.....of 20.....

REG. v.

TO THE OFFICER IN CHARGE OF PRISONS

WHEREAS.....

was convicted of
on theday of.....20.....
(and was thereupon sentenced to.....)
and now is in lawful custody in Her Majesty's Prison at.....

AND WHEREAS.....
having duly appealed to the Court of Appeal against such conviction (and/
or sentence) (and has now appealed against the Order of the Supreme
Court made on the.....day of.....20.....)
and having duly applied to that Court/to the Court, has been granted
bail by the said Court pending the determination of his said appeal on
entering into recognisances himself in the sum of \$.....
....., (and with.....)
sureties each in the sum of \$.....), in
the Forms provided under these Rules.

AND WHEREAS I, the Registrar of the said Court of Appeal 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 recognisance of the said.....
and recognisances from

sureties for the said.....
and the said recognisances 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.

DATED thisday of20.....

(Signed).....

*Registrar,
Court of Appeal*

CRIMINAL FORM 14 O. III, r. 18(6)&(8)

IN THE COURT OF APPEAL

Warrant for Arrest of Appellant on Bail

Criminal Appeal No.....of 20.....

REG. v.

(a) State Office,
head of Prisons.

TO the Constables of the Police Department and to the (a) of Her Majesty's Prison at.....

WHEREAS.....

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

(a) State Office,
Head of Prisons.

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

.....
Presiding Judge

DATED this day of..... 20.....

CRIMINAL FORM 15 O. III, r. 19 (1)

IN THE COURT OF APPEAL

Notice of Abandonment

Criminal Appeal No.....of 20.....

REG. v.

To the Registrar of the Court of Appeal

I,.....having
been convicted ofin
the.....Court at
..... and having been desirous of appealing to the Court
against my said conviction (or the sentence of
passed upon me on my said conviction) do hereby give you 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.

For signature see
Order III, rule 3.

(Signed).....
(or mark)

Signature and address of.....
witness attesting mark.

DATED this..... day of 20.....

CRIMINAL FORM 16 O. III, r. 19 (2)

IN THE COURT OF APPEAL

Notification of Abandonment of Appeal

Criminal Appeal No of 20.....

REG. v.

To the Director of Public Prosecutions

*This is to give you notice that I have this day received from the above-named
a notice of abandonment of all proceedings in regard to his appeal to the Court. The said notice is dated the
 day of20.....

By Order III rule 19 (1) of the Court of Appeal Rules, 1965, upon the notice of abandonment being given the appeal shall be deemed to have been dismissed by the Court.

DATED this..... day of 20.....

.....

Registrar of the Court

*Send copies addressed to,

- (a) The Secretary to the Governor-General for the information of the Governor-General if the conviction involved a sentence of death.
- (b) Director of Public Prosecutions or other respondent.
- (c) The Prison Authority, and
- (d) The Registrar of the Court below.

CRIMINAL FORM 17 O. III, r. 22 (1)

IN THE COURT OF APPEAL

Notification to Appellant of Result of Application

Criminal Appeal Noof 20.....

REG. v.

To the above-named Appellant.

This is to give you notice that the Court has 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) permission to be present during the proceedings in your appeal;
- (d) admission to bail;
- (e) { insert here nature of any other application that may have been made; }

and has finally determined the same and has this day given judgment to the effect following.

.....
Registrar of the Court of Appeal

DATED this.....day of20.....

CRIMINAL FORM 18 O. III, r. 22 (1)

IN THE COURT OF APPEAL

Notice to Authorities of Result of Application

Criminal Appeal Noof 20.....

REG. v.

To the Director of Public Prosecutions*

To.....

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 application for leave to appeal;
- (c) permission to be present during the proceedings in his appeal;
- (d) admission to bail;
- (e) { insert here nature of any other application that may have been made , }

the Court has this day finally determined his said applications and has given judgment to the effect following.

.....

Registrar of the Court of Appeal

*Send copies addressed to,

- (a) The Secretary to the Governor-General for the information of the Governor-General if sentence of death has been passed.
- (b) The Director of Public Prosecutions or other respondent.
- (c) The Prison Authority, and
- (d) The Registrar of the Court below.

Here set out the decision of the Court.

CRIMINAL FORM 19

O.III, r.22 (1)

IN THE COURT OF APPEAL

Notification to Appellant of the Result of his Appeal

Criminal Appeal No.....of 20.....

REG. v.

To the above-named Appellant:

THIS IS TO GIVE YOU NOTICE that the Court, having considered the matter of your appeal, has finally determined the same and have this day given judgment to the effect following.

.....

Registrar of the Court of Appeal

DATED thisday of 20.....

CRIMINAL FORM 20 O. III, rr. 22 (1) and 23 (1)

IN THE COURT OF APPEAL

Notice to Authorities of Result of Appeal

Criminal Appeal Noof 20.....

REG. v.

To the Director of Public Prosecutions*

To.....

THIS IS TO GIVE YOU NOTICE that the above-named having appealed against his conviction of the offence of..... before the Court, and/or the sentence of passed upon him for the offence of..... by the..... Court, 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.

.....

Registrar of the Court of Appeal

DATED thisday of 20.....

*Send copies addressed to:-

- (a) The Secretary to the Governor-General for the information of the Governor-General if sentence of death is involved.
(b) The Director of Public Prosecutions or other respondent.
(c) The Prison Authority, and
(d) The Registrar of the Court below.

CRIMINAL FORM 21 O. III, r. 26 (1)

IN THE COURT OF APPEAL

Order to Witness to attend Court For Examination

Criminal Appeal Noof 20.....

REG. v.

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

Name, etc., of
witness.

WHEREAS on good cause shown to the Court 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 at ontheat.....o'clock in thenoon.

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 of which you may have had notice so to produce.

.....
Registrar of the Court of Appeal

DATED this.....day of..... 20.....

CRIMINAL FORM 22 O. III, r. 26 (2)

IN THE COURT OF APPEAL

Appellant's Application for Further Witness

Criminal Appeal Noof 20.....

REG. v.

I,.....
 having appealed to the Court, hereby request you to take notice that I
 desire that the said Court shall order the witnesses hereinafter specified
 to attend the Court and be examined on my behalf.

For signature see
 Order III, rule 3.

(Signed).....
 (or mark) *Appellant*

Signature and address of
 witness attesting mark.

DATED this day of 20.....

You are required to fill up the following and sign the same,

1. Names and addresses of witnesses.
2. Whether such witnesses have been examined at trial.
3. If not, state the reason why they were not so examined.
4. On what matters do you wish them to be examined on the appeal.

State shortly the evidence you think they can give.

CRIMINAL FORM 23 O. III, r. 26 (5)

IN THE COURT OF APPEAL

Notice to Witness to Attend Before an Examiner

Criminal Appeal Noof 20.....

REG. v.

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

WHEREAS on good cause shown to the Court you have been ordered to be examined as 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 at (a)on the.....day of.....20..... before (b) ato'clock in the..... noon.

(a) Specify place of examination.

(b) Fill in examiner's name.

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 had notice so to produce.

.....
Registrar of the Court of Appeal

DATED this day of 20.....

CRIMINAL FORM 24 O. III, r. 26 (7)

IN THE COURT OF APPEAL

Caption for Deposition of Witness examined before Examiner

Criminal Appeal No.....of 20.....

REG. v.

The deposition (on oath) taken before me the undersigned, being an examiner duly appointed by the Court in that behalf of
.....of.....and.....
.....of.....witnesses,
examined before me under an order of the said Court dated the day
of.....20.....in the presence of the said.....
.....Appellant (or of his professional representative)
and the Respondent at
on the day of 20.....which said Appellant (or his professional
representative) and Respondent had full opportunity of asking questions
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.....
of who (upon oath
duly administered by me) said as follows:-

CRIMINAL FORM 25 O. IV, r. 6 (2)

IN THE COURT OF APPEAL

Notice of Appeal or Application for Leave to Appeal from an Order of the Supreme Court made upon Appeal under Section 25 of the Court of Appeal Act

Criminal Appeal No.....of 20.....

Between

..... (Prosecutor/Defendant) Appellant

and

..... (Prosecutor/Defendant) Respondent

To the Registrar of the Court

TAKE NOTICE that the Prosecutor/Defendant* Appellant desires to appeal against the judgment/order that part of the judgment/order* more particularly stated in paragraph 2 hereof contained in a judgment/ order of the Supreme Court dated theday of..... 20upon the grounds set out in paragraph 3 and will at the hearing seek the order 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. (State the offence or misconduct, the subject of the criminal cause or matter, and, the finding and sentence or order of the inferior court and of the Supreme Court thereon.)

*Stike out words inapplicable.

3. (a) (State whether appeal is brought under paragraph (b)

of section 25 (1) of the Court of Appeal Act, and, if so, state the grounds.)

(b) (If not under section 25 (1), (b), state the ground of law.)

4. (State the order sought from the Court of Appeal).

5. Persons directly affected by the appeal.

Name *Address*

(1)

(2)

(3), etc.

Questions to be answered by the appellant (only to be answered by a prosecutor-appellant)

A. Has the Supreme Court granted leave to appeal? If so, attach the Certificate of the Registrar of the Supreme Court to this Form.

B. Is the defendant-respondent in custody? If so, in what prison? (only to be answered by a defendant-appellant)

Questions

Answers

1 . Do you desire the Court of Appeal to assign you legal aid?
If your answer to this question is "Yes" then answer the following questions:-

(a) What was your occupation and what wages, salary or income were you receiving before conviction?

- (b) Have you any means to enable you to obtain legal aid for yourself?
- 2. Is any attorney-at-law now acting for you?
- If so, give his name and address
- 3. Are you in custody?
- If so, state,
- (a) the Prison
- (b) whether you desire to be present when the Court hears your appeal

DATED thisday of20.....

(Signed).....

Appellant (s)

IN THE COURT OF APPEAL

Notice of Application for Extension of the Time within which to Appeal

Criminal Appeal No of 20.....

To the Registrar of the Court

TAKE NOTICE that the Prosecutor/Defendant Appellant hereby applies to the Court for an extension of time within which to give notice of appeal/notice of application for leave to appeal against the judgment/order of the Supreme Court contained in a judgment/order dated the..... day of20..... and more particularly stated in the notice of appeal attached hereto. *

The grounds for this application to extend the time are as follows.

.....
Applicant

NOTE:

The applicant is required to send to the Registrar of the Court, duly filled up, Form 25, together with this notice.

* Form 25
Here set out clearly and concisely the reason for the delay in giving such notice and the ground on which it is submitted that the Court should extend the time.