

BELIZE:

SENIOR COURTS ACT, 2022

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SCHEDULE I

SCHEDULE II



No. 27 of 2022

I assent,

(H.E. MS. FROYLA TZALAM)
Governor-General

15th November 2022

AN ACT to repeal and replace the Supreme Court of Judicature Act, Chapter 91 of the Substantive Laws of Belize, Revised Edition 2021; and the Court of Appeal Act Chapter 90 of the Substantive Laws of Belize, Revised Edition 2020; to provide for new positions within the judiciary to assist in the functioning and administration of the Senior Courts; and to provide for matters connected therewith or incidental thereto.

(Gazetted 15th November, 2022).

BE IT ENACTED, by and with the advice and consent of the House of Representatives and Senate of Belize and by the authority of the same, as follows:

PART I

Preliminary

1. This Act may be cited as the

Short title.

SENIOR COURTS ACT, 2022.

Interpretation.

2. In this Act—

CAP. 4.

“Chief Justice” means the person appointed as the Chief Justice of the High Court of Justice pursuant to section 97 of the Belize Constitution and is the head of the Judiciary and the Senior Courts in accordance with section 94 of the Belize Constitution;

“Chief Registrar” means the person appointed to the office of Chief Registrar under section 193;

“Rules Committee” means the Rules Committee established under section 101(2); and

“Senior Court” means the Senior Courts established under section 94 of the Belize Constitution, which consists of the Court of Appeal and the High Court of Justice.

Administration
of Senior
Court.

3. The Chief Justice shall be responsible for the direction, control and administration of the Senior Courts.

Reference to
Supreme Court
to be deemed a
reference to the
High Court.

4.—(1) Where in any Act or Ordinance or other law in force prior to the commencement of this Act, reference is made to the Supreme Court in the exercise of its jurisdiction and powers, or to a Judge of the Supreme Court, that reference shall be deemed to be a reference to the High Court or to a Judge of the High Court as the case may be.

(2) Any act done or proceedings taken in respect of any cause or matter whatsoever in the former Supreme Court or before a Judge thereof prior to the commencement of this Act shall have effect as if it had been done or taken in the High Court or before a Judge thereof.

PART II

*High Court**Sub-Part 1**Officers of the High Court, etc.*

5. For the purposes of this Part—

**Interpretation
of this Part.**

“action” means a civil proceeding commenced by claim or in such other manner as may be prescribed, but does not include a criminal proceeding by the State;

“cause” includes any claim or other original proceeding between the claimant and a defendant, and any criminal proceeding by the State;

“claimant” includes every person asking any relief, otherwise than by way of counter claim as a defendant, against any other person by any form of proceeding, whether the same is taken by action, suit, petition, motion, summons or otherwise;

“Court” means the High Court constituted by the Constitution, and includes a judge when exercising any of the jurisdictions conferred on him by this Act, by any other Act or by rules of court;

“decision” means any final adjudication of an inferior court in a cause or matter before it and includes any non-suit, dismissal, judgment, conviction, sentence, order or other determination of the cause or matter;

“defendant” includes every person served with a claim form, any writ of summons or process, or served with notice of, or entitled to attend, any proceeding;

“judge” means a judge of the Court and includes the Chief Justice;

“judgment” includes decree;

“Legal Education Certificate” means a certificate issued by the Council of Legal Education established by an Agreement made by Commonwealth Caribbean countries at Georgetown, Guyana on 25th November, 1970;

“marshal” means the marshal appointed by the Public Services Commission under this Act;

“Master” means a Master of the High Court;

“matter” includes every proceeding in the Court not in a cause;

“order” includes rule;

“party” includes every person served with notice of, or attending, any proceeding although not named on the record;

“petitioner” includes every person making any application to the Court, either by petition, motion or summons, otherwise than as against any defendant;

“pleading” includes any petition or claim, and also includes the statements in writing of the claim or demand of any claimant, and of the defence of any defendant thereto, and of the reply of the claimant to any counterclaim of a defendant;

“prescribed” means prescribed by rules of court;

“registry” means the registry of the Court;

“rules of court” means the rules of practice and procedure made under the Supreme Court Ordinance or the Supreme Court of Judicature Act, in force immediately before the commencement of this Act, under this Act and under any other Act conferring the power on the Chief Justice or the Rules Committee, to make rules and orders, and includes forms, fees and costs; and

“security” means either a recognisance or a written undertaking with or without sureties in the discretion of the inferior court, and includes the deposit with the inferior court of a sum equal in amount to the sum for which a recognisance or an undertaking is required, which deposit shall be held subject to, and shall abide, the order of the Court or the inferior court.

6.-(1) The Court shall have and use as occasion requires a seal bearing an impression of the Coat of Arms within an exergue or label surrounding the same with the inscription “Seal of the High Court of Belize”.

Seal.

(2) The seal shall be in the custody of the Registrar and be kept in his office.

7.-(1) There is established as an office of the High Court, the office of Master of the High Court.

Establishment
of the office of
Master.

(2) The power to make appointments to the office of Master and to exercise disciplinary control over persons holding or acting in such offices shall vest in the Judicial and Legal Services Commission.

(3) No person may be appointed as a Master unless that person is an attorney at law who has practised as such for not less than five years.

(4) Masters shall exercise the authority and jurisdiction of a Judge of the High Court sitting in Chambers and such other authority and jurisdiction as may from time to time be assigned by this Act or rules of court made under section 101.

(5) Notwithstanding sub-section (4), Masters shall not exercise authority and jurisdiction in relation to applications for judicial review.

(6) Where a Master has and exercises jurisdiction in relation to any matter, the Master shall have all the powers, rights, immunities and privileges of a Judge in relation to such matters.

(7) Where under this Act or rules of court a Master has jurisdiction in relation to any matter to make an order in relation to that matter, the order—

(a) may include provision for costs, certificate for counsel or other consequential matters; and

(b) shall, subject to this Act, have the same effect as if it had been made by a Judge.

(8) Where under this Act or the rules of court a Master exercises jurisdiction in relation to any matter, any party to the proceedings may, if that party so desires, appear by an attorney-at-law.

Appeals.

8.—(1) An appeal shall be to the Court of Appeal from any order or decision of a Master made in the exercise of any jurisdiction conferred on him under this Act or by rules of court.

(2) No appeal from an order or a decision of the Master under this section shall operate as a stay of proceedings unless the Court of Appeal so orders.

Procedure where hearing is not concluded.

9. Where the hearing of any proceedings has commenced before a Master and—

(a) prior to the conclusion of the hearing, the Master ceases either permanently or temporarily to hold office, the Master may, whether or not he has reserved judgment, be assigned at any time to be the Master for the purpose of concluding the hearing;

- (b) the Master has reserved judgment but ceases to hold office before he has delivered his judgment, the Master may at any time lodge with the Registrar the judgment in writing, and the judgment shall—
- (i) as soon as possible thereafter be read in Chambers in accordance with the directions of the Chief Justice; and
 - (ii) take effect in all respects as if the person who reserved the judgment had continued to be the Master and had delivered judgment.

10.—(1) There shall be a “High Court Registry” comprising the Supreme Court office existing at the date of this Act and the officers and persons then employed therein.

The Registry
and the
Registrar.

(2) There shall be a Registrar of the High Court who shall be subject to the general or special directions of the Chief Registrar and shall assist the Chief Registrar in the performance of his duties.

(3) The Registrar shall have the custody of all records, documents and papers thereof, and shall perform such duties as may be prescribed by any law.

(4) The Registrar shall also have powers and discharge duties corresponding to the powers and duties of the Queen’s Coroner and Attorney and Master of the Crown Office attached to the Queen’s Bench Division of the High Court of Justice in England so far as such powers or duties relate to any judicial proceedings.

(5) The Registrar shall discharge the duties of a marshal appointed under this Act, unless some other person is appointed by the Governor-General to discharge those duties.

Registrar to have power of judge in chambers.

11.—(1) The Registrar shall have power and jurisdiction to do such of the things and transact such of the business which by virtue of any enactment, or by custom, or by the rules and practice of the Court, are now done and transacted by a judge sitting in chambers as may from time to time be prescribed by rules of court,

Provided that the Registrar shall have no jurisdiction in respect of matters relating to the liberty of the subject.

(2) Any person affected by any order or decision of the Registrar with respect to the exercise of any such power and jurisdiction may appeal to the Court which shall have power to hear and determine such appeal.

Deputy Registrars, Assistant Registrars and Judicial Assistants.

12.—(1) There shall be Deputy Registrars of the Court who shall, subject to the general or special directions of the Chief Registrar, assist the Registrar in the performance of his duties.

(2) Notwithstanding sub-section (1), Deputy Registrars shall, in the absence of the Registrar or the inability of the Registrar from any cause whatever to act, have all the powers and may perform all the duties of the Registrar except where otherwise provided by rules of court.

(3) There shall be Assistant Registrars of the Court who shall, subject to the general or special directions of the Chief Registrar, assist the Registrar and Deputy Registrars in the performance of their duties.

(4) Notwithstanding sub-section (3), Assistant Registrars shall, in the absence of the Registrar and Deputy Registrars or their inability from any cause whatever to act, have all the powers and may perform all the duties of the Registrar and Deputy Registrars except where otherwise provided by rules of court.

(5) The powers conferred by this section on a Deputy Registrar or Assistant Registrar shall be exercised by them

subject to and in accordance with any instructions or directions which may from time to time be given by the Registrar,

Provided that no contravention on the part of a Deputy Registrar or Assistant Registrar of any instructions or directions shall affect the validity of any act or thing lawfully done by them under this sub-section.

(6) The powers conferred by this section on any person appointed as a Deputy Registrar or Assistant Registrar shall only be exercised by that person when and after his appointment as Deputy Registrar, Assistant Registrar, acting Deputy Registrar or acting Assistant Registrar has been duly published in the *Gazette*.

13. The Registrar and a Deputy Registrar shall receive such salaries as the Judicial and Legal Services Commission determines.

Salaries of Registrar and Deputy Registrar.

14. The Registrar shall be an attorney-at-law or a holder of the Legal Education Certificate having at least five years standing in that capacity.

Qualification of Registrar.

15.—(1) The Registrar shall have power to administer oaths, and take solemn declarations or affirmations in lieu of oaths, but he shall not practice, or act as attorney-at-law, conveyancer or notary public or demand or receive any personal fee in compensation for any services rendered in any such capacity.

Registrar to administer oaths.

(2) Nothing contained in sub-section (1) shall prevent the Registrar from acting as conveyancing counsel to the Court, or from receiving for so acting such remuneration as the Court may in each case determine.

16.—(1) The Master, and in the absence of the Master, the Registrar shall be responsible for the assessment of costs to be awarded by the court.

Assessment of costs.

(2) The assessment of costs shall be in accordance with the scale of fees for the time being in force.

Judicial
Assistants.

17.—(1) The Judicial and Legal Services Commission may, for the efficient functioning of the Court, appoint Judicial Assistants, to provide support to justices of the Court.

(2) Judicial Assistants shall assist justices of the Court in the judicial process and perform such duties and functions as determined by the Judicial and Legal Services Commission.

Marshals,
Deputy
Marshals,
Assistant
Marshals and
other officers.

18. The Public Services Commission may from time to time appoint Senior Marshals, Marshals, Deputy Marshals, Assistant Marshals and such other officers of the Court and Registry as may be necessary for the efficient functioning of the Court.

Officers to be
under direction
of Chief
Justice.

19. Subject to this Act and the rules of court, the Chief Registrar, Registrar, Deputy Registrars, Assistant Registrars, Judicial Assistants, Marshals, Deputy Marshals, Assistant Marshals and all other officers of the Court and Registry shall be under the direction and control of the Chief Justice.

Duties and
liability of
Marshals, etc..

20.—(1) Senior Marshals, Marshals, Deputy Marshals or Assistant Marshals, as the case may be, shall execute all judgments, sentences, orders, writs and processes of the Court, serve all subpoenas, citations and other summonses issuing out of the Court, levy execution against property in accordance with the law, maintain order when present in Court and otherwise carry out the commands of the Court or a judge.

(2) Senior Marshals, Marshals, Deputy Marshals or Assistant Marshals, as the case may be, shall be liable for all losses, damages, costs, charges and expenses, had and suffered by any person from or by reason of any irregularity, informality, omission or neglect of duty by him, and he may be sued in any manner and form applicable to the

circumstances of the case, for the recovery of those losses, damages, costs, charges or expenses,

Provided that, in that suit, a Senior Marshal, Marshal, Deputy Marshal and Assistant Marshal shall be entitled to the protection given by the Public Authorities' Protection Act.

CAP. 31.

(3) Any act or thing required to be done or performed under this Act by a Senior Marshal or Marshal may be done or performed by a Deputy Marshal or an Assistant Marshal.

21. Subject to rules of court and to any other law relating thereto, all officers of the Court and their successors in office shall perform, in connection with the Court or with the judges, duties similar or analogous to those performed by them before the commencement of this Act.

Duties of officers of the Court generally.

22.—(1) The Court may appoint, by an instrument or instruments under the seal of the Court, the requisite number of fit and proper persons to be commissioners of the Court for taking affidavits and declarations in any cause or matter and, when authorised thereto by a special order of the court or judge, for taking the examination of witnesses or receiving production of documents.

Appointment of commissioners and their powers.

(2) Any appointment made under this section may at any time be cancelled by the Court by an instrument under the seal of the Court.

(3) Any order of the Court or a judge for the attendance and examination of witnesses or production of documents before a commissioner within the jurisdiction of the Court may be enforced in the same manner as an order to attend and be examined or produce documents before the Court.

(4) Subject to any special directions of the Court, a commissioner, when and so far as necessary for performing

any duty which he is authorised to perform, shall be deemed to have and may exercise the incidental powers of a judge.

(5) Every commissioner shall be subject to the order and direction of the Court as fully as any other officer of the Court, and every proceeding before a commissioner shall be subject to the direction and control of the Court.

(6) No action shall be brought against a commissioner in respect of any act or order bona fide done or made by him in the execution or supposed execution of the jurisdiction and powers vested in him, but every act or order, if in excess of that jurisdiction and those powers, shall be liable to be altered, amended, reversed or set aside on summary application to the Court.

Employment
of experts and
referees.

23.—(1) The Court may, when it thinks fit, obtain the assistance of accountants, actuaries or scientific persons to assist it to determine any question at issue in any cause or matter before the Court, and may refer any question depending upon matters of account to some accountant for determination or investigation and report.

(2) The Court may allow reasonable fees and expenses to any of those persons to be paid by the parties or to be assessed as costs in the cause or matter.

Sub-Part 2

Divisions and Jurisdiction of the Court

Divisions of
the Court
into Civil and
Criminal.

24.—(1) The Court shall be divided into two primary divisions, namely, the Criminal Division and the Civil Division, and a reference in this Act or any other law to the Court shall, where the context requires, be read and construed as a reference to the appropriate division of the Court.

(2) The Civil Division and Criminal Division of the Court shall be under the direction and control of a Senior

High Court Justice respectively, who shall be answerable to the Chief Justice.

(3) The Civil Division shall comprise the following divisions—

- (a) Constitutional and Administrative Law Division, which shall have jurisdiction to hear and determine case stated matters and matters before the High Court in relation to constitutional law and administrative law;
- (b) Commercial Division, which shall have jurisdiction to hear and determine matters before the High Court in relation to the law of real property, contracts and torts; and
- (c) Family and Trust Division, which shall have jurisdiction to hear and determine matters before the High Court in relation to probate, division of matrimonial property and any other matter dealing with trust and properties under constructive trust.

(4) Subject to this Act and any Rules made thereunder, the Chief Justice may assign a judge to a particular division of the Court for any specified period of time, and may likewise reassign a judge from one division to the other division of the Court.

(5) The criminal jurisdiction, including appellate criminal jurisdiction, vested in the Court shall be exercised by the Criminal Division of the Court, and jurisdiction in all other matters shall be exercised by the Civil Division of the Court.

(6) Nothing in this section shall prohibit or restrict any judge to hear, determine and dispose of any cause or matter

which began before the commencement of this section.

(7) The Chief Justice may by Order published in the *Gazette*, alter the number of divisions of the Court and specify the jurisdiction of each division of the Court after such alteration.

Jurisdictions,
powers and
authorities of
the Court.

25.—(1) There shall be vested in the Court, and it shall have and exercise within Belize, all the jurisdictions, powers and authorities whatever possessed and vested in the High Court of Justice in England, including the jurisdictions, powers and authorities in relation to matrimonial causes and matters and in respect of suits to establish legitimacy and validity of marriages and the right to be deemed natural-born Belizean citizens as are, by the Supreme Court of Judicature (Consolidation) Act, vested in the High Court of Justice in England,

Provided that a decree declaring a person to be a natural-born Belizean citizen shall have effect only within Belize.

(2) Subject to rules of court, the jurisdictions, powers and authorities hereby vested in the Court shall be exercised as nearly as possible in accordance with the law, practice and procedure for the time being in force in the High Court of Justice in England.

(3) Where any jurisdiction, power or authority is by this Act vested in the Court, the grounds upon which the same may be exercised and other provisions relevant to the subject-matter in respect of which the jurisdiction, power or authority is so vested may be prescribed.

Jurisdiction in
insolvency, etc.
CAP. 244.

26. The Court shall have and exercise jurisdiction in all matters of insolvency and bankruptcy under the Bankruptcy Act, or any other Act relating to, bankruptcy and shall have all necessary powers for enforcing such jurisdiction.

27.-(1) The Court shall have power—

- (a) to appoint guardians and committees of the persons, and estates of infants and of persons affected by disability or mentally incapable of governing themselves or their estates; and
- (b) to inquire into, act in, hear and determine all cases whatever as fully and amply to all intents and purposes as the Lord High Chancellor of Great Britain or the grantee from the Crown of the persons and estates of infants and of persons affected by disability or mentally incapable of governing themselves may lawfully do in England.

Jurisdiction of the Court in relation to infants and persons mentally incapable of governing themselves.

(2) Any such inquiry may be made by inspection of the person the subject thereof, or by examination on oath or otherwise of the party in whose custody or charge such person may be or of any other person or persons or by such other ways and means by which the truth may best be discovered.

28.-(1) Subject to any statutory provisions, every proceeding in the Court and all business arising thereout shall, so far as is practicable and convenient, be heard, determined and disposed of before a single judge, and all proceedings in an action subsequent to the hearing or trial, down to and including the final judgment or order, shall, so far as is practicable and convenient, be had and taken before the judge before whom the trial or hearing took place.

Exercise of Civil Jurisdiction.

(2) Notwithstanding sub-section (1), civil proceedings brought before a single judge may be continued and determined by another judge if—

- (a) the judge before whom the proceedings took place is, for any reason, unable to continue the hearing or trial of any matter prior to the determination or disposition of the matter; and

- (b) the parties to the civil proceedings consent to the proceedings being continued and determined by another judge.

Proceedings in Court and in chambers.

29. A judge may, subject to rules of court, exercise in Court or in chambers all or any part of the jurisdictions vested in the Court, in all causes and matters and in all proceedings in any causes or matters which may now be heard in Court or in chambers respectively by a single judge of the High Court of Justice in England or which may be directed or authorised by rules of Court to be so heard.

Exercise of criminal jurisdiction.

30. The criminal jurisdiction by this Act vested in the Court shall, together with all the powers incident thereto, be exercised by a single judge with or without a jury.

Appeal from inferior courts.

31. The Court shall have and exercise, in accordance with Sub-Part 8, or in accordance with the provisions of any other Act and of any rules of court, appellate jurisdiction in all cases determined in all inferior courts and in respect of any misdirection or misruling of the said courts.

Declaring Court a Colonial Court of Admiralty.

32. It is hereby declared that the Court is a Court of Admiralty having, and capable of exercising, the jurisdiction conferred on a court of law in a British possession under the Colonial Courts of Admiralty Act 1890, c. 27, which was brought into force in Belize on 1st July 1911, by Order of His Majesty the King in Council, G. G. 1911, p. 156, S. R. O. 1911 No. 440, p.19, dated 4th May 1911.

Power to reduce interest.

33. Where an agreement for the payment of interest is sought to be enforced, and the Court is of opinion that the rate agreed to be paid is excessive and ought not to be enforced by legal process, the Court may give judgment for the payment of interest at the rate that it thinks just.

Injunctions and appointment of receivers.

34.-(1) Subject to rules of court, the Court may grant a mandamus or injunction or appoint a receiver by an

interlocutory order in all cases in which it appears to the Court to be just or convenient to do so.

(2) Any such order may be made either unconditionally or on such terms and conditions as the Court thinks just.

(3) If, whether before, or at, or after the hearing of any cause or matter, an application is made for an injunction to prevent any threatened or apprehended waste or trespass, the injunction may be granted, if the Court thinks fit, whether the person against whom the injunction is sought is or is not in possession under any claim of title or otherwise or, if out of possession, does or does not claim a right to do the act sought to be restrained under any colour of title, and whether the estates claimed by both or by either of the parties are legal or equitable.

(4) The prerogative writs of *mandamus*, prohibition and *certiorari* shall no longer be issued by the Court.

(5) In any case where the Court would, but for subsection (4), have had jurisdiction to order the issue of a writ of *mandamus* requiring any act to be done, or a writ of prohibition prohibiting any proceedings or matter, or a writ of *certiorari* removing any proceedings or matter into the Court for any purpose, the Court may make an order requiring the act to be done or prohibiting or removing the proceedings or matter, as the case may be.

(6) The said orders shall be called respectively an order of *mandamus*, an order of prohibition, an order of *certiorari* or such other administrative order as the Court may issue.

(7) No return shall be made to any such order and no pleadings in prohibition shall be allowed, but the order shall be final, subject to any right of appeal therefrom.

(8) In any enactment, references to any writ of *mandamus*, prohibition or *certiorari* shall be construed as references

to the corresponding order and references to the issue or award of any such writ shall be construed as references to the making of the corresponding order.

Power to make orders in cases not provided for.

35. Subject to any law, the Court may in any cause or matter make any orders as to the procedure to be followed or otherwise which the Court considers necessary for doing justice in the cause or matter, whether that order has been expressly asked for by the party entitled to the benefit thereof or not.

Saving of jurisdiction. CAP. 91.

36. Nothing in this Act shall be construed to take away or abridge any jurisdiction, power or authority now vested in the Court under the Supreme Court Act in force immediately before the commencement of this Act, and the Court shall have and exercise all other jurisdictions, powers and authorities whatever, which now are, or may hereafter, be expressly or by implication vested in it by any law.

Writ of *habeas corpus*.

37. The common law right to the writ of *habeas corpus*, as confirmed and regulated by the *Habeas Corpus Act 1679*, c. 2, and extended by the *Habeas Corpus Act 1816*, c. 100, shall be part of the law and procedure of Belize and, subject to any rules of court, shall be granted and issued as nearly as possible in accordance with the practice and procedure for the time being in force in regard to that writ in the High Court of Justice in England.

Sub-Part 3

Law and Equity

Law and equity to be concurrently administered.

38. Subject to the express provisions of any other Act, in every civil cause or matter commenced in the Court law and equity shall be administered according to this Sub-Part.

Equities of Claimant.

39. If a claimant or petitioner claims to be entitled to any equitable estate or right, or to relief on any equitable ground

against any deed, instrument or contract, or against any right, title or claim whatever asserted by any defendant or respondent in the cause or matter, or to any relief founded upon a legal right, which formerly could only have been given by a court of equity, the Court or judge shall give to the claimant or petitioner the same relief as may now be given by the High Court of Justice in England in a suit or proceeding for the like purpose properly instituted.

40. If a defendant claims to be entitled to any equitable estate or right, or to relief on any equitable ground against any deed, instrument or contract, or against any right, title or claim asserted by any claimant or petitioner in the cause or matter, or alleges any ground of equitable defence to any such claim of the claimant or petitioner, the Court or judge shall give to every equitable estate, right or ground of relief so claimed, and to every equitable defence so alleged, the same effect by way of defence against the claim of the claimant or petitioner, as the High Court of Justice in England may now give if the like matters are relied on by way of defence in any suit or proceeding instituted in that Court for the like purpose.

Equitable
defence.

41.—(1) The Court or judge shall have power to grant to any defendant in respect of any equitable estate or right or other matter of equity, and also in respect of any legal estate, right or title claimed or asserted by him—

Counter claims
and third
parties.

- (a) all such relief against any claimant or petitioner as the defendant has properly claimed by his pleading, and as the Court or judge might have granted in any suit instituted for that purpose by that defendant against the same claimant or petitioner; and
- (b) all such relief relating to or connected with the original subject of the cause or matter, claimed in like manner against any other person, whether

already a party to the cause or matter or not, who has been duly served with notice in writing of the claim pursuant to rules of court or any order of the Court, as might properly have been granted against that person if he had been made a defendant to a cause duly instituted by the same defendant for the like purpose.

(2) Every person served with any such notice as aforesaid shall thenceforth be deemed a party to the cause or matter with the same rights in respect of his defence against the claim as if he had been duly sued in the ordinary way by the defendant.

Equities
appearing
incidentally.

42. Subject to any other enactment, the Court or judge shall take notice of all equitable estates, titles and rights, and all equitable duties and liabilities appearing incidentally in the course of any cause or matter, in the same manner in which the High Court of Justice in England may now take notice of those matters in any suit or proceeding duly instituted therein.

Defence or
stay instead of
injunction or
prohibition.

43. No cause or proceeding at any time pending in the Court shall be restrained by prohibition or injunction, but every matter of equity on which an injunction against the prosecution of any such cause or proceeding might formerly have been obtained, whether unconditionally or on any terms or conditions, may be relied on by way of defence thereto,

Provided that—

- (a) nothing in this Act shall disable the Court, if it thinks fit to do so, from directing a stay of proceedings in any cause or matter pending before it; and
- (b) any person, whether a party or not to any such cause or matter, who would formerly

have been entitled to apply to any Court to restrain the prosecution thereof, or who may be entitled to enforce, by attachment or otherwise, any judgment, decree, rule or order, in contravention of which all or any part of the proceedings in the cause or matter have been taken, may apply to the Court, by motion in a summary way, for a stay of proceedings in the cause or matter, either generally, or so far as may be necessary for the purposes of justice, and the Court shall thereupon make such order as shall be just.

44. Subject to the provisions of this Act relating to giving effect to equitable rights and other matters of equity, the Court or judge shall give effect to all legal claims and demands, and all estates, titles, rights, duties, obligations and liabilities existing by the common law of England or by any custom, subject, however, to the Imperial Laws (Extension) Act or created by any law, in the same manner as those matters may now be given effect to by the High Court of Justice in England.

Common law
and statutory
rights and
duties.
CAP. 2.

45. The Court, in the exercise of the jurisdictions vested in it by this Act, shall, in every cause or matter pending before it, grant, either absolutely or on such terms and conditions as the Court thinks just, all such remedies whatever as any of the parties thereto may appear to be entitled to in respect of any legal or equitable claim properly brought forward by them in the cause or matter, so that, as far as possible, all matters in controversy between the parties may be completely and finally determined, and all multiplicity of legal proceedings concerning any of those matters avoided.

Determination
of matter
completely and
finally.

46. Subject to the express provisions of any other Act, in questions relating to the custody and education of infants and generally in all matters not particularly mentioned in this Act in which there was formerly or is any conflict or variance

Rules of equity
prevail.

between the rules of equity and the rules of the common law in England with reference to the same matter, the rules of equity shall prevail in the Court so far as the matters to which those rules relate are cognisable by the Court.

Sub-Part 4

Sittings of the Court and Vacation

Division of
country into
districts.

47.—(1) The country shall be divided into three districts for the purpose of holding sittings of the Court, namely, the Northern District, the Central District and the Southern District, and the division between the said districts shall, from time to time, be defined by the Chief Justice by Order published in the *Gazette*.

- (2) Unless the Chief Justice otherwise determines—
- (a) the Northern District shall consist of and include—
 - (i) the Corozal Administrative District; and
 - (ii) the Orange Walk Administrative District;
 - (b) the Central District shall consist of and include—
 - (i) the Belize Administrative District; and
 - (ii) the Cayo Administrative District;
 - (c) the Southern District shall consist of and include—
 - (i) the Stann Creek Administrative District; and
 - (ii) the Toledo Administrative District.

Distribution of
business.

48.—(1) Subject to the provisions of Sub-Part 2, the Chief Justice may determine the distribution of the business before

the Court among the judges thereof, and may assign any judicial duty to any judge or judges.

(2) The Registrar shall, as early as practicable after the first day of every month, lay before the Chief Justice a list of all causes and proceedings whatever pending in the Court.

49. Subject to this Act, the Court shall sit continuously in the exercise of its criminal jurisdiction in each district as the need arises.

Continuous sittings in criminal jurisdiction.

50.—(1) The Chief Justice may, before any sitting of the Court in the exercise of its criminal jurisdiction, direct that the business before the Court sitting shall be disposed of before two or more courts.

Disposal of business before two or more courts.

(2) Where the Chief Justice has given a direction under sub-section (1)—

- (a) the business before the Court at that sitting shall be disposed of before two or more Courts, as the case may be; and
- (b) the criminal jurisdiction by this Act vested in the Court, together with all the powers incident thereto, shall be exercised by each of such Courts in the manner provided by section 30.

(3) A direction under this section may be oral and shall be given to the Registrar of the Court.

51.—(1) Sittings of the Court in the exercise of its civil jurisdiction may, subject to this Act, be held throughout the year.

Sittings in civil jurisdiction.

(2) The Chief Justice shall periodically appoint the times for the hearing of civil causes upon such notice, not

being less than forty-eight hours, as the Chief Justice may think fit,

Provided that the judge to whom a cause or matter has been assigned for hearing may appoint the time for such hearing upon reasonable notice given to the parties thereto.

(3) If any of the days appointed for any sitting is a *dies-non*, the sitting shall commence on the next following lawful day.

(4) Judgments and orders may be given and made at any place and time at which the Court is sitting, whether at the place where and during the sittings at which the cause or matter was heard or otherwise.

Continuance
of sittings and
adjournment.

52.—(1) Every sitting of the Court shall be continuous until the business before it has been disposed of or it is adjourned to some future day.

(2) The Court or, in the absence of the judge, the Registrar or the deputy registrar, subject to any direction of the judge, may adjourn any sitting of the Court for any convenient time.

(3) If, on the opening or any other day of any sitting of the Court, the judge is unable or fails to attend, the Court shall stand adjourned *de die in diem* until the judge attends or until it is adjourned or closed by his order.

(4) The Registrar may, in accordance with any direction of the judge, postpone that sitting to any other day and notice thereof shall be given by him to all parties.

Places of
sitting of
Court.

53. The Court shall sit at the following places, that is to say—

- (a) in the Central District, at the Court House in Belize City and the Court House in Belmopan City;

- (b) in the Northern District, at the Court House in Corozal Town and the Court House in Orange Walk Town; and
- (c) in the Southern District, at the Court House in Dangriga and the Court House in Punta Gorda Town,

Provided that the Court may sit at other places within those districts which the Chief Justice by Order published in the *Gazette* appoints as places at which sittings of the Court may be held.

54.—(1) Where it is from any cause impracticable or inconvenient to hold a sitting of the Court at any place mentioned in or appointed under section 53 the Attorney General may direct the sitting to be held at some other place in the same district.

Holding of sitting in another place.

(2) Nothing in section 53 shall be construed to prevent the Chief Justice from directing any special sitting of the Court in the exercise of its criminal jurisdiction to be held at a place other than a place mentioned in or appointed under that section.

55.—(1) If the Chief Justice is of the opinion that the number of cases on the calendar for trial at any sitting of the Court in the Northern District or the Southern District does not warrant the expenses of holding the Court in that district, the Chief Justice may, by Order published in the *Gazette*, direct that the trials of all those cases be transferred to, and be taken in, the Central District.

Sitting in Northern or Southern Districts.

(2) Where the trial of any case is transferred under sub-section (1), to the Central District, it shall be tried by the jurors summoned for the trial of cases in the Central District,

Provided that nothing in this section shall prevent or be construed as preventing the trial of such case by a jury specially empanelled if the Court shall so direct.

Venue in
criminal
proceedings.

56. Subject to this Act, the venue of every criminal proceeding shall be laid in the district of the Court in which the offence is alleged to have been committed.

Venue in civil
action.

57. The venue in any civil action, cause or matter may be laid—

- (a) in the case of an action founded on contract, in the district in which the contract was entered into;
- (b) in all cases, in the district in which the defendant resides;
- (c) in the district in which the land, chattel or thing involved in the action, cause or matter is; or
- (d) in all cases, in the district in which the wrongful act was committed or other cause of action arose,

and such action, cause or matter shall be tried at the place where the venue is laid.

Change of
venue.

58.—(1) Notwithstanding sections 56 and 57, the Court may order any civil or criminal cause or matter to be transferred from one district to another whenever it is made to appear by affidavit or otherwise that—

- (a) there is reason to believe that a fair and impartial trial cannot be had in the district in which it had commenced;
- (b) the convenience of witnesses and the ends of justice will be promoted by such transfer; or

- (c) there is any other good and sufficient reason for such transfer.

(2) Notwithstanding section 55(2), the Court may by order direct that the trial of any case which is transferred to the Central District under the said section 52, shall be retransferred to the District in which such case was originally for trial if it shall be made to appear that there is any good and sufficient reason for so doing.

59. A judge shall take all applications and hear all petitions and other applications in chambers at such times as he may appoint and in accordance with any rules of court.

Business in chambers.

60.—(1) The Chief Justice may at any time appoint a special sitting of the Court in the Central District for—

Special sitting.

- (a) the trial of any civil cause or matter;
- (b) the trial of any criminal cause with the consent of the person or persons committed for trial before the Court in the Central District;
- (c) the passing of sentence upon any prisoner committed for trial or sentence; or
- (d) the commemoration of any solemn or celebratory occasion,

whenever circumstances render it in his opinion expedient to do so, and any such trial and sentence shall have the same validity in every respect as if it had taken place at the time and place when and where it would have been tried in due course.

(2) Any judge may preside at any such special sitting.

61.—(1) The Chief Justice may make such orders as may be necessary to procure the attendance of special or common

Attendance of jurors at special sitting.

jurors for the trial of any cause or matter at such special sitting of the Court, at such time and place and in such manner as he may think fit, and prescribe the number of jurors to be summoned, having regard to the list of causes and matters pending for trial by jury at that special sitting.

(2) Every juror who without lawful excuse fails to attend and to serve in accordance with the summons issued in pursuance of such orders shall be liable to the same penalties as may be imposed upon jurors for non-attendance under the Juries Act.

CAP. 128.

Attendance
of police at
sittings.

62.—(1) The Commissioner of Police shall cause a sufficient number of police officers to attend all sittings of the Court for the purpose of assisting in the preservation of order and for the keeping of prisoners in custody at every sitting of the Court in the exercise of its criminal jurisdiction.

(2) All such officers shall obey the orders of any judge.

(3) The Commissioner of Police may regulate any disturbance around the court building in any district so as to prevent or lessen noises which render difficult the transaction of the business of the Court, and for this purpose may make an issue any order or orders to be effective during any sitting of the Court.

(4) Every person who fails to comply with any order of the Commissioner of Police made for the purposes of subsection (3) shall be guilty of an offence and, on summary conviction thereof, be liable to a fine not exceeding fifty dollars.

Vacation and
holidays.

63.—(1) There shall be a vacation of the Court in every year for a term not exceeding ten weeks, the exact dates of which shall be annually fixed by the Chief Justice, by Order published in the *Gazette*.

(2) Nothing in this section contained shall operate to prevent—

- (a) any sitting of the Court in the exercise of its criminal, appellate, insolvency or admiralty jurisdictions;
- (b) the transaction of urgent business in chambers; or
- (c) the hearing in open Court of any action, cause or matter,

if the Chief Justice for some special reason so directs, during the period fixed as the vacation of the Court as aforesaid.

(3) Notwithstanding anything contained in this Act or any other law, the Court shall—

- (a) not hold sittings on Saturdays, except in exceptional cases for urgent matters; and
- (b) not hold sittings on Sundays and public and bank holidays as defined by the Holidays Act.

CAP. 289.

64.—(1) Any judge may, during the vacation, deliver judgment or make an order in any cause or matter then awaiting the decision of the Court.

Delivery of judgment in vacation.

(2) Every judgment delivered or order made under this section shall have the same force and effect as if it had been delivered or made during the ordinary sitting of the Court by the judge whose judgment it is.

65. The Registry shall be open throughout the year, except on Saturdays, Sundays and public and bank holidays as defined by the Holidays Act for the transaction subject to rules of court of the general legal business of the Court.

General business of the Court.
CAP. 289.

*Sub-Part 5**Practice and Procedure*

Regulation of practice and procedure in the several jurisdictions of the Court.

66. The practice and procedure of the Court—

- (a) in its general civil jurisdiction, shall be regulated by this or any other Act or by rules of court and where no provision is made, by the practice and procedure in the High Court of Justice in England;
- (b) in its criminal jurisdiction shall be regulated by this Act or any other Act or by rules of court and where no provision is made, by the practice and procedure in the High Court of Justice in England;
- (c) in its appellate jurisdiction, shall be regulated by this or any other Act or by rules of court; and
- (d) in its admiralty jurisdiction, shall be in accordance with the Colonial Courts of Admiralty Act 1890, c. 27, and the rules for vice-admiralty courts in Her Majesty's possessions abroad approved by Her late Majesty's Order in Council bearing the date the twenty-second day of August, one thousand eight hundred and eighty-three or any rules made in amendment thereof or in substitution therefor.

Reference for report.

67.—(1) Subject to rules of court, the Court or a judge may refer to an official or special referee for inquiry or report any question arising in any cause or matter, other than a criminal proceeding by the State.

(2) The report of an official or special referee may be adopted wholly or partially by the Court or a judge, and if

so adopted, may be enforced as a judgment or order to the same effect.

68. In any cause or matter, other than a criminal proceeding by the State—

Reference for trial.

- (a) if all the parties interested who are not under disability consent;
- (b) if the cause or matter requires any prolonged examination of documents or any scientific or local investigation which cannot in the opinion of the Court or a judge conveniently be made before a jury or conducted by the Court through its other ordinary officers; or
- (c) if the question in dispute consists wholly or in part of matters of account,

the Court or a judge may at any time order the whole cause or matter, or any question or issue of fact arising therein, to be tried before a special referee or arbitrator respectively agreed on by the parties, or before an official referee or officer of the Court.

69.—(1) In all cases of reference to an official or special referee or arbitrator, the official or special referee or arbitrator shall be deemed to be an officer of the Court, and subject to rules of court shall have such authority, and conduct the reference in such manner, as the Court or a judge may direct.

Powers and remuneration of referees and arbitrators.

(2) The report or award of an official or special referee or arbitrator on any reference shall, unless set aside by the Court or a judge, be equivalent to a judgment of the Court.

(3) The remuneration to be paid to a special referee or arbitrator to whom any matter is referred under an order of the Court or a judge shall be determined by the Court or a judge.

Court to have powers as in references by consent.
CAP. 125.

70. The Court or a judge shall, in relation to references, have all such powers as are conferred by the Arbitration Act on the Court or a judge in relation to references by consent out of Court.

Statement of case pending arbitration.

71. A referee or arbitrator may at any stage of the proceedings under a reference, and shall, if so directed by the Court or a judge, state in the form of a special case for the opinion of the Court any question of law arising in the course of the reference.

Power of Court to impose terms as to costs.

72. An order made under this Act relating to trials by referees may be made on such terms as to the costs or otherwise as the Court or a judge thinks fit.

Saving for Government.

73. Nothing in this Act shall empower the Court or a judge to order any proceedings to which the Government is a party, or any question or issue in any such proceedings, to be tried before any special referee or arbitrator or before an official referee or other officer of the Court without the consent of the Attorney General, or shall affect the law as to costs payable by the Government.

Explanation of term “reference”.

74. In the provisions of this Act relating to trials by referees, the expression “reference” means a reference under an order made by the Court or a judge under the said provisions.

Exercise of jurisdiction in summary procedure.

75.—(1) The jurisdictions, powers and authorities of the Court in respect of the actions mentioned in sub-section (2), shall be exercised in accordance with the summary procedure hereinafter prescribed and regulated.

(2) All actions—

(a) in which the debt or damages claimed or the value of the matter or thing in dispute does not exceed the sum of fifteen thousand dollars;

- (b) in which, in the case of the recovery of land, either the value of the land or the yearly rent payable in respect thereof does not exceed the sum of one thousand dollars; or
- (c) in which, in the case of an easement or licence, either the value of the land on, through, over or under which such easement or licence is claimed or the yearly rent reserved thereout does not exceed the sum of one thousand dollars, shall be instituted, heard and determined in accordance with that procedure.

76.-(1) The summary procedure of the Court shall be prescribed, defined and regulated by rules of court and shall include provisions relating to—

Prescribing
summary
procedure.

- (a) the institution of claims in all such actions;
- (b) the defences to claims made in all such actions;
- (c) the course and conduct of proceedings in all such actions and interlocutory procedure;
- (d) the hearing of all such actions and the judgments therein;
- (e) the issue and execution of all judgments and orders, and proceedings in aid of execution thereof; and
- (f) the fees and costs payable by and to the parties and all other and incidental matters and proceedings including any necessary procedure in the registry.

(2) No rule of court relating to the unlimited jurisdiction of the Court not declared to be part of the summary procedure

shall apply to any of the actions defined in section 75(2), unless specifically declared to be applicable thereto.

(3) There shall be no trial by jury in any case tried in accordance with the summary procedure of the Court.

Determination by summary procedure of action of tort commenced in the Court.

77.—(1) Where any action founded on tort is commenced in the Court, the defendant may, on an affidavit made by himself or by any person on his behalf by showing that the claimant has no visible means of paying the costs of the defendant should judgment not be entered in favour of the Claimant, apply to the Court or a judge for an order that the action shall be proceeded with, heard and determined in accordance with the summary procedure of the Court.

(2) On any such application, the Court or judge, unless the claimant satisfies the Court or judge that he has such means as aforesaid, may, if the Court or judge having regard to all the circumstances of the case thinks fit to do so, make an order that unless the claimant within a time to be limited in the order give security for the defendant's costs to the satisfaction of the Court or a judge, the action shall be proceeded with, heard and determined in accordance with the summary procedure.

Persons by whom process may be served.

78.—(1) Any process in civil and criminal cases may be served by any one authorised by the Registrar to do so.

(2) "Process" in this Part includes all proceedings whatever involving service of any document on any party, witness or other person concerned in any of those proceedings and any step either before or after judgment in any civil action, cause or matter or in execution of any judgment or order therein.

(3) The authority from the Registrar to anyone appearing to have served any process aforesaid need not be proved, but anyone questioning the authority of that person shall be at liberty to prove the want of that authority.

(4) There shall be kept in the registry a correct list of persons who have been authorised by the Registrar to serve process, and anyone questioning the authority of any person to serve process, may produce a copy of that list, certified as a true copy by the Registrar, and if the name of the person does not appear therein he shall be held not to have been so authorised.

79. Every return or indorsation of service appearing to be signed by the marshal or by any person signing himself a person authorised to serve process, and made upon a certified copy of the process alleged to be served, shall be received as prima facie evidence that service of the process has been effected in accordance with the terms of that return or indorsation.

Return or indurations of service.

80. If any person—

- (a) being a person authorised by law to serve process, wilfully makes any false statement in any return or indorsation of service or in any way acts fraudulently with respect to the service of any process; or
- (b) not being a person authorised by law to serve process, signs himself on any return or indorsation of service as a person authorised to serve process,

Person signing return of service falsely or without authority.

that person commits an offence and is liable on summary conviction to a term of imprisonment not exceeding two years.

81. The Registrar may authorise any person in writing to execute writs issuing out of the Registry and generally to carry out any process of execution thereon in any part of Belize in the same way as the marshal is by law authorised to do.

Writs and their execution.

Execution of warrants of arrest.

82. Warrants of arrest issued under this Act shall be addressed to and be executed by the marshal.

Service of process by non-commissioned police officer.

83.—(1) Every non-commissioned police officer stationed in a district other than the Belize District shall have all the powers of the marshal for the purposes of serving any process, or executing any judgment of the Court in its civil jurisdiction, or any other process which the law requires to be served or executed by the marshal.

(2) The term “district” used in this and in sections 84 and 85, has the same meaning as that given to it by section 3 of the Interpretation Act.

CAP. 1.

Procedure by Registrar.

84.—(1) When any process is to be served or any judgment executed by any non-commissioned officer of police, the Registrar shall forward the writ and other necessary papers to the officer in charge of the district wherein such non-commissioned police officer is stationed, who shall hand or forward them to the non-commissioned officer for the necessary action.

(2) The Registrar shall, together with the writ and other papers, forward—

- (a) a list of the writ and other papers so forwarded, which, if it is correct, shall be initialled by the magistrate and returned to the Registrar;
- (b) an envelope addressed and, if necessary, stamped, for the return of the writ and other papers; and
- (c) a form of the proper return or indorsation to be made on the writ or other document in question.

(3) The non-commissioned officer of police serving or executing such process in such district shall, after taking the

necessary action, make the proper return or indorsation on the writ and return the same with any other relevant papers to the magistrate, who shall forthwith return them to the Registrar.

(4) All writs and other papers forwarded by any one of the officers mentioned in this section to any other of those officers may be forwarded by registered post.

85. All non-commissioned officers of police in the districts other than the Belize District shall be officers of the Court in respect of the several duties imposed upon them by this Act.

Officers of Court in respect of particular duties.

86.—(1) Subject to rules of court, a Writ of *Habeas Corpus ad subjiciendum*, a Writ of *habeas corpus ad testificandum*, or a Writ of *habeas corpus ad respondendum*, may issue out of the Court in the manner and form in which any such writ is issued in proceedings in the High Court of Justice in England to compel the attendance before any court, judge, justice or other judicature, or before any arbitrator or referee, or before any arbitrator or umpire appointed under the Arbitration Act or any other Act, of a witness wherever he may be within Belize.

Writ of subpoena.

CAP. 125.

(2) If any person served in any cause or matter with any writ of *subpoena* refuses or neglects to attend the Court as a witness, or to produce any document or documents in his possession, custody or power or to attend the Court as a witness and produce any document or documents in his possession, custody or power, pursuant to any such subpoena, the Court or a judge may punish such person in a summary way by a fine not exceeding two thousand dollars or by imprisonment for any term not exceeding six months.

(3) Nothing contained in this section shall affect or abridge the right of any party in such cause or matter to recover any special damages such party sustains by reason

of the person served with any subpoena failing to attend the Court as a witness, or to produce such document or documents or to attend the Court as a witness and produce such document or documents pursuant to any such *subpoena*.

Writ of *habeas corpus ad testificandum*.

87. The Court or a judge may award a writ of *habeas corpus ad testificandum* for bringing up any prisoner detained in any gaol or prison before any court, judge, justice or other judicature, or before any arbitrator or referee, or before any arbitrator or umpire appointed under the Arbitration Act or any other Act, for examination as a witness in any cause or matter, civil or criminal, whatever, which now is, or hereafter may be, depending or to be inquired or determined in or before such court, judge, justice or other judicature, referee, arbitrator or umpire.

CAP. 125.

Appeals in *habeas corpus* proceedings.

88.—(1) An appeal lies to the Court of Appeal in any proceedings upon application for *habeas corpus*, whether civil or criminal, against an order for the release of the person restrained as well as against the refusal of such an order.

(2) An appeal brought under this section does not affect the right of the person restrained to be discharged in pursuance of the order under appeal.

Compelling attendance of witness by warrant or order.

89.—(1) The Court or a judge may, in any case where it or he may see fit to do so upon application by affidavit, issue a warrant or order for bringing up by any prisoner or person confined in any gaol, prison or place, under any sentence or under commitment for trial or otherwise, whether virtually or physically, before any court, judge, justice or other judicature, or before any arbitrator or referee, or before any arbitrator or umpire appointed under the Arbitration Act or any other Act, for examination as a witness in any cause or matter, civil or criminal whatever, which now is, or hereafter may be, depending or to be inquired into or determined in or before such court, judge, justice or other judicature, referee, arbitrator or umpire.

CAP. 125.

(2) The person so required by any such warrant or order to be so brought before such court, judge, justice or other judicature, referee, arbitrator or umpire, shall be so brought under the same care and custody, and be dealt with in like manner in all respects, as a prisoner required by any writ of habeas corpus awarded by the Court to be brought before any court, judge, justice or other judicature, or before any arbitrator or referee, or before any arbitrator or umpire appointed under the Arbitration Act or any other Act, for examination as a witness in any cause or matter depending before such court, judge, justice or other judicature, referee, arbitrator or umpire, is now by law required to be dealt with.

90. Rules of court may be made regulating the application for issue, service application for and proof of service, of any writ, warrant or order mentioned in sections 86, 87 and 89.

Writs of subpoena, etc., rules.

91. The Court may, in civil proceedings, order and allow to all persons in civil examined or detained as witnesses such sum or sums of money as seems reasonable, as well for defraying the expenses of such witnesses as for affording them compensation for their trouble and loss of time, or such sum or sums of money may be fixed by rules of court.

Allowances to witnesses in civil cases.

92. All sums of money allowed under section 91, shall be paid by the party on whose behalf the attendance of the witness is ordered and shall be recoverable as ordinary costs of suit, if the Court so directs.

Party on whose behalf witness called to pay allowance.

93.—(1) The fees and costs payable and allowable in the Court shall be regulated by rules of court and, where provision is not made by those rules, the existing tariffs and regulations as to fees and costs shall remain in force.

Fees and costs to be prescribed by rules of court.

(2) Subject to section 94 and to rules of court, the costs of and incidental to any proceeding in the Court shall be in the discretion of the Court or judge.

Disallowance
of costs in
certain cases.

94. No costs shall be allowed to a successful claimant in any action brought by him in the Court which might have been heard in a district court unless the Court is of opinion that the action was one which it was expedient to bring in that manner and certifies accordingly.

Fees for
arrests and
apprehensions.

95. The fees payable for arrests and apprehensions of the person shall belong to the marshal making the arrests and apprehensions.

Place of
payment of
fees.

96.—(1) Subject to sub-section (2), all fees in respect of proceedings taken in the Court shall be paid at the registry in the mode required by any Act, rule or order.

(2) The Attorney General may direct that all fees payable in respect of proceedings taken in the Court in the Northern District or Southern District, shall be paid at the office of the magistrate in Corozal or in Stann Creek, as the case may be, and in that case such fees shall be accounted for in manner provided by that order.

Keeping of
cash fee book.

97.—(1) There shall be kept in the registry a cash fee record in which shall be entered every fee received therein, and such cash fee record shall be in the form established by the Accountant General with the approval of the Attorney General.

(2) The cash fee record shall be subject to such check and audit as may be prescribed by the Attorney General.

Furnishing
of half-yearly
lists of un-
claimed
moneys.

98.—(1) Within one week after 30th June and 31st December in each year the Registrar shall deposit with the Financial Secretary a list of all moneys, the proceeds of sales of property under execution, of which all the instalments have been paid up, and what moneys have remained unclaimed for three months and upwards prior to each of those dates.

(2) At the time of depositing the list, the Registrar shall pay over all moneys mentioned therein to the Financial

Secretary, and shall cause the list to be published in the *Gazette* and to be re-published in like manner at the expiration of one month thereafter.

(3) The receipt of the Accountant General, in a book to be kept for that purpose, shall be a sufficient acquaintance, discharge and release to the Registrar for all moneys paid over by him to the Accountant General under this Act.

99. All moneys advertised under section 98, which remain unclaimed for a remaining period of five years from the time when they came to the hands of the Registrar shall become and be part and parcel of the Consolidated Revenue and all right, title and interest of every person in and to them shall be statute barred,

Effect of moneys remaining unclaimed for five years.

Provided that nothing in this section shall operate to preclude any person who has a moral claim to such unclaimed money from applying by application to the Attorney General for payment of the whole or any part thereof, and if the Attorney General considers it just and equitable that such application be granted he may, with the approval of the National Assembly, order that the whole of the said sum or any part thereof shall be paid out to that person.

100. Any failure on the part of the Registrar to comply with any of the requirements of this Act relating to unclaimed moneys shall render him liable on summary conviction to a fine not exceeding five hundred dollars.

Default of Registrar.

101.—(1) Notwithstanding anything contained in the Summary Jurisdiction (Procedure) Act, the Inferior Courts Act, the District Courts (Procedure) Act, the Family Courts Act or any other law, save and except the Caribbean Court of Justice Act, the Rules Committee may, from time to time, make rules of court and issue practice directions under this Act for the following purposes—

Power to make rules of court.
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CAP. 92.

- (a) regulating and prescribing the procedure, including the method of pleading, and the practice to be followed in the Court in all civil and criminal causes and matters whatever in or with respect to which the Court has for the time being jurisdiction, including the procedure and practice in interpleaders and the procedure and practice to be followed in the registry, the forms to be used, the fees of Court, the costs of attorneys-at-law, the duties of the officers of the Court and the powers of commissioners other than those conferred by this Act, and any matters incidental 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 applications which under this or any other Act are to be made to the Court shall be made;
- (b) regulating and prescribing the procedure on appeals from any inferior court or person to the Court or the Chief Justice and the procedure in connection with the transfer of proceedings from any inferior court to the Court;
- (c) regulating and prescribing the practice and procedure to be followed for virtual hearings and trials of the Court;
- (d) regulating, subject to this Act, the sittings of the Court and of the judges thereof, whether in Court or in chambers;
- (e) prescribing what part of the business which may be transacted, and of the jurisdictions which may be exercised, by judges of the Court in chambers may be transacted or exercised by the Registrar or other officers of the Court;

- (f) prescribing the matters in which the powers, authority and jurisdiction of a Master may be exercised;
- (g) regulating any matters relating to the costs of proceedings in the Court;
- (h) regulating and prescribing the procedure and practice to be followed in the Court in cases in which the procedure or practice is regulated by enactments in force immediately before the commencement of this Act or by the provisions of this Act re-enacting any such enactments;
- (i) repealing any enactments which relate to matters with respect to which rules are made under this section;
- (j) prescribing in what cases trials in the Court in the exercise of its civil jurisdiction are to be tried with a jury and in what cases they are to be tried without a jury;
- (k) regulating the means by which particular facts may be proved, and the mode in which evidence thereof may be given, in any proceedings or on any application in connection with, or at any stage of any proceedings;
- (l) regulating or making provision with respect to any other matters which are now regulated, or with respect to which provision is now made, by the Supreme Court Rules, 1926, or any other rules of court made under any Supreme Court Act hitherto in force, or any amendment thereof, or by any rules or regulations so in force with respect to practice and procedure in matrimonial causes and matters or with

respect to applications and proceedings relating to legitimacy declarations;

- (m) regulating and prescribing the procedure to be followed for the use of prison video link in Inferior Courts and the High Court, in all civil and criminal causes and matters; and
- (n) regulating and prescribing the practice, procedure and related matters to be followed in Inferior Courts and the High Court, in all civil and criminal causes and matters, to protect the health and safety of court staff and the public.

(2) There is established a Rules Committee which shall comprise of the following persons—

- (a) the Chief Justice, as Chairperson;
- (b) the President of the Court of Appeal;
- (c) the Senior High Court Justice of the Criminal Division;
- (d) the Senior High Court Justice of the Civil Division; and
- (e) the President of the Bar Association or his nominee.

(3) No rule of court which may involve an increase of expenditure out of public funds shall be made except with the concurrence of the Minister responsible for finance but the validity of a rule of court shall not in any proceedings in the Court be called in question either by the Court or by any party to the proceedings on the ground only that it was a rule to which the concurrence of the National Assembly was necessary and that the National Assembly did not concur or is not expressed to have concurred in the making thereof.

(4) Rules of court that involve an increase of expenditure of public funds shall be subject to negative resolution.

(5) Rules of court made under this section shall apply to all proceedings by or against the State.

(6) Wherever in any Act it is provided that rules of court may be made for any purpose or that any practice and procedure shall be regulated by “rules of court”, such rules of court shall be made by the rule-making authority established under, and in accordance with, this section.

Sub-Part 6

Provisions Relating to Districts

102. The Chief Justice, or another judge of the Court, shall attend every sitting of the Court.

Officers
required to
attend sittings.

103.—(1) The Registrar shall convey to the Court House in Corozal Town and there keep in safe custody all such records, documents and books as may be required at every sitting of the Court in the Northern District.

Conveyance of
records to and
from Northern
District and
Southern
District.

(2) The Registrar shall convey to the Court House in Dangriga and there keep in safe custody all such records, documents and books as may be required at every sitting of the Court in the Southern District.

104.—(1) The Judicial and Legal Services Commission may appoint some fit and proper person as Deputy Registrar of the Court for the Northern District and for the Southern District respectively.

Deputy
registrar for
the Districts.

(2) The Deputy Registrar shall perform in that District such duties as may be assigned to him by the Registrar as well as the duties of marshal of the Court.

Drawing up of judgment or order in the Districts.

105.—(1) Every judgment or order of the Court made in the Northern District or in the Southern District shall, in the absence of the Registrar be drawn up by the Deputy Registrar for that District and when approved by the Court shall be signed by the Deputy Registrar and filed with the papers in the cause or matter kept at the registry in Belize City.

(2) Every such judgment or order shall be drawn up from the minutes of the court or otherwise and shall have the same effect and be as valid as if it was drawn up by the Registrar.

Sub-Part 7

Contempt of Court

Punishment for criminal contempt.

106.—(1) No punishment exceeding imprisonment for a term of three months or a fine of five hundred dollars shall be inflicted for criminal contempt where the contempt takes place in the face of the Court, as by some insult offered to a judge or judges, or by any interruption of the proceedings or otherwise, or where, although not committed in the face of the Court, it is calculated to obstruct, interfere with or improperly prejudice the administration of justice in proceedings pending in the Court.

(2) The Court may, in punishing by fine, order that the fine shall be paid within a definite time, not less than seven days after the date of the order, and that in default of payment the offender shall be imprisoned for any term not exceeding three months.

Right of appeal to Court of Appeal.

107.—(1) An appeal shall lie to the Court of Appeal from any order or decision of the High Court in the exercise of jurisdiction to punish for contempt of court, including criminal contempt.

(2) The Court of Appeal may reverse or vary the order or decision of the High Court and make such other order as

may be just, and without prejudice to the power of the Court of Appeal under this Act, provision may be made by rules of court for authorising the releasing on bail of an appellant under this section.

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(3) In this section, “High Court” includes a single judge when exercising jurisdiction to punish for contempt of court.

108. Anyone using or threatening violence, or using threatening or abusive language, to a juror in or near the building in which the Court is sitting, and anyone intentionally personating any juror by answering to his name when called, and anyone liable to serve on a common or special jury or as tales man, who does not answer to his name when called, or who withdraws himself from the Court without leave after appearance, shall be deemed to have committed a contempt in the presence of the Court and shall be subject to the like punishment.

Contempt of Court committed in presence of the Court.

109. Subject to sections 106, 107 and 108, the Court shall have the same powers as regards punishments for all contempt, whether criminal or otherwise, as are possessed by the High Court of Justice in England, and the practice and procedure shall be as nearly as possible the same as the practice and procedure in that Court in like case.

Extent of powers of Court touching contempt.

110. All fines and penalties to be paid under any order in any contempt of court proceedings shall be paid into the Consolidated Revenue Fund.

Disposal of fines.

111.—(1) Notwithstanding any other law or rule of practice to the contrary but without prejudice to the power of Court to punish for contempt in accordance with Part 53 of the Supreme Court (Civil Procedure) Rules, 2005, by way of committal and seizure of assets, every person, whether in Belize or elsewhere, who knowingly disobeys or fails to comply with an injunction, or an order in the nature of an

Criminal contempt of court.

S.I. 75 of 2005.

injunction, issued by the Court, whether such injunction was issued before or after 31st day of March, 2010, commits an offence and shall be tried summarily in the High Court by a judge sitting alone without a jury, on a criminal information and complaint laid under sub-section (2), and in every such case, any rule of court relating to the unlimited jurisdiction of the Court shall apply.

(2) A complaint of an offence under sub-section (1) may be laid by the Attorney-General or the aggrieved party or a police officer not below the rank of an Inspector.

(3) A person who commits an offence under sub-section (1), is liable on conviction—

(a) in the case of a natural person, to a fine not exceeding two hundred and fifty thousand dollars, or with imprisonment for a term not exceeding ten years, or with both such fine and term of imprisonment, and in the case of a continuing offence, with an additional fine of one hundred thousand dollars for each day the offence continues,

Provided that where a natural person who is convicted of an offence under this section shows that the extenuating circumstances, as described in sub-section (4), exist in his or her case, a court may, in lieu of imposing the penalties specified above, impose a fine not exceeding ten thousand dollars, and in default of payment of such fine, a term of imprisonment not exceeding two years; or

(b) in the case of a legal person or other entity, whether corporate or un-incorporate, with a fine not exceeding five hundred thousand dollars, and in the case of a continuing offence, with an additional fine of three hundred thousand dollars for each day the offence continues.

(4) For the purpose of the proviso to sub-section (3)(a), the expression “extenuating circumstances” means where—

- (a) the convicted person has previously been a law abiding person and has no criminal record;
- (b) the offence was committed through sheer ignorance of the consequences of his or her conduct; and
- (c) the imposition of full penalties prescribed in sub-section (3), would cause grave hardship to him or her and his or her family.

(5) Every person, whether in Belize or elsewhere who—

- (a) directly or indirectly, instigates, commands, counsels, procures, solicits, advises or in any manner whatsoever aids, facilitates or encourages the commission of an offence under sub-section (1); or
- (b) knowing that an injunction has been issued by the court, does any act the effect of which would be to disregard such injunction, whether such injunction was issued before or after 31st day of March, 2010,

commits the offence of abetting the said offence and, on conviction, is liable to the penalties prescribed in sub-section (3).

(6) Where an offence under this section is committed by a body of persons, whether corporate or un-incorporate, every person who, at the time of the commission of the offence, acted in an official capacity for or on behalf of such body of persons, whether as shareholder, partner, director,

manager, advisor, secretary or other similar officer, or was purporting to act in any such capacity, shall be guilty of an offence and punished accordingly, unless he or she adduces evidence to show the offence was committed without his or her knowledge, consent or connivance.

(7) Notwithstanding anything to the contrary contained in any other law, the offence created by this section shall be investigated, tried, judged and punished by the Court regardless of whether the offence occurred in Belize or in any other territorial jurisdiction, or whether or not the offender was present in Belize or elsewhere, but without prejudice to extradition, where applicable, in accordance with the law.

(8) For the avoidance of doubt, it is hereby declared that this section shall have effect regardless of whether the injunction referred to in this section was issued before or after the 31st day of March, 2010.

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2005.

(9) In addition to the modes of service prescribed in the Supreme Court (Civil Procedure) Rule, 2005, notice of an injunction issued by the court, or of an application for such injunction, or of any order associated therewith, whether such injunction or order was issued before or after the 31st day of March, 2010, may be served electronically or by registered post, fax, courier service or a notice in the *Belize Gazette*, as may be appropriate in the circumstances of each case, regardless of whether the person against whom the injunction or order was issued, or against whom the application for such injunction or order was issued or against whom the application for such injunction or order was made, be present or resident within or outside Belize, and for this purpose, no leave of the court for serving the injunction, notice or order, as the case may be, outside Belize shall be required notwithstanding anything to the contrary contained in any other law or rule of practice.

(10) Where the offence created by this section was committed outside Belize, the information and complaint for such offence shall be laid in the Central District of the High Court.

(11) A person charged with an offence under this section, may be tried in his or her absence if the court is satisfied that such person was given at least 21 days' notice of the charge and the date, time and place of the trial and that he or she had a reasonable opportunity of appearing before the court but has failed to do so.

(12) The notice referred to in sub-section (11), may be served personally, or by registered post, or by a notice in the *Belize Gazette*, as may be appropriate in the circumstances of each case.

(13) No person shall be liable to be prosecuted for an offence under this section if he or she has already been punished for the same offence under Part 53 of the Supreme Court (Civil Procedure) Rules, 2005, or vice versa.

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(14) In this Act, the word "person" shall have the meaning ascribed to it in section 3 of the Interpretation Act.

CAP. 1.

(15) Subject to the forgoing provisions of this section, the Rules Committee make rules for giving better effect to the provisions of this section, and all such rules shall be subject to negative resolution.

(16) Subject to the provisions of this section and any rules made by the Chief Justice under sub-section (15), the rules contained in Schedule I shall apply to the trial on criminal information and complaint laid under this section.

Schedule I.

*Sub-Part 8**Appellate Jurisdiction*

Right of
appeal from
decision of
inferior court.

112. Pursuant to section 31, any person dissatisfied with any decision of an inferior court may appeal to the Court subject to the conditions and regulations prescribed by this Act and by any rules of court,

Provided that no appeal shall lie to the Court in the following cases—

- (a) where a party in the inferior court confessed or admitted the truth of the accusation or the correctness of the claim, as the case may be, brought against him;
- (b) where imprisonment is adjudged for failure to comply with an order for the payment of money, for the finding of sureties, for the entering into any recognisance, or for the giving of any security;
- (c) where in a civil case before decision both parties agree in writing, to be signed by themselves or by their attorneys-at-law, that the decision of the inferior court shall be final;
- (d) where by virtue of any law now or which may hereafter be in force the accused has specially consented to an adjudication of his case by the inferior court; or
- (e) where it is provided by any statute that no appeal shall lie from the decision of an inferior court in any particular case.

113.—(1) Every appeal from a decision of an inferior court shall be heard and determined by the Court, and the practice and procedure of the Court in cases of appeal under this section shall be in accordance with this or any other Act relating to appeals from inferior courts and any rules of court.

Regulating
appeal from
decision of
inferior court.

(2) Rules of court may make provisions regulating,
inter alia—

- (a) the giving of notice of, and security for, prosecuting, the appeal;
- (b) the recording of the appeal and the obtaining of a copy of the proceedings and the reasons for the inferior court's decision;
- (c) the lodging of the grounds of appeal;
- (d) the manner of setting forth the grounds of appeal and the signing of the notice of appeal and the grounds of appeal;
- (e) the transmission of the record of appeal to the Registrar;
- (f) the application for special leave to appeal after lapse of time for appeal;
- (g) the procedure on default in prosecution of appeal;
- (h) the time, place and order of hearing of the appeal;
- (i) the procedure at the hearing of the appeal;
- (j) the re-hearing of the case before the Court and the calling of witnesses before the Court;
- (k) the transmission and publication of judgments or orders;

- (l) the awarding of costs;
- (m) the assessment and payment of costs;
- (n) the enforcement of judgments or orders;
- (o) the fees and costs payable by and to the parties;
or
- (p) such other matters as may be incidental to the appeal.

Court to have control of security.

114. The Court shall have full control over any security given for an appeal from the decision of any inferior court and may enforce the same summarily by order or may cancel or mitigate the forfeiture of such security, either generally or upon such terms as to the Court seem equitable and just and no security shall be enforced without an order of the Court.

Provisions to apply to cases between the Government and the subject.

115. This Part shall apply to cases between the State and the citizen,

Provided that when the State, or any officer on behalf of the State or the Government in his official capacity, is an appellant, neither the Government nor the State nor that officer shall be liable to give security for prosecuting the appeal, but if the State or the Government or that officer fails to prosecute such appeal, or if the decision appealed from is confirmed, then the opposite party may recover his costs in the manner provided in such cases for the recovery of costs against the State or the Government.

Available grounds of appeal.

116. The following grounds of appeal and no other may be taken, namely, that—

- (a) the inferior court had no jurisdiction in the matter, but it shall not be competent for the

Court to entertain that ground of appeal unless objection to the jurisdiction of the inferior court was formally taken at some time during the progress of the case and before the decision was pronounced;

- (b) the inferior court exceeded its jurisdiction in the matter;
- (c) the magistrate was personally interested in the matter;
- (d) the magistrate acted corruptly or maliciously in the matter, or took extraneous matter into consideration;
- (e) the decision was obtained by fraud;
- (f) the cause had been already heard or tried and decided by, or forms the subject of a hearing or trial pending before, some competent tribunal;
- (g) evidence was wrongly rejected, or inadmissible evidence was wrongly admitted, by the inferior court, and in the latter case there was not sufficient evidence to sustain the decision;
- (h) the decision was unreasonable or could not be supported having regard to the evidence;
- (i) the decision was erroneous in point of law;
- (j) the decision was based on a wrong principle or was such that the inferior court viewing the circumstances reasonably could not properly have so decided;
- (k) some specific illegality, other than hereinbefore mentioned, substantially affecting the merits

of the case, was committed in the course of the proceedings therein or in the decision; or

(l) the sentence was unduly severe or lenient.

Appeal not to operate as stay of execution.

117.—(1) Where any person has filed an appeal to the Court against a decision of an inferior court, the appeal shall not by itself result in the suspension of the decision under appeal, but the appellant may, within the time prescribed for filing such appeal, apply to the inferior court which made the decision under appeal, for stay of execution of any judgment appealed from, whether civil or criminal, pending the determination of such appeal.

(2) Before hearing the application for stay made pursuant to sub-section (1), the inferior court shall give its reasons for the decision under appeal and shall supply copies thereof to both the appellant and the respondent, such reasons to be given no later than seven days from the date of the application for stay of execution.

(3) If the application for stay is refused by the inferior court, or the inferior court fails to give its reasons for the decision under appeal within the time specified in sub-section (2), the appellant may apply to the Court for appropriate relief.

(4) Where the appellant has been sentenced to imprisonment by the inferior court, nothing contained in sub-sections (1) to (3), shall prejudice his right to apply to the Court for bail pending appeal; and in every such case, the provisions of the Crime Control and Criminal Justice Act pertaining to the grant of bail to an accused person shall *mutatis mutandis* apply.

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(5) Where the inferior court orders the payment of a sum of money by way of tax, duty, rate or charge arising under the Income and Business Tax Act, the General Sales

Tax Act, the Land Tax Act, the Stamp Duty Act, the Town Property Tax Act, the Trade Licencing Act, or any other enactment, rule or regulation imposing a tax, duty, rate or charge, an appeal shall not result in the suspension of the decision under appeal, and the entire amount ordered to be paid by the inferior court, including any penalty and interest, shall be paid before any such appeal or review is entertained or determined by the court; but where any such appeal or review results in nil or less tax, duty, rate or charge being payable by the taxpayer than that ordered by the inferior court, the excess tax, duty, rate or charge paid by the taxpayer shall, subject to any further appeal by either party to a higher court, be promptly refunded to the taxpayer with interest thereon from the date of payment of such excess tax, duty, rate or charge until the date of such refund, at such rate of interest as may be determined by the Court to be fair and reasonable.

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(6) Where the decision under appeal involves the forfeiture of a vehicle, vessel or aircraft, it shall be lawful for the Government or any person duly authorised by it to use such vehicle, vessel or aircraft during the pendency of the appeal,

Provided that where the appeal is determined in favour of the appellant and the Court orders the restoration to him of such vehicle, vessel or aircraft, the Court may award such compensation to the appellant as may appear to it just and proper for the use, if any, by the Government of such vehicle, vessel or aircraft, having regard to the period of use and the condition of the vehicle, vessel or aircraft, disregarding deterioration, if any, by natural process.

(7) For the purpose of sub-section (2), in every case where the inferior court orders the forfeiture of a vehicle, vessel or aircraft, it shall, on the advice of a technician appointed by it after consultation with the Commissioner of Transport, the Ports Commissioner or the Director of Civil

Aviation, as the case may be, make an assessment of the value and condition of such vehicle, vessel or aircraft.

Limitation of hearing by grounds of appeal.

118. On the hearing, it shall not be competent for the appellant to go into, or to give evidence of, any other grounds of appeal than those set forth in his notice of grounds of appeal, unless the Court otherwise orders on any terms it deems just.

Objection of form to grounds of appeal.

119. On the hearing, no objection to any defect in the form of stating any ground of appeal shall be allowed, and no objection to the reception of evidence adduced pursuant to section 123, which is offered in support grounds of any ground of appeal shall prevail, unless the Court is of opinion that the ground of appeal is so imperfectly or incorrectly set forth as to be insufficient to enable the respondent to inquire into the subject of the statement and to prepare for the hearing, but the Court may, if it thinks fit, cause the ground of appeal to be forthwith amended upon the terms and conditions, if any, the Court thinks just.

Objection of form to information or conviction.

120.—(1) If, on the hearing, any objection is made on account of any defect or in a complaint or information, or on account of any omission or mistake in the drawing up of a conviction or order, and if it is shown, to the satisfaction of the Court, that sufficient grounds were in proof before the inferior court which made the conviction or order to have authorised the drawing up thereof free from that omission or mistake, the Court shall amend the complaint or information, or the conviction or order, and proceed thereafter as if the defect, omission or mistake had not existed.

(2) Nothing in this section shall affect section 118.

Defects in proceedings under appeal.

121. On an appeal no objection shall be taken or allowed to any proceeding in an inferior court for any defect or error which might have been amended by that Court, or to any complaint, summons, warrant or other process to or of that Court, for any alleged defect therein in substance or in form,

or for any variance between any complaint or summons and the evidence adduced in support thereof in that Court,

Provided that if any error, defect or variance mentioned in this section appears to the Court at the hearing of an appeal to be such that the appellant has been thereby deceived or misled, the Court may either refer the cause back to the inferior court with directions to re-hear and determine it, or reverse the decision under appeal, or may make any other order for disposal of the cause which justice requires.

122. No objection shall be taken or allowed on appeal to any notice of which is in writing, or to any recognisance entered into under this Act for the due prosecution of the appeal, for any alleged error or defect therein, but if the error or defect appears to the Court to be such that the respondent on the appeal has been thereby deceived or misled, the Court may amend it and, if it is expedient to do so, may also adjourn the further hearing of the appeal, the amendment and the adjournment, if any, being made on any terms the Court thinks just.

Error or defect in notice of appeal or recognizance.

123.—(1) The Court may, in any case where it considers it necessary—

Power of the Court with regard to new evidence.

- (a) direct that a case be re-heard before the Court itself on some day to be fixed in that behalf, and any person may be called as a witness, whether he gave evidence before the inferior court or not;
- (b) order that the evidence of a particular witness or witnesses be adduced before the Court then or on some day to be fixed in that behalf, whether that witness or those witnesses gave evidence before the inferior court or not; or
- (c) remit the cause to the inferior court to take the evidence of any witness or witnesses,

whether that witness or those witnesses gave evidence before the inferior court or not, and in that case either direct the inferior court to adjudicate afresh after taking the evidence subject to such directions in law, if any, as the Court thinks fit to give, or may direct it, after taking the evidence, to report specific findings of fact for the information of the Court, the cause on any such reference, so far as may be practicable and necessary, being so dealt with as if it were being heard in the first instance.

(2) Whenever any person is required to give evidence under this section he may be summoned or produced in the same manner, and remunerated at the same rate, and be subject to the same pains, penalties and liabilities for non-attendance as are provided in respect of witnesses summoned to attend at the hearing or trial of a civil cause before the Court.

Power of
the Court
generally.

124.—(1) The Court may—

- (a) affirm, modify, amend or reverse, either in whole or in part, the decision made by the inferior court with reference to the cause, or may render any decision which the inferior court ought to have made;
- (b) remit the cause with the opinion of the Court thereon to the inferior court for hearing, judgment or execution, or may originate its own decision thereon and enforce the same according to the practice of the Court; or
- (c) make any other order for disposal of the cause which justice requires,

Provided that the Court may, if of opinion that a different sentence should have been passed, quash the sentence passed by the inferior court and pass such other sentence warranted by law, whether more or less severe, in substitution therefor as the Court thinks should have been passed.

(2) Every order made by the Court on appeal shall have the same effect, and may be enforced in the same manner, as if it were a decision of the inferior court made in the first instance.

125.—(1) In any case where the Director of Public Prosecutions is of the opinion that justice requires that a decision of an inferior court which is subject to appeal should be brought by way of review before the Court, the Director of Public Prosecutions may, on an ex parte application made at any time within three months after the pronouncement of the decision, apply to the Court for an order that the decision be brought before the Court by way of review.

Review of
application of
the Director
of Public
Prosecutions.

(2) Where the Court grants an order for the review, there shall be served on each party to the cause within fourteen days a certified copy of the order and of the grounds for review.

(3) On a review the Court shall have the same powers as on an appeal.

(4) If on a review the decision is modified or reversed no action shall be brought against anyone in respect thereof except with the express permission of the Court.

(5) On any application for an order of review or on any review the Court may, if it thinks fit, and shall on the application of the Director of Public Prosecutions or any party to the cause, send for the record of the inferior court containing the decision which it is sought to review and may peruse such record.

Application to the Court to compel magistrate to entertain complaint.

126. Wherever a magistrate refuses to entertain a complaint or information relating to a summary conviction offence, the person aggrieved by the refusal may obtain from the magistrate a copy of the entry in the record book relating to the refusal, and may, on giving to the magistrate not less than three days' previous notice in writing thereof, make application to the Court for an order on the magistrate to entertain, hear and determine the complaint or information and, if the Court sees fit to make the order, the magistrate shall entertain, and thereafter hear and determine, the complaint or information in due course of law.

Application to Court to compel magistrate or justice to do act.

127.—(1) Wherever a magistrate or a justice of the peace refuses to do any act relating to the duties of his office, the person requiring the act to be done may apply to the Court on motion supported by affidavit of the facts for an order calling upon the magistrate or justice, and also upon the person to be affected by the act, to show cause why the act should not be done.

(2) If, after proof of due service of the order, good cause is not shown against it, the Court may make it absolute and the magistrate or justice, upon being served with the order absolute, shall obey it and do the act required, and the costs of the proceedings shall be in the discretion of the Court.

(3) No action or proceeding whatever shall be commenced or prosecuted against the magistrate or justice for having obeyed the order and done the act thereby required.

(4) Nothing in this section shall be construed to be in derogation of the powers conferred by section 126.

Service of documents.

128. Any notice or other document required to be served or transmitted under this Act relating to appeals from inferior courts may be served electronically or transmitted by registered post or may be served by delivering or leaving it at the last known place of abode of the party to be served.

129. In this Part, “magistrate” includes an alcalde or deputy alcalde acting in under Part VII of the Inferior Courts Act.

Definition of “magistrate” in this Part. CAP. 94.

130. Nothing contained in this Sub-Part shall be construed to interfere in criminal cases with the Governor-General’s prerogative of pardon.

Saving of Governor-General’s prerogative of pardon.

131. Nothing in this Act shall affect any appeals from inferior courts to the Court pending at the commencement of this Act.

Pending appeals.

132. The power conferred by section 101 to make rules of court shall be deemed to include the power to make rules of court for any of the purposes of this Part.

Rules.

Sub-Part 9

Matrimonial Causes and Matters

133.—(1) A petition for a divorce may be presented to the Court by either party to a marriage on the sole ground that the marriage has broken down irretrievably.

Grounds of petition for divorce.

(2) Subject to sub-section (3), in proceedings for a petition for a divorce, the ground shall be held to have been established, and the decree made, if, and only if, the Court is satisfied that the parties separated and thereafter lived separately and apart for a continuous period of not less than twelve months immediately preceding the date of filing of the petition for divorce.

(3) A decree nisi shall not be made where the Court is satisfied that there is a reasonable likelihood of cohabitation being resumed.

134.—(1) Subject to this section, a petition for a divorce shall not be instituted within two years after the date of the marriage except by leave of the Court.

Petition within two years of marriage.

(2) Nothing in this section shall apply to the institution of proceedings based on any of the matters specified in other relevant sections of this Act, or to the institution of proceedings for a decree of dissolution of marriage by way of cross-proceedings.

(3) The Court shall not grant leave under this section to institute proceedings except on the ground that to refuse to grant the leave would impose exceptional hardship on the applicant or that the case is one involving exceptional depravity on the part of the other party to the marriage.

(4) In determining an application for leave to institute proceedings under this section, the court shall have regard to the interest of any children of the marriage, and to the question whether there is any reasonable probability of a reconciliation between the parties before the expiration of the period of two years after the date of the marriage.

(5) Where, at the hearing of proceedings that have been instituted by leave of the Court under this section, the court is satisfied that the leave was obtained by misrepresentation or concealment of material facts, the court may—

- (a) adjourn the hearing for such period as the court thinks fit; or
- (b) dismiss the petition on the ground that the leave was so obtained.

(6) Where, in a case to which sub-section (5) applies, there is a cross-petition, the court shall—

- (a) if the petition is adjourned, adjourn the cross-petition for the same period; or
- (b) if the petition is dismissed, dismiss the cross-petition,

(7) Notwithstanding sub-section (6), the Court may hear and determine the cross-petition if, having regard to the provisions of this section, the Court thinks it proper to hear and determine the cross-petition, and in that case it shall also hear and determine the petition.

(8) The dismissal of a petition or a cross-petition under sub-section (5) or (6) shall not prejudice any subsequent proceedings on the same, or substantially the same facts as those constituting the ground on which the dismissed petition or cross-petition was brought.

(9) Nothing in this section shall prevent the institution of proceedings after the period of two years from the date of the marriage based upon matters which have occurred within that period.

(10) In this section, a reference to the leave of the court shall be deemed to include a reference to leave granted by a court on appeal.

135.—(1) Notwithstanding section 133, a petition for divorce by consent of the parties may be presented to the Court by either spouse on the grounds that they have been living separate and apart for a period of twelve months or more since the presentation of the petition and that they can no longer live together as husband and wife and consent that the marriage should be dissolved.

Divorce by consent of parties.

(2) Notwithstanding section 134, no petition for divorce by consent of the parties shall be presented to the Court unless at the date of the presentation of the petition twelve months has passed since the date of the marriage.

(3) For the purposes of the application of this section, consent shall not be considered collusion.

136.—(1) The parties to a marriage may be held to have been living separate and apart notwithstanding that the cohabitation

Meaning of separation.

was brought to an end by the action or conduct of one only of the parties.

(2) The parties to a marriage may be held to have separated and have lived separately and apart notwithstanding that they have continued to reside in the same residence or that either party has rendered some household services to the other.

Separation Orders.

137. Separation Orders or other orders having the effect of relieving a party to a marriage from any obligation to cohabit with the other party, shall not be affected by this Act or any proceedings thereunder.

Effect of resumption of cohabitation.

138.—(1) For the purposes of proceedings for a petition for divorce, in calculating any period for which the parties have been living separately and apart, and in considering whether the period has been continuous, no account shall be taken of any one period, not exceeding three months, during which the parties resumed cohabitation with a view to reconciliation.

(2) For the purpose of sub-section (1), a period of cohabitation shall be deemed to have continued during any interruption of the cohabitation that, in the opinion of the Court, was not substantial.

Mediation.

139. Where in any proceedings under this Part the Court is of the opinion that mediation may assist the parties to a marriage to improve their relationship with each other and to any relevant child, the Court may, in accordance with the rules made under this Act for family proceedings, refer the proceedings to mediation.

Decree nisi for divorce or nullity of marriage.

140.—(1) Every decree for a divorce or for nullity of marriage shall, in the first instance, be a decree nisi not to be made absolute until after the expiration of six months from the pronouncing thereof, unless the Court by general or special order from time to time fixes a shorter time.

(2) After the pronouncing of the decree nisi and before the decree is made absolute, any person may, in the prescribed manner, show cause why the decree should not be made absolute by reason of the decree having been obtained by collusion or by reason of material facts not having been brought before the Court, and in any such case the Court may make the decree absolute, reverse the decree nisi, require further inquiry or otherwise deal with the case as the Court thinks fit.

(3) Where a decree nisi has been obtained, whether before or after the passing of this Act, and no application for the decree to be made absolute has been made by the party who obtained the decree, then, at any time after the expiration of three months from the earliest date on which that party could have made such an application, the party against whom the decree nisi has been granted shall be at liberty to apply to the Court and the Court shall, on such application, have power to make the decree absolute, reverse the decree nisi, require further inquiry or otherwise deal with the case as the Court thinks fit.

141. Where, after the commencement of the petition and the granting of a Decree Nisi, the parties voluntarily resume cohabitation, either party may apply for an order discharging the decree, and the court shall, if both parties consent to the order, or if the Court is otherwise satisfied that the parties have voluntarily resumed cohabitation, make an order discharging the decree accordingly.

Application for discharge of decree.

142.—(1) As soon as any decree for divorce is made absolute, either of the parties to the marriage may, if there is no right of appeal against the decree absolute, marry again as if the prior marriage had been dissolved by death or, if there is such a right of appeal, may so marry again, if no appeal is presented against the decree, as soon as the time for appealing has expired or, if an appeal is so presented, as soon as the appeal has been dismissed,

Re-marriage of divorced persons.

Provided that it shall not be lawful for a man to marry the sister or half-sister of his divorced wife or of his wife by whom he has been divorced during the lifetime of the wife, or the divorced wife of his brother or half-brother or the wife of his brother or half-brother who has divorced his brother during the lifetime of the brother or half-brother.

(2) No Minister of the Christian religion shall be compelled to publish the banns of matrimony or to solemnise the marriage of any person whose former marriage has been dissolved by a judicial decree, where the other party to such former marriage is still living, nor shall any Minister be compelled to permit the use of any church or chapel under his control for publishing any such banns or solemnising the marriage of any such person, nor shall any such Minister be liable to any suit, proceeding or penalty for refusing to publish any such banns or for refusing to solemnise any such marriage or for refusing to permit the use of any such church or chapel for any such purposes aforesaid.

(3) No Minister of the Christian religion shall be liable to any suits, proceedings or penalties for publishing any such banns or solemnising the marriage of any such person aforesaid or for permitting the use of any such church or chapel for any of the purposes aforesaid,

Provided that nothing in this Act shall relieve any such Minister from any ecclesiastical proceedings or censure to which by reason of his publishing any such banns or solemnising any such marriage or permitting the use of any such church or chapel for any of the purposes aforesaid he is or from time to time hereafter may be liable according to the doctrine, practice, usage or rules of any such religion.

Decree of
judicial
separation.

143.—(1) A petition for judicial separation may be presented to the Court either by the husband or the wife on the ground of incompatibility or on any of the grounds which a petition for divorce is presented.

(2) The foregoing provisions of this Part relating to the duty of the Court on the presentation of a petition for divorce and the circumstances in which such a petition shall or may be granted or dismissed, shall apply in like manner to a petition for judicial separation.

(3) Where the Court in accordance with the said provisions grants a decree of judicial separation, it shall no longer be obligatory for the petitioner to cohabit with the respondent.

(4) The Court may, on the application by petition of the husband or wife against whom a decree for judicial separation has been made, and on being satisfied that the allegations contained in the petition are true, reverse the decree at any time after the making thereof, on the ground that it was obtained in the absence of the person making the application or, if desertion was the ground of the decree, that there was reasonable cause for the alleged desertion.

(5) The reversal of a decree for judicial separation shall not affect the rights or remedies which any other person would have had if the decree had not been reversed in respect of any debts, contracts or acts of the wife incurred, entered into or done between the date of the decree and of the reversal thereof.

144. A person shall not be prevented from presenting a petition for divorce, or the Court from pronouncing a decree of divorce, by reason only that the petitioner had at any time been granted a judicial separation or an order by a summary jurisdiction court upon the same or substantially the same facts as those proved in support of the petition for divorce.

Divorce proceedings after grant of judicial separation or other relief.

145.—(1) In addition to any other grounds on which a marriage is by law void or voidable, a marriage shall be voidable on the ground—

Additional grounds for decree of nullity.

- (a) that the marriage has not been consummated owing to the wilful refusal of the respondent to consummate the marriage;
- (b) that either party to the marriage was at the time of the marriage of unsound mind or a mental defect within the meaning of any Act relating to unsoundness of mind, or subject to recurrent fits of mental illness or epilepsy; or
- (c) that the respondent was at the time of the marriage suffering from venereal disease in a communicable form.

Provided that, in the cases specified in paragraphs (b) and (c), the Court shall not grant a decree unless it is satisfied—

- (i) that the petitioner was at the time of the marriage ignorant of the facts alleged;
- (ii) that proceedings were instituted within a year from the date of the marriage; and
- (iii) that marital intercourse with the consent of the petitioner has not taken place since the discovery by the petitioner of the existence of the grounds for a decree.

(2) Any child born of a marriage voided pursuant to sub-section (1)(b) or (c), shall be a legitimate child of the parties thereto notwithstanding that the marriage is so avoided.

(3) Nothing in this section shall be construed as validating any marriage which is by law void, but with respect to which a decree of nullity has not been granted.

146.—(1) Any married person who alleges that reasonable grounds exist for supposing that the other party to the marriage is dead may present a petition to the Court to have it presumed that the other party is dead and to have the marriage dissolved, and the Court, if satisfied that such reasonable grounds exist, may make a decree of presumption of death and of dissolution of the marriage.

Proceedings for decree of presumption of death and dissolution of marriage.

(2) In any such proceedings the fact that for a period of seven years or upwards the other party to the marriage has been continually absent from the petitioner, and the petitioner has no reason to believe that the other party has been living within that time, shall be evidence that he or she is dead until the contrary is proved.

(3) Sections 140 and 142, shall apply to a petition and a decree under this section as they apply to a petition for divorce and a decree of divorce respectively.

147.—(1) When a petition for divorce or nullity of marriage has been presented, proceedings under section 161 or section 162(3), which respectively, confer power on the Court to order the provision of alimony and the securing of money for the benefit of the children, may, subject to and in accordance with rules of court, be commenced at any time after the presentation of the petition,

Time at which proceedings for alimony, etc., may be commenced in suits for divorce or nullity.

Provided that no order under the said section or under the said sub-section, other than an interim order for the payment of alimony under section 161, shall be made unless and until a decree nisi has been pronounced, and no such order, save in so far as it relates to the preparation, execution or approval of a deed or instrument and no settlement made in pursuance of any such order, shall take effect unless and until the decree is made absolute.

(2) Section 161, shall apply in any case where a petition for divorce or judicial separation is presented by the

wife on the ground of her husband's insanity as if for the references to the husband there were substituted references to the wife, and for the references to the wife there were substituted references to the husband, and in any such case and in any case where a petition for divorce, nullity or judicial separation is presented by the husband on the ground of his wife's insanity or mental deficiency, the Court may order the payment of alimony or maintenance under the said section to be made to such persons having charge of the respondent as the Court may direct.

Jurisdiction
in the case
of spouse's
change of
domicile.

148. Where a spouse has been deserted by the other spouse or where a spouse has been deported from Belize under any law for the time being in force relating to the deportation of aliens, and the deserting or deported spouse was immediately before the desertion or deportation domiciled in Belize, the Court shall have jurisdiction for the purpose of any proceedings under this Part, notwithstanding that the domicile of the deserting or deported spouse has changed since the desertion or deportation.

Jurisdiction
where a spouse
domiciled
abroad and
other spouse
resident in
Belize.

149. In proceedings for divorce or nullity of marriage, if one of the spouses is resident in Belize and has been ordinarily resident therein for a period of three years immediately preceding the commencement of the proceedings, the Court shall have jurisdiction for the purpose of such proceedings notwithstanding that the other spouse is not domiciled in Belize.

Declaration
of interests
in property
and alteration
of property
rights.

150.—(1) Notwithstanding anything contained in this Part or in any other interests in law, a husband or wife may, during divorce proceedings or at any time within two years of the date of dissolution of the marriage, make application to the court for a declaration of his or her title or rights in respect of property acquired by the husband and wife jointly during the subsistence of the marriage, or acquired by either of them during the subsistence of the marriage.

(2) In any proceedings under sub-section (1), the court may declare the title or rights, if any, that the husband or the wife has in respect of the property.

(3) In addition to making a declaration under sub-section (2), the court may also in such proceedings make such order as it thinks fit altering the interests and rights of either the husband or the wife in the property, including—

- (a) an order for a settlement of some other property in substitution for any interest or right in the property; and
- (b) an order requiring either the husband or the wife or both of them to make, for the benefit of one of them, such settlement or transfer of property as the court determines.

(4) The Court shall not make an order under sub-section (3), unless it is satisfied that, in all the circumstances, it is just and equitable to make the order.

(5) In considering whether it is just and equitable to make an order under sub-section (3), the court shall take into account the following—

- (a) the financial contribution made directly or indirectly by or on behalf of either the husband or the wife in the acquisition, conservation or improvement of the property, or otherwise in relation to the property;
- (b) the non-financial contribution made directly or indirectly by or on behalf of either the husband or the wife in the acquisition, conservation or improvement of the property, including any contribution made in the capacity of housewife, homemaker or parent;

- (c) the effect of any proposed order against the earning capacity of either the husband or the wife;
- (d) the age and state of health of both the husband and the wife, and the children born from the marriage, if any;
- (e) the non-financial contribution made by the wife in the role of wife and/or mother and in raising any children born from the marriage, if any;
- (f) the eligibility of either the husband or the wife to a pension, allowance, gratuity or some other benefit under any law, or under any superannuation scheme, and where applicable, the rate of such pension, allowance, gratuity or benefit as aforesaid;
- (g) the period when the parties were married and the extent to which such marriage has affected the education, training and development of either of them in whose favour the order will be made;
- (h) the need to protect the position of a woman, especially a woman who wishes to continue in her role as a mother; or
- (i) any other fact or circumstances that in the opinion of the court, the Justice of the case requires to be taken into account.

(6) Where the court makes an order under sub-section (3), it may also make such consequential orders in respect thereto, including orders as to sale or partition, and interim or permanent orders as to possession, and may further order that any necessary deed or instrument be executed, and that such documents of title to the property be produced or such

other things be done as are necessary to enable the court's order to be carried out effectively, or that security be provided for the due performance of an order.

(7) Any order made by the court under this section shall be binding on the husband and the wife, but not on any other person.

151.—(1) Where a court is satisfied on an application by a person affected by an order made under section 150, that the order was obtained by fraud, duress, the giving of false evidence or by the suppression of evidence, the court may, in its discretion, set aside the order, or make another order in substitution of the order.

Power to set aside orders altering property rights and interests.

(2) Section 150(7), shall apply in respect of an order made under sub-section (1).

152.—(1) Any person affected by a final order made under section 150 or 151, or by the setting aside of a final order under section 151, may appeal against such order or setting aside of the order to the Court of Appeal, pursuant to section 201.

Appeals.

(2) In the case of interlocutory orders, any person affected by such an order made under section 150 or 151, or by the setting aside of such an order under section 151, shall have recourse in the matter to the High Court in the first instance, but may appeal the decision of the High Court made under this section to the Court of Appeal pursuant to section 201.

(3) The same procedure used in applying to the court or in appealing to the Court of Appeal in divorce proceedings shall as far as applicable be used for applications under sections 150 to 156.

153. In sections 154 to 158, “common law union” or “union” means the relationship that is established when a man and woman who are not legally married to each other and to any

Interpretation of phrases used in sections 154 to 158.

other person cohabit together continuously as husband and wife for a period of at least five years.

Declaration of interests in property and alteration of property rights in separation in common-law union.

154.—(1) Where the parties to a common-law union separate, then either party to the union may, at any time within two years of the date of separation, make application to the court for a declaration of that party's title or rights in respect of property acquired by the parties or either of them during the subsistence of the union.

(2) In any proceedings under sub-section (1), between the parties to a common-law union in respect of the existing title or rights to property, the court may declare the title or rights, if any, that a party has in respect of the property.

(3) In addition to making a declaration under sub-section (2), the court may also in such proceedings make such order as it thinks fit altering the interests and rights of the parties to the union in the property, including—

- (a) an order for a settlement of some other property in substitution for any interest or right in the property; and
- (b) an order requiring either or both parties to the union to make, for the benefit of the other party, such settlement or transfer of property as the court determines.

(4) The court shall not make an order under sub-section (3) unless it is satisfied that, in all the circumstances, it is just and equitable to make the order.

(5) In considering whether it is just and equitable to make an order under sub-section (3), the court shall take into account the following—

- (a) the financial contribution made directly or indirectly by or on behalf of either party to the union in the acquisition, conservation or

improvement of the property, or otherwise in relation to the property;

- (b) the non-financial contribution made directly or indirectly by or on behalf of either party to the union in the acquisition, conservation or improvement of the property, including any contribution made in the capacity of housewife, homemaker or parent;
- (c) the effect of any proposed order against the earning capacity of either party to the union;
- (d) the age and state of health of each of the parties to the union and the children born from the union, if any;
- (e) the eligibility of either party for a pension, allowance, gratuity or some other benefit under any law, or under any superannuation scheme, and where applicable, the rate of such pension, allowance, gratuity or benefit as aforesaid;
- (f) the duration of the union and the extent to which it has affected the education, training and development of the party to the union in whose favour the order will be made;
- (g) the need to protect the position of a woman, especially a woman who wishes to continue in her role as a mother;
- (h) the non-financial contribution made by the female party to the union in the role of companion and/or mother and in raising any children born from the union, if any; or
- (i) any other fact or circumstance that, in the opinion of the court, the justice of the case requires to be taken into account.

(6) Where the court makes an order under sub-section (3), it may also make such consequential orders in respect

thereto, including orders as to sale or partition, and interim or permanent orders as to possession, and may further order that any necessary deed or instrument be executed, and that such documents of title to the property be produced or such other things be done as are necessary to enable the court's order to be carried out effectively, or that security be provided for the due performance of an order.

(7) Any order made by the court under this section shall be binding on the parties to the union, but not on any other person.

Power to set aside orders altering property rights and interests in separation in common-law union.

155.—(1) Where a court is satisfied on an application by a person affected by an order made under section 154, the order was obtained by fraud, duress, the giving of false evidence or by the suppression of evidence, the court may in its discretion, set aside the order, or make another order in substitution of the order.

(2) Section 154(7), all apply in respect of an order made under sub-section (1).

Appeals in separation in common-law union.
CAP. 90.

156. Any person affected by an order made under section 154 or 155, or by the setting aside of an order made under section 155, may appeal against such order or the setting aside of the order to the Court of Appeal, pursuant to section 201 and the provisions of section 154 shall, *mutatis mutandis*, apply to such an appeal.

Transfers of property to avoid court orders to be void.

157.—(1) In cases where sections 150 to 156 apply, the court may on application by an interested party or on its own motion, set aside any instrument transferring property from a spouse to a marriage to any other person, or from a party to a union to any other person, or may restrain the making of such an instrument or disposition by or on behalf of, or by the direction and in the interest of, such spouse or party to a union, which is made or is intended or proposed to be made to defeat an existing or anticipated order in any

proceedings under the said sections, or which, irrespective of intention, is likely to defeat any such order.

(2) An instrument or disposition made contrary to sub-section (1), is void.

158. A party to a common-law union shall have the same rights as a spouse to a marriage, in respect of himself or the children born out of the union, if any, to apply to the courts, either during the subsistence of the union or upon the separation of the parties to the union, for maintenance, and any law now or hereafter in force in relation to maintenance in respect of spouses to a marriage shall, upon the commencement of this section, apply, with the necessary modifications, to a party to a common-law union.

Maintenance in respect of parties to a common-law union.

159. In any proceedings in which the Court has jurisdiction by virtue of section 148 or 149, the issues shall be determined in accordance with the law which would be applicable thereto if both parties were domiciled in Belize at the time of the proceedings.

Applicable law in proceedings under sections 148 or 149.

160.—(1) Any person who is a natural-born citizen of Belize, or whose right to be deemed a natural-born citizen of Belize depends wholly or in part on his legitimacy or on the validity of any marriage, may, if he is domiciled in Belize or claims any real or personal estate situate in Belize, apply by petition to the Court for a decree declaring that the petitioner is the legitimate child of his parents, and that the marriage of his father and mother or of his grandfather and grandmother was a valid marriage or that his own marriage was a valid marriage.

Declaration of legitimacy, etc.

(2) Any person who is so domiciled or claims as aforesaid, may apply to the Court for a decree declaring his right to be deemed a natural-born citizen of Belize.

(3) Applications under sub-sections (1) and (2), may be included in the same petition and on any such application

the Court shall make such decree as the Court thinks just, and the decree shall be binding on Her Majesty and all other persons whatever,

Provided that the decree of the Court shall not prejudice any person—

- (a) if it is subsequently proved to have been obtained by fraud or collusion; or
- (b) unless that person has been cited or made a party to the proceedings or is the next-of-kin or personal representative of, or derives title under or through, a person so cited or made a party.

(4) A copy of every petition under this section and of any affidavit accompanying the petition shall be delivered to the Attorney General at least one month before the petition is presented or filed, and the Attorney-General shall be a respondent on the hearing of the petition and on any subsequent proceedings relating thereto.

(5) In any application under this section such persons shall, subject to rules of court, be cited to see proceedings or otherwise summoned as the court thinks fit, and any such persons may be permitted to become parties to the proceedings and to oppose the application.

(6) The provisions of this Act relating to matrimonial causes shall, so far as applicable, extend to any proceedings under this section.

(7) No proceedings under this section shall affect any final judgment or decree already pronounced or made by any Court of competent jurisdiction.

161.—(1) The Court may, if it thinks fit, on any decree for divorce or nullity of marriage, order that a spouse shall, to the satisfaction of the Court, secure to the other spouse such gross sum of money or annual sum of money for any term, not exceeding that spouse's life, as having regard to that spouse's fortune, if any, to the ability of the spouse ordered to pay and to the conduct of the parties, the Court may think to be reasonable, and the Court may for that purpose order that it shall be referred to the Registrar to settle and approve a proper deed or instrument, to be executed by all the necessary parties, and may, if it thinks fit, suspend the pronouncing of the decree until the deed or instrument has been duly executed.

Alimony.

(2) In any such case as aforesaid the Court may, if it thinks fit, by order, either in addition to or instead of an order under sub-section (1), direct a spouse to pay to the other spouse during the joint lives of the husband and wife such monthly or weekly sum for her maintenance and support as the Court may think reasonable,

Provided that—

- (a) if the spouse ordered to pay, after any such order has been made, becomes from any cause unable to make the payments, the Court may discharge or modify the order, or temporarily suspend the order as to the whole or any part of the money ordered to be paid, and subsequently revive it wholly or in part as the Court thinks fit; and
- (b) where the Court has made any such order as is mentioned in this sub-section and the Court is satisfied that the means of the spouse ordered to pay have increased, the Court may, if it thinks fit, increase the amount payable under the order.

(3) On any petition for divorce or nullity of marriage the Court shall have the same power to make interim orders for the payment of money by way of alimony or otherwise to the a spouse as the Court has in proceedings for judicial separation.

(4) Where any decree for judicial separation is made on the application of a spouse, the Court may make such order for alimony as the Court thinks just.

(5) In all cases where the Court makes an order for alimony, the Court may direct the alimony to be paid either to the other spouse or to a trustee approved by the Court on behalf of that spouse, and may impose such terms or restrictions as the Court thinks expedient, and may from time to time appoint a new trustee if for any reason it appears to the Court expedient to do so.

Custody of children.

162.—(1) In any proceedings for divorce or nullity of marriage or judicial separation, the Court may from time to time, either before or by or after the final decree, make such provision as appears just with respect to the custody, maintenance and education of the children, the marriage of whose parents is the subject of the proceedings or, if it thinks fit, direct proper proceedings to be taken for placing the children under the protection of the Court.

(2) On an application made in that behalf the Court may, at any time before final decree, or, if the respondent fails to comply therewith, after final decree, make from time to time all such orders and provisions with respect to the custody, maintenance and education of the children of the petitioner and respondent as might have been made by interim orders if proceedings for judicial separation had been pending between the same parties.

(3) The Court may, if it thinks fit, on any decree of divorce or nullity of marriage, order a spouse to secure

for the benefit of the children such gross sum of money or annual sum of money as the Court may think reasonable and the Court may for that purpose order that it shall be referred to the Registrar to settle and approve a proper deed or instrument to be executed by all necessary parties,

Provided that the term for which any sum of money is secured for the benefit of a child shall not extend beyond the date when the child will attain eighteen years of age.

163.—(1) In every case of judicial separation—

- (a) any property which is acquired by or devolves upon either spouse on or after the date of the decree whilst the separation continues shall, if that spouse dies intestate, devolve as if the other spouse had been then dead; and
- (b) if alimony has been ordered to be paid and has not been duly paid by the spouse ordered to pay, that spouse shall be liable for necessaries supplied for the use of the other spouse.

Spouse's
property in
case of judicial
separation.

(2) In any case where the decree for judicial separation is obtained by either spouse, any property to which that spouse is entitled for an estate in remainder or reversion at the date of the decree, and any property to which that spouse becomes entitled as executor, administrator or trustee after the date of the decree, shall be deemed to be property to which this section applies, and for the purpose aforesaid the death of the testator or intestate shall be deemed to be the date when that spouse becomes entitled as executor or administrator.

164.—(1) Where a spouse obtains a decree for judicial separation, the decree shall, so far as may be necessary for the protection of any person dealing with that spouse, be valid and effectual until discharged, and the discharge or

Protection of
third parties.

variation of the decree shall not affect any rights or remedies which any person would have had, if the decree had been discharged or varied, in respect of any debts, contracts or acts of that spouse incurred, entered into or done during the period between the date of the decree and the discharge or variation thereof.

(2) Any person who, in reliance on any such decree as aforesaid, makes any payment to or permits any transfer or act to be made or done by that spouse, shall, notwithstanding the subsequent discharge or variation of the decree, or the fact that the separation has ceased or has been discontinued, be protected and indemnified in the same way in all respects as if at the time of the payment, transfer or other act the decree were valid and still subsisting without variation in full force and effect, or the separation has not ceased or been discontinued, as the case may be, unless at that time that person had notice of the discharge or variation of the decree or that the separation had ceased or been discontinued.

Power to vary orders.

165. The Court may from time to time vary or modify any order for the periodical payment of money made under this Act relating to matrimonial causes and matters either by altering the times of payment or by increasing or diminishing the amount, or may temporarily suspend the order as to the whole or any part of the money ordered to be paid, and subsequently revive it wholly or in part, as the Court thinks just.

Power to allow intervention on terms.

166. In every case in which any person is charged with adultery with any party to a suit or in which the Court may consider, in the interest of any person not already a party to the suit, that that person should be made a party to the suit, the Court may, if it thinks fit, allow that person to intervene upon such terms, if any, as the Court thinks just.

167. Notwithstanding any rule of law to the contrary, the evidence of a husband or wife shall be admissible in any proceedings to prove that marital intercourse did or did not take place between them during any period.

Evidence of husband or wife admissible to prove marital intercourse.

168. In any proceedings for nullity of marriage, evidence on the question of sexual capacity shall be heard in camera unless in any case the judge is satisfied that in the interests of justice any such evidence ought to be heard in open Court.

Certain evidence in nullity proceedings to be in camera.

PART XI

Probate Causes and Matters

169. The Chief Justice or a judge shall deal with all matters relating to the granting or revocation of probates of wills and letters of administration of the real and personal property of deceased persons and of and in all non-contentious matters and causes testamentary and cases of intestacy whatever.

Grant of probate and letters of administration.

170. Any party interested in a will may compel, and any executor or party desiring or having execution of a will may have, proof thereof in solemn form in accordance with the Wills Act.

Proof of will in solemn form.

CAP. 203.

171. The Court, upon sufficient cause being shown, may set aside any order or decree obtained on a default, upon such terms as to the payment of costs, or otherwise as may seem just.

Certain decrees, etc., may be set aside.

172. In any contested suit for probate or letters of administration the hearing and adjudication thereof shall be in open Court, and subject thereto, all other proceedings and business under this Part may, unless the Court otherwise directs, be transacted in chambers.

Contested cases to be tried in open Court.

Probate, etc., may be granted to a person other than the one entitled.

173. Under special circumstances where it may appear to the Court to be just or expedient, probate or administration may be granted to some person other than the person ordinarily or by law entitled to such probate or administration.

Rules.

174.—(1) Provisions may from time to time be made by rules of court—

- (a) for giving effect to any Act relating to administration of estates of deceased persons in respect of both real and personal property;
- (b) for regulating the practice and procedure in probate and administration matters, including both non-contentious and contentious business; or
- (c) for regulating the practice and procedure, including fees and costs, on, and incidental to, an application for sealing a probate or letters of administration granted by any Court in any part of the Commonwealth or Her Majesty's dominions or a British Court of Probate in a foreign country as provided for by any law.

(2) “Non-contentious business” includes the issue of grants of probate and letters of administration when there is no contention as to the right thereto, including the passing of probates and administration through the Court in contentious cases when the contest is terminated, and all business of a non-contentious nature taken in Court in matters of testacy and intestacy, not being proceedings in any action, and also the business of lodging caveats against the grant of probate or administration.

(3) “Contentious business” includes all other probate and administration business of the Court, except the warning of caveats and rules of court may further provide what shall be deemed “contentious business.”

*Sub-Part 11**General*

175.-(1) In any proceedings tried in the Court for the recovery of any debt or damages, the Court may, if it thinks fit, order that there shall be included in the sum for which judgment is given interest at such rate as it thinks fit on the whole or any part of the debt or damages for the whole or any part of the period between the date when the cause of action arose and the date of the judgment,

Power of Court to award interest on debts and damages.

Provided that the rate of interest to be given for the recovery of any debt or damages in relation to the acquisition of land shall be the rate of interest, as published by the Central Bank of Belize, on Treasury Bills issued pursuant to the Treasury Bills Act, with a maturity period of not more than three months, as at the date of acquisition,

CAP. 83.

Provided further that nothing in this section shall—

- (a) authorise the giving of interest upon interest;
- (b) apply in relation to any debt upon which interest is payable as of right whether by virtue of any agreement or otherwise; or
- (c) affect the damages recoverable for the dishonour of a bill of exchange.

176. Every judgment debt shall carry interest at the rate of six per centum per annum from the time of entering up the judgment until the same is satisfied, and such interest may be levied under a writ of execution on such judgment,

Judgment debts to carry interest.

Provided that the rate of interest for a judgement debt in relation to the acquisition of land shall be the rate of interest, as published by the Central Bank of Belize, on

CAP. 83.

Treasury Bills issued pursuant to the Treasury Bills Act, with a maturity period of not more than three months as at the date of acquisition.

Restriction on institution of vexatious actions.

177.—(1) If, on an application made by the Attorney General under this section, the Court is satisfied that any person has habitually and persistently and without any reasonable ground instituted vexatious legal proceedings, whether in the Court or in any inferior court, 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 leave of the Court or a judge thereof be instituted by him in any court, and such leave shall not be given unless the Court or judge 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) If the person against whom an order is sought under this section is unable on account of poverty to retain counsel, the Court shall assign counsel to him.

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

Relief against forfeiture for non-payment of rent.

178. In the case of any action for a forfeiture brought for non-payment of rent, the Court or a judge thereof shall have power to give relief in a summary manner, and subject to the same terms and conditions in all respects as to payment of rent, costs and otherwise as could formerly have been imposed in the Court of Chancery in England, and if the lessee, his executors, administrators or assigns are so relieved they shall hold the demised premises according to the terms of the lease and without the necessity of any new lease.

Execution of instrument by order of Court.

179. Where any person neglects or refuses to comply with a judgment or order directing him to execute any transfer, conveyance, contract or other document, or to indorse any

negotiable instrument, the Court may, on such terms and conditions, if any, as may be just, order that the transfer, conveyance, contract or other document shall be executed or that the negotiable instrument shall be indorsed by such person as the Court may nominate for that purpose, and a transfer, conveyance, contract, document or instrument so executed or indorsed shall operate and be for all purposes available as if it had been executed or indorsed by the person originally directed to execute or indorse it.

180.—(1) Information in the nature of quo warranto are hereby abolished.

Abolition of information in the nature of quo warranto.

(2) In any case where any person acts in an office in which he is not entitled to act and an information in the nature of quo warranto would but for sub-section (1) have lain against him, the Court may grant an injunction restraining him from so acting and may, if the case so requires, declare the office to be vacant.

(3) No proceedings for an injunction under this section shall be taken by a person who would not immediately before the commencement of this Act have been entitled to apply for an information in the nature of quo warranto.

181. In the course of the trial of any action in Court, either with or without a jury, the same objections may be taken to the ruling, direction or judgment of the Court upon points of law or the reception or rejection of evidence, or upon all other points relating to the trial or to any motion or proceeding respecting the same, or to the pleadings and proceedings in any cause either before or after trial or to any judgment or execution, or in reference to any interlocutory or final proceedings whatever, as may be taken before the High Court or a judge in England and the Court or judge may be called upon at the time to make full note of the objection with a view to an appeal or otherwise.

Objections for the purpose of appeal.

Jurisdiction
with respect to
foreigners.

182. Subject to any special disability to sue or be sued, any person, whether a foreigner or not, and whether a domiciled inhabitant of Belize or not, may take proceedings, or be proceeded against by action or other proceeding in the Court in its civil jurisdiction and the Court shall have full jurisdiction, power and authority to try, hear and determine the action or other proceeding and to proceed to a final judgment or order and execution therein.

Procedure
in case of
imprisonment.

183.—(1) The return of the marshal or of the Chief Officer of any prison, to any writ of habeas corpus as to an arrest or detainer under any order of arrest or imprisonment by the Court, or under any judgment or order of detention for or during non-payment of any fine or penalty imposed by the Court, shall be deemed sufficient in law, if there appears in or is attached to the return a certificate by the Registrar setting forth the judgment or order by virtue of which the arrest or detainer was made.

(2) The Court shall have power to reduce or remit any fine or penalty imposed by it if the fine or penalty has not been already paid or satisfied.

Restriction
on officer's
purchase of
property sold
at execution.

184. No officer or person employed in any way whatever in the registry shall directly or indirectly or by the intervention of an agent or trustee or otherwise, purchase any property sold at execution, and if that officer or person purchases or is interested in the purchase of any property at an execution sale, he shall, upon proof thereof to the Public Services Commission or the Judicial and Legal Services Commission, as the case may be, be dismissed from his office or employment,

Provided that nothing in this section contained shall prevent the officer or person from purchasing at execution sale any property which it is necessary for him to purchase in order to protect the interest of himself, his wife or his child.

185.—(1) Subject to section 65C of the Indictable Procedure Act, judgments of the High Court may be given orally or in writing.

Judgments
of the High
Court. CAP.
96.

(2) Where a judgement of the High Court is given orally, the transcript or recording of the High Court, as the case may be, shall be deemed to be the reasons for judgement.

(3) Notwithstanding sub-section (1), the Court shall, where required under the Time Limit for Judicial Decisions Act to give a written judgment, give that written judgment in accordance with the time limit prescribed under that Act.

Act No. 5 of
2021.

186. Notwithstanding anything to the contrary in this Act or any other enactment, hearings or trials in the High Court may be conducted virtually.

Virtual
hearings and
trials of the
High Court.

PART III

Court of Appeal

Sub-Part 1

Preliminary

187. For the purposes of this Part—

“appellant” includes a person who has been convicted and desires to appeal to the Court of Appeal;

“applicant” means a person who seeks an order of the Court by making an application;

“Court” means the Court of Appeal established by the Belize Constitution;

“High Court” mean the High Court of Justice established under the Belize Constitution;

Interpretation
of this Part.

CAP. 4

CAP. 4

“high judicial office” means the office of judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court;

“judge” means a Justice of Appeal of the Court and includes the President of the Court and the Chief Justice;

“judgment” or “sentence” includes any Order of any court made consequent upon the conviction of an appellant with reference to the appellant or his wife or his children;

“order” includes decision, judgment or decree;

CAP. 4.

“President” means the person appointed as President of the Court of Appeal pursuant to section 101 of the Belize Constitution;

“rules of court” means rules of court made under section 196;

Powers and jurisdiction of the Court of Appeal.

188.—(1) The Court of Appeal shall have such powers and jurisdiction as are hereinafter provided.

(2) Any power exercisable by a single judge of the Court of Appeal may be exercised by the Court of Appeal.

Exercise of jurisdiction of the Chief Justice.

189. Notwithstanding that the Chief Justice has jurisdiction to hear and determine matters before the Court of Appeal, the Chief Justice shall not hear and determine a matter before the Court of Appeal if the Chief Justice presided over that matter when the matter was before the High Court.

Appointment of Judge of the High Court to be members of the Court of Appeal.

190.—(1) Notwithstanding section 188, the Chief Justice may appoint a Justice the High Court to be a member of the Court of Appeal for the purposes of any proceedings.

(2) A justice of the High Court may be appointed under sub-section (1)–

- (a) in respect of a specified case; or
- (b) in respect of every case to be heard by the Court of Appeal during a specified period not exceeding three months.

(3) An appointment under sub-section (1) may be made for one or more three month periods, but no judge of the High Court may be a member of the Court of Appeal for more than four months in any calendar year.

(4) A justice of the High Court appointed to be a member of the Court of Appeal shall not hear and determine a matter before the Court of Appeal if that justice of the High Court presided over that matter when it was before the High Court.

191.—(1) The Chief Justice and President shall be the seniors judges of the Court and subject thereto, the judges shall hold seniority in order of their appointments or, if two or more judges are appointed on the same day, then in order of their seniority to high judicial office.

Judges of
the Court of
Appeal.

(2) In the absence of—

- (a) the Chief Justice, the President shall preside at the sitting of the Court;
- (b) the Chief Justice and the President, the most senior judge present at any sitting of the Court shall preside at the sitting.

(3) Except as otherwise provided in this Act all judges shall have and enjoy in all respects equal power, authority and jurisdiction.

192. The President shall cause a seal to be provided for the Court.

Seal.

Establishment
of the office
of Chief
Registrar.

193.—(1) There shall be as an office of the Court of Appeal, an office of Chief Registrar.

(2) The Chief Registrar shall have and exercise such functions as may be conferred upon him by this Act or any other law or by rules of court.

(3) The Chief Registrar shall—

(a) be responsible for the supervision of the Registrar, Deputy Registrars and Assistant Registrars appointed under this Act;

(b) ensure the timely and accurate input of data, including data on case management and trial management, into the digital systems of the High Court and Court of Appeal.

(4) Without prejudice to the generality of the provisions of this section, the Chief Registrar shall take all necessary steps for obtaining a hearing under this Act of any appeals or applications, 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 case, or the appellant or applicant, was tried which appear necessary for the proper determination of the appeal or application.

(5) The Chief Registrar shall have such power and authority and perform such duties as shall be necessary for the due conduct and discharge of the business of the High Court and the Court of Appeal as the Chief Justice or other Judge authorised by the Chief Justice shall direct.

(6) Notwithstanding this section, the Chief Justice may, by directions in writing, assign such powers and duties of the Chief Registrar to the Registrar of the High Court if—

- (a) the office of Chief Registrar is vacant; or
- (b) the Chief Registrar is absent or unable to act.

(7) The power to make appointments to the office of Chief Registrar and to exercise disciplinary control over persons holding or acting in such offices shall vest in the Judicial and Legal Services Commission.

194.—(1) The Judicial And Legal Services Commission may, for the efficient functions of the Court, appoint Judicial Assistants to provide support to judges of the Court.

Judicial Assistants and other officers of the Court of Appeal.

(2) There shall be attached to the Court such other officers as may from time to time be required and as may be authorised by the Public Services Commission or the Judicial and Legal Services Commission, as the case may be.

195.—(1) For the purpose of hearing and determining any appeal, the Court shall be duly constituted if it consists of three judges,

Quorum of Court.

Provided that, if prescribed by rules of court, one judge may hear and determine any interlocutory matter.

(2) The determination of any question before the Court shall be according to the opinion of the majority of the judges hearing the appeal.

196.—(1) Subject to this Act, the Rule Committee may make rules of court—

Rules of Court.

- (a) prescribing the times and places for sittings of the Court;
- (b) prescribing all such matters as are to be or may be prescribed under this Act; and

(c) generally with respect to all matters of practice and procedure relating to the exercise of the jurisdiction of the Court.

(2) Rules of court that involve an increase of expenditure of public funds shall be made with the concurrence of the Minister responsible for finance and shall be subject to negative resolution.

(3) Rules of court shall be published in the *Gazette* and shall have effect, unless otherwise provided therein, as from the date of such publication.

Schedule II.

(4) The rules set out in Schedule II shall be deemed to be rules of court made under this section and may be amended or revoked in like manner as rules of court.

Practice Directions.

197.—(1) The Rules Committee may issue practice directions prescribing the practice, procedure and related matters to be followed for the conduct of proceedings of the Court.

(2) Every Practice Direction issued under sub-section (1) shall be published in the *Gazette*.

Procedure and practice.

198. Where in any case no special provision is contained in this or any other Act, or in rules of court, with reference to any jurisdiction of the court in relation to appeals in criminal and civil matters such jurisdiction shall be exercised by the Court as nearly as may be in conformity with the law and practice for the time being in force in England in the Court of Appeal.

Sub-Part 2

Civil Appeals

Jurisdiction of Court.

199.—(1) Subject to this Part and to rules of court, the Court shall have jurisdiction to hear and determine appeals from

judgments and orders of the High Court given or made in civil proceedings and for all purposes of and incidental to the hearing and determination of any such appeal.

(2) The Court 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 High Court or a judge thereof pursuant to any power conferred in that behalf by any law.

200. A civil appeal brought before a single judge or a panel of judges may be continued and determined by another judge or the remaining judges on the panel of judges, as the case may be, if—

Jurisdiction to continue civil appeals.

- (a) the single judge or one or more of the judges on the panel of judges, with conduct of the civil appeal or any interlocutory matter in the appeal, is for any reason unable to continue to hear or determine that appeal or interlocutory matter; and
- (b) the parties to the appeal consent to the appeal being continued and determined by another judge or the remaining judges on the panel, or by another panel, as the case may be.

201.—(1) An appeal shall lie to the Court in any cause or matter from any order of the High Court or a judge thereof where such order is—

When appeals lie.

- (a) final and is not such an order as is referred to in paragraph (f) or (g);
- (b) an order made upon the finding or verdict of a judge or jury, as the case may be;
- (c) an order upon the application for a new trial;

- (d) a decree nisi in a matrimonial cause or an order in an Admiralty action determining liability;
- (e) an order declared by rules of court to be of the nature of a final order;
- (f) an order upon appeal from any other court, tribunal, body or person;
- (g) a final order of a judge of the High Court made in Chambers;
- (h) an order made with the consent of the parties;
- (i) an order as to costs;
- (j) an order not referred to elsewhere in this sub-section.

(2) No appeal shall lie from any order referred to in sub-section (1) (f)–

- (a) except–
 - (i) upon a question of law;
 - (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 other case, except with the leave of a single judge of the Court or, if that judge refuses, with the leave of the Court.

(3) No appeal shall lie from any order referred to in sub-section (1)(g) to (j)–

(a) except

(i) where the liberty of the subject or the custody of infants is concerned;

(ii) where an injunction or the appointment of a receiver is granted or refused;

(iii) in the case of a decision determining the claim of any creditor or the liability of any director or other officer under the Companies Act in respect of misfeasance or otherwise; **CAP. 250.**

(iv) in the case of an order on a special case stated under the Arbitration Act; **CAP. 125.**

(v) in the case of an order refusing unconditional leave to defend an action;

(b) in any other case, except with the leave of a single judge of the Court or, if that judge refuses, with the leave of the Court.

(4) No appeal shall lie under this Part—

(a) from any order made in any criminal cause or matter, except from an order made in judicial review proceedings in a criminal matter;

(b) from an order allowing an extension of time for appealing from an order;

(c) from an order of a judge of the High Court giving unconditional leave to defend an action;

(d) 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, except on some point which would not have been available to such party on such appeal;

- (e) from any order of the High Court or a judge thereof where it is provided by any law of Belize that the decision of such Court or judge shall be final;
- (f) where an order has been made against a party in default of his appearing or filing a defence or where the party is otherwise in default,

Provided that nothing in this paragraph shall be deemed to affect the right of such party to move the court of first instance for the setting aside of the default order.

(5) Where any doubt arises regarding the category set out in sub-section (1) into which an order of the High Court or a judge thereof falls—

- (a) if such doubt arises on an application to the Court, it shall be determined by a single judge of the Court, subject to a right of appeal to the Court;
- (b) in all other cases it shall be determined by the Court.

(6) Notwithstanding sub-section (4)(a), an appeal shall lie to the Court from the decision of the High Court, with the leave of that court or of the Court of Appeal, against any decision of the High Court granting or refusing a writ of *habeas corpus*.

application for leave to appeal in such manner as may be directed by rules of court within twenty-one days from the date on which the order of the High Court or a judge thereof was signed, entered or otherwise perfected.

(2) The appellant shall file notice of his grounds of appeal within twenty-one days after he has been notified by the Chief Registrar that the record is ready for his use.

(3) The Court may, subject to such terms and conditions as it thinks fit, enlarge the time limits mentioned in sub-sections (1) and (2) or any provision that imposes a time limit herein, upon such terms as the justice of the case may require, and any such enlargement may be ordered although the application for the enlargement of time is not made until after the expiration of the time appointed or allowed under sub-sections (1) or (2), or the Court may direct a departure from this in any other way where this is required in the interests of justice.

203.—(1) Except with leave of the Court, granted on such terms and conditions as it thinks fit, no appeal shall be set down for hearing earlier than twenty-one days after the respondent has been served with notice of the grounds of appeal.

Setting down
of appeal for
hearing.

(2) After the twenty-one days have elapsed the Chief Justice may set down the appeal for hearing.

204. The Court may make any 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.

Security for
costs.

205.—(1) On the hearing of an appeal under this Part, the Court shall have power to—

Powers of
Court in
appeals in civil
matters.

(a) confirm, vary, amend or set aside the order or make any such order as the High Court or

the judge thereof 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 High Court or the judge thereof from whose order the appeal is brought to enquire into and certify its finding on any question which the Court thinks fit to be determined before final judgment in the appeal.

(2) The powers of the Court under 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 High Court or the judge thereof 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 notice; and the Court 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.

Additional powers of Court in hearing appeals in civil matters.

206. On the hearing of an appeal from any order of the High Court or of a judge thereof in any civil cause or matter, the Court 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 be 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 whether or not he was 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 of the High Court or before any officer of the High Court or other suitably qualified person appointed by the Court for the purpose, and at any place and allow the admission of any deposition so taken as evidence before the Court;
- (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 other-wise as appear to it necessary; and in all cases, remit the case with such instructions of 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, conveniently be conducted before the Court, 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 and act upon the report of any such commissioner so far as it thinks 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 that such knowledge is required for the proper determination of the case.

Power of
Court as to
new trials.

207.—(1) Subject to this section, on the hearing of an appeal in any civil cause or matter the Court shall, if it appears to the Court 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 misdirection, or of the improper admission or rejection of evidence unless in the opinion of the Court some substantial wrong or miscarriage of justice 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 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 only, and give final judgment as to the remainder.

(3) On the hearing of an appeal from an order made in any action tried with a jury, the following provisions shall apply—

- (a) the Court 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 a verdict, finding or judgment of the court below;
- (b) a new trial shall not be ordered because the verdict of the jury was not taken upon a question which the judge at the trial was not asked to leave to them unless in the opinion of the Court some substantial wrong or miscarriage has been thereby occasioned;
- (c) in any case where the Court has power to order a new trial on the ground that damages awarded by a jury are excessive or inadequate, the Court may, in lieu of ordering a new trial—
 - (i) with the consent of all parties concerned, substitute for the sum awarded by the jury such sum as appears to the Court to be proper;
 - (ii) with the consent of the party entitled to receive or liable to pay the damages, as the case may be, reduce or increase the sum awarded by the jury by such amount as appears to the Court to be proper in respect of any distinct head of damages erroneously included in or excluded from the sum so awarded,

but except as aforesaid the Court shall not have power to reduce or increase damages awarded by a jury.

208. The Court 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.

Wrong
rulings as to
sufficiency of
stamps.

*Sub-Part 3**Criminal Appeals*

Right of
appeal against
conviction on
indictment.

209.—(1) A person convicted in the High Court on indictment or on information filed by the Director of Public Prosecutions may appeal under this Part to the Court—

- (a) against his conviction on any ground of appeal which involves a question of law alone;
- (b) with the leave of the Court 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;
- (c) with the leave of the Court against the sentence passed on his conviction unless the sentence is one fixed by law.

(2) For the purposes of sub-section (1) (c), “sentence” includes—

- (a) any recommendation of the High Court as to the making of an expulsion order in the case of the person convicted; and
- (b) any recommendation of the High Court as to the making of a deportation order or a restriction order or a security order in conjunction with either of these orders, in the case of a convicted person.

210.—(1) Where a judge of the High Court in chambers has held an inquiry pursuant to Immigration Act or any other law, any party to that proceeding may, with the leave of the Court or upon the certificate of the judge, appeal to the Court against any finding of fact or any conclusion on a question of law contained in the report of such judge, and the person charged may, with the leave of the Court, appeal to that Court against any recommendation of such judge as to the making of a deportation order or a restriction order or a security order in his case.

Right of appeal against deportation and expulsion orders. CAP. 156.

(2) Where the High Court or a judge thereof, on an appeal against an expulsion order—

- (a) dismisses the appeal, the appellant may, with the leave of the Court or upon the certificate of the judge, appeal further to the Court against the order dismissing the appeal;
- (b) allows the appeal, the respondent may, with the leave of the Court or upon the certificate of the judge, appeal further to the Court against the order allowing the appeal.

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

Appeals from inferior courts.

- (a) upon any ground which involves a question of law alone; or
- (b) where the appeal to the High Court is against an order which disqualified 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 upon any other ground which appears to the High Court or the Court to be a sufficient ground of appeal.

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

Date from which appeals shall lie.
CAP. 156.

212. An appeal shall lie in respect of sentences passed and convictions, reports of a judge under the Immigration Act or any other law or orders of the High Court, made from and after the coming into force of this Part.

Time for appealing.

213.—(1) Where a person convicted in the High Court on indictment or information desires to appeal to the Court or to obtain the leave of the 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 appeal rules of court within twenty-one days of the date of conviction if the appeal is against conviction, or of the date of sentence if the appeal is against sentence alone.

CAP. 156.

(2) Where a party to any inquiry under Immigration Act, desires to apply for leave to appeal to the Court he shall give notice of his application for leave to appeal in such manner as may be directed by rules of court within twenty-one days after receipt by him of a copy of the judge's report.

(3) In all other cases where a person entitled to appeal or to apply for leave to appeal to the Court desires to exercise that right, he shall give notice of his appeal or notice of his application for leave to appeal in such manner as may be directed by rules of court within twenty-one days of the date on which the order against which he desires to appeal was signed, entered or otherwise perfected.

(4) The Court may, subject to such terms and conditions as it thinks fit, enlarge the time limits mentioned in sub-sections (1), (2) and (3), or any provision that imposes a time limit herein, upon such terms as the justice of the case may require, and any such enlargement may be ordered although the application for the enlargement of time is not made until after the expiration of the time appointed or allowed under sub-sections (1), (2) or (3), or the Court may direct a departure from this in any other way where this is required in the interests of justice.

214.—(1) On every appeal or application for leave to appeal to the Court notice of the grounds of appeal shall be filed within twenty-one days after receipt by the intending appellant from the Chief Registrar—

Filing of notice of grounds of appeal.

- (a) in the case of an appeal against conviction by the High Court on indictment or information, of a copy of the record which shall include a copy of the judge's summing up;
- (b) in the case of an appeal in respect of the report of a judge under Immigration Act, of a copy of the judge's notes of evidence;
- (c) in all other cases, of a copy of the order against which he Court of Appeal desires to appeal and the judgment on which it was based and the judge's notes of evidence, if any.

CAP. 156.

(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 or filed may be extended at any time by leave of the Court.

215.—(1) No appellant shall be required to give security for the costs of his appeal or his application for leave to appeal.

Costs of appeal.

(2) On the hearing and determination of an appeal or any proceedings preliminary or incidental thereto, no costs shall be allowed on either side.

Determination
of appeals in
ordinary cases.

216.—(1) The Court on any such appeal against conviction shall allow the appeal if it thinks that the verdict of the judge or jury, as the case may be, 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 which 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 it is of the opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if it considers that no substantial miscarriage of justice has actually occurred.

(2) Subject to the special provisions of this Part, the Court shall, if it allows an appeal against conviction, quash the conviction and direct a judgment and verdict of acquittal to be entered, or if the interests of justice so require, order a new trial.

(3) On an appeal against sentence the Court shall, if it thinks 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 therefore as it thinks ought to have been passed, and in any other case shall dismiss the appeal.

(4) The power of the Court to pass a sentence includes a power to make any such order or recommendation as the convicting court might have made and a recommendation so made by the Court shall have the same effect as the certificate and recommendation of the convicting court.

217.—(1) If it appears to the Court that an appellant, though 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 may either confirm the sentence passed on the appellant at the trial or pass such sentence in substitution therefore as it thinks proper and as may be warranted in law by the verdict on the count or part of the indictment, on which the Court considers that the appellant has been properly convicted.

Powers of
Court in
special cases.

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

218.—(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 the case of such conviction of any law as to re-vesting of the property in stolen goods on conviction shall (unless the court before which the conviction takes place directs to the contrary in any case in which in its opinion, the title to the property is not in dispute) be suspended—

Re-vesting and
restitution of
property on
conviction.

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

and in cases where the operation of any such order is suspended until the determination of the appeal, the order 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.

(2) The Court 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.

219. For the purposes of this Part, the Court may, if it thinks it necessary or expedient in the interests of justice—

- (a) exercise any or all of the powers conferred by section 206 on the Court (other than those contained in paragraph (d)) but in the application of section 206 to an appeal in any criminal cause or matter, for the words “any party” and “that party” in paragraph (c), there shall be substituted the words “the appellant”;
- (b) issue any warrant necessary for enforcing any order or sentence of the Court,

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 receives further evidence it shall make such order as will secure an opportunity to the parties to the proceedings to examine every witness whose evidence is taken.

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

Admission of appellant to bail.

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

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

Computation and commencement of sentence.

(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 any such certificate as is mentioned in section 209(1)(b), has been given for the purpose of the appeal;
- (b) in any other case the Court may direct that no part of the said time or such part thereof as the Court thinks 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 in substitution for a sentence passed on the appellant in the proceedings from which the appeal is brought shall, unless the Court otherwise directs, 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 the appellant is for the time being subject shall be construed accordingly.

Stay of execution.

222. In the case of a conviction involving sentence of death—

- (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 213; and
- (b) if notice is 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.

Stay of order pending appeal. 18 of 1998.

223. In any case where an appeal is filed to the Court under this Part, the Court may upon the application of the appellant, stay the judgment or order appealed from pending the determination of such appeal.

Judge's notes and report to be furnished on appeal.

224. 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 an application for leave to appeal under this Act, furnish to the Chief Registrar, in accordance with rules of court, his notes of the trial, and he shall also furnish to the Chief Registrar in accordance with rules of court a report giving his opinion upon the case or upon any point arising in the case.

Legal aid.

225.—(1) The Court may at any time assign to an appellant an attorney-at-law 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.

(2) The expenses of any attorney-at-law assigned to an appellant under this Part and the expenses of any witness attending on the order of the Court 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 monies provided by the National Assembly for that 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.

226.—(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.

Right of appellant to be present.

(2) An appellant who does not appear at the hearing of his appeal by an attorney-at-law, may present his case and argument either in person or writing if he so desires and any case or argument so presented shall be considered by the Court.

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

227. It shall be the duty of the Director of Public Prosecutions to appear or to instruct an attorney-at-law to appear for the Crown on every appeal brought under this Part.

Duty of Director of Public Prosecutions.

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

228.—(1) The Chief Registrar shall take all necessary steps for obtaining a hearing under this Part of any appeal or application, notice of which is given to him under this 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 Chief Registrar that any notice of an appeal against 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 Chief Registrar may refer the appeal to the Court for summary determination and, where the case is so referred, the Court may, if they consider 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 Crown thereon.

(3) Any documents, exhibits or other things connected with the proceedings on the trial of any person on indictment who, if convicted, is entitled or may be authorised to appeal under this Part, shall be kept in the custody of the court of trial in accordance with rules of court made for this 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) The Chief Registrar shall furnish the necessary forms and instructions in relation to notices of appeal or notices of application under this Part to any person who demands them and to officers of courts, the Prison Authority and such other persons or officers 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 this Part and shall cause any

such notice given by a prisoner in his custody to be forwarded on behalf of the prisoner to the Chief Registrar.

(5) The Chief Registrar shall report to the Court or judge thereof any case in which it appears to him that, although no application has been made for the purpose, an attorney-at-law ought to be assigned to an appellant under the powers given to the Court by this Part.

229.—(1) The powers of the Court under this Act—

- (a) to extend the time within which notice of appeal or of an application for leave to appeal may be given;
- (b) to assign an attorney-at-law to an appellant;
- (c) to grant leave for an appellant to be present at any proceedings of the court;
- (d) to admit an appellant to bail; and
- (e) to grant a stay of the judgment or order appealed from pending the determination of such appeal,

Powers which may be exercised by a single judge.

may be exercised by a single judge in the same manner as they may be exercised by the Court and subject to the same provisions.

(2) Any single judge may deliver in open court the judgment or judgments of the Court in any appeal or other matter heard by the Court, notwithstanding that some or all of the judges who heard and determined such appeal or other matter may be absent when such judgments are read.

230.—(1) Where any person is convicted in the High Court on indictment, the judge may state a case or reserve a question

Case stated or question of law reserved.

of law for the consideration of the Court and the Court 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, 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 it shall be amended accordingly.

Provisions
of this Act
applicable to
case stated or
question of law
reserved.

231. Where a case is stated or a question of law reserved for the consideration of the Court, sections 215, 220, 221, 222, 225, 226, 227, 228 and 229, shall apply to such proceedings in like manner as to an appeal.

Case stated by
High Court
at request of
Court.

232. In the case of an appeal which involves a question of law alone, the Court may, if it thinks fit, request the High Court or a judge thereof to state the question together with all the circumstances under which the question has arisen in such manner as may be prescribed by rules of court.

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

Reference to Court of Appeal of point of law following acquittal on indictment.

(2) For the purpose of its consideration of a point referred to it under this section the Court of Appeal shall hear argument—

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

(3) Where the Court of Appeal has given its opinion on a point referred to it under this section, the Court may, of its own motion or in pursuance of an application in that behalf, refer the point to the Caribbean Court of Justice if it appears to the Court that the point ought to be considered by the Caribbean Court of Justice.

234. Sections 213, 215, 218, 221, 222, 225, 226, 227, 228 and 229, shall apply to the proceedings in any appeal brought under section 211 of this Act, subject to the following modifications—

Provisions of this Act applicable to appeals from inferior courts.

- (a) as if the word “appeal” in relation to appeals under section 211 referred to an appeal from the order of the High 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 218(1) there were substituted the words “the order of the High Court”;

(c) in section 228–

(i) as if after the words “the court before which the appellant or applicant was tried” in sub-section (1) there were added the words “and upon appeal to the High Court”;

(ii) as if for sub-section (3) there were substituted the following–

“(3) The provisions in any law relating to the custody of any documents, exhibits or other things connected with proceedings at the trial of any person before an inferior court pending the determination of an appeal in such proceedings to the High Court shall continue to apply until the expiration of twenty-one days from the determination by the High Court and in cases where notice of appeal or leave to appeal to the Court is given within twenty-one days after such determination, then until the determination of the appeal by the Court.”;

(iii) as if all the words after the words “and to officers of courts” in sub-section (4) were omitted.

Prerogative of
mercy.

235. Nothing in this Act shall affect the prerogative of mercy but the Attorney General on an application made to him by a person convicted on indictment or without any such application may, if he thinks fit, at any time either–

- (a) refer the whole case to the Court and the case shall then be treated for all purposes as an appeal to the Court by the person convicted; or
- (b) if he desires the assistance of the Court on any point arising in the case refer that point to the Court for its opinion thereon and the Court shall consider the point so referred and furnish the Attorney General with its opinion thereon accordingly.

236.—(1) Without prejudice to any right of appeal granted to the prosecution by any other provision of this Act, the Indictable Procedure Act or any other enactment, an appeal shall lie to the Court at the instance of the Director of Public Prosecutions in the following cases—

Appeal by
Director
of Public
Prosecutions.
CAP. 96.

- (a) where a person tried on indictment has been acquitted by the direction of the Judge at the close of the case for the prosecution whether in respect of the whole or part of the indictment; or
- (b) where the Judge quashes the indictment; or
- (c) against the sentence passed on conviction on a trial on indictment.

(2) An appeal under sub-section (1) may be made on the following grounds—

- (a) against the acquittal, on any ground of appeal which involves a question of law alone;
- (b) with the leave of the Court or upon the certificate of the Judge who tried the accused that it is a fit case for appeal against the acquittal, 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;

- (c) with the leave of the Court, against the sentence passed on conviction on the ground that it is unduly lenient or unduly harsh, unless the sentence is one fixed by law.

(3) On any such appeal against acquittal the Court may, if it thinks that a miscarriage of justice has occurred, allow the appeal and order a retrial.

(4) On an appeal against sentence, the Court may, if it thinks that the sentence passed by the trial court was unduly lenient, pass such other sentence in substitution therefore as it thinks ought to have been passed.

(5) Subject to this section, the foregoing provisions of this Part respecting the time for appealing, filing of notice of grounds of appeal, costs of appeal and the powers of the court shall *mutatis mutandis* apply to appeals under this section, and the Court may make all such orders and issue all such directions as it considers necessary to give effect to its decision.

Sub-Part 4

Contempt of Court

**Punishment
for criminal
contempt.**

237.—(1) No punishment exceeding imprisonment for a term of three months or a fine of two hundred and fifty dollars shall be inflicted for criminal contempt where the contempt takes place in the face of the Court, as by some insult offered to a judge or judges, or by any interruption of the proceedings or otherwise, or where, although not committed in the face of the Court, it is calculated to obstruct, interfere

with or improperly prejudice the administration of justice in proceedings pending in the Court.

(2) The Court may, in punishing by fine, order that the fine shall be paid within a definite time, not less than seven days after the date of the order, and that in default of payment the offender shall be imprisoned for any term not exceeding three months.

238.—(1) An appeal shall lie to the Caribbean Court of Justice from any order or decision of the Court in the exercise of jurisdiction to punish for contempt of court, including criminal contempt.

Right of
appeal to
Caribbean
Court of
Justice.

(2) The Caribbean Court of Justice may reverse or vary the order or decision of the Court and make such other order as may be just, and without prejudice to the power of the Caribbean Court of Justice under the Caribbean Court of Justice Act.

CAP. 92.

(3) In this section, “Court” includes a single judge when exercising jurisdiction to punish for contempt of court.

239. Subject to sections 237 and 238, the Court shall have the same powers as regards punishments for all contempt, whether criminal or otherwise, as are possessed by the Court of Appeal in England, and the practice and procedure shall be as nearly as possible the same as the practice and procedure in that Court in like case.

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powers of
Court touching
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240. All fines and penalties to be paid under any order in any contempt of court proceedings shall be paid into the Consolidated Revenue Fund.

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fines.

*Sub-Part 5**General*

Virtual
hearings
and trials of
the Court of
Appeal.

241. Notwithstanding anything to the contrary in this Act or any other enactment, hearings or trials in the Court of Appeal may be conducted virtually.

PART IV

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Recusal.

242. The Chief Justice shall develop and publish guidelines for the Senior Court to assist judges of the High Court and the Court of Appeal to decide if they should recuse themselves from a proceeding.

Reserved
judgement.

243.—(1) The Chief Justice shall—

- (a) publish information about the process by which parties to proceedings before the High Court or the Court of Appeal may obtain information about the status of any reserved judgment in those proceedings; and
- (b) periodically publish information about the number of judgments of the High Court and the Court of Appeal that the Chief Justice considers are outstanding beyond a reasonable time for delivery;
- (c) publish any other information about reserved judgments that the Chief Justice considers useful; and
- (d) publish reports on the processing time of trials before the High Court and Court of Appeal.

244. Where any enactment requires a transcript to be submitted to the High Court or Court of Appeal for any matter before that Court, a video recording of what occurred during the proceedings of that matter shall be accepted as the transcript for the purposes of the High Court or the Court of Appeal, as the case may be.

Transcript.

245.—(1) The Supreme Court of Judicature Act and the Court of Appeal Act and the Court of Appeals Rules are repealed.

Repeal and savings.
CAP. 90.
CAP. 91.

(2) Notwithstanding the repeal of the Supreme Court of Judicature Act and the Court of Appeal Act, nothing in this Act shall affect any proceedings taken or a right which has accrued or a liability which has been incurred under the repealed Acts.

(3) Every proceeding commenced under the Supreme Court of Judicature Act and the Court of Appeal Act shall be continued and completed as if the proceeding had been commenced under this Act.

(4) Notwithstanding the repeal of the Supreme Court of Judicature Act and the Court of Appeal Act, all Regulations, By-laws, Rules, Orders, Practice Directions and other subsidiary laws made under the repealed Acts, shall, to the extent they are not inconsistent with this Act, continue in force until repealed by Regulations, By-laws, Rules, Orders, Practice Directions and other subsidiary legislation made under this Act.

SCHEDULE I
[section 111]

Rules on Criminal Information and Complaint Trial

ARRANGEMENT OF RULES

1. Short title.
2. Criminal information and complaint form.
3. Presentation and sufficiency of criminal information.
4. Contents of criminal information and complaint.
5. Joinder of counts and proceedings.
6. Joinder of two or more accused persons.
7. Description of persons.
8. Description of documents.
9. General rule on description.
10. Filing of criminal information and complaint.
11. Trial judge to give directions.
12. Power of the trial judge.
13. Amendment of rules.

1. These rules may be cited as the Criminal Information and Complaints Rules.

Short title.

2.-(1) A criminal information and complaint may be in the following form-

Criminal information and complaint form.

The Queen v. AB

In the High Court of Belize (Criminal Jurisdiction) District.

Criminal Information and Complaint filed by this.....day of

AB is charged with the following crime,

Statement of crime

XX

Particulars of crime

XX

Name and Signature of the Complainant

Sworn to, the----- day of-----20-----

Before me

Commissioner of the High Court.

(2) Figures and abbreviations may be used in a criminal information and complaint for expressing anything which is commonly expressed thereby.

(3) A criminal information and complaint shall be sworn to before a Commissioner of the High Court.

(4) A criminal information and complaint shall not be open to objection by reason only of any failure to comply with this rule.

3.-(1) Every criminal information and complaint shall contain and be sufficient if it contains a statement of the specific crime or crimes with which the accused person is charged, together with such particulars as may be necessary for giving reasonable information as to the nature of the charge.

Presentation and sufficiency of criminal information.

(2) Notwithstanding any rule of law or practice to the contrary, a criminal information shall not be open to objection in respect of its contents if it is formed in accordance with these rules.

Contents of criminal information and complaint.

4.—(1) The statement of crime shall describe the crime shortly in ordinary language, avoiding as far as possible the use of technical terms, and without necessarily stating all the essential elements of the crime, and shall contain a reference to the section of the Act under which the charge is laid.

(2) After the statement of the crime, particulars of it shall be set out in ordinary language, in which the use of technical terms shall not be necessary.

Joinder of counts and proceedings.

5.—(1) Subject to sub-rule (2), any number of counts for the same crime may be joined in the same information and complaint and shall be sufficiently distinguished.

(2) Where there are more counts than one in a criminal information and complaint, each count may be treated as separate information and complaint.

(3) If the Court thinks it conducive to the ends of justice to do so, it may direct that the accused person be tried upon any one or more of the counts separately.

(4) Where an information and complaint contains more than one count, the counts shall be numbered consecutively.

Joinder of two or more accused persons.

6.—(1) Subject to sub-rule (2), any number of persons may be charged in one criminal information and complaint and tried together for a crime which they are alleged to have jointly committed, or in which they, or any of them, are alleged to have participated by abetment or otherwise.

(2) The Court may, on application either on behalf of any of the accused persons or of the prosecutor, at any time, order that any of such persons shall be tried separately from all or any of the others.

Description of persons.

7. The description or designation in a criminal information and complaint of the accused person or of any other person to whom reference is made therein, shall be such as is reasonably sufficient to identify him or her, without necessarily stating his or her correct name, or his or her abode, style, degree or occupation, and if, owing to the name of the person not being known, or for any other reason, it is impracticable to give that description or designation, such descriptions or designation shall be given as is reasonably practicable in the circumstances.

Description of documents.

8. Where it is necessary to refer to any document or instrument in a criminal information and complaint, it shall be sufficient to describe it by

name or designation by which it is usually known, or by the purport thereof, without setting out any copy thereof.

9. Subject to any other provisions of these rules, it shall be sufficient to describe any place, time, thing, matter, act or omission whatever, to which it is necessary to refer in any criminal information and complaint, in ordinary language in such a manner as to indicate with reasonable clearness that place, time, thing, matter, act or omission.

General rule on description.

10.—(1) Every criminal information and complaint shall be filed in the High Court Registry at least twenty-one days before the date of trial of the accused person charged in such criminal information and complaint.

Filing of criminal information and complaint.

(2) The Registrar shall, at least fourteen days before the day of trial, deliver or cause to be delivered to the accused person, or if the accused person is in custody, to the keeper of the prison, a certified copy of the criminal information and complaint.

(3) For the purpose of sub-rule (2)—

- (a) the delivery to the keeper of the prison of the certified copy may be made by transmitting it in a registered letter by post properly addressed to him;
- (b) if the accused person be out of Belize, the copy may be served by registered post, fax, courier service or a notice in the *Gazette*, as may be appropriate in the circumstances of each case;
- (c) the receipt purporting to be given by an officer of the Post Office for the registered letter, or an employee of the courier service for the package sent by courier, shall be deemed *prima facie* evidence of the posting or delivery on the day stated therein; and
- (d) a certificate signed by the Registrar, that a certified copy of a criminal information and complaint was duly sent in the manner aforesaid shall be deemed *prima facie* evidence that the copy reached the accused person charged in the criminal information and complaint.

11. Where a criminal information and complaint is filed in the High Court Registry, the trial Judge shall, subject to section 111 and these Rules, give directions as to—

Trial judge to give directions.

- (a) the date of arraignment of the accused person;
- (b) the date and conduct of trial;

- (c) the disclosure of prosecution evidence to the accused person;
- (d) the reception of evidence, whether by witness statements or by *viva voce* testimony; and
- (e) any other matter pertaining to such trial.

Power of the trial judge.

12. Subject to the provisions of section 111 of this Act and these Rules, on a trial on criminal information and complaint, the trial Judge shall have like powers as to the attendance of the accused person and the witnesses, remanding an accused person in custody or admitting him or her to bail, adjournment of the trial from time to time, and all other matters, as if it were a trial on indictment.

Amendment of rules.

13. These Rules may from time to time be amended by the Attorney General by rules made under section 111(15) of this Act.

SCHEDULE II
[section 196(4)]

Court of Appeal Rules

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APPENDIX C

Criminal Forms

ORDER I

- Short title. **1.** These Rules may be cited as the Court of Appeal Rules.
- Interpretation. **2.**–(1) In these rules, unless it is expressly provided to the contrary or the context otherwise requires–
- “Act” means the Senior Courts Act;
- “appellant” means the party appealing from a judgment, conviction, sentence or order and includes his legal representative;
- “attorney-at-law” means any person admitted and enrolled as an attorney-at-law of the High Court;
- “Court” means the Court of Appeal established under this Act;
- “court below” means the High Court of Belize;
- “electronic means” means CD ROMs, memory sticks, email, fax or other means of electronic communication of the contents of documents;
- “file” means file in a Registry;
- “judge” includes the presiding officer of any court from which an appeal lies to the Court;
- “magistrate” includes every person exercising jurisdiction 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 Her Majesty’s Prisons in Belize and includes his deputy or other officer discharging his duties;
- “proper officer of the court below” means the Registrar of the court from whose order the appeal is brought;
- “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;

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

“respondent” means—

- (a) in a civil appeal, any party (other than the appellant) directly affected by the appeal;
- (b) in a criminal appeal where the Crown is not an appellant, the person who under the Act has the duty of appearing for the Crown or who undertakes the defence of the appeal.

(2) The Interpretation Act shall apply to the interpretation of these rules as they apply to the interpretation of an Act.

CAP. 1.

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

Use of Forms in Appendices A and C in Appeals.

4.—(1) Sittings of the Court shall be held at such times as the Chief Justice may, after consultation with the President, direct.

Times of sittings and vacation.

(2) The Court shall not sit on Saturdays and Sundays and shall not sit on days that are public holidays and on such other days as the Chief Justice may, after consultation with the President, direct.

(3) The Registry of the Court shall be open on every day of the year except on Saturdays, Sundays and all other days appointed to be observed as public holidays from the hours of 8 a.m. to 4 p.m.

5.—(1) Notice of each sitting shall be published by the Chief Registrar in the *Gazette* at least one week before the date appointed for the commencement of the sitting.

Notice of sittings.

(2) The Chief 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 it 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.

6. In all proceedings before the Court, the Chief Registrar or the Registrar of the High Court, the parties may appear in person or be

Right of audience.

represented by an attorney-at-law.

Register of
appeals brought.

7.—(1) The Chief 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.

Service of
documents.

8. 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 executed by leaving a true copy thereof in the manner specified in the second column,

<i>Column 1</i>	<i>Column 2</i>
<p>(a) all documents required to be served,</p> <p>(i) on parties to an action who have not filed an address for service; and</p> <p>(ii) on a person not a party to the appeal;</p> <p>(b) all documents required to be served on parties who have an address for service.</p>	<p>by personal service on the party or his authorised agent, or on the person not a party.</p> <p>by leaving the document at the address for 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</p>

be delivered in the ordinary course of post.

(2) If it be made to appear to a judge of the Court of Appeal 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.

9. 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 Chief Registrar shall forthwith notify the appellant of any directions given by the Court under this rule where the appellant was not present at the time when such directions were given.

Waiver for non-compliance with rules.

ORDER II

CIVIL APPEALS

Notices of appeal, cross-appeal and preliminary objection

1.—(1) All appeals shall be brought by notice (hereinafter called “the notice of appeal”), to be filed together with a copy thereof with the Chief 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.

Notice and grounds of appeal.

(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 any argument or narrative and shall be numbered consecutively.

(4) No ground which is vague or general in terms or which discloses no reasonable ground of appeal shall be permitted, save the general ground that the judgment is against the weight of the evidence, and any ground of appeal or any part thereof which is not permitted under this rule may be

struck out by the Court of its own motion or on application by the respondent.

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

(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 decision on any ground not set forth by the appellant unless the respondent has had sufficient opportunity of contesting the case on that ground.

(7) The Chief Registrar shall send one copy of the notice of appeal to the Registrar of the court below.

Appeal by leave only.

2.—(1) Where an appeal lies by leave only, any person desiring leave to appeal shall apply for leave within twenty-one 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 twenty-one 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 twenty-one days from the grant of leave and a copy of the order granting leave shall be annexed to the notice of appeal.

(3) If a respondent intends, upon the hearing of an application 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 summons or 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 rely, and within the same period he shall file a copy of such notice with the Chief Registrar.

(4) If on the hearing of a motion or summons 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) Paragraph (3) of rule 5 of this rule shall apply to a notice given under paragraph (3) of this rule as it does to a notice under rule 5.

3.–(1) Subject to this rule, no appeal shall be brought after the expiration of twenty-one days from the date of judgment delivered or order made, against which the appeal is brought.

Time limits for appealing.

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

(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 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) A copy 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 Chief 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.

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 given or made if the persons served with such notice had been originally parties.

Service of notice of appeal.

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

provided that the Court may enlarge or abridge time appointed by the Act or these Rules as the justice of the case may require and any such enlargement or abridgment may be ordered even after the expiration of any time limit imposed hereunder upon such terms as the Court shall deem just.

Notice by respondent of contention that judgment should be varied.

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 Chief 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 Chief Registrar for transmission to the judges.

(3) The omission to give notice 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 and of respondent's notice.

6.—(1) A notice of appeal or respondent's notice may be amended by or with the leave of the Court at any time.

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

Notice by respondent of contention that judgment should be varied.

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 Chief 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.

The Record

Settling record of appeal.

8.—(1) The Registrar of the court below 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 insists upon it being included, the document shall be included and the record shall, with a view to the subsequent adjustment of the costs of and incidental to the inclusion of such document, indicate in the index of papers or otherwise the fact that and the party by whom, the inclusion of the document was objected to.

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,

Evidence.

- (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 of the court below, 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.

10.—(1) Where any notes of proceedings whether in shorthand or long hand 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 of the court below on payment of the fees prescribed in Appendix B to these rules.

Copies of proceedings in Court below. Appendix B, Fees.

(2) If no written decision is given by the judge at the time of giving judgment, the transcript or recording of the Court shall be deemed to be the reasons for judgment, which shall be given to the Registrar of the Court below.

(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.

Filing of record.

11.—(1) Every document or paper required by these rules to be filed or left with the Chief Registrar or the Registrar of the court below may be filed electronically or by physical copy.

(2) If a document or paper is filed by physical copy it 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.

(3) 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.

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

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 the 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 Chief Registrar and shall remain in the custody of the Court until the determination of the appeal,

provided that the Chief Registrar shall permit a party for the purposes of preparing his record to take copies of all such documents and that the Court or Chief Registrar may allow the return of any documents to any party pending the hearing of the appeal and subject to such conditions as it or he may impose.

Entering appeal.

13.—(1) The appellant shall within three months from the dates when the appeal is brought or within such extended time as may be granted by the Court below or the Court—

(a) file with the Chief Registrar—

(i) the record;

- (ii) an affidavit of service of the notice of appeal; and
- (b) leave four copies of the record for the use of the judges and the Chief Registrar of the Court.

(2) The Chief Registrar shall thereupon give notice in Civil Form 7 to the respondent of the filing of the record and shall set down the appeal for hearing by entering the same on the proper lists of appeals.

Civil Form.

Withdrawal and non-compliance

14.—(1) If the appellant files with the Chief Registrar a notice that he desires to withdraw his appeal, together with a copy thereof, the appeal shall stand dismissed with costs on the date on which such notice is filed. 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 shall otherwise order.

Withdrawal of appeal.

(2) The Chief Registrar shall send one copy of the notice of withdrawal to the Registrar of the Court below.

15.—(1) It shall be the duty of the Chief Registrar to see that an appellant complies with rule 13 of this Order, and before the conclusion of each general sitting he 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.

Default in filing record and documents.

(2) If the appellant has failed to comply with the requirements of rule 13 (1) of this Order or any part thereof, the respondent may apply to the Court to dismiss the appeal for want of prosecution and the Court, if satisfied that the appellant has so failed, may dismiss the appeal 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

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

Applications to single Judge.

- (a) giving security for costs 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 to
Court below.

17.—(1) Applications referred to in rule 16 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.

(2) The Registrar of the Court below shall send to the Chief Registrar one copy of any application made to a judge of the Court below and of the order made thereon.

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 on notice. 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.

(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 proceeding shall be invalidated, except so far as the Court may direct.

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

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.

Application for security for costs.

(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 costs.

(4) A bond with sureties for securing the costs of an appeal shall be in Form 9 of Appendix A.

Form of bond. Form 9. Appendix A.

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

Application for leave to appeal in forma pauperis.

- (a) an affidavit stating—
 - (i) that the appellant is not worth \$100 excepting his wearing apparel and tools of trade and his interest in the subject matter of the intended appeal;
 - (ii) that his usual income from all sources does not exceed \$8.00 a week;
- (b) a certificate of an attorney-at-law 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.

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

Interlocutory appeals. Number of judges.

Dismissal of appeal in default of appearance.

Application to re-enter appeal dismissed under rule 23.

Non-appearance of respondent.

Application to set aside *ex parte* judgment.

Delivery of judgment.

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 think just, direct the appeal to be re-entered for hearing; but 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.

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*.

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 rehear 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.

27.—(1) The judgments of the Court shall normally be delivered by the judges who heard the appeal but if one or more judges of the Court is not prepared or is otherwise unable to deliver judgment or, in any other case, at the direction of the Chief Justice—

- (a) judgment may be delivered at the sitting of the Court then in progress or at any subsequent sitting of the Court and for the purpose of delivering such judgment the Court may be constituted by one, two or three judges; and
- (b) 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.

(2) The judgments of the Court may be given orally.

(3) Notwithstanding sub-rule (2), the Court shall, where required under the Time Limit for Judicial Decisions Act to give a written judgment, give that written judgment in accordance with the time limit prescribed under that Act.

28. Without prejudice to the generality of the foregoing, the Chief Registrar may, at the direction of the Chief Justice, promulgate, whether on paper or by electronic means, a judgment of the Court or of any judge sitting as the single judge.

Promulgation of judgment.

29. 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 Chief Registrar setting forth the judgment shall be transmitted by the Chief Registrar to such other Court, and the latter shall enforce such judgment in terms of the certificate.

Execution of judgment by court below.

Fees and Costs

30.—(1) Except as hereinafter provided, the fees prescribed in Appendix B shall be charged in respect of the matters to which they are respectively assigned. The fees chargeable under Part I of Appendix B shall be paid to the Chief Registrar and those chargeable under Part II shall be paid to the Registrar of the court below.

Court fees. Appendix B Fees.

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

provided that a judgment in favour of the Crown or any person so suing or being sued for costs to be paid by any party, not being the Crown, 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.

31.—(1) Subject to this rule, the Chief Registrar when assessing the fees for professional legal services shall, unless the Court when awarding costs orders otherwise, allow all such costs, charges and expenses as appear to him to have been necessary or proper for the attainment of justice or for the defending of the rights of any party, but except as against the party who incurred them, no costs shall be allowed which appear to the Chief Registrar to have been incurred or increased through over-caution, 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.

Legal practitioner's fees.

(2) In assessing party and party costs, the Chief Registrar 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) in any matter which does not conclude upon the first day, reasonable 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.

Fees not chargeable under rules 30 and 31. Part III.

Appendix B.

Assessment of costs.

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

33.—(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 assessed.

(2) The Chief Registrar shall be responsible for the assessment of cost.

(3) Any party who may be dissatisfied with the allowance or disallowance by the Chief Registrar, in any bill of costs assessed 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 Chief Registrar, deliver to the other party interested therein, and carry in before the Chief Registrar, an objection in writing to such allowance or disallowance, specifying 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 Chief Registrar to review the assessment in respect of the same. The Chief Registrar may, if he thinks fit, issue pending the consideration of such objections a certificate of assessment 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 Chief Registrar Officer after his decision upon such objections.

(4) Upon such application the Chief Registrar shall reconsider and review his assessment 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 assessment 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 Chief Registrar

may assess the costs of such objections and add them to or deduct them from any sum payable by or to any party to the assessment.

(5) Any person aggrieved by any order, decision or ruling of the Chief Registrar may apply to the Court 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 under paragraph (5) of this rule, shall be by motion accompanied by an affidavit in support and notice in such motion shall be served upon the Chief Registrar and upon all parties having interest therein.

ORDER III

APPEALS AGAINST CONVICTION ON INDICTMENT

Institution of Appeals

1. A person desiring to appeal to the Court against conviction or sentence shall commence his appeal by sending to the Registrar of the Court below a notice of appeal or notice of application for leave to appeal or notice of application for extension of time within which such notice shall be given, as the case may be, in the form of such notices set forth in Form 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 Order I, rule 9. 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.

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

2.—(1) The certificate of the judge of the Court below under section 209 (1)(b) shall be in Form 3 in Appendix C.

Judge's certificate under section 209(1)(b).
Form 3.
Appendix C.

(2) The judge of the Court below may, in any case in which he considers it desirable to do so, 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 209(1)(b) and may give to such person a certificate to that effect in 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 paragraphs (4) and (5) of this rule.

Notices to be signed by appellant.

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

(2) Where an appellant or applicant is a prisoner 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 it to be served on the prisoner.

(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 it, and thereupon, the notice shall be deemed to be duly signed by such appellant.

(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.

(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 judge or jury, as the case may be, 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.

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

Copies of Proceedings, etc.

Forwarding of proceedings in court below to Registrar.

7.—(1) The Registrar of the Court below 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 the Act such notice shall be given, shall forward to the Chief Registrar 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 forward the original exhibits in the case as far as practicable and any original depositions, information, inquisition, plea or other documents usually kept by him, or forming part of the record of the Court below.

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

- (3) For the purposes of this rule copies of proceedings shall contain,
- (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 of the Court below or the Chief 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.

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

Records of
summing up.

Where it is provided by the law of Belize that any notes of the summing up or directions of the judge or notes of any part of the proceedings shall be

required, such notes shall be accepted by the Court as provided in paragraph (1) of this rule.

(2) Where in such a trial the judge of the Court below does not give any directions for recording any summing up or direction given by him and a shorthand note thereof is not taken under the provisions of any law, his statement giving his recollection of the summing up or direction shall be accepted as accurate unless the Court sees reason to the contrary.

(3) 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 it to be a complete and correct shorthand note thereof; and such shorthand note shall be kept in such custody as the Registrar of the Court below shall, either specially or generally, direct.

(4) The shorthand writer shall, on being directed by the Registrar of the Court below, 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.

(5) 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 Form 4 in Appendix C that it 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 it.

(6) Where no notes in long hand or in short hand 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 furnish to the Registrar of the Court below his notes of the trial or such part thereof as may be required for such purpose.

(7) On the application of a party interested in a trial or other proceedings in relation to which a person may appeal the Registrar of the Court below 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 to the proper officer of the Court below of such fees as may be prescribed for copies of proceedings required on appeal in any criminal cause or matter.

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

(9) 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.

(10) 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 attorney-at-law assigned to him under the Act.

Judge’s Report

9.—(1) The Registrar of the Court below shall, if in relation to any appeal the Court directs him to do so, 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 it to the Chief Registrar.

Report of judge of Court below.

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

10. When the Registrar of the Court below 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 the judge may request to be furnished by the Registrar, to enable the judge to deal in his report with the appellant’s case generally or with any point arising thereon.

Furnishing judge of Court below with materials in report.

Copies of documents for use of Appellant or Respondent

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 the attorney-at-law or other person representing either of them, may obtain from the Registrar of the Court below 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 Registrar on payment to the proper officer of the Court below of such fee as may be prescribed for copies of proceedings required on appeal in any criminal cause or matter.

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

(2) Where an attorney-at-law is assigned to an appellant under the Act, copies of any such documents or exhibits which he may request the Registrar to supply shall without charge be supplied unless the 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 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 Registrar thinks, under all the circumstances, it is desirable or necessary to supply it to him.

Conduct of Prosecution and Defence

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

12.—(1) Whenever the Chief 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 notices shall be given he shall forthwith apply to the Registrar of the Court below for 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 privately or by counsel at request of Court. Give names and addresses of attorney-at-law for appellant.

(2) When the Chief 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, 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 an appeal and of his attorney-at-law, to furnish to the Chief 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 Chief Registrar or Director of Public Prosecutions may require for the purposes of their duties under the Act.

Legal Aid to Appellants

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

Copies of documents for use of Appellant or Respondent

(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.

(3) The Chief Registrar shall thereupon, subject to any special order of the Court, select from such list an attorney-at-law 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 attorney-at-law, if any, who represented the appellant at his trial and the nature of the appeal.

Proceedings before a single judge

14.—(1) Where any application has been dealt with by a single judge, the Chief Registrar shall notify to the appellant the decision in Form 5 in Appendix C. In the event of the judge refusing all or any of such applications, the Chief 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 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 Chief 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 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 give him leave, be present at the hearing and determination by the Court of his application or applications,

Procedure on decision of application to single judge.

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 Chief 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 Chief Registrar, on receiving the said form, shall take the necessary steps for placing the application before the Court. If the application to be present is refused by the Court, the Chief Registrar shall notify the appellant; and if the application is granted, the Chief 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.

(3) Except where otherwise provided in these rules, any application to the Court may be made by the appellant or respondent, or by an attorney-at-law 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 it in writing to the Chief 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.

Suspension of Orders and Admission to Bail.

Person in custody in default of payment of fine.

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

(2) 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 to do so, order such person forthwith to enter into recognisances 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 fine shall be made at the final determination of his appeal, if it be dismissed, to the Registrar of the Court below, or as the Court may then order. The recognisances under this rule shall be in Forms 7 and 8 in Appendix C.

The Registrar of the Court below shall forward the recognisances of the appellant and his surety or sureties to the Chief Registrar.

(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 twenty-one days from the date of his conviction or sentence, the Registrar of the Court below shall report such omission to the Court, which 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 recognisances of the appellant and his sureties, and the manner of such estreat shall be that provided for estreating recognisances, 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 it 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 is convicted out of any moneys taken from such person on his apprehension or otherwise or where the 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 twenty-one days after the day on which any of such orders were made. And in cases where notice of appeal or notice of application for leave to appeal is given within twenty-one 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.

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

The proper officer of the Court below shall keep a record of any orders to which this rule refers.

(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 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.

(3) Where the judge of the Court below makes any such order on a person convicted before him, as mentioned in this rule, 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 twenty-one days, or in the event of an appeal, until the determination thereof by the Court. The proper officer of the Court below shall keep a record of any directions given under this rule.

(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 would otherwise be suspended, such judge may, if he thinks right to do so, 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 judge shall direct, give security by way of undertaking or otherwise for the payment to the person in whose favour such order has been made to the amount therein named.

Such security may be to the satisfaction of the person in whose favour the order for payment has been made or of any other person as the judge shall direct.

(5) Where on a conviction any property, matters or things, the subject of the prosecution or connected therewith, are to be or may be ordered to be destroyed or forfeited under the provisions of any rule, regulation, statute, or other law, the destruction or forfeiture or order for destruction or forfeiture thereof shall be suspended for the period of twenty-one 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.

(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, statute 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 twenty-one days from the date on which the verdict against such person was returned nor in the event of an appeal under the Act to the Court until the determination thereof.

(7) 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 Recognisances.

Appellant and surety's recognisances-before whom to be taken.

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 or sureties (unless the Court directs that no surety is required) shall be bound by recognisance, and shall direct, if it thinks right to do so, before whom the recognisances of the appellant and his surety or sureties (if any) may be taken.

(2) The Chief 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 admits the appellant to bail under the rules.

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

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

(5) The Chief Registrar, on being satisfied that the recognisances 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 13 in Appendix C a notice to the officer of the prison in which the appellant is then confined. This notice, when received by the 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 to do so, decline to consider the appeal, and may proceed summarily to dismiss it, 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 to do so, without any application, make an order admitting the appellant to bail, or revoke or vary any such order previously made, or enlarge from time to time the recognisances of the appellant or of his sureties or substitute any other surety for a surety previously bound as it thinks right.

(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 to do so, 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 recognisances of the appellant, if it thinks right to do so, order such recognisances and those of his surety or sureties to be estreated, and the manner of such estreat shall be that provided under the law.

(10) Where the surety or sureties for an appellant upon whose recognisances such appellant has been released on bail by the Court suspects or suspect that the appellant is about to depart out of Belize or in any manner to fail to observe the conditions of his recognisances on which he was so released, such surety or sureties may lay an information before a magistrate acting in and for the judicial district in which the 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.

(11) The appellant shall, on being apprehended under the warrant, be brought before the Court in and for which the magistrate acts, before whom the said information was laid or some other magistrate's court specified in the warrant. The Court shall, on verification of the information by oath of the informant, by warrant of commitment, commit him to the prison to which persons 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 mentioned in this rule.

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.

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

(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 Chief Registrar who shall take steps to inform the Court thereof and the Court may give to the

Abandonment of appeal.

Abandonment of
Appeal.

19.—(1) An appellant may, 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, abandon his appeal by giving notice of abandonment thereof in Form 15 in Appendix C to the Chief 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 Chief Registrar shall give notices thereof in Form 16 in Appendix C to the respondent, the Prison Authority and the Registrar of the Court below, 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 Governor-General, for the information of the Governor-General, and the Chief Registrar shall also return to the Registrar of the Court below any original documents and exhibits received from him.

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

Varying order of restitution of property.

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

Judgments of the Court.

(2) Notwithstanding sub-rule (1), separate judgments shall be pronounced if there are dissenting opinions of the judges of the Court in criminal matters.

(3) 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.

22. Without prejudice to the generality of the foregoing, the Chief Registrar may, at the direction of the Chief Justice, promulgate, whether on paper or by electronic means, a judgment of the Court or of any judge sitting as the single judge.

Promulgation of judgment.

23.—(1) On the final determination of any appeal or of any application to the Court, the Chief 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 on final determination of appeals.

(2) In any case of an appeal in relation to a conviction involving a sentence of death, the Chief Registrar shall, on receiving the notice of appeal or of any application for leave to appeal, send copies thereof to the Secretary to the Governor-General for the information of the Governor-General and to the Prison Authority and on the final determination of any such appeal by the Court shall forthwith notify the appellant, the Secretary to the Governor-General for the information of the Governor-General, the respondent and the Prison Authority.

result of appeal.
Entry of decision
of Court on
records.

24.—(1) The Chief Registrar, at the final determination of an appeal, shall notify in such manner as he thinks most convenient to the Registrar 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.

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

Restrictions on
issue of
certificate of
conviction.

25. The Registrar of the Court below shall not issue under any law authorising him to do so, 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.

Return of
original
depositions, etc.

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

Procedure as to Witnesses before Court and their examination before examiner.

Attendance of
witness before
the Court.

27.—(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.

(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.

(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.

(4) The Chief Registrar shall furnish to the person appointed to take such examination any documents or exhibits and any other material relating to the 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 Chief Registrar.

(5) When the examiner has appointed the day and time for the examination he shall request the Chief 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 Chief Registrar shall cause to be served on every witness to be examined a notice in Form 23 in Appendix C.

(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.

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

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

(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.

28. 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 special commissioner it is referred, shall be specified in the order. The Court may in such order, or by giving directions as and when it from time to time thinks 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 Chief Registrar that copies of any report made by such special commissioner shall be furnished to the appellant and respondent.

Proceedings on
reference.

Case stated under section 230 of the Act

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

29.—(1) The judge of the Court below shall forward any case stated by him in pursuance of section 230 of the Act to the Chief Registrar who shall on receiving it send a copy of the case to the appellant and respondent respectively.

(2) Where under section 230 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 209, provided that in such case section 228(2) shall not apply.

(3) Where a case is stated or a question of law reserved for the consideration of the Court under section 230, paragraphs (1) and (4) only of rule 30 of this Order shall apply.

Duties of Chief Registrar

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

30. Subject to rule 29 of this Order—

- (a) the Chief 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;
- (b) if it appears to the Chief 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 Chief 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 Crown thereon;
- (c) the Chief 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 it and to officers of 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 notices given by a prisoner in his custody to be forwarded on behalf of the prisoner to the Chief Registrar;

- (d) the Chief 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, an attorney-at-law ought to be assigned to an appellant under the powers given to the Court by Part III of the Act.

ORDER IV

APPEALS FROM HIGH COURT’S ORDER ON APPEAL FROM INFERIOR COURTS IN ANY CRIMINAL CAUSE OR MATTER

1. The provisions of rules 1, 6 and 15 of Order III shall apply to a person desiring to appeal under section 211 of the Act to the Court from an order of the High Court made on appeal from an inferior court except 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.

Institution of appeals under section 211 of the Act.

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

Certificate of Registrar of High Court granting leave to appeal.

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

Ascertainment of date of order of High Court.

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 High Court.

Time limit for appealing.

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 of the Court below, together with the proper form of such application, a form duly filled up of notice of appeal or of notice of application for leave to appeal, appropriate to the ground or grounds upon which he desires to question the order of the Court below.

Notice of application for extension of time for appealing.

6.-(1) Rule 3 of Order III shall apply to an appeal under section 211 except that the first sentence of paragraph (1) of this rule shall not apply when the appeal is brought by the prosecution.

Signature and service of notices.

(2) A prosecutor-appellant shall serve copies of any notices in Form 25 or 26 issued by him on the respondent; and the Registrar of the Court

below shall send to the prosecutor-respondent copies of any such notices delivered by a defendant-appellant.

Record of
appeal.

7.—(1) The Registrar of the Court below, 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 such notice shall be given, shall forward to the Chief Registrar four copies of the proceedings in the Court below; and shall also forward 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 High Court and notes of any fresh evidence admitted at the hearing of the appeal insofar as such record and notes are relevant to the grounds of appeal;
 - (b) the order of the High Court and the reasons given by the judge thereof.

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

8. The following rules contained in Order III shall apply in the case of appeals brought under section 211—

- (a) rule 11 (Copies of documents required by appellant);
- (b) rule 14 (Applications to a single judge).

Presence of
appellant at
proceedings in
the Court.

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 Chief 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 Chief Registrar shall notify the prosecution of such order.

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

11.—(1) Where any person who has appealed to the High Court is in custody and intimates to a judge of that Court that he is desirous of appealing to the Court against the order of the High Court, such judge may, if he thinks right to do so, order such person forthwith to enter into recognisances in such amount and with or without sureties in such amount, as such judge may think right, to prosecute his appeal. The Registrar of the Court below shall forward the recognisances of the appellant and his surety or sureties to the Chief Registrar.

Bail.

(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 twenty-one days from the order of the High Court, the Registrar of the Court below 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 recognisances of the appellant and his sureties, and the manner of such estreat shall be that provided for estreating recognisances under the law, and may issue a warrant for the apprehension of the appellant and may commit him to prison.

(3) Where bail is granted by the Court or by the High Court, rule 18 of Order III shall apply,

provided that in paragraph (8) of this rule, reference to the court before which he was convicted shall be deemed to be a reference to the High Court.

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 High Court, such suspension shall continue for twenty-one days after the order of the High Court made on such appeal. In case leave to appeal to the Court is granted within such twenty-one 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.

Temporary suspension of orders.

(2) Where the High 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 High 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), the judge of the High 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 211 which are based on the validity of the order of the High Court from which the appeal is brought for the period of twenty-one days from the order of the High Court and, in case leave to appeal to the Court is granted within such twenty-one days, until the determination thereof.

(5) Paragraph (7) of rule 17 of Order III shall apply to an appeal under section 211.

Varying order of
restitution or
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 211, 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, and
27 of Order III.

14. The following rules contained in Order III shall apply in the case of appeals brought under section 211—

- (a) rule 19-(Abandonment);
- (b) rules 22 (1) and 23-(Notification of result of appeal);
- (c) rule 25-(Return of Exhibits); and
- (d) rules 26 and 27-(Taking of evidence before the Court, an examiner or a special commissioner).

APPENDIX A

CIVIL FORMS

INDEX TO FORMS

<i>Form No.</i>	<i>Appeal No.</i>	<i>Rules</i>	<i>Description of Form</i>
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 (1) (i) (b)	Affidavit of Service of Notice of Appeal.
7	"	" 13 (2)	Notice to Respondent of filing of Record.
8	"	" 14	Notice of Withdrawal of Appeal.
9	"	" 20 (4)	Bond for Costs on Appeal.
10	"	" 28	Certificate of the Order

of the Court.

11

” ” 32

Notice of Assessment.

CIVIL FORM I O. II, R. 1 (1)

IN THE COURT OF APPEAL

Notice of Appeal

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

Between

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

and

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

TAKE NOTICE that the (Claimant/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* of dated theday of..... 20..... doth hereby appeal to the Court of Appeal upon the grounds set out in paragraph 3 and will at the hearing of the appeal seek the relief set out in paragraph 4.

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

- 2. (Insert here whole or part of decision of the lower Court complained of)⁺
- 3. Grounds of Appeal.
 - (1)
 - (2)
 - (3), etc.
- 4. (Insert here the relief sought from the Court of Appeal).
- 5. Persons directly affected by the appeal:

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

- (1)
- (2)
- (3), etc.

DATED thisday of 20.....

*Strike out words inapplicable.

⁺If appealing against the whole decision insert "Whole decision".

.....

Appellant(s)

CIVIL FORM 2 0. II, R.2 (1)

IN THE COURT OF APPEAL

Notice of Motion for Special Leave to Appeal

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

Between

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

and

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

TAKE NOTICE that the Court of Appeal at will be moved on the.....day of.....20..... at.....o'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 theday of 20.....

AND FURTHER take notice that the grounds of this application are,

(insert grounds)

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

..... Applicant or his Attorney-at-law.

To

The Chief Registrar,

Court of Appeal.

And+

*Strike out words inapplicable.

+Insert name of respondent.

CIVIL FORM 2A O. II, R.2 (3)

IN THE COURT OF APPEAL

Application for Leave to Appeal by Respondent

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

Between

..... (Claimant/Defendant)*	Appellant(s)
	and
..... (Claimant/Defendant)*	Respondent(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.....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 Chief Registrar

*Strike out words inapplicable.

+Strike the variation which will be asked for.

CIVIL FORM 3 O. II, R. 5 (1)

IN THE COURT OF APPEAL

Notice by Respondent of Intention to contend that Decision of Court Below
be varied

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

Between

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

and

..... (Claimant/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 the Chief Registrar.

*Strike out words inapplicable.

+State the variation which will be asked for.

CIVIL FORM 4 O. II, R. 7 (1)

IN THE COURT OF APPEAL

Notice by Respondent of Intention to Rely upon Preliminary Objection

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

Between

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

..... (Claimant/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.....

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

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

*Strike out words inapplicable.

CIVIL FORM 5 O. II, R.8 (1)

IN THE COURT OF APPEAL

Summons to Parties by Registrar to Settle Record

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

Between

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

and

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

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

DATED thisday of.....20.....

To

.....

Registrar (of Court below)

*Strike out words inapplicable.

CIVIL FORM 6 O.II, R. 13 (1) (i)(b)

IN THE COURT OF APPEAL

Affidavit of Service of Notice of Appeal

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

Between

..... (Claimant/Defendant)* Appellant(s)
and
..... (Claimant/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, Chapter .

Sworn to at the.....)
(address))
on theday of.....)
)
)
.....20.....)

Before me

Justice of the Peace.

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

*Strike out words inapplicable.

CIVIL FORM 7 O. II, R. 13 (2)

IN THE COURT OF APPEAL

Notice to the Respondent of Filing of Record

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

Between

..... (Claimant/Defendant)*	Appellant(s)
	and
..... (Claimant/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, 1967.

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

.....
Registrar (of Court below)

To the Respondent, etc.

*Strike out words inapplicable.

CIVIL FORM 8 O. II, R. 14

IN THE COURT OF APPEAL

Notice of Withdrawal of Appeal

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

Between

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

and

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

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

DATED thisday of.....20.....

.....
Appellant(s)

.....
The Chief Registrar,
Court of Appeal

AND toRespondent(s)
and the Registrar of the Court
below.

*Strike out words inapplicable.

CIVIL FORM 9 O. II, R. 20 (4)

IN THE COURT OF APPEAL

Bond for Costs on Appeal

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

KNOW all men, by these presents, that we.....
.....of.....and.....
.....of.....and.....of
.....are jointly and severally held and
firmly bound toof.....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, executors and administrators, firmly by these presents.

(Sgd)..... (Appellant)

..... (Surety)

..... (Surety)

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

WHEREAS a suit is now pending 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 of
Appeal from the said judgment:

AND WHEREAS it is by law provided that the party appealing shall
give security to the satisfaction of the Registrar of the 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 in the presence of } (L. S.) (L. S.) (L. S.)

CIVIL FORM 10 O. II, R. 28

IN THE COURT OF APPEAL

Certificate of the Order of the Court

Civil

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

Appeal from the.....

Of the.....

Dated the.....day of.....20.....

..... Motion

.....Appeal No.

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

v.

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

This appeal coming on for hearing on theday of20.....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.....

.....
Chief Registrar

*Strike out words inapplicable.

CIVIL FORM 11 O.II, R. 32

IN THE COURT OF APPEAL

Notice of Assessment

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

Between

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

and

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

TAKE NOTICE that the Bill of Costs of the herein, will be assessed onthe..... day of 20at the hour ofo'clock in thenoon.

Your absence notwithstanding.

DATED atthisday of20.....

.....

Chief Registrar

To the above-named Appellant of.....

and(Respondent) of

*Strike out words inapplicable.

COURT OF APPEAL

APPENDIX B

PART I

*Fees of Court in Civil Appeals**To be Paid to the Registrar of the Court of Appeal under
Order II Rule 29*

	§
1. On filing notice of appeal against a final judgment or decision, entering the appeal for hearing and on judgment thereunder—	
(a) for which the monetary value of the judgement does not exceed \$50,000.00;	50.00
(b) for which the monetary value of the judgment exceeds \$50,000.00 but does not exceed \$500,000.00;	100.00
(c) for which the monetary value of the judgment exceeds \$500,000.00; or	150.00
(d) for any other civil appeals not involving any monetary award.	50.00
2. On filing respondent's notice of intention to contend that decision of court below be varied	50.00
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	50.00
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	30.00
5. On making any application not otherwise specifically provided for, and for filling judgment or order thereunder, an inclusive fee of	30.00

6.	On filing of each affidavit with exhibits in support of any application/appeal	20.00
7.	On filing bond to secure costs of appeal	25.00
8.	On filing an application for leave to appeal to the Caribbean Court of Justice	30.00
9.	On filing every bond where the appeal is to Caribbean Court of Justice	25.00
10.	On filing order for leave to appeal to Caribbean Court of Justice	25.00
11.	On filing every document or exhibit for which no special fee is provided	20.00
12.	On assessment of bill of costs including certificate	100.00
13.	On certifying any document as an office copy, per page	5.00
14.	If in a foreign language, the actual cost of marking and examining the copy, and, in addition, for marking and sealing the copy as an office copy	15.00
15.	For an electronic copy of a plan, map, section, drawing, photograph or diagram, per scanned page.	5.00
16.	For an electronic copy of reasons for judgment of a judge or a court, per scanned page,	5.00
	But with a minimum fee for one set of reasons, of	25.00
	And with a maximum fee, for one set of reasons, of	150.00
17.	For an electronic copy of a report of a Registrar, per scanned page	5.00
18.	On perusing and allowing by a judge or Registrar of any bond	25.00

19.	On sealing a writ of <i>subpoena</i> not exceeding three persons	25.00
20.	For a certificate of a Registrar for which no special fee is provided	20.00
21.	On obtaining appointment for examination of a witness before an officer of the Court	25.00
22.	In respect of every witness examined by an officer or other person in his office, for each hour or part of an hour	30.00
23.	For an examination of a witness away from the office of the examiner, the reasonable travelling and other expenses in addition to the fee chargeable under item 22	
24.	For any request for a search of digital files or physical files.	25.00
25.	For an electronic copy of any document filed in the Registry, per scanned page	5.00
26.	Upon the request for hard copy or copies of any scanned document, hard copies per page.	5.00".

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 judge’s notes of evidence, for the first folio to consist of 100 words 1.00
2. On certifying any document as an office copy..... 5.00

3. Transcript of shorthand writers' notes, such fee as may be determined by the Registrar. The fees to be taken in the offices of the Sheriff, Marshal or a Deputy Marshal in respect of any proceeding or act are the same as those which, by the practice of the High Court, are taken or by law are authorised or required to be taken by the Sheriff, Marshal or Deputy Marshal in respect of a like proceeding or act in a cause pending in that court.

PART III

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*, \$5.00 per hour but not exceeding \$15.00 per day;
 - (b) in all other cases, at the rate prescribed by the rules of the High Court.
2. No allowance shall be paid in any criminal proceeding to a witness who is an officer in the public service 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 High Court.

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

The Chief 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, 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, 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 at the following rate,

- (a) if motor transport is used, 20 cents per mile or part thereof;
- (b) if motor-cycle transport is used, 10 cents per mile or part thereof;
- (c) if cycle transport is used, 5 cents per mile or part thereof.

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—

- (a) of this rule shall be increased by an additional 5 cents 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 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. 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 \$25.00 per day.

APPENDIX C

CRIMINAL FORMS

Index of Forms

<i>Form No</i>	<i>Appeal</i>	<i>Description of Form Rules No.</i>
1.	Order III, r 1 & 15	Notice of appeal or application for leave to appeal against conviction or sentence.
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 shorthand notes.
5.	” ” 14	Notification to appellant of single judge’s decision.
6.	” ” 14	Notice of appeal by appellant from refusal of a single judge.
7.	” ” 16 (2)	Recognisance of appellant Sentenced to payment of a fine.
8.	Order III, r. 16 (2)	Recognisance of sureties for appellant sentenced to a fine.
9.	” ” 16 (3)	Notice of breach of his recognisance to appellant sentenced to

- a fine.
10. " " 16 (3) Notice to surety for appellant of estreat of recognisances.
 11. " " 18 (3) Recognisance of bail of appellant convicted on indictment.
 12. " " 18 (3) Recognisance 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. Order III, r, 22 (1) & 23 (1) Notice to authorities of result of appeal.
 21. Order III, r.26 (1) Order to witness to attend court for examination.

- | | | | |
|-----|--------------------|----------|--|
| 22. | ” | ” 26 (2) | Appellant’s application for further witness. |
| 23. | ” | ” 26 (5) | Notice to witness to attend before an examiner |
| 24. | ” | ” 26 (7) | Caption for deposition of witness examined before examiner. |
| 25. | Order IV, r. 6 (2) | | Notice of appeal or application for leave to appeal from an order of the High Court made upon appeal under section 211 of the Act. |
| 26. | ” | ” 5 | Notice of application for extension of the time within which to appeal. |

CRIMINAL FORM 1 O.III, rr. 1 & 15

IN THE COURT OF APPEAL

Notice of Appeal or Application for Leave to Appeal Against Conviction or Sentence

Criminal Appeal Noof 20.....

TO THE CHIEF REGISTRAR OF THE COURT OF APPEAL

Name of appellant
Convicted at the (1).....held at.....
Offence of which convicted (2).....
Sentence.....
Date when convicted (3).....
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.....20.....

QUESTIONS (8)

- 1. Did the judge before whom you were tried grant you a certificate that it was a fit case for appeal?
- 2. Do you desire the Court of Appeal to assign you legal aid?

If your answer to this question is “Yes” 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 attorney-at-law 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)

- (1) Criminal Sessions.
- (2) e.g. Larceny, Forgery.
- (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 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 twenty-one days after conviction or sentence appealed against the appellant must also fill in Form 2 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 Chief 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.

CRIMINAL FORM 2 O. III, rr. 1 & 6

IN THE COURT OF APPEAL

Notice of Application for Extension of the Time within which to Appeal

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

TO THE CHIEF REGISTRAR OF THE COURT OF APPEAL:

I, having been convicted of the offence of.....in the.....Court held at on the day of.....20..... and being now a prisoner in Her Majesty's Prison at.....* (or now living at),

*When applicant for any reason not in custody.

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:-

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 ex- tend the time.

(Signed) (or mark)

Applicant

Signature and address of witness attesting mark.

DATED thisday of.....20.....

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

CRIMINAL FORM 3

O. III, r. 2(1)

IN THE COURT OF APPEAL

Judge's Certificate

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

REG. v.

In theCourt
holden at.....

WHEREAS the State shortly the
said.....was tried and convicted Offence e.g.
before me, the undersigned, in the said Court on the larceny, murder,
.....day of on a charge of forgery, etc.
..... and was thereupon sentenced
by me to.....
.....

I DO HEREBY CERTIFY that the case is a fit case for an appeal

by
the saidto the Court
upon the following grounds:-

.....
Judge

Here specify in
general terms the
grounds on
which certificate
granted.

DATED thisday
of.....20.....

CRIMINAL FORM 4

O. III, r. 8 (5)

IN THE COURT OF APPEAL

Declaration Verifying Transcript of Shorthand Notes

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

REG. v.

I,
of.....

do solemnly and sincerely declare that, having been required by the Chief Registrar of the Court of Appeal to furnish him 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 markedand 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 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).....

CRIMINAL FORM 5

O. III, r. 14

IN THE COURT OF APPEAL

Notification to Appellant of a Single Judge's Decision

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

REG. 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 proceedings in my appeal;
- (d) Admission to bail;

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

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

DATED thisday of.....20.....

Signed.....

*Chief Registrar,
Court of Appeal.*

To the above-named.

CRIMINAL FORM 6 O. III, r. 14

IN THE COURT OF APPEAL

Notice of Appeal by Appellant from Refusal of a Single Judge

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

REG. v.

TO THE CHIEF REGISTRAR OF THE COURT OF APPEAL

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

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

has/have been refused;

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

For signature see Order III rule 3.

(Signed)
(or mark)

.....
Appellant

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

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

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

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.

CRIMINAL FORM 7 O. III, r. 16 (2)

IN THE COURT OF APPEAL

Recognisance of Appellant sentenced to Payment of a Fine

Criminal Appeal Noof 20.....

REG. v.

TO WIT: Be it remembered that whereas of.....was on the.....day of.....20.....convicted ofand 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 recognisance of bail himself in the sum of \$..... and with sureties each in the sum of \$to prosecute his said appeal before the Court of Appeal.

*Here fill in the Court of trial.

The said..... doth hereby acknowledge himself to owe to Our Lady the Queen 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 Our said Lady the Queen, her heirs, and successors, if he the said fail in the condition endorsed.

TAKEN and acknowledged this day of..... 20 at the said Court at and before the judge of the said Court.

(Signed).....

CONDITION

The condition of the within written recognisances is such that whereas 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 Chief Registrar thereof, then this recognisance shall be void, otherwise of full force and effect.

(Signed).....
Appellant

CRIMINAL FORM 8 O. III, r. 16 (2)

IN THE COURT OF APPEAL

RECOGNISANCE OF SURETIES FOR APPELLANT SENTENCED TO A FINE

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

REG. v.

TO WIT: Be it remembered that on theday
of.....20.....
of.....and
..... personally
came before the*..... and
severally acknowledged themselves to owe to Our Lady
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, to be made and levied of their
goods and chattels, lands and tenements, respectively, to the use of Our Said
Lady the Queen, her heirs and successors
if..... now before the said Court fail in
the condition hereon endorsed.

*Here fill in the name of court of trial.

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 recognisance is such that whereas the said..... having 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 recognisance 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 recognisance shall be void, otherwise of full force and effect.

(Signed).....
Surety

(Signed).....
Surety

CRIMINAL FORM 9 O. III, R. 16 (3)

IN THE COURT OF APPEAL

Notice of Breach of his Recognisances to Appellant sentenced to a Fine

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

REG. v.

TO the above-named..... appellant

WHEREAS YOU were convicted on theday of20....., of the offence of..... and were sentenced to the payment of \$.....,and in default of such payment to imprisonment, and you entered into recognisances in the sum of.....with.....sureties in the sum ofeach, to prosecute your appeal, and whereas twenty-one 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 20and then show good cause to the contrary, the court may order an estreat of your recognisances and those of your sureties, or may otherwise deal with you according to law.

(Signed).....
Chief Registrar,
Court of Appeal

CRIMINAL FORM 10 O. III, R. 16 (3)

IN THE COURT OF APPEAL

Notice to Surety for Appellant of Estreat of Recognisances

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

Here fill in
Surety's name
and address.

TO.....
of

WHEREAS you the above-named, became duly bound in recognisances as surety, 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 conviction before the Court, and whereas the said.....has not so prosecuted his appeal, now I hereby give you notice that at the sitting of the Court on next your recognisances may be ordered to be estreated, unless you then show good cause to the contrary.

(Signed).....
*Chief Registrar,
Court of Appeal*

CRIMINAL FORM 11 O. III, r. 18 (3)

IN THE COURT OF APPEAL

Recognisance of Bail of Appellant convicted on Indictment

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

REG. 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 Her Majesty's Prison at and has duly appealed against his conviction (and sentence) to the Court, and has applied for bail pending the determination of his appeal, and has been granted bail on entering into his own recognisances in the sum of with sureties, each in the sum of the said personally cometh before me the undersigned, being the and acknowledges himself to owe to Our Lady the Queen the said sum of of good and lawful money, to be made and levied of his goods and chattels, lands and tenements to the use of Our said Lady the Queen, her heirs and successors, if he the said fail in the condition endorsed.

State office.

State office.

TAKEN and acknowledged this day of20..... atbefore me.

(Signed).....
Office: Magistrate, etc.

CONDITION

The condition of the within written recognisance is such that if the said shall personally appear and surrender himself at and before the Court 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 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 recognisance shall be void, otherwise of full force and effect.

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

When released on bail my residence, to which any Notices, etc., are to be addressed, will be as follows.

(Signed).....
Appellant

CRIMINAL FORM 12 O. III, r. 18 (3)

IN THE COURT OF APPEAL

Recognisance of Appellant's Sureties

Criminal Appeal Noof 20.....

REG. v.

BE IT REMEMBERED that on this..... day
of.....20.....
.....and.....
.....of.....
..of.....personally came before me the
undersigned being the of.....and
severally acknowledged themselves to owe to Our Lady 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, to be made and levied of
their goods and chattels, lands and tenements respectively, to the use of Our
said Lady the Queen, her heirs and successors, ifnow in
lawful custody in Her Majesty's Prison atfail in the
condition hereon endorsed.

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

.....
Magistrate, etc.

CONDITION

The condition of the within written recognisance is such that whereas the said.....having been convicted ofand 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 such Court for bail, pending the determination of his said appeal, has been granted bail on his entering into recognisances 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 recognisance shall be void, otherwise of full force and effect.

(Signed).....
Surety

(Signed).....
Surety

CRIMINAL FORM 13 O. III, r. 18 (5)

IN THE COURT OF APPEAL

Notice to Officer in Charge of Prisons to Release Appellant on Bail

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

REG. v.

TO THE OFFICER IN CHARGE OF PRISONS

WHEREAS.....

was convicted of
on theday of.....20.....
(and was thereupon sentenced to.....) and now is
in lawful custody in Her Majesty's 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 High 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 recognisances himself in
the sum of \$....., (and
with..... sureties each in the sum of
\$.....), in the Forms provided under these Rules.

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

AND WHEREAS I have received a recognisance of the
said..... and
recognisances from sureties for the
said..... and the said recognisances 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 thisday of.....20.....

(Signed).....
Chief Registrar,
Court of Appeal

CRIMINAL FORM 14 . III, r. 18(6)&(8)

IN THE COURT OF APPEAL

Warrant for Arrest of Appellant on Bail

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

REG. v.

TO the Constables of the Police Department and to the (a) of Her Majesty's Prison at.....

(a) State Office,
head of Prisons.

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

These are therefore to command you the said Constables forthwith to apprehend the said and to 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 Court.

(a) State Office,
head of Prisons.

.....
Presiding Judge

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

CRIMINAL FORM 15 O. III, r. 19 (1)

IN THE COURT OF APPEAL

Notice of Abandonment

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

REG. v.

To the Chief Registrar of the Court of Appeal

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

(Signed)..... (or mark)

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

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

CRIMINAL FORM 16 O. III, r. 19 (2)

IN THE COURT OF APPEAL

Notification of Abandonment of Appeal

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

REG. v.

To the Director of Public Prosecutions

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

By Order III rule 19 (1) of the Court of Appeal Rules, 1965, upon the notice of abandonment being given the appeal shall be deemed to have been dismissed by the Court.

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

.....
Chief Registrar of the Court

* Send copies addressed to,
(a) The Secretary to the Governor-General for the information of the Governor-General if the conviction involved a sentence of death.
(b) Director of Public Prosecutions or other respondent.
(c) The Prison Authority, and
(d) The Registrar of the Court below.

CRIMINAL FORM 17 O. III, r. 22 (1)

IN THE COURT OF APPEAL

Notification to Appellant of Result of Application

Criminal Appeal Noof 20.....

REG. v.

To the above-named Appellant.

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

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

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

.....
Chief Registrar of the Court of Appeal

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

CRIMINAL FORM 18 O. III, r. 22 (1)

IN THE COURT OF APPEAL

Notice to Authorities of Result of Application

Criminal Appeal Noof 20.....

REG. v.

To the Director of Public Prosecutions*

To.....

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

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

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

Here set out the decision of the Court.

.....
Chief Registrar of the Court of Appeal

*Send copies addressed to,

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

CRIMINAL FORM 19 O.III, r. 22 (1)

IN THE COURT OF APPEAL

Notification to Appellant of the Result of his Appeal

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

REG. v.

To the above-named Appellant:

THIS IS TO GIVE YOU NOTICE that the Court, having considered the matter of your appeal, has finally determined the same and have this day given judgment to the effect following.

.....
Chief Registrar of the Court of Appeal

DATED thisday of.....20.....

CRIMINAL FORM 20 O. III, rr. 22 (1) and 23 (1)

IN THE COURT OF APPEAL

Notice to Authorities of Result of Appeal

Criminal Appeal Noof 20.....

REG. 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 has finally determined the said appeal, and has this day given judgment therein to the effect following.

Here set out the decision of the Court.

.....
Chief Registrar of the Court of Appeal

DATED thisday of20.....

*Send copies addressed to,

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

CRIMINAL FORM 21 O. III, r. 26 (1)

IN THE COURT OF APPEAL

Order to Witness to attend Court For Examination

Criminal Appeal Noof 20.....

REG. v.

Name, etc., of witness.

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

WHEREAS on good cause shown to the Court you have been ordered to attend and be examined as a witness before such Court upon the appeal of the above-named.

THIS IS TO GIVE YOU NOTICE to attend before the said Court at ontheat.....o'clock in thenoon.

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.

.....
Chief Registrar of the Court of Appeal

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

CRIMINAL FORM 22 O. III, r. 26 (2)

IN THE COURT OF APPEAL

Appellant's Application for Further Witness

Criminal Appeal Noof 20.....

REG. 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) *Appellant*

For signature see
Order III, rule 3.

Signature and address of
witness attesting mark.

DATED this day of 20.....

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

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

State shortly the evidence you think they can give.

CRIMINAL FORM 23 O. III, r. 26 (5)

IN THE COURT OF APPEAL

Notice to Witness to Attend Before an Examiner

Criminal Appeal Noof 20.....

REG. v.

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

WHEREAS on good cause shown to the Court you have been ordered to be examined as 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.

THIS IS TO GIVE YOU NOTICE to attend at (a)on the.....day of 20..... before (b) ato'clock in the..... noon.

(b) Fill in examiner's name.

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.

.....
Chief Registrar of the Court of Appeal

DATED this day of 20.....

CRIMINAL FORM 24 O. III, R. 26 (7)

IN THE COURT OF APPEAL

Caption for Deposition of Witness examined before Examiner

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

REG. 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 the Respondent at on the day of 20.....which said Appellant (or 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 being signed by them the said witnesses respectively.

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

CRIMINAL FORM 25 O. IV, R. 6 (2)

IN THE COURT OF APPEAL

Notice of Appeal or Application for Leave to Appeal from an Order of the High Court made upon Appeal under section 211 of the Act

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

Between

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

To the Chief Registrar of the Court

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 High Court dated theday 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 High Court thereon.)
3. (a) (State whether appeal is brought under paragraph (b) of section 211(1) of the Act, and, if so, state the grounds.)
(b) (If not under section 211(1)(b), state the ground of law.)
4. (State the order sought from the Court of Appeal).
5. Persons directly affected by the appeal.

Name Address

*Strike out words inapplicable.

(1)

(2)

(3), etc.

Questions to be answered by the appellant (only to be answered by a prosecutor-appellant)

A. Has the High Court granted leave to appeal? If so, attach the Certificate of the Registrar of the High Court to this Form.

B. Is the defendant-respondent in custody? If so, in what prison? (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 wages, salary or income were you receiving before conviction?

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

2. Is any attorney-at-law now acting for you?

If so, give his name and address

3. Are you in custody?

If so, state,

(a) the Prison

(b) whether you desire to be present when the Court hears your appeal

DATED thisday of.....20.....

(Signed).....

Appellant (s)

CRIMINAL FORM 26 O. IV, r. 5 IN

THE COURT OF APPEAL

Notice of Application for Extension of the Time within which to Appeal

Criminal Appeal No of 20.....

To the Chief 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 High Court contained in a judgment/order dated the.....day of20..... and more particularly stated in the notice of appeal attached hereto.*

*Form 25 Here set out clearly and concisely the reason for the de- lay in giving such notice and the ground on which it is submitted that the Court should extend the time.

The grounds for this application to extend the time are as follows.

.....
Applicant

NOTE:

The applicant is required to send to the Chief Registrar of the Court, duly filled up, Form 25, together with this notice.