



BERMUDA

RULES OF THE COURT OF APPEAL FOR BERMUDA

BX 1 / 1965

[made under section 9 of the Court of Appeal Act 1964 and brought into operation on 2 August 1965]

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RULES OF THE COURT OF APPEAL FOR BERMUDA

ORDER 1

GENERAL

1/1 Citation and commencement

1 These Rules may be cited as the Rules of the Court of Appeal for Bermuda and shall come into operation on the second day of August, 1965.

1/2 Interpretation

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

“appeal” includes an application for leave to appeal;

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

“the Court” means the Court of Appeal for Bermuda;

“Judge” means the President or a Justice of Appeal;

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

“President” means the President of the Court or such other Judge of the Court who shall for the time being be presiding in the Court;

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

“Registrar” means Registrar of the Court;

“Registrar of the Supreme Court” includes the Assistant Registrar of the Supreme Court, and any officer of the Supreme Court exercising functions analogous to those of the Registrar of the Supreme Court;

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

“Rules” means these Rules or any amendment thereof or addition thereto made under the powers conferred by the Act, and includes the Forms appended to these Rules.

“Supreme Court” means the Supreme Court of Bermuda;

“the Act” means the Court of Appeal Act, 1964 [*title 8 item 4*].

1/3 Service

3 (1) Any reference in these Rules to an address for service means an address within the jurisdiction where notices, pleadings, orders, summonses, warrants and other

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documents, proceedings, and written communications, if not required to be served personally, may be left, or to which they may be sent.

(2) Where under these Rules any person has given an address for service, any notice or other written communication which is not required to be served personally shall be sufficiently served upon him if it is left at that address or sent by registered post to that address, and in any case where the date of service by post is material, service shall, until the contrary is proved, be deemed to have been effected at the hour of five o'clock in the afternoon of the seventh day after the day of posting: provided that if any period within which service is, by the Act or these Rules, required to be effected shall expire between the said date of posting and the said seventh day, such period shall be deemed to be extended up to and so as to include such seventh day, but no longer.

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

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

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

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

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

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

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

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(9) Where any person out of the jurisdiction is a necessary or proper party to an appeal, the Court may allow service out of the jurisdiction of any document required by the Act or these Rules to be served upon such party.

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

(11) An order giving leave to effect service out of the jurisdiction shall prescribe the mode of service, and shall limit a time after such service within which such party shall comply, in the case of a document requiring compliance with any terms thereof, with such terms, such time to depend on the place or country where or within which the summons is to be served, and the Court may receive an affidavit or statutory declaration of such service having been effected as *prima facie* evidence thereon.

1/4 Procedure and Practice

4 The procedure and practice of the Court shall be prescribed by these Rules.

1/5 Enlargement of time and departure from Rules

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

1/6 Copy of trial Judge's notes

6 Every person desiring to appeal to the Court from a judgment of the Supreme Court given in its original jurisdiction shall be entitled, on making, either by himself or by his legal representative, written application to the Registrar of the Supreme Court, and on payment of the prescribed fees, to a copy of the notes of evidence taken by the trial Judge.

1/7 Registry

7 (1) The Registry of the Court is situate at the Sessions House, Hamilton, and, except when otherwise expressly provided, all documents and proceedings shall be filed in this Registry.

(2) A document may be filed in the Registry of the Court either by being delivered there by the party or his legal representative or agent in person or by being sent there by registered post and in either case shall be accompanied by a remittance for the appropriate fee.

1/8 Hours of opening to public

8 The Registry of the Court shall, subject to the directions of the President, be open to the public on every day in the year from nine o'clock in the forenoon to five o'clock in the afternoon, except:

- (a) on Sundays or on any public holidays; or

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- (b) on Thursdays and during vacations of the Supreme Court when the Registry shall be open to the public from nine o'clock in the forenoon to twelve o'clock noon.

1/9 Sessions

9 Sessions of the Court for the hearing of all such applications as may be dealt with by a Judge under the powers conferred by section 19 of the Act shall be held at such times as a Judge may direct.

1/10 Notification of Sittings

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

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

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

1/11 Adjournment

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

1/12 Registrar

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

1/13 Other officers

13 The President may assign, and the Registrar may, with the approval of the President, delegate to any officer of the Supreme Court Registry any functions required by these Rules to be exercised by the Registrar.

1/14 Seal of the Court

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

1/15 Powers of Registrar

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

1/16 Books to be kept by Registrar

16 (1) The Registrar shall keep:—

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- (a) a Criminal Appeal Book; and
- (b) a Civil Appeal Book;

each of which shall contain an index in alphabetical order.

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

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

1/17 Covers

17 As soon as notice of appeal is delivered the Registrar shall prepare a cover in which pleadings or documents relating to the appeal or case shall be filed and on the front page thereof shall be recorded particulars of such pleadings or documents and the dates on which they are received.

1/18 Setting aside or varying order of Registrar

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

1/19 Forms

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

ORDER 2 CIVIL APPEALS

2/1 Application

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

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2/2 Notice and grounds of appeal

2 (1) Without prejudice to the provisions of rule 3(1)(e) of this Order, all appeals shall be brought by notice (hereinafter called “the notice of appeal”) to be filed in the Registry of the Supreme Court within the following periods, that is to say—

- (a) in the case of an appeal from an interlocutory order, seven days from the date on which leave to appeal is granted; and
- (b) in any other case, six weeks calculated from the date on which the judgment or order appealed against was signed, entered or otherwise perfected.

(2) The notice of appeal shall be signed by the appellant and shall—

- (a) set forth the grounds of appeal;
- (b) state whether the whole or part only of the decision of the Supreme Court is complained of (in the latter case specifying such part);
- (c) state the exact nature of the relief sought;
- (d) state the names and addresses of all parties directly affected by the appeal;
- (e) be accompanied by a sufficient number of copies for service on all such parties;
- (f) be endorsed with the address for service of the person or persons filing the notice of appeal.

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

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

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

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

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

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

(8) A notice of appeal or a respondent's notice (as provided in rule 13 of this Order) may be amended—

- (a) by or with the leave of the court, at any time;
- (b) without such leave, by supplementary notice served upon each of the parties upon whom the notice to be amended was served, not later than seven days before the first day of the sitting of the Court at which the appeal is set down for hearing.

2/3 Application for leave to appeal

3 (1) Where an appeal lies only by leave of the Court or of the Supreme Court, any application to either Court shall be made by notice of motion *ex parte* in the first instance and the following provisions shall apply:

- (a) where the application is made to the Supreme Court, the notice of motion shall be filed with the Registrar of that Court not later than fourteen days after the date of the decision of the Supreme Court;
- (b) if the application is refused by the Supreme Court and the intending appellant desires to apply to the Court for leave to appeal, he shall file his notice of motion with the Registrar not later than seven days after such refusal;
- (c) unless the application (whether to the Court or to the Supreme Court) is dismissed or it appears to the Court to which the application is made that undue hardship would be caused by an adjournment, that Court shall adjourn the application and give directions for the service of notice thereof upon the party or parties affected;
- (d) if leave to appeal is granted by the Supreme Court, the appellant shall file a notice of appeal;
- (e) where leave to appeal is granted by the Court, the time, prescribed by Rule 2 of this Order, within which notice of appeal must be filed shall run from the date when such leave is granted.

(2) Every notice of motion filed in pursuance of paragraph (1) of this Rule shall set out the grounds of the application and shall be accompanied by an affidavit in support thereof and by a statement of the grounds of the intended appeal formulated in accordance with Rule 2 of this Order.

2/4 Time

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

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

(3) An application for enlargement of time within which to appeal may be heard and determined by a single Judge; but, if the Judge refuses an application made under this provision, the party aggrieved by such refusal shall be entitled to have the application heard and determined by the Court.

2/5 Notice of appeal, on whom served

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

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

(2) Notwithstanding anything in Rule 3(6) of Order 1, where in any proceeding in the Supreme Court a party has given an address for service, notice of appeal from any decision given in such proceeding may be served on such party at such address for service, notwithstanding that the address may be that of a legal representative who has not been retained for the purpose of an appeal, and notice of any application preparatory or incidental to any such appeal may be served in like manner at any time before the date on which the respondent gives notice of his address for service in accordance with the immediately following rule.

2/6 Addresses for service

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

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

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

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

(5) An address for service given for the purpose of any appeal shall be effective for the purposes of any application for leave to appeal to Her Majesty in Council from any decision given in that appeal and of any application or matter in connection with such application for leave to appeal as aforesaid.

2/7 Registrar's summons

7 (1) The Registrar of the Supreme Court shall after the expiration of the time prescribed for filing notice of address for service summon [*Civil Form 3*] the parties before him to—

- (a) settle the documents to be included in the record of appeal;
- (b) fix the amount to be deposited by the appellant to cover the estimated cost of making up and forwarding the record of appeal;
- (c) fix the amount to be deposited by the appellant or secured by bond for the due prosecution of the appeal and the payment of any costs.

(2) The Registrar of the Supreme Court shall, whether any of the parties attend or not provided that notice has been duly served on those parties who filed an address for service, proceed to settle and determine those matters in accordance with Rules 8, 9 and 10 of this Order.

2/8 Record of Appeal

8 (1) The Record of appeal shall contain the following documents in the order set out—

- (a) the index;
- (b) a statement by the Registrar of the Supreme Court giving brief particulars of the case and including a schedule of the fees paid;
- (c) copies of the documents settled by the Registrar of the Supreme Court for inclusion in the Record of Appeal in accordance with Rule 7 of this Order;
- (d) a copy of the notice of appeal and other relevant documents filed in connection with the appeal.

(2) The Registrar of the Supreme Court, as well as the parties shall endeavour to exclude from the record all documents (more particularly such as are merely formal) that are not relevant to the subject matter of the appeal and generally to reduce the bulk of the record as far as practicable taking special care to avoid duplication of documents and unnecessary repetition of headings and other merely formal parts of documents; but the documents omitted to be copied shall be enumerated in a list at the end of the Record. Where part or parts only of any lengthy document are directly relevant to the subject matter of the appeal, it shall be permissible to omit to copy such parts of the document

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as are neither directly relevant to the subject matter of the appeal nor necessary for the proper understanding of the part or parts that are so relevant.

(3) If the Registrar of the Supreme Court or any party objects to the inclusion of a document on the ground that it is unnecessary or irrelevant and the other party nevertheless insists upon its being included, the document shall be included and the record shall, with a view to the subsequent adjustment of the costs of and incidental to the inclusion of such document, indicate in the index of papers or otherwise the fact that, and the party by whom the inclusion of the document was objected to.

(4) It shall not be necessary for copies of individual documents to be separately certified but the Registrar of the Supreme Court shall certify as correct each copy of the Record transmitted by him in accordance with these Rules.

2/9 Cost of Record

9 The appellant shall within such times as the Registrar of the Supreme Court directs deposit with him a sum fixed to cover the estimated expense of making up and forwarding the record of appeal calculated at the full cost of one copy for the appellant and one-fifth cost for each of the five copies for the use of the Court.

2/10 Security for costs

10 The appellant shall within such time as the Registrar of the Supreme Court directs deposit [*Civil form 4*] such sum as shall be determined by such Registrar or give security therefor by bond with one or more sureties to his satisfaction as such Registrar may direct for the due prosecution of the appeal and for the payment of any costs which may be ordered to be paid by the appellant:

Provided that no deposit or security shall be required where the deposit would be payable by the Crown or a Government department.

2/11 Additional security for costs

11 The Court may, where necessary, require security for costs or for performance of the orders to be made on appeal, in addition to the sum determined under Rule 10 of this Order.

2/12 Transmission of record

12 (1) The Registrar of the Supreme Court shall [*Civil forms 5 and 6*] transmit the record when ready together with—

- (a) a certificate of service of the notice of appeal;
- (b) a certificate that the conditions imposed under Rules 9 and 10 of this Order have been fulfilled;
- (c) five copies of the record for the use of the Judges;
- (d) the docket or file of the case in the Supreme Court containing all papers or documents filed by the parties in connection therewith;

to the Registrar of the Court.

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(2) The Registrar of the Supreme Court shall [*Civil form 7*] also cause to be served on all parties mentioned in the notice of appeal who have filed an address for service a notice that the record has been forwarded to the Registrar of the Court who shall in due course enter the appeal in the cause list.

2/13 Cross-appeal. Notice by respondent of contention that judgment should be varied

13 (1) It shall not be necessary for the respondent to give notice of motion by way of cross-appeal; but if a respondent intends upon the hearing of the appeal to contend that the decision of the Supreme Court should be varied, or that it should be affirmed on grounds other than those relied on by that Court he shall within one month after service upon him of the notice of appeal cause written notice of such intention [*Civil forms 8 and 9*] to be given to every party who may be affected by such contention, whether or not such party has filed an address for service. In such notice the respondent shall clearly state the grounds on which he intends to rely and within the same period he shall file with the Registrar of the Supreme Court six copies of such notice of which one shall be included in the record, and the other five copies provided for the use of the Judges.

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

2/14 Notice of preliminary objection to be filed

14 (1) A respondent intending to rely upon a preliminary objection to the hearing of the appeal shall give the appellant three clear days notice thereof before the hearing, setting out the grounds of objection, and shall file such notice [*Civil form 10*] together with six copies thereof with the Registrar within the same time.

(2) No objection shall be taken to the hearing of an appeal on the ground that the amounts fixed by the Registrar of the Supreme Court under Rule 7 (1) of this Order were incorrectly assessed.

(3) If the respondent fails to comply with paragraph (1) of this rule the Court may refuse to entertain the objection or may adjourn the hearing thereof at the cost of the respondent or may make such other order as it thinks fit.

2/15 Withdrawal of appeal

15 (1) An appellant may at any time before the appeal is called on for hearing serve on the parties to the appeal and file a notice [*Civil form 11*] with the Registrar to the effect that he does not intend further to prosecute the appeal.

(2) If all parties to the appeal consent [*Civil form 12*] to the withdrawal of the appeal without order of the Court the appellant may file in the Registry the document or documents signifying such consent and signed by the parties or by their legal representatives and the appeal shall thereupon be deemed to have been withdrawn and shall be struck out of the list of appeals by the Registrar. In such event any sum lodged in Court as security for the costs of the appeal shall be paid out to the appellant.

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

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

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

2/16 Appeal by respondent where appeal withdrawn

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

2/17 Non-compliance with conditions of appeal

17 (1) If the appellant has complied with none of the requirements of Rules 9 and 10 of this Order the Registrar of the Supreme Court shall certify such fact to a Judge who shall thereupon order that the appeal be dismissed either with or without costs, and shall cause the appellant and the respondent to be notified of the terms of his order.

(2) Where an appeal has been dismissed under paragraph (1) of this Rule, a respondent who has given notice under Rule 13 of this Order may [*Civil form13*] give notice of appeal and the provisions of Rule 16 of this Order shall apply as if the appeal were brought under that Rule.

(3) If the respondent alleges that the appellant has failed to comply with a part of the requirements of Rules 2, 9 or 10, of this Order, a Judge, if satisfied that the appellant has so failed, may dismiss the appeal for want of due prosecution or make such other order as the justice of the case may require.

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

2/18 Exhibits

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

RULES OF THE COURT OF APPEAL FOR BERMUDA

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

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

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

(5) All original documents delivered to the Supreme Court under this rule shall remain in the custody of the Supreme Court until the record of appeal has been prepared, and shall then be forwarded with the record to the Registrar and shall remain in the custody of the Court until the determination of the appeal:

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

2/19 Control of proceedings during pendency of appeal

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

2/20 Submission by party not appearing

20 At any time before the hearing of the appeal any party to the appeal may file [*Civil form 14*] a declaration in writing that he does not wish to be present in person or by a legal representative on the hearing of the appeal, together with four copies of such arguments as he desires to submit to the Court and serve a copy of such declaration and arguments upon every other party who has filed an address for service and thereupon the appeal shall be dealt with as if the party had appeared.

2/21 Non-appearance of appellant

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

(2) When an appeal has been struck out owing to the non-appearance of the appellant the Court may, if it thinks fit, and on such terms as to costs or otherwise as it may deem just, direct the appeal to be re-entered for hearing,

RULES OF THE COURT OF APPEAL FOR BERMUDA

2/22 Non-appearance of respondent

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

2/23 Application to set aside *ex parte* judgment

23 (1) Where an appeal has been heard *ex parte* under Rule 22 and any judgment has been given therein adverse to the respondent, he may apply to the Court to set aside such judgment and to re-hear the appeal.

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

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

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

2/24 Interlocutory judgment not to prejudice appeal

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

2/25 Power of Court to give any judgment and make any order

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

2/26 Judgment

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

(2) A judgment of the Court may be read by any Judge whether or not he sat as a Judge of the Court at the hearing of the appeal.

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(3) A certified copy of the judgment shall be sent by the Registrar to the Supreme Court.

2/27 Order

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

(2) A sealed or certified copy of the order shall be sent by the Registrar to the Supreme Court.

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

2/28 Review of judgment

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

2/29 Enforcement of judgments

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

2/30 Execution of judgment by Supreme Court

30 When the Court directs any judgment to be enforced by another Court, a certificate [*Civil form 15*] under the seal of the Court and the hand of the presiding Judge setting forth the judgment shall be transmitted by the Registrar to such other Court, and the latter shall enforce such judgment in terms of the certificate.

2/31 Costs

31 Where the costs of an appeal are allowed they may either be ordered to be taxed (in which event the provisions of Order 4 shall apply) or be fixed at the time when the judgment is given.

2/32 Fees

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

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

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

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

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

2/33 Proceedings by poor persons

33 (1) Any party may apply to the Court for leave to prosecute or defend an appeal as a poor person. Such application shall be by notice of motion, supported by affidavit, and shall be served on the other parties to the proceedings. No fee shall be payable on filing any such application.

(2) No party shall be permitted to proceed as a poor person unless he satisfies the Court that he has a reasonable probability of success.

(3) A person permitted to proceed as a poor person shall not be liable to pay any of the Court fees prescribed by these Rules nor shall he be required to make the deposit or to give the security prescribed by Rules 9 and 10 of this Order.

(4) The Court may for good cause shown review, rescind or vary an order permitting any person to proceed as a poor person.

(5) The Court may assign a barrister or attorney to represent a party prosecuting or defending an appeal as a poor person.

2/34 Costs in proceedings by poor persons

34 (1) Leave to proceed as a poor person shall not exempt such person from liability to an order for costs in favour of his opponent.

(2) If a poor person is not awarded costs in the proceedings, no fees shall be taken from him by a legal representative assigned to him.

(3) If a poor person is awarded costs against his opponent he shall be entitled to include and receive in such costs the fees of any legal representative assigned to him and all other fees and costs remitted by his admission to proceed as a poor person.

2/35 Matters not expressly provided for

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

2/36 Court to which applications should be made

36 Whenever an application may be made either to the Supreme Court or to the Court, it shall be made in the first instance to the Supreme Court but, if the Supreme Court refuses the application, the applicant shall be entitled to have the application determined by the Court.

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2/37 Stay of execution

37 Upon the application of an intending appellant, the Court or a Judge may stay the execution of any judgment of the Supreme Court until the determination or other disposal of the appeal:

Provided that no application under this Rule shall be entertained until it is shown to the satisfaction of the Court or a Judge that application for a stay of execution has been made to the Supreme Court and has been refused.

2/38 Interlocutory applications. Power of single Judge

38 (1) In any cause or matter pending before the Court, a single Judge may hear, determine and make orders on any interlocutory application.

(2) Any order made by a single Judge in pursuance of this rule may be discharged or varied by the Court on the application of any person aggrieved by such order.

ORDER 3

CRIMINAL APPEALS

APPEALS FROM THE SUPREME COURT IN ITS ORIGINAL JURISDICTION OR IN ITS APPELLATE JURISDICTION IN CRIMINAL CASES

3/1 Application

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

3/2 Applications not specially provided for

2 Except where otherwise provided in these Rules any application to the Court may be made by the appellant or respondent or by a legal representative on his behalf orally or in writing, but in regard to such applications if the appellant is unrepresented and in custody and is not entitled or has not obtained leave to be present before the Court, he shall make any such application by forwarding the same in writing to the Registrar who shall take the appropriate steps to obtain the decision of the Court thereon.

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

3 (1) A person desiring to appeal to the Court against any judgment, sentence or order of the Supreme Court, whether in the exercise of its original or of its appellate jurisdiction, shall commence his appeal by filing in the Registry of the Supreme Court a notice of appeal or notice of application for leave to appeal or notice of application for extension of time within which such notice shall be given, as the case may be, in the form of such notices respectively set forth as Forms 1, 2, 3, 4, 5 or 7 in the Second Schedule.

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

(3) Every notice of appeal or notice of application for leave to appeal from any judgment, sentence or order of the Supreme Court shall be filed in the Registry of the Supreme Court not later than twenty-one days after the date of such judgment, sentence or order.

3/4 Notices of Appeal

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

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

3/4 How notices, etc. may be given or sent

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

3/4 Where appellant unable to write

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

3/4 Where question of sanity involved

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

3/4 Notice, etc., on behalf of Corporations

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

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3/5 Application for extension of time

5 (1) An application to the Court for an extension of time within which notices may be given shall be in Form 7 in the Second Schedule. Every application for such extension of time shall be accompanied by a form duly filled up, of notice of appeal, or of notice of application for leave to appeal, appropriate to the ground or grounds upon which it is desired to question the conviction or sentence, as the case may be.

(2) Any intending appellant who is unrepresented and is in custody may, instead of filing a notice, or notices, under this Rule send such notice or notices to the Registry of the Supreme Court through the Commissioner of Prisons and any such notice or notices shall be deemed to have been filed in the Registry of the Supreme Court on the date of signing which shall be shown thereon and which shall be certified by a Prison Officer not below the rank of Principal Officer to be the actual date of signing.

3/6 Notice of application for leave to appeal

6 (1) Where the Court has on a notice of application for leave to appeal duly filed and in the form provided under these Rules given an appellant leave to appeal, or where the Supreme Court has certified that the case is one fit for appeal pursuant to section 17(1)(b) of the Act, it shall not be necessary for the appellant to give any notice of appeal and any notice of application for leave to appeal shall in such case be deemed to be a notice of appeal.

(2) Where an application has been made to the Supreme Court for a certificate that the case is fit for an appeal against conviction, the Registrar of the Supreme Court shall send to the Registrar of the Court notification of the result of the application in Form 6 in the Second Schedule together with the original of the application for the certificate and the case shall if the application for the certificate has been granted thereafter be dealt with as if leave to appeal had been granted by the Court.

3/7 Dealing with applications for leave to appeal and other preliminary applications

7 (1) Where a single Judge deals with any application under section 19 of the Act, the Registrar shall inform the applicant of the result of his application. In the event of such Judge refusing the application, the Registrar, on notifying such refusal to the applicant, shall forward to him Form 8 in the Second Schedule, which Form the applicant is hereby required to fill up and forthwith return to the Registrar. If the applicant does not desire to have his said application determined by the Court or does not within thirty days of being notified of such refusal return Form 9 in the Second Schedule duly completed by him, the refusal of his application shall be final.

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

(3) For the purpose of constituting the Court the Judge who has refused any such application may sit as a member of the Court and take part in determining such application.

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3/8 Forwarding of proceedings of Supreme Court to Registrar

8 (1) When—

- (a) the Registrar of the Supreme Court has received a notice of appeal or a notice of application to the Court for leave to appeal or for extension of the time within which such notice shall be given; or
- (b) the Supreme Court has granted a certificate that the case is a fit one for appeal against conviction,

the Registrar of the Supreme Court shall prepare the record of appeal in the manner hereinafter prescribed and forward to the Registrar five copies thereof, He shall also forward the original exhibits in the case as far as practicable and any original depositions, information, inquisition, plea, or other documents usually kept by him, or forming part of the record of the Supreme Court, together with the originals of any recognizances entered into or any other documents filed in connection with the appeal or application.

(2) On payment of the prescribed fees (subject nevertheless to the provisions of Rule 9 (3) of this Order), the Registrar of the Supreme Court shall forward to the appellant and to the Attorney-General and to the Director of Public Prosecutions a copy each of the record:

Provided that if the appellant is not in custody a copy of the record shall be supplied to him on his making application therefor to the Registrar of the Supreme Court, and paying the prescribed fees.

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

3/9 Fees

9 (1) None of the fees specified in the Third Schedule shall be payable in respect of an appeal under this Order, except the fees specified in relation to the transcribing and preparation of the record of appeal.

(2) The Court or the Supreme Court may waive in whole or in part the payment of any fees or the making of any deposit.

(3) This rule shall not apply to appeals in capital cases or where an appellant is granted legal aid pursuant to Section 26 (1) of the Act, and no fee shall be payable by the Attorney-General or the Director of Public Prosecutions (a) on any appeal by him under section 17 (2) of the Act, or (b) on any appeal in which the Crown is respondent.

3/10 Record in Criminal appeals from Supreme Court in its original jurisdiction

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

- (a) the index;
- (b) the indictment;

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- (c) a transcript of the arraignment and the plea entered to the indictment;
- (d) a transcript of the Judge's summing-up to the jury, however recorded;
- (e) a transcript of the proceedings on and after verdict, including the proceedings on sentence; and
- (f) all rulings of the court below.
- (g) all documentary exhibits put in at the trial including depositions read in consequence of the absence of a witness and, on a guilty plea, the prosecution's summary of the facts:

Provided that in the case of books of accounts or other documents of great length, extracts of the relevant portions thereof only shall be included;

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

(2) It shall not be necessary for the record of appeal to contain copies of any recognizances entered into or documents filed in connection with the appeal or applications other than those set out in paragraph (1) of this rule unless the Registrar, the Court or a Judge of the Supreme Court shall otherwise direct.

(3) No part of the evidence or proceedings other than those identified in subparagraphs (c) to (h) of paragraph (1) shall be transcribed without a direction of the Registrar, or an order of the Court or a single Judge.

[Order 3 Rule 10 amended by BR 81 / 2006 rule 3 effective 1 December 2006; Order 3 Rule 10 para. (2) and (3) amended by BR 7 / 2018 rule 2 effective 7 March 2018]

3/11 Appeals in criminal matters from Supreme Court in its appellate jurisdiction

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

- (a) the index which shall include the particulars of the record of proceedings from the lower Court;
- (b) the record of proceedings from the lower Court as submitted to the Supreme Court;
- (c) the notice of appeal and all other relevant documents filed in connection with the appeal in the Supreme Court;
- (d) a transcript of the proceedings in the Supreme Court
- (e) the judgment of the Supreme Court;
- (f) the notice of appeal to the Court or notice of application for leave to appeal to the Court, or notice of application to the Court for extension of time within which such notice shall be given;

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(g) where the Supreme Court has certified that the case is a fit one for appeal against conviction, a copy of the certificate.

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

(3) In this rule “lower court” means the court of trial.

[Order 3 Rule 11 paragraph (1)(d) revoked and substituted by BR 81 / 2006 rule 4 effective 1 December 2006; Order 3 Rule 11 para. (2) amended by BR 7 / 2018 rule 3 effective 7 March 2018]

3/12 Records of summing up

12 (1) Where any trial is had with a jury and, by direction of the trial Judge a record is made by some mechanical or electrical device of any summing up or direction of the Judge, such record shall be accepted by the Court as accurate unless the Court has reason to doubt its accuracy.

(2) Where in such a trial a record of any summing up or direction is otherwise made, by direction of the trial Judge, either in longhand or shorthand, such record shall be accepted by the Court as accurate subject to any corrections or additions which the trial Judge may certify ought to be made in order to render the record accurate.

(3) Where in such a trial the trial Judge does not give any directions for recording any summing up or direction given by him, his statement shall be accepted as accurate unless the Court sees reason to the contrary.

3/13 Report of Judge of Court of Trial

13 (1) The Registrar shall, if in relation to any appeal the Court directs him so to do, request the trial Judge to furnish him with a report in writing giving his opinion upon the case generally or upon any point arising upon the case of the appellant, and the trial Judge shall furnish the same to the Registrar.

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

3/14 Furnishing Judge of Court of Trial with materials for report.

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

3/15 Bail

15 (1) Where the Court or the Supreme Court or a Judge thereof admits an appellant to bail pending the determination of his appeal on all application by him duly made, such Court or Judge shall specify the amounts in which the appellant and his

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surety or sureties (unless such Court or Judge directs that no surety is required) shall be bound by recognizance, and shall direct, if such Court or Judge thinks fit so to do, before whom the recognizances of the appellant and his surety or sureties (if any) may be taken.

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

(3) The recognizances provided for in this Rule shall be in Forms 10 and 11 in the Second Schedule.

(4) The Registrar of the Supreme Court shall forward the recognizances of the appellant and his surety or sureties to the Registrar.

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

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

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

(7) At any time after an appellant has been released on bail, the Court or where the appellant was released on bail by the Supreme Court, that Court may, if satisfied that it is in the interest of justice so to do, revoke the order admitting to bail, and issue a warrant in Form 12 in the Second Schedule.

3/16 Fines

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

(2) An appellant who has been sentenced to the payment of a fine, and has paid the same or part thereof in accordance with such sentence, shall, in the event of his appeal being successful, be entitled, subject to any order of the Court, to the return of the sum or any part thereof so paid by him.

3/17 Varying order for restitution of property

17 Where upon the trial of a person entitled to appeal against his conviction, an order of restitution of any property to any person has been made by the Court of trial, the person in whose favour or against whom the order of restitution has been made, and,

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with the leave of the Court, any other person, shall, on the final hearing by the Court of an appeal against his conviction on which such order of restitution was made, be entitled to be heard by the Court before any order annulling or varying such order of restitution is made.

3/18 Non-suspension of Orders of Restitution

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

3/19 Restrictions on issue of certificate of conviction

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

3/20 Abandonment of appeal

20 (1) An appellant at any time after he has duly served notice of appeal or of application for leave to appeal, or of application for extension of time within which such notice shall be given, may abandon his appeal by giving notice of abandonment thereof in Form 13 in the Second Schedule to the Registrar, and upon such notice being given the appeal shall be deemed to have been dismissed by the Court.

(2) Upon receipt of a notice of abandonment duly completed and signed or marked by the appellant or the party authorized to sign notices under Rule 4 of this Order, the Registrar shall give notices thereof in Form 14 in the Second Schedule to the respondent, the Commissioner of Prisons and the Registrar of the Supreme Court, and in the case of an appeal against a conviction involving a sentence of death, shall in like manner give notice to the Deputy Governor for the information of the Governor in his exercise of the prerogative of mercy, and the Registrar shall also return to the Registrar of the Supreme Court any original documents and exhibits received from him.

3/21 Notice of abandonment of appeal may be withdrawn

21 An appellant (other than one convicted of an offence involving sentence of death) who has abandoned his appeal may, in special cases, with the leave of the Court, withdraw his notice of abandonment by filling up Form 15 in the Second Schedule together with Form 7 in the Second Schedule (Notice of Application for extension of time within which to appeal) and sending them to the Registrar.

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3/22 Attendance of witness before the Court

22 (1) Where the Court or a Judge has ordered any witness to attend and be examined before the court an order in Form 16 in the Second Schedule shall be served upon such witness specifying the time and place at which to attend for such purpose.

3/22 Application to Court to hear witnesses

22 (2) Such order may be made on the application at any time of the appellant or respondent, but if the appellant is in custody and not legally represented the application shall be made by him in Form 17 in the Second Schedule.

3/22 Order appointing examiner

22 (3) Where the Court or a Judge orders the examination of any witness to be conducted otherwise than before the Court itself such order shall specify the person appointed as examiner to take and the place of taking such examination and the witness or witnesses to be examined thereat.

3/22 Furnishing examiner with exhibits, etc., necessary for examination

22 (4) The Registrar shall furnish to the person appointed to take such examination any documents or exhibits and any other material relating to the said appeal as and when requested to do so. Such documents and exhibits and other material shall after the examination has been concluded be returned by the examiner, together with any depositions taken by him under this Rule, to the Registrar.

3/22 Notification of date of examination

22 (5) When the examiner has appointed the day and time for the examination he shall request the Registrar to give notice thereof to the appellant and the respondent and their legal representatives, if any, and when the appellant is in prison, to the Commissioner of Prisons. The Registrar shall cause to be served on every witness to be examined a notice in Form 18 in the Second Schedule.

3/22 Evidence to be taken on oath

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

3/22 Deposition of witness how to take

22 (7) The examination of every such witness shall be taken in the form of a deposition and unless otherwise ordered shall be taken in private. The caption in Form 19 in the Second Schedule shall be attached to any such deposition.

3/22 Expenses of witnesses before examiner

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

RULES OF THE COURT OF APPEAL FOR BERMUDA

3/22 Presence of parties at examination of witnesses

22 (9) The appellant and respondent, or their legal representatives, shall, unless the Court otherwise directs, be entitled to be present at and take part in any examination of any witness to which this Rule relates.

3/23 Proceedings on reference

23 (1) When the Governor exercises his powers under section 27(a) of the Act and refers the whole case to the Court, the petitioner whose case is so dealt with shall be deemed to be for all purposes of the Act or these Rules a person who has obtained from the Court leave to appeal and the Court may proceed to deal with his case accordingly.

(2) Where the Governor exercises his powers under section 27(b) of the Act and refers a point to the Court, the Court shall, unless they otherwise determine, consider such point in private.

3/24 Notification of final determination of appeals

24 (1) On the final determination of any appeal or of any application to the Court, the Registrar shall give to the appellant, if he be in custody and has not been present at such final determination, and to the respondent and the Commissioner of Prisons, notice of such determination in Forms 20, 21, 22 or 23 in the Second Schedule, as the case may be.

3/24 Notification of appeal in capital cases

24 (2) In any case of an appeal in relation to a conviction involving sentence of death, the Registrar shall on receiving notice of appeal, send copies thereof to the Deputy Governor, for the information of the Governor in his exercise of the prerogative of mercy, to the respondent and to the Commissioner of Prisons.

3/25 Notification of result of appeal

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

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

3/26 Return of original depositions, etc.

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

RULES OF THE COURT OF APPEAL FOR BERMUDA

3/27 Enforcement of orders

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

3/28 Costs

28 Where the Court makes any order for the payment of costs by any appellant or by any respondent, such costs may either be ordered to be taxed (in which event the provisions of Order 4 shall apply) or be fixed at the time when the judgment is given.

3/29 Fees to assigned barristers

29 The fees to be paid to any barrister and attorney assigned pursuant to section 26(1) of the Act to represent an appellant shall be those set out in the Fifth Schedule.

3/30 Judgment of the Court

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

[Rule 3/8(2) and 9(3) amended by 1999:8 s.3 & Sch 2 effective 1 April 1999; rule 3/10 and 3/11 amended by BR81/2006 effective 1 December 2006]

ORDER 4

COSTS

4/1 Solicitor and client costs

1 Where the Court directs taxation of costs as between solicitor and client the Registrar shall tax such costs in accordance with these rules and the scales in the Fourth Schedule.

4/2 Notice of taxation to be given by Registrar

2 Whenever a legal representative shall have lodged a bill for taxation with the necessary papers and vouchers the Registrar shall thereupon issue a notice fixing the time at which the taxation shall be proceeded with.

4/3 Reference by consent

3 With the consent of both parties the Registrar may refer any matter in dispute arising out of the taxation of a bill, other than a question of quantum only, for the opinion of a Judge.

RULES OF THE COURT OF APPEAL FOR BERMUDA

4/4 Bills not to be altered after being lodged

4 No addition or alteration shall be made in costs after a bill has been lodged for taxation except by consent of the parties or by permission or direction of the Registrar or a Judge.

4/5 Default of appearance at taxation

5 Any legal representative who shall without reasonable excuse after due notice fail to appear on the date fixed for taxation or on any date to which such taxation is adjourned, or who shall in any way delay or impede the taxation, or put any other party to any unnecessary or improper expense relative to such taxation shall, unless the Registrar shall otherwise direct, forfeit the fees to which he would otherwise be entitled for drawing his bill of costs and for attending the taxation, and shall in addition be liable to pay for any unnecessary or improper expense to which he has put any party.

4/6 Discretion of Registrar

6 On every taxation the Registrar shall allow all such costs, charges and expenses as shall appear to him to have been necessary or proper for the attainment of justice or for defending the rights of any party, but save as against the party who incurred the same, no costs shall be allowed which appear to the Registrar to have been incurred or increased through overpayment, extravagance, over-caution, negligence, or mistake or by payment of special charges or expenses to witnesses or other persons, or by other unusual expenses.

4/7 Basis of taxation

7 All bills of costs incurred in proceedings in the Court and in proceedings in the Supreme Court preparatory or incidental to, or consequential upon, proceedings in the Court shall be taxable according to the scales in the Fourth Schedule:

Provided that, as regards proceedings in the Supreme Court for which no provision is made in these Rules or the said scales, the Rules and scales applicable to the Supreme Court shall be followed.

4/8 Order for costs

8 No costs shall be payable as between party and party or out of any fund unless so ordered by the Court. If costs are ordered to be paid without further direction they shall be taxed as between party and party.

4/9 Excessive claims

9 If more than one quarter of the amount of profit costs claimed is disallowed on taxation the costs of preparing, filing and serving the bill and of attending taxation shall be disallowed.

4/10 Legal representative acting as counsel

10 Costs of more than one legal representative shall not be allowed unless the Court shall so direct:

RULES OF THE COURT OF APPEAL FOR BERMUDA

Provided that if a legal representative acting as solicitor does not act as counsel, but employs another legal representative to do so, the fees paid to counsel or part thereof may be allowed, but so that the total amount of the costs shall not be greater than it would have been if the legal representative acting as solicitor had himself acted also as counsel:

Provided further that, if costs of two legal representatives are allowed, they may be members or employees of the same firm.

4/11 Costs improperly incurred by legal representative

11 (1) If in any case it shall appear to the court or a Judge that costs have been improperly or without reasonable cause incurred, or that by reason of any undue delay in proceeding under any judgment or order, or of any misconduct or default of the legal representative, any costs properly incurred have nevertheless proved fruitless to the person incurring the same, the Court or a Judge may call on the legal representative by whom such costs have been so incurred to show cause why such costs should not be disallowed as between the legal representative and his client, and also (if the circumstances of the case shall require) why the legal representative should not repay to his client any costs which his client may have been ordered to pay to any other person, and thereupon may make such order as the justice of the case may require.

(2) The Court or a Judge may if it or he thinks fit refer the matter to the Registrar for inquiry and report, and may direct the legal representative in the first place to show cause before the Registrar.

4/12 Notice of taxation

12 Notice of taxation need not be given to any party who did not appear in person or by a legal representative or present his case in writing at the hearing of the appeal or matter in question.

4/13 Party entitled to costs refusing to lodge bill for taxation

13 When any party entitled to costs refuses or neglects to bring in his costs for taxation or to procure the same to be taxed and thereby prejudices any other party, the Registrar shall be at liberty to certify the costs of the other parties and certify such refusal or neglect, or may allow such party refusing or neglecting a nominal sum or other sum for such costs, so as to prevent any other party being prejudiced by such refusal or neglect,

4/14 Manner of preparing bills for taxation

14 Bills of costs shall be instituted and filed in the proceedings and shall be prepared in five columns—

the first or left-hand column for dates showing year, month, days;

the second for the serial numbers of the items;

the third for the particulars of the services charged for;

the fourth for the professional charges;

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the fifth for the taxing officer's deductions;

and disbursements shall be shown separately at the foot of the bill.

4/15 Endorsement of bills

15 Every bill of costs which shall be lodged for taxation shall be endorsed with the name and address of the legal representative by whom it is lodged and shall include at the end thereof a form of certificate or allocatur for signature by the Registrar certifying the result of the taxation.

4/16 Vouchers to be produced on taxation

16 Receipts or vouchers for all disbursements charged in a bill of costs, together with all documents or drafts or copies thereof shall be produced on taxation.

4/17 Endorsement of length of documents

17 Every draft and other document the preparation of which is charged for by the folio shall be endorsed (in figures) with the number of folios which it contains. The length of all documents not vouched by attested copies or other satisfactory evidence shall be certified by the legal representative, and if such certificate be erroneous the Registrar may disallow the costs of the document so erroneously certified or any part thereof.

4/18 Costs where legal representative is employed by two or more parties

18 Where the same legal representative is employed for two or more parties and separate proceedings are had by or for any two or more such parties, the Registrar shall consider in the taxation of such legal representative's bill of costs, either as between party and party, or as between solicitor and client, whether such separate proceedings were necessary or proper, and if he is of opinion that any part of the costs occasioned thereby have been unnecessarily or improperly incurred, the same shall be disallowed.

4/19 Costs where trustees defend separately

19 In taxing the costs as between party and party or for payment out of a trust fund of joint executors or trustees who are separately represented, the Registrar shall, unless otherwise ordered by the Court or a Judge, allow but one set of costs for such parties, such costs to be apportioned among them as the Registrar shall deem fit.

4/20 Appearance of party not interested

20 Where any party appears upon any application or proceeding in Court or in chambers, in which he is not interested or upon which, according to the practice of the Court, he ought not to attend, he shall not be allowed any costs of such appearance unless the Court or a Judge shall otherwise order.

4/21 Instructions for affidavits

21 The allowances for instructions and drawing any affidavit shall include all attendances on the deponent to settle and read over.

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4/22 Time and adjournment

22 The Registrar shall have power to limit or extend the time for any taxation proceeding before him, and to adjourn the same from time to time.

4/23 Witnesses

23 Expenses of parties attending Court as such shall not be allowed but an allowance may be made for attendance of any necessary witnesses, including parties, of such amount as would be allowed to such persons for attendance in the Supreme Court.

4/24 Allowance of witnesses' expenses

24 Every bill of costs lodged for taxation shall be accompanied by a statement by the legal representative lodging such bill giving particulars of the place of abode and the condition, quality, occupation or rank in life of the witnesses or intended witnesses charged for, the distance they have had to travel and the mode of travel, also whether to the knowledge or belief of the legal representative they attended as witnesses in any other cause or came upon any other business, also that they were material and necessary witnesses for the party on the hearing.

4/25 Allowances to certain persons

25 The allowances in respect of fees to any accountants, merchants, engineers, actuaries and scientific persons to whom any question is referred, shall, save where the Court or Judge shall otherwise order, be regulated by the Registrar, subject to review by the Court or a Judge.

4/26 Meaning of "folio"

26 The expression "folio" where used in this Order shall mean 100 words, a single figure or a group of figures up to four being counted as one word.

4/27 Overriding discretion

27 Notwithstanding anything in this Order contained, if the Registrar or a Judge is of opinion that, having regard to all the circumstances, the amount of a bill of costs after taxation is excessive, the Registrar at any time before signing its allocatur, or a Judge on reference to him, may make such deduction from the total sum allowed or to be allowed as will in his opinion render the total sum reasonable. A reference to a Judge for this purpose shall be deemed to be on a point of principle and not of quantum. A Judge may similarly cancel or reduce any deduction made by the Registrar under this rule.

4/28 Improper agreements

28 Any agreement for remuneration of a legal representative, whereby he becomes financially interested in the result of any proceedings in the Court, shall be void.

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ORDER 5 MISCELLANEOUS

5/1 Waiver of non-compliance with rules

1 Non-compliance on the part of an appellant with these Rules or with any Rule of practice for the time being in force shall not prevent the further prosecution of his appeal if the Court consider that such non-compliance was not wilful, and that it is in the interests of justice that non-compliance be waived. The Court may in such manner as they think right, direct the appellant to remedy such non-compliance, and thereupon the appeal shall proceed. The Registrar shall forthwith notify the appellant of any directions given by the Court under this Rule, where the appellant was not present at the time when such directions were given.

5/2 Transitional provisions

2 [omitted].

5/3 Appeals in disciplinary cases under the Bermuda Bar Act 1974

3 (1) An appeal from the order of a disciplinary committee under section 16 of the Bermuda Bar Act 1974 [*title 30 item 3*] shall be commenced by filing a notice of appeal in the Registry of the Supreme Court within the period of three weeks commencing on the day of the notification of that order to the appellant by the chairman of the committee.

(2) Either party to such an appeal may—

- (a) at any time before the commencement of the hearing of the appeal by the Court apply *ex parte* to a Judge in Chambers; or
- (b) at any time after the commencement of the hearing of the appeal by the Court apply by motion to the Court,

for an order under this paragraph; and where such an application is made the Judge or the Court, as the case may be, if in his or their opinion the interests of justice so require, may order that such persons or classes of persons as are specified in the order (other than the parties to the appeal and their legal representatives) be excluded from such of the subsequent proceedings in the appeal as may be so specified:

Provided that any order made by a Judge in Chambers under this paragraph shall be subject to review by the Court.

(3) Every notice and other document filed in connection with an appeal under this Rule shall be entitled "In the Matter of a Barrister and Attorney and In the Matter of the Bermuda Bar Act 1974" without naming or otherwise describing the parties to the appeal.

(4) Save as specifically provided in this Rule, the provisions of Order 2 shall apply *mutatis mutandis* to an appeal under this Rule as if it were an appeal from the Supreme Court exercising original jurisdiction in a civil case.

RULES OF THE COURT OF APPEAL FOR BERMUDA

FIRST SCHEDULE

CIVIL FORM 1

IN THE COURT OF APPEAL

NOTICE OF APPEAL
(Order 2, Rule 2)

Between

Plaintiff

and

Defendant

TAKE NOTICE that the plaintiff/defendant being dissatisfied with the decision/that part of the decision more particularly stated in paragraph 2*, of the Supreme Court contained in the judgment/order* of the Supreme Court dated the [blank] day of [blank] 19 [blank] doth hereby appeal to the Court of Appeal upon the grounds set out in paragraph 3 and will at the hearing of the appeal seek the relief set out in paragraph 4.

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

2 Part of decision of the Supreme Court complained of.**

3 Grounds of Appeal:

(1)

(2)

(3) etc.

4 Relief sought from the Court of Appeal.

5 Persons directly affected by the appeal:

Name	Address
------	---------

(1)

(2)

(3) etc.

Dated this [blank] day of [blank] 19 [blank]

Appellant,
whose address for service is

.....

* Strike out words inapplicable.

RULES OF THE COURT OF APPEAL FOR BERMUDA

** If appealing against the whole decision insert "whole decision".

Note: An address for service must be given.

CIVIL FORM 2

In the Court of Appeal

NOTICE OF MOTION FOR LEAVE TO APPEAL
(Order 2, Rule 3)

Between

Plaintiff

and

Defendant

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

AND further take notice that the grounds of this application are—

DATED this [blank] day of [blank] 19 [blank]

.....
Applicant or his legal representative
whose address for service is
.....
.....

To: The Registrar, Supreme Court/Court of Appeal

And*.....

* Insert name of respondent.

Note: An address for service must be given.

CIVIL FORM 3

In the Court of Appeal

SUMMONS TO PARTIES BY REGISTRAR TO SETTLE RECORD
(Order 2, Rule 7)

Between

Appellant

and

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Respondent

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

DATED this [blank] day of [blank] 19 [blank]

.....
Registrar of the Supreme Court

CIVIL FORM 4

In the Court of Appeal

BOND FOR COSTS ON APPEAL
(Order 2, Rule 10)

KNOW ALL MEN, by these presents, that we [blank] of [blank] and [blank] of [blank] and [blank] of [blank] are jointly and severally held and firmly bound to [blank] of [blank] in the sum of [blank] dollars of lawful money to be paid to the said [blank] his executors, administrators or assigns, for which payment well and truly to be made, we bind ourselves, and each of us for himself, in the whole our and every of our heirs, executors and administrators, firmly by these presents.

SEALED with our seals.

DATED the [blank] day of [blank], in the year of our Lord, 19[blank]

WHEREAS a suit is now pending in the Supreme Court wherein the above-bounden [blank] is Plaintiff and the said [blank] is Defendant;

AND WHEREAS a judgment was given by the Supreme Court therein, on the [blank] day of [blank] for the said [blank] and the said [blank] has filed Notice of Appeal from the said judgment;

AND WHEREAS it is by law provided that the party appealing shall give security to the satisfaction of the Registrar of the Supreme Court for the due prosecution of the appeal and for the payment of any costs which may be ordered to be paid by the appellant.

AND WHEREAS the above-named [blank] and [blank] at the request of the said [blank] have agreed to enter into this obligation for the purposes aforesaid:

NOW the condition of this obligation is such, and if the said [blank] shall duly prosecute the appeal and if the above-bounden [blank] and [blank] any or either of them shall pay any costs which may be ordered to be paid by the appellant this obligation shall be void, otherwise remain in full force.

Signed, sealed and delivered (L.S.)
in the presence of (L.S.)
(L.S.)

RULES OF THE COURT OF APPEAL FOR BERMUDA

CIVIL FORM 5

In the Court of Appeal

CERTIFICATE OF SERVICE OF NOTICE OF APPEAL
(Order 2, Rule 12(1)(a))

Between _____ Appellant(s)
and _____ Respondent(s)

I, the undersigned Registrar of the Supreme Court DO CERTIFY that notice of appeal in the above-named case was duly served upon [blank] the Respondent herein.

DATED at [blank] this [blank] day of [blank] 19 [blank]

.....
Registrar of the Supreme Court

CIVIL FORM 6

In the Court of Appeal

CERTIFICATE OF REGISTRAR THAT CONDITIONS OF APPEAL HAVE BEEN FULFILLED
(Order 2, Rule 12(1)(b))

Between _____ Appellant
and _____ Respondent

I do hereby certify that the above-named Appellant has duly and punctually complied with the conditions of appeal imposed on him in the above-named case.

DATED this [blank] day of [blank] 19 [blank]

.....
Registrar of the Supreme Court

The Registrar,
Court of Appeal

CIVIL FORM 7

In the Court of Appeal

NOTICE TO PARTIES OF DISPATCH OF RECORD

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(Order 2, Rule 12(2))

Between Appellant
and
Respondent

TAKE NOTICE that the record in the above-named appeal has this day been forwarded to the Registrar of the Court of Appeal.

.....
Registrar of the Supreme Court

To

CIVIL FORM 8

In the Court of Appeal

NOTICE BY RESPONDENT OF INTENTION TO CONTENTEND THAT THE DECISION OF THE SUPREME COURT BE VARIED

(Order 2, Rule 13)

Between Appellant
and

Respondent

TAKE NOTICE that upon the hearing or the above appeal the Respondent herein intends to contend that the decision of the Supreme Court dated the [blank] day of [blank] 19 [blank], shall be varied as follows*—

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

- 1
- 2
- 3 etc.

DATED this [blank] day of [blank] 19 [blank]

.....
Respondent

* State the variation which will be asked for

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CIVIL FORM 9

In the Court of Appeal

NOTICE OF INTENTION TO CONTEND THAT JUDGMENT SHOULD BE AFFIRMED ON
GROUNDS OTHER THAN THOSE RELIED ON BY THE SUPREME COURT
(Order 2, Rule 13)

Between

Appellant

and

Respondent

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

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

- 1
- 2
- 3 etc.

DATED this [blank] day of [blank] 19 [blank]

.....
Respondent

CIVIL FORM 10

In the Court of Appeal

NOTICE BY RESPONDENT OF INTENTION TO RELY UPON PRELIMINARY OBJECTION
(Order 2, Rule 14)

Between

Appellant

and

Respondent

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

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

- 1
- 2

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3 etc.

DATED this [blank] day of [blank] 19 [blank]

.....
Plaintiff/Defendant-Respondent

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

—————
CIVIL FORM 11

In the Court of Appeal

**NOTICE OF WITHDRAWAL OF APPEAL
(Order 2, Rule 15)**

Between

Appellant

and

Respondent

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

DATED at [blank] this [blank] day of [blank] 19 [blank]

.....
Appellant(s)

The Registrar,
Court of Appeal

And to

—————
CIVIL FORM 12

In the Court of Appeal

**NOTICE OF WITHDRAWAL OF APPEAL BY AGREEMENT
(Order 2, Rule 15)**

Between

Appellant

and

Respondent

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

DATED this [blank] day of [blank] 19 [blank]

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* Here set your arguments *concisely*.

CIVIL FORM 15

In the Court of Appeal

CERTIFICATE OF THE ORDER OF THE COURT
(Order 2, Rule 30)

Appeal from the decision of the Supreme Court dated the [blank] day of [blank] 19
[blank]

Motion
Appellant

v.

Respondent

*

This appeal coming on for hearing on the [blank] day of [blank] 19 [blank] before
[blank] in the presence of [blank] for the Appellant, and [blank] for the Respondent.

I HEREBY CERTIFY that an Order was made as follows

GIVEN under my hand and the Seal of the Court this [blank] day of [blank] 19 [blank]

.....
Registrar of the Court

* Insert "Presiding Judge".

RULES OF THE COURT OF APPEAL FOR BERMUDA

SECOND SCHEDULE

CRIMINAL FORM 1

In the Court of Appeal

NOTICE OF APPEAL FROM DECISION OF THE SUPREME COURT SITTING AS A COURT
OF FIRST INSTANCE
(Order 3, Rule 3)

Regina v [blank]

To THE REGISTRAR OF THE SUPREME COURT.

I, [blank] having been convicted of the offence⁽¹⁾ [blank] and [blank] being now a prisoner in prison at [blank] or whose address for service is ⁽²⁾ [blank] do hereby give notice of appeal against my conviction (particulars of which hereinafter appear) to the Court on the following grounds ⁽³⁾—

(Signed or mark).....
Appellant

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

DATED this [blank] day of [blank] 19 [blank]

PARTICULARS OF TRIAL AND CONVICTION

1. Date of trial
2. Sentence
3. Whether questions of law now raised were raised at the trial

.....

You are required to answer the following question—

Do you desire to be present on the hearing of your appeal by the Court? N.B. The Court will, if you desire it, consider your case and argument if put into writing by you or on your behalf, instead of your case and argument being presented orally. If you desire to present your case and argument in writing, submit as fully as you think right your case and argument in support of your appeal.

Note-This form should only be used where there is a right of appeal without leave.

⁽¹⁾ State the offence, e.g. murder

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

⁽³⁾ State as clearly as you are able the grounds on which you desire to appeal.

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CRIMINAL FORM 2

In the Court of Appeal

NOTICE OF APPLICATION FOR LEAVE TO APPEAL FROM DECISION OF THE SUPREME COURT SITTING AS A COURT OF FIRST INSTANCE
(Order 3, Rule 3)

Regina v [blank]

To THE REGISTRAR OF THE SUPREME COURT.

I, [blank] having been convicted of the offence of⁽¹⁾ [blank] and now being a prisoner in prison at [blank] (or whose address for service is⁽²⁾ [blank])

and being desirous of appealing against my conviction/sentence⁽³⁾, DO HEREBY GIVE NOTICE that I hereby apply for leave to appeal on the following grounds ⁽⁴⁾—

Signed or Mark.....
Applicant

Signature and Address
of Witness attesting Mark

DATED this [blank] day of [blank] 19 [blank]

PARTICULARS OF TRIAL AND CONVICTION

- 1 Date of trial
- 2 Sentence

(1) State whether or not you desire to be present when the Court considers your present application for leave to appeal and whether or not you are legally represented.

(2) The Court will, if you desire it, consider your case and argument if put in writing by you or on your behalf, instead of your case and argument being presented orally. If you desire to present your case and argument in writing submit as fully as you think right your case and argument in support of your appeal.

State if you desire to be present at the final hearing of your appeal

.....

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

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

(3) If the appellant wishes to appeal against conviction only he should strike out the word "sentence". If he wishes to appeal against sentence only he should strike out the word

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“conviction”. If he wishes to appeal against conviction and sentence he should leave in both words.

(4) He should state as clearly and concisely as possible the grounds on which he desires to appeal.

CRIMINAL FORM 3

In the Court of Appeal

NOTICE OF APPEAL FROM DECISION OF THE SUPREME COURT
SITTING IN ITS APPELLATE JURISDICTION
(Order 3, Rule 3)

[blank] V [blank]

To THE REGISTRAR OF THE SUPREME COURT.

I, [blank] having [blank] v [blank]

been convicted of the offence of⁽¹⁾ [blank] now being a prisoner in prison at [blank] (or whose address for service is⁽²⁾ [blank])

DO HEREBY GIVE NOTICE of appeal against the decision of the Supreme Court on the following grounds ⁽³⁾—

Signed or Mark.....
Applicant

Signature and Address of
Witness attesting Mark

DATED this [blank] day of [blank] 19 [blank]

PARTICULARS OF TRIAL AND CONVICTION

1 Date of trial and sentence

2 Sentence

(1) State whether or not you desire to be present when the court considers your application for leave to appeal and whether or not you are legally represented.

(2) The Court will, if you desire it, consider your case and argument if put into writing by you or on your behalf instead of your case and argument being presented orally. If you desire to present your case and argument in writing submit as fully as you think right your case and argument in support of your appeal. State if you desire to be present at the final hearing of your appeal

.....
.....

RULES OF THE COURT OF APPEAL FOR BERMUDA

- (1) State the offence, e.g. larceny, forgery, etc.
- (2) Where appellant for any reason not in custody, set out address for service.
- (3) Set forth the grounds on which you desire to appeal and specify the extent, if any, to which the supreme Court varied the decision of the trial. It should also be stated whether the appeal is against conviction only or against sentence only, or against both sentence and conviction.

CRIMINAL FORM 4

In the Court of Appeal

NOTICE OF APPLICATION FOR LEAVE TO APPEAL FROM DECISION OF THE SUPREME COURT SITTING IN ITS APPELLATE JURISDICTION
(Order 3, Rule 3)

[blank] V [blank]

To THE REGISTRAR OF THE SUPREME COURT.

I, [blank] having been convicted of the offence of⁽¹⁾ [blank] and now being a prisoner in prison at [blank] (or whose address for service is⁽²⁾ [blank])

DO HEREBY GIVE NOTICE THAT I hereby apply for leave to appeal against the decision of the Supreme Court on the following grounds ⁽³⁾—

Signed or Mark

Signature and Address of

Witness attesting Mark

DATED this [blank] day of [blank] 19 [blank]

PARTICULARS OF TRIAL AND CONVICTION

1 Date of trial and sentence

2 Sentence

(1) State whether or not you desire to be present when the Court considers your application for leave to appeal and whether or not you are legally represented.

(2) The Court will, if you desire it, consider your case and argument if put into writing by you or on your behalf instead of your case and argument being presented orally. If you desire to present your case and argument in writing submit as fully as you think right your case and argument in support of your appeal.

State if you desire to be present at the final hearing of your appeal

RULES OF THE COURT OF APPEAL FOR BERMUDA

.....
.....

- (1) State the offence, e.g. larceny, forgery, etc.
- (2) Where appellant for any reason not in custody, set out address for service.
- (3) Set forth the grounds on which you desire to appeal and specify the extent, if any, to which the supreme Court varied the decision of the trial. It should also be stated whether the appeal is against conviction only or against sentence only, or against both sentence and conviction.

CRIMINAL FORM 5

In the Court of Appeal

NOTICE OF APPEAL BY PROSECUTOR
(Order 3, Rule 3)

[blank] V [blank]

To THE REGISTRAR OF THE SUPREME COURT.

I, [blank] of [blank] the prosecutor in the above case being desirous of appealing against the decision of the Supreme Court therein,

DO HEREBY GIVE NOTICE OF APPEAL on the following grounds—

.....
Prosecutor

DATED this [blank] day of [blank] 19 [blank]

PARTICULARS OF TRIAL AND CONVICTION

- 1 Date of trial
- 2 In what court tried
- 3 Nature of conviction
- 4 Sentence

CRIMINAL FORM 6

In the Court of Appeal

RULES OF THE COURT OF APPEAL FOR BERMUDA

NOTIFICATION BY REGISTRAR OF SUPREME COURT OF RESULT OF APPLICATION
FOR CERTIFICATE THAT CASE IS FIT FOR APPEAL
(Order 3, Rule 6)

Regina v [blank]

To THE REGISTRAR OF THE COURT OF APPEAL.

I hereby give you notice that on the [blank] day of [blank] 19 [blank] the Supreme Court granted/refused an application for a certificate that the case of which particulars are set out below is one fit for an appeal against conviction.

DATED this [blank] day of [blank] 19 [blank]

Registrar of

PARTICULARS OF TRIAL AND CONVICTION

- 1 No. of case
- 2 Court of trial
- 3 Name of accused
- 4 Result of trial

Note-The Registrar of the Supreme Court should forward with this notice the application for leave to appeal.

CRIMINAL FORM 7

In the Court of Appeal

NOTICE OF APPLICATION FOR EXTENSION OF TIME WITHIN WHICH TO APPEAL
(Order 3, Rule 5)

Regina v [blank]

To THE REGISTRAR OF THE

I, [blank] having been convicted of the offence of ⁽¹⁾ [blank] in the [blank] court, held at [blank] on the [blank] day of [blank] 19 [blank], and being now a prisoner in prison at [blank] (or whose address for service is ⁽²⁾ [blank]) give you notice that I hereby apply to the Court for an extension of time within which I may give Notice of Appeal (or Notice of Application for leave to Appeal) on the grounds ⁽³⁾ following—

Signed or Mark.....
Applicant

Signature and Address of
Witness attesting Mark

RULES OF THE COURT OF APPEAL FOR BERMUDA

DATED this [blank] day of [blank] 19 [blank]

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

-
- (1) State the offence, e.g. larceny, forgery, etc.
 - (2) Where appellant for any reason not in custody, set out address for service.
 - (3) Set out clearly and concisely the reasons for the delay in giving such notice and the grounds on which you submit the Court should extend the case.

CRIMINAL FORM 8

In the Court of Appeal

NOTIFICATION TO APPELLANT OF A SINGLE JUDGE'S DECISION
(Order 3, Rule 7)

Regina v [blank]

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

- (a) leave to appeal;
- (b) for extension of time within which notice of appeal or of application for leave to appeal may be given;
- (c) admission to bail;
- (d) leave to withdraw abandonment of appeal;

has refused the application(s) marked. [blank] (and has granted the application(s) marked. [blank])

If you desire to have the above-mentioned application(s), which have been refused, determined by the full Court, you are required to fill up the enclosed Criminal Form 9 and return it to me forthwith.

DATED this [blank] day of [blank] 19 [blank]

Signed.....
Registrar of the Court

To the above-named

CRIMINAL FORM 9

In the Court of Appeal

RULES OF THE COURT OF APPEAL FOR BERMUDA

NOTICE OF APPEAL BY APPELLANT FROM REFUSAL OF A SINGLE JUDGE
(Order 3, Rule 7)

Regina v [blank]

To THE REGISTRAR OF THE COURT OF APPEAL

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

- (a) leave to appeal;
- (b) for extension of the time within which notice of appeal or application for leave to appeal may be given;
- (c) admission to bail;
- (d) leave to withdraw abandonment of appeal, have been refused;

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

Signed or Mark.....
Appellant

Signature and Address of
Witness attesting Mark

DATED this [blank] day of [blank] 19 [blank]

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

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

CRIMINAL FORM 10

In the Court of Appeal

RECOGNIZANCE OF BAIL OF APPELLANT

(Order 3, Rule 15)

Regina v. [blank]

BE IT REMEMBERED THAT WHEREAS [blank] was convicted of [blank] on the [blank] day of [blank] 19 [blank] and was thereupon sentenced to [blank] and now is in lawful custody in prison at [blank] and has duly appealed against his conviction (and sentence) to the Court and has applied for bail pending the determination of his appeal, and has been granted bail on entering into his own recognizances in the sum of \$..... (with sureties each in the sum of \$), the said [blank] personally

RULES OF THE COURT OF APPEAL FOR BERMUDA

come before me the undersigned, being the [blank] (state office) and acknowledges himself to owe to Our Sovereign Lady the Queen the said sum of \$..... of good and lawful money, to be made and levied of his goods and chattels, lands and tenements to the use of Our Sovereign Lady the Queen, Her heirs and successors, if he the said [blank] fail in the condition endorsed.

TAKEN AND ACKNOWLEDGED this [blank] day of [blank] 19 [blank] at [blank], before me.

(state office)

CONDITION

The condition of the within written recognizance is such that if the said [blank] shall personally appear and surrender himself at and before the Court at each and every hearing of his appeal to such Court and at the final determination thereof and then and there abide by the judgment of the said Court and not depart or be absent from such Court at any such hearing without the leave of the said Court, and in the meantime not depart from his usual place of abode without the leave of the Court, then this recognizance shall be void, otherwise of full force and effect. The following to be filled up by the Appellant and signed by him—

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

Signed
Appellant

CRIMINAL FORM 11

In the Court of Appeal

**RECOGNIZANCE OF APPELLANT'S SURETIES
(Order 3, Rule 15)**

Regina v. [blank]

BE IT REMEMBERED that on this [blank] day of [blank] 19 [blank] of [blank] and [blank] of [blank] came before me the undersigned being the [blank] (state office) and severally acknowledged themselves to owe to Our Sovereign Lady the Queen the several sums following, that is to say, the said [blank] the sum of \$..... and the said [blank] the sum of \$..... of good and lawful money, to be made and levied of their goods and chattels, lands and tenements respectively, to the use of Our Sovereign Lady the Queen, Her heirs and successors, if [blank] now in lawful custody in prison at [blank] fail in the condition hereon endorsed

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

.....
Magistrate/Registrar

RULES OF THE COURT OF APPEAL FOR BERMUDA

CONDITION

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

CRIMINAL FORM 12

In the Court of Appeal

WARRANT FOR ARREST OF APPELLANT ON BAIL
(Order 3, Rule 15)

Regina v. [blank]

To THE CONSTABLES OF THE BERMUDA POLICE FORCE, AND TO THE COMMISSIONER OF PRISONS.

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

These are therefore to command you the said Constables forthwith to apprehend the said [blank] and to bring him to the Commissioner of Prisons and there deliver him with this warrant into the custody of the said Commissioner of Prisons and you the said Commissioner of Prisons are hereby required to receive the said [blank] into your custody and there safely to keep him until further order of the said Court.

.....
Presiding Judge

DATED this [blank] day of [blank] 19 [blank]

CRIMINAL FORM 13

In the Court of Appeal

NOTICE OF ABANDONMENT OF APPEAL
(Order 3, Rule 20)

RULES OF THE COURT OF APPEAL FOR BERMUDA

Regina v. [blank]

I, [blank] having been convicted of [blank], in the [blank] Court at [blank] and having been desirous of appealing to the Court against my said conviction (or the sentence of [blank] passed upon me on my said conviction) do hereby give you notice that I do not intend further to prosecute my appeal, but that I hereby abandon all further proceedings in regard thereto as from the date hereof.

Signed or Mark.....
Applicant

Signature and Address of
Witness attesting Mark

DATED this [blank] day of [blank] 19 [blank]

To THE REGISTRAR OF THE COURT OF APPEAL.

CRIMINAL FORM 14

In the Court of Appeal

NOTIFICATION OF ABANDONMENT OF APPEAL
(Order 3, Rule 20)

Regina v. [blank]

To THE DIRECTOR OF PUBLIC PROSECUTIONS and to THE REGISTRAR OF THE SUPREME COURT and to THE COMMISSIONER OF PRISONS.

This is to give you notice that I have this day received from the above-named [blank] a notice of abandonment of all proceedings in regard to his appeal to the Court. The said notice is dated [blank] day of [blank] 19 [blank]. By rule 20 of the Rules of the Court of Appeal Rules, 19 [blank] upon the notice of abandonment being given the appeal shall be deemed to have been dismissed by the Court.

DATED this [blank] day of [blank] 19 [blank]

.....
Registrar of the Court

CRIMINAL FORM 15

In the Court of Appeal

NOTICE OF APPLICATION FOR LEAVE TO WITHDRAW AN ABANDONMENT OF APPEAL
(Order 3, Rule 21)

To THE REGISTRAR, COURT OF APPEAL.

RULES OF THE COURT OF APPEAL FOR BERMUDA

I, [blank], having been convicted of the offence of ⁽¹⁾ [blank] and now being a prisoner in prison at [blank] (or) whose address for service is [blank] and having duly sent a notice that I desired to appeal to the Court of Appeal and having abandoned my appeal: GIVE YOU NOTICE, that I hereby apply to the Court of Appeal for leave to withdraw my Notice of Abandonment, in the special circumstances following⁽²⁾

Signed or Mark
Applicant

Signature and Address of
Witness attesting Mark

DATED this [blank] day of [blank] 19 [blank]

Note-Form 7 must be filled up and sent with this Notice to the Registrar.

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

⁽²⁾ Set out as clearly and concisely as possible the special reasons for giving such notice, and the grounds on which you submit the Court should allow you to withdraw the abandonment.

CRIMINAL FORM 16

In the Court of Appeal

ORDER TO WITNESS TO ATTEND COURT FOR EXAMINATION
(Order 3, Rule 22(1))

Regina v. [blank]

To
(Name of witness)

of
(Address)

WHEREAS on good cause shown to the Court you have been ordered to attend and be examined as a witness before such Court upon the appeal of the above-named. This is to give you notice to attend before the said Court at [blank] on [blank] the [blank] day of [blank] 19 [blank], at [blank] o'clock in the [blank] 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 notices so to produce.

.....
Registrar of the Court

DATED this [blank] day of [blank] 19 [blank]

RULES OF THE COURT OF APPEAL FOR BERMUDA

CRIMINAL FORM 17

In the Court of Appeal

APPELLANT'S APPLICATION FOR FURTHER WITNESSES
(Order 3, Rule 22(2))

Regina v. [blank]

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

Signed or Mark
Appellant

Signature and Address of
Witness attesting Mark

DATED this [blank] day of [blank] 19 [blank]

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

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

State shortly the evidence you think they can give.

CRIMINAL FORM 18

In the Court of Appeal

NOTICE TO WITNESS TO ATTEND BEFORE AN EXAMINER
(Order 3, Rule 22(5))

Regina v. [blank]

To
(Name of witness)

of
(Address of witness)

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

RULES OF THE COURT OF APPEAL FOR BERMUDA

This is to give you notice to attend at [blank] on the [blank] day of (Specify place of examination) [blank] 19 [blank], before (Fill in examiner’s name)[blank] at [blank] o’clock in the [blank] 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 have had notice so to produce.

.....
Registrar of the Court

DATED this [blank] day of [blank] 19 [blank]

CRIMINAL FORM 19

In the Court of Appeal

CAPTION FOR DEPOSITION OF WITNESS
EXAMINED BEFORE EXAMINER
(Order 3, Rule 22 (7))

Regina v. [blank]

The deposition (on oath) taken before me the undersigned, being an examiner duly appointed by the Court in that behalf of [blank] of [blank] (Name of witness) of (Address of witness) and of [blank] (Name of witness) of (Address of witness) examined before me under an order of the said Court dated [blank] day of [blank] 19 [blank] in the presence of the said [blank] Appellant (or of his legal representative) and the Respondent at [blank] on the [blank] day of [blank] 19 [blank], which said Appellant (or his legal representative) and Respondent had full opportunity of asking questions of the said witnesses, to whom the depositions following were read by me before being signed by them the said witnesses respectively.

The deposition of [blank] of [blank] who (upon oath duly administered by me) said as follows—

DATED this [blank] day of [blank] 19 [blank]

.....
Examiner

CRIMINAL FORM 20

In the Court of Appeal

NOTIFICATION TO APPELLANT OF RESULT OF APPLICATION
(Order 3, Rule 24(1))

Regina v. [blank]

RULES OF THE COURT OF APPEAL FOR BERMUDA

To THE ABOVE-NAMED APPELLANT.

This is to give you notice that the Court have 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) admission to bail;
- (d) leave to withdraw abandonment of appeal;

and have finally determined the same and have this day given judgment to the effect following—

.....
Registrar of the Court

DATED this [blank] day of [blank] 19 [blank]

CRIMINAL FORM 21

In the Court of Appeal

NOTICE TO AUTHORITIES OF RESULT OF APPLICATION
(Order 3, Rule 24 (1))

Regina v. [blank]

TO THE DIRECTOR OF PUBLIC PROSECUTIONS and to THE REGISTRAR OF THE SUPREME COURT and to THE COMMISSIONER OF PRISONS.

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 an application for Leave to appeal;
- (c) admission to bail;
- (d) leave to withdraw abandonment of appeal;

the Court have this day finally determined his said applications and have given judgment to the effect following—

.....
Registrar of the Court

DATED this [blank] day of [blank] 19 [blank]

RULES OF THE COURT OF APPEAL FOR BERMUDA

CRIMINAL FORM 22

In the Court of Appeal

NOTIFICATION TO APPELLANT OF THE RESULT OF HIS APPEAL
(Order 3, Rule 24(1))

Regina v. [blank]

To THE ABOVE-NAMED APPELLANT.

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

.....
Registrar of the Court

DATED this [blank] day of [blank] 19 [blank]

CRIMINAL FORM 23

In the Court of Appeal

NOTICE TO AUTHORITIES OF RESULT OF APPEAL
(Order 3, Rules 24 and 25)

Regina v [blank]

TO THE ATTORNEY GENERAL and to THE REGISTRAR OF THE SUPREME COURT and to THE COMMISSIONER OF PRISONS.

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

Signed
Registrar of the Court

DATED this [blank] day of [blank] 19 [blank]

[Second Schedule, Criminal Forms 14 and 21 amended by 1999:8 s.2 & Sch 1 effective 1 April 1999]

RULES OF THE COURT OF APPEAL FOR BERMUDA

**THIRD SCHEDULE
FEES**

* “commercial action” has the meaning provided in Order 72 of the Rules of the Supreme Court 1985.

** A “special sitting” is one for which leave is granted by the President of the Court of Appeal because it could not be accommodated within a regular session of the Court.

		FEE FOR NON-COMMERCIAL ACTIONS*	FEE FOR COMMERCIAL ACTIONS*
1	(1) On filing Notice of Appeal against a final judgment or decision (including service of notice on respondent):	\$300.00	\$1,000.00
	(2) On respondent’s Notice of Intention to contend that the decision of Court below be varied:	\$275.00	\$800.00
	(3) On filing Notice of Appeal against an interlocutory order or decision:	\$125.00	\$500.00
	(4) On filing motion or notice of application for leave to appeal or notice of application for extension of time:	\$125.00	\$500.00
	(5) On filing Notice of Appeal where leave granted (including service of notice on respondent):	\$175.00	\$800.00
	(6) On filing motion or application for extension of time—		
	(a) if the time has not yet expired:	\$50.00	\$400.00
	(b) if the time has already expired:	\$125.00	\$600.00
	(7) On filing any motion or application not otherwise provided for:	\$125.00	\$500.00
	(8) On filing motion for stay of execution (if application is made by separate motion):	\$125.00	\$500.00
	(9) On filing amended or additional grounds of appeal—		
	(a) if filed without leave of the Court:	\$125.00	\$500.00

RULES OF THE COURT OF APPEAL FOR BERMUDA

	(b) if filed with leave of the Court under Order 2, rule 2(8):	\$250.00	\$900.00
(10)	On filing notice of address for service under Order 2, rule 6 (including service of notice on appellant):	\$50.00	\$300.00
(11)	On settling the record:	\$175.00	\$800.00
(12)	For transcript from the official record of the proceedings in the Supreme Court:	A transcriber's contract price or the Registrar's estimate of the cost to the Court for carrying out the transcription in relation to the length of the official transcript requested.	A transcriber's contract price or the Registrar's estimate of the cost to the Court for carrying out the transcription in relation to the length of the official transcript requested.
(13)	For preparation of the record (per page, per copy):	\$2.00	\$4.00
(14)	For the Registrar's certificate that the conditions of appeal have been fulfilled:	\$200.00	\$800.00
(15)	On amending or adding to grounds of appeal by leave or direction of the Court at the hearing:	\$125.00	\$1,000.00
(16)	Hearing fee payable in advance for any appeal:	\$500.00	\$2,000.00 per half-day
(17)	On filing motion to restore appeal dismissed under Order 2, rule 17:	\$200.00	\$1,000.00
(18)	On filing motion to restore appeal struck out under Order 2, rule 21:	\$200.00	\$1,000.00
(19)	On filing motion to set aside and re-hear appeal determined <i>ex parte</i> :	\$175.00	\$700.00
(20)	On filing a bill of costs:	\$50.00	\$400.00

RULES OF THE COURT OF APPEAL FOR BERMUDA

(21)	On taxing a bill of costs where taxation is non-contentious:	\$100.00	\$500.00
(22)	On taxing a bill of costs where taxation is contentious:	\$250.00	\$800.00 per half-day
(23)	On filing motion to set aside Taxing Officer's decision or order:	\$125.00	\$800.00
(24)	(a) On filing notice of abandonment of appeal:	\$125.00	\$1,000.00
	(b) Adjourning a case to a future session:	\$125.00	\$1,000.00
(25)	On every certificate of the order of the Court of Appeal made on the final determination of appeal:	\$50.00	\$1,000.00
(26)	For swearing an affidavit or making a declaration, per deponent:	\$25.00	\$50.00
(27)	For marking any paper annexed to an affidavit or declaration:	\$5.00	\$25.00
(28)	On filing a security bond:	\$25.00	\$500.00
(29)	On filing any other document or exhibit:	\$25.00	\$50.00
(30)	On justification of sureties, for each surety:	\$50.00	N/A
(31)	For the drawing up of any order or judgment:	\$50.00	\$200.00
(32)	For every subpoena:	\$25.00	\$150.00
(33)	On warrant for prisoner to give evidence:	\$25.00	N/A
(34)	On inspection of any document or judgment:	\$25.00	\$50.00
(35)	For searching the archives, for each period of six months or part thereof:	\$50.00	\$200.00

RULES OF THE COURT OF APPEAL FOR BERMUDA

(36)	For preparing a copy where authorized:	\$2.00 per page	\$4.00 per page
(37)	On filing motion for leave to appeal to the Privy Council:	\$500.00	\$4,000.00
(38)	On every bond where the appeal is to the Privy Council:	\$50.00	\$300.00
(39)	On making and drawing up order for leave to appeal to the Privy Council:	\$75.00	\$400.00
(40)	Filing submissions or skeleton arguments:	\$25.00	\$150.00
(41)	Special sitting** fees shall be as set out below—		
	<p>(a) For the convening of a special sitting** of up to three (3) days' duration:</p> <p><i>This fee shall be payable by an appellant (or in any case where there is more than one appellant, the appellants in equal portions) who in any proceeding other than a criminal proceeding obtains with the leave of the President of the Court of Appeal the fixture of the hearing of an appeal which may not be accommodated within the regular sessions of the Court:</i></p> <p><i>Provided that an appellant (or appellants) who succeeds upon appeal, in whole or in part, may in the discretion of the Court be awarded the recovery of fees paid or such portion as in its discretion the Court thinks fit, pursuant to this subparagraph as costs of the appeal.</i></p>	\$30,000.00	\$30,000.00

RULES OF THE COURT OF APPEAL FOR BERMUDA

	<p>(b) For the convening of a special sitting** of duration beyond three (3) days for each additional day:</p> <p><i>This fee shall be payable by an appellant (or in any case where there is more than one appellant, the appellants in equal portions) who in any proceeding other than a criminal proceeding obtains with the leave of the President of the Court of Appeal the fixture of the hearing of an appeal which may not be accommodated within the regular sessions of the Court:</i></p> <p><i>Provided that an appellant (or appellants) who succeeds upon appeal, in whole or in part, may in the discretion of the Court be awarded the recovery of fees paid or such portion as in its discretion the Court thinks fit, pursuant to this subparagraph as costs of the appeal.</i></p>	\$10,000.00	\$10,000.00
	<p>(c) In a case where arrangements must be made for the rental of a hearing room for the convening of the Court in subparagraphs (41)(a) and (41)(b), the arrangements, unless otherwise directed by the Court, will be made by the Registrar in consultation with the parties as to the specifications required for configuration and fitting out. All related costs, unless otherwise ordered by the Court, shall be paid to the Court by the appellant (or appellants as the case may be in equal portions) subject to any recovery of those costs, in whole or in part, as may ultimately be allowed as costs of the appeal.</p>		
2	The fee for the service of any document or process shall be that charged for such service by the Supreme Court.		
3	The allowances payable to witnesses shall be those payable to witnesses in the Supreme Court.		
4	The fee for the services of a special interpreter of a language not in common use shall be that charged for such services by the Supreme Court.		

RULES OF THE COURT OF APPEAL FOR BERMUDA

5	The following fees in connexion with appeals are assessable in accordance with the rules in force in the Supreme Court, and are not prescribed by these Rules— Fees for any application made to and determinable by the Supreme Court.		
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[Third Schedule revoked and replaced by BR 24 / 2024 rule 2 effective 1 April 2024]

RULES OF THE COURT OF APPEAL FOR BERMUDA

FOURTH SCHEDULE

SCALE OF COSTS PAYABLE TO BARRISTERS AND ATTORNEYS

SCALE A

(CIVIL CAUSES AND MATTERS)

Unless otherwise specified, costs payable to barristers and attorneys shall be taxed at the following rates per hour or any fraction thereof (hereinafter called the “Hourly rate”)—

<u>Number of Years Called to the Bar</u>	<u>Hourly Rate</u>
(a) not less than one year, but less than three years:	\$350 to \$450 (at the discretion of the Registrar);
(b) three years or more, but less than nine years:	\$400 to \$550 (at the discretion of the Registrar);
(c) nine years or more:	\$550 to \$650 (at the discretion of the Registrar):
(1) On advising client as to appeal:	Hourly rate
(2) On preparing and drawing notice of appeal or cross- appeal or application for leave to appeal:	Hourly rate
(3) For attending at the Registry and filing notice of appeal or cross-appeal or notice of motion:	\$75.00
(4) On service of notice of appeal or cross-appeal	\$75.00
(5) On preparing for the settling of the record:	Hourly rate
(6) For attending at the Registry for the settling of the record:	Hourly rate
(7) For attending at the Registry to pay fees for the settling of the record:	\$75.00
(8) On preparing appeal bond including filing and service thereof:	\$300.00
(9) On preparing for the hearing of appeal:	Hourly rate
(10) On attending in Court or a Judge in Chambers for hearing of appeal:	Hourly rate
(11) On attending in Court to hear judgment:	Hourly rate
(12) Where no costs are specified by these Rules in respect of any matter or thing the Registrar may allow the costs applicable to such matter or thing as is laid down in the rules in force in the Supreme Court.	

SCALE B

RULES OF THE COURT OF APPEAL FOR BERMUDA

(APPEALS IN CRIMINAL CASES)

This scale shall apply only for taxation of costs ordered to be taxed and paid as between party and party on an appeal to the Court from a decision of the Supreme Court given in its original or appellate jurisdiction in a criminal cause or matter.

- | | | |
|---|---|-------------|
| 1 | A fee for instructions to include all work done in and about the appeal other than that chargeable under the subsequent item, at the discretion of the Registrar: | Hourly rate |
| 2 | A fee for each necessary attendance in Court or Chambers, as allowed under items 10 and 11 of Scale A, but in every case at one-half of the amount shown for such item in that scale. | |

[Fourth Schedule substituted by BR 24 / 2005 effective 17 June 2005; Fourth Schedule amended by BR 7 / 2018 rule 4 effective 7 March 2018]

RULES OF THE COURT OF APPEAL FOR BERMUDA

FIFTH SCHEDULE

Fees payable to a barrister and attorney assigned pursuant to section 26 (1) of the Act or pursuant to Rule 33 to represent an appellant.

Costs payable to attorneys shall be taxed at such rate per hour as may be prescribed from time to time pursuant to regulations made under the Legal Aid Act 1980 (hereinafter called the "Legal Aid rate") or any fraction thereof.

Attending upon appellant to take instructions:	Legal Aid rate
Drawing notice of appeal and making necessary copies thereof:	Legal Aid rate
Attending in Court on hearing of appeal:	Legal Aid rate

[5th Schedule substituted by BR24/2005 effective 17 June 2005]

[Operative Date: 02 August 1965]

[Amended by:

SR&O 9 / 1967
SR&O 182 / 1969
SR&O 26 / 1970
SR&O 72 / 1971
SR&O 36 / 1976
BR 1 / 1979
BR 8 / 1988
1999 : 8

BR 24 / 2005
BR 81 / 2006
BR 7 / 2018
BR 24 / 2024]