

LAWS OF GUYANA

COURT OF APPEAL ACT

CHAPTER 3:01

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**CHAPTER 3:01
COURT OF APPEAL ACT**

19 of 1998

An Act to confer on the Court of Appeal jurisdiction to hear and determine appeals from the High Court and for matters connected therewith.

[PART III: 21ST NOVEMBER, 1959;
REMAINDER: 14TH JUNE 1958]

Short title.

1. This Act may be cited as the Court of Appeal Act.

Interpretation.

2. In this Act—

“Full Court” means the Full Court of the High Court; and

“order” in Parts II and III of this Act includes decision or judgment.

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PART I GENERAL PROVISIONS

General powers
of the Court of
Appeal.

3. Subject to the provisions of any Act, the Court of Appeal shall in the exercise of any jurisdiction vested in it by this Act, have all the powers and authorities vested in or exercisable by the Supreme Court of Judicature in England on the first day of January, 1958.

Administration
of oaths.

4. (1) The Court of Appeal or any judge thereof may require and administer any necessary oath.

(2) Without prejudice to any other power to require an oath to be administered, rules of court may prescribe the occasions on which an oath may be administered and may authorise any of the following persons to administer oaths for any purpose specified in the rules—

- (a) the Registrar of the Supreme Court;
- (b) any person duly authorised by law to administer oaths for the purpose of the Supreme Court.

Restriction on
institution of
vexatious
actions.
[O. 37/1966A]

5. (1) If on an application made by the Attorney-General under this section the Court of Appeal is satisfied that any person has habitually and persistently and without any reasonable ground instituted vexatious legal proceedings in the Court of Appeal, and whether against the same person or against different persons, the Court may, after hearing that person or giving him an opportunity of being heard, order that no legal proceedings shall without the leave of the Court or a judge thereof be instituted by him in the Court of Appeal and such leave shall not be given unless the Court of Appeal or a judge thereof is satisfied that the proceedings are not an

abuse of the process of the court and that there is *prima facie* ground for the proceedings.

(2) A copy of any order made under this section shall be published in the *Gazette*.

PART II
CIVIL APPEALS

Appeals in civil
matters.

6. (1) The Court of Appeal shall have jurisdiction to hear and determine any matter arising in any civil proceedings upon a case stated or upon a question of law reserved by the Full Court or by a judge of the High Court pursuant to any power conferred in that behalf by any Act.

(2) Subject as otherwise provided in this section, an appeal shall lie to the Court of Appeal in any cause or matter from any order of the Full Court or of a judge of the High Court (whether made before or after the date on which this Act comes into force) where such order is—

- (a) final and is not—
 - (i) an order of a judge of the High Court made in chambers or in a summary proceeding;
 - (ii) an order made with the consent of the parties;
 - (iii) an order as to costs;
 - (iv) an order referred to in paragraph (d);
- (b) a decree nisi in a matrimonial cause or an order in an admiralty action

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determining liability;

- (c) declared by rules of court to be of the nature of a final order;
- (d) an order upon appeal from any other court, tribunal, body or person.

(3) No appeal shall lie from an order referred to in subsection (2) (d)—

- (a) except—
 - (i) upon a question of law; or
 - (ii) where such order precludes any party from the exercise of his profession or calling, from the holding of public office, from membership of a public body or from the right to vote at the election of a member for any such body;
- (b) in any case, except with the leave of the Full Court or judge making the order or of the Court of Appeal.

(4) With the leave of the Full Court or of the Court of Appeal, an appeal shall lie under this section from a decision of the Full Court upon appeal from a judge of the High Court in respect of an order referred to in subsection (2) (a) (i), (a) (ii) or (a) (iii) or in respect of an order of a judge of the High Court not referred to in the said subsection.

(5) No appeal shall lie under this section—

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- (a) from any order made in any criminal cause or matter;
 - (b) from an order allowing an extension of time for appealing from an order;
 - (c) from an order of a judge giving unconditional leave to defend an action;
 - (d) from an order obtained by default or made on an *ex parte* application;
 - (e) from a determination of the Full Court under subsection (8) of this section;
 - (f) from an order absolute for the dissolution or nullity of marriage in favour of any party who having had time and opportunity to appeal from the decree nisi on which the order was founded, has not appealed from that decree.

(6) No appeal shall lie under this section from any order of the Full Court or of a judge of the High Court where it is provided by any Act that the decision of such Court or judge shall be final.

(7) The jurisdiction to hear appeals vested in the Court of Appeal under this Part shall be to the exclusion of the jurisdiction of any other court:

Provided that a judge of the High Court may hear and determine such applications incidental to the appeal and not involving the decision thereof as may be prescribed by rules of court; but an order made on any such application may be

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discharged or varied by the Court of Appeal.

(8) Where any doubt arises regarding the category mentioned in subsection (2) into which an order of the Full Court or of a judge of the High Court falls, such doubt may be determined by the Full Court or by the Court of Appeal upon application in a summary way.

Powers of Court
of Appeal in
civil matters.

7. (1) On the hearing of an appeal from any order of the High Court in any civil cause or matter, the Court of Appeal shall have power to—

- (a) confirm, vary, amend, or set aside the order or make any such order as the court from whose order the appeal is brought might have made, or to make any order which ought to have been made, and to make such further or other order as the case may require;
- (b) draw inferences of fact;
- (c) direct the court from whose order the appeal is brought to enquire into and certify its finding on any question which the Court of Appeal thinks fit to be determined before final judgment in the appeal.

(2) The powers of the Court of Appeal under the foregoing provisions of this section may be exercised notwithstanding that no notice of appeal or respondent's notice has been given in respect of any particular part of the decision of the court from whose order the appeal is brought or by any particular party to the proceedings in that court, or that any ground for allowing the appeal or for affirming or

varying the decision of that court is not specified in such a notice; and the Court of Appeal may make any order, on such terms as the Court thinks just, to ensure the determination on the merits of the real question in controversy between the parties.

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

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

Additional
powers of Court
of Appeal on
hearing
appeals in civil
matters.

8. On the hearing of an appeal from any order of the High Court in any civil cause or matter, the Court of Appeal may, if it thinks fit—

(a) order the production of any document, exhibit, or other thing connected with the proceedings, the production of which appears to it necessary for the determination of the case, provided that no person shall be compelled to produce under any such order any writing or other document which he could not have been compelled to produce at the hearing or trial;

(b) order any witness who would have been a compellable witness at the trial to attend and be examined before the Court of Appeal, whether he was or was not called at the trial, or order the examination of any such witness to be conducted in manner provided by rules of court before any judge

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of the Court of Appeal or before any officer of the Court of Appeal or justice of the peace or other person appointed by the Court of Appeal for the purpose, and at any place and allow the admission of any deposition so taken as evidence before the Court of Appeal;

- (c) receive the evidence, if tendered, of any witness (including any party) who is a competent but not compellable witness, and, if a party makes application for the purpose, of the husband or wife of that party in cases where the evidence of the husband or wife could not have been given at the trial except on such application;
- (d) where the case was not tried by the High Court, remit the case to the court of trial for further hearing, with such instructions as regards the taking of further evidence or otherwise as appear to it necessary; and in all cases, remit the case with such instructions to the High Court;
- (e) where any question arising at the appeal involves prolonged examination of documents or accounts or any scientific or local investigation which cannot, in the opinion of the Court of Appeal, conveniently be conducted before the Court of Appeal, order the reference of the question in manner provided by rules of court for inquiry and report to a special commissioner appointed by the Court of Appeal, and act upon the report of any such commissioner so far as they think fit to

adopt it;

- (f) appoint any person with special expert knowledge to act as an assessor in an advisory capacity in any case where it appears to the Court of Appeal that such knowledge is required for the proper determination of the case.

Power of Court
of Appeal as to
new trials.

9. (1) Subject to this section, on the hearing of an appeal in any civil cause or matter the Court of Appeal shall, if it appears to the Court of Appeal that a new trial should be held, have power to set aside the order appealed against and order that a new trial be held.

(2) On the hearing of an appeal in any civil cause or matter, the following provisions shall apply—

- (a) a new trial shall not be ordered on the ground of the improper admission or rejection of evidence unless in the opinion of the Court of Appeal some substantial wrong or miscarriage has been thereby occasioned;
- (b) a new trial may be ordered on any question without interfering with the finding or decision upon any other question; and if it appears to the Court of Appeal that any such wrong or miscarriage as is mentioned in paragraph (a) affects part only of the matter in controversy, or one or some only of the parties, the Court may order a new trial as to that part only, or as to that party or those parties

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Wrong rulings
as to sufficiency
of stamps.

10. The Court of Appeal shall not grant a new trial or reverse any judgment by reason of the ruling of any court that the stamp upon any document is sufficient or that the document does not require a stamp.

PART III **CRIMINAL APPEALS**

Definitions.
[21 of 1978]

11. In this Part—

“appeal” means an appeal by a person convicted upon indictment and “appellant” means the person making such appeal and includes an applicant for leave to appeal;

“sentence” includes any order of the court made on conviction with reference to the person convicted and the power of the Court of Appeal to pass a sentence includes a power to make any such order as the convicting court might have made.

Right of appeal
in criminal
cases.

12. A person convicted on indictment in the High Court may appeal under this Part to the Court of Appeal—

- (a) against his conviction, on any ground of appeal which involves a question of law alone;
- (b) if a female convicted of an offence punishable with death, from the finding of a jury on proceedings under section 167 of the Criminal Law (Procedure) Act, that she is not

c. 10:01

pregnant;

- (c) with the leave of the Court of Appeal or upon the certificate of the judge who tried him that it is a fit case for appeal against his conviction on any ground of appeal which involves a question of fact alone, or a question of mixed law and fact, or any other ground which appears to the Court or judge to be a sufficient ground of appeal; and (d) with the leave of the Court of Appeal against the sentence
- (d) passed on his conviction, unless the sentence is one fixed by law.

Determination
of appeals in
ordinary cases.
[21 of 1978]

13. (1) The Court of Appeal on any such appeal against conviction shall allow the appeal if they think that the verdict of the jury should be set aside on the ground that it is unreasonable or cannot be supported having regard to the evidence, or that the judgment of the court before whom the appellant was convicted should be set aside on the ground of a wrong decision of any question of law or that on any ground there was a miscarriage of justice, and in any other case shall dismiss the appeal:

Provided that the court may, notwithstanding that they are of opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if they consider that no substantial miscarriage of justice has actually occurred.

(2) Subject to the special provisions of this Part the Court of Appeal shall, if they allow an appeal against conviction, quash the conviction and direct a judgment and verdict of acquittal to be entered, or if the interests of justice

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so require, order a new trial.

(3) On an appeal against conviction or sentence the Court of Appeal shall, if they think that a different sentence should have been passed, quash the sentence passed at the trial, and pass such other sentence warranted in law by the verdict (whether more or less severe) in substitution therefor as they think ought to have been passed, and in any other case shall dismiss the appeal.

Powers of Court
of Appeal in
special cases

14. (1) If it appears to the Court of Appeal that an appellant, thought not properly convicted on some count or part of the indictment, has been properly convicted on some other count or part of the indictment, the Court of Appeal may either confirm the sentence passed on the appellant at the trial or pass such sentence in substitution therefor as they think proper and as may be warranted in law by the verdict on the count or part of the indictment, on which the Court of Appeal consider that the appellant has been properly convicted.

(2) Where an appellant has been convicted of an offence and the jury could on the indictment, have found him guilty of some other offence, and on the finding of the jury it appears to the Court of Appeal that the jury must have been satisfied of facts which proved him guilty of that other offence, the Court of Appeal may, instead of allowing or dismissing the appeal, substitute for the verdict returned by the jury a judgment of guilty of that other offence and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law for that other offence, not being a sentence of greater severity.

(3) Where on the conviction of the appellant the jury have found a special verdict, and the Court of Appeal consider that a wrong conclusion has been arrived at by the court before which the appellant has been convicted on the

effect of that verdict, the Court of Appeal may, instead of allowing the appeal, order such conclusion to be recorded as appears to the Court to be in law required by the verdict, and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law.

c. 10:01

(4) If on any appeal it appears to the Court of Appeal that, although the appellant was guilty of the act or omission charged against him, he was of unsound mind at the time the act was done or the omission made so as not to be responsible for his actions according to law, the Court of Appeal may quash the sentence passed at the trial and order that the appellant be kept in custody as a criminal lunatic under section 179 of the Criminal Law (Procedure) Act in the same manner as if a special verdict had been found by the jury under that Act.

Re-vesting and
restitution of
property on
conviction.
c. 90:10

15. (1) The operation of any order for the restitution of any property to any person made on a conviction on indictment, and the operation, in case of any such conviction, of section 25(1) of the Sale of Goods Act as to re-vesting of the property in stolen goods on conviction, shall (unless the court before whom the conviction takes place direct to the contrary in any case in which, in their opinion, the title to the property is not in dispute) be suspended —

- (a) in any case until the expiration of fourteen days after the date of the conviction; and
- (b) in cases where notice of appeal or leave to appeal is given within fourteen days after the date of conviction, until the determination of the appeal;

and in cases where the operation of any such order, or the

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operation of the said provisions, is suspended until the determination of the appeal, the order or provisions, as the case may be, shall not take effect as to the property in question if the conviction is quashed on appeal. Provision may be made by rules of court for securing the safe custody of any property, pending the suspension of the operation of any such order or of the said provisions.

(2) The Court of Appeal may by order annul or vary any order made on a trial for the restitution of any property to any person, although the conviction is not quashed; and the order, if annulled, shall not take effect, and, if varied, shall take effect as so varied.

Supplementary
powers of Court
of Appeal.

16. For the purposes of this Part, the Court of Appeal may, if they think it necessary or expedient in the interests of justice—

- (a) exercise any or all of the powers conferred by section 8 on the Court of Appeal (other than those contained in paragraph (d) thereof) but in the application of section 8 aforesaid to an appeal in any criminal cause or matter, for the words “any party” and “that party” in paragraph (c) thereof, there shall be substituted the words “the appellant”;
- (b) issue any warrant necessary for enforcing any order or sentence of the Court of Appeal:

Provided that—

- (i) in no case shall any sentence be increased by reason of or in

consideration of any evidence that was not given at the trial; and

- (ii) whenever the Court of Appeal receive further evidence they shall make such order as will secure an opportunity to the parties to the proceedings to examine every witness whose evidence is taken.

Admission of
appellant to bail
and custody
when attending
court.

17. (1) An appellant who is not admitted to bail shall, pending the determination of his appeal, be treated as a prisoner awaiting trial.

(2) The Court of Appeal may, if it seems fit, on the application of an appellant, admit the appellant to bail pending the determination of his appeal.

Computation
and com-
mencement of
sentence.

18. (1) When an appellant is admitted to bail under this Part, the time during which he is at large after being so admitted shall be disregarded in computing the term of any sentence to which he is for the time being subject.

(2) Subject as hereinafter provided, six weeks of the time during which any appellant when in custody is treated pending the determination of his appeal as a prisoner awaiting trial, or the whole of that time if less than six weeks, shall be disregarded in computing the term of any sentence to which he is for the time being subject:

Provided that—

- (a) the foregoing provisions of this section shall not apply where leave to appeal is granted under this Part or

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any such certificate as is mentioned in section 12 has been given for the purpose of the appeal;

(b) in any other case the Court of Appeal may direct that no part of the said time or such part thereof as the Court think fit (whether shorter or longer than six weeks) shall be disregarded as aforesaid.

(3) Subject to the foregoing provisions of this section, the term of any sentence passed by the Court of Appeal in substitution for a sentence passed on the appellant in the proceedings from which the appeal is brought shall, unless the Court otherwise direct, begin to run from the time when it would have begun to run if passed in those proceedings, and references in this section to any sentence to which an appellant is for the time being subject shall be construed accordingly.

Time for appealing.

19. (1) Where a person convicted desires to appeal under this Part to the Court of Appeal, or to obtain the leave of that Court to appeal, he shall give notice of appeal or notice of his application for leave to appeal in such manner as may be directed by rules of court within fourteen days of the date of conviction.

(2) Except in the case of a conviction involving sentence of death, the time within which notice of appeal or notice of an application for leave to appeal may be given, may be extended at any time by the Court of Appeal.

Stay of execution.

20. In the case of a conviction involving sentence of death or corporal punishment—

(a) the sentence shall not in any case be

executed until after the expiration of the time within which notice of appeal or of an application for leave to appeal may be given under section 19; and

- (b) if notice is so given, the appeal or application shall be heard and determined with as much expedition as practicable, and the sentence shall not be executed until after the determination of the appeal, or in cases where an application for leave to appeal is finally refused, of the application.

Judge's notes
and report to be
furnished.

21. The judge of any court before whom a person is convicted shall, in the case of an appeal under this Part against the conviction or against the sentence, or in the case of application for leave to appeal under this Act, furnish to the Registrar of the Supreme Court in accordance with rules of court, his notes of the trial; and shall also furnish to the Registrar of the Supreme Court in accordance with rules of court a report giving his opinion upon the case or upon any point arising in the case.

Legal assistance
to appellant.

22. The Court of Appeal may at any time assign to an appellant a counsel in any appeal under this Part or in any proceedings preliminary or incidental to such an appeal in which, in the opinion of the Court, it appears desirable in the interests of justice that the appellant should have legal aid, and that he has not sufficient means to enable him to obtain that aid.

Costs of appeal.

23. (1) On the hearing and determination of an appeal or any proceedings preliminary or incidental thereto under this Part no costs shall be allowed on either side.

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(2) The expenses of any counsel assigned to an appellant under this Part, and the expenses of any witness attending on the order of the Court of Appeal or examined in any proceedings incidental to the appeal, and of the appearance of an appellant on the hearing of his appeal or on any proceedings preliminary or incidental to the appeal, and all expenses of and incidental to any examination of witnesses conducted by any person appointed by the Court for the purpose, or any reference of a question to a special commissioner appointed by the Court or of any person appointed as assessor to the court shall be defrayed out of moneys provided by Parliament for the purpose, up to an amount allowed by the Court, but subject to any rules of court as to rates and scales of payment and in the manner expressed by such rules of court.

Right of
appellant to be
present.

24. (1) An appellant, notwithstanding that he is in custody, shall be entitled to be present, if he desires it, on the hearing of his appeal, except where the appeal is on some ground involving a question of law alone, but in that case and on an application for leave to appeal and on any proceedings preliminary or incidental to an appeal, shall not be entitled to be present, except where rules of court provide that he shall have the right to be present, or where the Court of Appeal gives him leave to be present.

(2) An appellant who does not appear at the hearing of his appeal by counsel may present his case and argument in writing, and any case or argument so presented shall be considered by the Court.

(3) The power of the Court of Appeal to pass any sentence under this Act may be exercised notwithstanding that the appellant is for any reason not present.

Duty of

25. (1) It shall be the duty of the Attorney-General in

Attorney-General.

civil matters and the Director of Public Prosecutions in criminal matters to appear or to instruct counsel to appear for the State on every appeal brought under this Part.

(2) Provisions shall be made by rules of court for the transmission to the Attorney-General or the Director of Public Prosecutions, as the case may be, of all such documents, exhibits, and other things connected with the proceedings as he may require for the purpose of his duties under this section.

Powers which
may be
exercised by a
judge of the
Court.

[20 of 1961
O. 37/1966A]

26. (1) The powers of the Court of Appeal under this Part—

- (a) to give leave to appeal;
- (b) to extend the time within which notice of appeal, or of an application for leave to appeal may be given;
- (c) to assign legal aid to an appellant;
- (d) to allow the appellant to be present at any proceedings in cases where he is not entitled to be present without leave; or
- (e) to admit an appellant to bail,

may be exercised by any judge of the Court in the same manner and subject to the same provisions as they may be exercised by the Court; but if the judge refuses an application on the part of the appellant to exercise any such power in his favour, the appellant shall be entitled to have the application determined by the Court as duly constituted for the hearing and determination of appeals under this Part.

(2) The powers conferred on a judge of the Court

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of Appeal under subsection (1), may be exercised by a judge of the Court sitting in chambers in such places as the Chancellor may, subject to rules of court, appoint.

Case stated or question of law reserved.

27. (1) Where any person is convicted on indictment in the High Court, the judge may state a case or reserve a question of law for the consideration of the Court of Appeal and the Court of Appeal shall consider and determine such case stated or question of law reserved and may either—

- (a) confirm the judgment given upon the indictment; or
- (b) order that such judgment be set aside and quash the conviction and direct a judgment and verdict of acquittal to be entered; or
- (c) order that such judgment be set aside, and give instead thereof the judgment which ought to have been given at the trial; or
- (d) require the judge by whom such case has been stated or question has been reserved to amend such statement or question when specially entered on the record; or
- (e) make such other order as justice requires.

(2) The Court of Appeal, when a case is stated or a question of law reserved for their opinion, shall have power, if they think fit, to cause the case or certificate to be sent back for amendment and thereupon the same shall be amended accordingly.

Provisions of
this Act
applicable to
proceedings
under section
27.

Case stated by
judge at
request of Court
of Appeal.
[20 of 1961
O. 37/1966A]

Prerogative of
mercy.

28. Where a case is stated or a question of law reserved for the consideration of the Court of Appeal, sections 17, 18, 20, 22, 23, 24, 25 and 26 shall apply to such proceedings in like manner as to an appeal.

29. In the case of an appeal which involves a question of law alone, the Court of Appeal may, if they think fit, request the judge before whom the case was tried to state the question together with all the circumstances under which the said question has arisen in such manner as may be prescribed by rules of court.

30. Nothing in this Act shall affect the prerogative of mercy, but in the case of any petition praying for the exercise thereof and having reference to the conviction of a person on indictment or by court-martial or to the sentence passed on a person so convicted, other than sentence of death required by law to be so passed, the President acting in accordance with the advice of the Minister designated to advise on such exercise may at any time either—

- (a) refer the whole case to the Court of Appeal and the case shall then be heard and determined by the Court as in the case of an appeal by a person convicted; or
- (b) if the assistance of the Court of Appeal on any point arising in the case is desired with a view to the determination of the petition, refer that point to the Court for their opinion thereon, and the Court shall consider the point so referred and furnish to the President their opinion thereon accordingly.

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Appeals from
inferior courts.

31. (1) Where the Full Court makes an order on appeal from an inferior court in a criminal cause or matter, any party to such appeal may appeal to the Court of Appeal from the order of the Full Court—

- (a) upon any ground which involves a question of law alone; or
- (b) where the appeal to the Full Court is against an order which disqualifies the appellant from the exercise of his profession or calling, from the holding of public office, from membership of a public body, or from voting at an election of representatives to any such body, upon any ground of appeal which involves a question of fact alone or a question of mixed law and fact, or any other ground which appears to the Court of Appeal to be a sufficient ground of appeal.

(2) No appeal shall lie under subsection (1) except with the leave of the Full Court or of the Court of Appeal.

(3) Upon the determination of an appeal under this section, the Court of Appeal may affirm or set aside the order of the Full Court and where any such order is set aside, the Court of Appeal may make any order which ought to have been made at the trial or make such other order as justice requires.

Provisions of
this Act
applicable to
proceedings

32. Sections 15, 17, 18, 19, 20 and 22 to 26 (inclusive) shall apply to the proceedings in any appeal brought under section 31 subject to the following modifications—

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under section

31.

- (a) as if the word “appeal” in relation to appeals under section 31 referred to an appeal from an order of the Full Court upon appeal from an inferior court in any criminal cause or matter;
- (b) as if for the words “the date of conviction” in section 15(1) and in section 19, there were substituted the words “the order of the Full Court”.

Reference to
Court of Appeal
of point of law
following
acquittal on
indictment.
[21 of 1978]

32A. (1) Where a person tried on indictment has been acquitted (whether in respect of the whole or any count thereof), the Director of Public Prosecutions may, if he desires the opinion of the Court of Appeal on a point of law which has arisen in the case, refer that point of law to the Court, and the Court shall, in accordance with this section, consider the point and give their opinion on it.

(2) For the purpose of their consideration of a point of law referred to them under this section, the Court of Appeal shall hear arguments—

- (a) by, or by counsel on behalf of, the Director of Public Prosecutions; and
- (b) if the acquitted person desires to present any argument to the Court, by himself, or by counsel on his behalf.

(3) Where, on a point of law being referred to the Court of Appeal under this section, the acquitted person appears by counsel for the purpose of presenting any argument to the Court, he shall be entitled to the payment of his costs, that is to say, such sums as are reasonably sufficient to compensate him for expenses properly incurred by him for the purpose of being represented on the

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reference.

(4) Rules of Court may be prescribed for the purpose of regulating the practice and procedure on any reference under this section and, in the absence of any such rules, the Court of Appeal may, on any reference under this section, give such directions as they think fit for the purpose of carrying out and giving effect to the provisions of this section.

(5) A reference under this section shall not affect the trial in relation to which the reference is made or any acquittal at that trial.

Jurisdiction of
the Court of
Appeal under
Part III
exclusively

33. The jurisdiction conferred on the Court of Appeal under this Part to hear and determine appeals, cases stated and questions of law reserved shall be to the exclusion of the jurisdiction of any other court.

PART IIIA

APPEALS BY THE DIRECTOR OF PUBLIC PROSECUTIONS

Definition.
[4 of 2010]

33A. In this part “respondent” means the person whose acquittal or whose sentence is subject of an appeal by the Director of Public Prosecutions.

Right of
Director of
Public
Prosecutions to
appeal.
[4 of 2010]

33B. (1) Notwithstanding section 32A, the Director of Public Prosecutions may appeal under this Part to the Court of Appeal –

- (a) against a judgement or verdict of acquittal of an accused person in proceedings by indictment in the High Court when the judgement or verdict is the result of –

-
- (i) a decision by the trial judge to uphold a submission that there is no case to answer or withdraw the case from the jury, on any ground of appeal which involves a question of law or evidence;
 - (ii) a decision by the trial judge to uphold a submission that there is a defect in the depositions or the committal of the accused person for trial or the indictment;
 - (iii) a decision by the trial judge to exclude material evidence sought to be adduced by the prosecution;
 - (iv) the trial judge's substantial misdirection of the jury in the course of the judge's summation on the law or facts or on a mixed question of law or fact; or
 - (v) a material irregularity in the trial.
- (b) against the sentence passed on a person convicted by the High Court in proceedings by indictment, on the ground that—
- (i) the sentence is one which the Court had no power to pass;
 - (ii) the sentence is manifestly inadequate;

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or

(iii) the sentence is wrong in principle.

(2) For the purposes of this section a judgement or verdict of acquittal includes an acquittal in respect of an offence specifically charged notwithstanding that the accused has on the trial been convicted of another offence.

Procedure and
time for
appealing
[4 of 2010]

33C. (1) Where the Director of Public Prosecutions elects to appeal to the Court of Appeal against a verdict of acquittal or sentence the Director of Public Prosecutions shall, before the trial judge discharges the accused persons or orders otherwise, serve on the Court a notice of intention to appeal and inform the Court orally of the intention to appeal against the verdict of the Court.

(2) The Director of Public Prosecutions, after notifying the Court in Accordance with subsection (1), shall file with the Court a notice of appeal and the grounds of appeal within fourteen days of the date of the verdict of acquittal or sentence passed.

(3) The Court of Appeal or a judge of the Court may at any time extend the time within which notice of appeal may be given.

(4) An appeal made under this section shall have the effect of suspending the execution of the decision, judgement or other order appealed from until the final determination by the appeal proceedings, except that the Court may, having regard to the gravity of the offence, release the accused on bail on conditions that shall ensure that the accused attend the appeal proceedings and abide by the results of the proceedings.

(5) The right of appeal conferred on the Director

of Public Prosecutions by section 34B shall be limited to the following offences –

- (a) murder;
- (b) treason;
- (c) manslaughter;
- (d) rape, defilement and other sexual offences;
- (e) piracy, hijacking, terrorism;
- (f) money laundering;
- (g) robbery;
- (h) drug offences;
- (i) burglary;
- (j) housebreaking;
- (k) theft;
- (l) offences involving dishonesty;
- (m) firearms offences;
- (n) conspiracies and attempts to commit the offences referred to in paragraphs (a) to (k);
- (o) aiding and abetting a person who commits the offences referred to in paragraphs (a) to (n).

(6) The Minister responsible for Legal Affairs may by order, subject to affirmative resolution of the National Assembly, amend subsection (5) by adding to or deleting from it an offence.

Power of Court
on appeal from
acquittal.

[4 of 2010]

33D. On an appeal from an acquittal the Court of Appeal may –

- (a) dismiss the appeal; or
- (b) allow the appeal, set aside the verdict, and order a new trial.

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Power of Court
on appeal
against sentence
by the Director
of Public
Prosecutions.
[4 of 2010]

33E. Where an appeal brought by the Director of Public Prosecutions is against the sentence, the Court of Appeal shall consider the adequacy of the sentence appealed against, and may, on evidence as it thinks fit to require or receive –

- (a) vary the sentence, within the limits prescribed by law, for the offence of which the accused was convicted; or
- (b) dismiss the appeal.

Judge's notes
and report.
[4 of 2010]

33F. (1) Where, under this Part, an appeal is lodged, the judge who presided at the trial shall furnish to the Registrar of the Supreme Court, in accordance with Rules of Court, the Judge's notes of the trial and a report giving the judge's opinion on the case or on any point arising in the case.

(2) The Registrar shall furnish to the Court of Appeal, together with the judge's notes and report, a copy or transcript of –

- (a) the evidence taken at the trial;
- (b) the charge to the jury, if any, and the reasons for judgement, if any, except in so far as it is dispensed with by order of a judge of that court.

(3) A copy of the judge's charge to the jury, if any, and any objections that were made to it shall, before the copy or transcript is transmitted to the Court of Appeal pursuant to subsection (2), be submitted to the judge who presided at the trial, and if the judge refuses to certify that the charge and objections are accurately set out, the judge shall immediately certify to the Court of Appeal –

(a) the reasons for the judge's refusal;
and

(b) the charge that was given to the jury,
if any, and any objections that were
made to it.

(4) A party to the appeal is entitled to receive upon payment of the charges as may be fixed by Rules of Court a copy or transcript of any material that is prepared under subsections (1), (2) and (3).

Right of
respondent to be
present.
[4 of 2010]

33G. (1) Notwithstanding that a respondent is in custody, the respondent shall, on the hearing of an appeal under this Part, be entitled to be present in court if the respondent so desires, except where the appeal is on a ground involving a question of law alone.

(2) On any proceedings preliminary or incidental to an appeal, a respondent shall not be entitled to be present, except where Rules of Court otherwise provide, or where the court gives the respondent leave to be present.

(3) The power of the Court of Appeal to make an order under this Part may be exercised notwithstanding that the respondent is for any reason not present.

Legal assistance
to respondent.
[4 of 2010]

33H. The Court of Appeal may at any time assign to a respondent an Attorney at law, in any appeal or proceeding preliminary or incidental to an appeal, in which, in the opinion of the Court, it appears desirable in the interest of justice that the respondent should have legal aid, and that the respondent has not sufficient means to obtain that aid.

Cost of appeal.
[4 of 2010]

33I. (1) On the hearing and determination of an appeal or any proceedings preliminary or incidental to an appeal under this Part, the Court shall not make any order as to

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Duties of
Registrar.
[4 of 2010]

costs on either side.

33J. (1) The Registrar shall take all necessary steps for obtaining a hearing under this Part of any appeal, notice of which is given to the Registrar under this Act, and shall obtain and lay before the Court of Appeal in proper form all documents, exhibits, and other things relating to the proceedings in the Court before which the respondent was tried which appear necessary for the proper determination of the appeal.

(2) If it appears to the Registrar that a notice of appeal against an acquittal, which purports to be on a ground of appeal that involves a question of law alone, does not show substantial ground of appeal, the Registrar may refer the appeal to the Court of Appeal for summary determination, and, where the case is so referred, the Court of Appeal may, if it considers that the appeal is frivolous or vexatious, and can be determined without adjourning the same for a full hearing, dismiss the appeal summarily, without calling on any person to attend the hearing.

(3) Any documents, exhibits, or other things required in connection with an appeal under this Part shall be kept in custody of the Court of trial in accordance with Rules of Court made for the purpose, for such time as may be provided by the Rules and subject to such power as may be given by the rules for the conditional release of any such documents, exhibits, or things from that custody.

(4) Where a person named as a respondent in a notice of appeal made under this Part is in prison, all documents relating to the notice shall be served on that person in the prison.

(5) The Registrar shall report to the Court of Appeal or a judge of that court any case in which it appears to the Registrar that although no application has been made

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for the purpose, an attorney at law ought to be assigned to a respondent under the powers given to that court by this Part.

Powers which
may be
exercised by a
Judge of the
Court.
[4 of 2010]

33K. The powers of the Court of Appeal under this Part –

- (a) to extend the time in which notice of appeal may be given;
- (b) to assign legal aid to a respondent; or
- (c) to allow the respondent to be present at any proceedings in cases where the respondent is not entitled to be present without leave,

may be exercised by any judge of the Court of Appeal in the same manner as they may be exercised by the Court of Appeal, and subject to the same provisions; but, if the judge refuses an application of the respondent to exercise any of the power in the respondent's favour, the respondent shall be entitled to have the application determined by the Court as duly constituted for the hearing and determining of appeals under this Act.

Appeals to the
Caribbean Court
of Justice.
[4 of 2010]

33L. An appeal from a decision of the Court of Appeal under this Part shall lie to the Caribbean Court of Justice as of right.

Sections 11 to 33
to apply.
[4 of 2010]

33M. Where this Part does not make provision for any of the matters provided for in sections 11 to 33 those sections in relation to those matters in so far as they are applicable to this Part, as suitably modified shall apply.

PART IV MISCELLANEOUS

Justices of
Appeal.

34. (1) The judges of the Court of Appeal shall include

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[O. 37/1966A

24 of 1970

21 of 1978]

not less than two and not more than five Justices of Appeal.

(2) Nothing in subsection (1) shall be deemed to invalidate the constitution of the Court in case of any vacancy in respect of the office of a Justice of Appeal.

(3) Notwithstanding anything to the contrary in subsection (1) the Chancellor may request the attendance at any time of any judge of the High Court to sit as an additional judge of the Court of Appeal at any sittings of the Court, and any judge whose attendance is so requested shall attend accordingly.

(4) Every judge who sits as an additional judge of the Court of Appeal in pursuance of such a request shall, during the time he so sits, have all the jurisdiction and powers of a judge of the Court of Appeal but shall not otherwise be deemed to be a judge of that Court or to have ceased to be a judge of the High Court.

(5) Any such additional judge of the Court of Appeal shall, although the period has expired during which his attendance was requested, attend the sittings of the Court of Appeal for the purpose of giving judgment or doing any other thing in relation to any case which may have been heard by the Court of Appeal during his attendance on the Court of Appeal.

Precedence of
judges.

35. (1) The Chancellor shall have precedence over all other judges of the Supreme Court.

(2) The Chief Justice shall have precedence over all Justices of Appeal.

(3) The Justices of Appeal shall rank among themselves according to the priority of the dates on which they became Justices of Appeal, respectively, and shall have precedence over Puisne Judges.

Qualification.
c. 1:01

36. The period for which a person is required to have been qualified for admission as an advocate within the meaning of the Constitution for the purpose of qualification for appointment to hold or act in the office of a judge of the Court of Appeal, shall be ten years.

Number of
judges at sitting.

37. The number of judges of the Court of Appeal who may sit for any purpose may be prescribed by rules of court or, subject to any such rules, be fixed from time to time by the Chancellor:

Provided that—

(a) an uneven number of judges shall sit, which, for the purpose of any final determination by the Court of an appeal or a case stated or reserved question of law, shall not be less than three; and

(b) any determination by the Court of Appeal on any matter (whether final or otherwise) shall, where more than one judge sits, be according to the opinion of a majority of the judges who sit for the purpose of determining that matter.

Distribution of
business of
Court of
Appeal.

38. The Chancellor may determine the distribution of business before the Court of Appeal among the judges thereof and, subject to section 38, may assign any judicial duty to any such judge or judges:

Provided that the Chief Justice shall not sit as a judge of the Court of Appeal in any proceedings with reference to an appeal from any judgment given, or to a case stated or question of law reserved, by himself.

Functions of
Registrar.

39. The Registrar of the Supreme Court shall have

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such authority, powers and duties as shall be necessary for the due conduct and discharge of the business of the Court of Appeal and as may be assigned to him by rules of court or any other laws or, subject thereto, by the Chancellor and, without prejudice to the generality of the foregoing and subject as aforesaid, the Registrar may, with the general or special approval of the Chancellor, depute executive officers or other persons employed in the carrying on of the business of the Supreme Court, and shall depute them on the Chancellor's general or special instructions, to exercise such authority or carry out such functions in respect of the business of the Court of Appeal as it is considered convenient for them to exercise or carry out, due regard being had to their employment as aforesaid, and the Registrar may, with the like approval, and shall, on the like instructions, rescind any arrangements made in that respect by him under this section

Provided that, in giving any such instructions or approval with respect to any officers or other persons employed in the carrying on of the business of the High Court, the Chancellor shall act after consultation with the Chief Justice.

Rules of court.
[4 of 1972]

40. The authority empowered by law to make rules of court regulating the practice and procedure of the High Court may make rules of court for all or any of the following purposes:

- (a) for regulating and prescribing the procedure and practice to be adopted on appeals and applications to the Court of Appeal or with respect to any appeal to the Judicial Committee under article 92 of the Constitution and in all other matters whatsoever in or with respect to which the Court has for the time being jurisdiction, and

any matters incidental to or relating to any such procedure or practice, including but without prejudice to the generality of the foregoing provision, the manner in which and the time within which, any proceedings which under this or any other law are to be taken in any of the aforementioned matters shall be taken;

- (b) for regulating and prescribing the procedure on any hearing by the Court of Appeal or a judge thereof and, without prejudice to the generality of the foregoing, prescribing the cases in which and the conditions upon which, an appellant in a criminal appeal shall be entitled to be present at the hearing thereof and providing for summary determination of any appeal which appears to the court to be frivolous, vexatious or brought for purposes of delay;
- (c) for regulating the places and times of the sittings of the Court of Appeal and of the judges of that Court in chambers;
- (d) for regulating and prescribing any matters relating to the costs and fees (whether of counsel or the Registrar or in connection with any other charges or expenses) in respect of any matters or proceedings in the Court of Appeal;

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- (e) for regulating the right of practicing before the Court of Appeal and the representation of persons concerned in any proceedings in such Court;
- (f) for prescribing offices to be held by, and for regulating and prescribing the functions of, persons employed in the carrying on of the business of the Court of Appeal;
- (g) for regulating vacations to be observed by the Court of Appeal and in the offices of the Court respectively;
- (h) for the hearing during vacation by the judges of the Court of Appeal of all such applications as may require to be immediately or promptly heard.

Additional
powers of Court
of Appeal.

41. Subject to this Act and rules of court, the Court of Appeal shall, in addition to the jurisdiction, powers and authorities vested in it by virtue of the provisions of this Act apart from this section, have and may exercise any other jurisdiction, power or authority which is analogous to any jurisdiction, power or authority belonging or incident immediately before the 26th May, 1966, to the British Caribbean Court of Appeal as a court of appeal for Guyana.

Practice and
procedure.
[4 of 1972]

42. (1) In so far as may be, the practice and procedure of the Court of Appeal shall, in all respects in which the same are not regulated by virtue of this Act, correspond to the existing practice and procedure of the British Caribbean Court of Appeal in respect of appeals to that Court from Guyana and in respect of appeals in such cases from that Court to the Judicial Committee of the Privy Council.

(2) The Court of Appeal Rules (formerly entitled the Federal Supreme Court (Appeals from British Guiana) Rules, 1959) shall have effect for all purposes as if they had been made under section 41 of this Act.

(3) In this section “existing” means existing at the date immediately preceding the coming into operation of this Part.

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SUBSIDIARY LEGISLATION

THE COURT OF APPEAL RULES

ARRANGEMENT OF RULES

RULE

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 - Party interested may obtain transcript.
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- Definition of "party interested".
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The Court of Appeal Rules

RULE

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Counsel and solicitor assigned to appellant may receive copies or documents and exhibits free on request.

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The Court of Appeal Rules

RULE

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The Court of Appeal Rules

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14. Application of Rules 19, 22(1), 23, 25, 26, and 27 of Order III.

APPENDIX A

Civil Forms

APPENDIX B

PART I

Fees of Court in Civil Appeals.
To be paid to the Deputy Registrar of the Federal Supreme Court under Order II, rule 29.

PART II

Fees payable to Court from which appeal is brought under Order II, rule 29.

PART III

Legal Practitioner's Fees in Civil Appeals
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PART IV

Witnesses, Interpreters, Special Commissioners and Examiners Fees.

APPENDIX C

Criminal Forms

[Subsidiary]
O. 1

The Court of Appeal Rules

The Chief Justice of The West Indies and two other Judges of the Federal Supreme Court selected by him in exercise of the powers conferred upon them by Section 7 of the British Guiana (Appeals) Order in Council, 1957, and of all other powers enabling them in that behalf, hereby make the following Rules –

Rules made
28/2/1959
(1959 Sub.
Leg. p. 30).
20/12/1960
(1960 Sub.
Leg. p. 303)
O. 37/1966A
R. 1/1970
2/1971
4/1972

ORDER I

Citation **1.** (1) These Rules may be cited to the Court of Appeal Rules.

 (2) These Rules shall apply to appeals to the Court of Appeal from the High Court.

Definitions

Interpretation
[O. 37/1966A
R. 1/1970]

2. In these Rules –

“the Act” means the Court of Appeal Act;

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

“Attorney-General” means the Attorney-General of Guyana;

“Court” means the Court of Appeal;

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

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“existing” means existing immediately before the commencement of these Rules;

“file” means file in a Registry, and “filed” and “filing” have corresponding meanings;

“Full Court” means the Full Court of the High Court;

“Judge” includes the presiding officer of any Court from which an appeal lies to the Court;

“legal representative” means any attorney- at – law admitted to practice as such in any part of Guyana whether or not he has the right of audience in the Court;

“magistrate” includes every person exercising jurisdiction, whether full or limited, in a court of summary jurisdiction;

“order” includes decree, judgment, sentence or decision of a court below or a judge thereof;

“party” means any party to the appeal and includes his legal representative;

“Prison Authority” means the head or person in charge of Prisons in Guyana and includes his deputy or other officer discharging his duties;

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

“Registrar” means the Registrar of the Supreme Court and includes a Deputy Registrar or other officer for the time being discharging the duties of the Registrar or Deputy Registrar;

“respondent” —(a) in a civil court means any party (other than the appellant) directly affected by the appeal;

(b) in a criminal appeal where the State is

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not an appellant, means the person who under the Act has the duty of appearing for the State or who undertakes the defence of the appeal.

Appeals Generally

Forms in
Appendices A
and C to be
used.

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

Times of
sittings and
vacation.
[O.37/1966A
Rl. 2/1986]

4. (1) Sittings of the Court shall be held at such times and places as the Chancellor may direct; subject to such direction, sittings (to be known as "general sittings") shall be held for the disposal of the appeals pending four times a year as follows –

1st October to 21st December;

11th January to 31st March;

1st April to 31st May;

7th June to 31st July.

(2) (a) The Court will be in vacation during the period between the ending of one general sitting and the commencement of another and between the Wednesday before and the Tuesday after Easter.

(b) The Court will not sit on Saturdays and Sundays and will not sit on public holidays, and on such other days as the Chancellor may direct.

Notice of
Sittings.
[O. 37/1966A]

5. (1) Notice of each general sitting shall be published by the Registrar in the *Gazette* at least two weeks before the date appointed for the commencement of the sitting; and, in

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the case of other sittings (to be known as “special sittings”), a similar notice shall be so published at least one week before the date appointed for the commencement of the sitting.

(2) The Registrar shall on the publication of the said notices in the *Gazette* post up on the notice board of the Court the cause list of the sittings:

Provided that the Court may in its discretion hear any appeal and deal with any other matter whether or not the same has been included in such cause list so published.

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

Right of audience.

6. In all proceedings before the Court, the parties may appear in person or be represented on appeal by any person who has been called to the English, Irish or Scottish Bar to practice as a Barrister and has the right of audience before the Supreme Court.

Register of appeals brought.

7. (1) The Registrar shall keep separate registers of all civil and criminal appeals brought before the Court including in the criminal appeal register notices of application for leave to appeal.

(2) Each register shall contain particulars of the date on which –

- (a) the notice of appeal or of application for leave to appeal was lodged;
- (b) any interlocutory order was made;
- (c) the record of the appeal was received;
- (d) the appeal was heard;
- (e) judgment was delivered;

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Enlargement of
time and
departure from
Rules.

8. Subject to the provisions of section 19(2) of the Act (relating to enlargement of the time within which an appeal may be brought in a capital case to the Court), and to Order II, 3(3) of these Rules, the Court may enlarge the time prescribed 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 where this is required in the interests of justice.

Service of
documents.

9. Subject to any provision contained in these Rules relating to the service of any particular document—

(1) Service of the documents mentioned in the first column hereunder shall be served by leaving a true copy thereof in the manner specified in the second column –

First Column

Second Column

(a) All documents required to be served –

By personal service on the party or his authorised agent, or on the person not a party;

- (i) On parties to an action who have not filed an address for service; and
- (ii) On a person not a party to the appeal.

(b) All documents required to be served on parties who have an address service.

By leaving the document at the address of service with a person resident at or belonging to such place; or by registered post to such address, in which case, the time of service thereon shall be the time such document would be delivered in the

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ordinary course of post.

(2) If it is made to appear to a Judge of the Court below upon application supported by affidavit that prompt personal service of a document cannot be effected he may make such order for substituted service by advertisement or otherwise as may be just.

Waiver for non-compliance with Rules.

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

Practice and procedure in the absence of special provision.

11. In matters of practice and procedure where no special provision is contained in any written law or rules of court, the jurisdiction of the Court conferred upon it by virtue of this Order and of the Act shall be exercised as nearly as may be in conformity with the law and practice for the time being in force in England –

- (a) in relation to criminal matters in the Court of Criminal Appeal; and
- (b) in relation to civil matter in the Court of Appeal.

ORDER II

CIVIL APPEALS

Notice of appeal, cross-appeal and preliminary objection

Notice and
grounds of
appeal. Civil
Form 1.

1. (1) All appeals shall be by way of rehearing and shall be brought by notice (hereinafter called "the notice of appeal"), to be filed together with two copies thereof with Registrar, which shall set forth the grounds of appeal, state whether the whole or part only of the decision of the Court below is complained of (in the latter case specifying such part), state also the nature of the relief sought and the names and addresses of all parties directly affected by the appeal, and be signed by the appellant or his legal representative.

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

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

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

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

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appeal upon payment of the fees prescribed for making such amendment and upon such terms as the Court may deem just.

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

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

Appeal by
leave only.
Civil Form 2.
[R. 20/12/1960]

2. (1) Where an appeal lies by leave only, any person desiring leave to appeal shall apply for leave within fourteen days, either by notice of motion or by summons (whichever is appropriate) and such application shall be made to the Court or to the Court below or to the Judge who made the order; the period of fourteen days shall run from the date of the decision against which leave to appeal is sought.

(2) If leave is granted the appellant shall file a notice of appeal as provided by rule 1 of this order within fourteen days from the grant of leave and a copy of such order shall be annexed to the notice of appeal.

(3) If a respondent intends, upon the hearing of a motion brought under this rule, to apply for leave to appeal in order to vary the decision of the Court below, he shall within seven days of the service upon him of the notice of motion (or within such time as may be prescribed by special order made on application) give written notice of such intention to any parties who may be affected by such contention, and in such notice shall clearly state the reasons on which he intends to reply, and within the same period he shall file a copy of such notice with the Registrar.

(4) If on the hearing of a motion brought under this

rule the respondent is given leave to appeal in order to vary the decision of the Court below, it shall not be necessary for him to comply with the provisions of rule 5 of this Order.

(5) The provisions of paragraph (3) of rule 5 of this Order shall apply to a notice given under paragraph (3) of rule 2 as it does to a notice under rule 5.

Time limits
For appealing.
[R. 20/12/1960
2/1971]

3. (1) Subject to the provisions of this rule, no appeal shall be brought after the expiration of six weeks from the date of judgment delivered or order made, against which the appeal is brought, provided that in the case of appeals –

- (a) against an interlocutory order or judgment the period shall be fourteen days and, where leave to appeal against such order or judgment is required, fourteen days from the grant of leave;
- (b) against an order or judgment made in the matter of the winding up of a company, or in a matter of any bankruptcy, the period shall be twenty-one days;

c. 81:01

and for the purposes of this paragraph the expression "date of judgment" shall in respect of a judgment obtained upon the registration of a certificate in accordance with section 101 of the Income Tax Act be construed as a reference to the date of service of a certified copy of that certificate pursuant to rule 3 of the High Court (Income Tax Recovery) Rules.

(2) An appeal shall be deemed to have been brought when the notice of appeal has been filed with the Registrar.

Extension of
time for
appealing.

(3) A judge of the Court may by order extend the time prescribed in paragraph (1) of this rule within which an appeal may be brought, provided an application for this

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purpose is made within one month of the expiration of the time so prescribed.

(4) In exceptional circumstances, the Court having power to hear and determine an appeal may on application extend the time within which an appeal may be brought beyond the period delimited for an application to a judge of the Court under this rule.

(5) Every application for enlargement of time when made to a judge of the Court shall be made by summons, and when made to the Court shall be by motion. Every summons or notice of motion filed shall be supported by an affidavit setting forth good and substantial reasons for the application and by grounds of appeal which *prima facie* show good cause therefor.

(6) Two copies of the summons and supporting affidavit and four copies of the notice of motion and supporting affidavit, in addition to the filed copies, shall be left with the Registrar at the time of filing.

(7) When time is so enlarged a copy of the order granting such enlargement shall be annexed to the notice of appeal.

Service of
Notice of
Appeal.

4. (1) A true copy of the notice of appeal shall be served upon all parties directly affected by the appeal and it shall not be necessary to serve any party not so affected; but the Court may direct notice of appeal 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 may give such judgment and make such order as might have been originally parties.

(2) A true copy of the notice shall be served upon the respondent within seven days after the original notice has been filed.

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Notice by
respondent of
contention that
judgment
should be
Varied. Civil
Form 3
[R. 20/12/1960]

5. (1) If a respondent intends, upon the hearing of an appeal, to contend that the decision of the Court below should be varied, he shall within fourteen days after service of the notice of appeal, or within such time as may be prescribed by special order made on application, give written notice of such intention to any parties who may be affected by such contention, and in such notice shall clearly state the reason on which he intends to rely, and within the same period he shall file a copy of such notice with the Registrar.

(2) A copy of such notice shall be included in the record but if the record has already been filed, the prescribed number of copies shall be prepared forthwith and left with the Registrar by the appellant for transmission to the Judges.

(3) The omission to give notices shall not diminish the powers conferred by the Act upon the Court, but may, in the discretion of the Court, be a ground for an adjournment of the appeal, or for any special order as to costs.

Amendment of
notice of
appeal or of
respondent's
notice.

6.(1) A notice of appeal or respondent's notice may be amended—

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

(b) without such leave, by, supplementary notice served, before the date on which the appeal appears in the cause list published in accordance with Order 1, rule 5 upon each of the parties upon whom the notice to be amended was served.

(2) A party by whom a supplementary notice is served under this rule shall, within two days after service of the notice, furnish two copies of the notice to the Registrar.

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Notice of
preliminary
objection to be
filed. Civil
Form 4.

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

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

Settling record
of appeal. Civil
Form 5.

8. (1) The Registrar shall upon an appeal being brought summon the parties before him to settle the documents (which expression shall include any other matter which may form part of a record) to be included in the record and shall, whether any of the parties attend the appointment or not, settle and sign and in due course file a list of such documents.

(2) The Registrar, 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.

(3) If the Registrar or any party objects to the inclusion of a document on the ground that it is unnecessary or irrelevant and the other party nevertheless insists upon 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.

Evidence.

9. When any question of fact is involved in an appeal, the evidence taken in the Court below bearing on such question shall, subject to any special order of the Court, be brought before the Court as follows—

- (a) as to any evidence taken by affidavit, by the production of office copies of such affidavit;
- (b) as to evidence taken orally, by the production of a copy of the Judge's notes certified by the Registrar, or a transcript of the evidence taken by a shorthand writer and certified by him or such other materials as the Court may deem expedient.

Copies of
proceedings in
Court below.

10. (1) Where any notes of proceedings whether in shorthand or longhand have been taken by a person employed by any court or taken by the Judge of the Court below, copies of such parts of these notes as are required for the record of appeal shall be supplied by the Registrar on payment of the fees prescribed in Part II of Appendix B.

(2) If no written decision is given by the judge at the time of giving judgment such Judge shall communicate his reasons for the judgment in writing to the Registrar and such reasons shall be included in the record.

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

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Printing or
typing of
records.

11. (1) Every document or paper required by these Rules to be filed or left with the Registrar shall be legibly printed, cyclostyled or typewritten with black ink (excluding carbon copies) upon strong white foolscap paper of good quality with an inner margin of not less than two inches and an outer margin of about half an inch, and a space of not less than three-eighths of an inch shall be left between every two lines.

(2) There shall be an index to the record and every page thereof shall be numbered consecutively, and every tenth line on a page shall be numbered in the margin. Correspondence and exhibits shall be arranged together at the end of the record.

(3) The Registrar may refuse to file or receive any document not strictly conforming to the requirements or paragraph (1) of this rule and the Court may disallow the costs of any such document which has been filed or received by the Registrar.

Copy of list of
exhibits.

12. (1) Any party may apply for and, on payment of the prescribed fee, obtain an office copy of the exhibits for the purpose of an appeal to the Court or otherwise.

(2) All original documents tendered in evidence to the Court below at trial shall remain in the custody of the Court below 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 Registrar shall permit a party for the purposes of preparing his record to take copies of all such documents and 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.

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Registrar to
notify parties
that documents
are ready and
may be
obtained.

R. 1/1983
Civil Form 6A

12A. After the preceding provisions of this order have been complied with, the Registrar shall serve notice on the appellant and the respondent that the document to be included in the record are all ready and may be obtained.

Entering
appeal.
R. 1/1983

13. (1) The appellant shall within six weeks from the date when the notice by the Registrar is given under the provisions of Rule 12A of this Order or within such extended time as may be granted by the Court below or the Court –

- (i) file in the office of the Registrar –
 - (a) the record;
 - (b) an affidavit of service of the notice of appeal; and
- (ii) leave four copies of the record for the use of the Judges and the Registrar.

Civil Form 6

Civil Form 7.

Transmission
of the record.
Civil Form 8

(2) The Registrar shall thereupon give notice to the respondent of the filing of the record.

(3) The Registrar shall thereupon set down the appeal for hearing by entering the same on the proper list of appeals.

Withdrawal and non-compliance

Withdrawal of
appeal Civil
Form 9.

14. If the appellant files with the Registrar a notice that he desires to withdraw his appeal, together with two copies thereof, the appeal shall stand dismissed with costs. The appellant at the same time shall serve copies of the notice of withdrawal on all or any of the parties with regard to whom the appellant wishes to withdraw his appeal, and any party so served shall be precluded from laying claim to any costs incurred by him after such service unless the court

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Default in
filing record
and
documents.

shall otherwise order.

15. (1) It shall be the duty of the Registrar to see that an appellant complies with the provisions of rule 13 of this Order, and before the conclusion of each general sitting shall report to the Court any failure on the part of an appellant so to comply and the Court of its own motion may make any such order as it might make upon an application by the respondent under paragraph (2) of this rule.

(2) If the respondent alleges that the appellant has failed to comply with the requirements of rule 13 (1) of this Order or any part thereof, the Court, if satisfied that the appellant has so failed, may dismiss the appeal for want of due prosecution or make such other Order as the justice of the case may require.

(3) An appellant whose appeal has been dismissed under this rule may apply by notice of motion that his appeal be restored 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.

Applications

Application to
single Judge.

16. (1) In any cause or matter pending before the Court, a single Judge of the Court may upon application make orders for—

- (a) giving security for cost to be occasioned by any appeals;
- (b) leave to appeal *in forma pauperis*;
- (c) a stay of execution on any judgment appealed from pending the determination of such appeal;
- (d) an injunction restraining the defendant in the action from disposing or parting with the

possession of the subject matter of the appeal pending the determination thereof;

(e) extension of time;

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

(2) Every order made by a single Judge of the Court in pursuance of this rule may be discharged or varied by any Judges of that Court having power to hear and determine the appeal.

Application
Court below.

17. Applications referred to in the preceding rule shall ordinarily be made to a Judge of the Court, but where this may cause undue inconvenience or delay, a Judge of the Court below may exercise the powers of a single Judge of the Court under that rule.

Mode of
application.

18. (1) An application for leave to appeal *in forma pauperis* may be made *ex parte* by affidavit containing the grounds of the application and the order asked for.

(2) Any other application under these Rules shall be made by way of summons or motion. Such application shall be supported by affidavit, a copy of which shall be served with the summons or notice of motion.

(3) Where an application is made *ex parte* under paragraph (1) of this rule, an order may be made requiring any party affected to be served with notice of the application.

(4) Where an application under these Rules is made by summons, an order may be made adjourning the hearing into open court.

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(5) Where an application made by summons is heard by the Court, it shall be treated as if it were a motion, and it shall be heard in open court.

Appeal no stay
except by
order.

19.(1) An appeal shall not operate as a stay of execution or of proceedings under the judgment appealed from, except so far as the Court below or the Court may order, and no intermediate act or proceedings shall be invalidated, except so far as the Court may direct.

(2) On an appeal, interest for such times as execution has been delayed by the appeal shall be allowed unless the Court otherwise orders, and the Registrar may compute such interest without any order for that purpose.

Application
for security for
costs.

20. (1) Before an application for security for costs is made, a written demand shall be made by the respondent and if the demand is refused or if an offer of security be made by the appellant and not accepted by the respondent, the Court or the Court below shall in dealing with the costs of the application consider which of the parties has made the application necessary.

(2) An application for security for costs may be made at any time after the appeal has been brought and must be made promptly thereafter.

(3) An order for security for costs shall direct that in default of the security being given within the time limited therein, or any extension thereof, the appeal shall stand dismissed with cost.

Bond.
Civil Form 10.

(4) A bond with sureties for securing the costs of an appeal shall be in Civil Form 10.

Application
for leave to
appeal *in forma
pauperis*

21. (1) An application for leave to appeal *in forma pauperis*; shall be accompanied by-

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pauperis.

- (a) an affidavit stating—
- (i) that the appellant is not worth \$120 excepting his wearing apparel and tools of trade and his interests in the subject matter of the intended appeal;
 - (ii) that his usual income from all sources does not exceed \$10 a week;
- (b) a certificate of counsel that the appellant has reasonable grounds of appeal.
- (2) Where an appellant obtains leave to appeal *in forma pauperis*; he shall not be required to lodge security for the costs of the respondent or to pay any registry fees or any fees for copies of the Judge's notes of evidence or the documents required for compiling the record.

Hearing and Judgments

Interlocutory
appeals
Numbers of
Judges.

Dismissal of
appeal in
default of
appearance.

Application to
re-enter appeal
dismissed
under O.II r.23.

22. An appeal against an interlocutory order shall be heard before not less than two Judges of the Court.

23. If the appellant fails to appear when his appeal is called on for hearing the appeal may be struck out or dismissed with or without costs.

24. When an appeal has been struck out owing to the non-appearance of the appellant the Court may, on application by the appellant by notice to the Court, 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:

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

Non appear-
ance of
respondent.

25. If the respondent fails to appear when the appeal is called on for hearing the Court may proceed to hear the appeal *ex parte*.

Application to
set aside *ex
parte* judgment.

26. (1) Where an appeal has been heard *ex parte* under rule 25 of this Order and any judgment has been given therein adverse to the respondent he may apply by motion to the Court to set aside such judgment and re-hear the appeal and the Court may, if it thinks fit, and on such terms as to costs or otherwise as it may deem just, direct the appeal to be re-entered for hearing.

(2) No application to set aside any judgment or order and re-hear the appeal under this rule shall be made after the expiration of twenty-one days from the date of the judgment or order sought to be set aside.

(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 or order 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.

Delivery of
judgment.
[R.20/12/1960]

27. The judgments of the Court shall normally be delivered by the judges who heard the same, but if one or more judges of the Court are not prepared or are otherwise unable to deliver judgment before the conclusion of the sitting—

- (a) judgment may be delivered subsequently;
- (b) at a sitting of the Court for the

purpose of delivering such judgment, the Court may be constituted by one, two or three judges; and

- (c) a judge whether or not present at the hearing of an appeal may deliver the judgment of the Court (being the judgment of all or of the majority present thereat) and may read the reasons for such judgment or for the concurrence or dissent of any judge who was a member of the Court at the hearing.

Execution of judgment by Court below Civil Form 11. [R. 20/12/1960]

28. Judgments of the Court shall be enforced by the Court below and a certificate under the seal of the Court and the hand of the Registrar setting forth the judgment shall be transmitted by the Registrar to the Court below and the latter shall enforce such judgment in terms of the certificate.

Fees and Costs

Court fees.

29. (1) Save as hereinafter provided, the fees prescribed in Appendix B shall be charged in respect of the matters to which they are respectively assigned.

Government exemption from payment of fees.

(2) No fees shall be payable by the Government of Guyana or any person suing or being sued on behalf of the said Government in respect of any civil appeal to which the said Government or any person so suing or being sued is a party:

Provided that a judgment in favour of the Government or any person so suing or being sued for costs to be paid by any party, not being the Government or any person so suing or being sued, shall, unless the Court otherwise orders include the amount of any fees which would have been payable if the appeal or suit had been brought or instituted by or against a private person.

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Legal
practitioners'
fees.

30. (1) Subject to the provisions of this rule, a Taxing Officer when taxing the fees for professional legal services shall—

- (a) unless the Court when awarding costs orders otherwise, allow all such costs, charges and expense as shall appear to him to have been necessary or proper for the attainment of justice or for the 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 Taxing Officer to have been incurred or increased through overcaution, negligence or mistake, or by payment of special fees to counsel or special charges or expenses to witnesses or other persons, or by other unusual expenses;
- (b) adhere to the Schedule of Allowances in Part III of Appendix B.

(2) In taxing party and party cost, the Taxing Officer shall also unless the court when awarding costs orders otherwise, allow—

- (a) the reasonable fees consequent upon the engagement of counsel:

Provided that he may disallow the fee of more than one counsel in unopposed matters and in matters in which counsel has not appeared on the other side;
- (b) is any matter which does not include upon the first day, reasonable

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Fees not
chargeable
under rules 29
and 30.

Taxation of
costs.

Notice of
Taxation Civil
Form 12.

Objections to
taxation.

refreshers for each day subsequent to
the first;

(c) junior counsel's fee on the basis of
two-thirds of the fee allowed to
leading counsel (excluding travelling
expenses and any special fee allowed
to leading counsel) where fees to
leading and junior counsel are
allowed.

(3) The Taxing Officer may in exceptional cases
and for good and sufficient reason depart from any of the
provisions of the Schedule of Allowances contained in Part III
of Appendix B and in particular in the taxation of counsel and
client bills or costs, where strict adherence to such provisions
would be inequitable.

31. The fees to be charged for interpreters, witnesses,
special commissioners and examiners shall be those set forth
in Part IV of Appendix B.

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

(2) The Registrar shall be the Taxing Officer and
shall notify the parties of the time fixed for the taxation of
costs.

(3) Any party who may be dissatisfied with the
allowance or disallowance by the Taxing Officer, in any bill
of costs taxed by him, of the whole or any part of any items,
may, at any time before the certificate or allocatur is signed,
or such earlier time as may in any case be fixed by the
Taxing Officer, deliver to the other party interested therein,
and carry in before the Taxing Officer, an objection in
writing to such allowance or disallowance, specifying

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therein by a list, in a short and concise form the items or parts thereof objected to, and the grounds and reasons for such objections and may thereupon apply to the Taxing Officer to review the taxation in respect of the same. The Taxing Officer may, if he shall think fit, issue pending the consideration of such objections a certificate of taxation or allocatur for or on account of the remainder of the bill of costs and such further certificate or allocatur as may be necessary shall be issued by the Taxing Officer after his decision upon such objections.

Review of
taxation by
Taxing Officer.

(4) Upon such application the Taxing Officer shall reconsider and review his taxation upon such objections, and he may, if he shall think fit, receive further evidence in respect thereof, and, if so required by either party, he shall state either in his certificate of taxation or allocatur, or by reference to such objection, the grounds and reasons of his decision thereon, and any special facts or circumstances relating thereto. The Taxing Officer may tax the costs of such objections and add them to or deduct them from any sum payable by or to any party to the taxation.

(5) Any person aggrieved by any order, decision or ruling of the Taxing Officer may apply to the Court or to a judge thereof to set aside such order, decision or ruling and to make such further order as it may think fit.

(6) Any application to the Court or to a judge thereof under the foregoing paragraph shall be by motion accompanied by an affidavit in support and notice of such motion shall be served upon the Taxing Officer and upon all parties having interest therein.

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Obligation on
appellant to fill
up forms of
appeal notices
and answer
questions
thereon.
Criminal Forms
1 and 2.

Judge's certi-
ficate under
section 12(c) of
the Act.
Criminal Form
3.

Notices to be
signed by
appellant.

Signature on
notices of
appeal and

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ORDER III

APPEALS AGAINST CONVICTION ON INDICTMENT

Institution of Appeals

1. A person desiring to appeal to the Court against conviction and/or sentence shall commence his appeal by sending to the Registrar 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 set forth in Forms 1 or 2 in Appendix C, and, in the notice or notices so sent, shall answer the questions and comply with the requirements set forth thereon subject to the provisions of Order I rule 10; The answers to the questions which an appellant is by this rule required to make in support of his request to be present at the hearing of his appeal shall be deemed to be applications to the Court in such matter.

2. (1) The certificate of the Judge of the Court below under section 12(c) of the Act may be in Form 3 in Appendix C.

(2) The Judge of the Court below may, in any case in which he considers it desirable so to do, inform the person convicted before or sentenced by him that the case is in his opinion one fit for an appeal to the Court under section 12(c) of the Act and may give to such person a certificate to that effect in the Form 3 in Appendix C.

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

Any other notice required or authorised to be given shall be in writing and signed by the person giving the same or by

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| other notices. | his legal representative. All notices required or authorised to be given shall be addressed to the Registrar. |
| Service of documents on person in prison. | (2) Where an appellant or applicant is in prison it shall be sufficient service to deliver the document at the prison to the officer in charge or person appearing to be the officer in charge thereof, who shall cause the same to be served on such prisoner. |
| Where appellant unable to write. | (3) Where an appellant or any other person authorised or required to give or send any notice of appeal or notice of any application is unable to write, he may affix his mark thereto in the presence of a witness who shall attest the same, and thereupon, such notice shall be deemed to be duly signed by such appellant. |
| Where question of insanity involved. | (4) Where, on the trial of a person entitled to appeal, it has been contended that he was not responsible according to law for his actions on the ground that he was insane at the time the act was done or the omission made by him, any notice required to be given and signed by the appellant himself may be given and signed by his legal representative. |
| Notice, etc., on behalf of corporations. | (5) In the case of a body corporate where any notice or other document is required to be signed by the appellant himself, it shall be sufficient compliance therewith if such notice or other document is signed by the secretary, clerk, manager or legal representative of such body corporate. |
| Time for appealing against conviction to run from verdict. | 4. The time within which a person convicted shall give notice of appeal or notice of his application for leave to appeal to the Court against his conviction, shall commence to run from the day on which the verdict of the jury was returned, whether the judge of the court of trial shall have passed sentence or pronounced final judgment upon him on that day or not. |

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Time for appealing against sentence to run from pronouncement of sentence.

5. The time within which a person convicted and sentenced, shall give notice of appeal or notice of application for leave to appeal against such sentence under the Act to the Court, shall commence sentence to run from the day on which such sentence shall have been passed upon him by the judge of the court of trial.

Notice of application for extension of time for appealing.

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

Criminal Form 2.

5. (1) The Registrar when he has received a notice of appeal or a notice of application for leave to appeal, or a notice of application for extension of the time within which under these Rules or the Act such notice shall be given, shall prepare four copies of the proceedings in the Court below and if any record has been made of the summing up or direction of the Judge of the Court below, four copies thereof or if no such record has been made, a statement giving to the best of such Judge's recollection the substance of the summing up or direction. He shall also prepare the original exhibits in the case as far as practicable and any original depositions, information, inquisition, plea, or other documents usually kept by him, or forming part of the record of the Court below.

(2) One copy of the proceedings and one copy of the summing up shall be sent by the Registrar to the Director of Public Prosecutions at the same time he complies with paragraph (1) of this rule.

(3) For the purposes of this rule copies of proceedings shall contain—

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- (a) the indictment or charge and the plea;
- (b) the verdict, any evidence given thereafter and the sentence;
- (c) notes of any particular part of the evidence or cross- examination relied on as a ground of appeal; and
- (d) such other notes of evidence as the Registrar may direct to be included in the copies of proceedings:

Provided –

- (i) in capital cases copies of the notes of all the evidence shall be supplied; and
- (ii) upon application by either party to an appeal a single Judge of the Court or the Court itself may direct that copies of any particular part, or the whole, of the evidence be supplied to the Court and to the Director of Public Prosecutions.

Records of
summing up.
[R. 20/12/1960]

8. (1) Where any trial is had with a jury and, by direction of the Judge of the Court below, or by a general direction of the Chancellor notes in longhand or in shorthand or typewritten shall have been taken of the summing up or direction of the Judge and such parts of the proceedings as the Judge of the Court below may consider expedient, such record shall be accepted by the Court as accurate unless the Court has reason to doubt its accuracy.

(2) Where it is provided by the law that any notes of the summing-up or directions of the Judge or notes of any part of the proceedings shall be taken, and the direction of the

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Judge of the Court below is not therefore required, such notes shall be accepted by the Court as provided in paragraph (1) of this rule.

(3) Where the provisions of paragraph (1) or (2) of this rule have not been complied with, a statement of the Judge of the Court below giving his recollection of the summing up or direction shall be accepted as accurate unless the Court sees reason to the contrary.

Shorthand note
to be verified
by the writer.

(4) The shorthand writer shall sign the shorthand note taken by him of any trial or proceedings, or of any part of such trial or proceedings, and certify the same to be a complete and correct shorthand note thereof; and such shorthand note shall be kept in such custody as the Registrar shall, either specially or generally, direct.

Transcript to
be furnished on
application of
Registrar.

(5) The shorthand writer shall, on being directed by the Registrar, furnish to him for the use of the Court a transcript of the whole, or of any part of the shorthand note taken by him of any trial or proceedings in reference to which an appellant has appealed under the Act.

Verification of
transcript for
use of Court.

(6) A transcript of the whole or any part of the shorthand note relating to the case of any appellant which may be required for the use of the Court shall be typewritten and verified by the person making the same by a statutory declaration in the Form 4 in Appendix Criminal C to these Rules that the same is a correct and complete transcript of the whole, or of such part, as the case may be, of the shorthand note purporting to have been taken, signed, and certified by the shorthand writer who took the same.

Criminal Form
4.

(7) Where no notes in longhand or in shorthand have been taken by direction of the Judge of the Court below of any other parts of the proceedings required for the purpose of an appeal, the Judge of the Court below shall

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furnish to the Registrar his notes of the trial or such part thereof as may be required for such purpose.

Party interested may obtain transcript.

(8) On the application of a party interested in a trial or other proceedings in relation to which a person may appeal under the Act, the Registrar shall direct the shorthand writer to furnish to such party, and to no other person, a transcript of the whole, or of any part of the shorthand note of any such trial or other proceedings, on payment of such fees as may be prescribed by Rules of Court in Guyana for copies of proceedings required on appeal in any criminal cause or matter.

Party interested may obtain transcript from the Registrar.

(9) A party interested in an appeal under the Act may obtain from the Registrar a copy of the transcript of the whole or of any part of such shorthand note as relates to the appeal on payment of such fees as may be prescribed by Rules of Court in Guyana for copies of proceedings required on appeal in any criminal cause or matter.

Definition of "party interested".

(10) For the purpose of this rule, "a party interested" shall mean the prosecutor or the person convicted, or any other person named in, or immediately affected by, any order made by the Judge of the Court below, or other person authorised to act on behalf of a party interested, as herein defined; but shall not include the Director of Public Prosecutions to whom a copy of such transcript shall be furnished free of charge.

Transcript of shorthand notes or Judge's notes not to be Supplied free except by order of Court.

(11) A transcript of the shorthand notes taken of the proceedings at the trial (or a copy of the Judge's notes of the trial) of any appellant shall not be supplied free of charge except by an order of the Court or a Judge thereof, upon an application made by an appellant or by his counsel assigned to him under the Act.

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Judge's Report

Report of
Judge of Court
below.

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

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

Furnishing
Judge of Court
below with
materials for
report.

10. When the Registrar requests the Judge of the Court below 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 said Registrar, to enable such Judge to deal in his report with the appellant's case generally or with any point arising thereon.

Copies of Documents for use of Appellant or Respondent

How appellant
or respondent
may obtain
from Registrar
of Court below
copies of docu-
ments or
exhibits.

11. (1) At any time after notice of appeal or notice of application for leave to appeal has been given under the Act or these Rules, an appellant or respondent, or other person representing either of them, may obtain from the Registrar copies of any documents (other than notes of proceedings) or exhibits in his possession under the Act or these Rules for the purposes of such appeals. Such copies shall be supplied by the said Registrar on payment of such fee as may be prescribed by Rules of Court for copies of proceedings required on appeal in any criminal cause or matter.

Counsel
assigned to

(2) Where counsel is assigned to an appellant under the Act copies of any such documents or exhibits

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appellant may receive copies of documents and exhibits free on request.

Appellant not legally represented may obtain copy of documents or exhibits free.

Registrar to require proper officer of Court below to furnish him with particulars, etc., of trial.

which they or he may request the said Registrar to supply shall without charge be supplied unless the said Registrar thinks that they are not necessary for the purpose of the appeal.

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

Conduct of Prosecution and Defence

12. (1) Whenever the Registrar has received a notice of appeal or a notice of application for leave to appeal, or a notice of application for an extension of time within which such notice shall be given, he shall forthwith make a record of the following particulars—

- (a) name and address of the prosecutor. State names and addresses of counsel for prosecution;
- (b) whether appellant was defended by counsel or by counsel at request of Court, give names and addresses of counsel for appellant.

(2) When the Registrar has received a notice of appeal or where leave to appeal is granted to any appellant, he shall—

- (a) notify the Director of Public Prosecutions; or
- (b) if the prosecutor is a private person,

Registrar to notify Director of Public Prosecutions, if a private person, of receipt of notice of appeal.

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Prosecutor to afford all information, documents etc., to Registrar and Director of Public Prosecutions.

enquire if he intends to defend the appeal and, if the answer is in the negative, so inform the Director of Public Prosecutions.

(3) It shall be the duty of a prosecutor, who declines to resist to an appeal, and of his counsel, to furnish to the Registrar and the Director of Public Prosecutions, or either of them, any information, documents, matters and things in his possession or under his control connected with the proceedings against the appellant, which the Registrar or Director of Public Prosecutions may require for the purposes of their duties under the Act.

Legal Aid to Appellants

List of counsel purposes of the Act.

13. (1) The Registrar shall cause to be prepared in such form as he thinks most convenient a separate list of counsel who are willing to act as counsel for appellants if and when nominated under the Act.

(2) When legal aid is assigned to an appellant, the Court may give such directions as to the stage of the appeal at which such legal aid shall commence and whether counsel shall be assigned or otherwise as it may think right.

Legal aid to be provide from such lists.

(3) The Registrar shall thereupon, subject to any special order of the Court, select from such lists or otherwise a counsel for the purpose of affording legal aid to an appellant under the directions of the Court, having regard in so doing to the place at which the appellant was tried and the counsel who represented the appellant at his trial and the nature of the appeal.

Proceedings before a single Judge

Procedure on decision of application to single Judge.

14. (1) Where any application has been dealt with by a single Judge the Registrar shall notify to the appellant the decision in Form 5 in Appendix C. In the event of such Judge

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Criminal
Forms 5 & 6.
[R. 20/12/1960]

refusing all or any of such applications the Registrar on notifying such refusal to the appellant shall forward to him Form 6 in Appendix C. If the appellant does not desire to have the said application or applications determined by the Court as duly constituted for the hearing of appeals under the Act or does not return within five days to the Registrar Form 6 duly filled up by him the refusal of his application or applications by such Judge shall be final. If the appellant desires that his said application or applications shall be determined by the Court as duly constituted for the hearing of appeals under the Act and is not legally represented he may, if the Court gives him leave, be present at the hearing and determination by the Court of his said application:

Provided that an appellant who is legally represented shall not be entitled to be present without special leave of the Court.

(2) When an appellant duly fills up and returns within the prescribed time to the Registrar Form 6 expressing a desire to be present at the hearing and determination by the Court of the applications mentioned in this rule, such form shall be deemed to be an application by the appellant for leave to be so present. The Registrar, on receiving the said form, shall take the necessary steps for placing the said application before the Court.

If the said application to be present is refused by the Court, the Registrar shall notify the appellant; and if the said application is granted the Registrar shall notify the appellant and the officer in charge of the prison wherein the appellant is in custody, as provided by these Rules. For the purpose of constituting a Court the Judge who has refused any such application may sit as a member of such Court, and take part in determining such application.

Application
not specially
provided for,

(3) Except where otherwise provided in these Rules, any application to the Court may be made by the appellant or

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how made.

respondent, or by counsel on their behalf, orally or in writing; but in regard to such applications, if the appellant is unrepresented and is 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 proper steps to obtain the decision of the Court thereon.

Notice of
application for
leave to appeal
deemed to be
notice of
appeal if
application
granted.

15. Where the Court has, on a notice of application for leave to appeal duly served and in Form 1 in Appendix C, given an appellant leave to appeal, it shall not be necessary for such appellant to give any notice of appeal but the notice of application for leave to appeal shall in such case be deemed to be a notice of appeal.

Person in
custody in
default of
payment of
fine.

Suspension of Order and Admission to Bail

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 payment be deemed, for the purposes of appeal, to be a person sentenced to imprisonment.

Power of
Court of trial
to impose
recog-
nizances.

(2) Where any person has been convicted and is thereupon sentenced to the payment of a fine, and, in default of such payment, to imprisonment, and he intimates to the Judge of the Court below that he is desirous of appealing to the Court against his conviction, such Judge may, if he thinks right so to do order such person forthwith to enter into recognizances in such amount, and with or without sureties in such amount, as such Judge may think right, to prosecute his appeal, and, subject thereto, may order that payment of the said fine shall be made at the final determination of his said appeal, if the same be dismissed, to the Registrar, or as the Court may then order. The recognizances under this rule

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Criminal
Forms 7 and 8.

Appellant
committing
breach of
recognizances

Criminal
Forms 9 and
10.

Repayment of
fine on success
of appeal.

Temporary
suspension of
orders made
on conviction
as to money,
awards, costs,
etc.

shall be in Form 7 and 8 in Appendix C.

(3) If an appellant to whom paragraph (2) of this rule applies does not serve in accordance with these Rules a notice of appeal or of abandonment of his appeal within fourteen days from the date of his conviction and sentence, the Registrar shall report such omission to the Court, who may, after notice in Forms 9 and 10 in Appendix C has been given to the appellant and his sureties, if any, order an estreat of the recognizances of the appellant and his sureties, and the manner of such estreat shall be that provided for estreating recognizances under the law of Guyana, and may issue a warrant for the apprehension of the appellant and may commit him to prison in default of payment of his fine, or may make such other order as it may think right.

(4) 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.

17. (1) Where, on the conviction of a person, the Judge of the Court below makes an order condemning such person to the payment of the whole or of any part of the costs and expenses of the prosecution for the offence of which he shall be convicted out of any moneys taken from such person on his apprehension or otherwise or where such Judge lawfully makes on the conviction of any person before him any order for the payment of money by such convicted person or by any other person or any order affecting the rights of property of such convicted person, the operation of such orders shall in any of such cases be suspended until the expiration of fourteen days after the day on which any of such orders were made. In cases where notice of appeal or notice of application

for leave to appeal is given within fourteen days from and after the date of the verdict against such person such orders shall be further suspended until the determination of the appeal against the conviction in relation to which they were made. The Court may by order annul any order to which this rule refers on the determination of any appeal under the Act or may vary such order, and such order, if annulled, shall not take effect, and, if varied, shall take effect as so varied. The Registrar shall keep a record of any orders to which this rule refers.

Suspension of disqualifications consequent on conviction.

(2) Where upon the conviction of any person of any offence, the trial court orders that any disqualification, forfeiture or disability attach to such person, and notice of appeal or notice of application for leave to appeal is given in respect of such conviction, sentence or order, the Court may upon application suspend such disqualification, forfeiture or disability until the determination of the proceedings upon appeal.

Judge's direction as to property of convicted person pending appeal.

(3) Where the Judge of the Court below makes any such order on a person convicted before him, as in this rule mentioned, he shall give such directions as he thinks right as to the retention, by any person, of any money or valuable securities belonging to the person so convicted and taken from such person on his apprehension or of any money or valuable securities at the date of his conviction in the possession of the prosecution for the period of fourteen days or in the event of an appeal until the determination thereof by the Court. The Registrar shall keep a record of any directions given under this rule.

Judge's directions as to securing payment of money by

(4) When the Judge of the Court below on the conviction of a person before him makes any order for the payment of money by such person or by any other person upon such conviction, and, by reason of this rule, such order

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convicted
person
pending
appeal.

would otherwise be suspended, such Judge may, if he thinks right, so to do, direct that the operation of such order shall not be suspended unless the person on whom such order has been made shall, in such manner and within such time as the said Judge shall direct, give security by way of undertaking or otherwise for the payment to the person in whose favour such order shall have been made of the amount therein named. Such security may be to the satisfaction of the person in whose favour the order for payment shall have been made or of any other person as such Judge shall direct.

Suspension of
order of
destruction or
forfeiture of
property.

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

Suspension of
proceedings or
claims conse-
quent on
conviction.

(6) Where, upon conviction of any person of any offence, any claim may be made or any proceedings may be taken under any rule, regulation, written law, act or other law against such person or any other person in consequence of such conviction, such proceedings shall not be taken until after the period of fourteen days from the date on which the verdict against such person was returned or in the event of an appeal under the Act to the Court until the determination thereof.

Period of
suspension of
order under
section 15 of
Act.
c. 90:01

(7) The time during which an order of restitution or the operation of section 25(1) of the Sale of Goods Act is suspended under section 15 of the Court of Appeal Act, shall commence to run from the day on which the verdict of the jury was returned, and, in cases where notice of appeal or

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notice of application for leave to appeal is duly given within fourteen days after such day, the period of suspension of such order or of the operation of the subsection shall continue until the determination of the appeal.

Person affected may appear.

(8) Any person affected by any orders which are suspended under this rule may, with the leave of the Court, be heard on the final determination of any appeal, before any such orders are varied or annulled by the Court.

Procedure on application for Bail. Right of Sureties. Estreat of Recognizances.

Appellant and surety's recognizances before whom to be taken.
[R.20/12/1960]

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

Appellant and prison officer to receive notice of terms of bail.

(2) The Registrar shall notify the appellant and the officer in charge of the prison within which he is confined, of the terms and conditions on which the Court shall admit the appellant to bail under the Act.

Form of recognizances
Criminal
Forms 11 and 12.
Registrar on receiving

(3) In the event of the Court not making any special order or giving any special directions under this rule, the recognizances of the appellant and of his surety or sureties (if any) may be taken before a Magistrate or Justice of the Peace and shall be sent to the Registrar.

(4) The recognizances provided for in this rule shall be in Forms 11 and 12 in Appendix C.

(5) The Registrar, on being satisfied that the recognizances of the appellant and his surety or sureties (if

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recognizances
in due form to
notify officer
of prison to
release
appellant.
Criminal Form
13.

Warrant for
appellant on
bail at hearing
of his appeal.

Varying order
for bail.

Power to
revoke order
for bail.
Criminal Form
14.

any) are in due form and in compliance with the order of the Court admitting the appellant to bail shall send in Form 13 in Appendix C a notice to the officer of the prison in which the appellant shall then be confined. This notice, when received by the said officer, shall be a sufficient authority to him to release the appellant from custody.

(6) An appellant who has been admitted to bail shall be personally present at 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 14 in Appendix C:

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

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

(8) At any time after an appellant has been released on bail, the Court may, if satisfied that it is in the interest of justice so to do, revoke the order admitting to bail, and issue a warrant in Form 14 in Appendix C for his apprehension and order him to be committed to prison.

(9) The Court may on any breach of the recognizances of the appellant if it thinks right so to do, order such recognizances and those of his surety or sureties to be estreated.

[Subsidiary]
O.3

The Court of Appeal Rules

Provisions for
sureties
discharging
their
obligations.

(10) Where the surety or sureties for an appellant under the Act, upon whose recognizances such appellant has been released on bail by the Court suspects or suspect that the said appellant is about to depart out of Guyana, or in any manner to fail to observe the conditions of his recognizances on which he was so released, such surety or sureties may lay an information before a magistrate acting in and for the magisterial district in which the said appellant is, or is by such surety or sureties believed to be, or in which such surety or sureties may then be and such magistrate shall thereupon issue a warrant for the apprehension of the said appellant.

How appellant
on bail to be
dealt with on
arrest at
instances of
sureties.

(11) The said appellant shall, on being apprehended under the said warrant, be brought before the court in and for which the said magistrate acts, before whom the said information was laid, or some other magistrate's court specified in the said warrant. The said court shall, on verification of the said information by oath of the informant, by warrant of commitment, commit him to the prison to which person charged with indictable offences before such court are ordinarily committed. The officer in charge of such prison shall, unless such prison was the prison from which the appellant was released on bail under these Rules, notify the Prison Authority of such commitment, as in this rule mentioned.

Where the appellant is by such court committed to a prison which was not the prison from which he was released on bail after his conviction the Prison Authority, subject to any order of the Court, may transfer him to the prison from which he was so released.

Arrest and
commitment
of appellant to
be notified to
Registrar by
clerk.

(12) The clerk of the said court on the commitment of any such appellant, shall forthwith notify the Registrar to that effect, and forward to him the said information and the deposition in verification thereof taken before such court together with a copy of the said warrant of commitment.

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Court of Appeal

[Subsidiary]
O. 3

The Court of Appeal Rules

Officer in charge of prison on commitment of appellant to notify Registrar.

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

Abandonment of appeal.

Criminal Form 15.

Criminal Form 16

Varying order of restitution of property.

19. (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 15 in Appendix C 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 authorised to sign notices under rule 3 of this order, the Registrar shall give notices thereof in Form 16 in Appendix C to the respondent, the Prison Authority, and in the case of an appeal against a conviction involving a sentence of death, shall in like manner give notice to the Secretary to the Office of the President, for the information of the President or the Officer for the time being administering the Government of Guyana.

Determination of Appeal

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

[Subsidiary]
O.3

The Court of Appeal Rules

Court of an appeal against the conviction on which such order of restitution has been made, be entitled to be heard by the Court before any order annulling or varying such order of restitution is made.

Judgments of
the Court.
[R. 20/12/1960]

21. (1) Unless the Court direct to the contrary in cases where, in the opinion of the Court, the question for decision is a question of law 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.

(2) At a sitting of the Court for the purpose of delivering a single judgment, the Court may be constituted by one, two or three judges.

Notification of
final determi-
nation of
appeals
Criminal
Forms 17 to 20.

22. (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 Prison Authority notice of such determination in Forms 17 to 20 in Appendix C.

Notification of
appeals in
capital cases.

(2) In any case of an appeal in relation to a conviction involving a sentence of death, the Registrar shall on receiving the notice of appeal or of any application for leave to appeal, send copies thereof to the Secretary to the Office of the President for the information of the President or the Officer for the time being administering the Government of Guyana, and to the Prison Authority, and on the final determination of any such appeal by the Court shall forthwith notify the appellant, the President, for the information of the President, or the Officer for the time being administering the

Notification of
result of
appeal.

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O. 3

The Court of Appeal Rules

Government of Guyana, the respondent and the Prison Authority thereof.

Entry of
decision of
Court on
Records
Criminal Form
20.

23. The Registrar at the final determination of an appeal shall enter on the records of the Court below the decision of the Court in relation thereto and also any orders or directions made or given by the Court in relation to such appeal or any matter connected therewith.

Restrictions on
issue of
certificate of
conviction.

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

Procedure as to Witnesses before Court and their examination before Examiner

Attendance of
witness before
the Court.

25. (1) Where the Court has ordered any witness to attend and be examined before the Court an order in Form 21 in Appendix C shall be served upon such witness specifying the time and place at which to attend for such purpose.

Application to
Court to hear
witnesses
Criminal Form
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 in Form 22 in Appendix C.

Order appointing
examiner.

(3) Where the Court 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.

[Subsidiary]
O.3

The Court of Appeal Rules

Furnishing examiner with exhibits, etc., necessary for examination.

(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.

Notification of date of examination.

(5) When the examiner has appointed the day and time for the examination he shall request the Registrar to notify the appellant or respondent and their legal representatives, if any, and when the appellant is in prison, the Prison Authority thereof. The Registrar shall cause to be served on every witness to be examined a notice in Form 23 in Appendix C.

Criminal Form 23.

Evidence to be taken on oath.

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

Deposition of witness, how to be taken
Criminal Form 24.

(7) The examination of every witness shall be taken in the form of a deposition and unless otherwise ordered shall be taken in private. The caption in Form 24 in Appendix C shall be attached to any such Form 24.

Expenses of witnesses before examiner.

(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.

Presence of parties at examination of witnesses.

(9) The appellant and his legal representative (if any) and the respondent shall be entitled to be present at and take part in any examination of any witness to which this rule relates.

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[Subsidiary]
O. 3

The Court of Appeal Rules

Proceedings
on reference.

26. When an order of reference is made by the Court to a special commissioner the question to be referred, and the person to whom as a special commissioner the same has been referred, shall be specified in such order. The Court may in such order, or by giving directions as when it from time to time shall think right, specify whether the appellant or respondent or any person on their behalf may be present at any examination or investigation or at any stage thereof as may be ordered, and specify any and what powers of the Court may be delegated to such special commissioner, and may require him from time to time to make interim reports to the Court upon the question referred to him, and may, if the appellant is in custody, give leave to him to be present at any stage of such examination or investigation and give the necessary directions to the Prison Authority accordingly, and may give directions to the Registrar that copies of any report made by such special commissioner shall be furnished to the appellant and respondent.

Case stated under section 27 of the Act

Judge to
forward
special case to
Registrar and
copies to be
supplied to
appellant and
respondent.

These Rules to
apply to
convicted
persons where
case stated
under section
27 of the Act.

27. (1) The Judge of the Court below shall forward any case stated by him in pursuance of section 27 of the Act to the Registrar who shall on receiving the same send a copy of such case to the appellant and to respondent respectively.

(2) Where under the provisions of section 27 of the Act the Judge of the Court below states a case for the consideration of the Court, the person convicted shall for the purposes of these Rules be deemed to be an appellant who has appealed under section 12 of the under section Act, provided that in such case paragraph (2) of rule 28 of this Order shall not apply.

[Subsidiary]
O.3

The Court of Appeal Rules

Application of
following rule
to section 27 of
the Act.

(3) Where a case is stated or a question of law reserved for the consideration of the Court under section 27 of the Act, paragraphs (1) and (4) only of the following rule shall apply.

Duties of Registrar

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

28. Subject to the provisions of rule 28—

(1) The Registrar shall take all necessary steps for obtaining a hearing under Part III of the Act of any appeal or application, notice of which is given to him under that Part, and shall obtain and lay before the Court in proper form all documents, exhibits, and other things relating to the proceedings in the court before which the appellant or applicant was tried which appear necessary for the proper determination of the appeal or application.

(2) If it appears to the Registrar that any notice of appeal against a conviction, purporting to be on a ground of appeal which involves a question of law alone, does not show any substantial ground of appeal, the Registrar may refer the appeal to the Court for summary determination, and, where the case is so referred, the Court may, if they consider that the appeal is frivolous and vexatious, and can be determined without adjourning the same for a full hearing, dismiss the appeal summarily, without calling on any persons to attend the hearing or to appear for the state thereon.

(3) The Registrar shall furnish the necessary forms and instructions in relation to notices of appeal or notices of application under Part III of the Act to any person who demands the same, and to officers of the courts, the Prison Authority and such other officers or persons as he thinks fit, and the Prison Authority shall cause those forms and instructions to be placed at the disposal of prisoners desiring to appeal or to make any application under Part III of the Act and shall cause any such notice given by a prisoner in

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[Subsidiary]
O. 3

The Court of Appeal Rules

his custody to be forwarded on behalf of the prisoner to the Registrar.

(4)The Registrar shall report to the Court or some Judge thereof any case in which it appears to him that, although no application has been made for the purpose, a counsel ought to be assigned to an appellant under the powers given to the Court by Part III of the Act.

Custody of
exhibits
pending
determina-
tion of appeal.

29. (1) In this rule the term "exhibits" includes any documents, exhibits, or other things connected with proceedings at a trial.

(2) The provisions of any law in operation in Guyana relating to the custody of exhibits at the trial of any person before an inferior court pending the determination of an appeal in such proceedings to the Full Court of Guyana—

- (a) shall continue to apply to the custody of such exhibits in all cases where an appeal lies under section 31 of the Act until the expiration of fourteen days from the determination of the Full Court;
- (b) shall *mutatis mutandis* apply to the custody of such exhibits after the conviction of a person entitled to appeal under section 12 of the Act until the expiration of fourteen days from the date of conviction; and
- (c) in cases where notice of appeal or leave to appeal to the Court is given within fourteen days after such determination or conviction (as the case may be), shall *mutatis mutandis* apply until the determination of the appeal by the Court.

[Subsidiary]
O.4

The Court of Appeal Rules

[R. 20/12/1960]

ORDER IV

**APPEALS FROM FULL COURT'S ORDER ON APPEAL
FROM INFERIOR COURTS IN ANY CRIMINAL CAUSE
OR MATTER**

Institution of appeals under section 31 of the Act.

[R. 20/12/1960]

1. The provisions of rules 1, 6 and 15 of Order III shall apply to a person desiring to appeal under section 31 of the Act to the Court from an order of the Full Court made on appeal from an inferior court save that the references to Forms 1 and 2 in Appendix C shall be deemed to be references to Forms 25 and 26 respectively in that Appendix.

Certificate of Registrar of Full Court granting leave to appeal.

2. Where leave to appeal to the Court is granted by the Full Court, the Registrar shall so certify and such certificate shall be attached to the notice of appeal.

Ascertainment of date of order of Full Court.

3. In this Order, the date of an order of the Full Court shall be deemed to be the date on which judgment is delivered or the order made.

Time limit for appealing.

4. The time within which a person desirous of appealing shall give notice of appeal or notice of his application for leave to appeal to the Court shall commence to run from the day of the date of the Order of the Full Court.

Notice of application for extension of time for appealing Criminal Form 26.

5. An application to the Court for an extension of time within which notices may be given, shall be in Form 26 in Appendix C. Every person making an application for such extension of time, shall send to the Registrar, together with the proper form of such application, a form, duly filled up, of notice of appeal, or of notice of application for leave to appeal, appropriate to the ground or grounds upon which he desires to question the order of the Full Court.

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[Subsidiary]
O.4

The Court of Appeal Rules

Signature and
service of
notices.

6. (1) The provisions of rule 3 of Order III shall apply to an appeal under section 31 of the Act save that the first sentence of sub-rule (1) shall not apply when the appeal is brought by the prosecution.

Criminal
Forms 25 and
26.

(2) A Prosecutor-Appellant shall serve copies of any notices in Form 25 or 26 issued by him on the Respondent; and the Registrar shall send to the Prosecutor-Respondent copies of any such notices delivered by a Defendant-Appellant.

Record of
appeal.

7. (1) The Registrar when he has received a notice of appeal or a notice of application for leave to appeal, or a notice of application for extension of the time within which under these Rules or the Act such notice shall be given, shall prepare four copies of the proceedings in the Court below; and shall also obtain the original exhibits in the case as far as practicable and relevant to the appeal.

(2) For the purposes of this rule, copies of proceedings shall contain—

- (a) the record on appeal to the Full Court and notes of any fresh evidence admitted at the hearing of the appeal insofar as such records and notes are relevant to the grounds of appeal;
- (b) the order of the Full Court and the reasons given by the Judges thereof.

Application of
Rules 11, 13
and 14 or
Order III.

8. The following rules contained in Order III shall apply in the case of appeals brought under section 31 of the Act—

Rule 11—(Copies of documents required by appellant).

Rule 13—(Legal Aid).

[Subsidiary]
O.4

The Court of Appeal Rules

Presence of
appellant at
proceedings in
the Court.

Rule 14—(Applications to a single Judge).

9. (1) A Defendant-Appellant, notwithstanding that he is in custody, shall be entitled to be present, if he desires it, on the hearing of his appeal, except where the appeal is on some ground involving a question of law alone, but in that case and on an application for leave to appeal and on any proceedings preliminary or incidental to an appeal, he shall not be entitled to be present, except where the Court gives him leave to be present.

(2) The power of the Court to pass any sentence under the Act may be exercised notwithstanding that the appellant is for any reason not present.

(3) When an appeal is brought by the prosecution it shall be the duty of the Registrar to ascertain whether the appellant desires to be present when the Court considers his appeal.

Notification of
application if
granted.

10. (1) Where any application is made by the prosecution and is granted in the absence of the respondent, the prosecution shall serve notice on the respondent of the order of the Court or Judge and where any application is made by a defendant and is granted in the absence of the prosecution, the defendant shall serve notice of such order on the prosecution unless he is in custody in which case the Registrar shall notify the prosecution of such order.

(2) Where leave to appeal is granted to a defendant-appellant the Registrar, if the prosecutor is a private person, shall enquire if he intends to defend the appeal and, if the answer is in the negative, the Registrar shall so inform the Director of Public Prosecutions.

Bail.

11. (1) Where any person who has appealed to the Full Court is in custody and intimates to a Judge of that Court that

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O.4

The Court of Appeal Rules

he is desirous of appealing to the Court against the order of the Full Court, such Judge may, if he thinks right so to do, order such person forthwith to enter into recognizances in such amount, and with or without sureties in such amount, as such Judge may think right, to prosecute his appeal.

(2) If an appellant to whom paragraph (1) of this rule applies does not serve in accordance with these Rules a notice of appeal or of abandonment of his appeal within fourteen days from the order of the Full Court, the Registrar shall report such omission to the Court, who may after due notice to the appellant or his sureties, if any, order an estreat of the recognizances of the appellant and his sureties, and the manner of such estreat shall be that provided for estreating recognizances under the law of Guyana, and may issue a warrant for the apprehension of the appellant and may commit him to prison.

(2) Where bail is granted by the Court or by the Full Court the provision of rule 18 of Order III shall apply:

Provided that in paragraph (8), reference to the Court before which he was convicted shall be deemed to be a reference to the Full Court.

Temporary
suspension of
orders.

12. (1) Where any order of an inferior court is made of the kind referred to in paragraphs (1) and (5) of rule 17 of Order III and such order has been suspended pending an appeal to the Full Court, such suspension shall continue for fourteen days after the order of the Full Court made on such appeal. In case leave to appeal to the Court is granted within such fourteen days, such order shall be further suspended until the determination of the appeal to the Court. The Court may by order annul any order to which this rule refers on the determination of any appeal under the Act or may vary such order, and such order, if annulled, shall not take effect, and, if varied, shall take effect as so varied.

(2) Where the Full Court itself on affirming the order of an inferior court orders that any disqualification, forfeiture or disability attach to a party to an appeal from the order of the Full Court the Court may upon application suspend such disqualification, forfeiture, or disability until the determination of the proceedings upon appeal.

(3) In any appeal, where any order is suspended as provided by paragraph (1) of this rule, the Judge of the Full Court shall give the directions specified in paragraph (3) of rule 17 of Order III and may direct that such order be not suspended unless the person to whom such order refers shall give security as prescribed in paragraph (4) of rule 17 of Order III.

(4) No proceedings shall be taken on claims under any law against a party to any appeal, under section 31 of the Act which are based on the validity of the order of the Full Court from which the appeal is brought for the period of fourteen days from the order of the Full Court and in case leave to appeal to the Court is granted within such fourteen days until the determination thereof.

(5) The provisions of paragraphs (7) and (8) of rule 17 of Order III shall apply to an appeal under section 31 of the Act save that in paragraph (7) thereof for the words "the verdict of the jury was returned" shall be substituted the words "the order of the Full Court was made".

Varying order
of restitution
of property.

13. Any person in whose favour or against whom an order of restitution has been made in any criminal cause or matter shall, on the hearing of an appeal brought in such cause or matter under section 31 of the Act, be entitled to be heard by the Court before any order annulling or varying such order of restitution is made.

Application of
Rules 19, 22
(1), 23, 25, 26

14. The following rules contained in Order III shall apply in case of appeals brought under section 31 of the Act-

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[Subsidiary]
O.4

The Court of Appeal Rules

and 28 of
Order III.

Rule 19 – (Abandonment).

Rule 22 (1) and 23 – (Notification of result of appeal).

Rules 25 and 26 – (Taking of evidence before the Court, an examiner or a special commissioner).

Rule 28 (1), (3) and (4) – (Duties of Registrar).

[R. 20/12/1960
1/1983]

APPENDIX A**CIVIL FORMS****INDEX TO FORMS**

Form No.	Appeal Rules No.	Description of Form
1	Order II, r.1(1)	Notice of Appeal.
2	" 2(1)	Notice of motion for special leave to appeal.
2A	" 2(3)	Application for leave to appeal by respondent.
3	" 5(1)	Notice by Respondent of intention to contend that decision of Court below be varied.
4	" 7(1)	Notice by Respondent of intention to rely upon preliminary objection.
5	" 8(1)	Summons to parties by Registrar to settle record.
6	" 13(l)(i) (b)	Affidavit of Service of Notice of Appeal.
6A	" 12A	Notice to parties of Readiness of documents to be included in Record.
7	" 13(2)	Notice to the Respondent of filing of Record.
8	" 13(3)	Notice to Parties of Despatch of Record.
9	" 14	Notice of Withdrawal of Appeal.
10	" 20(4)	Bond for Costs on Appeal.
11	" 28	Certificate of the Order of the Court.
12	" 32(2)	Notice of Taxation.

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Court of Appeal

[Subsidiary]

The Court of Appeal Rules

O. II, r. 1(1).

CIVIL FORM 1

IN THE COURT OF APPEAL
APPELLATE JURISDICTION

NOTICE OF APPEAL

Guyana

Civil Appeal No.....of 20.....

Between

.....(Plaintiff/Defendant)* Appellant(s)
and
.....(Plaintiff/Defendant)*
Respondent(s)

TAKE NOTICE that the (Plaintiff/Defendant) Appellant being dissatisfied with the decision/that part of the decision* more particularly stated in paragraph 2 hereof of the.....(Court).....

contained in the judgment order/* ofdated the
.....
day

of.....20 ...doth hereby appeal to the Court of Appeal upon 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 including his own of the persons directly affected by the appeal are those set out in paragraph 5.

1. (*Insert here whole or part of decision of the low court complained of.*)

2. Grounds of Appeal.

(1)

(2)

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Court of Appeal

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The Court of Appeal Rules

(3), etc.

4. (*Insert here the relief sought from the Court of Appeal.*)

5. Person directly affected by the appeal:

Name

Address

(1)

(2)

(3), etc.

DATED this.....day of20....

.....
Appellant(s)

* Strike out words inapplicable.

If appealing whole decision insert "whole decision"

O. II, r. 2(1).

CIVIL FORM 2

**IN THE COURT OF APPEAL
APPELLATE JURISDICTION**

NOTICE OF MOTION FOR SPECIAL LEAVE TO APPEAL

Guyana

Civil Appeal No.....of 20....

Between

.....(Plaintiff/Defendant)* Appellant (s)
and
.....(Plaintiff/Defendant)* Respondent(s)

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Court of Appeal

[Subsidiary]

The Court of Appeal Rules

TAKE NOTICE that the Court of Appeal atwill be moved on theday of20....ato'clock in the forenoon or as soon thereafter as counsel can be heard on the hearing of an application for special leave to appeal against the decision of the.....(Court)
.....given on the..day of.20.....

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

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

Appellant or his Counsel

To
The Registrar
Court of Appeal
And †.....

*Strike out of words inapplicable.

†Insert name of respondent.

O. II, r. 2(3)

CIVIL FORM 2A

**IN THE COURT OF APPEAL
APPELLATE JURISDICTION**

APPLICATION FOR LEAVE TO APPEAL BY RESPONDENT

Guyana
Civil Appeal No..... of 20....

Between

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

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

TAKE NOTICE that upon the hearing of the application

for leave to appeal the Respondent herein intends to apply for leave to appeal and to contend that the decision of the (Court below) dated the day of.....20.....should be varied as follows:†

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

- 1.
- 2.
- 3, etc.

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

.....
Respondent(s)

To.....(Appellant)
And to the Registrar,
Supreme Court

*Strike out words inapplicable

†State the variation which will be asked for.

O. II, r. 5(1).

CIVIL FORM 3

**IN THE COURT OF APPEAL
APPELLATE JURISDICTION**
**NOTICE BY RESPONDENT OF INTENTION TO CONTEND THAT
DECISION OF COURT BELOW BE VARIED**

Guyana
Civil Appeal No.....of 20...

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

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Court of Appeal

[Subsidiary]

The Court of Appeal Rules

and

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

TAKE NOTICE that upon the hearing of the above appeal the Respondent herein intends to contend that the decision of the (*Court below*) dated the.....day of.....20.....should be varied as follows—†

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

1.

2.

3, etc.

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

..... Respondent(s)

To..... (Appellant)
and to Registrar,
Supreme Court

* Strike out words inapplicable,

†State the variation which will be asked for.

O. II, r. 7(1).

CIVIL FORM 4

IN THE COURT OF APPEAL
APPELLATE JURISDICTION

NOTICE BY RESPONDENT OF INTENTION TO RELY UPON
PRELIMINARY OBJECTION

LAWS OF GUYANA

Court of Appeal

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[Subsidiary]

The Court of Appeal Rules

Guyana

Civil Appeal No.....of 20....
Between
.....(Plaintiff/Defendant)* Appellant(s)
and
.....(Plaintiff/Defendant)* Respondent(s)

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

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

- 1.
- 2.
- 3, etc.

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

.....(Plaintiff/Defendant)*

Respondent(s)

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

*Strike out words inapplicable.

O. II, r. 8(1)

CIVIL FORM 5

IN THE COURT OF APPEAL

APPELLATE JURISDICTION

SUMMONS TO PARTIES BY REGISTRAR TO SETTLE
RECORD

Guyana
Civil Appeal No.....of 20

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Court of Appeal

[Subsidiary]

The Court of Appeal Rules

Between
.....(Plaintiff/Defendant)*
Appellant(s)
and
.....(Plaintiff/Defendant)*
Respondent(s)

TAKE NOTICE that all parties concerned are required to attend before me at the Registry of the Supreme Court at on the.....day of.....20...at the hour ofin the.....noon to settle the record of appeal herein.

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

.....

Registrar

Supreme Court

To:

*Strike out words inapplicable.

O. II, r. 13(1) (i)
(b).

CIVIL FORM 6

IN THE COURT OF APPEAL APPELLATE
JURISDICTION

AFFIDAVIT OF SERVICE OF NOTICE OF APPEAL

Guyana
Civil Appeal No.....of 20....

Between
.....(Plaintiff/Defendant)*
Appellant(s)
and
.....(Plaintiff/Defendant)*
Respondent(s)

I,.....of.....(occupation) do make oath and say—
That notice of appeal in the above appeal filed herein on the
day of 20....., was
duly served upon.....the Respondent
herein, (here state mode of service).....on the
day of

.....20.....in accordance with the Court of Appeal
Rules.

Sworn to at the.....
(address)
on the day of.....20....}

Before me
Commissioner of Oaths to Affidavits

This affidavit is filed on behalf of.....

*Strike out words inapplicable

**IN THE COURT OF APPEAL
APPELLATE JURISDICTION**

**NOTICE TO PARTIES OF READINESS OF DOCUMENTS TO BE
INCLUDED IN RECORD**

Guyana

LAWS OF GUYANA

114 Cap. 3:01

Court of Appeal

[Subsidiary]

The Court of Appeal Rules

Civil Appeal No. of20

Between

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

and

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

TAKE NOTICE that the documents to be included in the record are ready and may be obtained.

DATED this day of 20

Registrar

Supreme Court

To the Appellant (s)

To the Respondent(s)

O. II, r. 13(2)

CIVIL FORM 7

**THE COURT OF APPEAL
APPELLATE JURISDICTION**

NOTICE TO THE RESPONDENT OF FILING OF RECORD

Guyana

Civil Appeal No. of 20....

Between

.....(Plaintiff/Defendant)*

[Subsidiary]

The Court of Appeal Rules

Appellant(s)
and
.....(Plaintiff/Defendant)*
Respondent(s)

TAKE NOTICE that the above-named Appellant has
duly filed the record and documents required to be filed
pursuant to Order II rule 13(1) of the Court of Appeal Rules.

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

.....
Registrar
Supreme Court

*Strike out words inapplicable

O. II, r. 13(3)
(b).

CIVIL FORM 8
THE COURT OF APPEAL
APPELLATE JURISDICTION
NOTICE TO PARTIES OF DESPATCH OF RECORD

Guyana
Civil Appeal No.....of 20.....

Between

.....(Plaintiff/Defendant)*
Appellant(s)
and
.....(Plaintiff/Defendant)*
Respondent(s)

LAWS OF GUYANA

116 Cap. 3:01

Court of Appeal

[Subsidiary]

The Court of Appeal Rules

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

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

.....
Registrar
Supreme Court

To.....(Appellant(s))
And.....(Respondent(s))

*Strike out words inapplicable

O. II, r. 14.

CIVIL FORM 9

THE COURT OF APPEAL
APPELLATE JURISDICTION

NOTICE OF WITHDRAWAL OF APPEAL

Guyana

Civil Appeal No..... of 20....

Between

.....(Plaintiff/Defendant)*

.....
Appellant(s)
and

[Subsidiary]

The Court of Appeal Rules

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

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

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

.....
Appellant(s)

The Registrar
Supreme Court.
.....(Respondent(s))

*Strike out words inapplicable

O. II, r. 20(4).

CIVIL FORM 10

**THE COURT OF APPEAL
APPELLATE JURISDICTION**

BOND FOR COSTS ON APPEAL

Guyana
Civil Appeal No.....of 20.....

Know all men, by these presents, that we.....of.....andofandofare jointly and severally held and firmly bound to.....of.....in the sum of.....dollars of lawful money to be paid to the said.....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,

LAWS OF GUYANA

118 Cap. 3:01

Court of Appeal

[Subsidiary]

The Court of Appeal Rules

executors and administrators, firmly by the presents.

(Sgd.).....(Appellant)
.....(Surety)
.....(Surety)

DATED the.....day of.....in the year of Our Lord,
20.....

WHEREAS a suit is now depending in the Court
at.....wherein the above-bounden.....is.....and
the said.....is.....:

AND WHEREAS a judgment was given by the Court
therein, on the.....day of.....for the said.....and the
said.....has filed Notice Appeal from the said.....

AND WHEREAS it is by law provided that the party
appealing shall give security to the satisfaction of the
Registrar of the (Court below) 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.....and,
at the request of the said.....have agreed to enter
into this obligation for the purposes aforesaid:
Now the condition of this obligation is such, that if the said.....
shall duly prosecute the appeal and if the above-bounden,
and.....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 }

O. II, r. 28.

CIVIL FORM 11

**THE COURT OF APPEAL
APPELLATE JURISDICTION**

**CERTIFICATE OF THE ORDER OF THE COURT
Guyana**

Civil Appeal No.....of 20.....

Appeal from the.....of thedated
the.....day of20.....

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

v.

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

†.....

This appeal coming on for hearing on the.....day of

20 before.....in the presence of.....for
the Appellant(s), and.....for the Respondent(s).

I HEREBY CERTIFY that an Order was made as follows—

Given under my hand and the Seal of the Court this.....day
of.....20.....

.....

Registrar
Court of Appeal

*Strike out words inapplicable.

† Insert “President” or “Presiding Judge”.

LAWS OF GUYANA

120 **Cap. 3:01**

Court of Appeal

[Subsidiary]

The Court of Appeal Rules

O. II, r. 32

CIVIL FORM 12

**THE COURT OF APPEAL APPELLATE
JURISDICTION**

NOTICE OF TAXATION

Guyana

Civil Appeal No.....of 20

Between

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

and

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

TAKE NOTICE that the Bill of Costs of the.....herein,
will be taxed on.....the.....day of.....20....., at
the hour of.....o'clock in the.....noon.

Your absence notwithstanding.

DATED atthis.....day of20....

.....
Taxing Master

To the above-named Appellant of.....
and(Respondent) of.....

*Strike out words inapplicable

APPENDIX B

PART I

FEES OF COURT IN CIVIL APPEALS

*To be paid to the Registrar of the Supreme Court under
Order II, rule 29*

	\$.	c.
1. On filing notice of appeal against a final judgment or decision, entering the appeal for hearing and on judgment thereunder an inclusive fee of	75.00	
2. On filing respondent's notice of intention to contend that the decision of Court below be varied	10.00	
3. For entering a special case, case stated, point of law or demurrer for argument, entering same for hearing and on judgment thereunder an inclusive fee of	15.00	
4. On filing notice of appeal against an interlocutory order or decision, entering the appeal for hearing and on judgment thereunder an inclusive fee of	15.00	
5. On making any application not otherwise specifically provided for, and for filing judgment or order thereunder an inclusive fee of	10.00	
6. On filing bond to secure costs of appeal	10.00	

LAWS OF GUYANA

122 Cap. 3:01

Court of Appeal

[Subsidiary]

The Court of Appeal Rules

	\$ c.
7. On filing ever document or exhibit for which no special fee is provided	1.00
8. On taxation of bill of costs including certificate	10.00
9. On certifying any document as an office copy	5.00
10. If in a foreign language, the actual cost of making and examining the copy, and, in addition, for making and sealing the copy as an office copy	10.00
11. For an office copy of a plan, map section, drawing, photograph or diagram, the actual of making and examining the copy, and, in addition for making and sealing the copy as an office copy	10.00
12. For a copy for reason for judgment of a justice of a court, per folio of 100 words But with a minimum fee for one set of reasons, of	2.00
But with a maximum fee for one set of reasons, of	10.00
60.00	60.00
13. For a copy of a report of a Registrar per folio of 100 words	2.00
14. On perusing and allowing by a Judge or Registrar of any bond	5.00
15. On sealing a writ of subpoena not exceeding three persons	5.00
16. For a certificate of a Registrar for which no special fee is provided	5.00

[Subsidiary]*The Court of Appeal Rules*

17. On obtaining appointment for examination of a witness before an officer of the Court or other person	5.00
18. In respect of every witness examined by an officer or other person in his office, for each hour or part of an hour	5.00
19. For an examination of witness away from the office of the examiner, the reasonable travelling and other expenses in addition to fee chargeable under item 23	
20. For making every search	5.00
21. For an officer copy of any document filed in the Registry per folio of one hundred words, for the first folio	2.00
For every other folio or part thereof	2.00

PART II

**FEES PAYABLE TO COURT FROM
WHICH
APPEAL IS BROUGHT UNDER ORDER
II, RULE 29**

1. On office copies of any document to be included in record – including judges' notes of evidence, for the first folio to consist of 100 words	2.00
For every other folio or part thereof	2.00
2. On certifying any document as an office copy	5.00
3. Transcript of shorthand writer's notes such fee as may be determined by the Registrar.	5.00

LAWS OF GUYANA

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Court of Appeal

[Subsidiary]

The Court of Appeal Rules

The fees to be taken in the offices of the Marshal or a Deputy Marshal are the same as those which, by the practice of the Supreme Court of Guyana, are required to be taken by the Marshal or Deputy Marshal in respect of a like proceeding or act in a cause pending in that Court.

PART III LEGAL PRACTITIONERS' FEES IN CIVIL APPEALS

Schedule of Allowances

(Save in respect of item 19, a folio shall consist of one hundred words of figures or parts thereof; four figures to count as a word.

<i>Instructions</i>	\$	c
1. Instruction to file notice of appeal (including grounds of appeal)	20.00	
2. Instructions to file notice of intention to contend that the decision be varied (including grounds on which respondent will rely)	25.00	
3. Instruction to file any application relative to an appeal	20.00	
4. Instructions to appear for the respondent to any application to an appeal	20.00	
5. Instructions to file case stated or special case having regard to the amount involved in the appeal, its nature, importance and difficulty, the interest of the parties, the		

other costs to be allowed, the general conduct of the proceedings and all other relevant circumstances	25.00
6. Instructions for affidavit and for any other interlocutory matter, the charge for which is not specified in these scales	10.00
7. Instructions for brief to counsel to advise or to settle pleadings. This will be allowed where justifiable under the circumstances of the parties case	15.00

Drawing notices of appeal and other documents

8. Drawing notice of appeal including grounds of appeal	\$5.00 per folio for the first 20 folios \$3.00 per folio. (the minimum charge under these items shall be \$15.00 save that the minimum shall not apply in the case of verifying affidavits of service and other formal affidavits.)
9. Drawing notice of motion	
10. Drawing a case stated	
11. Drawing notice of intention to contend that decision be varied	
12. Drawing any order	
13. Drawing any petition, affidavit, any notice, except a formal summons, further particulars or request for further particulars	
14. Drawing any writs of execution, arrest or attachment and any other important documents not otherwise provided for	
15. Drawing index to record or any index to brief	

LAWS OF GUYANA

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Court of Appeal

[Subsidiary]

The Court of Appeal Rules

	\$ c
16. Drawing any subpoena or any formal notice - each document	5.00
17. Drafting a letter or telegram	10.00
If more than one folio, for each additional folio	2.00
Copy to keep, where necessary, per folio	1.00
18. Drawing Bill of Costs, per folio	5.00

NOTE: A folio is to comprise 72 words, every figure comprised in a column or authorised to be used being counted as one word.

Copying

19. Copies of the record on appeal, if prepared by the appellant's counsel	fee for the first copy and such fee for additional copies as the Registrar may consider reasonable.
20. Copies of any matter required for the Court, for counsel, for the attorney or for service for any other necessary purpose, for the first copy per folio	2.00
For each additional copy per folio	1.00

Attendances

21. At the Registry (clerk's attendance)
22. On the Registrar in chambers at the rate per hour or part hereof (to be increased at the discretion of the Taxing Officer)
23. On an opposite party, if necessary and proper the like as under the preceding items
24. On a Judge in Chambers- at the rate per

[Subsidiary]

The Court of Appeal Rules

hour or part thereof (to be increased at the discretion of the Taxing Officer)	
25. In the Court where matter listed but not reached, on any day for each hour or part thereof necessarily and justifiably spent	
26. Attendance on receipt of letter or telegram	
27. Attendance on receipt of formal acknowledgement	
28. Other merely formal attendances including attendances to file, to swear affidavits or to bespeak copies	
29. Attendances not purely formal and including attendances on witnesses and others to obtain statements and other materials for brief on trial for use at trial but not including attendances to represent parties at hearing in Court or chambers;	
Such fee as may be reasonable according to circumstances with a minimum fee in respect of each hour or part thereof	20.00
30. Attendance to inspect or produce pursuant to notice per hour or part thereof	20.00
31. Attendance before a Registrar in chambers on taxation matters for each hour or part thereof	20.00
32. Attending at hearing as counsel of an appeal or any other matter in court for each day as may be necessary such sum as may, in the opinion of the Taxing Officer be reasonable not being less than	75.00

LAWS OF GUYANA

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Court of Appeal

[Subsidiary]

The Court of Appeal Rules

33. Attending Court to hear reserved judgment per hour	25.00
34. Attendance upon a shorthand writer to obtain copy of transcript for appellate purposes	10.00
35. Attending to issue writ of execution	10.00
36. Any attendance not specially provided for	10.00
37. Journeys necessarily undertaken. An allowance for the time necessarily occupied on the journey and, in the case of a journey to attend the trial, to include an allowance for the time which, in the opinion of the Taxing Officer, a legal representative is necessarily detained at the place of trial. Such sum per day, including Sundays, as the Taxing Officer may think reasonable, not to exceed	100.00
38. Disbursements for fares, hotel and transport expenses are also to be allowed, but not for normal out of pocket expense other than board and lodging	
39. The disbursement allowed for travelling by motor car shall be at the rate of 24 cents per mile provided the total distance travelled exceeds three miles. For journeys under three miles no allowance shall be made for travelling by motor car.	
40. Agency correspondence if shown to the satisfaction of the Taxing Officer that such correspondence has been necessary and reasonable. Such sums as would be allowed under items 18 or 40	

41. Letters, messages, etc. Such fee including letters not otherwise allowed between party and party as the Taxing Officer may consider reasonable not exceeding

Perusals

Perusals of any necessary document for the first 10 folios – per folio

For each subsequent folio

Disbursements

42. All Court fees, counsel's fees and other fees and payments which, in the opinion of the Taxing Officer have been properly paid, shall be allowed.

Maps, Plans and Models

43. The Taxing Officer may allow such fees for maps, plans and models for use at the trial or hearing as he considers reasonable.

Marshal and Bailiff's fees

44. There shall be paid to Marshals and Bailiffs such fees and travelling and subsistence allowances as are by law prescribed for the service or execution of an summons. Warrant, writ, or other process of the Supreme Court of Guyana.

LAWS OF GUYANA

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Court of Appeal

[Subsidiary]

The Court of Appeal Rules

PART IV WITNESSES', INTERPRETERS', SPECIAL COMMISSIONERS' AND EXAMINERS' FEES UNDER ORDER II, RULE 31

Subsistence Allowances payable to Witnesses

1. Subject to the provisions of this Part, a subsistence allowance shall be paid to a witness at the following rate:—
 - (a) in the case of a professional man or a person who is earning at a rate in excess of \$4,800.00 per annum, \$25.00 per hour but not exceeding \$125.00 per day;
 - (b) in all other cases at the rate prescribed by the rules of the Supreme Court of Guyana.
2. No allowance shall be paid in any criminal proceeding to a witness who is an officer in the public service of Guyana other than an hourly or daily paid employee.
3. A subsistence allowance shall only be paid to a witness in respect of the period during which he is necessarily detained and which is reasonably spent in travelling to and from the place where the Court is sitting.
4. No additional subsistence allowance shall be payable to a witness who gives evidence in more than one case on the same day.
5. By order of the Court a qualifying fee may be allowed to a witness in a proper case at the same rate as would be allowed to him for attending the Court.

Remuneration of Interpreters

6. Interpreters shall be paid at the rate prescribed by the rules of the Supreme Court of Guyana.

No remuneration will be paid in any criminal proceeding to an interpreter who is a member of the Guyana Public Service.

The Registrar may increase the scales of remuneration prescribed in this Part if, in his opinion, strict adherence to such scales would cause undue hardship.

*Travelling Allowances payable to
witnesses, special Commissioners and Assessors*

7. Subject to the provisions of this Part, a witness, special commissioner or assessor who travels by air, rail or other public conveyance shall be entitled to a refund of the actual fare paid by him.

8. If the journey cannot be reasonably performed by air, rail or other public conveyance, a witness, special commissioner or assessor may use his own mode of transport and, in such case, shall be paid a travelling allowance similar to a rate paid to Government employees.

9. If a witness, special commissioner or assessor conveys another person who is a witness, special commissioner or assessor in or on his own conveyance, the rate of allowance payable to him in terms of paragraph 8 shall be increased by an additional 1.00 per mile or part thereof in respect of each person so conveyed.

10. A witness, special commissioner or assessor who travels in or on the conveyance of another person who is a witness, special commissioner or assessor shall not be entitled to any travelling allowance.

11. No travelling allowance shall be paid to a witness, special commissioner or assessor who resides within two

LAWS OF GUYANA

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Court of Appeal

[Subsidiary]

The Court of Appeal Rules

miles of the place at which the Court is sitting.

12. When two or more modes or routes of travelling are reasonably available to a witness, special commissioner or assessor the travelling allowance payable to such person shall be at the rate for travelling by the mode or route which entails the least cost.

13. When a witness, special commissioner or assessor travels by rail, the travelling allowance payable to him shall be for travel by such class as he might reasonably be expected to travel.

Remuneration of Special Commissioners and Assessors

14. A special commissioner or assessor shall be remunerated at the rate of \$5.00 per hour or part thereof, but his remuneration shall not exceed \$30.00 per day.

APPENDIX C

CRIMINAL FORMS

INDEX TO FORMS

Form No.	Appeals Rules No.	Description of Form
1	O. III, r. 1 & 15	Notice of Appeal or Application for leave to appeal against conviction or sentence under section 12 of the Court of Appeal Act.
2	" 1 & 6	Notice of Application for Extension of time within which to appeal.
3	" 2(1)	Judge's Certificate.
4	" 8(5)	Declaration verifying transcript of short-hand notes.
5	" 14	Notification of Appellant of a single Judge's decision.
6	" 14	Notice of Appeal by Appellant from refusal of a single Judge.
7	" 16(2)	Recognizance of Appellant sentenced to payment of a fine.
8	" 16(2)	Recognizance of Sureties for Appellant sentenced to a fine.
9	" 16(3)	Notice of breach of his recognizances to Appellant sentenced to a fine.
10	" 16(3)	Notice to Surety for Appellant of estreat of recognizances.

LAWS OF GUYANA

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Court of Appeal

[Subsidiary]

The Court of Appeal Rules

11	" 18(3)	Recognition of Bail of Appellant convicted on indictment.
12	" 18(3)	Recognition of Appellant's Sureties.
13	" 18(5)	Notice to Officer in Charge of Prisons to release Appellant on bail.
14	" 18(6) & (8)	Warrant for arrest of Appellant on bail.
15	" 19(1)	Notice of abandonment.
16	" 19(2)	Notification of abandonment of appeal.
17	" 22(1)	Notification to Appellant of result of application.
18	" 22(1)	Notice to authorities of result of application.
19	" 22(1)	Notification to Appellant of the result of his appeal.
20	" 22(1) & 23(1)	Notice to authorities of result of appeal.
21	" 25(1)	Order to witness to attend Court for examination.
22	" 25(2)	Appellant's application for further witness.
23	" 25(5)	Notice to witness to attend before an examiner.
24	" 25(7)	Caption for deposition of witness examined before examiner.

- 25 O. IV, r. 5(2) Notice of appeal or application for leave to appeal from an order of the Full Court made upon appeal under section 31 of the Court of Appeal Act.
- 26 " 4 Notice of application for extension of the time within to appeal.

O. III, rr. 1 &
15

CRIMINAL FORM 1
IN THE COURT OF APPEAL
APPELLATE JURISDICTION

**NOTICE OF APPEAL OR APPLICATION FOR LEAVE
TO APPEAL AGAINST CONVICTION OR SENTENCE
UNDER SECTION 12 OF THE COURT OF APPEAL
ACT.**

THE STATE v

Guyana

Criminal Appeal No.....of 20

TO THE REGISTRAR OF THE SUPREME COURT

Name of Appellant.....

Convicted at the (1).....held at.....

Offence of which convicted (2).....

Sentence.....

Date when convicted (3).....

LAWS OF GUYANA

136 Cap. 3:01

Court of Appeal

[Subsidiary]

The Court of Appeal Rules

Date when sentence passed (3).....

Name of Prison (4).....

I the above-named appellant hereby give you notice that I desire to appeal to the Court of Appeal against my (5)..... on the grounds hereinafter set forth on page 2 of this notice.

(Signed) (6).....

.....
Appellant

Dated this (7).....day of..... A.D.....

Questions (8)

Answer

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

2. Do you desire the Court of Appeal to assign you legal aid?

If your answer to this question is "Yes" then answer the following questions –

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

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

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

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

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

If your answer to this question is "yes" you must also fill in Form 22 and send it with this notice.

Grounds of Appeal or Application. (10)

Notes:

- (1) Assizes or County Sessions.
- (2) e.g. Larceny, Forgery, Habitual Criminal.
- (3) Set out the actual date upon which the appellant was convicted.
- (4) If not in custody here set out appellant's address in full.
- (5) If the appellant wishes to appeal against conviction he must write the word "conviction". If he wishes to appeal against sentence he must write the word "sentence". If he wishes to appeal against both conviction and sentence he must write the words "conviction" and "sentence".
- (6) This notice must be signed by the appellant. If he

LAWS OF GUYANA

138 Cap. 3:01

Court of Appeal

[Subsidiary]

The Court of Appeal Rules

cannot write he must affix his mark in the presence of a witness. The name and address of such attesting witness must be given.

- (7) If this notice is signed more than ten days after conviction or sentence appealed against the appellant must also fill in Form 3 and send it with this notice.
- (8) The appellant must answer each of these questions.
- (9) An appellant is not entitled to be present on the hearing of an application for leave to appeal.
- (10) These must be filled in before the notice is sent to the Registrar. The appellant must here set out the grounds or reasons he alleges why his conviction should be quashed or his sentence reduced.

If one of the grounds set out is "misdirection" by the judge, particulars of such alleged misdirection must be set out in this notice.

The appellant can also, if he wishes, set out, in addition to his above reasons, his case and argument fully.

O. III, rr. 1 & 6

CRIMINAL FORM 2

IN THE COURT OF APPEAL APPELLATE
JURISDICTION

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

THE STATE v.....

Guyana

Criminal Appeal No..... of 20.....

TO, THE REGISTRAR OF THE SUPREME COURT

Here state the offence e.g., larceny, murder, forgery, etc.

*When applicant for any reason not in custody.

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

I,having been convicted of the offence ofin theCourt held at.....on the.....day of.....20....., and being now a prisoner in the Prison at.....

* (or now living at.....),

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 following—

(Signed)

(or mark)

.....

Applicant

Signature and address of witness attesting mark.

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

You are required to send to the Registrar of the Court, duly filled up Form 1, together with this Notice.

LAWS OF GUYANA

140 **Cap. 3:01**

Court of Appeal

[Subsidiary]

The Court of Appeal Rules

O. III, r. 2 (1)

CRIMINAL FORM 3

**IN THE COURT OF APPEAL
APPELLATE JURISDICTION**

JUDGE'S CERTIFICATE

Guyana

Criminal Appeal No..... of 20....

THE STATE v.....

In the.....Court of.....holden at.....

State shortly
the offence,
e.g. larceny,
murder, for-
gery, etc.

WHEREAS the said was tried and convicted before me, the undersigned, in the said Court on the..... day of.....on a charge of..... and was thereupon sentenced by me to.....

I DO HEREBY CERTIFY that the case is a fit case for an appeal by the said...to the Court upon the following grounds—

State in
general terms
the grounds on
which certifi-
cate granted.

.....

Judge

DATED THIS.....day of.....20.....

O. III, r. 8(5)

CRIMINAL FORM 4

IN THE COURT OF APPEAL
APPELLATE JURISDICTION
DECLARATION VERIFYING TRANSCRIPT OF SHORTHAND
NOTES

Guyana

Criminal Appeal No.....of 20.....

THE STATE v

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

DATED THIS.....day of.....20.....
(Signed).....

LAWS OF GUYANA

142 **Cap. 3:01**

Court of Appeal

[Subsidiary]

The Court of Appeal Rules

O. III, r. 14

CRIMINAL FORM 5

IN THE COURT OF APPEAL APPELLATE JURISDICTION

NOTIFICATION TO APPELLANT OF A SINGLE JUDGE'S
DECISION

Guyana

Criminal Appeal No..... of 20....

THE STATE v.....

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

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

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

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

DATED THIS.....day of..... 20....

(Signed).....

Registrar

Supreme Court

To the above-named.

O. III, r. 14

CRIMINAL FORM 6

IN THE COURT OF APPEAL
APPELLATE JURISDICTION
NOTICE OF APPEAL BY APPELLANT FROM REFUSAL OF A
SINGLE JUDGE

Guyana

Criminal Appeal No..... of 20.....

THE STATE v.....

TO THE REGISTRAR OF THE SUPREME COURT

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

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

has/have been refused,

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

(Signed)

(or mark)

.....

Appellant

Signature and address

LAWS OF GUYANA

144 Cap. 3:01

Court of Appeal

[Subsidiary]

The Court of Appeal Rules

For signature of witness attesting mark
see Order III,
rule 3.

DATED THIS day of.....20.....

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

*Strike out words inapplicable

O. III, r. 16(2)

CRIMINAL FORM 7

IN THE COURT OF APPEAL APPELLATE JURISDICTION

RECOGNIZANCE OF APPELLANT SENTENCED TO PAYMENT OF A
FINE

Guyana

Criminal Appeal No..... of 20.....

THE STATE v.....

TO WIT: Be it remembered that whereas.....of was on theday of.....20..... convicted of.....and was thereupon sentenced to pay the sum of \$..... as a fine for his said offence by the *..... and has intimated to the said Court that he desires to appeal against his said conviction on a question of law alone (or upon a certificate of the Judge of the said Court that his is a fit case for appeal). And whereas the said Court considers that the said Appellant may, in lieu of payment at and upon his said conviction of the said sum, be ordered to enter into recognizance of bail himself in the sum of \$..... and

*Here fill in
the Court of
trial.

with.....sureties each in the sum of \$..... to prosecute his said appeal before the Court of Appeal.

This said.....doth hereby acknowledge himself to owe to the State the said sum of \$..... of good and lawful money, to be made and levied of his goods and chattels, lands and tenements, to the use of the State, if he the said.....fail in the condition endorsed.

Taken and acknowledge this..... day of.....20...., at the said Court at and before the Judge of the said Court.

(Signed).....

Appellant

CONDITION

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

(Signed)

Appellant

LAWS OF GUYANA

146 Cap. 3:01

Court of Appeal

[Subsidiary]

The Court of Appeal Rules

O. III, r. 16(2)

CRIMINAL FORM 8

**THE COURT OF APPEAL
APPELLATE JURISDICTION**

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

Guyana

Criminal Appeal No..... of 20.....

THE STATE v.....

TO WIT: Be it remembered that on the.....day of
20.....of.....and..... personally came
before the*.....and severally acknowledged
themselves to owe to the State the several sums following,
that is to say; the said the sum of \$....., and the
said..... and sum of \$..... of good and lawful
money, to be made and levied of their goods and chattels,
lands and tenements, respectively, to the use of the State
if.....now before the said Court fail in the
condition hereon endorsed.

Taken and acknowledged before the said Court on the day
and year first above-mentioned.

(Signed).....

Magistrate (etc.)

CONDITION

The condition of the within written recognizance is such that
whereas the saidhaving been convicted of
.....and having been sentenced to pay a fine of
\$.....for his said offence, and having now intimated his
desire to appeal on a question of law alone (or with the

certificate of the Judge of this Court) to the Court of Appeal against the said conviction, and having, in lieu of payment at and upon his said conviction of the said sum of \$....., been ordered to enter into recognizance of bail himself in the sum of \$.....and withsureties in the sum of \$, if the saidshall personally appear and be present at and before the Court of Appeal at each and every hearing of his appeal to such Court and at the final determination thereof, and then and there prosecute his said appeal and abide by the judgment of such Court, and not depart or be absent from such Court at any such hearing without the leave of such Court, then this recognizance shall be void, otherwise of full force and effect.

(Signed).....

Surety

(Signed).....

Surety

O. III, r. 16(3)

CRIMINAL FORM 9

THE COURT OF APPEAL
APPELLATE JURISDICTION
NOTICE OF BREACH OF HIS RECOGNIZANCES TO APPELLANT
SENTENCED TO A FINE

Guyana

Criminal Appeal No..... of 20....

THE STATE v.....

TO THE ABOVE-NAMED.....APPELLANT

LAWS OF GUYANA

148 **Cap. 3:01**

Court of Appeal

[Subsidiary]

The Court of Appeal Rules

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

(Signed).....

Registrar

Supreme Court

O. III, r. 16(3)

CRIMINAL FORM 10

**THE COURT OF APPEAL
APPELLATE JURISDICTION**

**NOTICE TO SURETY FOR APPELLANT OF ESTREAT
OF RECOGNIZANCES**

Guyana
Criminal Appeal No....of 20....

THE STATE v.....

TO.....of.....

WHEREAS you the above-named, became duly bound in recognizances as suety, for that the said..... having been convicted of..... and for his said offence fined the sum of \$..... should duly prosecute an appeal in relation to the said..... has not so prosecuted his appeal, now I hereby give you notice that the sitting of the Court on..... next your good cause to the contrary.

(Signed).....

Registrar
Supreme Court

O. III, r. 18(3)

CRIMINAL FORM 11

**THE COURT OF APPEAL
APPELLATE JURISDICTION**

**RECOGNIZANCE OF BAIL OF APPELLANT CONVICTED
ON INDICTMENT**

Guyana
Criminal Appeal No..... of 20....

THE STATE v.....

BE IT REMEMBERED THAT WHEREAS..... was convicted of.....on the.....day of.....20....(and was thereupon sentenced to.....), and now is in lawful custody in the Prison at..... and has duly appealed against his conviction

LAWS OF GUYANA

150 Cap. 3:01

Court of Appeal

[Subsidiary]

The Court of Appeal Rules

State Office.

(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..... personally cometh before me the undersigned, being the.....and acknowledges himself to owe to the State the said sum of \$..... of good and lawful money, to be made and levied of his goods and chattels, land and tenements to the use of the State, if he the said.....fail in the condition endorsed.

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

State Office.

(Signed).....

Office: Magistrate, etc.

CONDITION

The condition of the within written recognizances is such that if the said..... shall personally appear and surrender himself at and before the Court of Appeal at each and every hearing, of his appeal to such Court and at the final determination thereof and then and there abide by the judgment of such Court and not depart or be absent from such Court at any hearing without the leave of such Court, and in the meantime not depart from his usual place of abode without the leave of such Court, then his 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 residence, to which any Notices, etc. are to be addressed, will be as follows -

Signed.....

Appellant

O. III, r. 18(3)

CRIMINAL FORM 12

IN THE COURT OF APPEAL
APPELLATE JURISDICTION

RECOGNIZANCE OF APPELLANT'S SURETIES

Guyana
Criminal Appeal No....of 20

THE STATE v.....

BE IT REMEMBERED that on thisday of.....20
of andof.....personally came before
me, the undersigned, being theof.....
and severally acknowledged themselves to owe to the State
the several sums following, that is to say, the said.....
the sum of \$.....and the said....and the said.....
.....the sum of \$..... of goods and lawful money to
be made and levied of their goods and chattels, lands and
tenements respectively ,to the use of the State, if.....
now in lawful custody in the Prison at.....
fail in the condition hereon endorsed.

Taken and acknowledged before me the undersigned, the
day and year first above-mentioned.

LAWS OF GUYANA

152 Cap. 3:01

Court of Appeal

[Subsidiary]

The Court of Appeal Rules

State Office

.....
Magistrate, etc.

CONDITION

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

(Signed).....

Surety

(Signed).....

Surety

O. III, r. 18(5)

CRIMINAL FORM 13

THE COURT OF APPEAL
APPELLATE JURISDICTION
NOTICE TO OFFICER IN CHARGE OF PRISONS TO RELEASE
APPELLANT ON BAIL

Guyana

Criminal Appeal No.....of 20....

THE STATE v.....

TO THE OFFICER IN CHARGE OF PERSONS

WHEREAS.....was convicted of.....on the.....day of.....20....(and was thereupon sentenced to.....) and now is in lawful custody in the Prison at.....

AND WHEREAS.....having duly appealed to the Court of Appeal against such conviction (and/or sentence) [and has now appealed against the Order of the Full Court made on the..... day of.....20....] and having duly applied to that Court/to the Court, has been granted bail by the said Court pending the determination of his said appeal on entering into recognizances himself in the sum of \$....., (and with.....sureties each in the sum of \$.....), in the forms provided under these Rules.

AND WHEREAS I, the Registrar of the said Court have been given to understand that the said.....is now in your lawful custody in the said prison under the said conviction and sentence.

LAWS OF GUYANA

154 **Cap. 3:01**

Court of Appeal

[Subsidiary]

The Court of Appeal Rules

AND WHEREAS I have received a recognizance of the said.....and recognizances from.....sureties for the said..... and the said recognizances are in due form and in compliance with the order of the said Court of Appeal admitting the said.....to bail.

Now I do give you notice that if the said.....do remain in your custody under the said conviction (and sentence) and for no other cause you shall on receipt of this notice suffer him to go at large. And this notice shall be your authority in that behalf.

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

(Signed).....
Registrar
Supreme Court

O. III, r. 18(6)
&(8)

CRIMINAL FORM 14

THE COURT OF APPEAL
APPELLATE JURISDICTION

WARRANT FOR ARREST OF APPELLANT ON BAIL

Guyana
Criminal Appeal No.....of 20.....

THE STATE v.....

(a)State Office
Head of TO THE CONSTABLES OF THE POLICE FORCE (OR

[Subsidiary]

The Court of Appeal Rules

Prisons.

COURT MESSENGERS OR AS THE CASE MAY BE), AND
TO THE (a).....OF THE PRISON AT.....

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

(a)State Office
Head of
Prisons.

These are therefore to command you the said Constables (or Court Messengers or as the case may be) forthwith to apprehend the said and bring him to the (a).....of the said prison and there deliver him with this warrant into the custody of the said(a)..... and you the said (a)..... are hereby required to receive the said..... into your custody in the said prison and there safely to keep him until further order of the said Court.

.....

Presiding Judge

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

O. III, r. 19(1)

CRIMINAL FORM 15

**THE COURT OF APPEAL
APPELLATE JURISDICTION**

NOTICE OF ABANDONMENT

Guyana
Criminal Appeal No.....of 20.....

LAWS OF GUYANA

156 **Cap. 3:01**

Court of Appeal

[Subsidiary]

The Court of Appeal Rules

THE STATE v.....

TO THE REGISTRAR OF THE COURT OF APPEAL

I,..... having been convicted of.....in
the.....Court at..... and having been desirous of
appealing to the Court against my said conviction (or the
sentence of.....passed upon me on m 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.

For signature
see Order III,
rule 3.

(Signed)
(or mark)

Signature and address of
Witness attesting mark.

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

O. III, r. 19(2)

CRIMINAL FORM 16

**THE COURT OF APPEAL
APPELLATE JURISDICTION**

NOTIFICATION OF ABANDONMENT OF APPEAL

Guyana
Criminal Appeal No.....of 20.....

THE STATE v.....

TO THE DIRECTOR OF PUBLIC PROSECUTIONS

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

By the Order III, rule 19(1) of the Court of Appeal Act, upon the notice of abandonment being given the appeal shall be deemed to have been dismissed by the Court.

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

.....
Registrar of Supreme Court

Send copies addressed to :-

- (a) The Secretary to the Office of the President for the information of the President or the Officer for the time being administering the Government, if the conviction involved a sentence of death.
 - (b) The Director of Public Prosecutions.
 - (c) The Prison Authority.
-

**THE COURT OF APPEAL
APPELLATE JURISDICTION**

NOTIFICATION TO APPELLANT OF RESULT OF APPLICATION

Guyana
Criminal Appeal No.....of 20....

LAWS OF GUYANA

158 **Cap. 3:01**

Court of Appeal

[Subsidiary]

The Court of Appeal Rules

THE STATE v.....

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 with which you may give notice of appeal or of application for leave to appeal;
- (c) Permission to be present during the proceedings in your appeal;
- (d) Admission to bail;
- (e) Insert here nature of any other application that may have been made;

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

.....
Registrar of the Supreme Court

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

O. III, r. 22(1)

CRIMINAL FORM 18

**THE COURT OF APPEAL
APPELLATE JURISDICTION**

NOTICE TO AUTHORITY OF RESULT OF APPLICATION

Guyana

Criminal Appeal No.....of 20....

THE STATE v.....

To the Director of Public Prosecutions-*

To.....

.....

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

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

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

Here set out the decision of the Court

—

.....
Registrar of the Supreme Court

*Send copies addressed to-

- (a) The Secretary to the Office of the President for the information of the President, or the Officer for the time being administering the Government if sentence of death has been passed.
- (b) The Director of Public Prosecutions.
- (c) The Prison Authority

LAWS OF GUYANA

160 **Cap. 3:01**

Court of Appeal

[Subsidiary]

The Court of Appeal Rules

O. III, r. 22(1)

CRIMINAL FORM 19

**THE COURT OF APPEAL
APPELLATE JURISDICTION**

**NOTIFICATION OF APPELLANT OF THE RESULT OF HIS
APPEAL**

Guyana
Criminal Appeal No.....of 20....

THE STATE v.....

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 Supreme Court

DATED THIS.....day of.....20....

O. III, rr. 22(1)
& 23(1)

CRIMINAL FORM 20

**THE COURT OF APPEAL
APPELLATE JURISDICTION**

NOTICE TO AUTHORITIES OF RESULT OF APPEAL

Guyana
Criminal Appeal No..... of 20....

THE STATE v.....

To the Director of Public Prosecutions* -

To.....

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

Here set out the decision of the Court.

.....

Registrar of the Supreme Court

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

*Send copies addressed to –

(a) The Secretary to the Office of the President for the information of the President, or the Officer for the time being administering the Government if sentence of death is involved.

(b) The Director of Public Prosecution

(c) The Prison Authority

LAWS OF GUYANA

162 **Cap. 3:01**

Court of Appeal

[Subsidiary]

The Court of Appeal Rules

O. III, r. 26(1)

CRIMINAL FORM 21

**THE COURT OF APPEAL
APPELLATE JURISDICTION**

ORDER TO WITNESS TO ATTEND COURT FOR EXAMINATION

Guyana

Criminal Appeal No.....of 20....

THE STATE v.....

Name, etc. of
witness.

WHEREAS on good cause shown to the Court you have been ordered to attend and 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.....on.....the.....day of.....20.....
at..... o'clock in the.....noon. You are also required to have with you at the said time and place any books, papers or other things relating to the said appeal of which you may have had notice so to produce.

.....
Registrar of the Supreme Court

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

O. III, r. 25(2)

CRIMINAL FORM 22

THE COURT OF APPEAL
APPELLATE JURISDICTION

APPELLANT'S APPLICATION FOR FURTHER WITNESS

Guyana
Criminal Appeal No.....of 20.....

THE STATE v.....

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

(Signed)
(or Mark)

For signature
see Order III,
rule 3.

.....

Appellant

Signature and address of
witness attending mark.

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

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

1. Names and addresses of witnesses.
2. Whether such witnesses 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.

LAWS OF GUYANA

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Court of Appeal

[Subsidiary]

The Court of Appeal Rules

O. III, r. 25(5)

CRIMINAL FORM 23

**THE COURT OF APPEAL
APPELLATE JURISDICTION**

NOTICE TO WITNESS TO ATTEND BEFORE AN EXAMINER

Guyana

Criminal Appeal No..... of 20....

THE STATE v.....

To.....
of.....

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.

- (a) Specify place of examination.
(b) Fill in examiner's name.

This is to give you notice to attend at (a).....on the.....day of.....20.....before (b).....at..... o'clock in the.....noon

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

.....
Registrar of the Supreme Court

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

O. III, r. 25(7)

CRIMINAL FORM 24

**THE COURT OF APPEAL
APPELLATE JURISDICTION**

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

Guyana

Criminal Appeal No.....of 20...

THE STATE v.....

The deposition (on oath) taken before me the undersigned, being an examiner duly appointed by the Court in that behalf of.....of.....and.....of.....witnesses, examined before me under an order of the said Court dated the.....day of.....20....in the presence of the said.....Appellant (or of his professional representative) and Respondent had full opportunity of asking questions of the said witnesses, to whom the depositions following were read by me before signed by them the said witnesses respectively.

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

.....

O. IV, r. 6(2)

CRIMINAL FORM 25

**THE COURT OF APPEAL
APPELLATE JURISDICTION**

**NOTICE OF APPEAL OR APPLICATION FOR LEAVE TO
APPEAL FROM AN ORDER OF THE FULL COURT MADE**

LAWS OF GUYANA

166 Cap. 3:01

Court of Appeal

[Subsidiary]

The Court of Appeal Rules

**UPON APPEAL UNDER SECTION 31 OF THE COURT OF
APPEAL ACT**

Guyana
Criminal Appeal No...of 20.....

Between
.....(Prosecutor/Defendant)Appellant
and
.....(Prosecutor/Defendant) Respondent

TO THE REGISTRAR

TAKE NOTICE that the Prosecutor/Defendant* Appellant desires to appeal against the judgment/order/that part of the judgment/order* more particularly stated in paragraph 2 hereof contained in a judgment/order of the Full Court dated the.....day of.....20.....upon the grounds set out in paragraph 3 and will at the hearing seek the order set out in paragraph 4.

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

2. (State the offence or misconduct, the subject of the criminal cause or matter, and, the finding and sentence or order of the inferior court and of the Full Court thereon.)

3. (a) (State whether appeal is brought under paragraph (b) of section 31(1) of the Court of Appeal Act, and, if so, state the grounds.)

(b) (If not under paragraph (b) of section 31(1), state the ground of law.)

4. (State the order sought from the Court of Appeal.)

5. Persons directly affected by the appeal.

Name (1) (2) (3) etc.	Address
--------------------------------	---------

Questions to be answered by the appellant

(Only to be answered by a prosecutor appellant)

(A) Has the Full Court granted leave to appeal? If so, attach the Certificate of the Registrar of the Full Court to this Form.

(B) Is the defendant-respondent in custody? If so, in that prison? Question (only to be answered by a defendant appellant)

Questions

Answers

1. Do you desire the Court of Appeal to assign you legal aid?

If your answer to this question is "Yes" then answer the following questions-

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

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

2. Is any counsel now acting for you? If so, give his name and address.

3. Are you in custody?

If so state -

(a) The Prison

(b) Whether you desire to be present when the Court hears your appeal.

LAWS OF GUYANA

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Court of Appeal

[Subsidiary]

The Court of Appeal Rules

DATED THIS.....day of.....20....

(Signed).....

Appellant(s)

*Strike out words inapplicable

O. IV, r. (5)

CRIMINAL FORM 26

**THE COURT OF APPEAL
APPELLATE JURISDICTION**

**NOTICE OF APPEAL OR APPLICATION FOR LEAVE TO
APPEAL FROM AN ORDER OF THE FULL COURT MADE
UPON APPEAL UNDER SECTION 31 OF THE COURT OF
APPEAL ACT**

Guyana
Criminal Appeal No.....of 20.....

TO THE REGISTRAR OF THE COURT

TAKE NOTICE that the Prosecutor/Defendant Appellant hereby applies to the Court for an extension of time within which to give notice of appeal/notice of application for leave to appeal against the judgment/order of the Full Court contained in a judgment order dated the.....day of.....20... and more particularly stated in the notice of appeal attached hereto*

*Form 25

Here set out
clearly and

The grounds for this application to extend the time are as follows –

[Subsidiary]

The Court of Appeal Rules

concisely the
reasons for the
delay in giving
such notice and
the ground on
which it is
submitted that
the Court
should extend
the time.

.....

Applicant

Note:

The applicant is required to send to the Registrar of the Supreme Court, duly filled up, Form 25, together with this notice.
