
CHAPTER 12

COURT OF APPEAL

SECTION 39—COURT OF APPEAL RULES

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Rules 16 September 1949, 8 October 1954, 28 November 1959, 5 November 1962, 24 March 1966, 26 November 1968, 17 July 1970†, 7 October 1970‡, 3 June 1977§, 7 May 1984*, 17 May 1985**

(Made by the President of the Court of Appeal)

PART I—PRELIMINARY AND GENERAL

Short title

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

Interpretation

2. In these Rules, unless the context otherwise requires—
 - “Act” means the Court of Appeal Act;
 - “Court of Appeal” means the Fiji Court of Appeal;
 - “judge” means a judge of the Court of Appeal; *(Inserted by Rules 24th March 1966.)*

* See Legal Notice No. 177 of 1968.

† See Legal Notice No. 86 of 1970.

‡ See Legal Notice No. 112 of 1970.

§ See Legal Notice No. 67 of 1977.

* See Legal Notice No. 51 of 1984.

* See Legal Notice No. 41 of 1985.

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

"Registrar" means the Registrar of the Court of Appeal;

"respondent" includes any person who has been served with notice of appeal or who is entitled to be so served;

"Supreme Court" means the Supreme Court of Fiji;

"Supreme Court Rules" means the Rules of the Supreme Court as for the time being made under section 25 of the Supreme Court Act.

(Inserted by Rules 24th March 1966.)

(Cap. 13.)

Convening of sittings, etc.

3. Sittings of the Court of Appeal shall be convened, and the Court shall be constituted, and the venue and time for all sittings for the hearing and determination of criminal and civil proceedings shall be settled, from time to time, in accordance with directions to be given by the President.

(Inserted by Rules 24th March 1966.)

Applications to be filed

4. All applications, including applications for leave to appeal, and for an extension of time within which to file an appeal or to apply for leave to appeal, shall ordinarily be filed with the Registrar at the Supreme Court Registry, Suva.

Appellant confined to the grounds of appeal

5. The appellant shall not, without the leave of the Court of Appeal, urge or be heard in support of any ground of objection not stated in his notice of appeal, but the Court of Appeal in deciding the appeal shall not be confined to the grounds so stated:

Provided that the Court of Appeal shall not rest its decision on any ground not stated in the notice of appeal, unless the respondent has had sufficient opportunity of contesting the case on that ground.

Application of Supreme Court Rules

6. Subject to these Rules, the Supreme Court Rules shall apply to proceedings in and before the Court of Appeal in civil causes or matters.

(Substituted by Rules 24th March 1966.)

Application of practice and procedure in England

7. Where no other provision is made by these Rules, or by any other enactment, the jurisdiction, power and authority of the Court of Appeal and the judges thereof shall be exercised—

(a) in civil causes or matters, according generally to the course of the practice and procedure for the time being observed by and before Her Majesty's Court of Appeal in England;

(b) in criminal proceedings, according generally to the course of the practice and procedure for the time being observed by and before Her Majesty's Court of Criminal Appeal in England

(Substituted by Rules 24th March 1966.)

Judgments

8. Upon the final determination of an appeal the Registrar shall forthwith transmit to the Chief Registrar of the Supreme Court a certified copy of the judgment of the Court of Appeal.

(Substituted by Rules 5th November 1962.)

Taxation of costs

9. The Registrar shall be the taxing officer.

Appeal from Registrar

10. Any person aggrieved by anything done or ordered by the Registrar, other than anything ordered or done under the direction of the President, may apply to have the act, order or ruling complained of set aside to a judge of the Court of Appeal who may give such direction or make such order thereon as he thinks fit. Such application shall be made by notice of motion supported by affidavit.

Service

11. Service, where required in these Rules, shall be effected in the same manner as is prescribed for service of process of the Supreme Court, and the Supreme Court may make such orders and give such directions as may be required:

Provided that any notice or other document which is required or authorised by the Act or these Rules to be given or sent shall be deemed to be duly given or sent if forwarded by registered post addressed to the person to whom such notice or other document is so required or authorised to be given or sent.

Sittings in chambers

12. Except in proceedings involving the decision of an appeal, the Court of Appeal or a judge may sit and act in chambers.

(Inserted by Rules 24th March 1966.)

Fees

13. The fees set forth in the First Schedule shall be the fees payable in respect of proceedings in the Court of Appeal.

PART II—APPEALS IN CIVIL CASES

Application of Rules to applications for new trial

*14. The rules contained in this Part (except so much of paragraph (1) of rule 15 as provides that an appeal shall be by way of rehearing, and except paragraph (1) of rule 23) apply to an application to the Court of Appeal for a new trial or to set aside a verdict, finding or judgment as they apply to that Court, and references in these Rules to an appeal and to an appellant shall be construed accordingly.

Notice of appeal

*15.—(1) An appeal to the Court of Appeal shall be by way of rehearing and shall be brought by notice of motion (in these Rules referred to as "notice of appeal").

(2) Notice of appeal may be given either in respect of the whole or in respect of any specified part of the decision of the Court below.

(3) In addition to complying with rule 5, every notice of appeal shall specify the precise form of the order which the appellant proposes to ask the Court of Appeal to make.

* Substituted by rules 24 March 1966.

(4) A notice of appeal shall, in addition to being filed in the Court of Appeal, be served upon the Chief Registrar of the Supreme Court and upon all parties to the proceedings in the Court below who are directly affected by the appeal; and subject to the provisions of rule 21 it shall not be necessary to serve the notice on parties not so affected.

Time for appealing

*16. Subject to the provisions of this rule, every notice of appeal shall be filed and served under paragraph (4) of rule 15 within the following period (calculated from the date on which the judgment or order of the Court below was signed, entered or otherwise perfected), that it to say—

- (a) in the case of an appeal from an interlocutory order, 21 days;
- (b) in any other case, 6 weeks.

Security for payment of costs

†17.—(1) The appellant shall—

- (a) upon filing the notice of appeal, pay to the Registrar the fee for setting down the appeal;
 - (b) upon request by the Registrar deposit with the Registrar such sums as he shall assess as the probable expense for the preparation, certification and copying of the record; and
 - (c) within 30 days of service of the notice of appeal, apply to the Registrar to fix the amount and nature of the security to be given by him for the prosecution of the appeal, and for the payment of all such costs as may be ordered to be paid by him, or, as the case may be, to dispense with such security.
- (2) In the event of non-compliance with paragraph (1) or in the event of any security required to be given not being given, or being only partly given, within the time directed, or within such extended time as a judge of the Supreme Court may allow, all proceedings in the appeal shall be stayed, unless the Court of Appeal shall otherwise order, and the appeal shall be listed for the next, or any subsequent, sitting of the Court of Appeal for a formal order of dismissal.

Preparation and costs of record

†18.—(1) The Chief Registrar of the Supreme Court shall be responsible for the preparation, certification and copying of the record and may for the purpose of the preparation thereof give an opportunity to the parties or their representatives of appearing before him and being heard. The preparation of the record shall be subject to the supervision of the Supreme Court and the parties may submit any disputed question to the decision of a judge of the Supreme Court who shall give such directions thereon as the justice of the case may require.

(2) The Chief Registrar of the Supreme Court as well as the parties and their representatives shall endeavour to exclude from the record all documents (more particularly such as are purely formal) that are not relevant to the subject-matter of the appeal, and generally to reduce the bulk of the record as far as practicable, taking special care to avoid the duplication of documents and the unnecessary repetition of headings and other merely formal parts of documents; but the

* Substituted by rules 24 March 1966.

† Substituted by Legal Notice 41 of 1985.

documents omitted to be copied, shall subject to Rule 33, be specified in the record.

(3) Where in the course of the preparation of a record one party objects to the inclusion of a document on the ground that it is unnecessary or irrelevant and the other party nevertheless insists upon it being included, the record shall, with a view to the subsequent adjustment of the costs of and incidental thereto, indicate the fact that the inclusion of the document was objected to and the party who so objected.

(4) After the completion of the preparation of the record the Chief Registrar of the Supreme Court shall, under his hand and the seal of the Supreme Court, certify it to be the record as made up by him and shall forward it together with four uncertified copies thereof to the Registrar of the Court of Appeal.

(5) Unless, on disposing of an appeal or application for leave to appeal the Court of Appeal otherwise orders, the costs as prescribed of the preparation and certification of the record and of the four uncertified copies to be forwarded to the Registrar, shall be borne by the appellant.

(6) The Chief Registrar of the Supreme Court shall on the application of any party to the appeal furnish such party with a copy of the record, or any part thereof, on payment of the prescribed fees.

Respondent's notice

*19.—(1) A respondent who, not having appealed from the decision of the Court below, desires to contend on the appeal that the decision of that Court shall be varied, either in any event or in the event of the appeal being allowed in whole or in part, shall give notice to that effect, specifying the grounds of that contention and the precise form of the order which he proposes to ask the Court of Appeal to make, or to make in that event, as the case may be.

(2) A respondent who desires to contend on the appeal that the decision of the Court below should be affirmed on grounds other than those relied upon by that Court shall give notice to that effect specifying the grounds of that contention.

(3) Except with the leave of the Court of Appeal, a respondent shall not be entitled on the hearing of the appeal to contend that the decision of the Court below should be varied upon grounds not specified in a notice given under this rule, to apply for any relief not so specified or to support the decision of the Court below upon any grounds not relied upon by that Court or specified in such a notice.

(4) Any notice given by a respondent under this rule (in these Rules referred to as a "respondent's notice") shall be served on the appellant, and upon all parties to the proceedings in the Court below who are directly affected by the contentions of the respondent, and shall be served within 21 days after the service of the notice of appeal on the respondent.

(5) A party by whom a respondent's notice is given shall, within two days after service of the notice, furnish four copies of the notice to the Registrar of the Court of Appeal.

Amendment of notice of appeal and respondent's notice

†20.—(1) A notice of appeal or respondent's notice may be amended—
(a) by or with the leave of the Court of Appeal, at any time;

* Substituted by Rules 4th March 1966.

† Substituted by Legal Notice 41 of 1985.

- (b) without such leave, by supplementary notice served, not less than 14 days before the day on which the appeal is listed to be heard, 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 four copies of the notice to the Registrar.

Directions of the Court as to service

*21.—(1) The Court of Appeal may in any case direct that the notice of appeal be served upon any party to the proceedings in the Court below on whom it has not been served, or upon any person not party to those proceedings.

(2) In any case in which the Court of Appeal directs the notice of appeal to be served on any party or person, the Court may also direct that any respondent's notice by which that party or person is directly affected shall be served upon him.

(3) The Court of Appeal may in any case where it gives a direction under this rule—

- (a) postpone or adjourn the hearing of the appeal for such period and upon such terms as may be just; and
- (b) give such judgment and make such order on the appeal as might have been given or made if the persons served in pursuance of the direction had originally been parties.

General powers of the Court

*22.—(1) In relation to an appeal, the Court of Appeal shall have all the powers and duties as to amendment and otherwise of the Supreme Court.

(2) The Court of Appeal shall have full discretionary power to receive further evidence upon questions of fact, either by oral examination in court, by affidavit, or by deposition taken before an examiner or commissioner:

Provided that in the case of an appeal from a judgment after trial or hearing of any cause or matter upon the merits, no such further evidence (other than evidence as to matters which have occurred after the date of the trial or hearing) shall be admitted except on special grounds.

(3) The Court of Appeal shall have power to draw inferences of fact and to give any judgment and make any order which ought to have been given or made, and to make such further or other order as the case may require.

(4) The powers of the Court of Appeal under the foregoing provisions of this rule may be exercised notwithstanding that no notice of appeal or respondent's notice has been given in respect of any particular part of the decision of the Court below or by any particular party to the proceedings in that Court, or that any ground for allowing the appeal or for affirming or varying the decision of that Court is not specified in such a notice; and the Court 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.

(5) 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.

* Substituted by Rules 24 March 1966.

Powers of the Court as to new trials

*23.—(1) On the hearing of any appeal the Court of Appeal may, if it thinks fit, make any such order as could be made in pursuance of an application for a new trial or to set aside any decision.

(2) 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.

(3) A new trial may be ordered on any question without interfering with the finding or decision upon any other question; and if it appears to the Court of Appeal that any such wrong or miscarriage as is mentioned in paragraph (2) 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 only, and give final judgment as to the remainder.

Evidence on appeal

*24. Where any question of fact is involved in an appeal, the evidence taken in the Court below bearing on the question shall, subject to any direction of the Court of Appeal, be brought before that Court as follows:—

(a) in the case of evidence taken by affidavit, by the production of copies thereof;

(b) in the case of evidence given orally, by a copy of the judge's note, or, where an official shorthand note of the evidence was taken, by a copy of the transcript thereof, or by such other means as the Court of Appeal may direct.

Stay of execution, etc.

*25.—(1) Except so far as the Court below or the Court of Appeal may otherwise direct—

(a) an appeal shall not operate as a stay of execution or of proceedings under the decision of the Court below;

(b) no intermediate act or proceeding shall be invalidated by an appeal.

(2) On any appeal, interest for such time as execution has been delayed by the appeal shall be allowed unless the Court of Appeal otherwise orders.

Applications to Court of Appeal

*26.—(1) Every application to a judge of the Court of Appeal shall be by summons in chambers, and the provisions of the Supreme Court Rules shall apply thereto.

(2) Any application to the Court of Appeal for leave to appeal (whether made before or after the expiration of the time for appealing) shall be made on notice to the party or parties affected.

(3) Wherever under these Rules an application may be made either to the Court below or to the Court of Appeal it shall be made in the first instance to the Court below.

Extension of time

*27. Without prejudice to the power of the Court of Appeal, under the Supreme Court Rules as applied to the Court of Appeal, to enlarge the time

* Substituted by Rules 24 March 1966.

prescribed by any provision of these Rules, the period for filing and serving notice of appeal under rule 16 may be extended by the Court below upon application made before the expiration of that period.

Appeals against decisions under the Matrimonial Causes Act.

*28.—(1) The following provisions of this rule shall apply to any appeal to the Court of Appeal against the grant or refusal of a decree *nisi* of divorce or nullity of marriage in a matrimonial cause heard under the provisions of the Matrimonial Causes Act, or of any order made or sought in any such cause. (Cap. 51.)

(2) The period of 21 days or 6 weeks, as the case may be, specified in rule 16 shall be calculated from the date on which the decision is pronounced in court.

Appeals from Supreme Court in its appellate jurisdiction in civil cases

*29.—(1) The following provisions of this rule shall apply to any appeal from the Supreme Court to the Court of Appeal under the provisions of paragraph (d) of subsection (1) of section 12 of the Act, and subject thereto the rules contained in this Part, and the Supreme Court Rules, shall apply to such appeals.

(2) The notice of appeal, in addition to being filed in the Court of Appeal, shall be served upon the Chief Registrar of the Supreme Court as well as upon the party or parties otherwise required to be served under rule 15.

(3) The notice of appeal shall state precisely the question of law upon which the appeal is brought.

(4) In relation to the appeal, rule 16 shall have effect as if for the words "the date on which the judgment or order of the Court below was signed, entered or otherwise perfected" there were substituted the words "the date of the judgment or order of the Court below".

(5) *(Deleted)*

(6) Paragraph (1) (a) of rule 25 shall not apply; but the appeal shall not operate as a stay of proceedings in the Supreme Court or the court of trial unless a judge of the Supreme Court so orders, or unless, within 14 days from the date of the judgment or order appealed from, the appellant deposits a sum fixed by the judge from whose decision the appeal is brought not exceeding the amount of the money or the value of the property affected by the judgment or order, or gives such security for the said sum as the judge may direct.

(Amended by Legal Notice 41 of 1985)

Additional security and interim orders

†30. The Court of Appeal may, in its discretion, require security for the costs of the appeal or for the performance of the orders to be made on appeal (in addition to any security which the Registrar has thought fit to direct, or notwithstanding that the Registrar has dispensed with security, as the case may be).

Notice of hearing

†31. The Registrar shall, upon obtaining the directions of a judge, cause notice of the date of the hearing of the appeal to be served upon the parties to the appeal.

* Substituted by Rules 24 March 1966.

† Substituted by Legal Notice 41 of 1985.

Costs and witnesses allowances

*32.—(1) Costs allowed by the Court of Appeal shall be taxable according to the scales for the time being in force in the Supreme Court.

(2) The allowances for witnesses in the Court of Appeal shall be according to the scales for the time being in force in the Supreme Court.

Non-disclosure of payment into court

†33.—(1) Where—

(a) any question on an appeal in an action for a debt, damages or salvage relates to liability for the debt, damages or salvage or to the amount thereof; and

(b) money was paid into court, in the proceedings in the court below before judgment,

neither the fact of the payment nor the amount thereof shall be stated in the notice of appeal or the respondent's notice or in any supplementary notice or be communicated to the Court of Appeal until all such questions have been decided.

This rule shall not apply in the case of an appeal as to costs only or an appeal in an action to which a defence of tender before action was pleaded.

(2) For the purpose of complying with this rule the appellant must cause to be omitted from the copies of the documents lodged by him every part thereof which states, or from which it can be inferred, that money was paid into court in the proceedings in that court before judgement.

Stay of execution

†34.—(1) Except so far as the court below or the Court of Appeal may otherwise direct—

(a) an appeal shall not operate as a stay of execution or of proceedings under the decision of the court below;

(b) no intermediate act or proceeding shall be invalidated by an appeal.

(2) On an appeal from the Supreme Court, interest for such time as execution has been delayed by the appeal shall be allowed unless the Court of Appeal otherwise orders.

‡PART III—CRIMINAL APPEALS

Notice of Appeal

35.—(1) An appeal to the Court of Appeal shall be by way of rehearing and shall be brought by notice of Motion (in these Rules referred to as "notice of appeal").

(2) Subject to the provisions of section 22(1) of the Act, notice of appeal may be given either in respect of the whole or in respect of any specified part of the decision of the Court below.

(3) A person desiring, under the provisions of the Act, to appeal to the Court of Appeal, 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 a notice shall be given, as the case may be, in the form of such notices respectively set forth in the Second Schedule.

* Substituted by Rules 24 March 1966.

† Substituted by Legal Notice 41 of 1985.

‡ Part substituted by Legal Notice 41 of 1985.

(4) In addition to complying with Rule 5 such notice of appeal shall precisely specify the grounds (including, if any, questions of law) upon which the appeal is brought.

(5) A notice of appeal shall, in addition to being filed with the Registrar, be served upon all parties to the proceedings in the Court below who are directly affected by the appeal; and subject to the provisions of Rule 21 it shall not be necessary to serve the notice on parties not so affected.

Appeals from the Supreme Court in its appellate jurisdiction in criminal cases

36.—(1) The notice of appeal shall state precisely the question of law upon which the appeal is brought.

(2) Subject to the foregoing provision of this Rule, and to the provisions of the Act, the provisions of this Part of the rules (except Rules 49, 50, 57, 59(2), 62 and 63) shall apply *mutatis mutandis* to appeals to the Court of Appeal under the provisions of section 22 of the Act.

Amendment of notice of appeal

37.—(1) A notice of appeal may be amended—

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

(b) without such leave, by supplementary notice filed with the Registrar in quadruplicate and served, not less than 14 days before the opening day of the Sitting of the Court of Appeal at which the appeal is listed to be heard, upon each of the parties upon whom the notice to be amended was served.

Notice of application for leave to appeal

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

Abandonment of appeal

39. 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, under the Act, such notices shall be given, may abandon his appeal by giving notice of abandonment thereof in the form 3 in the Second Schedule to the Registrar, and upon such notice being given the appeal shall be deemed to have been dismissed by the Court of Appeal.

Notice of application for extension of time for appealing

40. An application to the Court of Appeal for an extension of time within which notices may be given shall be in the form 6 in the Second Schedule. 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.

How applications are to be dealt with

41.—(1) Notice of application for leave to appeal or for extension of time within which notice of appeal or notice of application for leave to appeal may be given, shall be given in the forms in the Second Schedule.

Procedure where judge of Court of Appeal refuses applications under section 35

(2) The Registrar, when any application mentioned in this Rule has been dealt with by a judge, shall notify to the appellant the decision. In the event of such judge refusing all or any of such applications, the Registrar, on notifying such refusal to the appellant, shall forward to him form 13 in the Second Schedule which form the appellant is hereby required to fill up and forthwith return to the Registrar. If the appellant does not desire to have his said application or applications determined by the Court of Appeal as duly constituted for the hearing of appeals under the Act and is not legally represented, he may, if the Court of Appeal give him leave, be present at the hearing and determination by the Court of Appeal 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 of Appeal.

Application for leave to be present at hearing

(3) When an appellant duly fills up and returns within the prescribed time to the Registrar form 13 expressing a desire to be present at the hearing and determination by the Court of Appeal of the applications mentioned in this rule, such form shall be deemed to be an application by the appellant for leave to be present. And the Registrar, on receiving the said form, shall take the necessary steps for placing the said application before the Court of Appeal. If the said application to be present is refused by the Court of Appeal, 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.

Sittings of a judge under section 35

(4) A judge of the Court of Appeal sitting under the provisions of section 35 of the Act may sit and act wherever convenient.

Registrar to require particulars etc., of proceedings before Supreme Court

42. When the Registrar has received a notice of appeal, or a notice of application for leave, or a notice of application for extension of time within which, under the Act, such notices shall be given, or where the Governor-General shall exercise his powers under section 38 of the Act, he shall forthwith apply to the Chief Registrar of the Supreme Court for the record of the proceedings before the Supreme Court.

Fees and expenses on appeal

43.—(1) The appellant shall—

(a) Upon filing the notice of appeal or application for leave to appeal pay the Registrar the prescribed fee for setting down the appeal; and

(b) Upon request by the Registrar deposit with the Registrar such sum as he shall assess as the probable expenses of the preparation, certification and copying of the record.

(2) In the event of non compliance with paragraph (1) within the time directed, or within such time as a Judge may allow, all proceedings in the appeal shall be stayed, unless the Court of Appeal shall otherwise order, and the appeal shall be listed for the next or any subsequent sitting of the Court of Appeal for a formal order of dismissal.

Preparation and costs of record

44.—(1) The Chief Registrar of the Supreme Court shall be responsible for the preparation, certification and copying of the record and may for the purpose of the preparation thereof give an opportunity to the parties or their representatives of appearing before him and being heard. The preparation of the record shall be subject to the supervision of the Supreme Court and the parties may submit any disputed question to the decision of a judge of the Supreme Court who shall give such directions thereon as the justice of the case may require.

(2) The Chief Registrar of the Supreme Court as well as the parties and their representatives shall endeavour to exclude from the record all documents (more particularly such as are purely formal) that are not relevant to the subject-matter of the appeal, and generally to reduce the bulk of the record as far as practicable, taking special care to avoid the duplication of documents and the unnecessary repetition of headings and other merely formal parts of documents; but the documents omitted to be copied shall be specified in the record.

(3) Where in the course of the preparation of a record one party objects to the inclusion of a document on the ground that it is unnecessary or irrelevant and the other party nevertheless insists upon it being included, the record shall, with a view to the subsequent adjustment of the costs of and incidental thereto, indicate the fact that the inclusion of the document was objected to and the party who so objected.

(4) After the completion of the preparation of the record the Chief Registrar of the Supreme Court shall, under his hand and the seal of the Supreme Court, certify it to be the record as made up by him and shall forward it together with four uncertified copies thereof to the Registrar of the Court of Appeal.

(5) Unless, on disposing of an appeal or application for leave to appeal the Court otherwise orders, the costs as prescribed of the preparation and certification of the record and of the four uncertified copies to be forwarded to the Registrar shall be borne by the appellant.

(6) The Chief Registrar of the Supreme Court shall on the application of any party to the appeal furnish such party with a copy of the record, or any part thereof, on payment of the prescribed fees.

Registrar on application of appellant or respondent or when he thinks necessary, to obtain documents, exhibits, etc., for purposes of appeal, and same to be open for inspection

45.—(1) The Registrar may, on an application made to him by the appellant or respondent in any appeal, or where he considers the same to be necessary for the proper determination of any appeal or application, or shall, where directed by the Court of Appeal so to do, obtain and keep available for use by the Court of Appeal any documents, exhibits, or other things relating to the proceedings before the

Court, and pending the determination of the appeal, such documents, exhibits, or other things shall be open as and when the Registrar may arrange, for the inspection of any party interested.

Court of Appeal may order production of any document or exhibit, etc.

(2) The Court of Appeal may, at any stage of an appeal, whenever it thinks it necessary or expedient in the interest of justice so to do, on the application of an appellant or respondent, order any document, exhibit, or other thing connected with the proceedings, to be produced to the Registrar or before it, by any person having the custody or control thereof.

Exhibits (other than those to which section 25(1) relates) to be returned to persons producing the same subject to order of Court

46. Exhibits, other than such documents as are usually kept by the proper officer of the court of trial, shall, subject to any order which the Court of Appeal may make, be returned to the person who originally produced the same, provided that any such exhibit to which the provisions of subsection (1) of section 25 of the Act relate shall not be so returned except under the direction of the Court of Appeal.

How appellant or respondent may obtain from Registrar copies of documents or exhibits

47. 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, or any person having a proper interest in the appeal may obtain from the Registrar copies of the record of the proceedings at the trial and of any documentary exhibits in the Registrar's possession under the Act or these Rules for the purposes of such appeal upon payment of the prescribed fee:

Provided that no charge shall be made for any such copies supplied to the Director of Public Prosecutions or to a barrister and solicitor assigned to an appellant under the Act or under the Legal Aid Act. (Cap. 15.)

Registrar to request judge's note

48. The Registrar, when he has received a notice of appeal or a notice of application for leave to appeal under the Act, or a notice of application for extension of the time within which under the Act such notices shall be given, or when the Governor-General shall exercise his powers under section 38 of the Act, shall request the judge of the court of trial, or of an appeal heard under the provision of section 319(1) of the Criminal Procedure Code, to furnish him with the whole of or any part of his note of the trial or appeal or with a copy of such note or any part thereof.

Report of judge of court of trial

49.—(1) The Registrar, when he has received a notice of appeal, or a notice of application for leave to appeal under the Act, or a notice of application for extension of time within which under the Act such notices shall be given, or when the Governor-General shall exercise his powers under section 38 of the Act, or whenever it appears to be necessary for the proper determination of any appeal or application or for the due performance of the duties of the Court of Appeal under the said section, may and whenever in relation to any appeal under the Act the Court of Appeal or any judge thereof directs him so to do, shall, request the judge

of the court of trial to furnish him with a report in writing, giving his opinion upon the case generally or upon any point arising upon the case of the appellant, and the judge of the court of trial shall furnish the same to the Registrar in accordance with such request.

Judge's report to be furnished to Court of Appeal

(2) The report of the judge shall be made to the Court of Appeal, and except by leave of the Court or a judge thereof the Registrar shall not furnish to any person any part thereof.

Judge's certificate

50. The judge of the court of trial may, in any case in which he considers it desirable so to do, inform the person convicted before him that the case is in his opinion one fit for an appeal to the Court of Appeal under paragraph (b) of section 21 of the Act, and may give to such person a certificate to that effect in the form 1 in the Second Schedule.

Appeals where fine only is imposed

51.—(1) Where a person has, on his conviction been sentenced to payment of a fine, and in default of payment to imprisonment, the person lawfully authorised to receive such fine shall on receiving the same retain it until the determination of any appeal in relation thereto.

Person in custody in default of payment of fine

(2) If such person remains in custody in default of payment of the fine, he shall be deemed, for all purposes of the Act or these Rules, to be a person sentenced to imprisonment.

Person fined may intimate appeal and recognizance may be imposed

(3) 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 of trial that he is desirous of appealing 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.

Fine to be repaid on success of appeal

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

Procedure on breach of recognizance

(5) If an appellant to whom paragraph (3) applies does not serve, in accordance with these rules, a notice of appeal within thirty days from the date of his conviction, the Registrar shall report such omission to the Court of Appeal who may, after notice in the forms 16 and 17 in the Second Schedule has been given to the appellant and his sureties, if any, order such recognizance and those of his surety or sureties to be estreated 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 the Court of Appeal may think right.

Judge's directions as to custody of exhibits

52.—(1) The judge of the court of trial may make any order he thinks fit for the custody, disposal or production of any exhibits in the case and any person to whom exhibits are returned shall retain such exhibits for thirty days pending any appeal and shall, on notice from the Registrar, produce or forward the same as and when required so to do.

(2) The Chief Registrar of the Supreme Court shall keep a record of any order or direction of the judge thereof given under this rule.

Varying order of restitution

53. Where, upon the trial of a person entitled to appeal under the Act against his conviction, an order of restitution of any property to any person has been made, any person in whose favour, or against whom an order to which rule 54 relates has been made, and with the leave of the Court of Appeal, any other person, shall, on the final hearing by the Court of Appeal of an appeal against the conviction on which such order of restitution was made, be entitled to be heard by the Court of Appeal before any order under the provisions of subsection (2) of section 25 of the Act annulling or varying such order of restitution is made.

Non-suspension of orders for restitution

54. Where the judge of the court of trial is of opinion that the title to any property the subject of an order of restitution made on a conviction of a person before him or any property to which the provisions of subsection (1) of section 25 of the Sale of Goods Act apply is not in dispute, he, if he shall be of opinion that such property or a sample or facsimile representation thereof is reasonably necessary to be produced for use at the hearing of any appeal, shall give such directions to or impose such terms upon the person in whose favour the order of restitution is made, or in whom such property reverts under such subsection as he shall think right in order to secure the production of such sample, portion or facsimile representation for use at the hearing of any such appeal. (Cap. 230.)

Bail. Court of Appeal to specify amount and before whom recognizances to be taken

55.—(1) When the Court of Appeal under the Act admits an appellant to bail pending the determination of his appeal on an application by him duly made in compliance with these Rules, the Court shall specify the amounts in which the appellant and his surety or sureties (if any be required) shall be bound by recognizance, and shall direct, if they think right so to do, before whom the recognizances of the appellant and his surety or sureties (if any) may be taken.

Recognizances to be taken before the Registrar or a magistrate

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

Registrar on receiving recognizances in due form to notify Controller of Prisons to release appellant

(3) The Registrar, on being satisfied that the recognizances of the appellant and his surety or sureties (if any) are in due form and in compliance with the order of the Court admitting the appellant to bail, shall send in form 14 in the Second Schedule a notice to the Controller of Prisons. This notice when received by the said Controller, shall be a sufficient authority to him to release the appellant from custody.

Form of recognizances

(4) The recognizances provided for in this rule shall be in forms 9 and 10 in the Second Schedule.

Presence of appellant on bail, at hearing of his appeal

(5) An appellant who has been admitted to bail under the Act shall, by the order of the Court of Appeal or a judge thereof under which he was so admitted to bail, be ordered to be and shall be personally present at each and every hearing of his appeal, and at the final determination thereof. The Court of Appeal may, in the event of such appellant not being present at any hearing of his appeal, if they think right so to do, decline to consider the appeal, and may proceed to summarily dismiss the same, and may issue a warrant for the apprehension of the appellant:

Provided that the Court of Appeal may consider the appeal in his absence, or make such other order as they think right.

Varying order for bail, by Court of Appeal

(6) When an appellant is present before the Court of Appeal, such Court may on an application made by any person or, if they think 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 recognizance of the appellant or of his sureties or substitute any other surety for a surety previously bound as they think right.

Provisions for sureties discharging their obligations

(7) Where the surety or sureties for an appellant under the Act, upon whose recognizances such appellant has been released on bail by the Court of Appeal, suspects that the said appellant is about to depart out of Fiji, 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 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 instance of sureties

(8) The said appellant shall, on being apprehended under the said warrant, be brought before the magistrates' court in and for which the said magistrate acts and before whom the said information was laid. The said court shall, on verification of the said information by oath of the informant, by warrant of commitment, commit him to prison.

Arrest and commitment of appellant to be notified to Registrar by clerk to magistrates' court

(9) The clerk of the said magistrates' 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.

Power of Court of Appeal to revoke order for bail

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

Controller of Prisons on commitment of appellant to notify Registrar

(11) 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 Controller of Prisons shall forthwith notify the Registrar, who shall take steps to inform the Court thereof, and the Court of Appeal may give to the Registrar such directions as to the appeal or otherwise as it shall think right.

Surety's rights at common law preserved

(12) Nothing in these Rules shall affect the lawful right of a surety to apprehend and surrender into custody the person for whose appearance he has become bound, and thereby to discharge himself of his suretyship.

Estreat of recognizances

(13) The Court of Appeal 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.

Appellant to surrender on appeal, be searched and remain in custody until further dealt with

56. An appellant who is not in custody shall, whenever his case is called on before the Court of Appeal, surrender himself to such persons as the Court shall from time to time direct, and thereupon shall be searched by them and shall be deemed to be in their lawful custody until further released on bail or otherwise dealt with as the Court shall direct.

Attendance of witness before Court of Appeal

57.—(1) Where the Court of Appeal has ordered any witness to attend and be examined before the Court under paragraph (b) of section 28 of the Act, an order shall be served upon such witness specifying the time and place at which to attend for such purpose.

Application to Court to hear witnesses

(2) Such order may be made on the application at any time of the appellant or respondent, but if the appellant is in custody and not legally represented the application shall be made by him in form 8 in the Second Schedule.

Order appointing examiner

(3) Where the Court of Appeal 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.

Registrar to furnish 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 so to do. 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. The Registrar shall cause to be served on every witness to be so examined a notice in form 15 in the Second Schedule.

Proceedings under section 28 (b) on reference

(6) The appellant and respondent, or barrister and solicitor on their behalf, shall be entitled to be present at and take part in any examination of any witness to which this rule relates.

Notice by Registrar to appellant of result of all applications

58. When the Court of Appeal has heard and dealt with any application under the Act or these Rules, the Registrar shall (unless it appears to him unnecessary so to do) give to the appellant (if he is in custody and has not been present at the hearing of such application) notice of the decision of the Court of Appeal in relation to the said application.

On final determination of appeals, etc., Registrar to notify appellant

59.—(1) On the final determination of any appeal under the Act or of any matter under section 35 of the Act the Registrar shall give to the appellant, if he is in custody and has not been present at such final determination, and to the Controller of Prisons, notice of such determination.

In case of death sentence, notice of appeal and of final determination to be sent to the Governor-General

(2) In any case of an appeal in relation to a conviction involving sentence of death, the Registrar shall, on receiving the notice of appeal or of application for leave to appeal, send a copy thereof to the Governor-General, and on the final determination of any such appeal by the Court of Appeal shall forthwith notify the appellant, the Governor-General, and the Controller of Prisons.

Registrar to notify officer of court of trial result of appeal

60. The Registrar, at the final determination of an appeal, shall notify in such manner as he thinks most convenient to the Chief Registrar of the Supreme Court the decision of the Court of Appeal in relation thereto, and also any orders or directions made or given by the Court under the Act, or these Rules, in relation to such appeal or any matter connected therewith.

Reports as to legal aid under section 34 (5) to be made to judge of Court

61. A report made by the Registrar under subsection (5) of section 34 of the Act shall be made to a judge of the Court, and any directions given thereupon by such judge shall be final.

A petitioner under section 38 (a) be deemed an appellant for all purposes

62. When the Governor-General exercises his powers under paragraph (a) of section 38 of the Act and refers the whole case to the Court of Appeal, the petitioner whose case is so dealt with shall be deemed to be for all purposes of the Act or these Rules a person who has obtained from the Court of Appeal leave to appeal, and the Court of Appeal may proceed to deal with his case accordingly.

Reference to Court under section 38 (b)

63. Where the Governor-General refers a point to the Court of Appeal under paragraph (b) of section 38 of the Act, such Court shall, unless they otherwise determine, consider such point in private.

Non-compliance with Rules not wilful may be waived by Court

64. Non-compliance on the part of an appellant with these Rules or with any rule of practice for the time being in force under the Act, shall not prevent the further prosecution of his appeal if the Court of Appeal or a judge thereof considers that such non-compliance was not wilful and that the same may be waived or remedied by amendment or otherwise. The Court of Appeal or a judge thereof may in such manner as it or he thinks right, direct the appellant to remedy such non-compliance, and thereupon the appeal shall proceed. The Registrar shall forthwith notify to the appellant any directions given by the Court or the judge thereof under this rule, where the appellant was not present at the time when such directions were given.

FIRST SCHEDULE

(Rule 13)

(Amended by Legal Notice 51 of 1984)

PART I—FEES IN CIVIL APPEALS

	\$
1. On filing a notice of appeal, or a notice of cross-appeal, from any decision, final or interlocutory (this fee includes the fees for setting down, notice of hearing and hearing)	40-00
2. On an application for—	
(a) leave to appeal;	
(b) enlargement of time;	
(c) fixing or dispensing with security;	
(d) leave to amend;	
(e) directions for service;	
(f) stay of execution; or	
(g) any interim or other order	10-00
3. On filing a respondent's notice	10-00
4. On every bond or deposit	4-00
5. On filing an affidavit or any other document unless otherwise provided for by this Schedule	2-00
6. For every copy of the record of appeal prepared under Rule 18, or of any proceedings, or of any judgment, order or document, per page (with a minimum fee of \$1-00)	0-20
(Provided that, where the fee exceeds \$50-00, the Registrar may on grounds of hardship or for other sufficient reason waive, wholly or in part, the fee in excess of \$50-00).	
7. For certifying any copy, per page (with a minimum fee of \$1-00 and a maximum fee of \$10-00).....	0-20
8. On entering or sealing the judgment or order made on the hearing of an appeal	10-00
9. On entering or sealing any other order made by the Court of Appeal or a judge thereof including orders for leave to appeal, security for costs or enlargement of time	8-00
10. On any certificate by the Registrar (other than certification of a copy or of taxed costs)	2-00

11. On filing a bill of costs and obtaining an appointment to tax—	
For a bill not exceeding \$100.....	7-00
For a bill exceeding \$100 but not exceeding \$200	10-00
For a bill exceeding \$200.....	16-00
(This fee is to be paid on the amount claimed in the bill. No additional fee is payable for taxation).	
12. On a certificate or allocatur of the taxing officer	1-00
13. On application for supervision by the Court of the preparation of the record for the Privy Council on appeal, including such supervision	25-00

PART II—FEES IN CRIMINAL APPEALS

14. On filing a notice of appeal or a notice of cross-appeal (This fee includes the fees for setting down, notice of hearing and hearing) ...	30-00
15. On an application for—	
(a) leave to appeal; or	
(b) enlargement of time.....	10-00
16. On filing any motion, affidavit or other document unless otherwise provided for in this Schedule	2-00
17. For every copy of the record of the proceedings at the trial or of any documentary exhibits in the possession of the Registrar, per page (with a minimum fee of \$1-00)	0-20
(Provided that, where the fee exceeds \$30-00 the Registrar may on grounds of hardship or for other sufficient reason waive, wholly or in part, the fee in excess of \$30-00).	
18. For certifying any copy, per page (with a minimum fee of \$1-00) and a maximum fee of \$10-00).....	0-20

SECOND SCHEDULE
FORM 1
COURT OF APPEAL RULES
JUDGE'S CERTIFICATE

In the Supreme Court of Fiji.
Criminal Jurisdiction.

No. _____ of 19 ____

REGINA v.

Whereas the said _____ was tried and convicted before me the undersigned in the Supreme Court of Fiji sitting at _____ on the _____ day of _____, 19____, on a charge of _____ and was sentenced by me to _____

I do hereby certify that the case is a fit case for an appeal by the said _____ to the Court of Appeal under section 21(b) of the Court of Appeal Act, upon the following grounds:

Dated at _____ this _____ day of _____, 19____

Judge.

FORM 2
COURT OF APPEAL RULES
NOTICE OF APPEAL UPON CERTIFICATE OF THE JUDGE
OF THE COURT OF TRIAL

To: The Registrar of the Court of Appeal.

To: The Director of Public Prosecutions or other Respondent.

I, _____ having been convicted of the offence of _____ and being now a prisoner in _____ prison (or now living at _____) and having duly obtained a certificate, which is hereto annexed, from the judge before whom I was tried for the said crime that it is a fit case for appeal, do hereby give notice of appeal against my said conviction to the Court of Appeal.

Dated this _____ day of _____, 19____

(Signed)

Appellant or his Barrister and Solicitor.

State:—

- (a) Whether you desire to be present on the hearing of the appeal.
- (b) Whether you desire the Court to assign you legal aid.

FORM 3
COURT OF APPEAL RULES

REGINA v.

NOTICE OF ABANDONMENT OF APPEAL

To: The Registrar of the Court of Appeal.

I, _____, having been convicted by the Supreme Court of Fiji on the _____ day of _____, 19____, of the offence of _____ and having been desirous of appealing and having duly sent notice of that appeal to the Court of Appeal against my said conviction (or sentence of _____ passed upon me on my said conviction) do hereby give you notice that I do not intend to prosecute my appeal but that I hereby abandon all further proceedings in regard thereto as from the date hereof.

Dated this _____ day of _____, 19____.

*Appellant or his Barrister and Solicitor.*FORM 4
COURT OF APPEAL RULESNOTICE OF APPEAL OR APPLICATION FOR LEAVE TO APPEAL
AGAINST CONVICTION OR SENTENCE

To: The Registrar of the Court of Appeal.

[Name of Appellant] convicted before the Supreme Court of Fiji at _____ of the offence of _____ and sentenced to _____ on the _____ day of _____, 19____, and detained in _____ prison.

I, the above-named appellant, hereby give you notice that I desire to appeal to the Court of Appeal against:—

(a) my conviction;

(b) my sentence;

on the following grounds:—

State:—(a) Whether you desire to be present on the hearing of the appeal.

(b) Whether you desire the Court to assign you legal aid.

Dated at _____ this _____ day of _____, 19____.

(Signed)

Appellant or his Barrister and Solicitor.

FORM 5

COURT OF APPEAL RULES

NOTICE OF APPEAL ON QUESTION OF LAW ALONE

To: The Registrar of the Court of Appeal.

I, _____ having been convicted by the Supreme Court of Fiji of the offence of _____ and being now a prisoner in _____ prison (or now living at _____) do hereby give you notice of appeal against my conviction (particulars of which hereinafter appear) to the Court of Appeal on questions of law, that is to say:—

Dated this _____ day of _____, 19 _____.

(Signed)

Appellant or his Barrister and Solicitor.

Particulars of Trial and Conviction.

1. Date and place of trial.
2. Sentence.
3. Whether above questions of law were raised at the trial.
4. Do you desire the Court to assign you legal aid?

FORM 6

COURT OF APPEAL RULES

NOTICE OF APPLICATION FOR EXTENSION OF TIME WITHIN WHICH TO APPEAL

To: The Registrar of the Court of Appeal.

I, _____ having been convicted of the offence of _____ by the Supreme Court of Fiji at _____ on the _____ day of _____, 19 _____, and being now a prisoner in _____ prison (or now living at _____) give you notice that I hereby apply to the Court of Appeal 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:—

Dated this _____ day of _____, 19 _____.

(Signed)

Appellant or his Barrister and Solicitor.

Witness

Signature

Address

FORM 7
COURT OF APPEAL RULES

NOTICE OF APPLICATION BY APPELLANT FOR BAIL PENDING
APPEAL

To: The Registrar of the Court of Appeal.

I, _____ having been convicted of the crime of _____
and being now a prisoner in _____ prison and having given
notice of appeal/been granted leave to appeal do hereby give notice that I desire to
apply to the Court of Appeal for bail with/without sureties on the following
grounds:—

The undermentioned persons are willing to become sureties for my presence at
the hearing and determination of the appeal to the amount of \$ _____ : each.

Name

Address

Name

Address

Dated this _____ day of _____, 19 _____.

(Signed)

Appellant or his Barrister and Solicitor

FORM 8
COURT OF APPEAL RULES

NOTICE OF APPLICATION BY APPELLANT FOR LEAVE TO CALL
FURTHER WITNESSES

To: The Registrar of the Court of Appeal.

REGINA v.

I, _____ having appealed to the Court of Appeal
hereby request you to take notice that I desire that the said Court shall order the
witness(es) hereinafter specified to attend the Court and be examined on my
behalf, viz.:—

Dated this _____ day of _____, 19 _____.

(Signed)

Appellant or his Barrister and Solicitor

You are required to give the following particulars:—

1. Name and address of witness.
2. Whether such witness has been examined at the trial.
3. If not, state the reason why he/she was not examined.
4. On what matters do you wish him/her to be examined on the appeal.
State shortly the evidence you think he can give.

FORM 9
COURT OF APPEAL RULES
RECOGNIZANCE OF BAIL OF APPELLANT

Be it remembered that whereas _____ was convicted of _____ on the _____ day of _____, 19____, and was thereupon sentenced to _____ and now is in lawful custody in _____ prison and has duly appealed against his conviction (and sentence) to the Court of Appeal and has applied to the Court of Appeal for bail pending the determination of his appeal and whereas the Court of Appeal has granted him bail on his entering into his own recognizance in the sum of \$ _____ and with _____ surety/ies each in the sum of \$ _____: the said _____ personally comes before me and acknowledges himself to owe to Her Majesty the Queen the said sum of \$ _____ of good and lawful money of Fiji to be made and levied of his goods, chattels, lands and tenements to the use of Her Majesty the Queen, her heirs and successors, if he the said _____ fail in the condition hereon endorsed.

_____ Taken and acknowledged this _____ day of _____, 19____, at the _____ prison, before me.

Registrar or Magistrate.

CONDITION

The condition of the above written recognizance is such that if he 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 to then and there abide by the judgment of the said Court and not depart or be absent from such Court or any such hearing without the leave of the said Court, and in the meantime not to depart out of Fiji, then this recognizance to be void or else to stand in 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.

FORM 10

COURT OF APPEAL RULES

RECOGNIZANCE OF BAIL OF APPELLANT'S SURETIES

Be it remembered that on this day of
19 of and of personally came before me
and severally acknowledged themselves to owe to Her Majesty the Queen the
several sums following, that is to say the said the sum of \$, and
the said the sum of \$, of good and lawful money of Fiji to be
made and levied of their goods and chattels, lands and tenements, respectively, to
the use of Her Majesty the Queen, her heirs and successors, if now in
lawful custody in the prison fail in the condition hereon endorsed.

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

Registrar or Magistrate.

CONDITION

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

FORM 11
COURT OF APPEAL RULES

RECOGNIZANCE OF APPELLANT SENTENCED TO PAYMENT OF A
FINE

Be it remembered that whereas of was on the day of , 19 , convicted of was thereupon sentenced to pay the sum of \$: as a fine for his said offence by the Supreme Court and has intimated to the said Court that he desires to appeal against the said conviction and whereas the said Court considers the said appellant may in lieu of payment at and upon his said conviction of the said sum be ordered to enter into a recognizance of bail himself in the sum of \$: and with surety/ies each in the sum of \$: to prosecute his said appeal before the Court of Appeal.

The said and of and of personally come before me this day of , 19 , and severally acknowledge themselves to owe to Her Majesty the Queen the several sums following that is to say the said the sum of \$: the said the sum of \$: , of good and lawful money of Fiji to be made and levied of their goods and chattels, lands and tenements respectively to the use of Her Majesty the Queen her heirs and successors if now before the said Court fail in the condition endorsed hereon.

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

Appellant
Surety
Surety

Chief Registrar, Supreme Court.

CONDITION

The condition of the above-written recognizance is such that if the said shall prosecute his appeal before the Court of Appeal and abide by the judgment of the said Court then this recognizance to be void, or else to stand in full force and effect.

FORM 12
COURT OF APPEAL RULES
IN THE COURT OF APPEAL
Cr. App. No. of 19 .

REGINA v.

I hereby give you notice that a judge of the Court of Appeal having considered your application 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) legal aid to be assigned to you;
- (d) permission to you to be present at the hearing of your appeal
has refused the applications marked (and has granted the
applications marked).

If you desire to have the above-marked applications which have been refused determined by the Court of Appeal, you are required to fill up the enclosed form and return it to me.

Dated this day of , 19 .

To: the abovenamed the appellant.

Registrar.

FORM 13
COURT OF APPEAL RULES
IN THE COURT OF APPEAL
Cr. App. No. of 19 .
REGINA v.

NOTICE OF APPEAL BY APPELLANT FROM JUDGE UNDER
SECTION 35

To: The Registrar of the Court of Appeal.

I, having received your notification that my applications 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) legal aid to be assigned to me;
- (d) permission to me to be present on the hearing of my appeal,

have been refused, do hereby give you notice that I desire that the said applications shall be considered and determined by the Court of Appeal (and that as I am not legally represented I desire to be present at the determination of my said applications).

Dated this day of , 19 .

Appellant or his Barrister and Solicitor.

FORM 14
COURT OF APPEAL RULES

To: The Controller of Prisons.

Whereas _____ has duly appealed to the Court of Appeal against his conviction for _____ and sentence of _____ and having applied to the said Court has been granted bail by the said Court pending the determination of the said appeal and whereas I have been given to understand that the said _____ is now in your lawful custody in _____ prison under the said conviction and sentence and whereas I have the recognizances of the said _____ and his sureties and the same are in due form and in compliance with the Order of the Court 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 _____, 19 _____.

Registrar of the Court of Appeal.

FORM 15
COURT OF APPEAL RULES

IN THE COURT OF APPEAL

Cr. App. No. _____ of 19 _____.

REGINA v.

ORDER TO WITNESS TO ATTEND BEFORE EXAMINER.

To: _____ of _____.

Whereas on good cause shown to the Court of Appeal you have been ordered to be examined as a witness upon the appeal of the abovenamed and your deposition to be taken for the use of the said Court:

This is to give you notice to attend at _____ on the _____ day of _____, 19 _____, before _____ 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 relating to the said appeal of which you may have had notice so to produce.

Dated this _____ day of _____, 19 _____.

Registrar.

RULES FOR THE PROSECUTION BY PERSONS UNDER SENTENCE OF
DEATH OF PETITIONS FOR SPECIAL LEAVE TO APPEAL TO THE
JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

Notification 21st May, 1969.

Date appointed for execution of sentence

1. The date appointed for the execution of a sentence of death will normally allow an interval of not less than twenty-one and not more than twenty-five days between sentence and the last day for lodging an appeal to the Court of Appeal or, in the event of an appeal, the dismissal of the appeal and the date of execution.

Notice of intention to petition for special leave to appeal to the Judicial Committee of the Privy Council

2.—(1) If he intends to apply for special leave, the applicant should as soon as possible and in any case within the period prescribed in paragraph (2) notify his intention to the Governor-General through his legal representative or, if personally, through the officer in charge of the prison where he is confined.

(2) The period prescribed for notification under paragraph (1) is ten clear days after notification that the Governor-General has not granted a pardon or respite, or, in the event of an appeal to the Court of Appeal, fourteen days after the dismissal of the appeal, if the latter should be longer.

Postponement of execution following notice under rule 2

3. On receipt of a notification under rule 2, the applicant will be informed that the execution will be postponed for twenty-one days, during which period the applicant must furnish the Governor-General with proof that the necessary instructions, papers and funds have been sent to a solicitor practising in London, the instructions and funds by air mail and the papers by registered ordinary mail; and also where the application is to be made *in forma pauperis* that the procedure relating to such applications as set out in rule 4 (c) has been complied with.

The necessary papers to be forwarded

4. The necessary papers alluded to in rule 3 should include—

(a) three copies, one being a certified copy, of the record of the trial including any documentary exhibits and the judgment and order of the Court; and

(b) if there has been an appeal, three copies, one being a certified copy, of the record of the proceedings on appeal including the judgment and order of the Court; and

(c) in the case of a person intending to petition *in forma pauperis*—

(i) an affidavit stating that he is not worth £100 in the world except his wearing apparel and that he is unable to provide sureties, and

(ii) a certificate of counsel that he has reasonable grounds of appeal.

Necessary funds

5. The necessary funds (except where an application is made *in forma pauperis*) will be at least £115.50 if one counsel is engaged, but, if more than one counsel is engaged or if the record is bulky, £157.50 to £210 will be needed.

Costs etc., on dismissal

6. A petitioner *in forma pauperis* may, if his petition is dismissed, be excused from paying most of the costs usually chargeable, but he may nevertheless be required to pay the London solicitor's out of pocket expenses and an allowance, on a prescribed scale, towards their office expenses.

Solicitors not bound to accept case

7. Solicitors in England are not under any obligation to accept a case *in forma pauperis*.

Name, etc., of solicitor to be supplied

8. When furnishing the required proof, the name and address of the solicitors in London to whom papers and funds have been despatched must be supplied to the Governor-General.

Action where rule 3 not complied with

9.—(1) If the proof required by the provisions of rule 3 is not furnished to the Governor-General before the expiration of the period of twenty-one days referred to in that rule, the execution will not be further postponed unless the Governor-General considers that there are special reasons that would justify exceptionally an extension of the date for furnishing such proof. The applicant or his advisers will be informed by the Governor-General of the new date by which the required proof must be furnished.

(2) If the proof required by the provisions of rule 3 is furnished within the period of twenty-one days referred to in that rule or on or before such date as the Governor-General may have fixed under the provisions of rule 10, execution will be postponed.

Action when execution further postponed

10. If the execution is to be further postponed, the Governor-General will inform the applicant or his advisers of the date by which the application for special leave to appeal should be lodged in the Privy Council Office.

Cases in which execution will not be postponed

11. If the Governor-General is informed by the Foreign and Commonwealth Office—

- (a) that the application for special leave has not been lodged by the date fixed;
 - (b) that the application has been dismissed by the Judicial Committee;
 - (c) that the appeal has been dismissed by the Judicial Committee;
- the execution will not be further postponed, subject, however, to the power of the Governor-General to exercise the Prerogative of Mercy.

Controlled by Ministry of the Attorney-General.