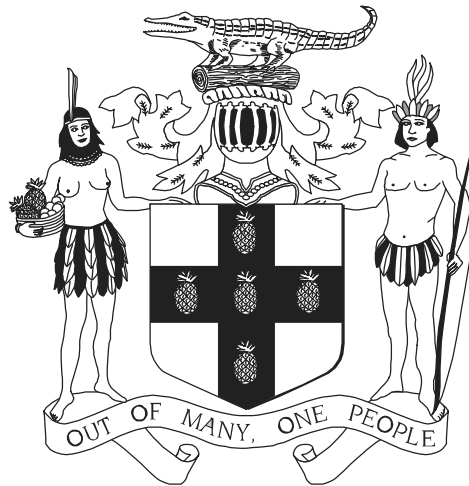


**SUPREME COURT OF JAMAICA
COURT OF APPEAL RULES 2002**



SUPREME COURT OF JAMAICA



COURT OF APPEAL RULES 2002

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The Judicature (Rules of Court) Act [The Court of Appeal Rules 2002]

In exercise of the powers conferred upon the Rules Committee of the Supreme Court by Section 4 of the Judicature (Rules of Court) Act, the following Rules are hereby made:

COURT OF APPEAL RULES, 2002

1. These Rules may be cited as the Court of Appeal Rules, 2002, and shall come into operation, subject to the transitional provisions contained in rule 1.17, on January 1, 2003.
2. The Court of Appeal Rules, 1962 and the Court of Appeal (Attorneys-at-Law's Costs) Rules, 2000 are hereby revoked.

September 16, 2002

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COURT OF APPEAL RULES - 20002

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SECTION 1

General

Citation and Scope of these Rules

- 1.1 (1) These Rules may be cited as the Court of Appeal Rules 2002.
- (2) They come into force, subject to the transitional provisions contained in rule 1.17, on the 1st January 2003
- (3) These rules set out the procedure for appeals to the Court of Appeal from -
- (a) the Supreme Court;
 - (b) Resident Magistrate's Courts;
 - (c) Courts Martial; and
 - (d) tribunals.
- (4) This Section sets out rules which are common to all appeals;
- (5) Section 2 of these Rules deals with civil appeals.
- (6) Section 3 of these Rules deals with criminal appeals.
- (7) Section 4 contains special rules applying to appeals from courts martial.
- (8) In these Rules -
- “**the Act**” (except in Section 4) means the Judicature (Appellate Jurisdiction) Act;
 - “**appellant**” means the party who first files a notice of appeal;
 - “**court**” means the Court of Appeal;
 - “**court below**” means the court or tribunal from which the appeal is brought and includes, in the case of the Supreme Court, a master;
 - “**judge**” means the President or a judge of the Court of Appeal unless the context otherwise requires;
 - “**order**” includes any judgment, order, sentence or decision of the court below;
 - “**procedural appeal**” means an appeal from a decision of the court below which does not directly decide the substantive issues in a claim but excludes -
- (a) any such decision made during the course of the trial or final hearing of the proceedings ;
 - (b) an order granting any relief made on an application for judicial review (including an application for leave to make the application) or under the Constitution;

- (c) the following orders under CPR Part 17 -
 - (i) an interim injunction or declaration;
 - (ii) a freezing order as there defined;
 - (iii) a search order as there defined;
 - (iv) an order to deliver up goods; and
 - (v) any order made before proceedings are commenced or against a non-party;
- (d) an order granting or refusing an application for the appointment of a receiver; and
- (e) an order for committal or confiscation of assets under CPR Part 53.

“**registrar**” (without qualification) means the Registrar of the court; and

“**respondent**” means -

- (a) in civil cases, any party to the appeal other than the appellant whether or not the respondent files a counter-notice; and
 - (b) in criminal cases, the person who has the duty of appearing for the Crown or who undertakes the defence of an appeal
- (9) a reference to a rule as “**CPR Part xx**” or “**CPR rule xx**” is a reference to the Part or rule so numbered in the Civil Procedure Rules 2002.
- (10) The following Parts and rules of the Civil Procedure Rules 2002 apply to appeals to the Court subject to any necessary modifications -
- (a) Part 1 (the overriding objective);
 - (b) Rule 2.3 (application of Interpretation Act);
 - (c) Rule 2.4 (definitions);
 - (d) Rule 2.6 (court staff);
 - (e) Rule 2.7 (court’s discretion as to where, when and how it deals with cases);
 - (f) Part 3 (time, documents);
 - (g) Part 6 (service);
 - (h) Part 11 (applications);
 - (i) Parts 30 - 33 (evidence);
 - (j) Part 35 (offers to settle); and
 - (k) Part 36 (payments into court)

(Part 60 of the Civil Procedure Rules, 2002 deals with appeals to the Supreme Court, Part 61 deals with appeals to the Supreme Court by way of case stated and Part 62 with appeals against administrative decisions of a registrar including appeals in non-contentious probate matters, CPR 65.26 - 29 deal with appeals against decisions of a registrar on a taxation of costs)

Forms

- 1.2 (1) The forms in Appendix A to these Rules and, where appropriate, practice forms must be used in the cases to which they apply.
- (2) A form may be varied if the variation is required by the circumstances of a particular case.
- (3) However, a form must not be varied so as to leave out any information or guidance which the form in Appendix A or practice direction gives to the intended recipient of the form.
- (4) A form marked with the word 'Seal' must bear the seal of the court.

Terms

- 1.3 There are three terms in each year as follows -
- (a) commencing on the Monday after the 16th September and ending on the 20th December;
- (b) commencing on the Monday after the 7th January and ending on the Friday before Good Friday; and
- (c) commencing on the Monday after Easter Monday and ending on the 31st July,
- provided that, if the 16th September or the 7th January fall on a Saturday or Sunday then the second Monday shall be substituted for the first Monday after that date.

Hearings in vacations

- 1.4 (1) In this Part "**vacation**" means a period between the end of one term and the beginning of the next and "**long vacation**" means the vacation beginning on the 1st August in each year.
- (2) During vacations the court may sit to hear and determine such appeals as the court may direct.
- (3) A party may apply to the court for any appeal to take place or application to be heard in vacation.
- (4) Any such application may be determined by a single judge of the court.

Sittings of the court

- 1.5 (1) The President must fix dates for the sittings of the court and publish these in the Gazette not later than the 31st October in each year.
- (2) The President may from time to time alter any dates fixed for the sittings of the court.
- (3) The registry shall be open every day except Saturdays, Sundays and public holidays, from 9 a.m. to 4 p.m.

Right of audience

- 1.6 Any party may appear before the court or the registrar in person or by attorney-at-law.

The court's general powers of management

- 1.7 (1) The list of powers in this rule is in addition to any powers given to the court by the Act or any other rule.
- (2) Except where these Rules provide otherwise, the court may -
- (a) consolidate appeals;
 - (b) extend or shorten the time for compliance with any rule, practice direction, order or direction of the court even if the application for an extension is made after the time for compliance has passed;
 - (c) adjourn or bring forward a hearing to a specific date;
 - (d) decide the order in which issues are to be heard;
 - (e) direct a separate appeal of any issue;
 - (f) hear two or more appeals on the same occasion;
 - (g) dismiss or give judgment on an appeal after a decision on a preliminary issue;
 - (h) exclude an issue from determination if it can do substantive justice between the parties on the other issues and determining it would therefore serve no worthwhile purpose;
 - (i) deal with a matter without the attendance of any parties;
 - (j) instead of holding an oral hearing, deal with a matter on written representations submitted by the parties;
 - (k) direct that any evidence be given in written form;
 - (l) where two or more parties are represented by the same legal practitioner -

- (i) direct that they be separately represented; and
 - (ii) if necessary, adjourn any hearing to a fixed date to enable separate representation to be arranged and make any consequential order as to costs thrown away;
 - (m) direct that notice of any appeal or application be given to any person; or
 - (n) take any other step, give any other direction or make any other order for the purpose of managing the appeal and furthering the overriding objective.
- (3) When the court makes an order or gives a direction, it may
- (a) make it subject to conditions; and
 - (b) specify the consequence of failure to comply with the order or condition.
- (4) The conditions which the court may impose include requiring -
- (a) a party to give security;
 - (b) a party to give an undertaking;
 - (c) the payment of money into court or as the court may direct;
 - (d) a party to pay all or part of the costs of the proceedings; and
 - (e) that a party permit entry to property owned or occupied by that party to another party or someone acting on behalf of another party.
- (5) Where a party pays money into court following an order under paragraphs (3) and (4) (c), that money shall be security for any sum payable by that party to another party in the proceedings subject to the right of a defendant under CPR 36.6(2) to treat all or part of any money paid into court as a payment in support of an offer to settle.
- (6) In considering whether to make an order, the court may take into account whether a party is prepared to give an undertaking.
- (7) The power of the court to make an order includes a power to vary or revoke that order.
- (8) In special circumstances on the application of a party the court may dispense with compliance with any of these Rules.
- (9) Where there is no transcript of the evidence given in the court below, the court may hear the appeal on any other evidence or statement of what occurred before the judge of the court below as the court considers sufficient.

How to obtain permission to appeal

- 1.8
- (1) Where an appeal may be made only with the permission of the court below or the court, a party wishing to appeal must apply for permission within 14 days of the order against which permission to appeal is sought.
 - (2) Where the application for permission may be made to either court, the application must first be made to the court below.
 - (3) An application to the court below may be made orally but otherwise the application for permission to appeal must be made in writing and set out concisely the grounds of the proposed appeal.
 - (4) Notice need not be given to any proposed respondent unless the court below, the court or a single judge so directs.
 - (5) An application for permission to appeal made to the court may be considered by a single judge of the court unless it is an appeal involving a sentence of death.
 - (6) The judge may give permission without hearing the applicant.
 - (7) However if the judge is minded to refuse permission he or she must direct -
 - (a) that a hearing in chambers be fixed; and
 - (b) whether that hearing is to be by a single judge or the court.
 - (8) The single judge or the court may direct that notice of the application for permission be given to any party to the proceedings in the court below who may be affected by the application for permission to appeal and -
 - (a) that a hearing be fixed; and
 - (b) whether that hearing is to be by a single judge or the court.
 - (9) The general rule is that permission to appeal in civil cases will only be given if the court or the court below considers that an appeal will have a real chance of success.
 - (10) An order giving permission to appeal may -
 - (a) limit the issues to be heard on the appeal; and
 - (b) be made subject to conditions.

(The circumstances in which permission to appeal is required are set out in sections 11 (civil) and 13 (criminal) of the Act)

How to appeal

- 1.9 An appeal is made by filing a notice of appeal at the registry of the court and takes effect on the day that it is received at the registry.
(rules 2.2 ,3.3 & 3.4 and 4.2 deal respectively with the specific requirements in civil and criminal appeals and in appeals from a Court-Martial)

Contents of Notice of Appeal

- 1.10 Subject to rule 4.2, in the notice of appeal the appellant must give details of -
- (a) the decision or part of the decision which is being appealed identifying so far as practicable-
 - (i) any finding of fact; and
 - (ii) any finding of law, which the appellant seeks to challenge;
 - (b) the grounds of the appeal;

Time for filing and serving Notice of Appeal

- 1.11 (1) The notice of appeal must be filed at the registry and served in accordance with rule 1.15 -
- (a) in the case of a procedural appeal, within 7 days of the date the decision appealed against was made;
 - (b) where permission is required, within 14 days of the date when such permission was granted.; or
 - (c) in the case of any other appeal within 42 days of the date when the order or judgment appealed against was served on the appellant.
- (2) The court below may extend the times set out in paragraph (1).

Amendment

- 1.12 (1) The appellant may, except on a procedural appeal, amend the grounds of appeal once without permission at any time within 21 days from receiving notice under -
- (i) rule 2.5(1) (b) or (c) in the case of a civil appeal; or
 - (ii) rule 3.7(5) in the case of a criminal appeal or an appeal from a Court-Martial,

that a transcript of the evidence and judgment have been prepared.

- (2) The court may give permission for a party to amend a notice of appeal or counter-notice.

Striking out notices and setting aside permission to appeal

- 1.13 The court may -
 - (a) strike out the whole or part of a notice of appeal or counter-notice;
 - (b) set aside permission to appeal in whole or part; and
 - (c) impose conditions upon which an appeal may be brought.

Dispensing with Procedural Requirements

- 1.14 On the application of any party, a single judge may dispense with any procedural requirements in these rules if he is satisfied that -
 - (a) the appeal is of exceptional urgency; or
 - (b) the parties are agreed; or
 - (c) the appeal relates to specific issues of law and can be heard justly without the production of the full record.

Service

- 1.15 (1) CPR Parts 5 and 6 apply to the service of notices of appeals and any other documents under these Rules.
- (2) The notice of appeal must be served -
 - (a) on all parties to the proceedings in the court below who may be directly affected by the appeal; and
 - (b) on any other person if the court so directs.

Hearing of appeals

- 1.16 (1) An appeal shall be by way of re-hearing.
- (2) At the hearing of the appeal no party may rely on a matter not contained in that party's notice of appeal or counter-notice unless -
 - (a) it was relied on by the court below; or
 - (b) the court gives permission.
- (3) However -

- (a) the court is not confined to the grounds set out in the notice of appeal or counter-notice, but
 - (b) may not make its decision on any ground not set out in the notice of appeal or counter-notice unless the other parties to the appeal have had sufficient opportunity to contest such ground.
- (4) The court may draw any inference of fact which it considers is justified on the evidence.

Transitional provisions

- 1.17 (1) This rule deals with appeals which are pending on the 1st January 2003.
- (2) The following rules do not apply to any appeal in which notice of appeal or an application for permission to appeal was made before the 1st January 2003 -
 Section 1: rules 1.8, 1.9, 1.10, 1.11, and 1.15;
 Section 2: rules 2.2, 2.3, 2.4, and 2.5;
 Section 3: rules 3.3, 3.4 and 3.10;
 Section 4: rules 4.2 and 4.3.
- (3) The following rules do not apply to any appeal in which a date in the first term of 2003 is fixed for the hearing of the appeal -
 Section 2: 2.6, 2.7, 2.8, 2.9, 2.12.
- (4) Where an appeal fixed for hearing in the first term of 2003 is adjourned from that term, these rules apply.
- (5) The provisions of the Court of Appeal Rules 1962 which relate to the matters dealt with in the rules set out in paragraphs (2) and (3) remain in force in respect to such appeals.

Costs

- 1.18 (1) The provisions of CPR Parts 64 and 65 apply to the award and quantification of costs of an appeal subject to any necessary modifications and in particular to the amendments set out in this rule.
- (2) The following words are to be substituted -
 for “**Appendix B to this Part**” substitute “**Appendix B to these Rules**”;
 for “**Chief Justice**” substitute “**President**”;

for “**case management conference**” and “**pre-trial review**”
substitute “**case management hearing under rule 2.9**”
for “**claim**” substitute “**appeal**”;
for “**claimant**” substitute “**appellant**”;
for “**proceedings**” substitute “**appeal**”
for “**statement of case**” substitute where appropriate “**notice of
appeal or counter-notice**”; and
for “**trial**” substitute “**hearing of appeal**”.

- (3) The expression -
“**court**” means the Court of Appeal;
“**registrar**” means the Registrar of the Court of Appeal;
“**registry**” means the registry of the Court of Appeal; and
“**these Rules**” mean the Court of Appeal Rules 2002.
- (4) The following rules do not apply -
rules 65.2(a), 65.3, 65.4, 65.5, 65.6, 65.8(3) and Appendices A
and B.

SECTION 2

Civil Appeals

Scope of this Section

- 2.1 (1) This Section sets out special rules which, together with the rules in Section 1 govern civil appeals to the Court of Appeal from -
- (a) the Supreme Court;
 - (b) Resident Magistrate's Courts; or
 - (c) tribunals,
not being -
 - (i) appeals or applications to the Supreme Court for which other provision is made by the CPR;
(CPR Part 60 deals with appeals to the Supreme Court)
 - (ii) appeals by way of case stated on a question of law for determination by the Supreme Court; or
(such appeals are dealt with in CPR Part 61)
 - (iii) appeals from an administrative decision (namely a decision made other than on an application under CPR 11 or on case management under CPR 27), a decision in non-contentious probate business under Part 68 Section 1, of, or a taxation of costs, by a registrar.
(such appeals are dealt with in CPR Part 62 and CPR rule 65.27-30)
- (2) In this Section -
“**core bundle**” means a bundle containing only such documents listed in rule 2.7 which the court will need to pre-read or to which it will be necessary to refer repeatedly at the appeal; and

Notice of Appeal

- 2.2 (1) In addition to complying with rule 1.10, a notice of appeal must be in form A1 and must give details of -
- (a) if the appellant seeks a new trial or to adduce fresh evidence, the grounds on which such application is made;
 - (b) the precise form of the order the appellant seeks; and
 - (c) any power which the appellant wishes the court to exercise.

- (2) A copy of the judgment or order which is the subject of the appeal must wherever practicable be attached to the notice of appeal.
- (3) Where permission to appeal is required a copy of the order giving permission to appeal must be attached to the notice of appeal.
- (4) The notice of appeal must -
 - (a) be signed by the appellant or the appellant's attorney-at-law;
 - (b) give the details required by CPR 3.11 (2); and
 - (c) state the -
 - (i) names and addresses; and
 - (ii) the attorney-at-laws and their addresses for service,

of all other parties affected by the appeal.
- (5) The grounds of appeal under paragraph (1) (b) must set out -
 - (a) concisely;
 - (b) under distinct heads; and
 - (c) in consecutively numbered paragraphs,

the grounds on which the appellant relies without any argument or narrative.
- (6) Where either party has had the proceedings in the court below recorded, th appellant (or failing him or her, the respondent (when?)) must notify the court when filing his or her notice of appeal.
- (7) If the appellant fails to notify the court in accordance with paragraph (6), the respondent must do so.

Counter Notice

- 2.3
- (1) Any party upon whom a notice of appeal is served may file a counter-notice form A2.
 - (2) The counter-notice must comply with rule 2.2.
 - (3) A respondent who wishes the court to affirm the decision of the court below on grounds other than those relied on by that court must file a counter-notice in form A3 setting out such grounds
 - (4) The counter-notice must be filed at the registry in accordance with rule 1.11 within 14 days of service of the notice of appeal.
 - (5) The party filing a counter-notice must serve a copy on all other parties to the proceedings in the court below who may be directly affected by the appeal.

Procedural appeal

- 2.4
- (1) On a procedural appeal the appellant must file and serve written submissions in support of the appeal with the notice of appeal.
 - (2) The respondent may within 7 days of receipt of the notice of appeal file and serve on the appellant any written submissions in opposition to the appeal or in support of any cross appeal.
 - (3) The general rule is that a procedural appeal is to be considered on paper by a single judge of the court.
 - (4) The general rule is that consideration of the appeal must take place not less than 14 days nor more than 28 days after filing of the notice of appeal.
 - (5) The judge may, however, direct that the parties be entitled to make oral submissions and may direct that the appeal be heard by the court.
 - (6) The general rule is that any oral hearing must take place within 42 days of the filing of the notice of appeal.
 - (7) The judge may exercise any power of the court whether or not any party has filed or served a counter-notice.

Action by registry on receipt of notice of appeal

- 2.5
- (1) Upon the notice of appeal being filed (unless rule 2.4 applies) the registry must forthwith-
 - (a) if the appeal is a procedural appeal, forthwith refer the appeal to a single judge to be dealt with in accordance with rule 2.4;
 - (b) if the appeal is from the Supreme Court -
 - (i) arrange for the court below to prepare a certified copy of the record of the proceedings in the court below and a transcript of the notes of evidence and of the judgment; and
 - (ii) when these are prepared give notice to all parties that copies of the transcript are available from the registrar of the court below on payment of the prescribed fee; or
 - (c) if the appeal is from a Resident Magistrate's Court or a tribunal apply to the clerk or other officer of the court or tribunal for -

- (i) a certified copy of the record of the proceedings;
 - (ii) a certified copy of the notes of the evidence given; and
 - (iii) a statement of the judgment, of the reasons for the decision and of any finding on any question of law under appeal,
- and forthwith upon receipt of such documents give notice to all parties that copies of the record and other documents are available on payment of the prescribed fee.
- (2) Where the appellant (or failing him or her, the respondent) has given notice to the registrar under rule 2.2(2) that one or both parties have recorded the proceedings in the court below then a transcript of the evidence and judgment may be used with -
 - (a) the consent the judge of the court below; or
 - (b) the agreement of all parties to the appeal.
 - (3) Where paragraph (2) applies the appellant must lodge a copy of the transcript with the registrar within 14 days after the consent of the judge or the agreement of the parties as the case may be.

Skeleton Arguments

- 2.6
- (1) Within 21 days of receipt of -
 - (a) the notice under rule 2.5 (1) (b) or (c); or
 - (b) the lodging of a transcript under rule 2.5(3),the appellant must file with the registry and serve on all other parties a skeleton argument.
 - (2) Within 21 days of service of the appellant's skeleton argument, any other party wishing to be heard on the appeal must file its skeleton argument and serve a copy on all other parties.
 - (3) The appellant may file and serve a skeleton argument in reply within 14 days of service of the skeleton argument by any other party.
 - (4) A skeleton argument must -
 - (a) set out concisely the nature of the party's arguments on each ground of appeal;
 - (b) in the case of a point of law, state the point and cite the principal authorities in support with references to the particular page(s) where the principle concerned is set out; and

- (c) in the case of questions of fact, state briefly the basis on which it is contended that the court can interfere with the finding of fact concerned with cross references to the passages in the transcript or notes of evidence which bear on the point.
- (5) The appellant's skeleton argument must be accompanied by a written chronology of events relevant to the appeal cross-referenced to the core bundle or record.

The record - appeal from Supreme Court

- 2.7 (1) This rule applies to all appeals from the Supreme Court other than -
- (a) procedural appeals; and
 - (b) summary appeals under rule 1.14.
- (2) Within 14 days of receipt of -
- (a) the notice under rule 2.5(1)(b) or (c); or
 - (b) the lodging of a transcript under rule 2.5(3),
- all parties must inform the appellant of the documents that they wish to have included in the record or the core bundle.
- (3) Within 28 days of receipt of -
- (i) the notice under rule 2.5(1)(b) or (c); or
 - (ii) the lodging of a transcript under rule 2.5(3),
- the appellant must prepare and file with the registry four sets of the record for the use of the court comprising a copy of each of the following documents -
- (a) the documents required by CPR 39.1(6) to be lodged with the Supreme Court (including any core bundle);
 - (b) any affidavits and exhibits which were put in evidence before the court below;
 - (c) a transcript or other record of -
 - (i) the evidence given in the court below; and
 - (ii) the judgment;
 - (d) the notice of appeal and any counter-notices that have been served on the appellant; and
 - (e) an index to the record.
- (4) Where the record consists of more than 100 pages the appellant must at the same time prepare a core bundle with index, and file-
- (a) two copies of the record in accordance with paragraph (3); and

- (b) four copies of the core bundle, for the use of the court.
- (5) The appellant must forthwith serve one copy of the record or (if paragraph (4) applies) one copy of any core bundle and a copy of the index to the record on every respondent.
- (6) Any application to correct the record must be made in writing to the registrar no later than 21 days after the service of the record or core bundle in accordance with paragraph (5).
- (7) Within 7 days after the filing of the last skeleton argument, the appellant must file a supplementary record containing all skeleton arguments and the chronology as required by rule 2.6.

The record - appeals from Resident Magistrate's Courts

- 2.8
- (1) This rule applies to appeals from Resident Magistrate's Courts.
 - (2) In the case of an appeal from a Resident Magistrate's Court the record consists of -
 - (a) the documents referred to in rule 2.5(1)(c);
 - (b) the notice of appeal and any counter-notices that have been served on the appellant; and
 - (c) an index to the record.
 - (3) The appellant must prepare and file with the registry four sets of the record for the use of the court.
 - (4) Where the record consists of more than 100 pages the appellant must at the same time prepare a core bundle with index, and file instead of the documents referred to in paragraph (3)-
 - (a) two copies of the record in accordance with paragraph (2); and
 - (b) four copies of the core bundle, for the use of the court.
 - (5) The appellant must forthwith serve one copy of the record or (if paragraph (4) applies) one copy of any core bundle and a copy of the index to the record on every respondent.
 - (6) Within 7 days after the filing of the last skeleton argument, the appellant must file a supplementary record containing all skeleton arguments and chronologies as required by rule 2.6.

Case management

- 2.9
- (1) When the record has been filed it must be referred to a single judge who may -

- (a) give written directions; or
 - (b) direct that a case management conference be fixed.
- (2) Directions, whether or not given at a case management conference, may include directions -
- (a) that the parties agree and file a statement summarising the facts found at the trial;
 - (b) that the parties agree and file a statement of issues for the appeal;
 - (c) as to the contents of the core bundle for use at the appeal;
 - (d) as to the length of time to be allocated to the hearing of the appeal; and
 - (e) as to the filing of written submissions and authorities and as to the length of time allowed to each party for oral argument; or
 - (f) that the appeal be considered solely on written submissions and authorities without oral argument and as to the time by which such submissions are to be filed.
- (3) The single judge in chambers must, when giving directions whether in writing or at the case management conference, fix a date for the hearing of the appeal.
- (4) Where a single judge has given directions under this rule, that judge shall wherever practicable be a member of the court hearing the appeal.

Procedural applications to court

- 2.10
- (1) Any application (other than an application for permission to appeal) to the court must be made in writing in the first instance and be considered by a single judge.
 - (2) Where the appeal has been referred to a single judge under rule 2.9 the application is wherever practicable to be considered by that judge.
 - (3) So far as practicable a procedural application is to be dealt with on paper or by telephonic or other means of communication other than an oral hearing.
 - (4) The registry must give the parties to the appeal at least 7 days notice of any hearing.

Powers of single judge

- 2.11 (1) A single judge may make orders -
- (a) for the giving of security for any costs occasioned by an appeal; and
 - (b) for a stay of execution on any judgment or order against which an appeal has been made pending the determination of the appeal;
 - (c) for an injunction restraining any party from dealing, disposing or parting with the possession of the subject matter of an appeal pending the determination of the appeal;
 - (d) as to the documents to be included in the record in the event that rule 1.7(9) applies; and
 - (e) on any other procedural application.
- (2) Any order made by a single judge may be varied or discharged by the court.

Security for costs of appeal

- 2.12 (1) The court may order -
- (a) an appellant; or
 - (b) a respondent who files a counter notice asking the court to vary or set aside an order of a lower court,
- to give security for the costs of the appeal.
- (2) No application for security may be made unless the applicant has made a prior written request for such security.
- (3) In deciding whether to order a party to give security for the costs of the appeal, the court must consider -
- (a) the likely ability of that party to pay the costs of the appeal if ordered to do so; and
 - (b) whether in all the circumstances it is just to make the order.
- (4) On making an order for security for costs the court must order that the appeal be dismissed with costs if the security is not provided in the amount, in the manner and by the time ordered.

Non-disclosure of payment into court, etc.,

- 2.13 (1) Where -
- (a) any question on an appeal in an action for a debt, damages or salvage relates to liability for the debt, damages or salvage or to the amount thereof; and
 - (b) an offer of settlement was made under CPR Part 35 or payment into court in support of such an offer was made under CPR Part 36 in the proceedings in the court below before judgment,
- neither the fact nor the amount of the offer or payment is to be stated in any notice of appeal or counter-notice or be communicated to the court until all such questions have been decided.
- (2) For the purpose of complying with this rule the appellant must cause to be omitted from the copies of the documents lodged by him every part which states, or refers to the fact, that money was paid into court or an offer to settle was made in the proceedings in that court before judgment.
- (3) This rule does not apply to an appeal relating only to costs.

Stay of execution

- 2.14 Except so far as the court below or the court or a single judge may otherwise direct -
- (a) an appeal does not operate as a stay of execution or of proceedings under the decision of the court below; and
 - (b) no intermediate act or proceeding is invalidated by an appeal.

Powers of the court

- 2.15 In relation to a civil appeal the court has the powers set out in rule 1.7 and in addition -
- (a) all the powers and duties of the Supreme Court including in particular the powers set out in CPR Part 26; and
 - (b) power to -
 - (a) affirm, set aside or vary any judgment made or given by the court below;
 - (b) give any judgment or make any order which, in its opinion, ought to have been made by the court

- below;
 - (c) remit the matter for determination by the court below;
 - (d) order a new trial or hearing by the same or a different court or tribunal;
 - (e) order the payment of interest for any period during which the recovery of money is delayed by the appeal;
 - (f) make an order for the costs of the appeal and the proceedings in the court below;
 - (g) make any incidental decision pending the determination of an appeal or an application for permission to appeal; and
 - (h) make any order or give any direction which is necessary to determine the real question in issue between the parties to the appeal.
- (3) The court may reduce or increase the amount of any damages awarded by a jury.
 - (4) The court may exercise its powers in relation to the whole or any part of an order of the court below.

Failure of party to attend appeal

- 2.16 (1) Where neither party appears at the appeal and the court is satisfied that the parties have received notice of the hearing in accordance with these Rules, the court may strike out the appeal and any counter appeal.
- (2) Where only one party appears, the court may proceed in the absence of the other if satisfied that the party who does not appear has received notice of the hearing in accordance with these Rules.

Application to set aside decision made in party's absence

- 2.17 (1) A party who was not present at an appeal at which a decision was made or the appeal struck out in the absence of that party may apply to set aside that order.
- (2) The application must be made within 14 days after the date on which the decision was served on the applicant.
- (3) The application to set aside the order must be supported by evidence on affidavit showing -

- (a) a good reason for failing to attend the hearing; and
- (b) that it is likely that had the applicant attended some other decision might have been made.

Certificate of result of appeal

- 2.18 (1) At the conclusion of each appeal the registry must prepare a certificate of the result of the appeal in form A4 and -
the result of the appeal in form A4 and -
- (a) file a copy at the office of the court below; and
 - (b) serve a copy on each party to the appeal.
- (2) The judgment of the court of appeal shall be enforced by the court below.

Withdrawal of appeal

- 2.19 (1) An appellant may at any time file at the registry a notice of withdrawal of his or her Notice of Appeal in form A5.
- (2) The notice may relate -
- (a) to all or any of the grounds of appeal; and
 - (b) to all or any of the respondents.
- (3) The appellant filing the notice of withdrawal must immediately serve copies of the notice on all other parties to the appeal.
- (4) Upon the filing of the notice -
- (a) the appeal stands dismissed; and
 - (b) the appellant filing the appeal is liable for the costs of all relevant respondents to the appeal up to the date of service of the notice of withdrawal.
- (5) Each respondent may file a certificate pursuant to CPR 65.10 or tax his or her costs pursuant to CPR Part 65, Section 2.
- (6) A respondent may at any time file at the registry a notice of withdrawal of his or her Counter-Notice of Appeal in form A.5.
- (7) The notice may relate -
- (a) to all or any of the grounds of the cross appeal; and
 - (b) to all or any of the appellants.
- (8) Upon the filing of the notice -
- (a) the cross- appeal stands dismissed; and
 - (b) the respondent filing the appeal is liable for any additional costs incurred by any other party to the appeal as a result of that respondent's counter-notice.

- (9) Each party entitled to costs under paragraph (8) (b) may tax his or her costs pursuant to CPR Part 65, Section 2.

Compliance with these Rules

- 2.20 (1) Where an appellant or a respondent who has filed a counter-notice fails to comply with any of these Rules, any other party may apply to the court to dismiss the appeal.
- (2) It is the duty of the registrar to see that all parties comply with the provisions of these rules and the registrar must report to the court before the end of each term any failure to comply.
- (3) On considering the report of the registrar under paragraph (2), the court may by order require any party to remedy any failure to comply with these Rules by a stated date and that in default of so doing -
- (a) if the party in default is the appellant, the appeal be dismissed with costs against the appellant;
 - (b) if the party in default is a respondent who has filed a counter-notice, the counter-notice be struck out and the respondent do pay to all other parties such additional costs as such parties may have incurred as a result of the counter-notice; or
 - (c) in the case of any other respondent, that respondent be debarred from being heard on the appeal.
- (4) CPR rule 26.8 (relief from sanctions) applies to any application for relief.

SECTION 3

Criminal Appeals

Scope of this Section

- 3.1 (1) This Section sets out special rules which, together with the rules in Section 1 govern criminal appeals to the Court of Appeal from-
- (a) the Supreme Court;
 - (b) Resident Magistrate's Courts
- (2) In this Section -
- “**appellant**” includes a person convicted where the judge of the court below has stated a case under the Criminal Justice (Administration) Act, section 51; and
- “**the clerk**” means the clerk of the relevant Resident Magistrate's Court.

Non-compliance with these Rules

- 3.2 (1) Where -
- (a) an appellant fails to comply with these Rules; and
 - (b) the court considers that such non-compliance was not wilful,
- the court may -
- (i) waive such non-compliance if it considers that it is just so to do; and
 - (ii) give such directions requiring the appellant to remedy the non compliance as it thinks fit.
- (2) Where the appellant is not present when any directions under paragraph (1)(b)(ii) are given, the registrar must notify the appellant of such directions.

How to appeal against conviction or sentence by Supreme Court

- 3.3 (1) A person seeking to appeal a conviction or sentence in the Supreme Court does so by filing with the registrar -

- (a) a notice of appeal in form B1; or
 - (b) a notice of application for permission to appeal in form B1.
- (2) An application for extension of time within which to appeal must be in form B2 and be accompanied by -
- (a) a notice of appeal in form B1; or
 - (b) a notice of application for permission to appeal in form B1.
- (no extension of time may be permitted when the conviction involves a death sentence)
- (3) Where the court has given permission to appeal the notice of application for permission to appeal shall stand as the notice of appeal.

How to appeal against conviction or sentence by Resident Magistrate's Court

- 3.4 A person who wishes to appeal from conviction or sentence by a Resident Magistrate's Court does so by -
- (a) (i) giving oral notice of appeal during the sitting of the court at which that person was convicted; or
 - (ii) filing with the clerk written notice of his intention to appeal within 14 days of his conviction or sentence; and
 - (b) filing with the clerk written grounds of appeal within 21 days from the date of conviction, together with four copies of any written notice of appeal and the grounds of appeal for the use of the court and the Director of Public Prosecutions.

Signature of notices

- 3.5 (1) The general rule is that notices under rules 1.10, 3.3(1) and (2) and 3.4 must be signed by the appellant or applicant (in this rule together referred to as "the appellant").
- (2) However -
- (a) an appellant who is unable to write may affix his mark to the notice in the presence of a witness;
 - (b) where the appellant has contended that he or she was insane and not responsible at law for his or her actions,

- the notice may be signed by the appellant's attorney-at-law; and
- (c) where the appellant is a body corporate the notice may be signed by the secretary, clerk, manager or attorney-at-law of the appellant.
- (3) Any other notice required by these Rules to be given may be signed by the appellant or his or her attorney-at-law

Service

- 3.6 (1) Subject to paragraph (2), CPR Part 6 applies to an appeal under this section.
- (2) Where the appellant or applicant is in custody any document to be served on him or her must be delivered to the officer in charge, or appearing to be in charge of the prison who must ensure that the document is served on the appellant or applicant.

The record

- 3.7 (1) For the purpose of this rule "**the record**" means -
- (a) the indictment or inquisition and the plea;
- (b) the verdict, any evidence given thereafter and the sentence;
- (c) notes of any particular part of evidence relied on as a ground of appeal;
- (d) any further notes of evidence which the registrar may direct to be included;
- (e) the summing up or direction of the judge in the court below; and
- (f) copies of any undertakings given pursuant to rules 3.14 or 3.21.
- (2) Upon receipt of a notice under rule 3.3(1) or (2), the registrar must require the registrar of the court below to supply to the court-
- (a) four copies of the record;
- (b) the original exhibits in the case, as far as practical; and
- (c) any original depositions, information, inquisition, plea or other documents usually kept by him, or forming part of the record of the court below.

- (3) In any capital case copies of all the notes of evidence must be included in the record.
- (4) Upon notice of appeal being given in accordance with rule 3.4, the clerk must send to the registrar the documents referred to in paragraph (2).
- (5) Upon receipt of the documents referred to in paragraph (2), the registrar must give notice of such receipt to the appellant and respondent.
- (6) Either party may apply to the court or a single judge for a direction that all the notes of evidence be supplied to the court and to the Director or Public Prosecutions.
- (7) At any time after a notice of appeal or application for permission to appeal has been filed, any party may obtain from the registrar of the court below copies of any exhibits or other documents in his or her possession upon payment of the prescribed fee.
- (8) An appellant -
 - (a) to whom an attorney-at-law has been assigned; or
 - (b) who is unrepresented,may obtain the documents referred to in paragraph (7) free of charge unless the registrar of the court below considers that such documents are not necessary for the purpose of an appeal or that, in the case of an appellant in person, the said registrar thinks it undesirable that such documents be supplied.

Shorthand note

- 3.8
- (1) The shorthand writer must certify as a full and correct shorthand record, any shorthand note taken by him or her of the whole or any part of the trial or other proceedings appealed.
 - (2) The registrar of the court below must supply for the use of the court a typewritten transcript of the whole, or such part as the registrar may direct, of the shorthand note taken of the trial proceedings appealed..
 - (3) The person preparing the transcript must certify its accuracy in form B4.
 - (4)
 - (i) a party to the appeal;
 - (ii) any person named in or immediately affected by the order of the court below; or
 - (iii) the attorney-at-law of such party or person,

may obtain from the registrar a copy of the transcript on payment of the prescribed fee

- (5) A copy of the transcript must be supplied free of charge -
 - (a) to the Director of Public Prosecutions;
 - (b) the Attorney General; and
 - (c) any unrepresented party.

Judge's report and notes

- 3.9 (1) On the direction of the court the registrar must request the judge of the court below to supply, -
 - (a) a written report giving his opinion upon the case either generally or upon any point arising in the appeal; and/or
 - (b) a certified copy of the whole or any part of his or her notes of the trial.
- (2) The report of the judge is to be made to the court and the registrar must supply a copy of the report and/or notes to the appellant and respondent.

Action on receipt of notice of appeal

- 3.10 (1) On -
 - (i) receipt of a notice of appeal; or
 - (ii) permission to appeal being granted,
 the registrar must
 - (a) notify the Director of Public Prosecutions; or
 - (b) if the prosecutor is a private person, inquire whether he or she intends to defend the appeal; and, if not,
 - (c) inform the Director of Public Prosecutions.
- (2) A prosecutor who declines to defend any appeal must supply to the registrar and the Director of Public Prosecutions any information, documents, matters and things in his or her possession or under his or her control connected with the proceedings against the applicant which either the registrar or the Director of Public Prosecutions may require in order to carry out their duty under the Act.

Legal Aid to appellants

- 3.11 (1) The registrar must maintain a list of attorneys-at-law who are prepared to be assigned as attorney-at-law for a legally aided appellant.
- (2) When legal aid is granted to an appellant, the court may direct who should be assigned to act as attorney-at-law for the appellant.
- (3) Subject to any such direction, the registrar must select one or more attorneys-at-law from the list maintained under paragraph (1) to represent the appellant having regard to -
- (a) the attorney-at-law who represented the appellant at the trial; and
 - (b) the nature of the appeal.

Skeleton arguments

- 3.12 (1) Within 21 days of receiving notice under rule 3.7(5) the appellant must file with the registry and serve on the respondent a skeleton argument.
- (2) Within 21 days of service of the appellant's skeleton argument, the respondent must file a skeleton argument and serve a copy on the appellant.
- (3) The appellant may file and serve a skeleton argument in reply within 14 days of service of the respondent's skeleton argument.
- (4) A skeleton argument must -
- (a) set out concisely the nature of the appellant's or the respondent's arguments on each ground of appeal;
 - (b) in the case of a point of law, state the point and cite the principal authorities in support with references to the particular page(s) where the principle concerned is set out; and
 - (c) in the case of questions of fact, state briefly the basis on which it is contended that the court can interfere with the finding of fact concerned with cross references to the passages in the transcript or notes of evidence which bear on the point.
- (5) The appellant's skeleton argument must be accompanied by a written chronology of events relevant to the appeal cross-referenced to the record or transcript.

- (6) Four copies of the skeleton argument and chronology must be filed.
- (7) This rule does not apply where the appellant is unrepresented.

Proceedings before a single judge

- 3.13
- (1) The registrar must give notice in form B5 to the appellant and respondent of any decision made by a single judge.
 - (2) An appellant who is dissatisfied with the decision of the single judge may apply in form B6 for a rehearing of the application by three judges of the court (who may include the single judge who refused the application).
 - (3) If the appellant does not apply under paragraph (3) within ten days of the service of the notice under paragraph(1) the decision of the single judge is final.
 - (4) An appellant who is not legally represented may be present at the rehearing if the court grants permission.
 - (5) On receipt of an application for rehearing by an appellant who is not represented the registrar must place it before the court to consider whether or not permission should be granted to the appellant to attend and must notify the appellant of the decision.
 - (6) Where the court gives permission for the appellant to attend, the registrar must notify the officer in charge of the prison where the appellant is in custody.
 - (7) An appellant who is legally represented may not be present at the rehearing without special permission of the court.

Suspension of fines

- 3.14
- (1) Where a defendant -
 - (a) has been sentenced to pay a fine and to a period of imprisonment in default; and
 - (b) remains in custody in default of payment of the fine, he or she is deemed to have been sentenced to imprisonment.
 - (2) Where -
 - (a) paragraph (1)(a) applies; and
 - (b) the defendant indicates to the judge of the court below an intention to appeal against his conviction,
 the judge may defer payment of the fine until the conclusion of the appeal provided that the defendant enters into undertakings to prosecute the appeal.

- (3) Undertakings under paragraph (2) may be -
 - (a) for such amount; and
 - (b) with or without sureties,as the judge may direct, and must be in form B7 or B8.
- (4) Where such undertakings are given the registrar of the court below must forward them to the registrar along with the form of commitment.
- (5) Where a defendant who has given undertakings does not file -
 - (a) notice of appeal; or
 - (b) notice of abandonment of appeal,within 14 days of the date of conviction or sentence, the registrar of the court below must report that fact to the court.
- (6) Where paragraph (5) applies the court may, after notice in form B9 and B10 has been given to the defendant and any sureties, -
 - (a) order forfeiture of the assets of the appellant or the sureties; and
 - (b) issue a warrant for the arrest of the appellant and commit him or her to prison in default of payment of the fine; or
 - (c) make such other order as the court thinks right.
- (7) Where an appellant has -
 - (a) paid all or any part of the fine; and
 - (b) succeeded in his or her appeal,the sum so paid shall be returned to the defendant unless the court orders otherwise.

Suspension of orders for costs and other money awards

- 3.15
- (1) Where on conviction -
 - (a) a defendant is ordered to pay all or part of the prosecution costs relating to the conviction;
 - (b) the defendant or any other person is ordered to pay a sum of money (other than a fine); or
 - (c) any other order is made affecting the property rights of the defendant, such orders are suspended for fourteen days.
 - (2) Where paragraph (1) applies and -
 - (a) notice of appeal; or
 - (b) notice of application for permission to appeal,is given, within such period of fourteen days, any order under paragraph (1) is suspended until determination of the appeal

unless the court otherwise orders.

- (3) The proper officer of the court below must keep a record of all orders made under paragraph (1).

Suspension of forfeiture etc. orders

- 3.16 Where -
- (a) the court below orders any disqualification, forfeiture or disability; and
 - (b) the person to whom such order attaches gives notice of appeal or notice of application for permission to appeal, the court may on application suspend the operation of the order until the determination of the appeal.

Property of defendant pending appeal

- 3.17 (1) Where on conviction the judge makes an order referred to in rule 3.14(2) or a payment is suspended under rule 3.15(1), the judge of the court below may give such directions as seem right as to the retention by any person of any monies or valuable securities -
- (a) (i) belonging to the defendant; and
 - (ii) taken from him or her upon arrest; or
 - (b) in the possession of the prosecution at the date of conviction,
- for a period of fourteen days after conviction or thereafter, if an appeal is made, until determination of the appeal.
- (2) Where on conviction any property the subject matter of, or connected with, the prosecution are to be or are ordered to be destroyed or forfeited, the destruction or forfeiture is suspended for fourteen days.
- (3) Where paragraph (2) applies and -
- (a) notice of appeal; or
 - (b) notice of application for permission to appeal,
- is given, within such period of fourteen days, any order under paragraph (1) is suspended until determination of the appeal.

Securing money payments

- 3.18 Where -
- (a) on conviction the judge makes an order referred to in rule 3.14(1)(a); and

- (b) such order would otherwise be suspended in accordance with rule 3.14(2)
- (c) an order is suspended under rule 3.15, the judge of the court below may direct that the operation of the order be not suspended unless the defendant or other person ordered to make the payment gives security for such payment in such manner as the judge may direct.

Right of person affected to be heard

- 3.19 Any person affected by an order suspended under rules 3.14 to 3.16 may, with the permission of the court, be heard on the final determination of any appeal, before any such order is varied or annulled by the court.

Suspension of claims against appellant

- 3.20 (1) Where a claim may be taken against a person convicted of any offence or against any other person consequent upon such conviction, no such proceedings may be taken for fourteen days after the conviction.
- (3) Where paragraph (1) applies and -
- (a) notice of appeal; or
 - (b) notice of application for permission to appeal,
- is given, within such period of fourteen days, any order under paragraph (1) is suspended until determination of the appeal.

Bail

- 3.21 (1) Where the court admits an appellant to bail pending the determination of his or her appeal, the court -
- (a) must direct the amounts in which the appellant and any sureties are to be bound by undertakings in forms B11 and B12; and
 - (b) may direct before whom the undertakings of the appellant and his or her surety or sureties (if any) are to be taken.
- (2) The registrar must notify the appellant and the officer in charge of the prison within which the appellant is confined of the order of the court.

- (3) If no order is made under paragraph (1)(b), the undertakings are to be taken before a Justice of the Peace.
- (4) The undertakings are to be sent to the registrar.
- (5) If satisfied that the undertakings comply with the order of the court under paragraph (1), the registrar must give notice in form B13 to the officer in charge of the prison in which the appellant is confined.
- (6) Notice under paragraph (5) is sufficient authority for the officer in charge of the prison to release the appellant from custody.
- (7) Where an appellant has been released on bail but has been arrested by a warrant issued under these Rules, form B14 or by his or her surety or sureties the officer in charge of any prison in which he or she is confined must inform the court of that fact.
- (8) The court may then give the registrar directions as to the appeal or otherwise.

Abandonment of appeal

- 3.22
- (1) An appellant may at any time abandon his or her appeal by giving notice to the registrar in form B15.
 - (2) The notice of abandonment must, subject to rule 3.5, be signed by the appellant even though he or she is represented by an attorney-at-law.
 - (3) Upon receipt of notice under paragraph (1) -
 - (a) the appeal is deemed to be dismissed;
 - (b) the registrar must give notice in form B16 to -
 - (i) the respondent;
 - (ii) the registrar or clerk of the court below;
 - (iii) in a criminal appeal where the appellant is in custody, the prison authority;
 - (iv) in an appeal from a Court-Martial, the person in charge of any place where the appellant is in custody; and
 - (v) (in the case of conviction involving sentence of death) the Governor General's Secretary.
 - (c) the registrar must return to the registrar or clerk of the court below any original documents and exhibits received from that court.

Hearing of appeal - orders of restitution

- 3.23 Where the court below has made an order of restitution a person-
- (a) in whose favour; or
 - (b) against whom,
- the order has been made is entitled to be heard by the court before it makes any order annulling or varying the order of restitution.

Hearing of appeal - witnesses

- 3.24 (1) The court may issue an order in form B21 requiring a witness to attend the court for examination at a time and place specified in the order.
- (2) An application for an order under paragraph (1) may be made by any party to the appeal and, if made by an appellant who -
- (a) is in custody; and
 - (b) not legally represented,
- must be made in form B22.
- (3) The court may order that a witness be examined by a person appointed by the court as an examiner and in such a case -
- (a) the name of the examiner; and
 - (b) the place of examination,
- must be stated in the order under paragraph (1).
- (4) On being notified by the examiner of the date, time and place for the examination, the registrar must -
- (a) give notice of the date, time and place to -
 - (i) the parties to the appeal;
 - (ii) their attorneys-at-law; and
 - (iii) (where the appellant is in custody), the prison authority; and
 - (b) serve on any witness who is to be examined notice in form B23.
- (5) Where the court makes an order under paragraph (3), the registrar must supply to the examiner on request any documents, exhibits or other materials relating to the appeal.
- (6) Evidence before the examiner is -
- (a) to be on oath or affirmation; and
 - (b) to be taken in private unless the court has otherwise directed.

- (7) On conclusion of the examination the examiner must -
 - (a) send to the registrar any depositions taken by him or her with the caption in form B24 attached; and
 - (b) return any documents, exhibits or other materials supplied under paragraph (4).
- (8) The parties and their attorneys-at-law may attend at and take part in any examination of a witness.
- (9) The registrar may pay the reasonable expenses of a witness attending court or an examination.

Hearing of appeal - special commissioner

- 3.25 (1) The court may order that any question be referred to a special commissioner and give directions as to the inquiry.
- (2) The order -
 - (a) must -
 - (i) state the name of the person appointed as special commissioner;
 - (ii) state the question referred; and
 - (iii) set out any directions given by the court
 - (b) may -
 - (i) specify whether the parties or any person on their behalf may be present at any examination or investigation;
 - (ii) specify what powers of the court are delegated to the special commissioner;
 - (iii) require the special commissioner to make interim reports;
 - (iv) if the prisoner is in custody, direct the Prison Authority to make arrangements for the appellant to appear at any stage of the examination or investigation; and
 - (v) direct the registrar to supply copies of any report made by the special commissioner to the appellant and respondent.

Judgment

- 3.26 (1) The general rule is that there shall be a single judgment of the court.
- (2) However, where the court considers that there is a point of law on which it would be convenient to give separate judgments, the court may give separate judgments.

Notification of court's decision

- 3.27 (1) On the final determination of an application or an appeal the registrar must give notice of the determination in forms B17 to B20 to
- (a) the appellant;
 - (b) the respondent;
 - (c) (i) the prison authority; or
(ii) in the case of a court martial where the appellant is in custody, the person in charge of the place where he or she is confined; and
 - (d) (in the case of conviction involving sentence of death) the Governor General's Secretary.
- (2) The registrar must also notify the court's decision to the registrar or clerk of the court below who must enter details of the decision in that court's records.
- (3) The registrar must also return to the registrar or clerk of the court below any original documents and exhibits received from that court.

Certificate of conviction

- 3.28 The registrar or clerk of the court below may not issue any certificate of conviction pending determination or abandonment of an appeal.

Case stated under the Criminal Justice (Administration) Act, sections 55 - 61

- 3.29 (1) A judge who states a case pursuant to the Criminal Justice (Administration) Act, section 56, must send it to the registrar.

- (2) On receipt of a case stated under paragraph (1), the registrar must -
 - (a) send a copy of the case to the appellant and to the respondent; and
 - (b) obtain from the court below all documents, exhibits and other things relating to the proceedings in the court below which appear necessary for the proper consideration of the issues raised in the case stated.

SECTION 4

Appeals From Courts Martial

Scope of this Section

- 4.1 (1) This Section contains rules dealing specifically with appeals to the court from a Court Martial under the Defence Act, Part VI.
- (2) Sections 1 and 3 of these Rules apply to appeals from Courts Martial subject to the provisions of this Section.
- (3) In this Section -
- “**the Act**” means the Defence Act;
 - “**the Defence Board**” means the Jamaica Defence Board constituted under Part II of the Act;
 - “**exhibits**” means all documents and things which have been produced and used in evidence at a trial by a court martial, whether or not they are attached to the proceedings of that court;
 - “**Minister**” means the Minister responsible for defence; and
 - “**respondent**” means the Director of Public Prosecutions.

How to appeal

- 4.2 (1) A person who wishes to appeal against conviction by a Court-Martial does so by completing an application for permission to appeal in form C1 and subject to paragraph (4) filing it with the registrar.
- (2) Any applications or notices other than a notice of abandonment of appeal may be signed by the appellant or his or her attorney-at-law.
- (3) An appellant who is unable to write may affix his mark to the notice in the presence of a witness;
- (4) In the circumstances referred to in the first column of Appendix C to these Rules, any notices must be filed with the person specified, in relation to the particular circumstance, in the second column of that appendix.
- (5) Where paragraph (4) applies the person with whom the notice was filed must forthwith send the same to the registrar.

Application to extend time for appeal

- 4.3 An application for an extension of time to make an application for permission to appeal must be in form C2 and must either -
- (a) be filed with the registrar with the application for permission to appeal; or
 - (b) filed in accordance with rule 4.2(4).

Application to single judge

- 4.4 (1) Where an application has been dealt with by a single judge under section 156 of the Act, the registrar must notify the appellant of the decision.
- (2) Where the application is refused under paragraphs (a), (b) and (c) of section 156 of the Act, the appellant may within ten days of receipt of notification of the decision under paragraph (1) apply in form C3 for the application to be determined by the court.

Proceedings of court martial

- 4.5 (1) Upon receipt of an application for leave to appeal the registrar -
- (a) must request the Secretary of the Defence Board to supply the proceedings of the Court-Martial; and
 - (b) may -
 - (i) on application by the appellant or respondent; or
 - (ii) if he or she considers it necessary for the proper determination of the appeal or any application relating to the appeal, and must if so directed by the court, obtain and keep for the use of the court any document or exhibit.
- (2) A copy of any document required for the use of the court may be made by such person and in such manner as the registrar directs.
- (3) An appellant or respondent may (subject to rules 4.6 and 4.7) -
- (a) obtain copies of any documents in the possession of the registrar for the purpose of the appeal upon payment of the prescribed fee; and
 - (b) inspect any document (including the proceedings) or exhibit.
- (4) However, if the appellant has been granted legal aid the registrar

must supply such copies free of charge unless he or she considers that such documents are not necessary for the purpose of the appeal.

- (5) The court may order any person having custody or control of any document, exhibit or other thing connected with the proceedings to produce such document, exhibit or thing to the registrar.
- (6) On abandonment or determination of an appeal the registrar must return any document, exhibit or thing in his or her custody to the person who produced it.
- (7) Any order under this rule must be served personally unless the court otherwise orders.
- (8) In this rule “**proceedings**” includes all proceedings referred to in section 152 of the Act.

Security of documents etc

- 4.6
- (1) The Minister (or any person authorised by him) may certify that for reasons of security the whole or part of the proceedings or any other document, exhibit or thing should not be disclosed otherwise than to the court.
 - (2) Where a certificate has been given under paragraph (1), the registrar may not -
 - (a) permit inspection; or
 - (b) supply a copy of,any such proceedings, document, exhibit or thing unless the court so orders.
 - (3) In making an order under paragraph (2), the court may impose conditions.

Public interest immunity

- 4.7
- Nothing in this Section affects any rule of law preventing -
- (a) disclosure of any document; or
 - (b) answering any question,
- on grounds of public interest.

Presence of appellant at hearing

- 4.8 Where -
- (a) the appellant is in custody; and
 - (b) the court has given permission for his or her attendance at any hearing connected with the appeal,
- the registrar must notify -
- (i) the appellant;
 - (ii) the person in charge of the place where the appellant is in custody; and
 - (iii) the Secretary of the Defence Board
- of the probable date, time and place of the hearing.

Notification of court's decision

- 4.9 On the final determination of the appeal the registrar must give notice of the determination in accordance with rule 3.27.

Lensley Wolfe, O.J.
Chief Justice

Ian Forte, O.J.
President of the
Court of Appeal

Marva McIntosh
Supreme Court Judge

B. St. Michael Hylton, Q.C.
Solicitor General

Hugh M. Salmon
Director of State Proceedings

Lloyd Barnett, O.J.
Attorney-at-law

Hilary Phillips, Q.C.
Attorney-at-law

Dorothy Lightbourne
Attorney-at-law

Leo O'Brien Williams
Attorney-at-law

Charles Piper
Attorney-at-law

Appendix A

Part 1 – Civil Appeal Forms

Part 1 – Civil Appeal Forms

Form A1	Notice of Appeal	Rule 2.2
Form A2	Counter Notice of Appeal	Rule 2.3(1)
Form A3	Counter Notice of Appeal	Rule 2.3(3)
Form A4	Certificate of Result of Appeal	Rule 2.28(1)
Form A5	Notice of Withdrawal of Appeal	Rule 2.19(1)

Appendix A

Part 2 – Criminal Appeal Forms

Part 2 - Criminal Appeal Forms

Form B1	Notice of appeal or application for permission to appeal against conviction or sentence	Rule 3.3(1)(a)
Form B2	Notice of application for extension of time within which to appeal	Rule 3.3(2)
Form B3	Judge's certificate under s.13(1)(b) of the Act	
Form B4	Certificate verifying transcript of shorthand notes	Rule 3.8(3)
Form B5	Notice to appellant of a single Judge's decision	Rule 3.13(1)
Form B6	Notice of appeal by appellant from refusal by a single judge	Rule 3.13(2)
Form B7	Undertaking of appellant sentenced to payment of a fine	Rule 3.14(3)
Form B8	Undertaking of sureties for appellant sentenced to a fine	Rule 3.14(3)
Form B9	Notice to appellant sentenced to a fine, for breach of his undertaking	Rule 3.14(6)
Form B10	Notice to surety for appellant of intention to enforce undertakings	Rule 3.14(6)
Form B11	Undertaking on bail, of appellant convicted in the Supreme Court	Rule 3.14(6)
Form B12	Undertaking of appellant's sureties	Rule 3.21(1)
Form B13	Notice to Officer in charge of Prison to release appellant on bail	Rule 3.21(5)
Form B14	Warrant for arrest of appellant on bail	Rule 3.21(7)
Form B15	Notice of abandonment of appeal	Rule 3.22(1)
Form B16	Notification of abandonment of appeal	Rule 3.22(3)
Form B17	Notification to appellant of result of application	Rule 3.27(1)
Form B18	Notice to authorities of result of application	Rule 3.27(1)
Form B19	Notification to appellant of result of his appeal	Rule 3.27(1)
Form B20	Notice to authorities of result of appeal	Rule 3.27(1)
Form B21	Order to witness to attend court for examination	Rule 3.24(1)
Form B22	Appellant's application for further witness	Rule 3.24(2)
Form B23	Notice to witness to attend before an examiner	Rule 3.24(4)(b)
Form B24	Caption for depositions of witness examined before examiner	Rule 3.24(7)(a)

**NOTICE OF APPEAL OR APPLICATION
FOR PERMISSION TO APPEAL AGAINST
CONVICTION OR SENTENCE**

Criminal Form B1 [Rule 3.3(1)(a)]

IN THE COURT OF APPEAL
CRIMINAL APPEAL NO. _____ OF 20____

TO: THE REGISTRAR OF THE COURT OF APPEAL

Name of Appellant _____

Convicted at the Circuit Court held at _____
Parish

Offence of which convicted _____
e.g. Larceny, Forgery

Sentence _____

Date when convicted _____

Date when sentence passed _____

(Set out the actual dates upon which the Appellant was convicted and sentenced)

Name of Prison _____ or, if Appellant not in custody
set out full address

I the above-named Appellant hereby give you notice that I desire to appeal to the
Court of Appeal against my _____ on the grounds set out on page 2 of
this notice.

(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".)

(Signed) _____

(Appellant's signature (or mark))

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

(Signed) _____

(Signature, name and address of witness attesting mark)

Dated this _____ day of _____ 20____

(If this notice is signed more than fourteen days after conviction or sentence appealed against the Appellant must also fill in Form, B2 and send it with this notice.)

QUESTIONS (The Appellant must answer each of these questions)

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 " you will be required to complete a legal aid form: _____
3. Is any attorney-at-law now acting for you? YES/NO

If so give his or her name and address.

4. Do you desire to be present when the Court considers your appeal?
(An Appellant is not entitled to be present on the hearing of an application for leave to appeal)
5. Do you desire to apply for leave to call any witnesses on your appeal? If your answer to this question is "Yes", you must also fill in form B22 and send it with this notice. _____

Grounds of Appeal or Application :

(a)

(b)

(c)

(These must be filled in before the notice is sent to the Registrar. The Appellant must here set out the grounds or reasons he alleges why his conviction should be quashed or his sentence reduced. If one of the grounds set out is "misdirection" by the judge, particulars of such alleged misdirection must be set out in this notice.)

The Appellant can also, if he wishes, set out, in addition to his reasons, his case and arguments.

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

Criminal Form B2 [Rule 3.3(2)]

IN THE COURT OF APPEAL

TO: THE REGISTRAR OF THE COURT OF APPEAL

I, _____ having been convicted of the
offence of _____ (Here state the offence, e.g. Larceny, Forgery, False pretence,
etc.) at the Circuit Court held at _____ on the _____
day of _____ 20_____.

and being now in _____ (State name of prison or if not in
custody, set out address in full) Give you Notice, that I hereby apply to the Court
of Appeal for an extension of the time within which I may give Notice of Appeal
(or Notice of Application for Permission to Appeal),

on the following grounds:-

(a)

(b)

(c)

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

(Signed) _____

Appellant

Dated this _____ 20 _____

Form B1 must be filled up and sent with this Notice to the Registrar.

JUDGE'S CERTIFICATE

Criminal Form B3

IN THE COURT OF APPEAL
IN THE CIRCUIT COURT

HELD 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 _____ (state shortly the offence, e.g. Larceny, Murder, Forgery, etc) and was thereupon sentenced by me to _____

I DO HEREBY CERTIFY that the case is a fit case for an Appeal by the said _____ to the Court of Appeal under Section 13 (1) (b) of the Judicature (Appellate Jurisdiction) Act, upon the following grounds:

- (a)
- (b)
- (c)

(Signed) _____
(Judge)

Dated this _____ day of _____ 20____

**CERTIFICATE VERIFYING TRANSCRIPT
OF SHORTHAND NOTES**

Criminal Form B4 [Rule 3.8(3)]

IN THE COURT OF APPEAL
CRIMINAL APPEAL NO. _____ OF 20 _____

THE QUEEN vs.

I, _____ of _____ having been required by the [Registrar of the Supreme Court] [Clerk of the Resident Magistrate's Court for the Parish of _____] to furnish a transcript of the shorthand note relating to the trial (or other proceeding) certify that I have made a correct and complete transcript of the attached shorthand note certified by _____, to the best of my skill and ability in pursuance of the said requirement.

Date this _____ day of _____ 20 _____

(Signed) _____

**NOTIFICATION TO APPELLANT OF A
SINGLE JUDGE'S DECISION**

Criminal Form B5 [Rule 3.13(1)]

IN THE COURT OF APPEAL
CRIMINAL APPEAL NO. _____ OF 20____

THE QUEEN vs.

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

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

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

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

Dated this _____ day of _____ 20____

(Signed) _____
Registrar

To the above-named _____

**NOTICE OF APPEAL BY APPELLANT
FROM REFUSAL OF A SINGLE JUDGE**

Criminal Form B6 [Rule 3.13(2)]

IN THE COURT OF APPEAL
CRIMINAL APPEAL NO. OF 20

THE QUEEN vs.

TO: THE REGISTRAR OF THE COURT OF APPEAL

I, _____ having
received on _____ day of _____ 20____ your
notification that my application(s) for -

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

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

(Signed) _____

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

(Signed) _____

(Signature, name and address of witness attesting mark)

Dated this _____ day of _____ 20

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

* An Appellant is not entitled to be present at the hearing of an application for leave to appeal.

**UNDERTAKING OF APPELLANT
SENTENCED TO PAYMENT OF A FINE**

Criminal Form B7 [Rule 3.14(3)]

IN THE COURT OF APPEAL
CRIMINAL APPEAL NO. _____ OF 20____

THE QUEEN vs.

WHEREAS _____ of _____

(a) was on the _____ day of _____, 20____, at the Circuit Court held at _____ convicted of _____ and was thereupon sentenced to pay the sum of \$ _____ as a fine for the said offence and

(b) has intimated to the said Court that he desires to appeal against the said conviction (or on 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 Appellant may in lieu of payment at his said conviction of the said sum, be ordered to enter into undertaking 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 _____ acknowledges that he is liable to pay the said sum of \$ _____ and that his property may be forfeited if he does not meet the conditions set out below.

Appellant

Signed this _____ day of _____ before me

Clerk of the Circuit Court

CONDITIONS

The Conditions of this Undertaking are that the Appellant must:

- (a) Duly pursue the appeal;
- (b) Personally attend at the Court of Appeal on every day that the appeal is being heard;
- (c) Not leave or be absent from the Court of Appeal without the court's permission; and
- (d) Pay the said sum of \$ _____ or any sum the court may order.

**UNDERTAKING OF SURETIES FOR
APPELLANT SENTENCED TO A FINE**

Criminal Form B8 [Rule 3.14(3)]

IN THE COURT OF APPEAL
CRIMINAL APPEAL NO. _____ OF 20____

THE QUEEN vs.

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

Clerk of the Circuit Court

CONDITIONS

The _____ (Appellant) having been convicted of _____ and
having been sentenced to pay a fine of \$ _____, and having indicated his
desire to appeal to the Court of Appeal, and having in lieu of payment of the said
sum at his conviction been ordered to give an undertaking himself in the sum of
\$ _____ with _____ sureties in the sum of \$ _____.

The Conditions of this Undertaking are that the Appellant must:

- (a) Duly pursue the appeal;
- (b) Personally attend at the Court of Appeal on every day that the appeal is being heard;
- (c) Not leave or be absent from the Court of Appeal without the court's permission; and
- (d) Pay the said sum of \$ _____ or any sum the court may order.

(Signed) _____
Surety

(Signed) _____
Surety

NOTICE TO SURETY FOR APPELLANT OF INTENTION TO ENFORCE UNDERTAKINGS

Criminal Form B10 [Rule 3.14(6)]

IN THE COURT OF APPEAL
CRIMINAL APPEAL NO. OF 20

THE QUEEN vs.

To * _____

of _____

*Fill in here Surety's name and address

WHEREAS:-

- (a) you gave undertakings as surety that the said _____ (the Appellant) having been convicted of _____ and fined the sum of \$ _____ would duly prosecute an appeal in relation to that conviction before the Court of Appeal,
- (b) the Appellant has not so prosecuted his appeal

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

Dated this day of 20

(Signed)

Registrar

**UNDERTAKING ON BAIL, OF APPELLANT
CONVICTED IN THE SUPREME COURT**

Criminal Form B11 [Rule 3.21(1)]

IN THE COURT OF APPEAL
CRIMINAL APPEAL NO. OF 20

THE QUEEN vs.

WHEREAS:-

- (a) _____ (the Appellant) of _____ was on the _____ day of _____, 20__, at the Circuit Court held at _____ convicted of _____ and was thereupon sentenced to _____ and now is in lawful custody in (insert name of prison) and
- (b) the Appellant has duly appealed against his conviction (and sentence) to the Court of Appeal, and has applied to the said court for bail pending the determination of his appeal and
- (c) the said Court has granted the Appellant bail on entering into his own undertakings in the sum of \$ _____ with sureties each in the sum of \$ _____.

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

CONDITIONS

The Conditions of this Undertaking are that the Appellant must:

- (a) Duly pursue the appeal;
- (b) Personally attend at the Court of Appeal on every day that the appeal is being heard;

- (c) Not leave or be absent from the Court of Appeal without the court's permission; and
- (d) Pay the said sum of \$_____ or any sum the court may order.

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

(Signed) _____
Appellant

Address: _____

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

(Signed) _____
Justice of the Peace

THE UNDERTAKING OF APPELLANT'S SURETIES

Criminal Form B12 [Rule 3.21(1)]

IN THE COURT OF APPEAL
CRIMINAL APPEAL NO. OF 20

THE QUEEN VS.

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

Clerk of the Circuit Court

CONDITIONS

_____ (the Appellant) having been convicted of _____ and having indicated his desire to appeal to the Court of Appeal, and having applied to such court for bail pending the determination of his appeal, has been granted bail on his entering into an undertaking in the sum of \$ _____ with _____ sureties in the sum of \$ _____.

The Conditions of this Undertaking are that the Appellant must:

- (a) Duly pursue the appeal;
- (b) Personally attend at the Court of Appeal on every day that the appeal is being heard;
- (c) Not leave or be absent from the Court of Appeal without the court's permission; and
- (d) Pay the said sum of \$ _____ or any sum the court may order.

(Signed) _____
Surety

(Signed) _____
Surety

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

Criminal Form B13 [Rule 3.21(5)]

IN THE COURT OF APPEAL
CRIMINAL APPEAL NO. OF 20

THE QUEEN vs.

To: The Superintendent

WHEREAS:-

- (a) _____(the Appellant) was convicted of _____ on the _____ day of _____ 20____ (and was thereupon sentenced to _____) and now is in lawful custody in _____

- (b) The Appellant has duly appealed to the Court of Appeal against his conviction (and sentence) and having duly applied to the said Court has been granted bail by the said Court pending the determination of the appeal on entering into undertakings himself in the sum of, \$_____, (and with _____ sureties each in the sum of, \$_____), in the forms provided under these rules

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

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

Dated the _____ day of _____, 20__

Registrar

**WARRANT FOR ARREST OF APPELLANT
ON BAIL**

Criminal Form B14 [Rule 3.21(7)]

IN THE COURT OF APPEAL
CRIMINAL APPEAL NO. OF 20

THE QUEEN vs.

To the Constables of the Jamaica Constabulary Force and to the Superintendent
of _____

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

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

(Signed) _____

President/Judge of Appeal.

Dated this _____ day of _____, 20_____

NOTICE OF ABANDONMENT

Criminal Form B15 [Rule 3.22(1)]

IN THE COURT OF APPEAL
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 sentence) _____ do hereby give you notice
that I do not intend further to prosecute my appeal, but that I hereby abandon
all further proceedings in regard to it as from the date of this notice.

(Signed) _____

(Appellant's signature (or mark))

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

(Signed) _____

(Signature, name and address of witness attesting mark)

Dated this _____ day of _____ 200_____

**NOTIFICATION OF ABANDONMENT OF
APPEAL**

Criminal Form B16 [Rule 3.22(3)]

IN THE COURT 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 notice is dated the
_____ day of _____ 20__

By Rule 3.22 of the Court of Appeal Rules, 2002, 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) The Clerk to the Privy Council for the information of the Governor-General only if the conviction involved a sentence of death.
- (b) The Director of Public Prosecution or other respondent.
- (c) The Prison Authority.
- (d) The Registrar of the Court below.

**NOTIFICATION TO APPELLANT OF
RESULT OF APPLICATION**

Criminal Form B17 [Rule 3.27(1)]

IN THE COURT OF APPEAL
CRIMINAL APPEAL NO. OF 20

THE QUEEN vs.

To the above-named Appellant.

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

- (a) leave to appeal to the said Court;
- (b) leave to extend the time within which you may give notice of appeal or of application for leave to appeal;
- (c) permission to be present during the proceedings in your appeal;
- (d) admission to bail;
- (e)
(Insert here nature of any other application that may have been made)

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

Here set out the decision of the Court.

Registrar

Dated this _____ day of _____ 200_____

NOTICE TO AUTHORITIES OF RESULT OF APPLICATION

Criminal Form B18 [Rule 3.27(1)]

IN THE COURT OF APPEAL
CRIMINAL APPEAL NO. OF 20

THE QUEEN vs.

***TO THE DIRECTOR OF PUBLIC PROSECUTIONS**

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

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

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

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

Here set out the decision of the Court.

Registrar

*Send copies addressed to: -

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

**NOTIFICATION TO APPELLANT OF
RESULT OF HIS APPEAL**

Criminal Form B19 [Rule 3.27(1)]

IN THE COURT OF APPEAL
CRIMINAL APPEAL NO. OF 20

THE QUEEN vs.

To the above-named Appellant.

This is to give you notice that the Court, having considered the matter of your appeal has finally determined the same and has this day given judgment to the following effect:-

Here set out the decision of the Court.

Registrar

Dated this _____ day of _____ 20_____

NOTICE TO AUTHORITIES OF RESULT OF APPEAL

Criminal Form B20 [Rule 3.27(1)]

THE COURT OF APPEAL
CRIMINAL APPEAL NO. OF 20

THE QUEEN vs.

*To the Director of Public Prosecutions

This is to give you notice that the above named having appealed against his conviction of the offence of _____ before the Court, and/or the sentence of _____ passed upon him for the offence of _____ by the _____ Court, the Court of Appeal has finally determined the said appeal, and has this day given judgment therein to the following effect:-

Here set out the decision of the Court

Registrar

Dated this _____ day of _____ 20_____

*Send copies addressed to: -

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

**ORDER TO WITNESS TO ATTEND COURT
FOR EXAMINATION**

Criminal Form B21 [Rule 3.24(1)]

IN THE COURT OF APPEAL
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 on the _____ day of _____, 20_____ at the Court of Appeal, Supreme Court Buildings, Kingston 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 to produce.

Dated the _____ day of _____, 20_____

Registrar

**APPELLANT'S APPLICATION FOR
FURTHER WITNESS**

Criminal Form B22 [Rule 3.24(2)]

IN THE COURT OF APPEAL
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
Court order the witnesses named below to attend the Court and be examined on
my behalf.

(Signed) _____

(Appellant's signature (or mark))

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

(Signed) _____

(Signature, name and address of witness attesting mark)

Dated this _____ day of _____ 20__

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

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

**NOTICE TO WITNESS TO ATTEND
BEFORE AN EXAMINER**

Criminal Form B23 [Rule 3.24(4)(b)]

IN THE COURT OF APPEAL
CRIMINAL APPEAL NO. OF 20

THE QUEEN vs.

To _____
of _____

WHEREAS on good cause shown to the Court you have been ordered to be examined as a witness at the appeal of the above-named, and your deposition to be taken for the use of the said Court.

This is to give you notice to attend at _____ (specify place of examination)
on the _____ day of _____ 19____ before
_____ (fill in examiner's name) at _____ in the
noon.

You are also required to have with you at the said time and place any books, papers or other things under your control or in your possession in any manner relating to the said appeal of which you may have had notice to produce.

Registrar

Dated this _____ day of _____ 20____

**CAPTION FOR DEPOSITIONS OF
WITNESS EXAMINED BEFORE EXAMINER**

Criminal Form B24 [Rule 3.24(7)(a)]

IN THE COURT OF APPEAL
CRIMINAL APPEAL NO. OF 20

THE QUEEN vs.

The undersigned, being an examiner duly appointed by the court for that purpose, hereby certifies that:

- (a) on the _____ (date), at _____ (place) the depositions of _____ (names of witnesses) were duly taken by me;
- (b) the depositions were taken in the presence of the Appellant and the Respondent (or their legal representatives) who both had full opportunity of asking questions of the witnesses;
- (c) the depositions were read by me to the witnesses who then signed them in my presence

The deposition of _____ of _____ who (upon oath, duly administered by me) said as follows:-

Appendix A

**Part 3 – Appeals from
Courts-martial**

Appeals from Courts-martial

Form C1	Application for permission to appeal against conviction by a court martial	Rule 4.2(1)
Form C2	Notice of application for extension of time within which to apply for permission to appeal	Rule 4.3
Form C3	Notice of appeal from Judge under section 156 of the Defence Law, 1962	Rule 4.4(2)

**APPLICATION FOR PERMISSION TO
APPEAL AGAINST CONVICTION BY A
COURT MARTIAL**

Court Martial Form C1 [Rule 4.2(1)]

IN THE COURT OF APPEAL

TO: THE REGISTRAR OF THE COURT OF APPEAL

Name of Appellant _____ Number _____

Unit _____ Rank _____

Convicted by court-martial held at _____

Offence of which convicted _____

Sentence _____

Date when conviction pronounced or finding promulgated

Name of Prison or place of detention _____ (If not in custody set out
Appellant's address in full)

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

- (a)
- (b)

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

(Signed) _____ Appellant

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

Dated the _____ day of _____ 20____

(If this form is lodged more than fourteen days after the Appellant has become entitled to apply for
permission to appeal he must fill in Form C2 and send it with this Form.)

QUESTIONS

(The Appellant must answer these questions)

1. Do you desire the Court to assign you legal aid? _____
If your answer to this question is "yes" then answer the following questions:-
 - (a) What pay, salary, income or allowances were you receiving before your conviction? _____
 - (b) What other means have you?(This information is required to show whether your means are sufficient to enable you to obtain legal aid for yourself). _____
2. Is any attorney-at-law now acting for you? If so, give his name and address_____
3. Do you desire to be present when the Court considers your appeal?

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

(If your answer to this question is "yes" you must also fill in Form B22 and send it with this notice)_____

**NOTICE OF APPLICATION FOR
EXTENSION OF TIME WITHIN WHICH
TO APPLY FOR PERMISSION TO APPEAL**

Court Martial Form C2 [Rule 4.3]

IN THE COURT OF APPEAL

TO: THE REGISTRAR OF THE COURT OF APPEAL

I, _____ (Insert name, number, rank and unit.)
having been convicted of the offence of _____
_____ (State shortly the offence or
offences.) by court-martial held at _____ on the _____
day of _____ 20____
and being now at _____ (Set out address in full.) give you notice,
that I hereby apply to the Court for an extension of the time within which I may
give notice of application for leave to appeal,
on the grounds following:-
(a)
(b)

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

(Signed) _____
Appellant

Dated the _____ day of _____ 200____

Form C1 must be completed and sent with this notice to the Registrar.

**NOTICE OF APPEAL FROM JUDGE
UNDER SECTION 156 OF THE DEFENCE
LAW, 1962**

Court Martial Form C3 [Rule 4.4(2)]

IN THE COURT OF APPEAL

TO THE REGISTRAR OF THE COURT OF APPEAL

I, _____ (Insert name, number, rank and unit.) having received your notification that my application for:-

- (a) Leave to appeal;
 - (b) Extension of the period within which application for leave to appeal may be made;
 - (c) Legal Aid;
 - (d) Permission to be present at the proceedings in the appeal;
- has (have) been refused by a Judge of the Court;

HEREBY GIVE YOU NOTICE that I desire that the said applications be considered and determined by the full Court.

(Signed) _____ *Appellant*

Dated the _____ day of _____ 200__

If you wish to state any reasons, in addition to those set out by you in your original application, upon which you submit that the Court should grant this application, you may do so in the space below.

(You must not repeat reasons that you have already stated in previous applications)

Appendix B

Basic Costs

Basic Costs

(1)	In the case of an Appellant, from the beginning of the appeal up to and including the first day of hearing	\$90,000
	plus - for each additional day of the hearing	\$24,000
(2)	In the case of a Respondent who has filed a counter-notice pursuant to rule 2.3, from the beginning of the appeal up to and including the first day of hearing	\$76,000
	plus - for each additional day of the hearing	\$24,000
(3)	In the case of any other Respondent from the beginning of the appeal up to and including the first day of hearing	\$64,000
	plus - for each additional day of the hearing	\$24,000
(4)	In the case of an Appellant when two attorneys-at-law appeared, from the beginning of the appeal up to and including the first day of hearing	135,000
	plus - for each additional day of the hearing	\$48,000
(5)	In the case of a Respondent who has filed a counter-notice pursuant to rule 2.3, when two attorneys-at-law appeared, from the beginning of the appeal up to and including the first day of hearing	114,000
	plus - for each additional day of the hearing	\$48,000
(6)	In the case of any other Respondent, when two attorneys-at-law appeared, from the beginning of the appeal up to and including the first day of hearing	\$96,000
	plus - for each additional day of the hearing	\$48,000
(7)	Where costs are awarded on any application to the court or a judge without a special costs certificate	\$12,000
(8)	Where costs are awarded on any application to the court or a judge with a special costs certificate	\$20,000
(8)	For an appearance in open court where matter adjourned without a hearing	\$12,000
(9)	For appearance in chambers where matter adjourned without a hearing	\$4,000

Note:

These costs have been calculated on the basis of a minimum rate of \$6,000.00 per hour.

Appendix C

**Persons with whom
Applications or Notices are
lodged under Rule 4.2(4)**

Persons with whom Applications or Notices are lodged under Rule 4.2(4)

Circumstances	Persons with whom an Application or Notice is lodged under rule 4.2(4)
1. Appellant serving with an army unit.	Officer commanding the unit.
2. Appellant confined in military corrective establishment, prison or detention barrack.	Commandant of such establishment, prison or barrack.
3. Appellant confined in a civil prison.	Person in charge of the prison.
4. Appellant who is a civilian and is outside Jamaica.	Officer commanding at the nearest army headquarters.
