

**COURT OF APPEAL RULES, 1997**

[C.I. 19]

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## COURT OF APPEAL RULES, 1997

[C.I. 19]

[[Article 157 (2)) (24th July, 1997)]

## PART ONE

*General Provisions***1. Sessions of the Court**

The sessions of the Court of Appeal shall be held during term and at any other times and places that the Chief Justice may direct.

**2. Notice of cause lists**

(1) Notice of a cause list shall be published by the Registrar of the Court in the *Gazette* and within the precincts of the Court from time to time but at least fourteen days before the date appointed for the hearing of the first of the matters on the list.<sup>1</sup>

(2) The publication is notice to the parties of the listing before the Court of a cause or matter mentioned in the list.

(3) Despite subrules (1) and (2), the Court may hear a criminal or civil appeal which has not been included in the cause list as published, but in respect of which notice of hearing has been served on the parties or their counsel.

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1. Amended by C.I. 21 by the insertion after "*Gazette*" of "and within the precincts of the Court".

(4) Notice of hearing by the Court of a cause or matter is by publication within the precincts of the Court and by service of notice on the parties or their counsel.<sup>2</sup>

(5) The publication under subrule (1) does not apply to the hearing of a matter by a single Justice.<sup>3</sup>

### **3. Right of audience**

A person who is a party to a cause or matter before the Court may appear in person or may be represented by counsel of the choice of that person.

### **4. Delivery of judgment**

A judgment of the Court shall be delivered in open Court.

### **5. Register of appeals**

The Registrar shall keep separate registers of civil and criminal appeals brought before the Court.

### **6. Forms to be used**

The forms set out in the Schedule or any other forms that the circumstances permit shall be used in cases to which the forms are applicable.

### **7. Matters not expressly provided for**

Where a provision is not expressly made by these Rules regarding the practice and procedure which shall apply to a cause or matter, the Court shall prescribe the practice and procedure which in the opinion of the Court the justice of the cause or matter requires.

## **PART TWO**

### *Civil Appeals*

### **8. Notice and grounds of appeal**

(1) An appeal to the Court shall be by way of rehearing and shall be brought by a notice of appeal.

(2) The notice of appeal shall be filed in the registry of the Court below and,

- (a) shall set out the grounds of appeal;
- (b) shall state whether the whole or a part only of the decision of the Court below is complained of and in the latter case specify that part;
- (c) shall state the nature of the relief sought; and

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2. Inserted by C.I. 21.

3. Renumbered by C.I. 21.

(d) shall state the names and addresses for service within the jurisdiction of the parties directly affected by the appeal.<sup>4</sup>

(3) The notice of appeal shall be in the Form 1 set out in Part One of the Schedule and shall be accompanied with a sufficient number of copies for service on the parties.

(4) Where the grounds of an appeal allege misdirection or error in law, particulars of the misdirection or error shall be clearly stated.

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

(6) A ground which is vague or general in terms or which does not disclose a reasonable ground of appeal is not permitted, except the general ground that the judgment is against the weight of the evidence.

(7) A ground of appeal or a part of the appeal which is not permitted under subrule (6) may be struck out by the Court of its own motion or on application by the respondent.

(8) The appellant shall not, without the leave of the Court, argue or be heard in support of a ground of objection not mentioned in the notice of appeal, but the Court may allow the appellant to amend the grounds of appeal on the terms that the Court thinks just.

(9) Despite subrules (4) to (8), the Court in deciding the appeal shall not be confined to the grounds set out by the appellant but the Court shall not rest its decision on a ground not set out by the appellant unless the respondent has had sufficient opportunity of contesting the case on that ground.

## **9. Time limits for appealing**

(1) Subject to any other enactment governing appeals, an appeal shall not be brought after the expiration of

(a) twenty-one days, in the case of an appeal against an interlocutory decision;  
or

(b) three months, in the case of an appeal against a final decision unless the Court below or the Court extends the time.

(2) The prescribed period within which an appeal may be brought shall be calculated from the date of the decision appealed against.

(3) An appeal is brought when the notice of appeal is filed in the registry of the Court below.

(4) An application for extension of time within which to appeal shall not be made after the expiration of three months from the expiration of the time prescribed by this rule within which an appeal may be brought.

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4. Amended by C.I. 21 by the insertion in paragraph (d) after "addresses" of "for service within the jurisdiction."

(5) An application for extension of time shall be supported by an affidavit setting out good and substantial reasons for the application, and the grounds of appeal which prima facie, show good cause for the extension of time to be granted.<sup>5</sup>

(6) Where the extension of time is granted, the notice of appeal shall indicate the date of the grant and the Justice or the Court by whom or by which the grant is made.

(7) Despite rule 28, an application shall not be made to the Court for extension of time within which to appeal after six months from the date of the decision appealed against.

(8) For the purposes of subrule (4) of this rule and of rule 28, where a person has applied to the Court below for extension of time within which to appeal, and after a period of not less than one month the Court below fails or refuses to grant the application, the applicant may, subject to subrule (5) of this rule, move the Court to determine the application.

#### **10. Service of notice of appeal**

The Registrar of the Court below shall, after the notice of appeal has been filed, serve a true copy of it on each of the parties mentioned in the notice of appeal and shall thereafter issue a certificate of service of appeal in the Form 4 set out in Part One of the Schedule.<sup>6</sup>

#### **11. Settling record of appeal**

- (1) When an appeal is brought in the Court below, the Registrar of the Court below,
- (a) shall issue summons in the Form 2 set out in Part 1 of the Schedule directing the parties to appear before that Registrar to settle the record of appeal; and
  - (b) shall, whether or not any of the parties attend the appointment, settle and sign the record and in due course file it.

(2) The Registrar of the Court below, and the parties shall exclude from the record documents that are not relevant to the subject matter of the appeal, and shall generally reduce the bulk of the record as far as practicable, taking special care to avoid duplication of documents; but the title of the documents not copied with the record shall be enumerated in a list at the end of the record.

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5. Substituted by C.I. 21. The previous provision reads as follows,  
“Where the extension of time is granted a copy of the order granting the extension shall be attached to the notice of appeal.”

6. Substituted by C.I. 25. The regulation provided that,  
“(1) The Registrar of the Court below shall, after notice of appeal has been filed, cause to be served a true copy of it on each of the parties informed in the notice of appeal.  
(2) The Court may also direct the notice to be served on all or any of the parties to the action or other proceedings or on any person not a party, and may adjourn the hearing of the appeal upon such terms as may be just, and may also make any order as if the person served with a notice had originally been a party to the appeal.”

It was previously amended by C.I. 21 and is now amended by C.I. 25.

(3) Where the Registrar of the Court below or a party objects to the inclusion of a document on the ground that it is unnecessary or irrelevant and the other party insists on its inclusion, 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 the document, indicate in the index of papers or otherwise that fact, and the party who objected to the inclusion of the document.

(4) The appellant shall, within the time that the Registrar of the Court below directs, deposit with that Registrar a sum of money fixed to cover the estimated expense of making up and forwarding the record of appeal calculated at the full cost of one copy for the appellant and one-quarter of the cost for each of the five copies for the use of the Court.

## **12. Security for costs**

The appellant shall, within the time that the Registrar of the Court below shall

- (a) fix deposit a sum of money as determined by the Registrar of the Court below; or
- (b) give security by bond in the Form 3 set out in Part One of the Schedule with one or more sureties to the satisfaction of the Registrar,

for the due prosecution of the appeal and for the payment of the costs which may be ordered to be paid by the appellant.

## **13. Additional security for costs**

The Court may, where necessary, require security for costs or for performance of the orders to be made on appeal, in addition to the sum determined under paragraph (a) of rule 12.

## **14. Transmission of record**

(1) The Registrar of the Court below shall transmit to the Registrar the record when ready together with

- (a) a certificate of service of the notice of appeal;
- (b) a certificate in the Form 5 set out in Part One of the Schedule that the conditions imposed under rules 11 (4) and 12 have been fulfilled;
- (c) four copies of the record for the use of the Justices;
- (d) the docket or file of the case in the Court below containing the papers or documents filed by the parties concerned; and
- (e) the exhibits, documents or any other things received by the Court below in respect of the appeal.

(2) The Registrar of the Court below shall also serve on the parties mentioned in the notice of appeal, a notice in the Form 6 set out in Part One of the Schedule that the record has been forwarded to the Registrar.

(3) The Registrar shall in due course enter the appeal in the cause list mentioned in rule 21 (1).<sup>7</sup>

#### **15. Notice for variation of judgment**

(1) It is not necessary for the respondent to give notice by way of cross-appeal, but if a respondent intends on the hearing of the appeal to contend that the decision of the Court below should be varied, the respondent shall give, within one month after service of the notice of appeal, written notice in the Form 7 set out in Part One of the Schedule of that intention to every party who may be affected by the contention.

(2) The respondent shall clearly state in the written notice the grounds on which the respondent intends to rely and within the same period shall file with the Registrar of the Court below five copies of the notice, one of which shall be included in the record.

(3) Omission to give the written notice shall not affect the powers of the Court, but the Court may consider it a ground for adjournment of the appeal on the terms that, as regards costs or otherwise, the Court considers just.

#### **16. Notice of preliminary objection**

(1) A respondent who intends to rely on a preliminary objection to the hearing of the appeal shall give the appellant three clear days notice before the hearing of the preliminary objection, setting out the grounds of objection, and shall file the notice in the Form 8 set out in Part One of the Schedule.<sup>8</sup>

(2) Where the respondent fails to comply with subrule (1), the Court may refuse to entertain the objection or may adjourn the hearing at the cost of the respondent or may make any other appropriate order.

#### **17. Withdrawal of appeal**

(1) Subject to rule 15, where the appellant files with the Registrar a notice of withdrawal of the appeal, the Registrar shall certify that fact to the Court, which may then order the dismissal of the appeal with or without costs.

(2) Copies of the notice of withdrawal shall be served, at the expense of the appellant, on any of the parties with regard to whom the appellant wishes to withdraw the appeal, and a party served is precluded from claiming the costs incurred by that party after the service unless the Court otherwise orders.

(3) A party served with a notice of withdrawal may, on notice to the appellant, apply to the Court for an order to recover the costs which that party may necessarily or reasonably have incurred prior to the service of the notice of withdrawal together with costs incurred for purposes of obtaining the order and for attendance in Court.

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7. Amended by C.I. 21 by substituting,

(a) "four" for "five" in subrule (1) (c); and  
(b) in subrule (2) "6" for "4".

8. Amended by C.I. 21 by the deletion after "Schedule" of the words, "together with five copies of the appeal with the Registrar within the same time".



(4) Despite the dismissal of an appeal consequent on a notice of withdrawal under subrule (1), a respondent who has filed a notice of intention to contend that the decision of the Court below be varied is entitled to pursue that intention as if it were an appeal.<sup>9</sup>

(5) Forms 9 and 10 in Part One of the Schedule shall apply for the purposes of this rule.<sup>10</sup>

### **18. Non-compliance with conditions of appeal**

(1) Where the appellant has not complied with any of the requirements of rules 11 (4), 12 or 13, the Registrar of the Court below shall certify these facts to the Court, which may then order the dismissal of the appeal with or without costs.

(2) Where the respondent alleges that the appellant has failed to comply with a part of the requirements of rules 11 (4), 12 or 13 and the Court is satisfied that the appellant has so failed, it may dismiss the appeal for want of prosecution or make the order that the justice of the case requires.

(3) An appellant whose appeal is dismissed under subrule (1) or (2) may apply by motion on notice for restoration of the appeal, and the Court may order the restoration on the appropriate terms.

(4) A certificate of non-compliance of conditions imposed on a would be appellant shall be in the Form 11 set out in Part One of the Schedule.

### **19. Exhibits**

(1) Subject to these Rules, each party shall, immediately after an appeal becomes pending before the Court, deliver to the Court below the documents and exhibits in the case or which were tendered as exhibits and rejected which are in the custody of that party or were produced or put in by that party at the trial.

(2) Subject to these Rules, each party to an appeal shall be prepared to produce at the hearing of the appeal exhibits, other than documents, which are in the custody of, or were produced or put in by, that party at the trial.

(4) The Registrar of the Court below may, whether on an application or not, give a direction that the Registrar considers fit, by dispensing with this rule or modifying its application or for securing compliance with it.

(5) An original document delivered to the Court below under this rule shall remain in the custody of the Court below until the record of appeal has been prepared, and shall then be forwarded with the record to the Registrar and shall remain in the custody of the Court until the determination of the appeal.

(6) The Court or the Registrar may allow the return of a document to a party pending the hearing of the appeal subject to the condition that the Court or the Registrar may impose.

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9. Inserted by C.I. 21.

10. Renumbered by C.I. 21.

**20. Written submission**

(1) An appellant shall, within twenty-one days of being notified in the Form 6 set out in Part One of the Schedule that the record is ready, or within the time that the Court may on terms direct, file with the Registrar a written submission of the appellant's case based on the grounds of appeal as set out in the notice of appeal and any other ground that the appellant may file.<sup>11</sup>

(2) Where the appellant does not file the written submission in accordance with sub-rule (1), the Registrar shall certify the failure to the Court by a certificate in the Form 11A set out in Part One of the Schedule and the Court may then order the appeal to be struck out.<sup>12</sup>

(3) The Registrar shall, as soon as practicable after the filing of the appellant's written submission, serve copies of the submission on the respondent and on any other party to the appeal.

(4) A party on whom an appellant's written submission is served shall, if that party wishes to contest the appeal, file the written submission in answer to the appellant's written submission within twenty-one days of the service, or within the time that the Court may on terms direct.<sup>13</sup>

(5) The appellant may, within fourteen days of the service of the respondent's written submission, file with the Registrar a reply to the respondent's written submission.

(6) The written submission of each party to the appeal shall set out

- (a) the full case and arguments to be advanced by the party including relevant authorities, references to the relevant decided cases and the statute law on which the party intends to rely; and
- (b) in the case of a respondent may include a contention that the decision of the Court below be varied.

(7) Despite anything to the contrary contained in this rule, counsel may agree to submit a joint submission for the determination of the appeal before the Court.

(8) Where a respondent does not file a written submission and does not agree to make a joint written submission under this rule, the respondent shall not be heard at the hearing of the appeal except as to the question of costs.

(9) Despite anything to the contrary contained in these Rules, a party to a civil appeal may at any time before judgment apply to the Court to amend a part of the written submission, and the Court may, having regard to the interests of justice and to a proper determination of the issues between the parties, allow the amendment on the appropriate terms.

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11. Substituted by C.I. 21, and further amended by C.I. 25. The previous provision reads as follows, "An appellant shall within three weeks of being notified in Form 6 set out in Part One of the Schedule, that the record is ready, file with the Registrar a written submission of case based on the grounds of appeal as set out in the notice of appeal."

12. Amended by C.I. 25.

13. Amended by C.I. 21 by the substitution for "three weeks" of "twenty-one days".

(10) This rule does not apply to criminal appeals.<sup>14</sup>

(11) Despite any other provision of this rule to the contrary, the Chief Justice or the Court may, on an application by any of the parties, waive the requirement for the filing of the written submission under this rule.<sup>15</sup>

## **21. Control of proceedings during pendency of appeal**

After the record of appeal has been transmitted from the Court below to the Court, the Court shall be seized of the whole of the proceedings as between the parties and every application shall be made to the Court and not to the Court below, but an application may be filed in the Court below for transmission to the Court.<sup>16</sup>

## **22. Submission by party not appearing**

At any time before the hearing of an appeal a party to the appeal may file a declaration in the Form 12 set out in Part One of the Schedule that that party does not wish to be present in person or by counsel at the hearing of the appeal in which case that party shall file five copies of the arguments, which that party desires to submit to the Court, a copy of which shall be supplied to the other party at the appropriate stage of the hearing; and the appeal shall be dealt with as if that party had appeared.

## **23. Non-appearance of appellant**

(1) Where the appellant fails to appear when the appeal is called for hearing and has not taken action under rule 22, the appeal may be struck out or dismissed with or without costs.

(2) Where an appeal is struck out or dismissed owing to the non-appearance of the appellant, the Court may direct the appeal to be re-entered for hearing on the appropriate terms, as to costs or otherwise.

## **24. Non-appearance of respondent**

Where the respondent fails to appear when the appeal is called for hearing and has not taken action under rule 22, the Court may proceed to hear the appeal in the absence of the respondent.

## **25. Application to set aside ex parte judgment**

(1) Where an appeal is heard under rule 24 and judgment is given against the respondent, the respondent may apply to the Court to set aside the judgment and to rehear the appeal.

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14. Inserted by C.I. 21 and further amended by C.I. 25.

15. Inserted by C.I. 21.

16. Amended by C.I. 21 by the deletion of the words, "After an appeal has been entered and until it has finally been disposed of" and the insertion of the words "After the record of appeal has been transmitted from the Court below to the Court".

(2) An application to set aside a judgment and rehear under subrule (1) shall not be made after the expiration of twenty-one days from the date of the judgment sought to be set aside; but a respondent who has failed within twenty-one days to make an application under this rule may at any time within a further period of three months after the twenty-one day period apply to the Court on notice to the appellant to set aside the judgment, and the Court may grant the application and make the appropriate order, in relation to the application or as to costs.<sup>17</sup>

(3) An application to set aside a judgment shall be made by motion accompanied with an affidavit stating the reasons and grounds for the application; and the Court may set aside the judgment and order the rehearing of the appeal at the time and on the conditions, as to costs or otherwise, that it considers fit.

## **26. New evidence on appeal**

(1) It is not open as of right to a party to an appeal to adduce new evidence in support of the original case but, in the interests of justice, the Court may allow or require new evidence to be adduced.

(2) Evidence allowed under subrule (1) shall be in the form of an oral examination in Court, an affidavit or a deposition taken before an examiner or commissioner who the Court may direct.

(3) A party may, by leave of the Court, allege the facts essential to the issue that have come to the knowledge of that party after the decision of the Court below and adduce evidence in support of the allegations.

## **27. Effect of appeal**

(1) An appeal shall not operate as a stay of execution or of proceedings under the judgment or decision appealed against except where the Court below or the Court otherwise orders

(a) in the case of the Court below, on an application made orally or by motion on notice to it; and

(b) in the case of the Court, on an application made to it by motion on notice, and except as provided in this rule an intermediate act or any other proceedings shall not be invalidated.

(2) Where an application is pending for determination under subrule (1), the proceedings for execution of the judgment or decision to which the application relates shall be stayed.

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17. Amended by C.I. 21 by the deletion of "and rehear" and the insertion after "judgment" of the words "and rehear".

(3) There shall be a stay of execution of the judgment or decision, or of proceedings under the judgment or decision appealed

- (a) for a period of seven days immediately following the giving of the judgment or decision; and
- (b) for a period of seven days immediately following the determination by the Court below of an application under subrule (1) (a) where the application is refused by the Court below.

#### **27A. Interlocutory appeals**

The Court may, in an interlocutory appeal, civil or criminal before it, grant a stay of proceedings pending the determination of the interlocutory appeal subject to the conditions the Court considers fit.<sup>18</sup>

#### **28. Court to which application should be made**

Subject to these Rules and to any other enactment, where under an enactment an application may be made to the Court below or to the Court, it shall be made in the first instance to the Court below, but if the Court below refuses to grant the application, the applicant is entitled to have the application determined by the Court.

#### **29. Determination of doubts as to finality of judgment**

Where a doubt arises as to whether a judgment or an order is final or interlocutory, the question may be determined summarily by the Court below or by the Court; and a determination by the Court below despite rule 28, is final and binding on the parties for the purpose of determining the time within which an appeal may be brought.

#### **30. Interlocutory judgment does not prejudice appeal**

An interlocutory judgment or order from which an appeal has not been lodged shall not operate so as to bar or prejudice the Court from giving a decision on the appeal that the Court considers just.

#### **31. General powers of the Court**

The Court shall generally have full jurisdiction over the whole proceedings as if the proceedings had been instituted and prosecuted in the Court as a court of first instance,<sup>19</sup> and may

- (a) make an order necessary for determining the real question in controversy;
- (b) amend a defect or an error in the record of appeal;
- (c) direct a notice of appeal to be served on all or any of the parties to the action or any other proceedings or on a person not a party, and may adjourn

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18. Inserted by C.I. 21.

19. See amendment effected by C.I. 21 to rule 31 (f).

the hearing of the appeal on the terms that are just, and also make an order as if the person served with the notice had originally been a party to the appeal;<sup>20</sup>

- (d) direct the Court below to enquire into and certify its finding on a question which the Court considers fit to determine before final judgment;<sup>21</sup>
- (e) make an interim order or grant an injunction which the Court below is authorised to make or grant; and
- (f) direct any necessary enquiries or accounts to be made or taken.

### **32. Power to give judgment and make an order**

(1) The Court may, in respect of an appeal before it, give a judgment and make an order that ought to have been made, and to make a further or any other order as the case may require including an order as to costs.

(2) The powers of the Court

- (a) may be exercised although the appellant may have asked that a part only of a decision be reversed or varied; and
- (b) may be exercised in favour of all or any of the respondents or parties, although the respondents or parties may not have appealed from or complained of the decision.

### **33. Time limit for delivery of judgments**

(1) At the close of a case before it the Court

- (a) shall fix a date, which shall not be later than eight weeks after close of the case, for the delivery of judgment; or
- (b) shall deliver judgment as soon as possible after the close of each case before it, and in any event not later than eight weeks after the close of the case before it.

(2) For the purposes of this rule a case is closed when the final arguments have been concluded.

(3) The times of vacation in a year shall not be reckoned in the computation of the period of eight weeks referred to in subrule (1).

(4) Where for a reason judgment is not delivered within the period of eight weeks referred to in subrule (1), the Court shall forthwith inform the Chief Justice in writing of that fact and shall state the reasons for the delay and the date on which it is proposed to deliver judgment.

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20. Inserted by C.I. 21.

21. Renumbered by C.I. 21.

(5) Subject to subrule (3), where judgment is not delivered within the period of eight weeks referred to in subrule (1), a party to the proceedings may notify the Chief Justice in writing of that fact and request that a date is fixed for the delivery of judgment.

(6) On receiving a notification from the Court or a party under subrule (4) or (5) the Chief Justice may fix a date for the delivery of judgment by the Court and notify the Court accordingly, and the Court shall ensure that judgment is delivered on the date fixed by the Chief Justice.

#### **34. Review in exceptional cases**

The Court shall not review a judgment after it has been delivered unless it is satisfied that the circumstances of the case are exceptional and that in the interests of justice there should be a review.

#### **35. Costs**

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

(2) The Registrar is the taxing officer and the costs shall be taxed by the Registrar according to the rules in force in the High Court.

(3) A person aggrieved by an order, a decision or ruling of the taxing officer may apply to the Court to set aside that order, decision or ruling and the Court may make an appropriate order.

(4) An application to the Court under subrule (3) shall be made by motion supported by an affidavit, and notice of the motion shall be served on the taxing officer and on a party who has an interest in the matter.

(5) The form of a notice of taxation and a bill of costs shall be as specified in the Forms 13 and 14 set out in Part One of the Schedule.

#### **36. Enforcement of judgments**

A judgment given by the Court may be enforced by the Court, the Court below or any other court which has been seized of the matter or as the Court may direct.

#### **37. Execution of judgment by Court below**

Where the Court directs a judgment to be enforced by any other Court, a certificate under the seal of the Court and signed personally by the presiding Justice setting out the judgment as specified in the Form 15 set out in Part One of the Schedule shall be transmitted by the Registrar to that other Court, and the latter shall enforce the judgment in terms of the certificate.

## PART THREE

*Criminal Appeals***38. Notice of appeal**

A person desiring to appeal to the Court against a conviction, sentence, decree or an order of a Court from which appeal lies to the Court shall commence the appeal by sending to the Registrar of the Court below, a notice of appeal in the Form 1 or 2 set out in Part Two of the Schedule with the adaptations and modifications that are necessary.<sup>22</sup>

**39. Conditions of appeal**

(1) A notice of appeal or notice of application for extension of time within which the notice shall be given shall be signed by the appellant or by counsel for the appellant.<sup>23</sup>

(2) A notice required or authorised to be given shall be addressed to the Registrar of the Court below to be forwarded to the Registrar.

(3) A notice or any other document which is required or authorised to be given or sent shall be deemed to be duly given or sent if forwarded by registered post addressed to the person to whom the notice or the other document is required or authorised to be given or sent.

(4) Where an appellant or any other person authorised or required to give or send a notice of appeal or notice of an application for extension of time within which notice of appeal may be given is unable to write, that appellant may fix a mark in the presence of a witness who shall attest the mark, and on that act the notice shall be taken as duly signed by the appellant.

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

**40. Notice of application for extension of time**

(1) An application to the Court for an extension of time within which notice may be given, shall be in the Form 3 set out in Part Two of Schedule.

(2) A person making an application for an extension of time shall send to the Registrar, together with the proper form of the application a notice of appeal duly completed.

---

22. Substituted by C.I. 25. The previous provision reads as follows,

"A person desiring to appeal to the Court against conviction or sentence shall commence the appeal by sending to the Registrar of the Court below, a notice of appeal in Form 1 or 2 set out in Part II of the Schedule as is relevant to the appeal."

23. Substituted by C.I. 25. The previous provision reads as follows,

"A notice of appeal or notice of application for extension of time within which the notice shall be given, shall except under subrule (5) be signed by the appellant or counsel for the appellant."



**41. Forwarding of proceedings in Court below to Registrar**

(1) Where the Registrar of the Court below receives a notice of appeal or a notice of an application for extension of the time within which the notice shall be given, the Registrar of the Court below shall forward to the Registrar four copies of the proceedings in the Court below and four copies of the summing up or direction of the Justice.<sup>24</sup>

(2) The Registrar of the Court below shall also forward the original exhibits in the case as far as practicable and an original deposition, information, inquisition, plea, or any other documents or things usually kept by the Registrar of the Court below forming part of the record of the Court below to the Registrar.

(3) The Court or Registrar may allow the return of a document or thing to a party pending the hearing of the appeal and subject to the conditions that it or the Registrar may impose.

**42. Copies of record for appellant**

The appellant may obtain from the Registrar of the Court below free of charge, copies of the record and the document or exhibit in the possession of the Registrar for the purpose of the appeal.

**43. Notice to appellant of decision by single Justice**

(1) Where an application is dealt with by a single Justice the Registrar shall notify the appellant of the decision in the Form 4 set out in Part Two of the Schedule.

(2) Where the Justice refuses an application, the Registrar shall notify the refusal to the appellant and forward to the applicant a notice in the Form 5 set out in Part Two of the Schedule; and the appellant shall complete and return the form to the Registrar.

(3) Where the appellant does not desire to have the application determined by the Court as duly constituted for the hearing of appeals or does not return within five days to the Registrar the Form 5 duly completed by the appellant, the refusal of the application by the Justice is final.

**44. Abandonment of appeal**

(1) An appellant may at any time after having duly served a notice of appeal or of an application for extension of time within which the notice shall be given, abandon the appeal by giving notice of abandonment in the Form 6 set out in Part Two of the Schedule to the Registrar, and on the receipt of the notice the appeal shall be deemed to have been dismissed by the Court.

---

24. Amended by C.I. 25, by substituting the word "five" wherever it appears in the subrule, with the word "four".

(2) On receipt of a notice of abandonment duly completed and signed or marked by the appellant or the party authorised to sign notices under subrule (5) of rule 39, the Registrar shall,

- (a) give notice of the abandonment in the Form 7 set out in Part Two of the Schedule 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 the same manner give notice to the Minister responsible for Justice; and
- (b) return to the Registrar of the Court below the original documents and exhibits received from the Court below.

#### **45. Withdrawal of notice of abandonment**

An appellant, other than one convicted of an offence punishable by death, who has abandoned the appeal may, with the leave of the Court, withdraw the notice of abandonment by completing Forms 2 and 8 set out in Part Two of the Schedule and shall send the forms to the Registrar.

#### **46. Person in custody in default of payment of fine**

(1) Where a person sentenced to payment of a fine, and in default of payment, to imprisonment, remains in custody in default of payment of the fine, that person is, for purposes of an appeal, a person sentenced to imprisonment.

(2) Where a person who is sentenced to payment of a fine, and in default of payment to imprisonment, intimates to the Justice of the Court below the desire to appeal against the conviction, the Justice may order that person to enter into recognisances to prosecute the appeal with or without sureties as the Justice thinks right.

(3) The Justice may order that payment of the fine is made to the Registrar of the Court below at the final determination of the appeal, if the appeal is dismissed.

(4) The recognisances under this rule shall be in the Forms 9 and 10 set out in Part Two of the Schedule.

(5) The Registrar of the Court below shall forward the recognisance of the appellant and the surety to the Registrar.

(6) Where an appellant to whom subrule (2) applies, does not in accordance with these Rules serve a notice of appeal or of abandonment of the appeal within ten days from the date of conviction or sentence, the Registrar of the Court below shall report the omission to the Court which may, after notice in the Forms 11 and 12 set out in Part Two of the Schedule has been given to the appellant and the sureties

- (a) order an estreat of the recognisances of the appellant and the sureties;
- (b) issue a warrant for the apprehension of the appellant;
- (c) commit the appellant to prison in default of payment of the fine; or
- (d) make any other order that it considers fit.

(7) An appellant who paid the fine or part of the fine in accordance with the sentence, is entitled, where the appeal succeeds, to the return of the sum of money or a part of it which had been paid subject to the order of the Court.

#### **47. Varying order of restitution of property**

(1) Where an order of restitution of property to a person is made by the Justice of the Court below, the person in whose favour or against whom the order of restitution is made, is entitled, on the final hearing by the Court of an appeal against the conviction on which the order of restitution is made, to be heard by the Court before an order annulling or varying the order of restitution is made.

(2) Subrule (1) applies with the leave of the Court to any other person.

#### **48. Temporary suspension of orders**

(1) Where on conviction of a person, the Justice of the Court below,

- (a) orders a reward to a person who appears to have been active in the apprehension of the convicted person;
- (b) makes an order awarding to a person aggrieved, a sum of money to be paid by the convicted person;
- (c) makes an order for payment of money by the convicted person or by any other person; or
- (d) makes an order affecting the rights or property of the convicted person,

the operation of the order shall be suspended when notice of appeal is given until the determination of the appeal against the conviction in relation to which the order was made or until abandonment of the appeal under subrule (1) of rule 44.

(2) The Court may by order annul an order to which subrule (1) refers on the determination of an appeal or may vary the order as it considers fit.

(3) Where on conviction of a person of an offence, a disqualification, forfeiture or disability attaches to that person because of the conviction, the disqualification, forfeiture or disability shall be suspended, until the determination of the appeal, and this rule shall not affect the operation of an enactment prohibiting the alienation or charging of a property or the making of a contract in respect of the property by the convicted person.

(4) Where on a conviction, a property, matter or thing which is the subject of the prosecution or connected with the prosecution, is ordered to be destroyed or forfeited under an enactment, the destruction or forfeiture shall be suspended when notice of appeal is given until the determination of the appeal by the Court.

(5) Where on conviction of a person of an offence, a claim may be made or proceedings may be taken under an enactment against that person or any other person in consequence of the conviction, the proceedings shall not be taken when notice of appeal is given until the determination of the appeal.

(6) A person affected by an order which is suspended under this rule may, with the leave of the Court, be heard on the final determination of the appeal before an order is varied or annulled by the Court.

#### **49. Records of summing up**

- (1) Where a trial is held with a jury or assessors and, by direction of the trial Justice,
- (a) a record is made by a mechanical or an electrical device of a summing up or direction of the Justice, the record shall be accepted by the Court as accurate unless the Court has reason to doubt its accuracy;
  - (b) a record of a summing up or direction is otherwise made, in long-hand or short-hand, the record shall be accepted by the Court as accurate, subject to the corrections which the trial Justice may certify ought to be made in order to render the record accurate.

(2) Where the trial Justice does not give directions for recording a summing up or direction, the statement of the Justice shall be accepted as accurate unless the Court sees reason to the contrary.

#### **50. Report of trial Court**

(1) The Registrar shall, in relation to an appeal, if directed by the Court, request the trial Justice of the Court below to furnish the Registrar with a report in writing, giving the Justice's opinion on an aspect of the trial in the Court below and the trial Justice shall furnish the report to the Registrar.

(2) The report of the trial Justice shall be made to the Court and the Registrar shall, on request, furnish the appellant and respondent with copies of the report.

#### **51. Furnishing trial Justice with material for report**

When the Registrar requests a trial Justice to furnish a report under these Rules, the Registrar shall send to the trial Justice a copy of the notice of appeal or any other document or information

- (a) which the Registrar considers material;
- (b) which the Court at any time directs the Registrar to send; or
- (c) which the trial Justice requests the Registrar to furnish to enable the trial Justice submit the report.

#### **52. Procedure where question of law reserved**

Where a Justice of a Court below reserves a question of law for the consideration of the Court, the person accused or convicted is, for the purposes of these Rules, an appellant.<sup>25</sup>

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25. Amended by C.I. 25 by the insertion of "accused or".

**53. Appellant and surety's recognisance**

(1) Where the Court or the Court below grants bail to an appellant pending the determination of the appeal, the Court shall specify the amounts in which the appellant or the surety shall be bound by recognisance, and may direct the person before whom the recognisance of the appellant or the surety or both may be taken.

(2) Where the Court does not make an order or give a direction under subrule (1), the recognisances may be taken before the Registrar of the Court below.

(3) The recognisance provided for in this rule shall be in the Forms 13 and 14 set out in Part Two of the Schedule.

(4) The Registrar of the Court below shall forward the drawn up recognisances of bail of the appellant and the surety to the Registrar.

(5) An appellant who is granted bail shall be present in person at each hearing of the appeal and at the final determination of the appeal.

(6) Where the appellant is absent from a hearing of the appeal, the Court may decline to consider the appeal, and may proceed summarily to dismiss the appeal, and issue a warrant in the Form 15 set out in Part Two of the Schedule for the arrest of the appellant, but the Court may consider the appeal in the absence of the appellant or make an appropriate order.

(7) Where the appellant is present at the hearing of the appeal, the Court may make an order admitting the appellant to bail, revoke or vary an order previously made, enlarge the recognisance of the appellant or of the sureties, or substitute any other surety for a surety previously bound, as the Court considers right.

(8) Where the appellant has been released on bail by the Court or the Court below, the Court or the Court below may revoke the order admitting the appellant to bail, and issue a warrant in the Form 15 set out in Part Two of the Schedule for the arrest of the appellant for committal to prison.

**54. Notification of final determination of appeals**

(1) On the final determination of an appeal or of an application to the Court, the Registrar shall give notice of the determination in the Forms 16, 17, and 18 set out in Part Two of the Schedule, to the appellant and if the appellant is in custody, to the respondent and to the prison authority.

(2) In an appeal that relates to conviction involving sentence of death, the Registrar shall, on receipt of the notice of appeal, send copies of the notice of appeal to the Minister responsible for Justice, and to the prison authority, and on the final determination of the appeal, the Registrar shall notify the appellant, the Minister responsible for Justice, the respondent and the prison authority of the determination.

**55. Notification of result of appeal**

(1) The Registrar shall, on the final determination of an appeal, notify the Registrar of the Court below in the Form 19 set out in Part Two of the Schedule, of the decision of the Court and also of any orders or directions made or given by the Court.

(2) The Registrar of the Court below shall, on receipt of the notification referred to in subrule (1), enter the particulars in the records of the Court.

**56. Enforcement of orders**

An order given or made by the Court may be enforced by the Court or by the Court below as may be most expedient.

**57. Restriction on issue of certificate on conviction**

Where a notice of appeal is given by a person convicted in the Court below, the Registrar of the Court below shall not issue a certificate to that person until after the determination or abandonment of the appeal.

**58. Return of original deposition, exhibits**

The Registrar shall, where practicable, on the final determination of an appeal, return to the Registrar of the Court below the original depositions, exhibits, or any other documents or things usually kept by the Registrar of the Court below or which form part of the record of the Court below.

**59. Attendance of witness before the Court**

(1) Where the Court orders a witness to attend and be examined before it, an order in the Form 20 set out in Part Two of the Schedule shall be served on that witness specifying the time and place to attend.

(2) The order may be made at any time on the application of the appellant or respondent, but if the appellant is in custody and not legally represented the application shall be made by the appellant in the Form 21 set out in Part Two of the Schedule.

**59A. Adaptation of forms in Part Two of Schedule**

Where a person appeals to the Court against a judgment, decree or an order of a Court not being a conviction or sentence, the forms for criminal appeals in respect of conviction and sentence provided in Part Two of the Schedule shall be used with the adaptations and modifications that are necessary for the purposes of the appeal.<sup>26</sup>

**60. Examination of witness other than before the Court**

(1) Where the Court orders the examination of a witness to be conducted otherwise than before the Court, the order shall specify the person appointed as examiner, the place of taking the examination and the witness to be examined.

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26. Inserted by C.I. 25.

(2) The Registrar shall furnish the examiner with the documents, the exhibits and any other materials relating to the appeal as and when requested to do so.

(3) The documents and exhibits and any other materials shall, after the conclusion of the examination, be returned by the examiner, together with the depositions taken by the examiner under this rule to the Registrar.

(4) Where the examiner has appointed the day and time for the examination, the examiner shall request the Registrar to notify the appellant or respondent and their counsel and if the appellant is in prison, the prison authority.

(5) The Registrar shall serve on each witness to be examined a notice in the Form 22 set out in Part Two of the Schedule.

(6) A witness examined before an examiner under this rule shall give the evidence on oath or by affirmation to be administered by the examiner.

(7) The examination of a witness shall be taken in the form of a deposition and unless otherwise ordered by the examiner, shall be taken in public, and the caption in the Form 23 set out in Part Two of the Schedule shall be attached to the deposition.

(8) Where a witness receives an order or notice to attend before the Court or an examiner, the Registrar shall pay to the witness the appropriate sum of money for expenses.

(9) The appellant, the respondent and their counsel are entitled to be present at the examination and may examine and cross-examine a witness who appears before the examiner.

## PART FOUR

### *Miscellaneous Provisions*

#### **61. Vacation of the Court**

The following periods shall be observed in the Court as vacations:

- (a) the period commencing on the Tuesday immediately following Easter Monday in each year and ending on the Friday immediately following;
- (b) the period commencing on the 1st day of August in each year and ending on the last day of September in that year; and
- (c) the period commencing on the 24th day of December, in each year and ending on the 6th day of January in the year immediately following.

#### **62. Proceedings on reference**

Where an order of reference is made by the Court to a special commissioner, the Court shall specify in the order,

- (a) the question being referred;
- (b) the person to whom, as special commissioner, the question is referred;

- (c) whether the appellant or respondent or any other person on their behalf may be present at an examination or investigation or at any stage of the examination as may be ordered; and
  - (d) which powers of the Court are delegated to the special commissioner.
- (2) The Court may require the special commissioner
- (a) to make interim reports to the Court on the question referred;
  - (b) to permit an appellant in custody to be present at any stage of the examination or investigation and give the necessary direction to the prison authority;
  - (c) to give directions to the Registrar that copies of a report made by the special commissioner shall be furnished to the appellant and the respondent.

### 63. Waiver of non-compliance rules

Where a party to the proceedings before the Court fails to comply with these Rules or with the terms of an order or the directions given or with a rule of practice or procedure directed or determined by the Court, the failure to comply is a bar to the further prosecution of proceedings unless the Court considers that the non-compliance should be waived.

### 64. Costs of appeal

The award of costs on the determination of a matter is at the discretion of the Court.

### 65. Waiver of *Gazette* notification

The Chief Justice may in writing signed by the Chief Justice, on written representation made to the Chief Justice, waive *Gazette* notification and direct a case to be heard as soon as practicable where delay in the hearing of the case may cause miscarriage of justice to any of the parties.

### 66. Pronouncement of judgment of the Court

(1) At the conclusion of a matter before the Court, each Justice is at liberty to express an opinion on the matter.

(2) The judgment, order or decree of the Court shall be pronounced by the presiding Justice or any other Justice of the Court hearing the matter as the presiding Justice may direct.

(3) The opinion of each Justice of the Court shall be handed over to the Registrar and copies shall be given to the parties or their counsel immediately on the delivery of the judgment.

### 67. Interpretation

In these Rules, unless the context otherwise requires,

“**appellant**” means the party appealing from a judgment, an order or a decree of a court below and counsel for that party;

“**Court**” means the Court of Appeal;

“**court**” means a court of competent jurisdiction;



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

“**Justice**” includes the chairman of a Regional Tribunal and the presiding officer of a court from which an appeal is brought;

“**notice of appeal**” means notice of appeal that starts the processes of an appeal before the Court;

“**party**” includes a party to the appeal and counsel for that party;

“**record**” includes the aggregate of papers relating to an appeal, the pleadings, proceedings, evidence and judgment to be laid before the Court on the hearing of the appeal;

“**Registrar**” includes the Judicial Secretary, the Deputy Judicial Secretary and the Registrar of the Court;

“**respondent**” means,

- (a) in a civil appeal, a party other than the appellant directly affected by the appeal;
- (b) in a criminal appeal, the Republic or the person who undertakes the defence of the judgment appealed against; or
- (c) counsel for a party mentioned in (a) and (b).

## 68. Revocation

*Omitted.*<sup>27</sup>

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### SCHEDULE

#### PART ONE

#### *Civil Forms*

#### CIVIL FORM 1

#### IN THE COURT OF APPEAL

#### *Notice of Appeal*

[Rule 8 (3)]

Between ..... Plaintiff

and

..... Defendant

1. TAKE NOTICE that the plaintiff/defendant who is dissatisfied with the decision/that part of the decision/ more particularly stated in paragraph 2 of the ..... Court

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27. Rule 68 revoked the Court of Appeal Rules, 1962 (L.I. 218); the Court of Appeal (Legal Vacation) (Amendment) Rules, 1967 (L.I. 547); the Court of Appeal (Amendment) Rules, 1969 (L.I. 618); the Court of Appeal (Amendment) Rules, 1975 (L.I. 1002); the Court of Appeal (Amendment) Rules, 1977 (L.I. 1128).

CIVIL FORM 1—continued

contained in the judgment/order of ..... dated the day of ..... appeals to the Court of Appeal on 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 for service within the jurisdiction<sup>28</sup> of the persons directly affected by the appeal are those set out in paragraph 5.

2. Part of decision of the lower court complained of .....

3. Grounds of appeal

- (1)
- (2)
- (3)

4. Relief sought from the Court of Appeal.

5. Persons directly affected by the appeal.

Name	Address
(1)	
(2)	
(3)	

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

.....

*Appellant*

- (1) Strike out words inapplicable.
- (2) If appealing against the whole decision, insert "whole decision."

CIVIL FORM 2

IN THE COURT OF APPEAL

*Summons to Parties by Registrar to Settle Record*  
[Rule 11 (1)]

Between ..... Appellant

and

..... Respondent

TAKE NOTICE that the parties concerned are required to attend before me at the Court Office at ..... on the ..... day of ..... at ..... o'clock in the forenoon to settle the record of appeal.

28. Inserted by C.I. 21.

CIVIL FORM 2—continued

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

Registrar

To:

CIVIL FORM 3

IN THE COURT OF APPEAL

Bond for Costs on Appeal

[Rule 12]

Be informed, that we ..... of ..... and ..... of ..... are jointly and severally responsible and have a duty to ..... in the sum of ..... cedis to be paid to the said ..... which payment we bind ourselves and each of us for himself. Accordingly our heirs, executors and administrators, are hereby informed and sealed with our seals.

Dated this ..... day of ....., in the year .....

Whereas a suit is now pending in the Court at ..... in which the person bound above is plaintiff and ..... is defendant ;

And whereas a judgment was given by the Court ..... on the ..... day of ..... for the said ..... and the said has filed Notice of Appeal against that judgment;

And whereas it is provided by law that the party appealing shall give surety to the satisfaction of the Registrar of the Court below for the 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 ..... have agreed to enter into this obligation for the purpose state:.

Now the condition of this obligation is that if ..... prosecutes the appeal and if the persons bound above ..... or any or either of them pays any costs which may be ordered to be paid by the appellant, this obligation shall be void, but shall otherwise remain in force.

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

CIVIL FORM 4

IN THE COURT OF APPEAL

*Certificate of Service of Notice of Appeal*

[Rule 10]<sup>29</sup>

Between ..... Appellant(s)

and

..... Respondent(s)

TO: THE REGISTRAR OF THE COURT OF APPEAL

I, the undersigned Registrar of the Court do certify that notice of appeal in the case named above was duly served on the respondent.

Dated at ..... this....., day of ....., 20 .....

.....

*Registrar Court below*

CIVIL FORM 5

IN THE COURT OF APPEAL

*Certificate of Registrar that Conditions of Appeal have been fulfilled*

[Rule 14 (1) (b)]

Between ..... Appellant

and ..... Respondent

TO: THE REGISTRAR OF THE COURT OF APPEAL

I, the undersigned Registrar of the Court certify that the appellant named above has complied punctually with the conditions of appeal imposed on the appellant in the case named above.

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

.....

*Registrar*

29. Amended by C.I. 21 by substituting "10" for "14 (2)".

CIVIL FORM 6  
IN THE COURT OF APPEAL  
Notice to Parties of Dispatch of Record  
[Rule 14 (2)]<sup>30</sup>

Between ..... Appellant  
and  
..... Respondent

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

.....  
Registrar

CIVIL FORM 7  
IN THE COURT OF APPEAL

Notice by Respondent of Intention to Contend that Decision of Court below be Varied  
[Rule 15 (1)]

Civil Appeal No. ....

Between ..... Appellant  
and  
..... Respondent

TAKE NOTICE that on the hearing of the above appeal the respondent intends to contend that the decision of the Court below dated the ..... day of ..... shall be varied as follows:

(1)  
and TAKE NOTICE that the grounds on which the respondent intends to rely are as follows:

- (1)
- (2)
- (3)

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

.....  
Respondent

(1) State the variation which will be asked for.  
.....

30. Amended by C.I. 21 by substituting "14" for "20 (1)."

CIVIL FORM 8

IN THE COURT OF APPEAL

Notice by Respondent of Intention to Rely on Preliminary Objection

[Rule 16 (1)]

Civil Appeal No. ....

Between ..... Appellant  
and

..... Respondent

TAKE NOTICE that the respondent named above intends, at the hearing of this appeal, to rely on the following preliminary objection of which notice is given to you;

and TAKE NOTICE that the grounds of the objection are as follows:

- (1)
- (2)
- (3)

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

.....  
*Plaintiff/Defendant/Respondent*

TO: THE ABOVE-NAMED PLAINTIFF/DEFENDANT/APPELLANT, HIS SOLICITOR OR AGENT OF.....

CIVIL FORM 9  
IN THE COURT OF APPEAL  
*Notice of Withdrawal of Appeal*  
[Rule 17 (5)]

Civil Appeal No. ....

Between ..... Appellant(s)  
and

..... Respondent(s)

TO: THE REGISTRAR OF THE COURT OF APPEAL

AND TO:.....

TAKE NOTICE that the appellant(s) intend(s) and wholly withdraw(s) the/their appeal completely against (all) the respondent(s) in the appeal mentioned above.

Dated at ..... this..... day of ....., 20 .....

.....  
*Appellant(s)*

TO: THE REGISTRAR OF THE COURT OF APPEAL

AND TO

CIVIL FORM 10  
IN THE COURT OF APPEAL  
*Certificate by Registrar of Withdrawal of Appeal*  
[Rule 17 (5)]

Civil Appeal No. ....

Between ..... Appellant(s)  
and  
..... Respondent(s)

I CERTIFY that the appellant(s) in the above-mentioned appeal has/have on the ..... day of..... filed notice of withdrawal of this appeal.

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

.....  
*Registrar of Court*

CIVIL FORM 11  
IN THE COURT OF APPEAL

*Certificate as to Non-compliance with Conditions Imposed on a would-be Appellant*  
[Rule 18 (4)]

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

Pursuant to rule 18 (4) of the Court of Appeal Rules, 1997, I certify that the appellant(s) in the cause named above has/have not complied with the requirements of rules 11 (4) and 12.

Dated at ..... the....., day of ....., 20 .....

.....  
*Registrar of Court*

THE REGISTRAR OF THE COURT OF APPEAL  
.....

CIVIL FORM 12

IN THE COURT OF APPEAL

Form of Declaration that a Party does not wish to be Present or Represented  
at Hearing of Appeal

[Rule 22]

Between ..... Appellant  
and  
..... Respondent

I, ..... appellant/respondent declare that I do not wish to be present in person or by  
counsel on the hearing of the appeal mentioned above but desire to submit the following argu-  
ments for the consideration of the Court.

CIVIL FORM 13

IN THE COURT OF APPEAL

Notice of Taxation

[Rule 35 (5)]

Civil Appeal No. ....

Between ..... Appellant  
and  
..... Respondent

of .....  
of .....

TAKE NOTICE that the Bill of Costs of the ..... will be taxed  
on ..... the ..... day of ..... at the hour of ..... even  
if you are absent.

Dated at ..... this....., day of ....., 20 .....

.....  
Taxing Officer

TO: THE ABOVE-NAMED  
.....



Court of Appeal Rules, 1997

CIVIL FORM 14

IN THE COURT OF APPEAL

Bill of Costs

[Rule 35 (5)]

Civil Appeal No. ....

Title of Cause: .....

..... Appellant

..... Respondent

Bill of Costs of: .....

Date of judgment: .....

Date for appearance: .....

Date on which the cause was in the list: .....

<i>No. of Item</i>	<i>Particulars</i>	<i>Claimed</i>	<i>Allowed</i>

Taxed at ¢ .....

Allowed at ¢ .....

.....  
*Signature of Taxing Officer*

*Note*—Every Bill of Costs must be delivered in duplicate on this Form to the Registrar who will on request deliver one of the copies to the opposite party. Every payment included in the Bill including allowances to witnesses, must be proved either by receipts or by the verbal admission of the payee to the Registrar or by an affidavit or otherwise to the satisfaction of the Registrar.

CIVIL FORM 15

IN THE COURT OF APPEAL

Certificate of the Order of the Court

[Rule 37]

Appeal from the ..... of the ..... dated .....

the ..... day of .....

..... Motion.

Civil Appeal No. ....

CIVIL FORM 15—continued

Seal.....

..... Appellant

and

..... Respondent

This appeal coming on the hearing on the ..... day of .....  
before ..... in the presence of ..... for the appellant, and  
for the respondent.

I CERTIFY that an Order was made as follows:

GIVEN UNDER my hand and the Seal of the Court of Appeal this day of .....

.....  
*Registrar*

PART TWO

*Criminal Forms*

CRIMINAL FORM I

IN THE COURT OF APPEAL

*Notice of Appeal Against a Conviction*

[Rule 38]

THE REPUBLIC v. ....

TO: THE REGISTRAR OF THE .....

I, ..... having been convicted of the offence of (*Here state the offence e.g. stealing, murder, forgery, etc.*) and now a prisoner at .....  
or now living at (*where appellant is for any reason not in custody*) .....  
do give you Notice of Appeal against my conviction.

(*Here state as clearly as you are able the questions of law on which you desire to appeal.*)

.....  
(Signed for mark)

.....  
*Appellant*

.....  
*Signature and address of witness*

.....  
*Attesting mark*

PARTICULARS OF TRIAL AND CONVICTION  
(Fill in these particulars)

- 1. Date of trial .....
  - 2. In what court tried .....
  - 3. Sentence .....
  - 4. Whether above questions of law were raised at the trial .....
- N.B. The Court will consider your case and argument if put into writing by you or on your behalf, instead of your case and argument being presented orally. If you want to present your case and argument in writing, set out here as fully as you think correct your case and argument in support of your appeal.

CRIMINAL FORM 2

IN THE COURT OF APPEAL

*Appeal against Sentence*  
[Rule 38 (45)]

THE REPUBLIC v. ....

TO: THE REGISTRAR OF THE .....

I, ..... having been convicted of the offence of (*here state the offence e.g. stealing, murder, forgery, etc.*) and now living at (*where appellant for any reason not in custody*)

do give you notice that I want to appeal against the sentence of ..... passed on me for the offence on the following grounds: (*here set out the grounds on which you desire to question the sentence*).

.....  
*Signature and address of witness*

.....  
*Attesting mark*

.....  
*(Signed/or mark)*

.....  
*Appellant*

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

PARTICULARS OF TRIAL AND CONVICTION  
(Fill in these particulars)

- 1. Date when sentence was passed.....

CRIMINAL FORM 2—continued

2. In which court tried at.....

N.B. The Court will, if you want, consider your case and argument if put into writing by you or on your behalf instead of your case and argument being presented orally. If you want to present your case and arguments in writing set out here your case and argument in support of your appeal.

CRIMINAL FORM 3

IN THE COURT OF APPEAL

Notice of Application for Extension of the Time within which to Appeal [Rule 40]

THE REPUBLIC v. ....

TO: THE REGISTRAR OF THE .....

I, ..... having been convicted of the offence of (here state the offence e.g. stealing murder, forgery, etc.) in the ..... Court ..... held at ..... on the day of ..... and now a ..... prisoner at ..... (or now living at (where appellant for any reason not in custody) ..... give you notice that I apply to the Court for an extension of time within which I may give Notice of Appeal on the grounds following:

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

(Signed/or mark) Applicant

Signature and address of witness

Attesting mark

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

CRIMINAL FORM 4

IN THE COURT OF APPEAL

Notification to Appellant of a Single Justice's Decision

[Rule 43 (1)]

THE REPUBLIC v. ....

I hereby give you notice that a Judge of the Court of Appeal ..... has considered your application(s) for,

- (a) extension of time within which notice of appeal may be given;
- (b) admission to bail;
- (c) leave to withdraw abandonment of appeal and has refused the application(s) marked ..... and has granted your application(s) marked .....

If you desire to have the application(s) which has been refused, determined by the full Court, you are required to complete the enclosed form and return it to me.

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

(Signed) .....

Registrar, Court of Appeal

TO THE ABOVE-NAMED

PARTICULARS OF TRIAL AND CONVICTION

(Fill in all particulars)

1. Date of trial .....
2. In what court tried .....
3. Sentence .....

N.B. The Court will, if you want, consider your case and argument if put in writing by you or on your behalf instead of your case and argument being presented orally. If you wish to present your case and argument in writing, set out here as fully as you think right, your case and argument in support of your appeal. You are required to send to the Registrar of the Court of trial the certificate of the Judge who tried your case and this Notice.

CRIMINAL FORM 5

IN THE COURT OF APPEAL

Notice of Appeal by Appellant from Refusal of a Single Justice  
[Rule 43 (2) and (3)]

THE REPUBLIC v. ....

I, ..... having been convicted of .....  
in ..... the ..... Court ..... at ..... wish to  
appeal to the Court against my conviction (or the ..... sentence of  
passed on me on my conviction) give notice that I do/do not intend to prosecute my application(s)  
before the full Court.

.....  
(Signed/or mark)

.....  
*Signature and address of witness*  
.....

.....  
*Attesting mark*

Dated this ..... day of ....., 20 .....  
TO THE REGISTRAR OF THE COURT OF APPEAL

CRIMINAL FORM 6

IN THE COURT OF APPEAL

Notice by Appellant of Abandonment of Appeal  
[Rule 44 (1)]

THE REPUBLIC v. ....

I, ..... having been convicted of ..... in the  
court ..... at ..... and sentence of ..... passed  
on me on my conviction) give notice that I do not intend to prosecute my appeal further, and that I  
abandon all further proceedings in regard to the appeal from this date.

.....  
(Signed/or mark)

.....  
*Signature and address of witness*  
.....

.....  
*Attesting mark*

Dated this ..... day of ....., 20 .....  
TO THE REGISTRAR OF THE COURT OF APPEAL

CRIMINAL FORM 7

IN THE COURT OF APPEAL

Notification of Abandonment of Appeal

[Rule 44 (2) (a)]

THE REPUBLIC v. ....

..... (1)

TO: .....

This is to give you notice that I have this day received from ..... a notice of abandonment of all proceedings in regard to this appeal to the Court.

The notice is dated ..... day of .....

By rule 44 (1) of the Court of Appeal Rules, 1997 upon the notice of abandonment given the appeal shall be deemed to have been dismissed by the Court.

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

Registrar of the Court

- (1) Send copies addressed to,
  - (a) the Attorney-General or other respondent.
  - (b) the Prison authority; and
  - (c) the Registrar of the Court below.

CRIMINAL FORM 8

IN THE COURT OF APPEAL

Notice of Application for Leave to Withdraw Abandonment of Appeal

[Rule 45]

THE REPUBLIC v. ....

TO THE REGISTRAR, COURT OF APPEAL

I, ..... convicted of the offence of (*here state the offence, e.g. stealing, murder, forgery, etc.*) and now a prisoner at (or now ..... living at .....

And having duly sent a notice that I want to appeal to the Court of Appeal and having abandoned my appeal, give you notice, that I apply to the Court of Appeal for leave to withdraw my notice of abandonment, in the special circumstances following:

CRIMINAL FORM 8—continued

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

.....  
(Signed/or mark)

Applicant

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

N.B. Form 3 must be filled in and sent with this notice to the Registrar.

CRIMINAL FORM 9

IN THE COURT OF APPEAL

Recognisance of Appellant Sentenced to Payment of a Fine

[Rule 46 (4)]

THE REPUBLIC v. ....

Whereas ..... of .....  
was on the..... day of..... convicted of  
.....and was then sentenced to pay  
the sum of  $\phi$  ..... as a fine for his offence by the  
(here fill in the Court of trial) and has intimated to the Court that he desires to appeal against his  
conviction.

And whereas the Court considers that the appellant may in lieu of payment on his conviction of  
the sum, be ordered to enter into recognisance of bail himself in the sum of  $\phi$  .....  
..... and with sureties, each in the sum of  $\phi$  .... to prosecute his appeal before the  
Court.

..... hereby acknowledges that he owes the Republic the sum of  $\phi$  ..... to be  
made from a levy of his goods and possessions, lands and other property for the use of the Republic,  
if he ..... fails to comply in the condition endorsed.

Acknowledged this ..... day of ..... at the said Court, at and before the Justice of  
the said Court.

.....  
Signed

CONDITION

The condition of the recognisance is that if the said ..... of .....  
personally appears and is present himself before the Court at each hearing of his appeal to the  
Court and at the final determination of the appeal and prosecutes his appeal and abides by the  
judgment of the Court, and does not leave or is not absent from the Court, at any hearing without  
leave of the Court, and pays the sum of  $\phi$  ....., or whatever sum the Court or-  
ders then this recognisance shall be void, otherwise it shall be of full force and effect.



CRIMINAL FORM 10

IN THE COURT OF APPEAL

*Recognisance of Sureties for Appellant Sentenced to a Fine*

[Rule 46 (4)]

THE REPUBLIC v. ....

On the ..... day of ..... of ..... and ..... of ..... personally came before the (*here fill name of court of trial*) and severally acknowledged that they owe the Republic the following amounts in ..... the sum of ₦ ..... and the sum of ₦ ..... respectively to be paid by a levy of their goods and possessions, lands and other property to be used by the Republic if he and ..... now before the Court fail hereon to comply with the condition endorsed.

Taken and acknowledged before the Court on ..... day .....

.....  
(Signed)

CONDITION

The conditions of the Recognisance is that whereas the said ..... of ..... has been convicted of the offence of ..... and has been sentenced to pay a fine of ₦ ..... for his offence and has now intimated that he wants to appeal on a question of law alone (*or with the certificated of the Judge of this Court*) against the conviction and has in lieu of payment of the sum of ₦ ..... been ordered to enter into recognisance of bail himself in the sum of ₦ ..... and be with sureties in the sum of ₦ ..... and has been ordered to be present at the Court at each hearing of his appeal and at the final determination of the appeal and to prosecute his appeal and abide by the judgment of the Court, and not leave or be absent from the Court at any hearing without leave of the Court, and if he fails to comply with these conditions the recognisance shall be void, otherwise it shall be of full force and effect.

CRIMINAL FORM 11

*In the Court of his Recognisances to Appellant Sentenced to a Fine*

[Rule 46 (6)]

THE REPUBLIC v. ....

TO THE ABOVE-NAMED

WHEREAS you were convicted on the ..... day of ..... of the offence of ..... and were sentenced to the payment of ₦ ..... and in default of the payment to imprisonment, and you entered into recognisances in the sum of ₦ ..... ,with sureties in the sum of ₦ ..... each, to prosecute your appeal, and whereas ten days have elapsed since your conviction, and no notice of appeal has been served by you, I now give you notice that unless you attend at the sitting

CRIMINAL FORM 11—continued

of the Court to be held on ..... the ..... day of ..... and show good cause to the contrary, the Court may order or estreat your recognisances and those of your sureties, or may otherwise deal with you according to law.

.....  
(Signed)

Registrar of the Court of Appeal

CRIMINAL FORM 11A<sup>31</sup>

IN THE COURT OF APPEAL

*Certificate as to Non-compliance with Filing of Appellants(s) Written Submission*

[Rule 20 (2)]

Between ..... Appellant(s)

and

..... Respondent(s)

TO: .....

AND TO: THE APPELLANT(S) OR HIS COUNSEL  
THE RESPONDENT(S) OR HIS COUNSEL

Pursuant to rule 20 (2) of the Court of Appeal Rules, 1997 (C.I. 19), I certify that the appellant(s) in the above-mentioned appeal has/have not complied with the requirement of rule 20 (1) of C.I. 19.

Dated at ..... the ....., day of .....

.....  
Registrar

TO: .....

AND TO: THE APPELLANT(S) OR HIS COUNSEL  
THE RESPONDENT(S) OR HIS COUNSEL

31. Inserted by C.I. 25.

CRIMINAL FORM 12

IN THE COURT OF APPEAL

Notice to Surety for Appellant of Estreat of Recognisances

[Rule 16 (6)]

THE REPUBLIC v. ....

TO: .....  
(Here fill in surety's name and address)

of .....

WHEREAS you became bound in recognisances as surety, for ..... who has been convicted of ..... and for his offence has been fined the sum of ₡ ..... and whereas ..... should duly prosecute an appeal in relation to his conviction before the Court, and whereas ..... has not prosecuted his appeal, I now give you notice that at the sitting of the Court on ..... your recognisance may be ordered to be estreated, unless you at that time show good cause to the contrary.

.....

(Signed)

Registrar of the Court of Appeal

CRIMINAL FORM 13

IN THE COURT OF APPEAL

Recognisance of Bail of Appellant

[Rule 53 (3)]

THE REPUBLIC v. ....

WHEREAS ..... was convicted of ..... on the ..... day of ....., (and was sentenced to .....), and is now in lawful custody at ..... and has 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 entering into his own recognisances in the sum of ₡ ..... (with sureties each in the sum of ₡ .....).  
..... acknowledges that he owes the Republic the sum of ₡ ..... to be paid by a levy of his goods and possessions, lands and other property for use of the Republic if he fails to comply with the condition endorsed.

CRIMINAL FORM 13—continued

Taken and acknowledged this ..... day of .....  
(State Office) ..... at .....  
Before me .....

CONDITION

The condition of the Recognisance is that if ..... appears personally and surrenders himself before the Court at each and every hearing of his appeal and at the final determination of the appeal and abides by the judgment of the Court and does not leave or is not absent from Court at any hearing without the leave of the Court and does not leave his usual place of abode without the leave of the Court, this recognisance shall be void, otherwise it shall be of full force and effect.

The following to be completed by the appellant and signed by him.

When released on bail my residence to which any notices are to be addressed, will be as follows:

.....

(Signed)  
Appellant

CRIMINAL FORM 14

IN THE COURT OF APPEAL

Recognisance of Appellant's Sureties  
[Rule 53 (3)]

THE REPUBLIC v. ....

On this ..... day of .....  
of .....  
and ..... of .....  
came before me the undersigned being the ..... and severally acknowledged themselves to owe the Republic the several sums/the sum of ₦ ..... and the sum of ₦ ..... to be paid by a levy of their goods and possessions, lands and other property, for the use of the Republic, if ..... now in lawful custody at ....., fails to comply with the condition endorsed.

Taken and acknowledged before me the undersigned, the ..... day of .....

.....

(Signed)  
District Magistrate

CRIMINAL FORM 14—continued

CONDITION

The condition of the recognisance is that whereas ..... has been convicted of ..... and is now in such lawful custody (under a sentence of ..... for the offence,) has duly appealed to the Court against his conviction (and sentence) and has applied to the Court for bail, pending the determination of his appeal and has applied to the Court for entering into recognisances in the sum of ₦ ..... with sureties each in the sum of ₦ ..... if the ..... personally appears and ..... surrenders himself to the Court and at the final determination of the appeal, and abides by the judgment of the Court, and does not leave or is not absent from the Court at any hearing of the appeal without the leave of the Court, and does not leave his usual place of abode without the leave of the Court, this recognisance shall be void, otherwise it shall be of full force and effect.

CRIMINAL FORM 15

IN THE COURT OF APPEAL

Warrant for Arrest of Appellant on Bail  
[Rules 53 (6) and (8)]

THE REPUBLIC v. ....

TO THE ..... OFFICERS OF THE POLICE SERVICE  
(or as the case may be),

AND TO THE (state office) OF PRISON .....

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

You police officers (or as the case may be) are to apprehend and to bring him to the .....  
.....  
(State Office) of the prison and deliver him with this warrant of arrest into the custody of ..... and you ..... are required to receive ..... into your custody ..... in prison and keep him safely there until the further order of the Court.

.....  
Presiding Justice

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

CRIMINAL FORM 16

IN THE COURT OF APPEAL

Notification to Appellant of Result of Application

[Rule 54 (1)]

THE REPUBLIC 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 extend the time within which to give notice of appeal;
- (b) admission to bail;
- (c) leave to withdraw abandonment of appeal;

and has finally determined the application and has given judgment to the following effect.

.....  
*Registrar of the Court of Appeal*

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

CRIMINAL FORM 17

IN THE COURT OF APPEAL

Notice to Authorities of Result of Application

[Rule 54 (1)]

THE REPUBLIC v. ....

TO: ..... (1)

This is to give you notice that the appellant mentioned above has applied for,

- (a) leave to extend the time within which you have given notice of appeal;
- (b) admission to bail;
- (c) leave to withdraw abandonment of appeal;

and the Court has today finally determined the application and has given judgment to the following effect.

.....  
*Registrar of the Court of Appeal*

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

- (1) Send copies addressed to
  - (a) the Attorney-General or other respondent;
  - (b) the Prison Authority;
  - (c) the Registrar of the Court.

CRIMINAL FORM 18

IN THE COURT OF APPEAL

Notification to Appellant of the Result of his Appeal

[Rule 54 (1)]

THE REPUBLIC v. ....

TO THE ABOVE-NAMED APPELLANT

This is to give you Notice that the Court has considered the matter of your appeal and has finally determined the appeal and given judgment to the following effect:

.....  
Registrar of the Court of Appeal

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

CRIMINAL FORM 19

IN THE COURT OF APPEAL

Notice to Registrar of Court below of the Result of the Appeal

[Rule 55 (1)]

THE REPUBLIC v. ....

TO ..... (1)

This is to give you notice that the appellant named above has appealed against his conviction of the offence of ..... before the ..... Court, and appealed against the sentence of ..... passed on him for ..... the offence of ..... by the Court, and that the Court has finally determined the appeal, and has today given judgment to the following effect.

.....  
Registrar of the Court

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

- (1) Send copies addressed to:
  - (a) the Attorney-General or other respondent;
  - (b) the Prison authority;
  - (c) the Registrar of the Court below.

CRIMINAL FORM 20

IN THE COURT OF APPEAL

Order to Witness to Attend Court for Examination

[Rule 59 (1)]

THE REPUBLIC v. ....

Name 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 the Court on the appeal of the appellant named above.

This is to give notice to attend before the Court at ..... on the day of ..... You are also required to have with you at that time and place any books, papers or other things relating to the appeal which you may have had notice to produce.

.....  
Registrar of the Court

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

CRIMINAL FORM 21

IN THE COURT OF APPEAL

Appellant's Application for Further Witnesses

[Rule 59 (2)]

THE REPUBLIC v. ....

I, ..... having appealed to the Court, request you to take notice that I want the Court to order the witnesses specified to attend the Court and be examined on my behalf.

.....  
(Signed/or mark)  
Appellant

.....  
Signature and address of witness

.....  
Attesting mark

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

You are required to complete the following and sign:

1. Names and addresses of witnesses.
2. Whether the witnesses were examined at trial.
3. If not, state the reason why they were not examined.



Court of Appeal Rules, 1997

CRIMINAL FORM 21—continued

4. On what matters do you wish them to be examined on appeal? State shortly the evidence you think they can give.

CRIMINAL FORM 22

IN THE COURT OF APPEAL

Notice to Witness to Attend before an Examiner

[Rule 60 (5)]

THE REPUBLIC v. ....

TO: (NAME OF WITNESS(ES)) .....

of .....

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

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

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

Registrar of the Court

Dated the ..... day of ....., 20 .....

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

CRIMINAL FORM 23

IN THE COURT OF APPEAL

Caption for Deposition of Witness Examined before Examiner

[Rule 60 (7)]

THE REPUBLIC v. ....

The deposition (on oath) taken before me the undersigned ..... being an examiner duly appointed by the Court of .....

CRIMINAL FORM 23—continued

..... and ..... of .....

(name of witness, witnesses) examined before me under an order of the ..... Court on the day of ..... in the presence of appellant (or his counsel) and the respondent (or his counsel) at ..... on the ..... day of ..... and the appellant (or his counsel) and respondent (or his counsel) had full opportunity to ask the witnesses questions and these ..... depositions were read by me before being signed by them.

The deposition of ..... of ..... who (on oath administered by me) said as follows:

\_\_\_\_\_