

Court of Appeal

COURT OF APPEAL RULES

1969-28

**Subsidiary
1970-08**

Regulations made under s.8.

COURT OF APPEAL RULES*

Revoked by LN. 2004/034 as from 15.4.2004

(Ord. 1970-08)

11.8.1969

Amending enactments	Relevant current provisions	Commencement date
Amended by LNs. 1976/023	r.13(1)	
1983/083	rr.8(1) and 33(4)	
1984/017	r.17(6) and (6A)	25.1.1984
1985/030	r.56(1) and (1A)	22.2.1985
1989/003	rr.8(1), 26, 30 and 59(3)	12.1.1989
1989/017	Sch. 2	1.3.1989
1991/128	rr.8, 12, 38(4), 48(1), (2), (3), (4), (5) and (6), 48A, 52(1), (2) and (3), 73, Sch. 1 and Sch. 2	18.7.1991
1993/073	Sch. 2	1.6.1993
1995/025	rr.12, 13 and Sch. 2	6.3.1995

* *Originally the Gibraltar Court of Appeal (Practice and Procedure) Ordinance (1970-08). Incorporated with the Court of Appeal Ordinance in 1984.*

ARRANGEMENT OF RULES.

**PART I.
GENERAL.**

Rule

1. Title.
2. Interpretation.
3. Procedure and practice.
4. Notice of sittings and business.
5. Registrar.
6. Process of the court and service.
7. Form of proceedings.
8. Time.
9. Late filing.
10. Adjournment.
11. Amendment.
12. Fees.
13. Costs.
14. Right of audience.
15. Notice dispensed with.
16. Applications to Supreme Court first.
17. Form of applications.

**PART II.
PROCEEDINGS IN SUPREME COURT.**

18. Procedure in Supreme Court.
19. Form of decree or order.
20. Leave to appeal (criminal).
21. Leave to appeal (civil).

**PART III.
FIRST APPEALS IN CRIMINAL MATTERS.**

22. Application.
23. Matters not provided for.
24. Signature of proceedings.
25. Stay of execution.
26. Leave to appeal.
27. Notice of appeal.
28. Grounds of decision.
29. Summing-up.
30. Short transcript of record.
31. Memorandum of appeal.

COURT OF APPEAL RULES**Subsidiary
1970-08**

- 32. Procedure where appellant in prison.
- 33. Filing of record in court.
- 34. Notice and time of hearing.
- 35. Withdrawal of appeal.
- 36. Appearance at hearing.
- 37. Irregularities.
- 38. Judgment.
- 39. Order of the court.
- 40. Notifying decision.
- 41. Fees.

PART IV.**SECOND APPEALS IN CRIMINAL MATTERS.**

- 42. Application.
- 43. Application of Part III.
- 44. Fees.

PART V.**FIRST APPEALS IN CIVIL MATTERS.**

- 45. Application.
- 46. Matters not provided for.
- 47. Appeal not to operate as stay of execution.
- 48. Notice of appeal.
- 48A. Application for transcript or copy.
- 49. Certificate of grounds of judgment.
- 50. Decree or order.
- 51. Addresses for service.
- 52. Lodging appeal.
- 53. Default in lodging appeal.
- 54. Additional security.
- 55. Entry of appeal.
- 56. Record of appeal.
- 57. Supplementary record.
- 58. Costs of record.
- 59. Notice of cross-appeal.
- 60. Withdrawal of appeal.
- 61. Appeal by respondent where appeal withdrawn.
- 62. Failure to file record.
- 63. Fees and security for costs.
- 64. Preliminary objection.
- 65. Additional parties.
- 66. Amendment and default.
- 67. Parties not appearing.
- 68. Hearing of appeals.
- 69. Costs.
- 70. New trial.

1969-28

Court of Appeal

**Subsidiary
1970-08**

COURT OF APPEAL RULES

- 71. Immaterial errors.
- 72. Interlocutory order not to prejudice appeal.
- 73. Pronouncement of judgment.
- 74. Interest and security for costs.
- 75. Order.

PART VI.

SECOND APPEALS IN CIVIL MATTERS.

- 76. Application.
- 77. Application of Part V.
- 78. Fees and costs.

PART VII.

APPEALS TO HER MAJESTY IN COUNCIL.

- 79. Appeal to Her Majesty in Council.
- 80. Form of application.
- 81. Fees and costs.

SCHEDULE 1.

Forms.

SCHEDULE 2.

Fees.

Court of Appeal

COURT OF APPEAL RULES

1969-28

**Subsidiary
1970-08**

PART I.—GENERAL.

Title.

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

Interpretation.

2. In these Rules, unless the context otherwise requires,—

“advocate” means a person who is enrolled as a barrister or solicitor in Gibraltar;

“court” means the Court of Appeal;

“President”, in relation to the hearing of any appeal or to delivery of judgment thereon, includes the senior judge of the court as constituted for that appeal.

Procedure and practice.

3. (1) The procedure and practice of the court shall be as prescribed in these rules.

(2) In any case not provided for by these rules the court or a judge may on application or informally give directions as to the procedure to be adopted.

Notice of sittings and business.

4. The sittings of the court and the matters to be disposed of at such sittings shall be advertised and notified in such manner as the President may direct.

Registrar.

5. (1) The Registrar shall have the same jurisdiction, powers and duties as the masters of the Supreme Court in England and in addition such further jurisdiction, powers and duties as the President may direct.

(2) Any person aggrieved by any decision of the Registrar may within seven days by notice in writing require that the matter be referred to a judge for his decision and the judge may make such order thereon as the justice of the case may require:

COURT OF APPEAL RULES

Provided that if such decision of the Registrar has been made in his capacity as taxing officer no such reference shall be made on any question of quantum only, but any question of principle may be so referred.

Process of the court and service.

6.(1) All summonses, warrants, orders, rules, notices and mandatory processes whatsoever of the court may be signed by any judge or by the Registrar and shall be sealed with the seal of the court. Every order of the court shall be dated as of the date on which the judgment was given or order made and shall in addition show the date on which the order was extracted.

(2) Process of the court may be served in such manner as the court or a judge may direct. Service shall ordinarily be personal, but where a party to any proceeding has given an address for service, service may be effected by delivery at that address. The court or a judge may order substituted service of any process and may order that service be deemed to have been effected at any time and in any manner.

(3) Subject to subrule (2), and unless the court or a judge shall otherwise order, service of any process shall be effected in such manner as would be appropriate if it were process of the Supreme Court.

(4) The court or a judge may order that process of the court be served out of the jurisdiction, or that notice thereof be served in lieu in like manner.

(5) Proof of service may be given where necessary by affidavit, unless in any case the court shall require proof by oral evidence.

(6) If the person to be served is in prison, service may be effected by transmitting the document to the officer-in-charge of the prison for delivery to the prisoner, and service on the prisoner may be proved by a letter purporting to be signed by the officer-in-charge of the prison and certifying that the document was delivered to the prisoner on a specified date.

(7) Where by these rules a party is required to serve any document on another party within a limited time, and by virtue of this rule or any other written law or order of a court such document is required to be served by or through a process-server or other officer of any court, the party shall be deemed to have served the document in due time if within the time limited for service he files the same in the appropriate court together with any necessary copies and requisition for service and pays all fees and charges payable in respect thereof:

Provided that, if the party is required to assist the officer by identifying the person to be served or otherwise, he shall do so with all due diligence and in default of so doing shall be deemed to have failed to serve the other party in due time.

Form of proceedings.

7.(1) All proceedings in the court shall be on foolscap paper of good quality, unless the nature of the document renders it impracticable, and shall be clear and easily legible and may be printed, mimeographed, typewritten, written or reproduced in photostat, carbon or in any combination of those media. Only one side of the paper shall be used and a margin of not less than two inches shall be left on the left-hand side of each sheet to permit of binding in book form.

(2) A record of appeal shall be bound in book form with a limp cover of stout paper, and may, if long, be in more volumes than one. The title of the appeal shall appear on the outside of the binding.

(3) A record of appeal shall be paged continuously throughout, but in criminal cases the pages comprising the memorandum of appeal may for this purpose be disregarded.

(4) In civil cases the tenth, twentieth and thirtieth lines on each page of the record shall be indicated in the margin.

Time.

8.(1) The court or a judge may extend the time for making any application, including an application for leave to appeal, or for bringing any appeal, or for taking any step in or in conjunction with any appeal, notwithstanding that the time limited therefor may have expired, and whether the time limited for such purpose was so limited by order of the court or by these rules or by order of the Supreme Court .

(2) In any order extending the time for doing any act the court or judge shall specify the time within which such act shall be done.

Late filing.

9.(1) The Registrar or the Registrar of the Supreme Court shall not refuse to accept for filing or entry any appeal or proceeding in or relating to the court on the ground that it is delivered to him out of time, but shall file or enter the same without prejudice to the rights of any respondent:

Provided that if notice of appeal is given out of time in a criminal cause or matter no record of appeal shall be prepared unless the court or a judge shall so direct.

(2) Where any document or proceeding is filed out of time the Registrar shall inform a judge, who may give any directions in respect thereof.

**Subsidiary
1970-08**

Adjournment.

10. The court shall have power to adjourn any proceedings pending before it from time to time.

Amendment.

11. (1) The court shall have power to allow amendment of any proceedings in the court, and of any proceedings in the Supreme Court preparatory or incidental to, or consequential upon, proceedings in the court.

(2) The court may of its own motion or on application correct any slip or accidental error arising in its proceedings, so as to give effect to the manifest intention of the court, notwithstanding that the proceedings have terminated and the court is otherwise functus officio in respect thereof.

Fees.

12. Subject to rule 41, the fees set out in Schedule 2 shall be payable in respect of proceedings in and in relation to the court:

Provided that—

- (a) no such fees shall be payable by the Crown; and
- (b) the court or a judge may reduce or remit any such fee if it appears that the payment of such fee would cause undue hardship.

Costs.

13. (1) The costs of any proceedings in the court, unless assessed by the court, shall be taxed in accordance with the practice and scales applicable to the Supreme Court... .

(2) For purposes of execution in respect of costs the order of the court directing taxation and the certificate or allocatur of the taxing officer as to the result of such taxation shall together be deemed to be a decree.

(3) If in any civil appeal the services of any interpreter other than a regularly employed court interpreter are required the court may direct that the expenses and fees of such interpreter shall be borne by any party and the same may be assessed or taxed accordingly.

Right of audience.

COURT OF APPEAL RULES**Subsidiary
1970-08**

14. (1) In all proceedings in the court a party may appear in person or by any counsel who is entitled for the time being to practise before the Supreme Court.

(2) A corporation may appear by counsel or by a director or other senior officer or the secretary thereof.

(3) A person under disability may appear by counsel or by his committee, next friend or guardian ad litem in person as the case may be. Where any person has acted as next friend or guardian ad litem in the court below for a person under disability and such person under disability becomes respondent in an appeal to the court the next friend or guardian ad litem shall, if he desires to act as guardian ad litem in the appeal, file a consent to act as such and shall thereupon be deemed to have been duly appointed. In all other cases the court or a judge may appoint a guardian ad litem for the purposes of an appeal. The court may remove and replace any guardian ad litem.

Notice dispensed with.

15. It shall not be necessary to serve notice of hearing on any person who has lodged a statement of his case under rule 36(1) or who has signified that he does not intend to appear at the hearing under rule 67 (1) or (3), but the court may in its discretion permit any such person to appear at the hearing in person or by advocate.

Applications to Supreme Court first.

16. Whenever application may be made to the Court of Appeal or to the Supreme Court it shall be made in the first instance to the Supreme Court.

Form of applications.

17. (1) An application to the court not involving the decision of an appeal shall, unless made informally in the course of the hearing of an appeal, be made in the first place to a single judge.

(2) Applications to a judge shall be made by motion, which shall state the grounds of the application, and shall if necessary be supported by affidavit. The proceedings and other documents relating thereto shall be filed in duplicate.

(3) Notice of motion and copies of any affidavits shall be served on all necessary parties not less than two clear days before the hearing:

Provided that in case of urgency application may be made ex parte and without notice, but in any such case a certificate of urgency signed by the

COURT OF APPEAL RULES

solicitor for the applicant, or, if none, by the Registrar, shall be filed with the proceedings.

(4) Applications shall be heard in court or in chambers as the judge may direct.

(5) Any application made to a single judge may be adjourned by him for the consideration of the court. In such event the applicant shall before the date of the adjourned hearing file two extra copies of the proceedings, including copies of any affidavits filed by any respondent prior to such order for adjournment, for the use of the other judges of the court.

(6) Where a person aggrieved by a decision of a single judge desires—

(a) under section 9 of the Ordinance, to have the order made by the judge discharged or varied by the court; or

(b) under section 16 of the Ordinance, to have the application determined by the court,

he shall give notice of such desire informally to the judge at the time when the decision is given or by writing to the Registrar within seven days thereafter.

(6A) A person who has given notice under subrule (6) shall, within fourteen days thereafter, file two extra copies of the proceedings, including any affidavits filed by any other party prior to the giving of notice, and two copies of the notice, if it was in writing, for the use of the court.

(7) An application involving the decision of an appeal shall be made to the full court in like manner, but the proceedings shall be filed in quadruplicate and the application shall be heard in court unless the President shall otherwise direct.

(8) Every order made on an application, other than an order for adjournment or an order made without formal application in the course of the hearing of an appeal, shall be drawn up and filed with the proceedings at the instance of the party having the carriage of the order.

(9) (a) If an appeal is pending, any application made in connection therewith shall be intitled in the appeal.

(b) If no appeal is pending, an application shall be intitled as a criminal or civil application and in the matter of the intended appeal or otherwise as may be appropriate.

(c) For the purpose of this rule an appeal shall not be deemed to be pending until it has been duly entered in the register of the court.

(10) A notice of motion shall be substantially as in Form A in Schedule I and the relative motion paper shall be in similar form.

PART II.
PROCEEDINGS IN SUPREME COURT.

Procedure in Supreme Court.

18. In all proceedings preparatory or incidental to, or consequential upon, appeals to the court which arise or take place in the Supreme Court the practice and procedure shall be as prescribed by these rules, notwithstanding any written law or rule of practice to the contrary which would otherwise govern such proceedings.

Form of decree or order.

19. For the purposes of an appeal to the court against any decree or order it shall not be necessary that the amount of any costs ordered to be paid by the judgment or decision which is to be embodied in such decree or order shall be stated therein, and such decree or order shall be deemed to be duly drawn up and extracted if in addition to other matters required to be embodied therein it sets out the order or orders for taxation but not the results of such taxation.

Leave to appeal (criminal).

20. (1) This rule shall apply to criminal causes and matters only.

(2) A certificate that a case is fit for appeal on any ground of appeal which involves a question of fact alone or a question of mixed law and fact, may be given by the Supreme Court at any time ex parte and without formal application, but the granting or refusal of such leave or certificate shall be evidenced by the signature of the trial judge or of the Registrar of the Supreme Court.

Leave to appeal (civil).

21. (1) This rule shall apply to civil causes and matters only.

(2) Leave to appeal to the court may be granted or refused by the Supreme Court without formal application at the time when the decision is given, and in such event the decree or order shall record that leave has been granted or refused accordingly.

(3) In all other cases application to the Supreme Court for leave to appeal to the court shall be by motion or summons, which shall state the

COURT OF APPEAL RULES

grounds of the application, and shall if necessary be supported by affidavit. Such application shall be made not more than fourteen days after the judgment or decision complained of and shall be intitled and filed in the proceedings from which it is intended to appeal, and all necessary parties shall be served. If leave is granted, the order giving leave shall be included in the record of appeal. If leave is refused, the order refusing leave shall be produced on any application for leave to appeal made subsequently to the court.

PART III.**FIRST APPEALS IN CRIMINAL MATTERS.****Application.**

22. This Part shall apply only to appeals from the Supreme Court acting in its original jurisdiction in criminal cases and to matters related thereto.

Matters not provided for.

23. In any case not provided for by this Part the practice and procedure for the time being of the Criminal Division of the Court of Appeal in England shall be followed as nearly as may be.

Signature of proceedings.

24. If the appellant is alleged to be of unsound mind any notice or proceeding may be signed on his behalf by a solicitor or by any person, including a medical officer or prison officer, in whose care he may be for the time being.

Stay of execution.

25. Where a stay of execution is granted, the court or a judge may impose such terms as to security for the payment of any money or the performance or non-performance of any act as to such court or judge appears reasonable.

Leave to appeal.

26. An application to the court for leave to appeal—

- (a) may be made informally at the time when the decision is given against which it is desired to appeal; or
- (b) shall be made in accordance with rule 17 within ten days of the giving of such decision.

Notice to appeal.

Court of Appeal

COURT OF APPEAL RULES

1969-28

Subsidiary
1970-08

27. (1) Every appeal shall be brought by notice in writing which shall be lodged in duplicate with the Registrar of the Supreme Court within seven days after the date of such decision.

(2) Every notice of appeal shall state shortly the effect of the judgment appealed against, shall contain a full and sufficient address at which any notices or documents connected with the appeal may be served upon the appellant or upon his solicitor, and, subject to the provisions of rule 24, shall be signed by the appellant or his solicitor.

(3) Where more persons than one have been jointly tried and any two or more of them desire to appeal, they may at their option file separate or joint notices of appeal. Every notice of appeal shall be deemed to institute one appeal, but where more appeals than one are brought from convictions at the same trial they shall, unless the court or a judge otherwise orders, be deemed to have been consolidated and shall proceed as one appeal.

(4) A notice of appeal shall be substantially as in Form B in Schedule 1.

Grounds of decision.

28. If in any case the trial judge considers that additional grounds or explanation of his decision would be of assistance to the court, or if the court shall so direct, such additional grounds or explanation shall be furnished and shall form part of the record of the proceedings in addition to the summing-up and judgment.

Summing-up.

29. In all cases tried by a jury, a verbatim note (if such is available) of the summing-up of the judge of the trial court shall be included in and form part of the record of the proceedings.

Short transcript of record.

30. (1) As soon as possible after notice of appeal has been given, the Registrar of the Supreme Court shall prepare a short transcript of the record, which shall contain the charges, pleas and the summing up:

Provided that where leave to appeal or a certificate that the case is a fit case for appeal is required, the Registrar shall not prepare the short transcript until such leave or certificate has been granted.

(2) A copy of the short transcript shall be served on the appellant or his solicitor at his address for service.

Memorandum of appeal.

**Subsidiary
1970-08**

31. (1) Within ten days after service of the copy of the record referred to in rule 30 the appellant shall lodge with the Registrar of the Supreme Court a memorandum of appeal and five copies thereof.

(2) Every memorandum of appeal shall, subject to the provisions of rule 24, be signed by the appellant or his solicitor and shall contain particulars in paragraphs numbered consecutively of the matters in regard to which the trial court is alleged to have erred, and, except by leave of the court, the appellant shall not be permitted, on the hearing of the appeal, to rely on any ground of appeal other than those set forth in the memorandum:

Provided that nothing in this paragraph shall restrict the power of the court to make such order as the justice of the case may require.

(3) If a memorandum is not lodged within the time prescribed by this rule the appeal shall be deemed to have been withdrawn, but nothing in this paragraph shall be deemed to limit or restrict the power of the court to extend time.

(4) Where in consequence of consolidation or otherwise there are in any appeal more appellants than one, they may at their option file joint or separate memoranda of appeal and may include in a joint memorandum grounds of appeal applicable to one or more, but not to all, of them.

(5) A memorandum of appeal shall be substantially as in Form C in Schedule 1.

Procedure where appellant in prison.

32. (1) If the appellant is in prison he shall be deemed to have complied with the requirements of rules 27 and 31 if he gives to the officer in charge of the prison notice in writing of his intention to appeal and the particulars required to be included in the memorandum of appeal within the times prescribed by such rules.

(2) Such officer shall forthwith record on such notice or memorandum the date of receipt thereof and shall forward the same to the Registrar of the Supreme Court.

(3) The provisions of this rule shall apply mutatis mutandis to applications.

Filing of record in court.

33. (1) When an appellant has complied with the provisions of rule 31 the Registrar of the Supreme Court shall forthwith complete the record of the proceedings and file in the court four copies thereof.

Court of Appeal
COURT OF APPEAL RULES

1969-28

**Subsidiary
1970-08**

(2) The Registrar of the Supreme Court shall also furnish the appellant or his solicitor and the Attorney-General with a copy of the record.

(3) Every such record shall be prepared in accordance with rule 7 and shall contain copies of the following documents arranged in the order in which they are hereinafter set out:—

- (a) an index giving particulars of all documents included, and showing the pages of the record at which they appear, and also, as regards the transcript of the evidence or the judge's notes, showing the names of all witnesses and the relevant pages of the record;
- (b) the memorandum of appeal;
- (c) the indictment;
- (d) such parts of the transcript of the official recording, if any, of the hearing in the Supreme Court as are relevant to the question at issue on the appeal or, in the absence of such recording, such parts of the judge's notes as are relevant to any such question;
- (e) a list of all exhibits put in at the trial;
- (f) all documentary exhibits put in at the trial, including depositions read in consequence of the absence of an intended witness, photographs and plans:

Provided that in the case of books of account or other documents of great length extracts of the relevant portions thereof shall be included;
- (g) the summing-up or notes thereof;
- (h) the judgment, and any additional grounds or explanations thereof;
- (i) the proceedings on and after sentence, in so far as not included in the note of the hearing;
- (j) the notice of appeal;
- (k) any other documents which the trial judge may order to be included, or which appear to the Registrar of the Supreme Court to be necessary for the proper disposal of the appeal, such as reports on an appellant's state of health made after sentence.

COURT OF APPEAL RULES

(4) It shall not be necessary that copies of individual documents be separately certified, but each copy of the record filed or furnished by the Registrar of the Supreme Court under the provisions of this rule shall be certified as correct by him or by an officer of the Supreme Court authorized by him in that behalf.

Notice and time of hearing.

34. The court shall cause notice to be given to the appellant or his solicitor and to the Attorney-General of the time and place at which an appeal will be heard.

Withdrawal of appeal.

35. (1) An appeal may be withdrawn at any time before hearing by notice to the Registrar signed by the appellant or his solicitor.

(2) Upon the withdrawal of any appeal the Registrar shall notify the trial court accordingly and, if any stay of execution has been granted, the sentence or order of the trial court shall forthwith be enforced, but nothing in this paragraph shall be deemed to limit or restrict the power of extending time conferred upon the court by rule 8.

(3) If an appellant is alleged to be of unsound mind, his appeal shall not be withdrawn without leave of the court or a judge.

Appearance at hearing.

36. (1) An appellant shall be permitted, if he so desires, to present his case to the court in writing. He shall in that event at the time of lodging the memorandum of appeal lodge also five copies of the statement of his case with the Registrar of the Supreme Court, who shall include copies in the record and furnish the Attorney-General with a copy:

Provided that if the appellant is in prison he may at the like period deliver such statement to the prison officer who shall proceed as if under rule 32.

(2) Where an appellant is represented by counsel, or has presented his case in writing, it shall not be necessary for him to attend personally the hearing of his appeal, unless the court shall require his attendance:

Provided that if an appellant is on bail he shall attend the hearing of his appeal, or alternatively, if the Registrar shall grant leave in that behalf, shall before the time of hearing attend at the Supreme Court at the place where the bail bond was executed and submit himself to the order of such court pending disposal of the appeal.

COURT OF APPEAL RULES**Subsidiary
1970-08**

(3) If on the day fixed for the hearing of an appeal, the appellant does not appear in person or by an advocate and has not presented his case in writing, the appeal may be dismissed, or may be heard in the appellant's absence.

(4) Where an appeal is dismissed under paragraph (3) the court may restore the appeal for hearing if it is proved that the appellant was prevented by any sufficient cause from appearing, whether in person or by counsel, when the appeal was called on for hearing.

Irregularities.

37. The court or a judge may in their discretion, on the application of any person desirous of appealing who may be debarred from so doing by reason of his not having observed some formality or some requirement of these rules, permit an appeal upon such terms and with such directions as they may consider desirable in order that substantial justice may be done in the matter.

Judgment.

38. (1) On the termination of the hearing of an appeal the court shall, either at once or on some future day which shall either then be appointed for the purpose or of which notice shall subsequently be given to the parties, deliver judgment in open court:

Provided that, if the President so directs, the court shall not sit for the purpose of delivering judgment, but the judgment of the court or of the members of the court, as the case may be, shall be read in open court by a judge or by the Registrar at the time and place so appointed or fixed.

(2) In criminal appeals and matters the court shall ordinarily give only one judgment, which may be pronounced by the President or by such other member of the court as the President may direct:

Provided that if any judge dissents from the judgment of the court it shall not be obligatory on him to sign the same:

Provided further that separate judgments shall be delivered if the President so directs.

(3) The judgment of any member of the court who is absent may be read by any other judge or by the Registrar.

(4) Notwithstanding the provisions of sub-rule (1), the court may, on the termination of the hearing of an appeal, give its decision but reserve its reasons and in such a case the reasons may—

COURT OF APPEAL RULES

- (a) be delivered in court; or
- (b) deposited in the Registry, in which case copies thereof shall be available to the parties and they shall be so informed.

Order of the court.

39. (1) Whenever a criminal appeal or matter is decided, the judgment or order of the court shall be embodied in a formal order by the Registrar, and a sealed copy of such order shall be sent by the Registrar to the trial court. In drawing up such order it shall not be necessary for the Registrar to consult the parties to the appeal or their solicitors.

(2) The trial court shall thereupon make such orders as are conformable to the order of the court and, if necessary, the record shall be amended in accordance therewith.

Notifying decision.

40. The Registrar shall so far as possible inform any party to any proceeding in the court who was not present or represented at the hearing thereof of the result of such proceeding.

Fees.

41. No fees shall be payable upon an appeal governed by this Part, or on any application in connection therewith, or for the supply of a copy of the record of appeal to any appellant or to the Attorney-General.

PART IV.**SECOND APPEALS IN CRIMINAL MATTERS.****Application.**

42. This Part shall apply only to appeals from the Supreme Court acting in appellate jurisdiction on appeal from the magistrates' court in criminal cases and to matters related thereto.

Application of Part III.

43. The provisions of Part III shall apply to proceedings governed by this Part so far as applicable, but subject to the following modifications—

- (a) rule 27(3) shall apply to intending appellants who have appealed jointly on first appeal;

COURT OF APPEAL RULES**Subsidiary
1970-08**

- (b) rule 31(2) shall apply as if the words “first appellate court” were substituted for the words “trial court”;
- (f) paragraph (d) of rule 33(3) shall be read as if the words “notes of the trial” were substituted for the words “judge’s notes”;
- (d) if the appellant is the Crown, a copy of the notice of appeal and of the record shall be served on each respondent;
- (e) the documents to be included in the record shall comprise the documents relating to the original trial referred to in paragraphs (c), (d), (e), (f), (h), (i) and (k) of rule 33(3), and in addition—
 - (i) the notice of appeal to the Supreme Court, if any;
 - (ii) the memorandum of appeal to the Supreme Court;
 - (iii) any relevant interlocutory proceedings before the Supreme Court;
 - (iv) a transcript of the official recording, if any, of the argument on appeal or, in the absence of such a recording, the judge’s notes of the argument;
 - (v) the judgment of the Supreme Court;
 - (vi) the order of the Supreme Court, if any;
 - (vii) the notice of appeal to the court;
 - (viii) an index and memorandum of appeal as prescribed in rules 31 and 33.

The index and memorandum of appeal shall be bound at the beginning of the record and the remaining contents thereof shall be bound in the order in which they are set out in this paragraph;
- (f) if the appellant is the Crown, it shall not be necessary for the respondent to appear at the hearing of the appeal, but if the court is disposed to allow the appeal it may direct his attendance to hear judgment, or for sufficient reason at any earlier time;
- (g) rules 33(2), 34 and 36(1) shall apply as if the words “the informant” were substituted for “the Attorney-General”;
- (h) rule 39(1) shall apply as if the words “and to the first appellate court” were inserted after the words “trial court”;

- (i) rule 41 shall apply only if the appellant is the Crown. In all other cases, on giving notice of appeal the appellant shall pay the prescribed fee and shall in addition deposit such sum as in the opinion of the Registrar of the Supreme Court will be sufficient to defray the cost of preparation of the necessary copies of the record. When such cost is ascertained the Registrar of the Supreme Court shall refund any excess or may recover from the appellant any deficiency. In default of payment of such fee and deposit the notice of appeal shall not be received;
- (j) such other modifications as the court may direct.

Fees.

44. (1) The fees set out in Part II of Schedule 2 shall be taken and paid upon an appeal governed by this Part.

(2) The court may, if they allow an appeal, direct that any fees paid under this rule shall be refunded to the appellant.

PART V.
FIRST APPEALS IN CIVIL MATTERS.

Application.

45. This Part shall apply only to appeals from the Supreme Court acting in original jurisdiction in civil cases and to matters related thereto.

Matters not provided for.

46. In any case not provided for by these rules the practice and procedure for the time being of the Civil Division of the Court of Appeal in England shall be followed as nearly as may be.

Appeal not to operate as stay of execution.

47. An appeal shall not operate as a stay of execution or of proceedings under the decision appealed from unless the court below or the court or a judge so orders and no intermediate act or proceeding shall be invalidated except so far as the court may direct.

Notice of appeal.

48. (1) Any person desiring to appeal to the court in any civil cause or matter shall, within fourteen days of the decision complained of, give notice

COURT OF APPEAL RULES**Subsidiary
1970-08**

of appeal (in duplicate) to the Registrar of the Supreme Court, who shall forward one copy to the Registrar.

(2) A notice of appeal shall be substantially as in Form D in Schedule 1 and shall be intituled in the proceedings from which it is intended to appeal.

(3) An appellant may appeal from the whole or any part of a decision and the notice of appeal shall state whether the whole or part only, and what part, of the decision is complained of.

(4) Notice of appeal shall be served by the appellant within the like period of fourteen days on all parties directly affected by the appeal or their solicitors respectively. It shall not be necessary to serve parties not so affected. The names and addresses of all persons intended to be served shall be stated in the notice of appeal.

(5) Where any appeal lies only with leave, it shall not be necessary to obtain such leave to appeal before filing notice of appeal. If the Supreme Court shall have refused leave to appeal, any application to the court for leave to appeal shall be made not more than fourteen days after such refusal or after the filing of notice of appeal, whichever be the later.

(6) For the purposes of this rule, where a judge has given judgment but reserved his reasons, “decision” means the judgment and the reasons, and the date when the reasons were delivered shall be deemed to be the date of decision.

Application for transcript or copy.

48A.(1) A notice of appeal given under rule 48(1) shall be accompanied by an application in writing for:

- (a) when a recording was made of the hearing in the Supreme Court, a transcript of the recording or such parts of the recording as may be specified: or
- (b) where no recording was made of the hearing, a typewritten copy of the judge’s notes of the hearing or of such parts of those notes as may be specified:

Provided that where any recording made is found to be defective, either in whole or in part, an application for a transcript under paragraph (a) of this sub-rule shall be deemed to be or to include (as the case may require) an application for a typewritten copy of the judge’s notes of the hearing or of the appropriate part or parts of those notes.

(2) Subject to rule 12, an application under subrule (1) shall be accompanied by such deposit as the Registrar may require towards the

COURT OF APPEAL RULES

prescribed fee, and the balance of the fee shall be paid when the transcript or copy is supplied.

Certificate of grounds of judgment.

49. On the application of any person who has within the time limited given notice of appeal against any judgment, decree or order, the judge who gave or made the same shall, unless the judgment was written, certify in writing the grounds of such judgment, decree or order; but delay or failure so to certify shall not prevent the appellant from proceeding with his appeal.

Decree or order.

50. If the intended appeal is against a decree or order it shall not be necessary that the decree or order be extracted before notice of appeal is filed; but a decree or order shall in any event be extracted before an appeal is lodged, and the court or a judge may require production of a sealed copy of the decree or order on the hearing of any application relating to an intended appeal.

Addresses for service.

51. (1) Where in any proceeding in the Supreme Court a party has given an address for service, notice of appeal from any judgment, decree or order given or made in such proceeding may be served on such party at such address for service, notwithstanding that the address may be that a solicitor who has not been retained for the purpose of an appeal, and notice of any application preparatory or incidental to any such appeal may be served in like manner at any time before the date on which the respondent gives or ought to give notice of his address for service in accordance with sub-rule (2).

(2) Every person who by virtue of service on him of a notice of appeal becomes a respondent to any intended appeal shall within fourteen days after service on him of the notice of appeal file with the proceedings from which the appeal arises and serve on the appellant notice of a full and sufficient address for service, and shall also within a further fourteen days serve a copy of such notice of address for service on every other respondent named in the notice of appeal who has filed notice of an address for service.

(3) Such notice shall be substantially as in Form E in Schedule 1 and may be signed by the respondent or his solicitor.

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

COURT OF APPEAL RULES**Subsidiary
1970-08**

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

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

Lodging appeal.

52. (1) Subject to any extension of time, the appellant shall within sixty days after filing notice of appeal lodge the appeal by filing in the Registry of the court four copies of the record of appeal, paying the prescribed fee and either lodging in court the sum of £100 as security for the costs of appeal or entering into a bond for that amount to the satisfaction of the Registrar.

(2) A person who has applied for a transcript or copy in accordance with rule 48A and who, on enquiry of the Registrar, is informed that it is not yet ready for collection, may apply in writing to the Registrar for an extension of time for lodging the appeal:

Provided that no such application shall be made less than thirty days nor more than forty-five days after the filing of the notice of appeal.

(3) On any such application, the Registrar may extend the time for lodging the appeal for any period expiring not later than thirty days from the date when the applicant is informed, in writing, by the Registrar that the transcript or copy is ready for collection.

(4) The provisions of sub-rules (2) and (3) are without prejudice to those of rule 8.

Default in lodging appeal.

53. If the appeal be not lodged as aforesaid the notice of appeal shall be deemed to have been withdrawn, and the appellant shall pay to the respondent the costs of the abortive appeal.

Additional security.

54. The court or a judge may at any time, in any case where they or he thinks fit, order further security for costs to be given, and may order security to be given for the payment of past costs relating to the matters in question in the appeal.

Subsidiary
1970-08

Entry of appeal.

55. (1) A list of civil appeals shall be kept in the Registry of the court.

(2) Upon an appeal being lodged as provided in rule 52 the Registrar shall enter the appeal in the Registry's list of civil appeals, stating therein the title of the cause or matter, the name of the appellant and his solicitor, if any, the names of the respondents and the date of such entry.

Record of appeal.

56. (1) The appellant shall prepare a memorandum of appeal setting forth concisely and under distinct heads, without argument or narrative, the grounds of objection to the decision appealed against, and specifying the points of law or fact which are alleged to have been wrongly decided, and the nature of the order which it is proposed to ask the court to make.

(1A) The grounds of objection shall be numbered consecutively.

(2) The appellant shall not without the leave of the court put forward any other ground of objection, but the court in deciding the appeal shall not be confined to the grounds set forth by the appellant:

Provided that the court shall not allow an appeal on any ground not stated in the memorandum unless the respondent, including any person who in relation to such ground should have been made a respondent, has had sufficient opportunity of contesting the appeal on that ground.

(3) The memorandum of appeal shall be substantially as in Form F in Schedule 1.

(4) The appellant shall attach to such memorandum copies of the proceedings in the court below, arranged in the order hereinafter appearing, including—

- (a) copies of the documents in the nature of pleadings, so far as is necessary for showing the matter decided and the nature of the appeal;
- (b) such parts of the transcript of the official recording, if any, of the hearing in the Supreme Court as are relevant to any question at issue on the appeal or, in the absence of such a recording, such parts of the judge's notes as are relevant to any such question;
- (c) copies of all affidavits read and of all documents put in evidence in the court below so far as they are material for the purposes of the appeal, or, if such documents are not in the English language, copies of certified translations thereof.

Court of Appeal

COURT OF APPEAL RULES

1969-28

Subsidiary
1970-08

Affidavits, together with copies of documents exhibited thereto, shall be arranged in the order in which they were filed. Other documentary evidence shall be arranged in strict order of date, without regard to the order in which the documents were put in evidence.

- (d) a copy of the judgment, order, ruling or decision of the judge, or of the certificate issued under rule 49;
- (e) a copy of the decree or order;
- (f) a copy of the notice of appeal;
- (g) such other documents, if any, as may be necessary for the proper determination of the appeal, including any interlocutory proceedings which may be directly relevant.

(5) The memorandum and copies above referred to, which together shall be called the record of appeal, shall be prepared in accordance with the provisions of rule 7, and shall include at the beginning thereof—

- (a) a statement showing the address for service of each party to the appeal, if furnished, or of the name and last-known address of any respondent who has not filed notice of address for service, together with proof of service on him of the notice of appeal; and
- (b) an index of the contents of the record showing the relevant pages.

(6) The appellant shall at or before the time of filing the record serve a copy thereof on each party who has been served with the notice of appeal and has filed notice of address for service:

Provided that if more respondents than one are represented by one advocate it shall be sufficient to serve one copy on him.

(7) Each copy of the record shall be certified correct by the appellant or his solicitor.

Supplementary record.

57. (1) If the respondent is of opinion that the record filed by the appellant is defective, he may, without prejudice to his rights, if any, under rule 66, file four copies of a supplementary record of appeal containing copies of any further documents which in his opinion are required for the proper determination of the appeal.

**Subsidiary
1970-08**

(2) A supplementary record shall be prepared as nearly as may be in the same manner as a record of appeal.

(3) A copy of the supplementary record shall be served on the appellant and on any other respondents who have filed notice of address for service.

Costs of record.

58. The Registrar shall disallow on taxation the costs of any matter improperly or unnecessarily included in any record or supplementary record of appeal.

Notice of cross-appeal.

59. (1) It shall not ordinarily be necessary for a respondent to give notice of appeal, but, if a respondent intends, upon the hearing of the appeal, to contend that the decision of the court below should be varied, he may, at any time after receiving notice of appeal, but not more than seven days after the service on him of the record of appeal, give notice of cross-appeal, specifying the grounds thereof, to the appellant and any other respondent named in the notice of appeal who may be affected by such cross-appeal (whether or not such other respondent has filed notice of address for service), and shall file within the like period four copies of such notice.

(2) Notice of cross-appeal shall be substantially as in Form G in Schedule 1.

(3) If the respondent fails to give such notice within the time prescribed, he shall not be allowed, except by leave of the court, to contend on the hearing of the appeal that the decision of the court below should be varied ...; but the court may in its discretion hear any such contention and may, if it thinks fit, impose terms as to costs, adjournment or otherwise.

Withdrawal of appeal.

60. (1) An appellant may at any time after lodging the appeal and before the appeal is called on for hearing serve on the parties to the appeal and file a notice to the effect that he does not intend further to prosecute the appeal.

(2) Two copies of such notice shall be filed in the Registry.

(3) If all parties to the appeal consent to the withdrawal of the appeal without order of the court, the appellant may file in the Registry the document or documents signifying such consent and signed by the parties or by their solicitor, and the appeal shall thereupon be deemed to have been withdrawn and shall be struck out of the list of appeals by the Registrar. In

COURT OF APPEAL RULES**Subsidiary
1970-08**

such event any sum lodged in court as security for the costs of the appeal shall be paid out to the appellant.

(4) If all the parties do not consent to the withdrawal of the appeal, the appeal shall remain on the list, and shall come on for the hearing of any issue as to costs or otherwise remaining outstanding between the parties, and for the making of an order as to the disposal of any sum lodged in court as security for the costs of the appeal.

Appeal by respondent where appeal withdrawn.

61. Where an appeal is withdrawn under rule 60, or where notice of appeal has been given but the appeal has not been duly lodged, any respondent who has not given notice of cross-appeal may give notice of appeal and proceed therewith in the manner prescribed by the foregoing rules; and in any such case the times limited for giving notice of appeal, entering the appeal, furnishing security for costs, and filing and serving the record of appeal may, on application to the court or, if the appeal has not been lodged, to a judge of the court below, be extended so far as is reasonably necessary in all the circumstances of the case.

Failure to file record.

62. (1) Where an appellant omits to comply with rule 52 any respondent who has given notice of cross-appeal may proceed with his cross-appeal.

(2) In any such case the respondent shall file four copies of a record of appeal, as prescribed by rule 56, and shall serve copies thereof on the appellant and any other parties to the appeal. A respondent intending so to file a record shall apply informally and ex parte to the Registrar of the Supreme Court who shall either limit a time for filing the record or direct the respondent to make formal application to a judge in the matter.

Fees and security for costs.

63. Any respondent who proceeds with an appeal or cross-appeal under the provisions of rule 61 or 62 shall be required unless the appellant has paid the prescribed fee on lodging the appeal to pay the amount of such fee, but shall not be required to furnish security for costs unless the court or a judge shall so order.

Preliminary objection.

64. If a respondent intends to take a preliminary objection to any appeal he shall if practicable give reasonable notice thereof to the court and to the other parties to the appeal, and if such notice be not given the court may adjourn the hearing and make such order as to costs as may be just.

Subsidiary
1970-08

Additional parties.

65. (1) When an appeal is called on for hearing, or at any previous time on the application of any person interested, the court or a judge may direct that the record of appeal, or any notice of cross-appeal, be served on any party to the cause or matter who has not been served therewith, or on any other person not already a party to the cause or matter, and may, for the purpose of such service, adjourn the hearing upon such terms as are just, and may give such judgment and make such order as might have been given or made if the parties served with such record or notice had been originally parties.

(2) In any such case the court or a judge may direct that any additional copies of the record or notice of cross-appeal which may be necessary be prepared and served by any party and may limit the time therefor.

Amendment and default.

66. (1) The court or a judge may at any time allow amendment of any notice of appeal, or notice of cross-appeal or memorandum of appeal, or other part of the record of appeal on such terms as they or he thinks fit.

(2) If the record of appeal is not drawn up in the prescribed manner, the appeal may be dismissed.

(3) If the record of appeal is not filed within the prescribed time, or if any copy thereof is not served within the prescribed time and no sufficient ground is shown for the delay, the appeal may be dismissed.

Parties not appearing.

67. (1) An appellant may embody in his record of appeal a statement that he does not intend to appear personally or by counsel at the hearing, together with a statement in writing of his arguments in support of the appeal. In such event it shall not be necessary for him to attend the hearing unless the court shall so order and the court shall have regard to such arguments.

(2) Subject to the provisions of sub-rule (1), if, on any day fixed for the hearing of an appeal, the appellant does not appear in person or by counsel, the appeal may be dismissed.

(3) If the appellant appears, and any respondent fails to appear, either in person or by counsel, the appeal shall proceed in the absence of such respondent, unless the court for any sufficient reason sees fit to adjourn the hearing thereof. A respondent may, not less than seven days before the hearing file four copies of a statement in writing of his arguments in opposition to the appeal and shall within the like period serve a copy thereof on the appellant and on every other respondent, and in such event the court shall have regard to such arguments.

Court of Appeal
COURT OF APPEAL RULES

1969-28

**Subsidiary
1970-08**

(4) Where any appeal is dismissed or allowed under the provisions of sub-rule (2) or (3) the party who was absent may apply to the court for the rehearing of the appeal and where it is proved that there was sufficient reason for the absence of such party the court may order that the appeal be restored for hearing upon such terms as to costs or otherwise as it thinks fit.

(5) The provisions of this rule shall apply mutatis mutandis to the hearing of any cross-appeal.

Hearing of appeals.

68. (1) Appeals to the court shall be by way of re-hearing, and the court shall have all the powers and duties, as to amendment or otherwise, of the Supreme Court, together with full discretionary power to receive further evidence by oral examination in court, by affidavit, or by deposition taken before an examiner or commissioner.

(2) Such further evidence may be given without leave on interlocutory applications, or in any case as to matters which have occurred after the date of the decision from which the appeal is brought.

(3) Upon appeals from a judgment, decree or order, after trial or hearing of any cause or matter upon the merits, such further evidence, save as to matters subsequent as aforesaid, shall be admitted on special grounds only, and not without leave of the court.

(4) The court may draw inferences of fact, and give any judgment, and make any order which ought to have been given or made, and make such further or other orders as the case requires.

(5) The powers aforesaid may be exercised notwithstanding that the notice of appeal relates only to part of the decision, and such powers may also be exercised in favour of all or any of the respondents or parties who have not appealed from or complained of the decision.

Costs.

69. The court may make such order as to the whole or any part of the costs of appeal or in the court below as may be just, and may assess the same or direct taxation thereof.

New trial.

70. (1) Except as hereinafter provided the court shall have power to order that a new trial be had of any cause or matter tried by the Supreme Court in the exercise of its original jurisdiction.

**Subsidiary
1970-08**

(2) A new trial shall not be granted on the ground of improper admission or rejection of evidence unless in the opinion of the court some substantial wrong or miscarriage of justice has been thereby occasioned; and if it appears to the court that such wrong or miscarriage affects part only of the matters in controversy, or some or one only of the parties, the court may give final judgment as to part thereof, or as to some or one only of the parties, and direct a new trial as to the other part only, or as to the other party or parties.

(3) A new trial may be ordered on any question without interfering with the finding or decision upon any other question.

Immaterial errors.

71. No judgment, decree or order of the Supreme Court, or of any judge thereof, shall be reversed or substantially varied on appeal, nor a new trial ordered by the court, on account of any error, defect, or irregularity, whether in the decision or otherwise, not affecting the merits, or the jurisdiction of the Supreme Court.

Interlocutory order not to prejudice appeal.

72. No interlocutory order, from which there has been no separate appeal, shall operate to prevent the court from giving such decision upon the appeal as is just.

Pronouncement of judgment.

73. (1) Judgment may be pronounced at the conclusion of the hearing of an appeal or reserved for delivery on some future date which may be appointed at the hearing or subsequently notified to the parties.

(2) In civil appeals, separate judgments shall be given by the members of the court unless, the decision being unanimous, the presiding judge otherwise directs.

(3) Reserved judgments may be delivered, notwithstanding the absence of the judges who composed the court, or any of them, and the judgment of any judge not present may be read by any judge present or by the Registrar.

(4) Notwithstanding the provisions of sub-rule (1), the court may, on the termination of the hearing of an appeal, give its decision but reserve its reasons and in such a case the reasons may—

(a) be delivered in court; or

COURT OF APPEAL RULES

**Subsidiary
1970-08**

- (b) deposited in the Registry, in which case copies thereof shall be available to the parties and they shall be so informed.

(5) When reserved judgments are delivered, the order of the court may include an order nisi as to costs and, unless notice of application to vary that order has been given, it shall become absolute fourteen days after delivery.

Interest and security for costs.

74. (1) On any appeal, interest, for such time as execution has been delayed by the appeal, shall be allowed, unless the court otherwise orders, at the rate recognized by the Supreme Court, and the Registrar may compute such interest without any order for that purpose.

(2) Where security for costs has been furnished the Registrar may make any order for the disposal of the same either by consent of the parties or in conformity with the judgment and order of the court, and having regard to the rights of the parties thereunder.

Order.

75. (1) Every judgment of the court shall be embodied in an order.

(2) It shall be the duty of the party who is successful in the appeal to prepare without delay a draft order and submit it for the approval of the other parties to the appeal. If the draft is so approved the order shall be in accordance therewith. If the parties do not agree upon the form of the order the draft shall be settled by the President or by such judge as he may direct and the parties shall be entitled to be heard thereon if they so desire.

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

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

PART VI.

SECOND APPEALS IN CIVIL MATTERS.

Application.

76. (1) This Part shall apply only to appeals from the Supreme Court acting in appellate jurisdiction on appeal from a subordinate court in civil cases and to matters relating thereto.

(2) In this Part the words “subordinate court” shall include any judicial or quasi-judicial or other tribunal or body from which appeal lies to the Supreme Court.

Subsidiary
1970-08

Application of Part V.

77. The provisions of Part V shall apply to proceedings governed by this Part so far as applicable, but subject to the following modifications:—

- (a) rule 69 shall apply to costs in the trial court and also the first appellate court;
- (b) rule 70(1) shall extend to empower the court to order a retrial by the trial court or a re-hearing of the first appeal by the first appellate court;
- (c) rule 71 shall be read as applying both to the trial court and to the first appellate court;
- (d) the documents to be included in the record shall comprise the documents relating to the proceedings at first instance referred to in paragraphs (a) to (e) inclusive and (g) of rule 56(4) and in addition copies of—
 - (i) the notice of appeal to the Supreme Court, if any;
 - (ii) the memorandum of appeal to the Supreme Court;
 - (iii) any relevant interlocutory proceedings before the Supreme Court;
 - (iv) such parts of the transcript of the official recording of the arguments on appeal as are relevant to any question at issue on appeal or, in the absence of such a recording, such parts of the judge's notes as are relevant to any question;
 - (iv) the judgment of the Supreme Court;
 - (vi) the decree or order of the Supreme Court;
 - (vii) the notice of appeal to the court;
 - (viii) an index and memorandum of appeal as prescribed in rules 56(1) and 56(5).

The index and memorandum of appeal shall be bound at the beginning of the record and the remaining contents thereof shall be bound in the order in which they are set out in this paragraph;

COURT OF APPEAL RULES**Subsidiary
1970-08**

- (e) rule 73(3) and rule 75(3) shall be read as if the words “and to the subordinate court” were added at the end thereof;
- (f) such other modifications as the court or a judge may direct.

Fees and costs.

78. Fees shall be taken and paid, and costs shall be taxed, in respect of an appeal governed by this Part as nearly as may be in manner provided for an appeal governed by Part V:

Provided that in any case the taxing officer shall have special regard to the amount or value of the subject matter of the appeal and to the costs incurred generally in the litigation.

PART VII.**APPEALS TO HER MAJESTY IN COUNCIL.****Appeal to Her Majesty in Council.**

79. Any appeal from the court to Her Majesty in Council shall be subject to such rules and regulations as may from time to time be made by order of Her Majesty in Council, but these rules shall apply to any proceeding in the court preparatory or incidental to, or consequential upon, any such appeal, so far as they may be applicable and so far as conformable with such rules and regulations.

Form of application.

80. An application for leave to appeal to Her Majesty in Council shall be intituled in the matter of the intended appeal and the Registrar shall maintain a register of such applications:

Provided that notice of any such application or of intention to make such application may be served on any party to the appeal to the court at the address for service given by him for the purposes of such appeal.

Fees and costs.

81. Fees shall be taken and paid on any proceedings governed by this Part in accordance with the provisions of Schedule 2 and any costs to be taxed in the court in connection with such proceedings shall be taxed in accordance with the provisions of rule 13.

Court of Appeal
COURT OF APPEAL RULES
SCHEDULE 1.

Rule 17

FORM A.

Criminal/Civil Appeal/Application-. of 19

(In the matter of an intended appeal)⁽¹⁾

Between

. Appellant/Applicant

and

. Respondent.

Appeal from a (conviction, judgment, decree, order, or as the case may be)
of the Court of at
. (Mr. Justice) dated
.

in

. of 20 . . .

Between

.

and

.

NOTICE OF MOTION

Take notice that on the day of
. 20 , at o'clock in the forenoon/afternoon or
as soon thereafter as he can be heard,⁽²⁾ (Mr solicitor
for) the above named will move the court/a judge of the court
for an order that

(*set out*)

⁽¹⁾ Omit if the appeal has been entered.

⁽²⁾ Omit if party appears in person.

Court of Appeal

COURT OF APPEAL RULES

1969-28

**Subsidiary
1970-08**

on the grounds.

(set out)

(2) (Advocate for the) above named.

Dated at this. day of 20

L.S. Registrar.

To of or his solicitor,

Mr. of

.....

The will read in support of this application the
affidavit of day of 20

The address for service of the.

is

Court of Appeal

COURT OF APPEAL RULES

Rule 27

FORM B.

(Heading.)⁽¹⁾

NOTICE OF APPEAL.

Take notice that appeals to the Court of Appeal for
Gibraltar against the decision of the Honourable Mr Justice
..... given at the day of. . .
..... 20 . . . , whereby the appellant was convicted on a charge
of

.....
.....

and sentenced to

The appeal is against conviction only/sentence only/conviction and
sentence.

The appellant desires/does not desire to attend the hearing of the appeal.

Dated this day of. 20

.....

(Solicitor for the) Appellant.

To the Registrar of the Supreme Court.

The address for service of the appellant is

.....

Filed at. day of, 20 at.

.....

L.S. Registrar.

⁽¹⁾ As in the proceedings appealed from.

Court of Appeal

COURT OF APPEAL RULES

FORM C.

1969-28

Subsidiary
1970-08

Rule 31

(Heading, as in Form A.)

MEMORANDUM OF APPEAL.

....., the appellant above named, appeals to
the Court of Appeal for Gibraltar against the decision above mentioned,
whereby the appellant was convicted of
.....
..... and sentenced to on the
following grounds, namely:

1.
(set out)

Dated this day of. 20

.....
(Solicitor for the) Appellant.

The address for service of the appellant is
..... Filed the day of.
..... 20
at.
L.S. Registrar.

Court of Appeal

COURT OF APPEAL RULES

FORM D.

Rule 48

*(Heading)⁽¹⁾***NOTICE OF APPEAL.**

Take notice that, being dissatisfied with the decision of the Honourable Mr. Justice. given herein at. on the day of 20 intends to appeal to the Court of Appeal for Gibraltar against the whole of the said decision (or against such part of the said decision as decides that (setting out details).

It is intended to serve copies of this notice on the following person(s)–

(Name).
(Address).

(Name).
(Address).

Dated this. day of. 20

.
(Solicitor for the) Appellant.

To the Registrar of the Supreme Court at
. and to. of

The address for service of the appellant is
.

Note.—A respondent served with this notice is required within fourteen days after such service to file in these proceedings and serve on the appellant a notice of his address for service for the purposes of the intended appeal and within a further fourteen days to serve a copy thereof on every other respondent named in this notice who has filed notice of an address for service. In the event of non-compliance the appellant may proceed ex parte.

Filed the day of 20
at.

⁽¹⁾ As in the proceedings appealed from.

Court of Appeal

1969-28

COURT OF APPEAL RULES

L.S.

.....Registrar.

**Subsidiary
1970-08**

1969-28

Subsidiary
1970-08

Court of Appeal
COURT OF APPEAL RULES

FORM E.

Rule 51

(Heading)⁽¹⁾

NOTICE OF ADDRESS FOR SERVICE.

Take notice that the address for service of
. . . , a respondent served with notice of appeal herein, is

Dated this day of 20.

.

(Solicitor for) the respondent above named.

To the Registrar of the Supreme Court at
. and to
of.

Filed the day of 20
at.
L.S. Registrar.

⁽¹⁾ As in the proceedings appealed from.

Court of Appeal

COURT OF APPEAL RULES

FORM F.

1969-28

**Subsidiary
1970-08**

Rule 56

(Heading as in Form A.)

MEMORANDUM OF APPEAL.

A.B., the appellant above named, appeals to the Court of Appeal for Gibraltar against the whole/part of the decision above mentioned on the following grounds, namely:—

1
(Set out what part of the decision is complained of and the grounds of objection)

Dated this day of 20.....

.....
(Solicitor for the) Appellant.

To the Honourable the Judges of the Court of Appeal for Gibraltar.

And to

.....

The address for service of the appellant is
.....

Filed the day of 20.....

at.

L.S.

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

Court of Appeal
COURT OF APPEAL RULES

FORM G.

Rule 59

(Heading as in Form A.)

NOTICE OF CROSS-APPEAL.

Take notice that, on the hearing of this appeal C.D., the respondent above named, will contend that the decision above mentioned ought to be varied to the extent and in the manner and on the grounds hereinafter set out, (or ought to be affirmed upon grounds other than those relied upon by the court below) namely:—

1
(set out)

Dated this day of 20

.....
(Solicitor for the) Respondent.

To the Honourable the Judges of the Court of Appeal for Gibraltar.

And to
.....

The address for service of the respondent above named is
.....

Filed the day of 20

at

L.S.

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

Court of Appeal

COURT OF APPEAL RULES
SCHEDULE 2.

1969-28

**Subsidiary
1970-08**

Rules 12 and 44

FEES.

PART I.

The fees set out in this Part and no others shall be taken and paid in respect of all civil causes, matters and proceedings in the court, and in respect of such applications and proceedings in the Supreme Court preparatory or incidental to, or consequential upon, a civil appeal to the court, as are herein specified:

Provided that in all proceedings in the Supreme Court preparatory or incidental to an appeal to the court or consequential thereon, the fees, if not herein specified, shall be in accordance with the provisions of the law applicable to the Supreme Court.

	£
1. Upon filing notice of appeal	100.00
2. Upon filing notice of cross-appeal	50.00
3. Upon filing notice of motion (except as under item 5): Provided that where the application is for leave to appeal and leave is granted, credit for this fee is to be given against the fee payable under item 1	50.00
4. Upon a bond for every party executing the same	20.00
5. Upon an application for conditional leave to appeal to Her Majesty in Council	250.00

PART II.

The fees set out in this Part shall be taken and paid in respect of any appeal falling within Part IV of the rules.

1. Upon filing notice of appeal	£100.00
---	---------