

CAYMAN ISLANDS



Court of Appeal Law

COURT OF APPEAL RULES

(2014 Revision)

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Note (Not forming part of the rules): This revision replaces the 2004 Revision which should now be discarded.



CAYMAN ISLANDS**Court of Appeal Law****COURT OF APPEAL RULES****(2014 Revision)****Arrangement of Rules**

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CAYMAN ISLANDS



Court of Appeal Law

COURT OF APPEAL RULES

(2014 Revision)

PART I - INTRODUCTORY

Citation

1. These Rules of Court may be cited as the Court of Appeal Rules (2014 Revision).

Definitions and interpretation

2. In these Rules —

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

“**counsel**” means a person admitted to practise as an attorney-at-law in the Islands;

“**court below**” means the court from which the appeal is brought;

“**Court of Appeal Law**” means the *Court of Appeal Law (2011 Revision)*;

“**file**” means file in the Registry of the Court, and “**filed**” and “**filing**” have corresponding meanings;

“**Form**” means a form in the Schedule hereto;

“**GCR**” means the Grand Court Rules made by the Rules Committee under the *Grand Court Law (2008 Revision)*;



“**order**” includes decree, judgment, sentence, decision or direction of a court below, and references to filing of orders means the drawing up and filing of orders in accordance with GCR Order 42 rule 5;

“**party**” means any party to the appeal, and includes his counsel;

“**principal Rules**” means the Court of Appeal Rules (2014 Revision);

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

“**respondent**” means —

- (a) in a civil appeal, any party (other than the appellant) directly affected by the appeal;
- (b) in a criminal appeal, the person who under the Law has the duty of appearing for the Crown or who undertakes the defence of the appeal.

Forms

- 3. The Forms or forms as near thereto as circumstances permit, shall be used in all cases to which such forms are applicable.

Terms of sittings

- 4. (1) Sittings of the Court shall be fixed by the President and notice thereof shall be published by the Registrar in the Gazette.
- (2) When any fixture has been made the President may, at any time, alter the same.

Notice of sitting

- 5. (1) At least seven days before each sitting of the Court, the Registrar shall post the cause list of the sittings on the notice board of the Court:

Provided that 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.

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

Right of audience

- 6. In all proceedings before the Court or the Registrar and in all preliminary and interlocutory proceedings and applications the parties thereto may appear in person or may be represented and appear by counsel.

Register of appeals

- 7. (1) The Registrar shall keep 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; and
 - (e) judgment was delivered.
- (3) In respect of matters entered upon the registers on or after 1st June, 2009, the registers shall be open to public inspection upon payment of the prescribed fee.

Enlargements or abridgement of time and departure from rules

- 8.** (1) Subject to section 25, the Court shall have power to enlarge or abridge the time appointed by these Rules, or fixed by an order enlarging time, for doing any act or taking any proceeding, upon such terms, if any, as the justice of the case may require, and any such enlargement may be ordered although the application for the same is not made until after the expiration of the time appointed or allowed, or the Court may direct a departure from these Rules in any other way where this is required in the interests of justice.
- (2) Save as may be otherwise expressly provided, applications to the Court under this rule shall be made by motion, notice of which shall be served on all the parties to the proceedings at least seven clear days before the day named in the notice for hearing the motion.
- (3) Every motion under subrule (2) shall be supported by affidavit, a copy of which shall be served with the notice of motion, setting out concisely the reasons why the act or proceeding was not done or taken within the prescribed time.
- (4) Three copies of the motion and the supporting affidavit shall be filed for the use of the Judges.

Service of documents

- 9.** Subject to any provision in these Rules relating to the service of any particular document —
- (a) service of the documents mentioned in the first column hereunder shall be executed by leaving or sending a true copy thereof in the manner specified in the second column —

Column 1**Column 2**

- | | |
|--|---|
| (i) all documents required to be served on parties to an action who have not filed an address for service or on a person not a party to the appeal | by personal service on the party or his authorised agent, or on the person not a party; |
| (ii) all documents required to be served on parties who have an address for service | by leaving the document at the address for service with a person resident at or belonging to such place; or by registered post to such address, in which case, the time of service thereof shall be the time such document would be delivered in the ordinary course of post; |
- (b) if it be made to appear to a Judge upon application supported by affidavit that prompt personal service of a document cannot be effected he may make such order for substituted service by advertisement or otherwise as may be just.

Waiver of non- compliance with Rules

- 10.** Non-compliance on the part of the appellant in any criminal cause or matters 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 interests of justice that non-compliance be waived. The Court may, in such manner as it thinks right, direct the appellant to remedy such non-compliance, and thereupon the appeal shall proceed. The Registrar shall forthwith notify the appellant of any directions given by the Court under this rule where the appellant was not present at the time when such directions were given.

PART II - CIVIL APPEALS**Notice of Appeal **see note on p.63***

- *11.** (1) An appeal to the Court shall be in Civil Form 1.
- (2) 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.



- (3) Subject to rule 16, it shall not be necessary to serve the notice on any party not directly affected by the appeal.
- (4) For the purposes of section 19(1), time shall be calculated from the date upon which a judgment or order (whether final or interlocutory) is filed in accordance with GCR Order 42, rule 5.
- (4A) In addition to those cases specified as requiring leave to appeal in paragraphs (e) and (f) of section 6 of the *Court of Appeal Law*, leave of the Court shall be required for an appeal under section 29(1) of that Law from any decision of the Grand Court in the exercise of its appellate jurisdiction in civil proceedings except where the liberty of the subject or the custody of an infant is in question.
- (4B) In a case falling under subrule (4A) leave to appeal shall not be granted unless the appeal involves a point of law alone and —
 - (a) the appeal would raise an important point of principle or practice; or
 - (b) there is some other compelling reason why a second appeal should be heard by the Court.
- (5) In any case in which leave to appeal is required, an application for leave shall be made to the court below —
 - (a) at the time the judgment or order is pronounced; or
 - (b) by summons or motion issued within fourteen days from the date on which the judgment or order is filed,and if leave is granted, the appellant's notice of appeal shall be lodged within fourteen days of the date upon which the order giving leave to appeal is made.
- (6) An application for leave to appeal out of time shall be made by summons or motion to a single judge.

Final and Interlocutory Orders

- 12.** (1) For all purposes connected with appeals to the Court of Appeal, a judgment or order shall be treated as final or interlocutory in accordance with subrules (2) to (7).
- (2) In this rule, reference to an order giving specified directions or granting a specified form of remedy or relief shall include an order —
- (a) refusing to give such directions or grant such remedy or relief;
 - (b) refusing to give such directions or granting such remedy or relief on terms;
 - (c) varying, suspending or revoking such an order; and
 - (d) determining an appeal from such an order.

- (3) A judgment or order shall be treated as final if the entire cause or matter would (subject only to any possible appeal) have been finally determined whichever way the court below had decided the issues before it.
- (4) For the purposes of subrule (3), where the final hearing or the trial of a cause or matter is divided into parts, a judgment or order made at the end of any part shall be treated as if made at the end of the complete hearing or trial.
- (5) Notwithstanding anything in subrule (3), the following orders shall be treated as final —
 - (a) an order for discovery of documents made in an action for discovery only;
 - (b) an order granting any relief made at the hearing of an application for judicial review;
 - (c) an order made on an originating summons under GCR Order 85, rule 2(2)(b) or (c);
 - (d) an order for the winding up of a company;
 - (e) a decree absolute of divorce or nullity of marriage;
 - (f) an order absolute for foreclosure;
 - (g) an order as to costs made as part of a final judgment or order; and
 - (h) an order of committal.
- (6) Notwithstanding anything in subrule (3), but without prejudice to subrule (5), the following judgments and orders shall be treated as interlocutory —
 - (a) an order extending or abridging the period for the doing of any act;
 - (b) an order for or relating to the transfer or consolidation of proceedings;
 - (c) an order for or relating to the validity, service (including service out of the jurisdiction) or renewal of a writ or other originating process;
 - (d) an order for or relating to the amendment of an acknowledgement of service;
 - (e) any judgment in default or any “unless” order;
 - (f) an order for or relating to the joinder of causes of action;
 - (g) an order for or relating to the addition, substitution or striking out of parties;
 - (h) an order granting relief by way of interpleader, under GCR Order 17;
 - (i) an order for or relating to the service or amendment of any pleading;
 - (j) an order striking out an action or other proceedings or any pleading under GCR Order 18 rule 19 or under the inherent jurisdiction of the court;
 - (k) an order dismissing or striking out an action or other proceeding for want of prosecution;



- (l) an order staying proceedings or execution;
- (m) an order for or relating to a payment into or out of court;
- (n) an order for or relating to security for the costs of an action or other proceedings;
- (o) subject to paragraph (a) of subrule (5), an order for or relating to the discovery or inspection of documents;
- (p) an order for or relating to the service of or answer to interrogatories;
- (q) a judgment or order on admissions under GCR Order 27 rule 3;
- (r) an order granting an interlocutory injunction or for the appointment of a receiver;
- (s) an order for or relating to an interim payment under GCR Order 29;
- (t) an order made under or relating to a summons for directions;
- (u) an order directing a trial with a jury;
- (v) an order for or relating to the fixing or adjournment of trial dates;
- (w) an order directing a new trial or a re-hearing;
- (x) an order relating to access to, or the custody, care, education or welfare of, a minor whether in matrimonial, wardship, guardianship or any other proceedings;
- (y) an order for or relating to ancillary relief in matrimonial proceedings, including a property adjustment order, an order for the payment of a lump sum and any other order making or relating to financial provisions whether of a capital or income nature;
- (z) a judgment or order under GCR Order 14, Order 14A or Order 86;
- (aa) an order setting aside or refusing to set aside another judgment or order (whether such other judgment or order is final or interlocutory);
- (bb) an order made for or relating to the enforcement of an earlier order (whether such earlier order is final or interlocutory) or giving further directions as to such an order and (without prejudice to the generality of the foregoing) —
 - (i) a garnishee order *nisi* or a garnishee order absolute;
 - (ii) a charging order *nisi* or a charging order absolute; or
 - (iii) an order for the sale of any property by way of enforcement of an earlier order (whether such earlier order is final or interlocutory) or an order giving directions regarding any sale, or an order designed to regulate or facilitate such sale;
- (cc) an order for or relating to the taxation of costs or the delivery, withdrawal or amendment of bills of costs;

- (dd) without prejudice to paragraph (d) of subrule (5), an order made in the course of, or by way of regulation of, a liquidation and any other order ancillary to or consequential on a winding up order;
 - (ee) an order directing or otherwise determining an issue as to limitation of actions other than as part of a final judgment or order within the meaning of subrule (3);
 - (ff) an order made on an originating summons under GCR Order 85, rule 2, other than such an order as is mentioned in paragraph (c) of subrule (5); and
 - (gg) an order made on an application under GCR Order 82 rule 3A.
- (7) Notwithstanding anything in subrule (3) —
- (a) an order made under GCR Order 73 rule 2 shall be treated as final; and
 - (b) an order made under GCR Order 73 rule 3, 4 or 4A shall be treated as interlocutory.

Respondent's notice

- 13.** (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 in Civil Form 2 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 that event, 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 to contend that the decision of the court below should be varied upon grounds not specified in his notice given under this rule, to apply for any relief not so specified, or to support the decision of the court below upon any grounds not relied upon by that court or specified in such notice.
- (4) Any notice given under this rule (in this Part referred to as a “respondent’s notice”) shall be filed and a copy 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 memorandum of grounds of appeal on the respondent.



Amendment of respondent's notice

14. A respondent's notice may be amended by or with the leave of the Court at any time.

Notice of preliminary objection to be filed **see note on p.63*

***15.** (1) Subject as provided in subrule (1A) a respondent intending to rely upon a preliminary objection to the hearing of the appeal shall give the appellant three clear days notice thereof in Civil Form 3 before the hearing setting out the grounds of objection, and shall file such notice together with four copies thereof with the Registrar within the same time.

(1A) Notwithstanding subrule (1) a respondent intending to rely by way of objection to the hearing of the appeal on the failure of the appellant to seek leave to appeal (in a case where leave to appeal is required) shall serve on the appellant notice thereof in Civil Form 3 within fourteen days of receipt of the notice of appeal setting out the grounds of objection and shall file such notice with the Registrar within the same time.

(1B) Where notice of objection to which subrule (1A) applies has been filed the objection shall be determined in accordance with the provisions of rule 15A.

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

Summary determination of requirement for leave to appeal **see note on p.63*

***15A.** (1) Where notice of objection to which rule 15(1A) applies has been served, the appellant (if he wishes to proceed with the appeal) shall serve on the respondent within fourteen days of receipt of the notice —

(a) a brief skeleton argument (no longer than 10 pages double spaced in a minimum of 12 point script) to explain

(i) why it is contended that leave to appeal is not required; and

(ii) the arguments sought to be advanced in favour of the intended appeal; and

(b) a note or transcript of the judgment or ruling appealed from,

and shall file such documents with the Registrar at the same time.

(2) An objection to the hearing of an appeal to which rule 15(1A) applies shall, unless otherwise ordered by the Court or by the President of the Court, be determined in the first instance by a single Judge of the Court without an oral hearing.

- (3) If the objection is upheld, the single Judge may if he thinks fit treat the matter before him as an application by the appellant for leave to appeal and may grant such leave.
- (4) In a case where the single Judge grants leave to appeal under subrule (3) that decision shall be final, and the appeal shall proceed under these Rules.
- (5) In a case where the single Judge —
 - (i) dismisses the objection; or
 - (ii) upholds the objection but does not grant leave to appeal,the party dissatisfied with that decision may renew the objection or the contention that leave to appeal is not required or may make or renew an application for leave to appeal (as the case may be) inter partes at the next available sitting of the Court.

Directions of Court as to service

- 16.** (1) The Court may, in any case, direct that the notice of appeal or memorandum of grounds 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 which the Court directs the notice of appeal or memorandum of grounds of appeal be served on any party or person the Court may also direct that any respondent's notice by which the party or person is directly affected 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 Court

- 17.** (1) In relation to an appeal, the Court shall have all the powers and duties as to amendment and otherwise of the Grand 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.
- (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 subrules (1), (2) and (3) may be exercised notwithstanding that no notice of appeal or respondent's notice has been given in respect of any particular part of the decision of the court below or by any particular party to the proceedings in that court, or that any ground for allowing the appeal or for affirming or varying the decision of that court is not specified in such 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 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 Court as to new trials

- 18.** (1) On the hearing of any appeal, the Court may, if it thinks fit —
- (a) set aside a verdict, finding or judgment of the court below; or
 - (b) make such other order as could have been made by the Lord Chancellor and the Court of Appeal in Chancery on an appeal from a judgment of the Court of Chancery prior to the coming into force of the Supreme Court of Judicature Act, 1873 of the United Kingdom [UK Act].
- (2) A new trial shall not be ordered on the grounds of misdirection, the improper admission or rejection of evidence or because the verdict of the jury was not taken upon a question which the Judge at the trial was not asked to leave to them, unless in the opinion of the Court some substantial wrong or miscarriage has been thereby occasioned.
- (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 subrule (2) affects only part of the matter in controversy, or only one or some 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; or
 - (b) with the consent of the party entitled to receive or liable to pay the damages, as the case may be, reduce or increase the sum awarded by the jury by such amount as appears to the Court to be proper in respect of any distinct head of damages erroneously included in or excluded from the sum so awarded,

but, except as aforesaid, the Court shall not have power to reduce or increase 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.

Evidence on appeal

19. Where any 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 that court —

- (a) in the case of evidence taken by affidavit, by the production of such affidavits, or of office copies thereof; or
- (b) in the case of evidence given orally, by the production of a copy of the Judge's notes, or by such other means as the Court may direct.

Stay of execution

20. (1) Except so far as the court below or the Court may otherwise direct —

- (a) an appeal shall not operate as a stay of execution or of proceedings under the decision of the Court below; and
 - (b) no intermediate act or proceeding shall be invalidated by an appeal.
- (2) On an appeal from the Grand Court, interest for such time as execution has been delayed by the appeal shall be allowed unless the Court or a Judge otherwise orders.

Applications to Court *see note on p.63

***21.** (1) Except as otherwise provided by these Rules every application to a single Judge of the Court shall be by motion.

- (2) Repealed by rule 7 of the Court of Appeal (Amendment) Rules, 2009.
- (3) Where an application for leave to appeal has been refused by the court below, an application for such leave may be made to the Court *ex parte* within seven days from the date of such refusal.
- (3A) Where an *ex parte* application for leave to appeal is made to the Court, it shall be made and determined in accordance with the provisions of rule 21A.
- (4) Wherever, under the Law or 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.

Ex parte application for leave to appeal *see note on p.63

***21A.**(1) An *ex parte* application for leave to appeal shall, unless otherwise ordered by the Court, be made in the first instance in writing, by an application in Civil Form 3A accompanied by the documents described in subrule (5).



- (2) An *ex parte* application for leave to appeal shall, unless otherwise ordered by the Court or by the President of the Court, be determined in the first instance by a single Judge of the Court without an oral hearing.
- (3) If the single Judge grants leave to appeal, that decision shall be final, and the appeal shall proceed under these Rules.
- (4) If the single Judge refuses leave to appeal, the party seeking leave to appeal may renew the *ex parte* application for leave to appeal at the next available sitting of the Court.
- (5) The documents which shall accompany an *ex parte* application for leave to appeal shall be as follows —
 - (a) a draft of the intended notice and grounds of appeal;
 - (b) the order against which the applicant seeks leave to appeal;
 - (c) a brief skeleton argument (no longer than 10 pages double spaced in a minimum of 12 point script) to explain any argument sought to be advanced in favour of the intended appeal; and
 - (d) the judge's written reasons or a note or transcript of the reasons or ruling.
- (6) If leave to appeal is granted on an application under this rule the appellant's notice of appeal shall be served on the respondent and filed with the Registrar within fourteen days of the date upon which the order giving leave to appeal is made.

Proceedings where notes, etc., of court below not produced

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

Withdrawal of appeal

- 23.** If the appellant files with the Registrar a notice in Civil Form 4 that he desires to withdraw his appeal, the appeal shall stand dismissed with costs to the date on which such notice is filed. The appellant at the same time shall serve copies of the notice of withdrawal on all or any of the parties with regard to whom the appellant wishes to withdraw his appeal, and any party so served shall be precluded from laying claim to any costs incurred by him after such service unless the Court shall otherwise order.

Application to single Judge **see note on p.63*

- *24.** (1) In any case or matter pending before the Court, a single Judge may, upon application, make an order for —



- (a) a stay of execution on any judgment appealed from pending the determination of such appeal;
- (b) 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;
- (c) extension of time, or
- (d) the initial *ex parte* application for leave to appeal required by rule 21(3A),

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

- (2) Except as otherwise provided by these Rules any application to a single Judge under the Law or this rule shall be made by way of summons or motion on notice. Such application shall be supported by affidavit, a copy of which shall be served with the summons or notice of motion.
- (3) Where an application is made by summons, an order may be made adjourning the hearing into open court.
- (4) Where an application made by summons is heard in open court, it shall be treated as if it were a motion.

Dismissal of appeal in default of appearance

- 25.** (1) If the appellant fails to appear when his appeal is called on for hearing, the appeal may be struck out or dismissed with or without costs.
- (2) When an appeal has been struck out or dismissed owing to 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:

Provided that no application under this subrule shall be made after the expiration of twenty-one days from the date of the judgment or order sought to be set aside.

Non-appearance of respondent

- 26.** (1) If the respondent fails to appear when the appeal is called on for hearing the Court may proceed to hear the appeal *ex parte*.
- (2) Where an appeal has been heard *ex parte* and any judgment has been given therein adverse to the respondent, he 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:



Provided that no application to set aside any judgment and re-hear the appeal under this subrule shall be made after the expiration of twenty-one days from the date of the judgment sought to be set aside.

- (3) Any such application shall be by motion supported by affidavit setting forth the reasons and grounds for the application, and the Court may thereupon in its direction 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.

Execution of judgment by court below

27. A certificate in Civil Form 5 under the seal of the Court and the hand of the Registrar setting forth the judgment of the Court shall be filed in the court below, and the judgment shall be enforced by that court.

Power of Court under Judicature Law (2013 Revision)

28. The powers and discretion of the Court under section 24 of the *Judicature Law (2013 Revision)* shall be exercised subject to and in accordance with GCR Order 62.

PART III - CRIMINAL APPEALS

Forms of appeal, notices and questions thereon

29. A person desiring to appeal to the Court against conviction or sentence shall commence his appeal by submitting to the Registrar and to the Clerk of the Grand Court a notice of appeal, notice of application for leave to appeal or notice of application for extension of time within which such notice shall be given in Criminal Form 1 or 2, and in the notice or notices so sent, shall answer the questions and comply with the requirement set forth thereon, subject to rule 10. 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.

Judge's certificate under paragraph (b) of s.7 of the Law

30. (1) The certificate of the Judge of the Grand Court under paragraph (b) of section 7 may be in Criminal Form 3.
- (2) The Grand Court may, in any case in which it considers it desirable so to do, inform the person convicted before or sentenced by it that the case is, in its opinion, one fit for an appeal to the Court under paragraph (b) of section 7 and may give to such person a certificate to that effect in Criminal Form 3.

Signature and service of notices

- 31.** (1) Every notice of appeal, notice of application for leave to appeal or notice of application for extension of time within which such notice shall be given shall be signed by the appellant or his counsel, except under subrules (3), (4) and (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 counsel. All notices required or authorised to be given shall be addressed to the Registrar.
- (2) Where an appellant or applicant is a prisoner, any document to be served upon him shall be delivered to the Director of Prisons, who shall cause the same to be served on such prisoner.
- (3) Where 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 him.
- (4) Where, on the trial of a person entitled to appeal, it has been contended that he was not responsible according to law for his actions on the ground that he was insane at the time that act was done or the omission made by him, any notice required to be given and signed by the appellant himself may be given and signed by his counsel.
- (5) In the case of a body corporate, where any notice or other document is required to be signed by the appellant, it shall be sufficient compliance therewith if such notice or other document is signed by its secretary, clerk, manager or counsel.

Notice of application for extension of time for appealing

- 32.** An application to the Court for an extension of time within which notices may be given, shall be in Criminal Form 2. Every person making an application for such extension of time shall send to the court below together with the proper form of such application, a form, duly filled up, of notice of appeal, or of notice of application for leave to appeal, appropriate to the ground or grounds upon which he desires to question his conviction or sentence, as the case may be.

Stenographer's note **see note on p.63*

- *33.** (1) The stenographer (if there was one) shall sign the stenographer's note taken by him of any trial or proceedings, or of any part of such trial or proceedings, and certify the same to be a complete and correct stenographer's note thereof; and such stenographer's note shall be kept in such custody as the Registrar shall, either specially or generally, direct.
- (2) The stenographer shall, on being directed by the court below, furnish to it for the use of the Court a transcript of the whole or of any part of the



stenographer's note taken by him of any trial or proceedings in reference to which an appellant has appealed under the Law.

- (3) A transcript of the whole or any part of any stenographer's note relating to the case of any appellant which may be required for the use of the Court shall be typewritten and verified by the person making the same by a statutory declaration in Criminal Form 4 that the same is a correct and complete transcript of the whole or of such part, as the case may be, of the stenographer's note purporting to have been taken, signed and certified by the stenographer who took the same.
- (4) On the application of a party interested in a trial or other proceedings in relation to which a person may appeal under the Law, the court below shall direct the stenographer (if there was one) to furnish to such party, and to no other person, a transcript of the whole or of any part of the stenographer's note of any such trial or other proceedings, on payment to the court below of a fee of two dollars per page of foolscap.
- (5) A party interested in an appeal under the Law may obtain from the court below a copy of the transcript of the whole or of any part of any such stenographer's note as relates to the appeal on payment to the court below of a fee of two dollars per page of foolscap.
- (6) A transcript of any stenographer's note taken of the proceedings at the trial of any appellant shall be supplied free of charge in accordance with rule 33A.
- (7) If, for any reason, the stenographer's notes (if there were any) of the proceedings at the trial are not available, or if, for any other reason, the Court so requires, the Registrar shall, if the Court directs him so to do, request the court below to furnish him with a certified copy of the whole or any part of his notes of the trial or with a report in writing, giving his opinion upon the case generally or upon any point arising upon the case of the appellant, or both, and such court shall furnish the same to the Registrar.
- (8) In this rule —
“a party interested” means the prosecutor or the person convicted, or any other person named in or immediately affected by any order made by the court below, or other person authorised to act on behalf of a party interested as herein defined; but shall not include the Director of Public Prosecutions, to whom a copy of such transcript shall be furnished free of charge.

Availability of transcripts **see note on p.63*

- *33A.** (1) In the case of an appeal to the Court against any conviction by the Grand Court, the appellant shall be entitled to receive free of charge a transcript of any stenographer's note made at the trial of the arraignment, the plea entered to the indictment and the judge's summing up to the jury.



- (2) In the case of an appeal to the Court against any sentence by the Grand Court, the appellant shall be entitled to receive free of charge a transcript of any stenographer's note made at the trial of the sentencing remarks made by the judge, any evidence adduced after the verdict in the case and any submissions made in mitigation of the sentence.
- (3) The Court, a single Judge of the Court, or a judge of the Grand Court may order, on the application of an appellant to the Court against conviction or sentence, that an appellant is to be provided free of charge with any part of the trial transcript other than those referred to in subrules (1) and (2).
- (4) An appellant who seeks to be provided free of charge with any part of the trial transcript, other than those referred to in subrules (1) and (2), shall apply in the first instance to the Grand Court.
- (5) The application referred to at subrule (4) shall be made in writing stating precisely which parts of the trial transcript are sought, and giving the brief reasons why each part of the trial transcript sought is required.
- (6) The application referred to at subrule (4) shall be accompanied by copies of —
 - (a) Criminal Form 1 and any other document stating the grounds of the intended appeal; and
 - (b) the transcripts of any part of the trial already obtained.
- (7) The judge of the Grand Court to whom an application under subrule (4) is made shall specify which further parts (if any) of the trial transcript shall be transcribed and provided to the appellant free of charge, and shall provide in writing short reasons for his decision.
- (8) An appellant who has been refused further parts of the transcript under this rule may renew his application at a sitting of the Court.

Report of court below

- 34.** (1) The Registrar shall, if in relation to any appeal the Court directs him so to do, request the court below to furnish him with a report in writing, giving its opinion upon the case generally or upon any point arising upon the case of the appellant, and such court shall furnish the same to the Registrar.
- (2) The report of the court below shall be made to the Court, and the Registrar, on request, shall furnish a copy to the appellant and to the respondent.



Furnishing court below with materials for reports

- 35.** When the Registrar requests the court below to furnish a report under these Rules, he shall send to such court a copy of the notice of appeal, notice of application for leave to appeal or any other document or information which he shall consider material, or which the Court at any time shall direct him to send or with which the court below may request to be furnished by the Registrar, to enable such court to deal in such report with the appellant's case generally or with any point arising thereon.

Copies of documents or exhibits

- 36.** (1) At any time after notice of appeal or notice of application for leave to appeal has been given under the Law or these Rules, an appellant or respondent, or the counsel or other persons representing either of them, may obtain from the court below copies of any documents or exhibits in its possession under the Law or these Rules for the purposes of such appeals. Such copies shall be supplied by the court below on payment of a fee of two dollars per page of foolscap.
- (2) Where counsel is assigned to an appellant under the Law, copies of such documents or exhibits which he may request the court below to supply shall without charge be supplied, unless such court thinks that they are not necessary for the purposes of the appeal.
- (3) Where an appellant who is not legally represented requires from the court below a copy of any such document or exhibit in its custody for the purposes of his appeal he may obtain it free of charge if, under all the circumstances, the court below thinks it is desirable or necessary to supply the same to him.

Appeal against conviction or sentence *see note on p.63

- *36A.** (1) In the case of any appeal or any application for leave to appeal to the Court against any conviction by the Grand Court the appellant or the Registrar shall provide the Court with the following documents —
- (a) Criminal Form 1;
 - (b) the Indictment;
 - (c) the transcript of the judge's summing up to the jury; and
 - (d) any further transcript of the hearing before the Grand Court obtained in accordance with rule 33A.
- (2) In the case of any appeal or any application for leave to appeal to the Court against any sentence by the Grand Court the appellant or the Registrar shall provide the Court with the following documents —
- (a) Criminal Form 1;
 - (b) the Indictment;



- (c) a transcript of any stenographer's note made at the trial of the sentencing remarks made by the Grand Court judge, any evidence adduced after the verdict in the case, and any submissions made in mitigation of the sentence;
- (d) any further transcript of the hearing before the Grand Court obtained in accordance with rule 33A;
- (e) any social inquiry report in respect of the appellant; and
- (f) a list of the appellant's previous convictions (if any).

Registrar to notify receipt of notice of appeal

- 37.** (1) When the Registrar has received a notice of appeal or where leave to appeal is granted to any appellant, he shall —
- (a) notify the Director of Public Prosecutions; or
 - (b) if the prosecutor is a private person, enquire if he intends to defend the appeal and, if the answer is in the negative, so inform the Director of Public Prosecutions.
- (2) It shall be the duty of a prosecutor who declines to defend the appeal and of his counsel to furnish to the Registrar and the Director of Public Prosecutions, or either of them, any information, documents, matters and things in his possession or under his control connected with the proceedings against the appellant, which the Registrar or the Director of Public Prosecutions may require for the purposes of their duties under the Law.

Legal aid to appellants

- 38.** (1) The Registrar shall cause to be prepared and kept up to date, in such form as he thinks convenient, a list of counsel who are willing to act if and when nominated under the Law as counsel for appellants.
- (2) When legal aid is assigned to an appellant, the Court may give such directions as to the stage of the appeal at which such legal aid shall commence.
- (3) The Registrar shall thereupon, subject to any special order of the Court, select from such lists or otherwise a counsel for the purpose of affording legal aid to an appellant, having regard in so doing to the counsel, if any, who represent the appellant at the trial and to the nature of the appeal.

Fees to be prescribed

- 39.** The Court may prescribe the fees to be paid to counsel, which shall not exceed in any case the fees paid to counsel in the Grand Court.



Person in custody in default of payment of fine

- 40.** (1) Where a person, on his conviction, has been sentenced to pay a fine and in default of 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 any person has been convicted and is thereupon sentenced to the payment of a fine and, in default of such payment, to imprisonment, and he indicates to the court below that he is desirous of appealing to the Court against his conviction, such court may, if it thinks right so to do, order such person forthwith to enter into recognizances in such amount, and with or without sureties in such amount, as it may think right, to prosecute his appeal and, subject thereto, may order that payment of the fine shall be made at the final determination of his appeal, if the same be dismissed, to the court below, or as the Court may then order. The recognizances under this rule shall be in Criminal Forms 5 and 6. The court below shall forward the recognizances of the appellant and his surety or sureties to the Registrar.
- (3) If an appellant to whom subrule (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 court below shall report such omission to the Court, which may, after notices in Criminal Forms 7 and 8 have been given to the appellant and his sureties, if any, order an estreat of the recognizances of the appellant and his sureties, and may issue a warrant for the apprehension of the appellant and may commit him to prison in default of payment of his fine, or may make such other order as it may think right.

Paid fine to be returned if appeal successful

- 41.** An appellant who has been sentenced to the payment of a fine and has paid it or part of it 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

42. (1) Where, on the conviction of a person, the court below makes an order condemning such person to the payment of the whole or of any part of the costs and expenses of the prosecution for the offence of which he shall be convicted out of any moneys taken from such person on his apprehension or otherwise, or where such court makes, on the conviction of any person before it, any order for the payment of money by such convicted person or by any other person or any order affecting the rights of property of such convicted person, the operation of such orders shall, in any such cases, be suspended until the expiration of fourteen days after the day on which any of such orders was made. In cases 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. The Court may, by order, annul any order to which this rule refers on the determination of any appeal under the Law or may vary such order, and such order, if annulled, shall not take effect, and, if varied, shall take effect as so varied. The court below shall keep a record of any orders to which this rule refers.
- (2) Where, upon the conviction of any person of any offence, the court below orders that any disqualification, forfeiture or disability attach to such person, and notice of appeal or notice of application for leave to appeal is given in respect of such conviction, sentence or order, the Court or a single Judge may, upon application, suspend such disqualification, forfeiture or disability until the determination of the proceedings upon appeal.
- (3) Where the court below makes any such order as mentioned in this rule on a person convicted before it, it shall give such directions as it thinks right as to the retention, by any person, of any money or valuable securities belonging to the person so convicted and taken from him on his apprehension or of 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. The court below shall keep a record of any directions given under this rule.
- (4) When the court below, on the conviction of a person before it, makes any 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 court may, if it thinks right so to do, direct that the operation of such order shall not be suspended unless the person on whom such order has been made shall, in such manner and within such time as the court shall direct, give security by way of undertaking or otherwise for the payment to the person in whose favour such an order shall have been made of the amount therein named. Such security may be to the satisfaction of the person in whose



favour the order for payment shall have been made or of any other person as the court shall direct.

- (5) Where, on a conviction, any property, matter or thing, the subject of the prosecution or connected therewith, is to be or may be ordered to be destroyed or forfeited under any law or subsidiary legislation, the destruction or forfeiture, or order for destruction or forfeiture, shall be suspended for the period of fourteen days from and after the date on which the verdict on the indictment was returned and, in the event of an appeal under the Law, shall be further suspended until the determination by the Court.
- (6) Where, upon conviction of any person of any offence, any claim may be made or any proceedings may be taken under any law or subsidiary legislation against such person or 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 Law to the Court, until the determination thereof.
- (7) Any person affected by any order which is suspended under this rule may, with the leave of the Court, be heard on the final determination of any appeal, before any such order is varied or annulled by the Court.

Recognizances and bail

- 43.** (1) Where the Court admits an appellant to bail pending the determination of his appeal on an application by him duly made the Court, shall specify the amounts in which the appellant and his surety or sureties (unless the Court directs that no surety is required) shall be bound by recognizance and shall direct, if it thinks right so to do, before whom the recognizances of the appellant and his surety or sureties, if any, may be taken.
- (2) The Registrar shall notify the appellant and the Director of Prisons of the terms and conditions on which the appellant may be admitted to bail under the Law.
 - (3) 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.
 - (4) The recognizances provided for in this rule shall be in Criminal Forms 9 and 10.
 - (5) 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 Criminal Form 11 a notice to the Director of Prisons. This notice, when received by Director of Prisons, shall be a sufficient authority to him to release the appellant from custody.

- (6) An appellant who has been admitted to bail shall be personally present at every hearing of his appeal, and at the final determination thereof. The Court may, in the event of such appellant not being present at any hearing of his appeal if it thinks right so to do, decline to consider the appeal and may proceed summarily to dismiss the same, and may issue a warrant for the apprehension of the appellant in Criminal Form 12:

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

- (7) When an appellant is present before the Court, the Court may, on an application made by any person or, if it thinks right so to do, without any application, make an order admitting the appellant to bail, or revoke or vary any such order previously made, or enlarge, from time to time, the recognizances of the appellant or of his sureties or substitute any other surety for a surety previously bound as it thinks right.
- (8) At any time after an appellant has been released on bail, the Court may, if satisfied that it is in the interests of justice so to do, revoke the order admitting to bail, and issue a warrant in Criminal Form 12 for his apprehension, and order him to be committed to prison.
- (9) The Court may, on any breach of the recognizances of the appellant, if it thinks right so to do, order such recognizances and those of his surety or sureties to be estreated.
- (10) Where the surety or sureties for an appellant upon whose recognizances such appellant has been released on bail by the Court suspects or suspect that the appellant is about to depart out of the Islands, or in any manner to fail to observe the conditions of his recognizances on which he was so released, such surety or sureties may lay an information before a Justice of the Peace who shall thereupon issue a warrant for the apprehension of the appellant.
- (11) The appellant, on being apprehended under the warrant, shall be brought before a summary court, which shall on verification of the information by oath of the informant, by warrant of commitment, commit the appellant to prison.
- (12) The summary court on the commitment of any such appellant, shall forthwith notify the Registrar to that effect and forward to him the information and the deposition in verification thereof taken before such court, together with a copy of the warrant of commitment.
- (13) When an appellant has been released on bail and has, under warrant under these Rules or by his surety or sureties, been apprehended and is in prison, the Director of Prisons shall forthwith notify the Registrar who shall take steps to inform the Court thereof and the Court may give to the Registrar such directions as to the appeal or otherwise as it shall think right.



Abandonment of appeal

- 44.** (1) An appellant, at any time after he has duly served notice of appeal or of application for leave to appeal or of application of extension of time within which such notice shall be given, may abandon his appeal by giving notice of abandonment thereof in Criminal Form 13 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 33, the Registrar shall give notice thereof in Criminal Form 14 to the respondent, the Director of Prisons and the court below and, in the case of an appeal against conviction involving a sentence of death, shall in like manner give notice to the Governor, and the Registrar shall also return to the court below any original documents and exhibits received from it.

Varying order of restitution of property

- 45.** 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 court below, the person in whose favour or against whom the order of restitution has been made and, with the leave of the court, any other person, shall, on the final hearing by the Court of an appeal against the conviction on which such order of restitution was made, be entitled to be heard by the Court before any order annulling or varying such order of restitution is made.

Judgment of the Court

- 46.** 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

- 47.** (1) On the final determination of any appeal or of any application to the Court, the Registrar shall give to the appellant, if he is in custody and has not been present at such final determination, and to the respondent and the Director of Prisons, notice of such determination in Criminal Forms 15 to 18.
- (2) In any 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 Governor and to the Director of Prisons, and on the final determination of such appeal by the Court shall

forthwith notify the appellant, the Governor, the respondent and the Director of Prisons.

Notification of appeals

- 48.** (1) The Registrar at the final determination of an appeal shall notify in Criminal Form 18, or in such other manner as he thinks most convenient, to the court below, the decision of the Court in relation thereto and also any orders or directions made or given by the Court in relation to such appeal or any matter connected therewith.
- (2) The court below, on receiving the notification referred to in this rule, shall enter the particulars thereof on its records.

Restrictions on issue of certificate of conviction

- 49.** The court below shall not issue, under any law authorising it so to do, a certificate of conviction of any person convicted in that court if notice of appeal or notice of application for leave to appeal is given, until the determination or abandonment thereof.

Return of original depositions, etc.

- 50.** Upon the final determination of an appeal for the purposes of which the Registrar has obtained from the court below any original depositions, exhibits, indictment, information, inquisition, plea or other document usually kept by it, or forming part of the record of that court, the Registrar shall, where practicable, cause the same to be returned to the court below.

Attendance of witness before the Court

- 51.** (1) Where the Court has ordered any witness to attend and be examined before the Court, an order in Criminal Form 19 shall be served upon such witness specifying the time and place at which to attend for such purpose
- (2) Such order may be made on the application, at any time, of the appellant or respondent, but if the appellant is in custody and not legally represented the application shall be made in Criminal Form 20.
- (3) Where any witness receives an order or notice to attend before the Court, the Registrar may, if it appears to him necessary so to do, pay to such witness a reasonable sum for his expenses.
- (4) The appellant and the respondent and their respective counsel, if any, shall be entitled to be present at and take part in any examination of any witness to which this rule relates.



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

- 52.** Subject to section 4(2), the Registrar shall furnish the necessary forms and instructions in relation to notices of appeal or notices of application under Part III of the Law to any person who demands the same, and to officers of courts, the Director of Prisons and such other officers or persons as he thinks fit, and the Director of Prisons shall cause those forms and instructions to be placed at the disposal of prisoners desiring to appeal or to make any application under that Part, and shall cause any such notices given by a prisoner to be forwarded on behalf of the prisoner to the Registrar.

Cases reserved

- 53.** Where a case has been reserved for the opinion of the Court under section 27(1), Parts I and V and the other provisions of this Part shall, *mutatis mutandis*, apply:

Provided that if any difficulty arises in respect of such case, the Court may give directions, either with respect to a particular case or generally, as to the procedure to be followed for the removal of such difficulty.

PART IV - SECOND APPEAL FROM GRAND COURT**How appeal shall be made**

- 54.** (1) A person desiring to appeal to the Court under section 29(1) from a judgment of the Grand Court given in the exercise of its appellate or revisional jurisdiction 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 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 Director of Public Prosecutions whether or not he is such a party.
- (5) Every notice of appeal shall be filed and a copy thereof shall be served under subrule (4) within fourteen days of the date on which the judgment of the court below was signed, entered, delivered or otherwise perfected.

Registrar shall prepare record

55. When any notice of appeal has been received by the Registrar under this Part, he shall take steps to prepare the record which shall consist of the record of the proceedings in the court below together with copies of the notes of evidence and of argument, if any, of the court and of the judgment or order appealed against.

Application of Rules

56. Save as is otherwise provided in this Part, Part II shall apply in the case of any second appeal to the Court in any civil cause or matter and Part III shall apply in the case of any such appeal in a criminal cause or matter, *mutatis mutandis*.

Six copies of proceedings to be provided

57. Six copies of the proceedings and of the notes of evidence, if any, shall be provided by the court below in the case of any appeal to the Court under this Part and such copies shall be forwarded by such court together with copies of the judgment so appealed against to the Registrar for preparation of the record.

PART V - GENERAL

Special case

58. In the case of an appeal submitted for the consideration of the Court under section 22 in the form of a special case, the other provisions of these Rules shall, *mutatis mutandis*, apply:

Provided that if any difficulty arises in respect of any such appeal, the Court may give directions, either with respect to a particular appeal or generally, as to the procedure to be followed for the removal of such difficulty.

Case transferred upon direction

59. Where a case has been transferred to the Court upon a direction under section 29(2), the other provisions of these Rules shall, *mutatis mutandis*, apply:

Provided that if any difficulty arises in respect of any such case, the Court may give direction, either with respect to a particular case or generally, as to the procedure to be followed for the removal of such difficulty.



**SCHEDULE
FORMS
CAYMAN ISLANDS**

CIVIL FORM 1

Rule 11(1)

IN THE COURT OF APPEAL

NOTICE OF APPEAL

Between (Plaintiff/Defendant) *Appellant(s)

and (Defendant/Plaintiff) *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) (i)

For an Order (ii)

Dated this day of , 20 .

Counsel for the above-named Appellant.

To: The above-named Respondent.

And to:

His Counsel

**Strike out words inapplicable.*

(i) Here set out the whole or part of the decision complained about

(ii) State the precise form of order applied for

CAYMAN ISLANDS

CIVIL FORM 3

Rule 15(1)

IN THE COURT OF APPEAL

**NOTICE BY RESPONDENT OF INTENTION TO RELY UPON PRELIMINARY
OBJECTION**

Civil Appeal No. _____ of 20____.

Between (Plaintiff/Defendant) *Appellant(s)

and (Plaintiff/Defendant) * Respondent(s)

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

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

(1)

(2)

(3) etc.

Dated this _____ day of _____, 20____

(Plaintiff/Defendant) *Respondent(s)

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

**Strike out words inapplicable.*

CIVIL FORM 3A**Rule 21A(1)****IN THE COURT OF APPEAL****APPLICATION FOR LEAVE TO APPEAL**

Between Plaintiff/Defendant (Proposed Appellant)

And Defendant/Plaintiff (Proposed Respondent)

The Plaintiff/Defendant (Proposed Appellant) hereby applies in writing to a single Judge of the Court of Appeal for leave to appeal from the Order herein made by the Honourable Mr Justice on the day of 20 .

The applicant relies on the following documents in support of this application, copies of which are attached herewith -

1. Draft of the intended notice and grounds of appeal.
2. The Order against which the applicant seeks leave to appeal.
3. A skeleton argument.
4. The judge's written reasons or a note or transcript of the reasons or ruling.

Dated this day of 20 .

Applicant/Attorneys for Applicant



CAYMAN ISLANDS

CIVIL FORM 4

Rule 23

IN THE COURT OF APPEAL

NOTICE OF WITHDRAWAL OF APPEAL

Civil Appeal No. _____ of 20____.

Between (Plaintiff/Defendant) *Appellant(s)

and (Plaintiff/Defendant) * Respondent(s)

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

Dated this day of , 20 .
Appellant(s)

The Registrar, The Court of Appeal

And to Respondent(s)

**Strike out words inapplicable.*

CAYMAN ISLANDS

CRIMINAL FORM 1

Rule 29

IN THE COURT OF APPEAL

**NOTICE OF APPEAL OR APPLICATION FOR LEAVE TO APPEAL AGAINST
CONVICTION Or SENTENCE**

Civil Appeal No. of 20

To the REGISTRAR OF THE COURT OF APPEAL

Name of Appellant

(1) Court Convicted at the Court (1) held at

(2) <i>e.g. larceny, forgery, etc.</i>	Offence of which convicted (2)
	Sentence

(3) Set out the actual date upon which the appellant was convicted and sentenced.

Date when convicted (3)

Date when sentence passed (3)

(4) If not in custody here set out appellant's address in full. Name of Prison (4).

(5) If the appellant wishes to appeal against conviction he must write the word "conviction". If he wishes to appeal against sentence he must write the word "sentence". If he wishes to appeal against both conviction and sentence he must write the words "conviction and sentence".

(6) This notice must be (Signed) (6)



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 marks.

(7) If this notice is signed more than fourteen days after conviction or sentence appealed against the appellant must also fill in Criminal Form 2 and send it with this notice.

Dated this (7) day of , 20 .

(8) The appellant must answer each of these questions.

QUESTIONS (8)

ANSWERS

1. Did the judge before whom you were tried grant you a certificate that it was a fit case for appeal?

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

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

(b) Have you any means to enable you to obtain legal aid for yourself?

3. Is any attorney now acting for you? *If so give his name and address*



(9) An appellant is not entitled to be present on the hearing of an application for leave to appeal.

4. Do you desire to be present when the Court considers your appeal? (9)

5. Do you desire to apply for leave to call any witnesses on your appeal? *If your answer to this question is "Yes", you must also fill in Criminal Form 20 and send it with this notice.*

(10) These must be filled in before the notice is sent to the Registrar. The appellant must here set out the grounds or reason he alleges why his conviction should be quashed or his sentence reduced. If one of the grounds set out is "misdirection" by the Judge, particulars of such alleged misdirection must be set out in this notice. The appellant can also, if he wishes, set out, in addition to his reasons, his case and arguments fully.

Grounds of Appeal or Application (10)

CAYMAN ISLANDS**CRIMINAL FORM 2****Rules 29 and 32****IN THE COURT OF APPEAL****NOTICE OF APPLICATION FOR EXTENSION OF TIME WITHIN WHICH TO
APPEAL**

To the REGISTRAR OF THE COURT OF APPEAL

(1) *Here state the offence* I, _____ having been
e.g., larceny, forgery, etc. convicted of the offence of (1) at
the _____ Court held
at _____ on the _____ day of
, 20 ____.

(2) *State name of prison or if not in custody, set out address in full* and being now in (2) _____ give you

(3) *Here set out clearly and concisely the reasons for the delay in giving such notice, and the grounds on which you submit the Court should extend the time.* 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 (3)-

(Signed)

Dated this _____ day of _____, 20 ____.

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



CAYMAN ISLANDS

CRIMINAL FORM 3

Rule 30(1) and (2)

IN THE COURT OF APPEAL

JUDGE'S CERTIFICATE

In the

Grand Court holden at

THE QUEEN vs.

WHEREAS the said _____ was tried and convicted before me, the undersigned, in the _____ said Court on the _____ day of _____, 20____, on an indictment charging him with * _____ and was thereupon sentenced by me to _____.

I DO HEREBY CERTIFY that the case is a fit case for an Appeal by the said _____ to the Court of Appeal under paragraph (b) of section 7 of the Court of Appeal Law (2011 Revision), upon the following grounds-

Dated this day of , 20 .

(Signed)

Judge.

**State shortly the offence, e.g., larceny, forgery, etc.*



CAYMAN ISLANDS
CRIMINAL FORM 4

Rule 33(3)

IN THE COURT OF APPEAL

DECLARATION VERIFYING TRANSCRIPT OF Stenographer's NOTES

Criminal Appeal No. of 20 .

THE QUEEN vs.

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

Dated this day of , 20 .

(Signed)



CAYMAN ISLANDS

CRIMINAL FORM 5

Rule 40(2)

IN THE COURT OF APPEAL

RECOGNIZANCE OF APPELLANT SENTENCED TO PAYMENT OF A FINE

Criminal Appeal No. of 20

THE QUEEN vs.

Be it remembered that WHEREAS

of _____ was on the _____ day of _____, 20____, at the
Court holden at * _____ convicted of _____

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

The said _____ doth hereby acknowledge himself to owe to our Sovereign Lady the Queen the said sum of \$ _____ of good and lawful money to be made and levied of his goods and chattels, lands and tenements to the use of our said Sovereign Lady the Queen, her heirs and successors if he the said fails in the conditions endorsed.

Taken and acknowledged this _____ day of _____, 20____, before me.

(Signed)

Clerk of the Grand Court



CONDITION

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

**Here fill in the Court of Trial.*



CAYMAN ISLANDS

CRIMINAL FORM 6

Rule 40(2)

IN THE COURT OF APPEAL

RECOGNIZANCE OF SURETIES FOR APPELLANT SENTENCED TO A FINE

Criminal Appeal No. of 20

THE QUEEN vs.

Be it remembered that on the _____ day of _____, 20____, _____ of _____ (occupation) and _____ of _____ (occupation) personally came before the undersigned Clerk of the Grand Court and severally acknowledged themselves to owe to our Sovereign Lady the Queen the several sums following, that is to say, the said

and the said _____ the sum of \$ _____
of good and lawful money to be made and levied of their goods and chattels, lands and
tenements, respectively, to the use of our said Sovereign Lady the Queen, her heirs and
successors if _____ now before the Court of Appeal fails in the
condition hereon endorsed.

Taken and acknowledged on the day and year first above mentioned before me.

(Signed)

Clerk of the Grand Court



CONDITION

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

(Signed)

Surety

(Signed)

Surety



CAYMAN ISLANDS**CRIMINAL FORM 7****Rule 40(2)****IN THE COURT OF APPEAL****NOTICE TO APPELLANT SENTENCED TO FINE, OF BREACH OF HIS
RECOGNIZANCES**

Criminal Appeal No. of 20 .

THE QUEEN vs.

To the above-named

Appellant.

Whereas you were convicted on the day of , 20 , of the
offence of and were sentenced to the payment of \$
and in default of such payment to imprisonment, and you entered into recognizances in
the sum of \$, with sureties in the sum of \$ each, to prosecute your
appeal, and whereas fourteen days have elapsed since your said conviction and no notice
of appeal has been served by you, Now I Hereby Give You Notice that unless you attend
at the sitting of the Court of Appeal to be holden on the day of
, 20 , and then show good cause to the contrary, the Court may order an estreat of
your recognizances and those of your sureties, or may otherwise deal with you according
to law.

Dated this day of , 20 .

(Signed)

Registrar

CAYMAN ISLANDS**CRIMINAL FORM 8****Rule 40(3)****IN THE COURT OF APPEAL****NOTICE TO SURETY FOR APPELLANT OF ESTREAT OF RECOGNIZANCES**

Criminal Appeal No. of 20 .

THE QUEEN vs.

To*

of

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

Dated this day of , 20 .

(Signed)

Registrar

**Fill in here Surety's name and address.*



CAYMAN ISLANDS**CRIMINAL FORM 9****Rule 43(4)****IN THE COURT OF APPEAL****RECOGNIZANCE ON BAIL OF APPELLANT CONVICTED IN THE GRAND COURT**

Criminal Appeal No. of 20 .

THE QUEEN vs.

BE IT REMEMBERED that WHEREAS

hereinafter called the Appellant was on the day of , 20
thereupon sentenced to and was and now is in the lawful custody in *

AND WHEREAS 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 WHEREAS 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 personally cometh before me the undersigned, and acknowledges himself to owe to our Sovereign Lady the Queen the said sum of \$ of good and lawful money to be made and levied of his goods and chattels, land and tenements to the use of our said Sovereign Lady the Queen, her heirs and successors, if he the said appellant fails in the condition hereinafter set out.

CONDITION

The condition of the above written recognizance is such that he the said Appellant shall personally appear and surrender himself at and before the Court of Appeal at each and every hearing of his Appeal to such Court and at each and every adjournment thereof and at the final determination thereof and there abide by the judgment of the said Court and shall not depart or be absent from such Court at any such hearing or adjournment without the leave of the said Court and in the meantime shall not depart from his usual place of abode without the leave of such Court, then this recognizance shall be void or else shall stand in full force and effect.

(Signed)**

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



(Signed)

Justice of the Peace

** Insert Name of prison*

*** The Appellant must sign his name and set down the full postal address of the place where he intends to reside pending his appeal*



CAYMAN ISLANDS

CRIMINAL FORM 10

Rules 43(4)

IN THE COURT OF APPEAL

RECOGNIZANCE OF APPELLANT'S SURETIES

Criminal Appeal No. of 20

THE QUEEN vs.

Be it remembered that on the _____ day of _____, 20____, _____ of _____ (occupation) and _____ of _____ (occupation) personally came before the undersigned and severally acknowledged themselves to owe to our Sovereign Lady the Queen the several sums following, that is to say, the said _____ the sum of \$ _____ and the said _____ the sum of \$ _____ of good and lawful money, to be made and levied of their goods and chattels, land and tenements respectively, to the use of our said Sovereign Lady the Queen, Her heirs and successors if now in lawful custody in Her Majesty's Prison at _____ fails in the condition hereon endorsed.

Taken and acknowledged before me the undersigned on the day and year first abovementioned.

(Signed)

Justice of the Peace



CONDITION

The Condition of the within written recognizance is such that whereas the said

having been convicted of _____ and now in such lawful custody as before mentioned (under a sentence of _____ for such offence), has duly appealed to the Court of Appeal against his said conviction (and sentence) and having applied to such Court for bail, pending the determination of his said appeal, has been granted bail on his entering into recognizances in the sum of \$ _____ if the said _____ shall personally appear and surrender himself at and before the Court of Appeal at each and every hearing of his said appeal to such Court and at the final determination thereof, and then and there to abide by the judgment of the said Court, and not depart or be absent from such Court at any such hearing without the leave of the said Court and in the meantime not depart from his usual place of abode without leave of such Court, then this recognizance to be void, or else to stand in full force and effect.

(Signed)

Surety

(Signed)

Surety



CAYMAN ISLANDS**Rule 43(6) and 8****CRIMINAL FORM 12****IN THE COURT OF APPEAL****WARRANT FOR ARREST OF APPELLANT ON BAIL**

Criminal Appeal No. of 20 .

THE QUEEN vs.

To the CONSTABLES OF THE ROYAL CAYMAN ISLANDS POLICE FORCE AND
TO THE DIRECTOR OF PRISONS

WHEREAS an Appellant in the Court of Appeal has been released by the said Court on bail, and it has now been ordered by the said Court that a Warrant be issued for the apprehension of the said . These are therefore to command you the said Constables forthwith to apprehend the said and to bring him to the Director of Prisons and there deliver him with this warrant into the custody of the said Director, and you the said Director are hereby required to receive the said into your custody in the said prison and there safely to keep him until further order of the said Court.

Dated this day of , 20 .

(Signed)

President/Judge of Appeal.



CAYMAN ISLANDS

CRIMINAL FORM 13

Rule 44(1)

IN THE COURT OF APPEAL

NOTICE OF ABANDONMENT

Criminal Appeal No. of 20

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 the
sentence of _____ passed upon me on my said conviction) do
hereby give you notice that I do not intend further to prosecute my appeal, but that I
hereby abandon all further proceedings in regard thereto as from the date hereof.

Dated this _____ day of _____, 20____.

(Signed)*

(or mark)

Signature and address of witness attesting mark.

**For signature see rule 31*

CAYMAN ISLANDS
CRIMINAL FORM 14

Rule 44(2)

IN THE COURT OF APPEAL

NOTIFICATION OF ABANDONMENT OF APPEAL

Criminal Appeal No. of 20 .

THE QUEEN vs.

***To the DIRECTOR OF PUBLIC PROSECUTIONS**

This is to give you notice that I have this day received from the above-named a notice of abandonment of all proceedings in regard to his appeal to the Court. The said notice is dated the day of , 20 .

By rule 44(1) of the Court of Appeal Rules (2013 Revision), upon the notice of abandonment being given the appeal shall be deemed to have been dismissed by the Court.

Dated this day of , 20 .

Registrar

**Send copies addressed to-*

- (a) any respondent other than the Director of Public Prosecutions;*
- (b) the Director of Prisons; and*
- (c) the Clerk of the Grand Court.*



CAYMAN ISLANDS**CRIMINAL FORM 15****Rule 47(1)****IN THE COURT OF APPEAL****NOTIFICATION TO APPELLANT OF RESULT OF APPLICATION**

Criminal Appeal No. of 20 .

THE QUEEN vs.

To the above-named APPLICANT

This is to give you notice that the Court has considered the matter of your application for-

- (a) leave to appeal to the said Court;
- (b) leave to extend the time within which you may give notice of appeal or of application for leave to appeal;
- (c) permission to be present during the proceedings in your appeal;
- (d) admission to bail;
- (e) *

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

Dated this day of , 20 .

Registrar

**Insert here nature of any other application that may have been made.*

CAYMAN ISLANDS
CRIMINAL FORM 16

Rule 47(1)

IN THE COURT OF APPEAL

NOTICE TO AUTHORITIES OF RESULT OF APPLICATION

Criminal Appeal No. of 20 .

THE QUEEN vs.

To The DIRECTOR OF PUBLIC PROSECUTIONS (1)

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

- (a) leave to appeal to the said Court;
- (b) leave to extend the time within which he may give notice of appeal or of application for leave to appeal;
- (c) permission to be present during the proceedings in his appeal;
- (d) admission to bail;
- (e) (2)

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

Dated this day of , 20 .

Registrar

(1) *Send copies addressed to-*

- (a) *any respondent other than the Director of Public Prosecutions;*
- (b) *the Director of Prisons; and*
- (c) *the Clerk of the Grand Court.*

(2) *Insert here nature of any other applications that may have been made.*

(3) *Here set out the decision of the Court.*



CAYMAN ISLANDS**CRIMINAL FORM 17**

Rule 47(1)

IN THE COURT OF APPEAL**ON APPEAL FROM THE GRAND COURT****NOTIFICATION TO APPELLANT OF RESULT OF HIS APPEAL**

Case No. of 20 .

Criminal Appeal No. of 20 .

THE QUEEN vs.

To the above-named APPELLANT

c/o his Counsel, or

c/o the Director of Prisons

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 effect following- *

Dated this day of , 20 .

Registrar

**Here set out the decision of the Court*

CAYMAN ISLANDS

CRIMINAL FORM 18

Rule 47(1) and 48(1)

IN THE COURT OF APPEAL

ON APPEAL FROM THE GRAND COURT

NOTIFICATION TO AUTHORITIES OF RESULT OF APPEAL

Case No. of 20 .

Criminal Appeal No. of 20 .

THE QUEEN vs.

To the DIRECTOR OF PUBLIC PROSECUTIONS (1)

This is to give you notice that the above named having appealed against his/her conviction/order for the offence(s) of and/or the sentence(s) of passed upon him/her by the Grand/Magistrates (2) Court for the offence of on the day of , 20 set out below-

the Court of Appeal has finally determined the said appeal, and has this day given judgment therein to the effect following-(3)

Dated this day of , 20 .

Signed

Registrar

(1) *Send copies addressed to-*

- (a) *any respondent other than the Director of Public Prosecutions;*
- (b) *the Director of Prisons;*
- (c) *the Clerk of the Grand Court; and*
- (d) *Commissioner of Police.*

(2) *Delete if not appropriate.*(3) *Here set out the decision of the Court.*

CAYMAN ISLANDS**CRIMINAL FORM 19****Rule 51(1)****IN THE COURT OF APPEAL****ORDER TO WITNESS TO ATTEND COURT FOR EXAMINATION**

Criminal Appeal No. of 20 .

THE QUEEN vs.

To

of

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

This is to Give You Notice to attend before the said Court on
the day of , 20 at the Court of Appeal, Courts Building,
George Town at o'clock in the noon.

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

Dated the day of , 20 .

Signed

Registrar

CAYMAN ISLANDS

CRIMINAL FORM 20

Rule 51(1)

IN THE COURT OF APPEAL

APPELLANT'S APPLICATION FOR FURTHER WITNESS

Criminal Appeal No. _____ of 20____

THE QUEEN vs.

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

Dated this day of , 20 .

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

1. Name and address of witness.
2. Whether such witnesses were examined at your trial.
3. If not, state the reason why there were not so examined.
4. On what matters do you wish them to be examined on the appeal.

(Signed)

(or mark) Appellant.

Signature and address of witness attesting mark.

Publication in consolidated and revised form authorised by the Governor in Cabinet this 14th day of January, 2014.

Clerk of Cabinet

Note: For information relating to the applicability of certain rules to civil and criminal cases and the criteria in respect of an appellant's notice of appeal or application for leave to appeal to be lodged or submitted, see rule 15 of the Court of Appeal (Amendment) Rules, 2009.

