



**REPUBLIC OF MALAWI
SUPREME COURT OF APPEAL ACT, CAP 3:01
LAWS OF MALAWI**

SUPREME COURT OF APPEAL RULES

SUPREME COURT OF APPEAL RULES

CONTENTS

ORDER I

GENERAL

RULE

1. Citation
2. Interpretation
3. Service
4. Enlargement of time and departure from Rules
5. Fees
6. Registry
7. Sessions
8. Notification of Sittings
9. Adjournment
10. Registrar
11. Other Registrars
12. Seal of the Court
13. Powers of Registrar
14. Books to be kept by Registrar
15. Covers
16. Setting aside or varying order of Registrar
17. Forms
18. Court to which application should be made

ORDER II

ORIGINAL JURISDICTION

1. Procedure

ORDER III

CIVIL APPEALS

1. Application
2. Notice and grounds of appeal
3. Application for leave to appeal
4. Application for enlargement of time
5. Notice of appeal; on whom served
6. Addresses for service
7. Registrar's summons
8. Record of appeal
9. Preparation of record
10. Filing of record
11. Notice of filing
12. Security for costs
13. Cross-appeal Notice by respondent of contention that judgment should be varied or should be affirmed on other grounds
14. Notice of preliminary objection to be filed
15. Withdrawal of appeal
16. Appeal by respondent where appeal withdrawn
17. Non-compliance with conditions of appeal
18. Exhibits

19. Control of proceedings during pendency of appeal
20. Submission by party not appearing
21. Non-appearance of appellant
22. Non-appearance of respondent
23. Application to set aside ex parte judgment
24. New evidence on appeal
25. Interlocutory judgment not to prejudice appeal
26. Power of Court to give any judgment and make any order
27. Judgment
28. Order
29. Review of judgment
30. Enforcement of judgment
31. Execution of judgment by Court below
32. Costs
33. Fees
34. Matters not expressly provided for

ORDER IV

CRIMINAL APPEALS

1. Application
2. Applications not specially provided for
3. Obligation on appellant to fill up forms of appeal notices and answer questions thereon
4. Notices of appeal
5. Application for extension of time

6. Notice of application for leave to appeal
7. Dealing with applications for leave to appeal and other preliminary applications
8. Preparation of record
9. Record in criminal appeals from Court below in its original jurisdiction
10. Appeals in criminal matters from High Court in its appellate jurisdiction
11. Report of Judge of Court of trial
12. Furnishing Judge of Court of trial with materials for report
13. Bail
14. Fines
15. Varying order of restitution of property
16. Non-suspension of Orders of Restitution
17. Notification of final determination of appeals
18. Notification of appeal in capital cases
19. Entry of result of appeal
20. Enforcement of orders

ORDER V

MISCELLANEOUS

1. Waiver of non-compliance with rules

FIRST SCHEDULE

FORMS

Form No.

1. Notice of Appeal. (O. III, r. 2)

2. Notice of Motion for leave to appeal. (O. III, r. 3)
3. Summons to Parties by Registrar to settle record. (O. III, r. 7)
4. Certificate of service of Notice of Appeal. (O. III, r. 10)
5. Notice to parties of filing of record. (O. III, r. 11)
6. Notice by respondent of intention to contend that decision of Court below be varied. (O. III, r. 13)
7. Notice of intention to contend that Judgment should be affirmed on grounds other than those relied on by the Court below. (O. III, r. 13)
8. Notice by respondent of intention to rely upon preliminary objection. (O. III, r. 14)
9. Notice of withdrawal of appeal. (O. III, r. 15)
10. Notice of withdrawal of appeal by agreement. (O. III, r. 15)

SECOND SCHEDULE

FORMS

1. Notice of Appeal from decision of a court sitting as a court of first instance. (O. IV, r. 3)
2. Notice of application for leave to appeal from decision of a court sitting as a court of first instance. (O. IV, r. 3)
3. Notice of appeal from decision of a court in its appellate jurisdiction. (O. IV, r. 3)
4. Notice of application for leave to appeal from decision of a court in its appellate jurisdiction. (O. IV, r. 3)
5. Notice of appeal by Prosecutor. (O. IV, r. 3)
6. Notice of application for extension of the time within which to appeal. (O. IV, r. 3)
7. Notification to appellant of a single member's decision. (O. IV, r.7)
8. Notice of Appeal by appellant from refusal of a single Judge (O. IV, r. 7)
9. Recognisance of bail of appellant. (O. IV, r. 13)

10. Recognisance of appellant's sureties. (O. IV, r. 13)
11. Warrant for arrest of appellant on bail. (O. IV, r. 13)

THIRD SCHEDULE

FEES

- A. Original Jurisdiction
- B. Appellate Jurisdiction
- C. General

G.N. 283/1963

137/1966

SUPREME COURT OF APPEAL RULES

under s. 27

ORDER I

GENERAL

1. Citation

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

2. Interpretation

In these Rules, unless it is otherwise provided or required by the context:

“appeal” includes an application for leave to appeal;

“appellant” means a party appealing from a judgment or applying for leave in that behalf and includes his legal representative;

“Registrar” means the Registrar of the Court;

“the Court” means the Supreme Court of Appeal;

“Court below” means the High Court;

“legal representative” means a person admitted to practise in the Court who has been retained by or assigned to a party to represent him in the proceedings before the Court;

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

“respondent” in a civil appeal means any party (other than the appellant) directly affected by the appeal, and in a criminal appeal means the person who undertakes the defence of the judgment appealed against;

3. Service

(1) Any reference in these Rules to an address for service means an address within the jurisdiction where notices, pleadings, orders, summonses, warrants and other documents, proceedings, and written communications, if not required to be served personally, may be left, or to which they may be sent.

(2) Where under these Rules any person has given an address for service, any notice or other written communication which is not required to be served personally shall be sufficiently served upon him if it is left at that address or sent by registered post to that address, and in any case where the date of service by post is material section 2 (6) of the General Interpretation Act shall apply. Cap. 1:01

(3) Where under these Rules any notice or other application to the Court, or to the Court below, is required to have an address for service endorsed on it, it shall not be deemed to have been properly filed unless such an address is endorsed on it.

(4) Any person desiring to change his address for service shall notify the Registrar, who shall thereupon communicate the new address for service to anyone to whom he may have communicated the former address.

(5) Where any person has given the address of a legal practitioner as his address for service and the legal practitioner is not, or has ceased to be, instructed by him for the purpose of the proceedings concerned, it shall be the duty of the legal practitioner to inform the Registrar as soon as may be that he is not authorized to accept service on behalf of the client, and if he omits to do so he may be ordered to pay any costs occasioned thereby.

(6) Except as may be otherwise provided in these Rules or in any other written law, no notice or other written communication in proceedings in the original or appellate jurisdiction of the Court, need be served personally except—

(a) in proceedings in the original jurisdiction of the Court, the writ of summons or other document issued by the Court for the institution of the proceedings; and

(b) in proceedings in the appellate jurisdiction of the Court, the notice of appeal: Provided that if the Court is satisfied that the notice of appeal has in fact been communicated to the respondent no objection to the hearing of the appeal shall lie on the ground that the notice of appeal was not served personally.

(7) Where a Minister, or the Attorney General, or the Director of Public Prosecutions or any other public officer is a party ex officio or is representing the Government in any proceedings in the Court, whether civil or criminal, any notice or other document may be served on him by leaving it at or by sending it by registered post to his chambers or office and service in this manner shall be as effective as if it were personal service.

(8) Where any document is required by these Rules to be served personally, it shall be sufficiently served if it is served in the manner prescribed by law for the personal service of a writ of summons issued by the High Court, and if it appears to the Court that for any reason personal service cannot be conveniently effected, the Court shall have the same power as the High Court to direct that service be effected in some other way.

(9) Where any person out of the jurisdiction is a necessary or proper party to an action commenced in the original jurisdiction of the Court and properly brought against some other person duly served within the jurisdiction, the Court may allow service of a summons out of the jurisdiction. If such first mentioned person is an alien and is resident, or probably may be found, in a foreign country, the Court may allow service out of the jurisdiction of such person in such country of notice of the issue of a summons in lieu of service of a summons.

(10) Every application for an order for leave to serve a summons, or notice of the issue of a summons, on a defendant out of the jurisdiction shall be supported by evidence on affidavit or otherwise showing in what place or country such defendant is or probably may be found, and the grounds upon which the application is made.

(11) Any order giving leave to effect service out of the jurisdiction shall prescribe the mode of service, and shall limit a time after such service within which such defendant is to enter an appearance, such time to depend on the place or country where or within which the summons is to be served, and the Court may receive an affidavit or statutory declaration of such service having been effected as prima facie evidence thereof.

4. Enlargement of time and departure from Rules

The Court may enlarge the time provided by these Rules for the doing of anything to which these Rules apply, or may direct a departure from these Rules in any other way when this is required in the interests of justice.

5. Fees

The fees set out in the Third Schedule shall be payable in respect of the matters to which they relate.

6. Registry

(1) The Registry of the Court is situate at Blantyre and, except when otherwise expressly provided, all documents and proceedings shall be filed in that Registry, provided that whilst the Court is sitting in any place other than Blantyre any documents or proceedings in connection with any matter to be dealt with at such sessions may be filed in the Court at such place.

(2) A document may be filed in the Registry of the Court either by being delivered there by the party or his legal representative or agent in person or by being sent there by registered post.

7. Sessions

Sessions of the Court shall be convened and constituted and the time, venue and forum for all sessions and for hearing interlocutory applications shall be settled in accordance with directions to be given by the Chief Justice.

8. Notification of sittings

(1) The sittings of the Court and the matters to be disposed of at such sittings shall be advertised and notified in such manner as the Chief Justice may direct:

Provided that the Court may in its discretion hear any appeal and deal with any other matter whether or not the same has been advertised.

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

9. Adjournment

The Court may at any time on application or of its own accord adjourn any proceedings pending before it from time to time and from place to place.

10. Registrar

The Registrar shall have the custody of the records of the Court and shall exercise such other functions as are assigned to him by these Rules.

11. Other Registrars

The Chief Justice may assign, and the Registrar may, with the approval of the Chief Justice, delegate to a Deputy Registrar of the Court any functions required by these Rules to be exercised by the Registrar.

12. Seal of the Court

Subject to this rule, the Seal of the Court and any duplicate thereof shall be kept in the custody of the Registrar, and except as the Chief Justice may otherwise direct shall not be affixed to any writ, rule, order or other process or to any document without the express authority of the Registrar.

13. Powers of Registrar

The Registrar shall have the same jurisdiction, powers and duties as the Masters of the Supreme Court, Clerks of Criminal Courts, Registrars and the like officers of the Supreme Court of Judicature and the Court of Criminal Appeal in England, in addition to such other jurisdiction, powers and duties as are given him by these Rules or such further powers and duties as the Chief Justice may direct.

14. Books to be kept by Registrar

(1) The Registrar shall keep—

- (a) a Criminal Appeal Book;
- (b) a Civil Appeal Book; and
- (c) a Civil Record Book,

each of which shall contain an index in alphabetical order.

(2) The following particulars shall be entered in the Criminal Appeal Book, and the Civil Appeal Book—

- (a) the number of the appeal;
- (b) the names of the appellant and respondent;
- (c) the Court from which the appeal is brought;
- (d) the date and place of hearing of the appeal;
- (e) the names of counsel;
- (f) the subject matter of the appeal;
- (g) the judgment of the Court;
- (h) any subsequent proceedings and remarks.

(3) The following particulars shall be entered in the Civil Record Book—

- (a) the number of the application;
- (b) the names of the parties;
- (c) the date and place of hearing of the case;
- (d) the names of counsel;
- (e) the subject matter of the application;
- (f) the judgment of the Court;
- (g) any subsequent proceedings and remarks.

15. Covers

As soon as notice of appeal is delivered or an application for the exercise by the Court of its original jurisdiction is made to the Court or a member the Registrar shall prepare a cover in which pleadings or documents relating to the appeal or case shall be filed and on the front page thereof shall be recorded particulars of such pleadings or documents and the dates on which they are received.

16. Setting aside or varying order of Registrar

Any person aggrieved by anything done or ordered to be done by the Registrar other than anything ordered or done by the direction of the Chief Justice, may apply to a member to have the act, order or ruling complained of set aside or varied and the member may give such directions or make such order thereon as he thinks fit. Such application shall be made by notice of motion supported by affidavits setting out the complaint and the relief sought.

17. Forms

The forms set out in the First and Second Schedules, or forms as near thereto as circumstances permit, shall be used in all cases to which such forms are applicable.

18. Court to which application should be made

Whenever 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 but, if the Court below refuses the application, the applicant shall be entitled to have the application determined by the Court.

ORDER II

ORIGINAL JURISDICTION

1. Procedure

In the exercise of the original jurisdiction of the Court the practice and procedure of the Court shall be conducted in substantial conformity with the practice and procedure for the time being observed in the High Court.

ORDER III

CIVIL APPEALS

1. Application

This order shall apply to appeals to the Court from the High Court acting either in its original or its appellate jurisdiction in civil cases, and to matters related thereto.

2. Notice and grounds of appeal

(1) All appeals shall be by way of rehearing and shall be brought by notice (hereinafter called “the notice of appeal”) to be filed in the Registry of the Court below which shall set forth the grounds of appeal, shall state whether the whole or part only of the decision of the Court below is complained of (in the latter case specifying such part) and shall state also the exact nature of the relief sought and the names and addresses of all parties directly affected by the appeal, and shall be accompanied by a sufficient number of copies for service on all such parties. It shall also have endorsed on it an address for service. Civil Form 1

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

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

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

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

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

Provided that the Court shall not if it allows the appeal rest its decision on any ground not set forth by the appellant unless the respondent has had sufficient opportunity of contesting the case on that ground.

3. Application for leave to appeal

(1) Where an appeal lies only by leave of the Court or of the Court below any application to the Court for such leave shall be made ex parte by notice of motion. Civil Form 2

(2) If leave to appeal is granted by the Court or by the Court below the appellant shall file a notice of appeal:

Provided that nothing in this subrule shall be deemed to prohibit an appellant from filing a notice of appeal prior to the hearing of the application for leave to appeal.

4. Application for enlargement of time

Every application for an enlargement of time in which to appeal shall be supported by an affidavit setting forth good and substantial reasons for the failure to appeal within the prescribed period, and by grounds of appeal which prima facie show a good cause why the appeal should be heard. When time is so enlarged a copy of the order granting such enlargement shall be annexed to the notice of appeal.

5. Notice of appeal; on whom served

(1) The Registrar of the Court below shall, after the notice of appeal has been filed, cause to be served a true copy thereof upon each of the parties mentioned in the notice of appeal. It shall not be necessary to serve any party not directly affected:

Provided that the Court may, of its own motion, or on the application of any person claiming to be affected, direct notice to be served on all or any parties to the action or other proceeding or upon any person not a party and in the meantime may postpone or adjourn the hearing of the appeal upon such terms as may be just and make such order as might have been made if the persons served with such notice had been originally parties to the appeal.

(2) Notwithstanding anything in Order I rule 3 (6) (b), where in any proceeding in the Court below a party has given an address for service, notice of appeal from any decision made under such proceeding may be served on such party at such address for service, notwithstanding that the address may be that of a legal representative who has not been retained for the purpose of an appeal, and notice of any application preparatory or incidental to any such appeal may be served in like manner at any time before the date on which the respondent gives notice of his address for service in accordance with the immediately following rule.

(3) An appeal shall be deemed to have been brought when the notice of appeal has been filed in the Registry of the Court below.

6. Addresses for service

(1) Every person who by virtue of service on him of a notice of appeal becomes a respondent to any appeal or intended appeal shall within thirty days after service on him of the notice of appeal file in duplicate with the Registrar of the Court below notice of a full and sufficient address for service in such number of copies as the said Registrar shall require. The Registrar of the Court below shall forthwith send a copy of the notice of address to the Registrar and shall cause a copy thereof to be served on the appellant.

(2) Such notice may be signed by the respondent or his legal representative.

(3) If any respondent fails or omits to file such notice of address for service it shall not be necessary to serve on him any other proceedings in the appeal or any notice of hearing thereof.

(4) Any party to an appeal or intended appeal may change his address for service at any time by filing and serving on all other parties to the appeal or intended appeal notice of such change.

7. Registrar's summons

The Registrar of the Court below shall after the expiration of the time prescribed for filing notice of address for service summon the parties before him to settle the documents to be included in the record of appeal. Civil Form 3

8. Record of appeal

The record of appeal shall contain the following documents in the order set out—

(a) the index;

(b) a statement by the Registrar of the Court below giving brief particulars of the case and including a schedule of the fees paid;

(c) copies of the documents settled by the Registrar of the Court below for inclusion in the record of appeal in accordance with rule 9 of this Order;

(d) a copy of the notice of appeal and other relevant documents filed in connection with the appeal.

(1) The appellant shall be responsible for the preparation of the record which shall be certified as correct by the Registrar of the Court below.

(2) The preparation of the record shall be subject to the supervision of the Court below and the parties may submit any disputed question to the decision of a Judge of the Court below in chambers who shall give such directions thereon as the justice of the case may require.

(3) The Registrar of the Court shall direct the number of copies of the record which shall be prepared.

(4) The record, which shall incorporate the notice of appeal, shall be printed or clearly typed or cyclostyled, double-spaced, upon thick paper and shall be bound and indexed.

(5) The Registrar of the Court below, as well as the parties and their legal representatives, shall endeavour to exclude from the record all documents (more particularly such as are purely formal) that are not relevant to the subject matter of the appeal and generally to reduce the bulk of the record as far as practicable, and to avoid the production of unnecessary exhibits, taking special care to avoid the duplication of documents and the unnecessary repetition of headings and other merely formal parts of documents; but the documents omitted to be copies shall be enumerated in a list to be placed after the index or at the end of the record.

(6) Where in the course of the preparation of a record one 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, the record shall, with a view to the subsequent adjustment of the costs of and incidental to such documents, indicate in the index of papers, or otherwise, the fact that the inclusion of the document was objected to and the party who so objected.

(7) The cost of preparing the record shall be paid by the appellant in the first instance but shall, unless the Court otherwise directs, be included in the costs in the appeal:

Provided that an appellant exempted from the payment of fees in terms of rule 33 of this Order shall not pay for the cost of the transcription or the duplicating of the record unless a member of the Court otherwise orders.

(8) The record of appeal shall be bound in book form with a limp cover of stout paper and may, if long, be in more volumes than one. The title of the appeal shall appear on the outside of the cover.

(9) The record of appeal shall be paged continuously throughout.

(10) Every tenth line of every record of appeal shall be indicated by numbering in the unbound portion of the margin.

(11) Every record of appeal shall contain a complete index of the evidence and all proceedings and documents in the case. Whenever the record comprises more than one volume, the index shall appear in the first volume.

9. Preparation of record

10. Filing of record

The Registrar of the Court below shall file the record in the Court when ready, together with— Civil Form 4

- (a) a certificate of service of the notice of appeal;
- (b) four copies of the record for the use of the Court;
- (c) the docket or file of the case in the Court below containing all papers or documents filed by the parties in connection therewith.

11. Notice of filing

The Registrar of the Court shall cause to be served on all parties mentioned in the notice of appeal who have filed an address for service a notice that the record has been filed and shall in due course enter the appeal in the cause list and give notice to the parties of the date of hearing. Civil Form 5

12. Security for costs

The Court may require security for costs or for performance of the orders to be made on appeal.

13. Cross appeal notice by respondent of contention that judgment should be varied or should be affirmed on other grounds

(1) It shall not be necessary for the respondent to give notice of motion by way of cross-appeal; but if a respondent intends upon the hearing of the appeal to contend that the decision of the Court below should be varied, or that it should be affirmed on grounds other than those relied on by that Court he shall within one month after service upon him of the notice of appeal cause written notice of such intention to be given to every party who may be affected by such contention, whether or not such party has filed an address for service. In such notice the respondent shall clearly state the grounds on which he intends to rely and within the same period he shall file with the Registrar four copies of such notice of which one shall be included in the record, and the other three copies provided for the use of the members. Civil Forms 6 and 7

(2) Omission to give such notice shall not diminish any powers of the Court but may in the discretion of the Court be a ground for postponement or adjournment of the appeal upon such terms as to costs or otherwise as may be just.

14. Notice of preliminary objection to be filed

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

(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.

15. Withdrawal of appeal

(1) An appellant may at any time before the appeal is called on for hearing serve on the parties to the appeal and file a notice with the Registrar to the effect that he does not intend further to prosecute the appeal. Civil Form 9, Civil Form 10

(2) If all parties to the appeal consent to the withdrawal of the appeal without order of the Court, the appellant may file in the Registry the document or documents signifying such consent and signed by the parties or by their legal representatives and the appeal shall thereupon be deemed to have been withdrawn and shall be struck out of the list of appeals by the Registrar. In such event any sum lodged in Court as security for the costs of the appeal shall be paid out to the appellant.

(3) The withdrawal of an appeal with the consent of the parties under subrule (2) shall be a bar to further proceedings on any application made by the respondent under rule 13 of this Order.

(4) If all the parties do not consent to the withdrawal of the appeal as aforesaid, the appeal shall remain on the list, and shall come on for the hearing of any issue as to costs or otherwise remaining outstanding between the parties, including any application made by the respondent under rule 13 of this Order, and for the making of an order as to the disposal of any sum lodged in Court as security for the costs of appeal.

(5) An appeal which has been withdrawn under this rule, whether with or without an order of the Court, shall be deemed to have been dismissed.

16. Appeal by respondent where appeal withdrawn

Where an appeal is withdrawn under the preceding rule any respondent who has not given a notice under rule 13 of this Order may give notice of appeal and proceed therewith in the manner prescribed by the foregoing rules; and in such case the time limited for giving notice of appeal, may, on application to the Court, be extended so far as is reasonably necessary in all the circumstances of the case.

17. Non-compliance with conditions of appeal

(1) If the appellant has failed to comply with any order made under rule 12 of this Order the Registrar shall certify such fact to the Court, which may thereupon order that the appeal be dismissed, either with or without costs, and shall cause the appellant and the respondent to be notified of the terms of its order.

(2) Where an appeal has been dismissed under subrule (1), a respondent who has given notice under rule 13 of this Order may give notice of appeal and rule 16 of this Order shall apply as if the appeal were brought under that rule.

(3) If the respondent alleges that the appellant has failed to comply with a part of the requirements of rule 2 or 12 of this Order, the Court, if satisfied that the appellant has so failed, may dismiss the appeal for want of due prosecution or make such other order as the justice of the case may require.

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

18. Exhibits

(1) Subject as hereinafter provided, each party shall, immediately after an appeal becomes pending before the Court, deliver to the Court below all documents (being exhibits in the case or which were tendered as exhibits and rejected) which are in his custody or were produced or put in by him at the trial.

(2) Subject as hereinafter provided, each party to an appeal shall be prepared to produce at the hearing of the appeal all exhibits, other than documents, which are in his custody or were produced or put in by him at the trial.

(3) In case any party finds it difficult to comply with the previous provisions of this rule owing to the nature of the documents or other exhibit or owing to its being in possession of a third party or for any other reason, he may apply to the Registrar for directions.

(4) The Registrar may, either of his own motion or upon application, give any directions he sees fit, whether dispensing with this rule or modifying its application in any way or for securing compliance with it.

(5) All original documents delivered to the Court under this rule shall remain in the custody of the Court until the determination of the appeal:

Provided that the Court or Registrar may allow the return of any document to any party pending the hearing of the appeal and subject to such conditions as it or he may impose.

19. Control of proceedings during pendency of appeal

After an appeal has been entered and until it has been finally disposed of, the Court shall be seized of the whole of the proceedings as between the parties thereto, and except as may be otherwise provided in this Order, every application therein shall be made to the Court and not to the Court below.

20. Submission by party not appearing

At any time before hearing of the appeal any party to the appeal may file a declaration in writing that he does not wish to be present in person or by a legal representative on the hearing of the appeal together with four copies of such arguments as he desires to submit to the Court and serve a copy of such declaration and arguments upon every other party who has filed an address for service and thereupon the appeal shall be dealt with as if the party had appeared.

21. Non-appearance of appellant

(1) If the appellant fails to appear when his appeal is called on for hearing and has not taken action under rule 20 of this Order, the appeal may be struck out or dismissed with or without costs.

(2) When an appeal has been struck out owing to the non-appearance of the appellant 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.

22. Non-appearance of respondent

If the respondent fails to appear when the appeal is called on for hearing and has not taken action under rule 20 of this Order, the Court may proceed to hear the appeal ex parte.

23. Application to set aside ex parte judgment

(1) Where an appeal has been heard ex parte under rule 22 of this Order and any judgment has been given therein adverse to the respondent, he may apply to the Court to set aside such judgment and to rehear the appeal.

(2) No application to set aside and rehear under this rule shall be made after the expiration of twenty-one days from the date of the judgment sought to be set aside:

Provided that a respondent who has failed within the period of twenty-one days to make application under this rule may nevertheless at any time within a further period of three months thereafter apply to the Court on notice to the appellant to set aside such judgment, and the Court, if satisfied that good and sufficient cause has been shown for the application being out of time, may grant the application and make such order in relation thereto or as to costs as it may deem fit in the circumstances.

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

24. New evidence on appeal

It is not open as of right to any party to an appeal to adduce new evidence in support of his original case; but, for the furtherance of justice, the Court may, where it thinks fit, allow or require any new evidence to be adduced, such evidence to be either by oral examination in Court, by affidavit or by deposition taken before an examiner or commissioner as the Court may direct. A party may by leave of the Court allege any facts essential to the issue that have come to his knowledge after the decision of the Court below and adduce evidence in support of such allegations.

25. Interlocutory judgment not to prejudice appeal

No interlocutory judgment or order from which there has been no appeal shall operate so as to bar or prejudice the Court from giving such decision upon the appeal as may seem just.

26. Power of Court to give any judgment and make any order

The Court shall have power to give any judgment or make any order that ought to have been made, and to make such further or other order as the case may require including any order as to costs. These powers may be exercised by the Court, notwithstanding that the appellant may have asked that part only of a decision may be reversed or varied, and may also be exercised in favour of all or any of the respondents or parties, although such respondents or parties may not have appealed from or complained of the decision.

27. Judgment

(1) The judgment of the Court shall be pronounced in open Court, either on the hearing of the appeal or at any subsequent time of which notice shall be given by the Registrar to the parties to the appeal.

(2) A certified copy of the judgment shall be filed by the Registrar in the Court below.

28. Order

(1) Every judgment of the Court shall be embodied in an order.

(2) A sealed or certified copy of the order shall be filed by the Registrar in the Court below.

(3) Interlocutory orders shall be prepared in like manner.

29. Review of judgment

The Court shall not review any judgment once given and delivered by it save and except in accordance with the practice of the Court of Appeal in England.

30. Enforcement of judgment

Any judgment given by the Court may be enforced by the the Court or by the Court below or by any other Court which has been seized of the matter, as the Court may direct.

31. Execution of judgment by Court below

When the Court directs any judgment to be enforced by another Court, a certificate under the seal of the Court and the hand of the presiding member setting forth the judgment shall be transmitted by the Registrar to such other Court, and the latter shall enforce such judgment in terms of the certificate.

32. Costs

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

33. Fees

(1) Save as hereinafter provided, the fees prescribed in the Third Schedule shall be charged in respect of the matters to which they are respectively assigned, and shall be paid to the Registrar.

(2) No fee shall be payable in respect of any matter where such fee would be payable by the Government:

Provided that when any person is ordered to pay the costs of the Government in any case, all fees which would have been payable but for this subrule shall be taken as having been paid and shall be recoverable from such person.

(3) The Court below or the Court may on account of the poverty of any party or for other sufficient reason, dispense, if it sees fit, with payment of any fees, if the circumstances of the case require:

Provided that if such party succeeds in any appeal which results in an order for payment to him of any costs, the Court may order that such fees shall be a first charge on any moneys recovered or to be recovered under such order.

34. Matters not expressly provided for

Where no other provision is made by these Rules the procedure and practice for the time being in force in the Court of Appeal in England shall apply in so far as it is not inconsistent with these Rules, and the forms in use therein may be used with such adaptations as are necessary.

ORDER IV

CRIMINAL APPEALS

Appeals from the High Court in its Original or Appellate Jurisdiction in Criminal Cases

1. Application

This order shall apply to appeals to the Court from the High Court acting either in its original or in its appellate jurisdiction in criminal cases, and to matters related thereto.

2. Applications not specially provided for

Except where otherwise provided in these Rules any application to the Court may be made by the appellant or respondent or by a legal representative on his behalf orally or in writing, but in regard to such applications if the appellant is unrepresented and in custody he shall make any such application by forwarding the same in writing to the Registrar who shall take the appropriate steps to obtain the decision of the Court thereon.

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

(1) A person desiring to appeal to the Court against any judgment, sentence or order of the Court below, whether in the exercise of its original or of its appellate jurisdiction, shall commence his appeal by sending to the Registrar of the Court below a notice of appeal or notice of application for leave to appeal or notice of application for extension of time within which such notice shall be given, as the case may be, in the form of such notices respectively set forth as Criminal Forms 1, 2, 3, 4, 5 or 6 in the Second Schedule.

Provided that no formal notice of application for leave to appeal shall be required in the case of an application made to the Court below at the time when the judgment is delivered.

(2) A person sending any notice or notices under this rule shall answer the questions and comply with the requirements set forth thereon.

4. Notices of appeal

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

How notices, etc., may be given or sent

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

Where appellant unable to write

(3) Where an appellant or any other person authorized 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.

Where question of sanity involved

(4) Where, on the trial of a person entitled to appeal it has been contended that he was not responsible according to law for his actions on the ground that he was insane at the time the act was done or the omission made by him, or that at the time of the trial he was of unsound mind and consequently incapable of making his defence, any notice required to be given and signed by the appellant himself may be given and signed by his legal representative.

Notice, etc., on behalf of corporations

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

5. Application for extension of time

An application to the Court for an extension of time within which notices may be given shall be in Criminal Form 6 in the Second Schedule. Every person making an application for such extension of time shall send to the Registrar of the Court below, together with the proper form of such application, a form duly filled up, of notice of appeal, or of notice of application for leave to appeal, appropriate to the ground or grounds upon which he desires to question his conviction or sentence, as the case may be.

6. Notice of application for leave to appeal

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

(2) Where an application for leave to appeal has been made to the High Court, the Registrar of that Court shall file in the records of the Court the result of the application.

7. Dealing with applications for leave to appeal and other preliminary applications

(1) Where a single member deals with any preliminary application, the Registrar shall inform the applicant of the result of his application. In the event of such member refusing the application, the Registrar, on notifying such refusal to the applicant, shall forward to him Criminal Form 7 in the Second Schedule. If the applicant does not desire to have his said application determined by the Court or does not within thirty days of being notified of such

refusal return Criminal Form 8 duly completed by him, the refusal of his application shall be final.

(2) The answers to the questions on Criminal Forms 1, 2, 3 and 4 shall be deemed to be applications to the Court in such matters.

(3) A member hearing a preliminary application may sit and act wherever convenient.

8. Preparation of record

(1) When the Registrar of the Court below has received a notice of appeal or a notice of application to the Court for leave to appeal or for extension of time within which such appeal shall be given, the Registrar of the Court below shall prepare the record of appeal in the manner hereinafter prescribed and shall file the record in the Supreme Court. He shall also obtain the original exhibits in the case as far as practicable and any original depositions, information, inquisition, plea or other documents usually kept by him, or forming part of the record of the Court below, together with the originals of any recognisances entered into or any other documents filed in connection with the appeal or application.

(2) The Registrar shall forward to the appellant and to the Director of Public Prosecutions a copy each of the record:

Provided that if the appellant is not in custody a copy of the record shall only be supplied to him on request.

(3) The Court or Registrar may allow the return of any document to any party pending the hearing of the appeal and subject to such conditions as it or he may impose.

9. Record in criminal appeals from Court below in its original jurisdiction

(1) The record of appeal in appeals or applications relating to appeals from a Court below acting in its original jurisdiction in criminal cases shall contain legible typed copies of the following items arranged in this order—

- (a) the index;
- (b) the charge or information;
- (c) the transcript of the shorthand note of the evidence or, if no such note has been taken, the Judge's notes;
- (d) the summing up to the assessors;
- (e) the judgment or any additional ground or explanation thereof;
- (f) the proceedings on or after sentence;

(g) all documentary exhibits put in at the trial including depositions read in consequence of the absence of a witness: Provided that in the case of books of account or other documents of great length, extracts of the relevant portions thereof only shall be included;

(h) the notice of appeal or notice of application for leave to appeal, or notice of application for extension of time in which such notice shall be given.

(2) It shall not be necessary for the record of appeal to contain copies of any recognisances entered into or documents filed in connection with the appeal or application other than those set out in subrule (1) unless the Court or a Judge of the Court below shall otherwise direct.

10. Appeals in criminal matters from High Court in its appellate jurisdiction

(1) The record of appeal in appeals or applications relating to appeals from the High Court acting in its appellate jurisdiction in criminal matters shall contain legible typed copies of the following items arranged in this order—

(a) the index which shall include the particulars of the record of proceedings from the lower Court;

(b) the record of proceedings from the lower Court as submitted to the High Court;

(c) the notice of appeal and all other relevant documents filed in connection with the appeal in the High Court;

(d) the notes of the Judge or the shorthand note on the hearing of the appeal, unless the Court shall otherwise direct;

(e) the judgment of the High Court;

(f) the notice of appeal to the Court or notice of application for leave to appeal to the Court, or notice of application to the Court for extension of time in which such notice shall be given;

(g) where leave to appeal has been granted by the High Court, a copy of the order granting leave.

(2) It shall not be necessary for the record of appeal to contain copies of any recognisances entered into for the purposes of the appeal to the High Court or of the appeal or application to the Court, unless the Court or a Judge of the High Court shall otherwise direct.

(3) The number of copies of the record and of the documents to be included in each copy shall be such as may be directed by the Chief Justice.

11. Report of Judge of Court of trial

(1) The Registrar shall, if in relation to any appeal the Court directs him so to do, request the trial Judge 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 the trial Judge shall furnish the same to the Registrar.

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

12. Furnishing Judge of Court of trial with materials for report

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

13. Bail

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

(2) In the event of such Court not making any special order or giving any special directions under this rule, the recognisances of the appellant and of his surety or sureties (if any) may be taken before a magistrate.

(3) The recognisances provided for in this rule shall be in Criminal Forms 9 and 10 in the Second Schedule.

(4) An appellant who has been admitted to bail shall be personally present at each and every hearing of his appeal and at the final determination thereof. The Court may, in the event of such appellant not being present at any hearing of his appeal, if it thinks right 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 11 in the Second Schedule:

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

(5) 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 recognisances of the appellant or of his sureties or substitute any other surety for a surety previously bound as it thinks right.

(6) At any time after an appellant has been released on bail, the Court, or where the appellant was released on bail by the Court below, that Court, may, if satisfied that it is in the interest of justice so to do, revoke the order admitting to bail, and issue a warrant in Criminal Form 11 in the Second Schedule.

14. Fines

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

(2) An appellant who has been sentenced to the payment of a fine, and has paid the 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 or any part thereof so paid by him.

15. Varying order of restitution of property

Where, upon the trial of a person entitled to appeal against his conviction, an order of restitution of any property to any person has been made by the Judge of the Court below, the person in whose favour or against whom the order of restitution has been made, and, with the leave of the Court, any other person, shall, on the final hearing by the Court of an appeal against his 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.

16. Non-suspension of orders of restitution

Where the Judge of the Court below is of opinion that the title to any property the subject of an order of restitution made on a conviction of a person before him is not in dispute, he, if he shall be of opinion that such property or a sample or portion or facsimile representation thereof is reasonably necessary to be produced for use at the hearing of any appeal, shall give such direction to or impose such terms upon the person in whose favour the order of restitution is made, as he shall think right in order to secure the production of such sample, portion or facsimile representation for use at the hearing of any such appeal.

17. Notification of final determination of appeals

On the final determination of any appeal or of any application to the Court, the Registrar shall give to the appellant, if he be in custody and has not been present at such final determination, and to the respondent and the prison authority, notice of such determination.

18. Notification of appeal in capital cases

In any case of an appeal in relation to a conviction involving sentence of death, the Registrar shall, on receiving notice of appeal, send copies thereof to the Secretary for Justice for the information of the committee on the prerogative of mercy. He shall also notify the said Secretary of the final determination of the appeal.

19. Entry of result of appeal

The Registrar of the Court shall enter particulars of the result of any appeal on the records of the High Court.

20. Enforcement of orders

Any order given or made by the Court may be enforced by the Court or by the Court below as may be most expedient.

ORDER V

MISCELLANEOUS

1. Waiver of non-compliance with Rules

Non-compliance on the part of an appellant with these Rules or with any rule of practice for the time being in force shall not prevent the further prosecution of the appeal if the Court considers that it is in the interests of justice that non-compliance be waived or the appellant given a further opportunity to comply with the Rules. 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.

FIRST SCHEDULE

CIVIL FORM 1

IN THE SUPREME COURT OF APPEAL

NOTICE OF APPEAL

(ORDER III, RULE 2)

Between Plaintiff

and

..... Defendant

TAKE NOTICE that the Plaintiff/Defendant being dissatisfied with the decision/that part of the decision more particularly stated in paragraph 2* of the court contained in the judgment/order* of dated the day of 19 doth hereby appeal to the Court upon the grounds set out in paragraph 3 and will at the hearing of the appeal seek the relief set out in paragraph 4.

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

2. Part of decision of the lower Court complained of†

3. Grounds of Appeal:

(1)

(2)

(3), etc.

4. Relief sought from the Court

5. Persons directly affected by the appeal:

Name Address

(1)

(2)

(3), etc.

Dated this day of 19

.....

Appellant,

whose address for service is

.....

NOTE — An address for service must be given.

CIVIL FORM 2

IN THE SUPREME COURT OF APPEAL

NOTICE OF MOTION FOR LEAVE TO APPEAL

(ORDER III, RULE 3)

Between Plaintiff

and

..... Defendant

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

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

Dated this day of 19

.....

Applicant or his legal representative

whose address for service is

.....

To:

THE REGISTRAR,

SUPREME COURT OF APPEAL/HIGH COURT

And*

Note: An address for service must be given.

CIVIL FORM 3

IN THE SUPREME COURT OF APPEAL

SUMMONS TO PARTIES BY REGISTRAR TO SETTLE RECORD

(ORDER III, RULE 7)

Between Appellant

and

..... Respondent

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

Dated this day of 19

.....

Registrar

CIVIL FORM 4

IN THE SUPREME COURT OF APPEAL

CERTIFICATE OF SERVICE OF NOTICE OF APPEAL

(ORDER III, RULE 10)

Between Appellant(s)

and

..... Respondent(s)

I, the undersigned Registrar of the Court Do CERTIFY that notice of appeal in the above-named case was duly served upon the Respondent herein

Dated at this day of 19

.....

Registrar

CIVIL FORM 5

IN THE SUPREME COURT OF APPEAL

NOTICE TO PARTIES OF FILING OF RECORD

(ORDER III, RULE 11)

Between Appellant

and

..... Respondent

TAKE NOTICE that the record in the above-named appeal has this day been filed in the Supreme Court.

.....

Registrar

To:

CIVIL FORM 6

IN THE SUPREME COURT OF APPEAL

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

(ORDER III, RULE 12)

Between Appellant

and

..... Respondent

TAKE NOTICE that upon the hearing of the above appeal the Respondent herein intends to contend that the decision of the Court below dated the day of 19 shall be varied as follows*:

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

- 1.
- 2.
- 3, etc.

Dated this day of 19

.....

Respondent

CIVIL FORM 7

IN THE SUPREME COURT OF APPEAL

NOTICE OF INTENTION TO CONTEND THAT JUDGMENT SHOULD BE AFFIRMED ON
GROUNDS OTHER THAN THOSE RELIED ON BY THE COURT BELOW

(ORDER III, RULE 13)

Between Appellant

and

..... Respondent

TAKE NOTICE that upon the hearing of the above appeal the Respondent intends to contend that the decision of the Court below dated the day of 19 shall be affirmed on grounds other than those relied on by the Court below.

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

- 1.
- 2.
- 3, etc.

Dated this day of 19

.....

Respondent

CIVIL FORM 8

IN THE SUPREME COURT OF APPEAL

NOTICE BY RESPONDENT OF INTENTION TO RELY UPON PRELIMINARY
OBJECTION(S)

(ORDER III, RULE 14)

Appeal No. 19

Between Appellant

and

..... Respondent

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

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

- 1.
- 2.
- 3, etc.

Dated this day of 19

.....

Plaintiff/Defendant-Respondent

To the above-named Plaintiff-Defendant/Appellant or his legal representative.

CIVIL FORM 9

IN THE SUPREME COURT OF APPEAL

NOTICE OF WITHDRAWAL OF APPEAL

(ORDER III, RULE 15)

Appeal No 19

Between Appellant(s)

and

..... Respondent(s)

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

Dated at this day of 19

.....

Appellant(s)

THE REGISTRAR,
SUPREME COURT.

And to

CIVIL FORM 10

IN THE SUPREME COURT OF APPEAL

NOTICE OF WITHDRAWAL OF APPEAL BY AGREEMENT

(ORDER III, RULE 15)

Between Appellant

and

..... Respondent

TAKE NOTICE that the above appeal is withdrawn with the consent of all parties thereto.

Dated this day of 19

.....

Appellant or his legal representative

.....

Respondent or his legal representative

SECOND SCHEDULE

CRIMINAL FORM 1

IN THE SUPREME COURT OF APPEAL

NOTICE OF APPEAL FROM DECISION OF A COURT SITTING AS A COURT OF FIRST INSTANCE

(ORDER IV, RULE 3)

Republic v.

TO THE REGISTRAR OF THE

I, having been convicted of the offence of (1) and (1) state the offence being now a prisoner in prison at

or whose address for service is (2) (2) Where appellant for any reason not in custody, set out address for service

do hereby give notice of appeal against my conviction (particulars of which hereinafter appear) to the Court on the following grounds (3):— (3) State as clearly as you are able the grounds on which you desire to appeal

(Signed or mark)

Appellant

.....

Signature and address of witness

attesting mark

Dated this day of 19

PARTICULARS OF TRIAL AND CONVICTION

- (1) Date of trial
- (2) In what Court tried
- (3) Sentence Fill in all these particulars

CRIMINAL FORM 2

IN THE SUPREME COURT OF APPEAL

NOTICE OF APPLICATION FOR LEAVE TO APPEAL FROM DECISION OF A COURT SITTING AS COURT OF FIRST INSTANCE

(ORDER IV, RULE 3)

Republic v.

To THE REGISTRAR OF THE

I, having been convicted

of the offence of (1)

..... (1) State the offence, e.g. larceny, forgery, etc.

and now being a prisoner in prison at

(or whose address for service is (2)

.....) 2) Where applicant for any reason not in custody set out address for service

and being desirous of appealing against my conviction/sentence (3), Do HEREBY GIVE NOTICE that I hereby apply for leave to appeal on the following grounds:— 3) If the appellant wishes to appeal against conviction only he should strike out the word “sentence”. If he wishes to appeal against sentence only he should strike out the word “conviction“ If he wishes to appeal against conviction and sentence he should leave in both words

Signed or mark

Applicant

Signature and address of witness attesting mark

.....

Dated this day of 19

PARTICULARS OF TRIAL AND CONVICTION

(1) Date of trial

(2) In what Court tried

(3) Sentence Fill in these particulars

CRIMINAL FORM 3

IN THE SUPREME COURT OF APPEAL

NOTICE OF APPEAL FROM DECISION OF A COURT IN ITS APPELLATE JURISDICTION

(ORDER IV, RULE 3)

..... v

TO THE REGISTRAR OF THE HIGH COURT

I, having been convicted

of the offence of (1)

..... (1) State the offence

now being prisoner in prison at

(or whose address for service is (2)

.....) (2) Where applicant for any reason not in custody set out address for service

DO HEREBY GIVE NOTICE OF APPEAL against the decision of the High Court of on the following grounds (3):— (3) Set forth the grounds on which you desire to appeal and specify the extent, if any, to which the appeal Court varied the decision of the Court of trial

Signed or mark

Appellant

Signature and address of

witness attesting mark

.....

Dated this day of 19

PARTICULARS OF TRIAL AND CONVICTION

(1) Date of trial and sentence

- (2) In what Court tried
- (3) In what Court appeal heard
- (4) Sentence Fill in all these particulars

CRIMINAL FORM 4

IN THE SUPREME COURT OF APPEAL

NOTICE OF APPLICATION FOR LEAVE TO APPEAL FROM DECISION OF A COURT IN ITS APPELLATE JURISDICTION

(ORDER IV, RULE 3)

..... v

TO THE REGISTRAR OF THE

I,..... having been convicted

of the offence of (1)

and now being prisoner in prison at (1) State the offence

(or whose address for service is (2)

.....) (2) Where applicant for any reason not in custody set out address for service

DO HEREBY GIVE NOTICE THAT I hereby apply for leave to appeal against the decision of the High Court on the following grounds (3):— (3) Set forth the grounds on which you desire to appeal and specify the extent, if any, to which the Appeal Court varied the decision of the Court of trial. It should also be stated whether the appeal is against conviction only or against sentence only, or against both sentence and conviction.

Signed or mark

Applicant

Signature and address of

witness attesting mark

Dated this day of 19

PARTICULARS OF TRIAL AND CONVICTION

(1) Date of trial and sentence

(2) In what Court tried

(3) In what Court appeal heard

(4) Sentence Fill in all these particulars

CRIMINAL FORM 5

IN THE SUPREME COURT OF APPEAL

NOTICE OF APPEAL BY PROSECUTOR

(ORDER IV, RULE 3)

..... v

To THE REGISTRAR OF THE HIGH COURT

I, of the prosecutor in the above case and being desirous of appealing against the decision under section of

Do HEREBY GIVE NOTICE OF APPEAL (or application for leave to appeal) on the following grounds:—

.....

Prosecutor

Dated this day of 19

PARTICULARS OF TRIAL AND CONVICTION

(1) Date of trial

(2) In what Court tried

(3) Nature of conviction

(4) Sentence

CRIMINAL FORM 6

IN THE SUPREME COURT OF APPEAL

NOTICE OF APPLICATION FOR EXTENSION OF THE TIME WITHIN WHICH TO APPEAL

(ORDER IV, RULE 3)

Republic v.

To THE REGISTRAR OF THE

I,..... having been convicted
of the offence of (1)
in the court held at
on the day of 19
and being now a prisoner in prison at
(or whose address for service is (2)
.....)

give you notice that I hereby apply to the Court for an extension of time within which I may give Notice of Appeal (or Notice of Application for Leave to Appeal) on the grounds (3) following:—

(Signed or Mark)

Applicant

Signature and Address of

Witness attesting Mark

.....

Dated this day of 19

You are required to send to the Registrar of the Court, duly filled up, Criminal Forms 1, 2, 3 or Criminal Form 4, whichever is appropriate.

1. State the offence.

2. Where applicant for any reason not in custody set out address for service.
3. Set out clearly and concisely the reasons for the delay in giving such notice and the grounds on which you submit the Court should extend the time.

CRIMINAL FORM 7

IN THE SUPREME COURT OF APPEAL

NOTIFICATION TO APPELLANT OF A SINGLE MEMBER'S DECISION

(ORDER IV, RULE 7)

Republic v.

I hereby give you notice that a member of the Supreme Court of Appeal having considered your application(s) for:—

- (a) Leave to appeal;
- (b) For extension of time within which notice of appeal or of application for leave to appeal may be given;
- (c) Admission to bail;

has refused the application(s) marked

..... (and has granted your

application(s) marked))

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

Dated this day of 19

Signed

Registrar of the Court

To the above-named.

CRIMINAL FORM 8

IN THE SUPREME COURT OF APPEAL

NOTICE OF APPEAL BY APPELLANT FROM REFUSAL OF A SINGLE MEMBER

(ORDER IV, RULE 7)

Republic v.

TO THE REGISTRAR OF THE SUPREME COURT OF APPEAL

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

(a) Leave to appeal;

(b) For extension of the time within which notice of appeal or application for leave to appeal may be given;

(c) Admission to bail;

have been refused;

DO HEREBY GIVE YOU NOTICE that I desire that the said application(s) shall be considered and determined by the Court.

Signed or Mark

Appellant

Signature and Address of

Witness attesting Mark

Dated this day of 19

If you desire to state any reasons in addition to those set out by you in your original notice upon which you submit that the full Court should grant your said application(s), you may do so in the space below.

CRIMINAL FORM 9

IN THE SUPREME COURT OF APPEAL

RECOGNISANCE OF BAIL OF APPELLANT

(ORDER IV, RULE 13)

Republic v.

BE IT REMEMBERED THAT WHEREAS

was convicted of on the

..... day of 19 and was

thereupon sentenced to and now is in

lawful custody in prison at and has

duly appealed against his conviction (and sentence) to the Court and has applied for bail pending the determination of his appeal, and has been granted bail on entering into his own

Recognisances in the sum of £..... (with sureties each in the sum of £.....) the said

..... personally cometh before me the undersigned, being the (state office) and

acknowledges himself to owe to the Government the said sum of £..... of good and lawful money, to be made and levied of his goods and chattels, lands and tenements

to the use of the Government, if he the said

fail in the condition endorsed.

TAKEN AND ACKNOWLEDGED this day of

..... 19 at

before me.

(State office)

CONDITION

The condition of the within written Recognisance is such that if the said shall personally appear and surrender himself at and before the Court at each and every hearing of his appeal to such Court and at the final determination thereof and then and there abide by the judgment of the said Court and not 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 the leave of the Court, then this Recognisance shall be void, otherwise of full force and effect.

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

When released on bail my address for service, to which any Notices etc., are to be addressed, will be as follows:—

Signed

Appellant

CRIMINAL FORM 10

IN THE SUPREME COURT OF APPEAL

RECOGNISANCE OF APPELLANT'S SURETIES

(ORDER IV, RULE 13)

Republic v.

BE IT REMEMBERED THAT on this day of

19, of

and of

..... came before me the undersigned

being the and

(State office)

severally acknowledged themselves to owe to the Government several sums following, that is to say,

the said

the sum of £..... and the said

the sum of £..... of good and lawful money, to be made and levied of their goods and chattels, lands and tenements respectively, to the use of the Government if

.....

.....

now in lawful custody in prison at

fail in the condition hereon endorsed.

TAKEN AND ACKNOWLEDGED before me the undersigned the day and year first above-mentioned.

.....

Magistrate/Registrar

CONDITION

The condition of the within written Recognisance 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 against his said conviction (and sentence), and having applied to the said Court for bail, pending the determination of his said appeal, has been granted bail on his entering into recognisances in the sum of K with sureties each in the sum of K if the said shall personally appear and surrender himself at and before the said Court and at the final determination thereof, and then and there abide by the judgment of the said Court, and not depart or be absent from the said Court at any such hearing without the leave of the Court, and in the meantime not depart from his usual place of abode without the leave of the Court, then this recognisance shall be void, otherwise of full force and effect.

CRIMINAL FORM 11

IN THE SUPREME COURT OF APPEAL

WARRANT FOR ARREST OF APPELLANT ON BAIL

(ORDER IV, RULE 13)

Republic v.

TO THE CONSTABLES OF THE POLICE FORCE (OR COURT MESSENGERS AS THE CASE MAY BE), AND TO THE

(State office)

of the Prison at

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

.....
These are therefore to command you the said Constables (or Court Messengers or as the case may be) forthwith to apprehend the said

..... and to bring him
to the of the said prison
and there deliver him with this warrant into the custody of the said
..... and you the said

(State office)

..... 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.

.....
Presiding Member

Dated this day of 19

O. 1, r. 5

THIRD SCHEDULE

FEES IN CIVIL MATTERS

A. ORIGINAL JURISDICTION

The fees to be charged in the original jurisdiction of the Court shall be the same as those charged by the High Court in the exercise of its original jurisdiction.

B. APPELLATE JURISDICTION

K t

On filing Notice of Appeal against a final judgment or decision 5 00

On Respondent’s Notice of intention to contend that decision of Court below be varied	5	00
On filing Notice of Appeal against an interlocutory order or decision	2	00
On filing motion for leave to appeal	4	00
On filing Notice of Appeal where leave granted	1	00
On filing motion for extension of time—		
if the time has not yet expired	1	00
if the time has already expired	2	00
On filing any motion not otherwise provided for	2	00
On filing motion for stay of execution (if application is made by separate motion) On filing amended or additional grounds of appeal—		
if filed at least three weeks before the date fixed for the commencement of the sitting for which the appeal is set down	2	00
if filed later, but before the hearing of the appeal	4	00
On amending or adding to grounds of appeal by leave or direction of the Court at the hearing	6	00
Hearing fee payable in advance	4	00
On filing motion to restore appeal dismissed under Order III, rule 17	2	00
On filing motion to restore appeal struck out under Order III, rule 21	1	00
On filing motion to set aside and rehear appeal determined ex parte	2	00
On filing motion to set aside Taxing Officer’s decision or order	4	00
On every certificate of the order of the Supreme Court of Appeal (made on the final determination of appeals under Order III, rule 31)	2	00

C. GENERAL

1. The fees to be charged for any matter not expressly provided for in this Schedule shall be those chargeable in the High Court in the exercise of its appellate jurisdiction.

2. The fee for the service of any document or process shall be that charged for such service by the High Court.

3. The allowances payable to witnesses shall be those payable to witnesses in the High Court.

4. The fee for the services of a special interpreter of a language not in common use shall be that charged for such services by the High Court.

5. The following fees in connection with appeals are assessable in accordance with the rules in force in the Court below, and are not prescribed by these Rules:—

(a) fees for any application made to and determinable by the Court below;

(b) fees for the settling and preparation of the record of appeal, for the lodging of a bond to secure the costs of an appeal, and for the Registrar's certificate that the conditions of appeal have been fulfilled.