CHAPTER 52
THE COURT OF APPEAL RULES, 2005

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THE COURT OF APPEAL ACT
(CHAPTER 52)

THE COURT OF APPEAL RULES, 2005

The President, in exercise of the powers conferred by section 8 of the Court of Appeal Act, Chapter 52, hereby makes the following Rules -

PART 1

GENERAL

Short title and commencement.

1. (1) These Rules may be cited as the Court of Appeal Rules, 2005.

(2) These Rules shall come into force on the 1st day of July, 2005.

Interpretation.

2. In these Rules -

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"Act" means the Court of Appeal Act;

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

"court" means the Court of Appeal;

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

"file" means file in the Registry of the Court of Appeal, and "filed" and "filing" have corresponding meanings;

Ajudge@ includes the presiding officer of any court from which an appeal lies to the court;

Alegal representative@ means any counsel and attorney admitted to practice in the courts of The Commonwealth of The Bahamas;

Aorder@ includes decree, judgment, sentence or decision of a court below or a judge thereof;

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

APresident@ means the President of the Court of Appeal;

Aprison authority@ means the Superintendent of Prisons and includes the Deputy Superintendent or other officer discharging his duties;

Aproper officer of the court below@ means the Registrar of the Supreme Court or the Magistrate of the court from which the appeal is brought;

Arecord@ 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;

ARegistrar@ means the Registrar of the Court of Appeal and any Deputy Registrar or other officer for the time being discharging the duties of the Registrar or Deputy Registrar; and

Arespondent@ means B

(a) in a civil appeal, any party, other than the appellant, directly affected by the appeal and includes his legal representative;

(b) in a criminal appeal, the person who under the provisions of the Act has the duty of appearing for the Crown or who undertakes the defence of the appeal.

Forms.

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

Sittings of the court.

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

(a) in the Court of Appeal at Claughton House, Shirley and Charlotte Streets, or in such other place as the the President may direct;

(b) throughout the year, except during the month of August, unless circumstances require otherwise.

(2) At least seven days before the first day of each month, the Registrar shall cause to be posted on -

(a) the notice board of the court; and

(b) the official website of the court,

a Cause List of the causes to be heard for the month following.

(3) The court, in its discretion, may hear any appeal and deal with any other matter whether or not the same has been included in the Cause List so published.

(4) The President may at any time alter the Cause List.

(5) Paragraph (2) of this rule shall not apply to the hearing of any matter by a single judge.

Court=s Registry.

5. The Registry of the court shall be open every day of the year except Saturdays, Sundays and Public Holidays, from the hour of nine thirty o=clock in the morning until the hour of four o=clock in the afternoon.

Registers of appeals.

6. (1) The Registrar shall cause to be kept separate registers of all civil and criminal appeals filed, including 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.

(3) Every appeal filed shall indicate on the top left hand corner of the form the abbreviation showing the specific category of the appeal as set out in **Schedule.** the Schedule.

(4) The Registrar may refuse to receive, or allow to be filed, any appeal that the appellant may attempt to file out of time.

Service of documents.

7. (1) Subject to any provision contained in these Rules relating to the service of any particular document, service of the documents mentioned in Column 1 hereunder shall be effected by the appellant or the intended appellant by leaving or sending a true copy thereof in the manner specified in Column 2 –

Column 1	Column 2
(a) all documents required to be served - (i) on parties to an action who have not filed an address for service; and (ii) on a person not a party to the appeal;	by personal service – (i) on the party or his authorised agent; or (ii) on the person not a party to the appeal;
(b) all documents required to be served on parties who have an address for service	(i) by leaving the document at the address for service with a person employed at or associated with such place of business; or (ii) by registered post to such address, in which case, such service shall be deemed to be effected five days after the posting thereof.

(2) An affidavit of service shall be filed within seven days from the date of service as proof thereof.

(3) If it be made to appear to a judge upon application supported by affidavit that prompt personal service of a document cannot be effected, the judge may make such order for substituted service as may be appropriate.

(4) Subject to the provisions of rule 4(2), any document required to be served under these Rules may be served by -

(a) personal service;

(b) leaving the document at the address for service with a person resident at or belonging to such place;

(c) registered post to such address, in which case service shall be deemed to be effected five days after the posting thereof;

(d) facsimile transmission;

(e) electronic mail;

(f) posting same on the court=s official website (www.court ofappeal.org.bs); or

(g) telephone.

(5) Proof of service of a document served by means referred to in subparagraphs (d), (e) and (g) of paragraph (4), may be proved by -

(a) a facsimile transmission verification report;

(b) an electronic mail return receipt; or

(c) a record of the details of the telephone conversation.

Right of audience.

8. (1) In all proceedings before the court, the parties may appear in person or by any legal representative appearing on behalf of that party.

(2) In all proceedings before the Registrar and in all preliminary and interlocutory proceedings and applications, the parties thereto may appear in person or may be represented by a legal representative.

Extension of time.

9. (1) The Court may, on such terms as it thinks just, by order B

(a) extend the period prescribed by these Rules for the doing of anything to which these Rules apply;

(b) extend the period specified in any judgment, order or direction of the court, or of the court below, for the doing of anything to which the judgment, order or direction relates; or

(c) direct a departure from these Rules in any other way where this is required in the interests of justice.

(2) The power of the court, under the provisions of paragraph (1), to extend any period so prescribed or specified, is exercisable notwithstanding the expiration of the period so prescribed or specified.

PART II

CIVIL APPEALS FROM THE SUPREME COURT

Notice of appeal.

10. (1) An appeal to the court shall be by way of re-hearing and shall be brought by notice of appeal motion in Form 1 in Appendix A (in this Part referred to as Anotice of appeal@).

(2) A notice of appeal may be given either in respect of the whole or in respect of any specified part of the judgment or order of the court below and every such notice shall specify the grounds of the appeal and the precise form of the order which the appellant proposes to ask the court to make.

(3) Except with the leave of the court, the appellant shall not be entitled on the hearing of an appeal to rely upon any grounds of appeal, or to apply for any relief, not specified in the notice of appeal.

Time within which to appeal.

11. (1) Every notice of appeal shall be filed and a copy thereof served by the appellant upon all parties to the proceedings in the court below who are directly affected by the appeal -

(a) in the case of an appeal from an interlocutory order, fourteen days;

(b) in any other case, six weeks,

calculated from the date on which the judgment or order of the court below was pronounced or made.

(2) In the case of an appeal from an award or determination by an arbitrator, tribunal or such other authority, a notice of appeal shall be filed and a

copy thereof served by the appellant upon all parties directly affected by the appeal within six weeks from the date on which the award or determination was made.

Appeal not to operate as a stay of execution.

12. (1) Except so far as the court below or the court may otherwise direct B

(a) an appeal shall not operate as a stay of execution or of proceedings under the decision of the court below;

(b) no intermediate act or proceeding shall be invalidated by an appeal.

(2) On an appeal from the Supreme Court, interest at six per cent per annum for such time as execution has been delayed by the appeal shall be allowed unless the court otherwise orders.

Settling record of appeal.

13. (1) The Registrar shall upon an appeal being filed, and with not less than seven days notice, summon the parties before him in Form 2 in Appendix A B

(a) to settle the list of documents which shall comprise the record and shall -

(i) along with the parties, 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, taking special care to avoid duplication of

documents and unnecessary repetition of headings, but the documents intended to be omitted shall be enumerated in a list at the end of the record; and

(ii) if the Registrar or any party objects to the inclusion of a document on the ground that it is unnecessary or irrelevant and the other party nevertheless insists upon it being included, include the document and the record shall, with a view to the subsequent adjustment of the costs of and incidental to the inclusion of such document indicate the fact that, and the party by whom, the inclusion of the document was objected to;

(iii) in the event that only the appellant is present at the appointed time and provided that notice has been duly served on the other party, settle the record as far as practicable; and

(iv) in the event that –

(aa) only the respondent is present at the appointed time; or

(bb) neither of the parties are present at the appointed time,

and provided that notice has been duly served on all parties, certify such fact to a judge, who may thereupon order that the appeal stands dismissed either with or without costs or otherwise as the judge thinks fit;

(b) to fix the amount to be deposited by the appellant or secured by bond for -

(i) the due prosecution of the appeal;

(ii) security for costs, but such amount may, upon application by either party to a single judge, be subject to review; and

(c) to fix the time within which -

(i) the record shall be prepared and filed by the appellant; and

(ii) the amount fixed under paragraph (b) must be deposited or secured by bond.

(2) In exceptional circumstances, the Registrar may at the written request of either party and with the written consent of both parties, with not less than five days notice proceed under paragraph (1) –

(a) via teleconference, provided that such communication is recorded by mechanical means of some sort; or

(b) in such other manner as the Registrar in his discretion thinks fit.

(3) The appellant shall within such time as the Registrar directs under paragraph (1)(c) -

(a) prepare and file the record of appeal;

(b) deposit such sum or enter into such bond in Form 8 in Appendix A as the Registrar shall have fixed under paragraph (1)(b).

(4) No deposit or bond shall be required to be paid or secured by the Crown or any statutory body.

(5) An affidavit of compliance shall be filed by the appellant upon satisfying the conditions of the Registrar's order.

(6) The Registrar shall, in determining whether to fix a sum to be deposited or secured by bond for security for costs -

(a) take into consideration the provisions of Order 23, r 1 of the Supreme Court Rules; and

(b) satisfy himself that a written demand was made by the respondent and either -

(i) refused; or

(ii) an offer of security was made by the appellant and not accepted by the respondent.

(7) The Registrar shall notify all parties in Form 3 of Appendix A that an appeal has been dismissed pursuant to paragraph 13(1)(a)(iv).

(8) The court may, upon application, in its discretion for good and sufficient cause, order that an appeal dismissed under this rule be restored upon such terms as the court thinks fit.

Non-compliance with Registrar's Order.

14. (1) If the appellant fails to comply with any of the requirements of rule 13 (3), the Registrar shall certify such fact to a judge who shall thereupon order that the appeal stands dismissed either with or without costs, and shall cause the appellant and the respondent to be notified in Form 3 of Appendix A of the terms of his order.

(2) Where an appeal has been dismissed under paragraph (1), a respondent who has given notice under rule 20 may give notice of appeal and the provisions of rule 10 shall apply as if the appeal were brought under that rule.

(3) If the respondent alleges in writing addressed to the Registrar that the appellant has failed to comply with a part of the requirements of rule 13 (3), a judge, if satisfied that the appellant has so failed, may dismiss the appeal for want of due prosecution or make such order as the justice of the case may require.

(4) An appellant whose appeal has been dismissed under this rule may apply to the court by motion that the appeal be restored.

(5) The court may in its discretion for good and sufficient cause order that such appeal be restored upon such terms as it thinks fit.

Preparation of record.

15. (1) Every document or paper required by these Rules to be filed or left with the Registrar shall -

(a) be legibly duplicated or typewritten with black ink upon strong white paper of good quality;

(b) be eleven inches in height and eight and a half inches in width, having a margin, not less than 12 inches wide to be left blank on the left side of the face of the paper and on the right side of the reverse; and

(c) contain a space of not less than three eighths of an inch between every two lines.

(2) There shall be an index to the record and every page thereof shall be numbered consecutively.

(3) All correspondence and exhibits shall be arranged in chronological order at the end of the record.

(4) The Registrar may refuse to receive, or allow to be filed, any documents including carbon copies, not strictly conforming to the requirements of paragraph (1), and the court may disallow the costs of any such document notwithstanding that it may have been filed or received.

Setting appeal down for

16. When the record has been prepared and filed, the Registrar shall, upon the filing of an affidavit of compliance by the appellant pursuant to rule 13(5),

hearing.

set down the appeal for hearing before the court, and thereupon give notice by any of the means set out in rule 7(4) to the appellant and to all parties upon whom the notice of appeal was served.

Evidence of court below.

17. (1) A person who desires to appeal to the court from a judgment of the Supreme Court given in its original jurisdiction, shall be entitled -

(a) on making, written application to the Registrar of the Supreme Court; and

(b) on payment of the prescribed fee,

to a copy of the notes of evidence taken by the trial judge or, as the case may be, of the transcription of the evidence and proceedings mechanically recorded

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pursuant to section 77 of the Supreme Court Act.

(2) If no written judgment is given by a judge of the court below at the time of giving judgment, where any record of the oral judgment whether in shorthand or long hand or however otherwise recorded, has been made by counsel

or by a person employed by such court, such record or a transcript thereof shall be submitted to the judge who may approve the same in whole or in part or himself prepare a note of his judgment, and such note and every such approved record or transcript shall be included in the record.

(3) On the hearing of an appeal the court shall have power -

(a) if the notes of the judge of the court below or a transcript of the evidence are not produced; or

(b) 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.

Evidence on appeal.

18. Where a question of fact is involved in an appeal, the evidence taken in the court below bearing on such question shall, subject to any direction of the court, be brought before the court as follows -

(a) in the case of evidence taken by affidavit, by the production of such affidavits, or of office copies thereof;

(b) in the case of evidence given orally, by the production of a record of the court made in accordance with section 77 of the Supreme Court Act or by such other means as the court may direct.

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Copies of exhibits.

19. (1) Any party may apply to the Registrar of the Supreme Court 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 in the court below shall remain in the custody of the court below unless requested in writing by the Registrar, 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.

(3) The Registrar shall permit a party for the purpose of preparing

his record to take copies of all such documents and the court or Registrar may allow the return of any document to any party pending the hearing of the appeal and subject to such conditions as may be imposed by the court or the Registrar.

Respondent=s notice.

20. (1) A respondent who, not having appealed from the decision of the court below, desires to contend on the appeal that the decision of that court should be varied, either in any event or in the event of the appeal being allowed in whole or in part, shall give notice to that effect (Form 4 in Appendix A), specifying the grounds of that contention and the precise form of the order which he proposes to ask the court to make, or to make in the event that the appeal be allowed, as the case may be.

(2) A respondent who desires to contend on the appeal that the decision of the court below should be affirmed on grounds other than those relied upon by that court shall give notice to that effect specifying the grounds of that contention.

(3) Except with the leave of the court, a respondent shall not be entitled on the hearing of the appeal –

(a) to contend that the decision of the court below should be varied upon grounds not specified in a notice given under this rule;

(b) to apply for any relief not so specified; or

(c) to support the decision of the court below upon any grounds not relied upon by that court or specified in such a notice.

(4) Any notice given under this rule (in this part referred to as a Arespondent=s notice@) shall be filed and a copy thereof shall be served on the appellant, and upon all parties to the proceedings in the court below who are directly affected by the contentions of the respondent, and shall be served within fourteen days after the service of the notice of appeal on the respondent.

Amendment of notice of appeal or respondent=s notice.

21. A notice of appeal or a respondent=s notice may be amended -

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

(b) without the leave of the court, by supplementary notice, served upon each of the parties upon whom the notice to be amended was served, not later than seven days before the date set down for the hearing of the appeal.

Notice of preliminary objection to be filed.

22. (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 (Form 5 in Appendix A) together with four copies thereof with the Registrar within the same time.

(2) If the respondent fails to comply with this rule, the court may – (a) refuse to entertain the objection;

(b) adjourn the hearing thereof at the cost of the respondent; or

(c) make such other order as it thinks fit.

Directions of the court as to service.

23. (1) The court may in any case direct that the notice of appeal be served upon any party to the proceedings in the court below on whom it has not been served, or upon any person not party to those proceedings.

(2) In any case in which the court directs the notice of appeal to be served on any party or person, the court may also direct that any respondent=s notice shall be served upon him.

(3) The court may in any case where it gives a direction under this rule -

(a) postpone or adjourn the hearing of the appeal for such period and upon such terms as may be just; and

(b) give such judgment and make such order on the appeal as might have been given or made if the persons served in pursuance of the direction had originally been parties.

General powers of the court.

24. (1) In relation to an appeal, the court shall have all the powers and duties as to amendment and otherwise of the Supreme Court.

(2) The court shall have full discretionary power to receive further evidence upon questions of fact, either by oral examination in court, by affidavit, or by deposition taken before an examiner or commissioner:

Provided that in the case of an appeal from a judgment after trial or hearing of any cause or matter upon the merits, no such further evidence (other than evidence as to matters which have occurred after the date of the trial or hearing) shall be admitted except on special grounds.

(3) The court shall have power to draw inferences of fact and to give any judgment and make any order which ought to have been given or made, and to make such further or other order as the case may require.

(4) The powers of the court under the foregoing provisions of this rule may be exercised notwithstanding -

(a) that no notice of appeal or respondent=s notice has been given in respect of any particular part of the decision of the court below or by any particular party to the proceedings in that court; or

(b) that any ground for allowing the appeal or for affirming or varying the decision of that court is not specified in such a notice,

and the court 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.

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

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

Powers of the court as to new trials.

25. (1) On the hearing of any appeal 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.

(2) A new trial shall not be ordered on the ground –

(a) of misdirection, or of the improper admission or rejection of evidence;

(b) that 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 miscarriageof justice has been thereby occasioned.

(3) 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 (2) of this rule 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.

(4) 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 -

(a) 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;

(b) with the consent of the party entitled to receive or liable to pay 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 the damages awarded by a jury.

(5) A new trial shall not be ordered by reason of the ruling of any judge that a document is sufficiently stamped or does not require to be stamped.

Application of Part II to applications for new trials.

26. This Part (except so much of paragraph (1) of rule 10 as provides that an appeal shall be by way of rehearing, and except paragraph (1) of rule 25) applies to an application to the court for a new trial or to set aside a verdict, finding or judgment after trial with or without a jury, as it applies to an appeal to that court, and references in this Part to an appeal and to an appellant shall be construed accordingly.

Method of applications.

27. (1) Except as otherwise provided by these Rules, every application to a judge of the court shall be by Notice of Motion in Form 6 of Appendix A.

(2) Any application to the court for leave to appeal (other than an application made after the expiration of the time for appealing) shall be made ex parte in the first instance.

(3) Notwithstanding paragraph (2), if it appears to the court that the other parties should be present, then, the court shall adjourn the application and give directions for the service of notice thereof upon the party or parties affected, and if on the adjourned application leave to appeal is refused the court may make such order as to the costs of any such party as may be just.

(4) Where an ex parte application has been refused by the court below, an application for a similar purpose may be made to the court ex parte within seven days from the date of the refusal.

(5) Wherever under the provisions of the Act or of these Rules an application may be made either to the court below or to the court, it shall be made in the first instance to the court below.

Withdrawal of appeal.

28. (1) An appellant who desires to withdraw an appeal may do so by filing a notice in Form 7 in Appendix A and such appeal shall stand dismissed with costs to the date on which such notice is filed.

(2) The appellant 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.

Applications to a single judge.

29. (1) In any cause or matter pending before the court, a single judge of the court may, upon application, make an order -

(a) fixing security for costs, whether or not upon application to review a decision of the Registrar made under paragraph 13(1)(b)(ii);

(b) for the issue of a certificate that any point of law involved in an appeal is one of general public importance;

(c) for a stay of execution on any judgment appealed from pending the determination of such appeal;

(d) for 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) for an extension of time; and

(f) 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 the court.

(3) An application made under paragraph (1) shall be made by

way of summons and shall be supported by affidavit, a copy of which shall be served with the summons.

(4) Where an application 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.

Application for security for costs.

30. (1) An application for security for costs must be made to the court within twenty-one days of a notice of appeal being served.

(2) No application for security for costs may be made unless the applicant has made a prior written demand for such security and if the demand is refused or if an offer of security is made by the appellant and not accepted by the respondent, the court shall in dealing with the costs of the application consider which of the parties has made the application necessary.

(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 made as in Form 8 in Appendix A.

Non-appearance of appellant and

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

(2) When an appeal has been struck out or dismissed owing to

application to re-enter after dismissal.

non-appearance of the appellant, the court may, on application by the appellant by notice of motion, supported by an affidavit, 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.

(3) An application for re-entry of an appeal under this rule shall be made within twenty-one days from the date of the judgment or order sought to be set aside.

Non-appearance of respondent and application to set aside judgment.

32. (1) If a respondent fails to appear when an appeal is called on for hearing the court may proceed to hear the appeal in his absence.

(2) Where an appeal has been heard in the absence of the respondent and a judgment has been given therein adverse to the respondent, the respondent may apply by notice of motion to the court to set aside such judgment and re-hear the appeal and the court may, if it thinks fit, and on such terms as to costs or otherwise, as it may deem just, direct the appeal to be re-entered for hearing.

(3) An application under paragraph (2) must –

(a) be made within twenty-one days from the date of the judgment sought to be set aside; and

(b) be supported by an affidavit setting forth the reasons and grounds for the application.

(4) The court may in its discretion set aside the judgment 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.

Judgment of court to be filed in court below.

33. A certificate under the seal of the court and the hand of the Registrar (Form 9 in Appendix A) setting out the effect of the judgment of the court shall be forwarded to the Registry of the court below, and the judgment shall be enforced by that court.

Court fees.

34. Except as is otherwise provided, the court fees prescribed in Appendix C shall be charged in respect of the matters to which they are respectively assigned and shall be collected and received by impressed stamps.

Taxation of costs.

35. (1) Where the costs of an appeal are allowed, costs may either be -

(a) fixed by the court at the time when judgment is given;

(b) agreed upon by the parties at the time when judgment is given; or

(c) ordered to be taxed.

(2) A party entitled to have costs taxed as ordered by the court shall begin proceedings for the taxation of those costs by filing within three months after the judgment, direction or order was pronounced or made -

(a) a detailed and accurate account of the Bill of Costs as shown in Form 10 of Appendix A;

(b) a statement of the parties;

(c) an affidavit verifying any claim by or on his behalf for disbursements; and

(d) legible copies of all receipts and invoices necessary to support such claims for disbursements or other sums paid,

and in the event a party fails to file within the specified time any of the documents referred to in paragraphs (a) – (d), the Registrar may disallow such item or items due to the failure to submit a particular document.

(3) The Registrar shall be the taxing officer and shall within not less than seven days, notify the party applying to tax his costs and any other party entitled to be heard in the taxation of the day and time appointed for the taxation.

(4) The taxing officer may request such further documentation or submissions to substantiate a disputed or questionable claim and such further documentation shall be filed within seven days of the request, failing which the Registrar may disallow the disbursement in question.

(5) If a party entitled to be heard on a taxation does not attend within a reasonable time after the time appointed for the taxation, the Registrar, if satisfied that the party had due notice of the time appointed, may proceed to tax the Bill of Costs in his absence.

(6) Costs in respect of out of pocket expenditure such as –

(a) meals;

(b) accommodation, hotel or otherwise;

(c) air travel and ground transportation;

(d) photocopying; and

(e) time spent by the applicant's support and administrative staff acting in their capacity in connection with the proceedings,

will generally not be allowed, but may in the sole discretion of the taxing officer be allowed if the taxing officer considers such expenses to be necessary and reasonable.

(7) Professional fees of counsel shall be allowed only in respect of

counsel who presents the appeal, unless the court certifies that the appeal required two or more counsel.

(8) No brief fee of counsel shall be allowed by the taxing officer unless supported by a voucher or receipt duly authenticated by the party paying the brief fee.

(9) Where an appeal is presented by Queens Counsel, costs will generally be allowed to such counsel and any junior counsel who appeared with him, unless the court directs otherwise.

(10) The taxing officer shall not allow any costs charged by a counsel and attorney in respect of advice given to that counsel and attorney by any

other counsel and attorney, unless otherwise directed by the court.

(11) If counsel is claiming costs calculated on an hourly basis, he shall produce, if requested to do so by the taxing officer, accurate records which shall contain -

(a) the date on which the work was done;

(b) the amount of time spent on the work; and

(c) a brief description of the work carried out,

and in the event that the party fails so to do, such failure may result in a claim being disallowed in respect of such work.

(12) In determining whether or not the claim by counsel is reasonable or excessive, the taxing officer shall have regard to all the relevant circumstances, and in particular to -

(a) the complexity of the item or of the cause or matter in which it arises and the difficulty or novelty of the question involved;

(b) the skill, specialised knowledge and responsibility required of, and the time and labour expended by counsel;

(c) the number and importance of the documents (however brief) prepared and perused;

(d) the place and circumstances in which the business involved is transacted;

(e) the importance of the cause or matter to the client;

(f) where money or property is involved, its amount or value;

(g) any other fees and allowances payable to counsel in respect of other items in the same cause or matter, but only where work done in relation to those items has reduced the work which would otherwise have been necessary in relation to the item in question.

(13) If upon the taxation of costs more than one-sixth is deducted from a bill of costs taxed -

(a) as between party and party, no costs incurred in the taxation shall be allowed as part of such bill, nor shall such costs of taxation be charged as between solicitor and client;

(b) as between counsel and client, no costs incurred in the taxation shall be allowed as part of such bill,

and on a taxation resulting in paragraph (b), it shall be lawful –

(i) for the taxing officer to assess the costs of being represented by an attorney which may have been incurred by the client or other party or parties on whom notice of taxation has been

served, and to sign an allocatur for the amount so assessed; and

(ii) for the client, or other party or parties as aforesaid, to sue out execution for the amount so assessed without any further or other proceeding.

(14) In the computation of one-sixth of all bills of costs for the purposes of paragraph (13), fees paid to counsel shall be excluded.

(15) A party to a taxation proceeding who is dissatisfied with the allowance or disallowance in whole or in part of any item by the taxing officer, may –

(a) at any time before the certificate or allocatur is signed; or

(b) at such earlier time as may in any case be fixed by the taxing officer,

apply to the taxing officer to review the decision of the taxing officer in respect of same and shall deliver to the taxing officer and to each party who attended the taxation, his objection in writing to such allowance or disallowance, and shall specify, in a short and concise list the items or parts objected to and the grounds and reasons for such objections.

(16) The taxing officer may issue, if he thinks fit, 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.

(17) The taxing officer shall reconsider and review his taxation upon such objections, and may, if he shall think fit, request or receive further evidence in respect thereof.

(18) If requested to do so by either party, the taxing officer shall state in his certificate of taxation or allocatur, or otherwise by reference to the objections, the grounds and reasons for his decision on the review and any special facts or circumstances relevant to it.

(19) The taxing officer may tax the costs of such objection and add them to or deduct them from any sum payable by or to any party to the taxation.

(20) Any person aggrieved by a decision of the taxing officer on such review may apply to the court within fourteen (14) days from the date of the certificate by motion accompanied by an affidavit in support –

(a) to set aside such decision; and

(b) to make such further order as the court may think fit.

(21) Notice of such motion shall be served upon the taxing officer and upon all parties having any interest therein, within three days of the filing of such notice.

(22) The court may make such order as the circumstances require,

and in particular may order an amendment to the certificate of the Registrar.

(23) The taxing officer may in the discharge of his functions with respect to the taxation of costs –

(c) take into account any dealings in money made in connection with the payment of the costs being taxed, if the court so directs;

(b) require any party represented jointly with any other party in any proceedings before him to be separately represented;

(b) examine any witness in those proceedings;

(d) direct the production of any document which may be relevant in connection with those proceedings.

(24) The taxing officer may –

(a) extend the period within which a party is required by or under this rule to begin proceedings for taxation or to do

anything in or in connection with proceedings before the taxing officer;

(b) where no period is specified by or under this rule or by the court for the doing of anything in or in connection with such proceedings, specify the period within which the thing is to be done.

(25) Where a party entitled to be paid costs is also liable to pay costs, the taxing officer may –

(a) tax the costs which that party is liable to pay and set off the amount allowed against the amount he is entitled to be paid and direct payment of any balance; or

(b) delay the issue of a certificate for the costs he is entitled to be paid until he has paid or tendered the amount he is liable to pay.

(26) The taxing officer by whom any taxation proceedings are being conducted may, if he thinks it necessary to do so, adjourn those proceedings from time to time.

PART III

CRIMINAL APPEALS FROM THE SUPREME COURT, MAGISTRATES COURT AND COURTS-MARTIAL

Institution of criminal appeals.

36. (1) A person desiring to appeal to the court against conviction or sentence shall commence his appeal by submitting to the Registrar -

(a) a notice of appeal;

(b) a notice of application for leave to appeal; or

(c) a 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 Forms 1 or 2 in Appendix B, and in the notice or notices so sent, shall answer the question and comply with the requirement set forth thereon, subject to the provisions of rule 38.

(2) A notice referred to in paragraph (1) shall be served on the Registrar of the Supreme Court by the person desiring to appeal or his legal representative.

(3) Every person making an application for an extension of time shall send to the proper officer 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 extension of time for leave to appeal, setting out the ground or grounds upon which he desires to question his conviction or sentence, as the case may be.

(4) Every notice referred to in paragraph (1) shall be signed by the appellant himself, except under the provisions of rule 37(1), (2) and (3).

(5) Any other notice required or authorised to be given shall be in writing and signed by the person giving the same or by his legal representative.

(6) All notices required or authorised to be given shall be addressed to the Registrar and a copy sent to the proper officer of the court below.

Where appellant is unable to write.

37. (1) When an appellant or 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 the same, and thereupon, such notice shall be deemed to be duly signed by such appellant.

(2) Where it is contended that a person is 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 was made by him, any notice required to be given and signed by the appellant himself may be given and signed by his legal representative.

(3) 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.

Waiver for non-compliance with Rules.

38. (1) Non-compliance on the part of the appellant, in any criminal cause or matter with these Rules or with any rule of practice for the time being in force shall not prevent the further prosecution of his appeal if the court considers that such non-compliance was not wilful and that it is in the interest of justice that non-compliance be waived.

(2) The court may, in such manner as it thinks right, direct the appellant to remedy such non-compliance and thereupon the appeal shall proceed.

(3) 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.

Service of documents on

39. When an appellant or applicant is in prison, any document to be served upon him shall be delivered at the prison by the bailiff or such other

appellant imprisoned. authorised person, to the officer in charge or the person appearing to be the officer in charge thereof, who shall cause the same to be served forthwith on such prisoner.

Preparation of record of proceedings. 40. (1) Upon receipt of notice referred to in rule 36(2), the Registrar of the Supreme Court shall cause to be forwarded forthwith a copy of the proceedings to the Registrar.

(2) The Registrar, upon receiving -

(a) a notice of appeal;

(b) a notice of application for leave to appeal; or

(c) a notice of application for extension of time within which such notice shall be given,

shall cause to be prepared four copies of -

(i) the record of proceedings in the court below; and

(ii) the summing up or direction of the judge of the court below,

upon receiving same from the Registrar of the Supreme Court.

(3) The Registrar of the Supreme Court shall collect and attach the original exhibits in the case as far as practicable and any original depositions, information, inquisition, plea or other documents kept by the Registrar of that court, or forming part of the record of the court below and upon request, shall forward same to the Registrar.

(4) The Registrar of the Supreme Court shall cause to be forwarded a copy of the proceedings and a copy of the summing up to the Attorney-General.

(5) For the purposes of this rule, Aa copy of the proceedings@ includes -

(a) the Information or Bill of Indictment, and the plea;

(b) the verdict; any evidence given thereafter and the sentence;

(c) the 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 may direct to be included in the copy of proceedings:

Provided that -

(i) in capital cases, copies of the transcript or notes of all 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 Attorney-General.

Transcripts.

41. (1) Whenever the evidence and proceedings in the court below shall have been recorded mechanically in accordance with section 77 of the

Supreme Court Act, the record thereof shall consist of the transcript of the recording and the recording shall be kept in such custody as the proper officer of the court below shall direct.

(2) The person having custody of the recording shall, on being directed by the proper officer of the court below, furnish to him for the use of the court a transcript of the whole, or of any part, of the mechanical recording taken at any trial or proceedings in reference to which an appellant has appealed under the Act.

(3) The transcript of the whole or any part of the mechanical recording relating to the case of any appellant which may be required for the use of the court shall be certified by the proper officer of the court below under his hand and the seal of the court.

(4) On the application of a party interested in a trial or other proceedings in relation to which a person may appeal under the Act, the Registrar of the Supreme Court shall furnish to such party, and to no other person, a transcript of the whole or of any part of the recording of any such trial or other proceedings, on payment of the prescribed fee to the proper officer of the court below.

(5) A party interested in an appeal under the Act may obtain from the proper officer of the court below a copy of the transcript of the whole or of any part of such recording as relates to the appeal on payment of the prescribed fee to the proper officer of the court below.

(6) For the purposes of this rule, Aa party interested@ shall mean -

(a) the prosecutor or the person convicted;

(b) any other person named in, or immediately affected by, any order made by the judge of the court below; or

(c) any other person authorized to act on behalf of a party interested, as herein defined,

but shall not include the Attorney-General, to whom a copy of such transcript shall be furnished free of charge.

Judge=s report.

42. (1) The Registrar shall, if the court directs him so to do in relation to any appeal, 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 as soon as practicable furnish the same to the Registrar.

(2) When the Registrar requests the judge of the court below to furnish a report under paragraph (1), the Registrar shall send to such judge –

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

(b) any other document or information which the Registrar considers material; or

(c) any other document which such judge may request of the Registrar,

to enable such judge to deal in his report with the appellant=s case generally or with any point arising thereon.

(3) The report of the judge shall be made to the court, and the Registrar, on request shall furnish a copy thereof to the appellant and to the respondent unless otherwise directed by the court.

Copies of documents or exhibits for use by appellant or respondent.

43. (1) At any time after notice of appeal or notice of application for leave to appeal has been given under these Rules, an appellant or respondent, may on the payment of the prescribed fee obtain from the Registrar of the Supreme Court copies of any documents or exhibits in his possession for the purposes of such appeal.

(2) Where counsel is assigned to an appellant under the Act, copies of such documents or exhibits which they or he may request the said Registrar of the Supreme Court to supply, shall without charge be supplied.

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

Conduct of prosecution and defence.

44. (1) When the Registrar has received a notice of appeal or where leave to appeal is granted to an appellant, the Registrar shall -

(a) notify the Attorney-General; or

(b) if the prosecutor is a private person, enquire if that person intends to defend the appeal and, if the answer is in the negative, so inform the Attorney-General.

(2) It shall be the duty of a private prosecutor and of his counsel, who declines to defend an appeal, to furnish to the Registrar and the Attorney-General, any information, document, matter or thing in his possession or under his control connected with the proceedings against the appellant, which the Registrar or the Attorney-General may require for the purposes of their duties under the Act.

Legal aid for appellants.

45. (1) The Registrar shall cause to be prepared and kept up to date, in such form as the Registrar thinks convenient, a list of counsel who are willing to act, if and when nominated under the Act, as counsel for an appellant.

(2) The Registrar shall, subject to any special order of the court, select from such list or otherwise, a counsel for the purpose of affording legal aid to an appellant and the Registrar shall have regard in so doing –

(a) to the place at which the appellant was tried;

(b) to the counsel, if any, who represented the appellant at the trial; and

(c) to the nature of the appeal.

(3) When legal aid is assigned to an appellant, the court may give such directions -

(a) as to the stage of the appeal at which such legal aid shall commence; or

(b) otherwise, as the court may think fit.

Proceedings before a single judge.

46. (1) Where any application(s) has been dealt with by a single judge, the Registrar shall notify the decision thereof to the appellant by causing Form 3 in Appendix B to be served upon him.

(2) If the appellant desires to have the said application(s) determined by the court, the appellant shall within five days of service of the said notice file Form 4 in Appendix B duly filled up by him and addressed to the Registar, failing which the decision by the judge shall be final.

(3) If the appellant desires that his said application(s) shall be determined by the court and is not legally represented, the appellant, if granted leave by the court, may be present at the hearing and determination by the court of his said application(s).

(4) When an appellant files the requisite form within the prescribed time, expressing a desire to be present at the hearing and determination by the court of applications mentioned in this rule, such form shall be deemed to be an application by the appellant for leave to be so present.

(5) The Registrar, on receiving the said form, shall take the necessary steps for placing the application before the court.

(6) If the application to be present is refused by the court, the Registrar shall notify the appellant in Form 5 in Appendix B and the officer in charge of the prison where the appellant is in custody.

(7) 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.

Mode of application.

47. (1) Except where otherwise provided in these Rules, any application to the court may be made orally or in writing, by the appellant or the respondent, or by counsel on his behalf.

(2) Notwithstanding paragraph (1), if the appellant is –

(a) unrepresented;

(b) in custody; and

(c) not entitled or has not obtained leave to be present

before the court,

the appellant shall make such application by forwarding the same in writing to the Registrar who shall take the proper steps to obtain the decision of the court thereon.

Notice of application for leave to appeal deemed to be notice of

48. Where the court on a notice of application for leave to appeal duly served, has 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.

appeal.

Suspension of orders and admission to bail.

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

(2) Where a person has been convicted and is thereupon sentenced –

(a) to the payment of a fine; and

(b) in default of such payment, to imprisonment,

and indicates 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 so to do -

(i) order such person forthwith to enter into recognizances in Forms 6 and 7 in Appendix B in such amount, and with or without sureties in such amount, as such judge may think right to prosecute his appeal; and

(ii) subject thereto, order that payment of the said fine shall be made to the proper officer of the court below, at the final determination of his said appeal, if the same be dismissed, or as the court may then order.

(3) If an appellant to whom paragraph (2) applies does not serve in accordance with these Rules a notice of appeal or of abandonment of his appeal within fourteen days from the date of his conviction or sentence, the proper officer of the court below shall report such omission to the court, who may, after notice in Form 8 in Appendix B has been given to the appellant and his sureties, if any -

(a) order an estreat of the recognizance of the appellant and his sureties;

(b) issue a warrant for the apprehension of the appellant;

(c) commit the appellant to imprisonment in default of payment of his fine; or

(d) make such other order as the court may think right.

(4) An appellant who has been sentenced to the payment of a fine, and has paid same 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 so paid by him.

Temporary suspension of orders made on conviction as

50. (1) Where, on the conviction of a person, the judge of the court below makes -

(a) an order condemning such person to the payment of the whole or of any part of the costs and expenses of

to money, etc.

the prosecution for the offence of which he shall be convicted out of any moneys taken from such person on his apprehension or otherwise;

(b) an order for the payment of money by such convicted person or by any other person; or

(c) an 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 fourteen days after the day on which any of such orders was made.

(2) In the case where notice of appeal or notice of application for leave to appeal is given within fourteen days from and after the date of the verdict against such person, such order shall be further suspended until the determination of the appeal against the conviction in relation to which it was made.

(3) When the judge of the court below, on the conviction of a person before him, makes an order for payment of money by such person or by any other person upon such conviction, and, by reason of this rule such order would otherwise be suspended, such judge may, if he thinks right so to do, direct that the operation of such order shall not be suspended unless the person against whom such order has been made shall, in such manner and within such time as the said judge shall direct, give security for the payment to the person in whose favour such an order shall have been made of the amount therein named.

(4) Where upon the conviction of a person of any offence, the court below orders –

(a) that any disqualification, forfeiture or disability should attach to such person; and

(b) notice of appeal or notice of application for leave to appeal is 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.

(5) Where a judge of the court below makes any such order on a person convicted before him as in this rule mentioned, he shall give such directions as he thinks right -

(a) 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

(b) as to any money or valuable securities at the date of his conviction in the possession of the prosecution,

for a period of fourteen days, or in the event of appeal, until the determination thereof by the court.

(6) ASecurity@ referred to in paragraph (3) means such security as

may be to the satisfaction of the person in whose favour the order for payment shall have been made or of any other person as such judge shall direct.

(7) Where, upon a conviction, any property, matter or thing, the subject of the prosecution or connected therewith, are to be or may be ordered to be destroyed or forfeited under provisions of any statute, rule, regulation or other law, the destruction or forfeiture or order for destruction or forfeiture thereof shall be suspended for a period of fourteen days from and after the date on which the verdict on the information was returned, and in the event of an appeal under the Act shall be further suspended until the determination thereof by the court.

(8) Where, upon conviction of a person of any offence, any claim may be made or any proceedings may be taken under any rule, regulation, statute or other law against -

(a) such person; or

(b) any other person in consequence of such conviction,

such proceedings shall not be taken until after a period of fourteen 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.

(9) The court may, by order, annul or vary an order to which this rule refers on the determination of an appeal and such order, if annulled, shall not take effect, and, if varied, shall take effect as so varied.

(10) A person affected by an order which is suspended under this rule may, with the leave of the court, be heard on the final determination of an appeal, before such order is varied or annulled by the court.

(11) The proper officer of the court below shall keep a record of -

(a) all orders to which this rule refers; and

(b) all directions given under this rule.

Procedure on application for bail.

51. (1) If an appellant desires to make application for bail pending determination of his appeal, he shall do so in Form 9 in Appendix B.

(2) Where the court admits an appellant to bail pending the determination of his appeal, the court shall -

(a) specify the amounts in which the appellant and his surety or sureties shall be bound by recognizance unless the court directs that no surety is required; and

(b) direct, if the court thinks right so to do, before whom the recognizances of the appellant and his surety or sureties (if any) may be taken.

(3) 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 appellant may be admitted to bail under the Act.

(4) In the event of the court not making any special order or giving any special directions under this rule, the recognizances of the appellant and of

his surety or sureties (if any) may be taken before a justice of the peace and shall be sent to the Registrar.

(5) The recognizances provided for in this rule shall be in Forms 10 and 11 in Appendix B.

(6) The Registrar, on being satisfied that the recognizances of the appellant and his surety or sureties (if any) are in due form and in compliance with the order of the court admitting the appellant to bail, shall send in Form 12 in Appendix B a notice to the officer in charge of the prison, which notice when received by the said officer, shall be sufficient authority to him to release the appellant from custody.

(7) An appellant who has been admitted to bail shall be personally

present at each and every hearing of his appeal and at the determination thereof.

(8) In the event of an appellant not being present at a hearing of his appeal, the court may, if the court thinks right so to do –

(a) decline to consider the appeal and -

(i) proceed summarily to dismiss the same; and

(ii) issue a warrant for the apprehension of the appellant in Form 13 in Appendix B;

(b) consider the appeal in the absence of the appellant; or

(c) make such other order as the court may think fit.

(9) When an appellant is present before the court, the court may, on an application made by any person or, if the court thinks right so to do, without any application -

(a) make an order admitting the appellant to bail;

(b) revoke or vary an order previously made;

(c) increase from time to time the recognizances of the appellant or of his sureties; or

(d) substitute any other surety previously bound as it thinks right.

(10) At any time after an appellant has been released on bail, the court may, if satisfied that it is in the interest of justice so to do -

(a) revoke the order admitting the appellant to bail;

(b) issue a warrant in Form 13 in Appendix B for the apprehension of the appellant; and

(c) order that the appellant be committed to prison.

(11) On breach of any material term of the recognizances of the appellant, the court may order such recognizances and those of his surety or sureties to be estreated if the court thinks right so to do.

(12) Where the surety or sureties for an appellant, upon whose recognizance such appellant has been released on bail by the court, suspects or suspect that the said appellant is about to -

(a) depart out of The Bahamas; or

(b) in any manner, fail to observe the conditions of his recogizances on which he was so released,

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

(13) The Magistrate of the said court on the commitment of any such appellant, shall cause the Registrar to be notified to that effect, and forward to him the said information and the deposition in verification thereof taken before such court together with a copy of the said warrant of commitment.

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

Abandonment of appeal.

52. (1) An appellant may, at any time before the hearing of his appeal or application for leave to appeal, abandon his appeal by giving notice of abandonment thereof in Form 14 in Appendix B 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 notice of abandonment duly completed and signed or marked by the appellant or party authorised to sign notices under rule 37, the Registrar shall give notice thereof in Form 15 in Appendix B to the respondent, the prison authority, the proper officer of the court below and, in the case of an appeal against conviction involving a sentence of death, in like manner give notice to the Attorney-General.

(3) The Registrar shall also return to the proper officer of the court below any original documents and exhibits received from him.

Varying order of restitution of property.

53. 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 -

(a) the person in whose favour or against whom the order of restitution has been made; and,

(b) 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.

Judgments of the court.

54. 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.

Notification of final determination of appeals.

55. (1) On the final determination of an appeal or of any application to the court, the Registrar shall -

(a) give to the appellant (if he be in custody and has not been present at such final determination), the respondent and the prison authority, notice in Forms 16 and 17 of Appendix B of such determination;

(b) notify in such manner as the Registrar thinks most convenient to the proper officer of the court below -

(i) the decision of the court in relation thereto;

(ii) any orders or directions made or given by the court in relation to such appeal;

(iii) any matter connected therewith.

(2) The proper officer of the court below, on receiving the notification referred to in this rule, shall cause to be entered the particulars thereof on the records of such court.

(3) Where the Registrar has obtained from the proper officer of the court below any original depositions, exhibits, information, plea or other documents usually kept by such officer, or forming part of the record of the court

below, upon the final determination of an appeal, the Registrar shall, where practicable, cause the same to be returned to such officer.

(4) In a case of an appeal in relation to a conviction involving a sentence of death, the Registrar, on receiving the notice of appeal or of any application for leave to appeal, shall send copies thereof to the Minister and to the prison authority, and on the final determination of such appeal by the court shall forthwith notify the appellant, the Minister, the respondent and the prison authority.

(5) For the purposes of this rule, "Minister" means the Minister designated by the Governor-General under Article 90(2) of the Constitution.

Restrictions on issue of certificate of conviction.

56. The proper officer of the court below shall not issue, under any law authorising him so to do, 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.

Procedure as to witnesses before court.

57. (1) Where the court has ordered any witness to attend and be examined before the court, the Registrar shall cause to be served an order in Form 18 in Appendix B upon such witness specifying the time and place at which to attend for such purpose.

(2) An order referred to under paragraph (1) may be made, at any time, on the application of the appellant or respondent.

(3) Where the court makes an order for the attendance and examination of a witness otherwise than before the court itself, such order shall specify -

(a) the person appointed as examiner;

(b) the place of taking such examination; and

(c) the witness or witnesses to be examined thereat.

(4) The Registrar shall furnish to the examiner appointed, any documents or exhibits or any material relating to the said appeal as and when requested to do so and such documents, exhibits and other material after the examination has been concluded shall 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 the examiner shall request the Registrar to notify the appellant and respondent, their legal representatives, if any, and the prison authority if the appellant is in prison.

(6) The Registrar shall cause to be served on every witness to be examined a notice in Form 19 in Appendix B.

(7) Every witness examined before an examiner under this rule shall give 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.

(8) The examination of every such witness shall be taken in the form of a deposition.

(9) 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 so to do, pay to such witness a reasonable sum for his expenses.

(10) 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 to special commissioner.

58. (1) 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 the same shall be referred, shall be specified in such order.

(2) The court in such order, or by giving directions as and when the court from time to time shall think right, may 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 may -

(a) specify any and what powers of the court may be delegated to such special commissioner;

(b) require him from time to time to make interim reports to the court upon the question referred to him;

(c) if the appellant is in custody, give leave to him to be present at any stage of such examination or investigation;

(d) give the necessary directions to the prison authority accordingly;

(e) give directions to the Registrar that copies of any report made by such special commissioner shall be furnished to the appellant and respondent.

Appeals from courts-martial.

59. (1) A person desiring to appeal to the court against conviction by courts-martial shall commence his appeal by submitting to the Registrar -

(a) a notice of appeal;

(b) a notice of application for leave to appeal; or

(c) a notice of application for extension of time within which such notice shall be given,

as the case may be, in the form of such notice set forth in Forms 20 or 21 in Appendix B, and in the notice or notices so sent, shall answer the questions and comply with the requirement set forth thereon, subject to the provisions of rule 38.

(2) The answers to the questions which the applicant 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.

(3) These Rules shall, with appropriate modifications, apply to appeals from courts-martial save that -

(a) judge of the court below shall include courts-martial;

(b) proper officer of the court below shall include the National Security Council established under section 8

Ch. 211. of the Defence Act, or any person the Council shall have authorised to act on its behalf;

(c) prison shall include unit detention quarters set up under

Ch. 211. the Defence (Imprisonment and Detention) Regulations;

(d) copies of proceedings in the court below shall consist of the record of the courts-martial (including any proceedings with respect to the revision of the findings or sentence of the courts-martial in pursuance of

Ch. 211. subsection (1) of section 106 of the Defence Act), the proceedings with respect to the confirmation of the finding and the sentence of the courts-martial and with respect to any petition presented by the person convicted; and

(e) the date of the verdict shall be the date of promulgation of confirmation of the finding of the courts-martial.

Appeals

60. (1) A person desiring to appeal to the court against conviction by

from magistrates' courts.

a magistrate=s court shall commence his appeal by submitting to the Registrar a notice of motion of appeal in Form 22 in Appendix B, and in the notice of motion so sent shall answer the questions and comply with the requirement set forth thereon, subject to the provisions of rule 38.

(2) The answer to the question which the applicant 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 an application to the court in such matter.

Ch. 91.

(3) The provisions of Part IX of the Criminal Procedure Code Act relating to appeals on notice of motion shall apply to appeals from a magistrate=s courts.

PART IV

CIVIL APPEALS FROM THE MAGISTRATES COURT

Powers of court.

61. The court shall have power to draw inferences of fact and to give any judgment and make any order which ought to have been given or made, and to make such further or other order as the case may require.

PART V

SECOND APPEALS FROM THE SUPREME COURT OR CIRCUIT JUSTICE

Mode of application.

62. (1) A person desiring to appeal to the court under section 21 of the Act from a judgment of the Supreme Court or of a circuit justice given in the exercise of the appellate or revisional jurisdiction of such court of justice shall commence his appeal by notice of motion.

(2) Notice of appeal may be given in respect of the whole or any part of the judgment of the court below and every such notice shall specify the point or points of law relied upon by the appellant as his grounds of appeal.

(3) Except with the leave of the court, the appellant shall not be entitled on the hearing of an appeal to rely on any grounds of appeal not specified in the notice of the appeal.

(4) A notice of appeal shall be served upon all parties to the proceedings in the court below and, in the case of any criminal cause or matter, upon the Attorney-General whether or not he is such a party.

(5) Every notice of appeal shall be filed and a copy thereof shall be served under paragraph (4) of this rule, within six weeks of the date on which the judgment of the court below was pronounced or made.

Application of Rules.

63. Save as is otherwise provided in this Part of these Rules, the provisions of Part II thereof shall apply in the case of any second appeal to the court in any civil cause or matter and the provisions of Part III thereof shall apply in the case of any such appeal in a criminal cause or matter mutatis mutandis.

Repeal of Sub. Leg. Vol. 1, Ch. 52 - 49.

64. The Court of Appeal Rules are hereby repealed.

SCHEDULE **(rule 6)**

Abbreviation	**Category of Appeal**
PAdminApp	Public Administration Appeal
Const/CivApp	Constitutional Civil Appeal
Const/CrApp	Constitutional Criminal Appeal
MCCrApp	Magistrates' Court Criminal Appeal
MCCivApp	Magistrates' Court Civil Appeal
SCCrApp	Supreme Court Criminal Appeal
SCCivApp	Supreme Court Civil Appeal
IndTribApp	Industrial Tribunal Appeal
RPTApp	Real Property Tax Appeal
CtMarsApp	Courts-Martial Appeal

RentAppTrib	Rent Appeal Tribunal Appeal
ProbApp	Probate Appeal
FamApp	Family Appeal
D&MApp	Divorce and Matrimonial Appeal
AdoptApp	Adoption Appeal
CommApp	Commercial Appeal
InsApp	Insurance Appeal
CompApp	Companies Appeal
TrusApp	Trust Appeal
JudRev/HC/Cert/Man/Proh/Admin	Judicial Review Administration Appeal
Land (SP)	Land (Specific Performance)
Equity/Quiet.	Equity/Quieting Titles Appeal

*Note: In respect of interlocutory proceedings, insert the letters “INT” immediately before the abbreviation.

APPENDIX A

CIVIL FORMS

INDEX TO FORMS

Form No.	Description of Form
1	Notice of Appeal Motion.
2	Summons to parties by Registrar to settle the record.
3	Notice to parties that appeal has been dismissed.
4	Notice by respondent of intention to contend that decision of court

5	Notice by respondent of intention to rely upon preliminary objection.
6	Notice of Motion.
7	Notice of withdrawal of appeal.
8	Bond for due prosecution of appeal or security for costs.
9	Certificate of the order of the court.
10	Bill of costs.

CIVIL FORM 1 (rule 10 (1))

COMMONWEALTH OF THE BAHAMAS 20

IN THE COURT OF APPEAL No.

[*Specify category of appeal*] Side

NOTICE OF APPEAL MOTION

B E T W E E N

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

AND

(Plaintiff/Defendant) Respondent(s)

TAKE NOTICE that the Court of Appeal will be moved so soon as Counsel can be heard on behalf of the above-named (Plaintiff/Defendant) Appellant(s) on Appeal from (the whole of) (or that part of) the judgment (or order) herein of the Honourable Mr. Justice given (or made) at the trial of this (action) on the day of 20 whereby it was adjudged (or ordered) [*Here set out the whole or part of the decision complained about*].

For an Order [*State precise form of order applied for].*

AND FURTHER TAKE NOTICE that the grounds of this appeal are -

[*State grounds*]

Dated this .....day of.....20.....

Attorney for the above-named Appellant.

To: The above-named Respondent.

And to: .....his Attorney.

CIVIL FORM 2 (rule 13 (1))

COMMONWEALTH OF THE BAHAMAS 20

IN THE COURT OF APPEAL No.

[*Specify category of appeal*] Side

SUMMONS TO PARTIES BY REGISTRAR TO SETTLE THE RECORD

B E T W E E N

..... (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 Court of Appeal at Nassau on the day of , 20 at the hour of o'clock in the noon,

(a) to settle the Record of appeal herein;

(b) to fix the amount to be deposited by the appellant (s) or secured by bond for-

(a) the due prosecution of the appeal; and

(b) security for costs; and

(c) to fix the time within which –

(a) the record shall be prepared and filed in the Registry by the appellant; and

(b) the amount fixed under rule 13(1)(b) must be deposited or secured by bond.

AND FURTHER TAKE NOTICE that all parties shall submit on the day appointed a proposed schedule of documents that the party desires to comprise the record.

AND FURTHER TAKE NOTICE that the matters aforesaid shall be settled and determined at the above stated time and place, if only the appellant is present at the appointed time.

AND FURTHER TAKE NOTICE that failure by the appellant to be present at the appointed time and place may result in the appeal being dismissed with or without costs.

_____

Registrar

To:

CIVIL FORM 3 (rule 13(7))

COMMONWEALTH OF THE BAHAMAS 20

IN THE COURT OF APPEAL No.

[*Specify category of appeal*] Side

NOTICE TO THE PARTIES THAT APPEAL

HAS BEEN DISMISSED

B E T W E E N

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

and

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

TAKE NOTICE that the above-captioned Appeal has been dismissed *either with or without costs* by a judge of the court pursuant to *rule *13(1)(a)(iv) or rule *14(1*) of the Court of Appeal Rules.

Registrar.

To: The Respondent and Appellant and their Attorneys.

* Delete as applicable.

CIVIL FORM 4 (rule 13 (1))

COMMONWEALTH OF THE BAHAMAS 20

IN THE COURT OF APPEAL No.

[*Specify category of appeal*] Side

NOTICE BY RESPONDENT OF INTENTION TO CONTEND

THAT DECISION OF COURT BELOW BE VARIED

B E T W E E N

..... (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: [*State the variations which will be asked for].*

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

(1) [*State grounds*]

(2)

Dated this..... day of ..... 20.....

Respondent(s)

To: ..... (Appellant) .....,(his Attorney) and to the Registrar.

CIVIL FORM 5 (rule 22 (1))

COMMONWEALTH OF THE BAHAMAS 20

IN THE COURT OF APPEAL No.

[*Specify category of appeal*] Side

NOTICE BY RESPONDENT OF INTENTION TO

RELY UPON PRELIMINARY OBJECTION

B E T W E E N

…… (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:

{*Here state the objections*}

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

(1)

(2) Etc.

Dated this .....day of..... 20.....

(Plaintiff/Defendant) Respondent(s)

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

And to (his/their) Attorney and to the Registrar.

CIVIL FORM 6 (rule 27(1))

COMMONWEALTH OF THE BAHAMAS 20

IN THE COURT OF APPEAL No.

[*Specify category of appeal*] Side

NOTICE OF MOTION

B E T W E E N

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

AND

(Plaintiff/Defendant) Respondent(s)

TAKE NOTICE that the Court of Appeal will be moved so soon as Counsel can be heard on behalf of the above-named (Plaintiff/Defendant) Appellant(s) on Appeal from (the whole of) (or that part of) the judgment (or order) herein of the Honourable Mr. Justice given (or made) at the trial of this (action) on the day of 20 whereby it was adjudged (or ordered) [*Here set out the whole or part of the decision complained about*].

For an Order [*State precise form of order applied for].*

AND FURTHER TAKE NOTICE that the grounds of this appeal are -

[*State grounds*]

Dated this .....day of.....20 .....

Attorney for the above-named Appellant.

To: The above-named Respondent.

And to: .....his Attorney.

COMMONWEALTH OF THE BAHAMAS 20

IN THE COURT OF APPEAL No.

[*Specify category of appeal*] Side

NOTICE OF WITHDRAWAL OF APPEAL

B E T W E E N

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

and

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

TAKE NOTICE that the Appellant(s) herein desire(s) to and hereby withdraws his/their appeal against (all) the Respondent(s) in the captioned appeal.

Dated this.....day of.....20 .....

_____

Appellant(s)

And to .....Respondent(s)

Dated this day of 20 .

Registrar

CIVIL FORM 8 (rule 13(3)(b) & 30(4))

COMMONWEALTH OF THE BAHAMAS 20

IN THE COURT OF APPEAL No.

[*Specify category of appeal]* Side

BETWEEN

Appellant

AND

Respondent

BOND FOR DUE PROSECUTION OF APPEAL

WHEREAS judgment was given by the *Supreme Court* on the day of 20 in favour of the Respondent and the Appellant has filed a Notice of Appeal from the said Judgment;

AND WHEREAS it is provided by rule *13(3)(b)* that the appellant shall within such time as the Registrar directs deposit such sum or enter into such bond as the Registrar shall have fixed;

AND WHEREAS *(Name of Bank)* at the request of the said appellant have agreed to enter into this obligation on behalf of the Appellant and is liable to the Court of Appeal in the sum of.....dollars ($):

NOW the condition of this obligation is such, that if the said appellant shall fail to duly prosecute the appeal, the said bank shall pay to the Court of Appeal the aforesaid sum.

Signed, sealed and delivered in the presence of

Authorized signatory of Bank

(Seal)

Dated this day of , 20 .

BOND FOR SECURITY FOR COSTS

WHEREAS judgment was given by the *Supreme Court* on the day of 20 in favour of the Respondent and the Appellant has filed a Notice of Appeal from the said Judgment;

**AND WHEREAS it is provided by rule 13(3)(b) that the party appealing shall within such time as the Registrar directs deposit such sum or enter into such bond as the Registrar shall have fixed;*

**AND WHEREAS it is provided by rule 30(4) that a bond with sureties for securing the costs of an appeal shall be made*;

AND WHEREAS *(Name of Bank)* at the request of the said appellant have agreed to enter into this obligation on behalf of the Appellant and is liable to the Court of Appeal in the sum of.....dollars ($):

NOW the condition of this obligation is such, that if the Court orders the payment of costs, the said bank shall pay to the Respondent such costs which may be ordered to be paid by the appellant.

Signed, sealed and delivered in the presence of

Authorized signatory of Bank

(Seal)

Dated this day of , 20 .

* Delete as applicable

CIVIL FORM 9 (rule 33)

COMMONWEALTH OF THE BAHAMAS 20

IN THE COURT OF APPEAL No.

[Specify category of appeal] Side

CERTIFICATE OF THE ORDER OF THE COURT

Appeal from the **judgment/award* of the of the Court dated the day of 20 .
(Delete as applicable)

B E T W E E N

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

and

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

This **appeal/application* coming on for hearing on the day of 20 before the Court of Appeal 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.

* Delete as applicable

CIVIL FORM 10 (rule 35 (2))

COMMONWEALTH OF THE BAHAMAS 20

IN THE COURT OF APPEAL No.

[Specify category of appeal] Side

(Name of Party) Appellant

And

(Name of Party) Respondent

BILL OF COSTS

Item	Particulars	Disbursements	Professional Charges	Allowed	Taxed off
1.					
2.					

Total Fees and Charges $

Total Fees Taxed off $

Total Fees allowed $

APPENDIX B

CRIMINAL FORMS

INDEX TO FORMS

Form No.	Description of Form
1	Notice of appeal or application for leave to appeal against conviction or sentence.
2	Notice of application for extension of time within which to appeal.
3	Notice to appellant of a single judge's decision.
4	Notice of appeal by appellant from refusal of a single judge.
5	Notification to appellant of court's decision to be present at hearing.
6	Recognizance of appellant sentenced to payment of a fine.
7	Recognizance of sureties for appellant sentenced to a fine.
8	Notice to appellant and surety of estreat of recognizance.
9	Application for bail pending appeal.
10	Recognizance on bail of appellant convicted on indictment.
11	Recognizance of appellant's sureties.
12	Notice to officer in charge of prison to release appellant on bail.
13	Warrant for arrest of appellant on bail.
14	Notice of abandonment.
15	Notification of abandonment.
16	Notification to the appellant of result of his appeal.
17	Notice to the authorities of result of appeal.
18	Order to witness to attend court for examination.
19	Notice to witness to attend before an examiner.
20	Notice of appeal or application for leave to appeal against conviction by courts-martial.
21	Notice of application for extension of time within which to appeal (courts-martial).
22	Notice of motion to appeal against conviction by magistrates' court.

CRIMINAL FORM 1 (rule 36)

COMMONWEALTH OF THE BAHAMAS 20

IN THE COURT OF APPEAL No.

[*Specify category of appeal*] Side

NOTICE OF APPEAL OR APPLICATION FOR LEAVE TO

APPEAL AGAINST CONVICTION OR SENTENCE

TO THE REGISTRAR OF THE COURT OF APPEAL:

Name of Appellant.....……..……..

Convicted in the Court held at [*Place]*.……..…….

Offence of which convicted [*e.g. Stealing, wounding, etc.]*.....……..……

Sentence ……..……..……..…….

Date when convicted ……..……..…..……..….

Date when sentenced……..……..……..……

Address [*If in custody state Fox Hill Prison]*.……

I, the above-named appellant hereby give you notice that I desire to appeal to the Court of Appeal against my [*conviction/and or sentence*] on the grounds set out on page 2 of this notice.

_____
Appellant's Signature

_____
Signature and Address of Witness Attesting Marks

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

Is any Attorney acting for you? If so give his name and address: ……

CRIMINAL FORM 2 (rule 36)

COMMONWEALTH OF THE BAHAMAS 20

IN THE COURT OF APPEAL No.

[*Specify category of appeal]* Side

NOTICE OF APPLICATION FOR EXTENSION OF TIME
WITHIN WHICH TO APPEAL

TO THE REGISTRAR OF THE COURT OF APPEAL

I,.....having been convicted of the offence of (1)(55).....at the Court held at ……on the……day of……20 and being now in [State Address or Fox Hill Prison if in custody]…….……Give you Notice, that I ……..……..……..hereby apply to the Court of Appeal for an extension of the time within which I may give Notice of Appeal (or Notice of Application for leave to Appeal), on the grounds following: [*Reasons for delay*]

(Signed).....

Dated this .....day of.....20 .....

Form 1 must be filled up and sent with this Notice to the Registrar.

CRIMINAL FORM 3 (rule 46 (1))

COMMONWEALTH OF THE BAHAMAS 20

IN THE COURT OF APPEAL No.

[*Specify category of appeal*] Side

NOTIFICATION TO APPELLANT OF A SINGLE JUDGE'S DECISION

THE QUEEN vs.

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 your appeal;

(d) Admission to bail,

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

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

Dated this ..... day of .....20 .....

(Signed)

Registrar

To the above-named .....

CRIMINAL FORM 4 (rule 46(2))

COMMONWEALTH OF THE BAHAMAS 20

IN THE COURT OF APPEAL No.

[*Specify category of appeal*] Side

NOTICE OF APPEAL BY APPELLANT FROM REFUSAL OF SINGLE JUDGE

THE QUEEN vs

TO THE REGISTRAR OF THE COURT OF APPEAL

I,……..having received on the…..……day of……..……..20 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 hearing of any proceedings in my 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))(*Strike out if you do not desire to be present)*.

(Signed)(mark) (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)

Appellant

Signature and address of witness attesting mark.

Dated this .....day of.....20 .....

If you desire to state any reason 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.

CRIMINAL FORM 5 (rule 46(7)

COMMONWEALTH OF THE BAHAMAS 20

IN THE COURT OF APPEAL No.

[*Specify category of appeal*] Side

NOTIFICATION TO APPELLANT OF COURT'S

DECISION TO BE PRESENT AT HEARING

THE QUEEN vs.

I hereby give you notice that the Court of Appeal having considered your application to

be present at the hearing and determination of the appeal pursuant to rule 46(7) of the Court of

Appeal Rules, has refused the application.

Dated this ..... day of .....20 .....

(Signed)

Registrar

To the above-named .....

CRIMINAL FORM 6 (rule 49 (2))

COMMONWEALTH OF THE BAHAMAS 20

IN THE COURT OF APPEAL No.

[*Specify category of appeal*] Side

RECOGNIZANCE OF APPELLANT SENTENCED TO A FINE

THE QUEEN vs.

WHEREAS.....of …….……..……was

(a) on the……day of……20……in the Court convicted of ...…..……..and was thereupon sentenced to pay the sum of $.....as a fine for his said offence; and

(b) has intimated to the said Court that he desires to appeal against the said conviction on a question of law alone.

AND WHEREAS the said Court considers that the said Appellant may in lieu of payment at and upon his said conviction of the said sum, be ordered to enter into recognizance of bail himself in the sum of $.....and with…….. sureties, each in the sum of $..... to prosecute his appeal before the Court of Appeal.

The said.....hereby acknowledges that he is liable to pay the said sum of $.....

And that his property may be forfeited if he fails to meet the conditions below.

_____
Appellant

Taken and acknowledged this.....day of..... before me.....

(Signed)

CONDITIONS

The Conditions of this recognizance are that the Appellant must:

(1) Duly prosecute the appeal;

(2) Personally attend at the Court of Appeal on every day that the appeal is being heard;

(3) Not leave or be absent from the Court of Appeal without the court's permission; and

(4) Pay the said sum of $.....or any sum the court may order.

CRIMINAL FORM 7 (rule 49(2))

COMMONWEALTH OF THE BAHAMAS 20

IN THE COURT OF APPEAL No.

[Specify category of appeal] Side

RECOGNIZANCE OF SURETIES FOR APPELLANT SENTENCED TO A FINE

On the……..day of……..20 ……..(*name*) of……(*address and occupation*) and……..of……(*address and occupation*) personally came before the undersigned and separately acknowledged themselves to be liable to pay following sums, that is to say, the said……..the sum of $.....and the said ..... …….the sum of $..... and that their property may be forfeited if the Appellant does not meet the conditions set out below.

_____

(Signed)

CONDITIONS

The …….(Appellant) having been convicted of…….…..and having been sentenced to pay a fine of $....., and having now indicated his desire to appeal on a question of law alone to the Court of Appeal against the said conviction, and having, in lieu of payment of the said sum $..... at his conviction been ordered to enter into recognizance of bail himself in the sum of $.....and with…..……..sureties in the sum of $..... .

The Conditions of this recognizance are that the Appellant must:

(1) Duly prosecute the appeal;

(3) Not depart or be absent from the Court of Appeal at any such hearing without the leave of the court; and

(4) Pay the said sum of $.....or any sum the court may order.

(Signed).....
Surety

(Signed).....
Surety

CRIMINAL FORM 8 (Rule 49(3))

COMMONWEALTH OF THE BAHAMAS 20

IN THE COURT OF APPEAL No.

[*Specify category of appeal*] Side

NOTICE OF ESTREAT OF RECOGNIZANCES

THE QUEEN vs.

To: of
Fill in surety's name and address

WHEREAS:

(a) you gave recognizance as surety that the said……...(*the Appellant)* having been convicted of……..and fined the sum of $ ……would duly prosecute an appeal in relation to that conviction before the Court of Appeal,

(b) the Appellant has not so prosecuted his appeal;

I Hereby Give You Notice that at the sitting of the Court of Appeal on ……..….next your recognizance may be ordered to be enforced unless you then show good cause to the contrary.

Dated this day of , 20 .

(Signed)

Registrar

CRIMINAL FORM 9 (rule 51 (1))

COMMONWEALTH OF THE BAHAMAS 20

IN THE COURT OF APPEAL No.

[*Specify category of appeal*] Side

APPLICATION FOR BAIL PENDING APPEAL

TO THE REGISTRAR OF THE COURT OF APPEAL

PART A (To be completed by Applicant)

I.....of .....apply for bail.

I was convicted in the Supreme/Magistrate's Court on the……day of...……20 .

of the following offence/offences:……..…….

and sentenced to: …….

Grounds on which this application is made are:…….

…….

I am a citizen of The Bahamas and, before my conviction, resided at:…….

with …….

I am employed at ..... …….

The following person/persons are willing to act as surety/sureties for me
(Name)
(Address)
(Name)
(Address)

Dated this of 20.

(Signature of Applicant)

PARTB (T*o be completed by Office of Superintendent of Prisons and attached to prisoner's application)*

Name of Applicant: Surname .....

First..... Middle .....

Date of Birth: Day.....Month.....Year .....Age

Alias: ……..……..……..……..……..……..……..……...

Particulars of conviction(s) appealed against, including court and offences:

.....…….

Particulars of Previous Custodial Sentences:

……..……..……..……..……..……..……..……

……..……..……..……..……..……..……..……

Date of Conviction: Day…….Month……Year……..

Date of Remand (if different): Day.....Month .....Year……..

Date of Last Conviction: Day.....Month .....Year……..

HAS BAIL PREVIOUSLY BEEN DENIED: Yes [ ] No [ ]

_____

Signature of Inmate

Signature of Prison Records Officer

Date

CRIMINAL FORM 10 (rule 51(5))

COMMONWEALTH OF THE BAHAMAS 20

IN THE COURT OF APPEAL No.

[*Specify category of appeal]* Side

RECOGNIZANCE ON BAIL OF APPELLANT CONVICTED IN THE SUPREME COURT

THE QUEEN vs.

WHEREAS:

(a) .....(*the Appellant)* was on the……..day of 20

convicted of……and was thereupon sentenced to ……

and now is in lawful custody in (*insert name of prison)*;

(b) the said Appellant has duly appealed against his conviction (and sentence) to the Court of Appeal, and has applied to the said Court for bail pending the determination of his Appeal; and

(c) the said Court has granted the said Appellant bail on entering into his own recognizances in the

sum of $ ..... …….with…. ……..sureties each in the sum of $.....

NOW the said Appellant acknowledges that he is liable to pay the said sum of $..... and that his property may be forfeited if he does not meet the conditions set out below.

CONDITIONS

The conditions of the recognizance are that the Appellant shall:

(1) Duly prosecute the appeal;

(2) Personally attend at the Court of Appeal on each and every hearing of his appeal to the Court;

(3) Not leave or depart from the Court of Appeal without the leave of the Court and in the

meantime shall not depart from his usual place of abode without the leave of such Court;

(4) Pay the said sum of $.....or any sum the court may order.

(Signed)
Appellant

Address .....

Taken and acknowledged this day of 20 , at before me.

(Signed).....

CRIMINAL FORM 11 (rule 51 (5))

COMMONWEALTH OF THE BAHAMAS 20

IN THE COURT OF APPEAL No.

[Specify category of appeal] Side

RECOGNIZANCE OF APPELLANTS SURETIES

THE QUEEN vs.

On the…….day of 20 , ...(*name*) of ……..
(*address and occupation)* and …….. of……..…….. (*addressand occupation*) personally came before the undersigned and separately acknowledged themselves to be liable to pay the following sums, that is to say, the said .....the sum of $.....
and the said.....the sum of $ .....……and that their propertymay be forfeited if the Appellant does not meet the conditions set out below.

Taken and acknowledged before me the undersigned on the day of 20 .

(Signed).....

CONDITIONS

……..(the Appellant) having been convicted of ……and has duly appealed to the Court of Appeal against his conviction (and sentence) and having applied to the Court for bail, pending the determination of his said appeal, has been granted bail on his entering into recognizances in the sum of $ with sureties in the sum of $.

The Conditions of this recognizance are that the Appellant shall:

(1) Duly prosecute the appeal;

(2) Personally appear and surrender himself at and before the Court of Appeal at each and every hearing of his appeal to such Court;

(3) Not depart or be absent from the Court of Appeal at any such hearing without the leave of the Court and in the meantime not depart from his usual place of abode without leave of such Court;

(4) Pay the said sum of $ or any sum the court may order.

(Signed) ……..……
Surety

(Signed) .....
Surety

CRIMINAL FORM 12 (rule 51(6))

COMMONWEALTH OF THE BAHAMAS 20

IN THE COURT OF APPEAL No.

[*Specify category of appeal]* Side

NOTICE TO OFFICER IN CHARGE OF PRISON TO RELEASE APPELLANT ON BAIL

THE QUEEN vs.

To The Superintendent of the Prison at Fox Hill, New Providence.

WHEREAS:

(a) ……..…….. .....(the Appellant) was convicted of……..on the……..…day of 20 (and was thereupon sentenced to ……) and now is in lawful custody in …….. (address of prison);

(b) the Appellant has duly appealed to the Court of Appeal against his conviction (and sentence) and having duly applied to the said Court has been granted bail by the said Court pending the determination of the appeal;

(c) I, the Registrar of the said Court, understand that the Appellant is now in your lawful custody in the said prison under the said conviction and sentence. I have received a recognizance of the Appellant [and recognizances from sureties for the Appellant], and the said recognizances are in due form and in compliance with the order of the Court of Appeal, admitting the Appellant to

bail.

NOW I DO GIVE YOU NOTICE that if the Appellant is in your custody under the said conviction (and sentence) and for no other cause you shall release him or her on receipt of this notice and this notice shall be your authority for doing so.

Date the day of 20 .

Registrar.

CRIMINAL FORM 13 (rule 51 (8))

COMMONWEALTH OF THE BAHAMAS 20

IN THE COURT OF APPEAL No.

[*Specify category of appeal*] Side

WARRANT FOR ARREST OF APPELLANT ON BAIL

THE QUEEN vs.

To the Constables of the Royal Bahamas Police Force and to the Superintendent of the Prison at Fox Hill, New Providence

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

These are therefore to command you the said Constables to immediately apprehend the Appellant and to bring him to the Superintendent of the said Prison, and there deliver him with this warrant into the custody of the said Superintendent and you the said Superintendent are hereby required to receive the Appellant into your custody in the said prison and there safely to keep him until further order of the Court and this shall be your authority for so doing.

(Signed)
President/Judge of Appeal.

Dated the day of 20

CRIMINAL FORM 14 (rule 52(1))

COMMONWEALTH OF THE BAHAMAS 20

IN THE COURT OF APPEAL No.

[*Specify category of appeal*] Side

NOTICE OF ABANDONMENT OF APPEAL

THE QUEEN vs.

TO THE REGISTRAR OF THE COURT OF APPEAL

I, ..., having been convicted of…….in the…..……..….Court at .....….and having been desirous of appealing to the Court against my said conviction (or 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 to it as from the date of this notice.

(Signed)
(*Appellant's signature or mark*)

(This 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.)

Signature, name and address of witness attesting mark

Dated this day of 20 .

CRIMINAL FORM 15 (rule 52 (2))

COMMONWEALTH OF THE BAHAMAS 20

IN THE COURT OF APPEAL No.

[*Specify category of appeal*] Side

NOTIFICATION OF ABANDONMENT OF APPEAL

THE QUEEN vs.

TO THE ATTORNEY-GENERAL

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 date the ……day of……20 .

By rule 52 (1) of the Court of Appeal Rules, 2005 upon the notice of abandonment being given, the appe shall be deemed to have been dismissed by the Court.

Dated the day of 20 .

Registrar.

To: The Respondent; Superintendent of Prisons; Registrar, Supreme Court; Director of Public Prosecution Attorney-General (if appeal involves a sentence of death)

CRIMINAL FORM 16 (rule 55 (1))

COMMONWEALTH OF THE BAHAMAS 20

IN THE COURT OF APPEAL No.

[*Specify category of appeal*] Side

NOTIFICATION TO APPELLANT OF RESULT OF HIS APPEAL

THE QUEEN vs.

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 has this day given judgment to the following effect -

[Here set out the decision of the Court].

_____
Registrar

Dated the day of , 20 .

CRIMINAL FORM 17 (rule 55 (1))

COMMONWEALTH OF THE BAHAMAS 20

IN THE COURT OF APPEAL No.

[*Specify category of appeal*] Side

NOTICE TO THE AUTHORITIES OF RESULT OF HIS APPEAL

THE QUEEN vs.

To The Attorney-General

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 th day given judgment therein to the following effect:-

[Here set out the decision of the Court]

OR

This is to give you notice that the above named having appealed against the order of the Honourable Justic *(Name of Judge)* in respect of the following offence(s) of –

(a) Here set out offence(s); etc.

*and the order of the Judge granting *……(state particulars of order)*

passed upon the Respondent by the …….. Court for the said offence(s), The Bahamas Court of appe has finally determined the said appeal and has this day given judgment therein to the effect following:

(Here state Results of Appeal)

Dated the day of , 20 .

_____

Registrar

To: The Superintendent of Prisons; Registrar, Supreme Court, Director of Public Prosecutions

**The Notice may be modified as necessary.*

CRIMINAL FORM 18 (rule 57 (1))

COMMONWEALTH OF THE BAHAMAS 20

IN THE COURT OF APPEAL No.

[*Specify category of appeal*] Side

ORDER TO WITNESS TO ATTEND COURT FOR EXAMINATION

THE QUEEN vs.

To .....of.……..……

……..……..……..……..……

WHEREAS on good cause shown to the Court of Appeal you have been ordered to attend and b examined as a witness before such Court upon the appeal of the above-named Appellant.

This is To Give You Notice to attend the said Court on ....…….the .....day of …..……..... .....20 ..... at the Court of Appeal, Supreme Court Buildings, Nassau at …….. o'clock in the ……..noon.

You are also required to have with you at the said time and place any books, papers or other thing relating to the said appeal which you may have had notice to produce.

Dated this day of 20 .

Registrar.

CRIMINAL FORM 19 (rule 57 (6))

COMMONWEALTH OF THE BAHAMAS 20

IN THE COURT OF APPEAL No.

NOTICE TO WITNESS TO ATTEND BEFORE AN EXAMINER

THE QUEEN vs.

To……..

of……..……..……..

WHEREAS on good cause shown to the Court you have been ordered to be examined as a witnes 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 *[Specify place of examination]*…….. on the ……day of……..20 before [*Fill in examiner's name]*……..…..…… at..... in the ……..…noon.

You are also required to have with you at the said time and place any books, papers or other thing

under your control or in your possession in any manner relating to the said appeal of which you may hav had notice to produce.

_____

Registrar

Dated the day of 20 .

CRIMINAL FORM 20 (rule 59(1))

COMMONWEALTH OF THE BAHAMAS 20

IN THE COURT OF APPEAL No.

(*Specify category of appeal*) Side

NOTICE OF APPEAL OR APPLICATION FOR LEAVE TO APPEAL AGAINST CONVICTION BY COURTS-MARTIAL

TO THE REGISTRAR OF THE COURT OF APPEAL:

Name of Appellant:……..……..……..…..

Convicted by Courts-Martial held at [*Place]*:.....……..

Offence of which convicted [*E.g. Stealing, etc*.]: ..... ……

Sentence: ..... …….

Date when convicted :.....……

Date when sentenced:.....……..

Date when conviction pronounced:..... ….....

Address:.....……..

I, the above named Appellant hereby give you notice that I desire to appeal to the Court of Appeal against my conviction on the following grounds:

(a) *[Grounds of appeal*]

(b) (Here set out clearly and concisely the reasons why you consider your conviction should be quashed)

……
Appellant

(This notice must be signed by the Appellant or by his representative. If the Appellant cannot write he must affix his mark in the presen of a witness. The name and address of such attesting witness must be given.)

Dated the day of 20 .

Questions [*Appellant must answer each of the following*]

1. Is counsel and attorney now acting for you? ..... …….

   If yes, give his name and address. ..... …….

2. Do you desire to apply for leave to call any witnesses on your appeal?.....

CRIMINAL FORM 21 (rule 59(1))

COMMONWEALTH OF THE BAHAMAS 20

IN THE COURT OF APPEAL. No.

[*Specify category of appeal*] Side

NOTICE OF APPLICATION FOR EXTENSION OF TIME

WITHIN WHICH TO APPEAL (COURTS-MARTIAL)

TO THE REGISTRAR OF THE COURT OF APPEAL

I……...(I*nsert name, number, rank and unit*) having been convicted of the offence of [*Sta offence]*…..……..……..…..by the Courts-Martial held at…….and that the said convictio has been confirmed and promulgated to me on the……day of…….. 20…..……..…..and being no at……..……(*set out address in full)* Give you Notice, that I hereby apply to th Court for an extension of the time within which I may give Notice of Appeal (or Notice of Application for leav to Appeal), on the grounds following: [*Set out reasons for delay]*.

(Here set out clearly and concisely the reasons for the delay in giving such notice, and the grounds on w hich you subı

the court should extend the time.)

(Signed).....

Appellant

Dated the day of 20 .

Form 18 must be filled in and sent with this Notice to the Registrar.

CRIMINAL FORM 22 (rule 60(1))

COMMONWEALTH OF THE BAHAMAS 20

IN THE COURT OF APPEAL No.

NOTICE OF MOTION TO APPEAL AGAINST CONVICTION

BY MAGISTRATES COURT

TO THE REGISTRAR OF THE COURT OF APPEAL

Name of Appellant: ..... …

Convicted by Magistrate's Court held at:.....…

Offence of which convicted:.....

Sentence: .....…

Date when convicted :……

Date when sentenced: .....…

Address: ……..

I, the above named appellant hereby give you notice that I desire to appeal to the Court of Appeal against my conviction on the grounds hereinafter set forth in this notice of motion.

Appellant

Dated this……day of ……20 .....……..

Questions Answers

1. Is any counsel and attorney acting for you? .....

   If so, give his name and address .....

2. Grounds of appeal.....….

APPENDIX C

FEES OF COURT IN CIVIL APPEALS

1.	On filing a notice of appeal against a final judgment or decision, entering the appeal for hearing and on judgment thereunder, an inclusive fee of	500.00
2.	On filing a respondent's notice of intention to contend that decision of court below be varied	250.00
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	500.00
4.	On filing a notice of appeal against an interlocutory order or decision, entering the appeal for hearing and on judgment thereunder, an inclusive fee of	500.00
5.	On making any application not otherwise specifically provided for, and for filing filing judgment or order thereunder an inclusive fee of	200.00
6.	On filing a bond for due prosecution of the appeal or to secure costs of appeal	100.00
7.	On filing a Notice of Change of Attorney	100.00
8.	On filing a Notice of Withdrawal	100.00
9.	On filing a Notice of Abandonment	100.00
10.	On filing an Affidavit	100.00
11.	On filing a motion for leave to appeal to the Judicial Committee of the Privy Council	100.00
12.	On filing a bond where the appeal is to the Judicial Committee of the Privy Council	100.00

13.	On filing an order for leave to appeal to the Judicial Committee of the Privy Council	100.00
14.	For appointment to settle Record on appeal to the Judicial Committee of the Privy Council	50.00
15.	On sealing record on appeal to the Judicial Committee of the Privy Council	100.00
16.	On filing a document or exhibit for which no special fee is provided	20.00
17.	On filing a bill of costs for taxation (including certificate)	100.00
18.	On certifying a document as an office copy	50.00
19.	If in a foreign language, the actual cost of making and examining the copy, and, in addition for marking and sealing the copy as an office copy	50.00
20.	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	50.00
21.	On perusing and allowing a bond by a judge or Registrar	50.00
22.	On sealing a Writ of Subpoena not exceeding three persons	50.00
23.	For a certificate of the Registrar for which no special fee is provided	50.00
24.	On obtaining an appointment for examination of a witness before an officer of the court or other person	50.00
25.	In respect of every witness examined by an officer or other person in his office, for each hour or part of an hour	50.00
26.	For an examination of witness away from the office of the examiner, the reasonable traveling and other expenses in addition to the fee chargeable under Item 24	
27.	For making a file search	20.00
28.	For an office copy of any document filed in the Registry per folio of 100 words, for the first folio	2.00
	For every other folio or part thereof	1.00
29.	For an office copy of any document to be included in the record including the Judge's notes or evidence for each folio	2.00

Made this day of , 2005.

The President,
Court of Appeal