

Order 9

Criminal Appeals

1. This Order shall apply to appeals from the Court of Appeal in criminal cases and no matters related thereto.
2. (1) Except where otherwise provided in these Rules any application to the Court may be made by the appellant or respondent orally or in writing, but in regard to such applications if the appellant is un-represented and in custody and is not entitled or has not obtained leave to be present before the Court, he shall make any such application by forwarding the same in writing to the Registrar who shall take the appropriate steps to obtain the decision of the Court thereon.
(2) Any application under this Rule, which is deemed by the Court to be insignificant may be considered and determined by the Court in chambers without oral argument.
3. (1) Subject to the provisions of sub-rule (3) of this rule, appeals shall be brought by notice (hereinafter called 'the notice of appeal') to be filed in the Registry of the court below which shall set forth the grounds of appeal and shall state clearly whether the appeal is against some decision of the court below other than conviction or sentence. A notice of appeal shall be in the form prescribed in the First Schedule to these Rules and shall be signed by the appellant: Provided that, notwithstanding that the provisions herein have not been strictly complied with, the Court may, in the interest of justice and for good and sufficient cause shown, entertain an appeal if satisfied that the intending appellant has exhibited a clear intention to appeal to the Court against the decision of the court below.
(2) Where the Court or the court below has on an application for leave to appeal given an appellant leave to appeal, it shall not be necessary for such appellant to give any notice of appeal but the notice of motion for leave to appeal shall in such case be deemed to be a notice of appeal.
(3) Where an application for leave to appeal has been made to the court below, and if the application has been granted by that court, the Registrar of that court shall send to the Registrar of the Court notification of the result of the application in Form 25

in the First Schedule to these Rules together with the original of the application for leave to appeal and the case shall thereafter be dealt with as if leave to appeal had been granted by the Court.

4. (1) Where the Court or the court admits an appellant to bail pending the determination of his appeal on an application by him duly made, such court shall specify the amounts in which the appellants and his surety or sureties (unless such court directs that no surety i.e. required) shall be bound by recognisances of the appellant and his surety to sureties (if any) may be taken.
- (2) In the event of such court not making any special order or giving any special directions under this Rule, the recognisances of the appellant and of his surety or sureties (if any) may be taken before the Registrar.
- (3) The recognisances provided for in this Rule shall be in the Forms prescribed in the First Schedule to these Rules.
- (4) The Registrar of the court below shall where the court below admits the appellant to bail, forward the recognisances of the appellant and his surety or sureties to the Registrar.
- (5) An appellant who has been admitted to bail shall be personally present at each and every hearing of his appeal and at the final determination thereof, and the Court may, in the event of such appellant not being present at any hearing of his appeal, if it thinks right so to do, decline to consider the appeal, and may proceed summarily to dismiss the same and may issue a warrant for the apprehension of the appellant in the Form prescribed in the First Schedule of these Rules: Provided that the Court may consider the appeal in his absence, or make other order as it thinks fit.
- (6) When an appellant is present before the Court, the Court may, on an application made by him or any other person or, it thinks right so to do, without any application make an order admitting the appellant to bail, or revoke or vary any such order previously made, or enlarge from time to time the recognisances of the appellant or of his sureties or substitute any other surety for a surety previously bound as it thinks right.

- (7) At any time after an appellant has been released on bail, the Court or where the appellant was released on bail by the court below, that court may, if satisfied that it is in the interest of justice so to do, revoke the order admitting to bail, and issue a warrant in the Form prescribed in the First Schedule of these Rules.
5. (1) Where a person has, on his conviction, been sentenced to payment of a fine, in default of payment to imprisonment, and such person remains in custody in default of payment of the fine, he shall be deemed, for purposes of appeal, to be a person sentenced to imprisonment.
- (2) An appellant who has been sentenced to the payment of a fine, and has paid the same or part thereof in accordance with such sentence, shall, in the event of his appeal being successful, be entitled, subject to any order of the Court, to the return of the sum or any part thereof so paid by him.
6. Where the Court below has dismissed an appeal and confirmed the order for conviction, or has made or confirmed an order for restitution of any property to any person, the person in whose favour or against whom the order of restitution has been made, and, with the leave of the Court, any other person, shall, on the final hearing by the Court of an appeal against his conviction on which such order of restitution was made, be entitled to be heard by the Court before any order annulling or varying such order of restitution is made.
7. Where the Court below is of opinion that the title to any property the subject of an order of restitution made on a conviction of a person before it is not in dispute, that court, if it shall be of opinion that such property or a sample or portion or facsimile representation thereof is reasonably necessary to be produced for use at the hearing of any appeal, shall give such direction to or impose such terms upon the person in whose favour the order of restitution is made, as it shall think right in order to secure the production of such sample, portion or facsimile representation for use at the hearing of any such appeal.
8. The Registrar of the court below or of the court of trial or of any other court shall not issue, under any law authorising him so to do, a certificate of conviction of any

person convicted in the court below if notice of appeal or notice of application for leave to appeal is given, until the determination or abandonment thereof.

9. (1) An appellant may at any time before the appeal is called on for hearing serve on the respondent and file the Registrar a notice to the effect that he does not intend further to prosecute the appeal.
 - (2) Upon receipt of a notice of withdrawal in accordance with this Rule, the Registrar shall give notice thereof in the Form prescribed in the First 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 like manner give notice to the appropriate Federal or State authority responsible for the exercise of the prerogative of mercy, and the Registrar shall also return to the Registrar of the court below any original documents exhibits received from him.
 - (3) An appellant (other than one convicted of an offence involving sentence of death) who has withdrawn his appeal may, in special cases, with the leave of the Court, withdraw his notice of withdrawal. Upon such leave being granted the appellant shall be entitled to prosecute his appeal as if the notice of withdrawal, was never filed.
10. (1) Where the Court has ordered any witness to attend and be examined before the Court an order in the Form prescribed in the First Schedule hereto shall be served upon such witness specifying the time and place at which to attend for such purpose.
 - (2) Such order may be made on the application at any time of the appellant or respondent, but if the appellant is in custody and not legally represented, the application shall be made by him in the Form prescribed in the First Schedule.
 - (3) Where the Court orders the examination of any witness to be conducted otherwise than before the Court itself, such order shall specify the person appointed as examiner to take, and the place of taking, such examination and the witness or witnesses to be examined thereat.
 - (4) The Registrar shall furnish to the person appointed to take such examination any documents or exhibits and any other material relating to the said appeal as and when requested to do so. Such documents and exhibits and other material shall after

examination has been concluded be returned by the examiner, together with any deposition taken by him under this Rule to the Registrar.

- (5) When the examiner has appointed the day and time for the examination he shall request the Registrar to give notice thereof to the appellant and the respondent and their legal practitioners, if any, and when the appellant is in prison to the Prison authority. The Registrar shall cause to be served on every witness to be examined a notice in the Form prescribed in the First Schedule.
 - (6) Every witness examined before an examiner under this Rule shall give his evidence upon oath or affirmation to be administered by such examiner, except where any such witness if giving evidence as a witness at a trial or information needs not be sworn.
 - (7) The examination of every witness shall be taken in the form of a deposition and unless otherwise ordered shall be taken in private. The caption in the Form prescribed in the First Schedule shall be attached to any such deposition.
 - (8) Where any witness shall receive an order or notice to attend before the Court or an examiner, the Registrar may, if it appears to him necessary so to do, pay to such witness a reasonable sum for his expenses.
 - (9) The appellant and respondent, or the legal practitioner representing him, shall unless the Court otherwise directs, be entitled to be present at and take part in any examination of any witness to which this rule relates.
11. When an order of reference is made by the Court to a special commissioner, the question to be referred, and the person to whom as special commissioner the same shall be referred, shall be specified in such order. The Court may in such order or by giving directions as and when it from time to time shall think right, specify whether the appellant or respondent or any person on their behalf may be present at any examination or investigation or at any stage thereof as may be ordered, and specify any and what powers of the Court may be delegated to such special commissioner, and may require him from time to time to make interim reports to the Court upon the question referred to him, and may, if the appellant is in custody, give leave to him to be present at any stage of such examination or investigation and give

necessary directions to the Prison authority accordingly, and may give directions to the Registrar that copies of any report made by such special commissioner shall be furnished to the appellant and respondent.

12. (1) On the final determination of any appeal or of any application to the Court, the Registrar shall give to the appellant, if he be in custody and has not been present at such final determination, and to the respondent and the prison authority, notice of such determination in the Form prescribed in the First Schedule.

(2) In any case of an appeal in relation to a conviction involving sentence of death, the Registrar shall on receiving notice of appeal, send copies thereof to the appropriate authority responsible for the exercise of the prerogative of mercy, to the respondent and to the Prison authority.

13. (1) The Registrar at the final determination of an appeal shall notify in such manner as he thinks most convenient to the Registrar of the court below the decision of the Court in relation thereto, and also any orders or direction made or given by the Court in relation to such appeal or any matter connected therewith.

(2) The Registrar of the court below shall on receiving the notification referred to in this Rule, enter the particulars thereof on the records of such court.

14. Upon the final determination of an appeal for the purposes of which the Registrar has obtained from the Registrar of the court below any original depositions, exhibits, information, inquisition, plea or other documents usually kept by the said Registrar, or forming part of the record of the court below, the Registrar shall, where practicable, cause the same to be returned to the Registrar of the court below.

15. Any order given or made by the Court may be enforced by the Court or by the court below as may be most expedient.