

GUERNSEY STATUTORY INSTRUMENT

1964—No. 16

**The Court of Appeal (Criminal Division)
(Guernsey) Rules, 1964**

Made 4th June, 1964
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ARRANGEMENT OF RULES

Rule

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Order of the Court of Appeal

ENTITLED

**The Court of Appeal (Criminal Division)
(Guernsey) Rules, 1964**

THE COURT OF APPEAL, in exercise of the powers conferred upon it by section thirty-nine of the Court of Appeal (Guernsey) Law, 1961, hereby orders:—

1. (1) In these Rules, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

Interpreta-
tion.

“appellant” has the meaning assigned to it by section forty-three of the Law;

“Attorney General” means Her Majesty’s Attorney General;

“certified copy”, in relation to any document, means a copy of that document certified to be a correct copy by the Registrar;

“the Court” means the Court of Appeal constituted under the provisions of Part I of the Law;

“the Governor of the Prison” means the person for the time being appointed to be the Governor of the Prison under the Prison Administration (Guernsey) Law, 1949, or, in case of his absence or incapacity, the person for the time being performing the duties of the office of the Governor of the Prison;

“the Law” means the Court of Appeal (Guernsey) Law, 1961;

“notice of appeal” means notice of appeal given in accordance with the provisions of Rule 2 of these Rules;

“notice of application for leave to appeal” means notice of application for leave to appeal given in accordance with the provisions of Rule 2 of these Rules;

“notice of application for extension of time to appeal” means notice given in accordance with the provisions of Rule 2 of these Rules of application for extension of time within which notice of appeal or application for leave to appeal may be given;

“the Registrar” means the Registrar of the Court or, in case of his absence or incapacity, the person for the time being performing the duties of the office of the Registrar of the Court.

(2) In these Rules a form referred to by number means the form so numbered in the Schedule to these Rules or a form to the like effect, and any such form may be used with such variation as the circumstances may require.

(3) The Interpretation (Guernsey) Law, 1948, shall apply to the interpretation of these Rules as it applies to the interpretation of an enactment.

(4) Except where the context otherwise requires, any reference in these Rules to any enactment shall be construed as including a reference to that enactment as amended, repealed, replaced, extended or applied by or under any other enactment.

Notices in
connection
with appeals.

2. A person desiring to appeal to the Court under the provisions of Part III of the Law shall commence his appeal by giving to the Registrar a notice of appeal or a notice of application for leave to appeal in Form 1 or a notice of application for extension of time to appeal in Form 2, as the case may be, and shall answer the questions and comply with the requirements set forth thereon.

3. Where the Court or a judge thereof has, on a notice of application for leave to appeal, given an appellant leave to appeal, it shall not be necessary for the appellant to give any notice of appeal, but the notice of application for leave to appeal shall in such case be deemed to be a notice of appeal.

Notice of application for leave to appeal.

4. Where a notice of application for extension of time to appeal is given to the Registrar, there shall be given with such notice a notice of appeal or notice of application for leave to appeal, as the case may be, duly completed.

Notice of application for extension of time to appeal.

5. (1) An appellant may, at any time after giving notice of appeal, notice of application for leave to appeal or notice of application for extension of time to appeal, abandon his appeal by giving to the Registrar notice of such abandonment in Form 3, such Form being witnessed as therein required.

Abandonment of appeals.

(2) Upon notice of abandonment of an appeal being given by the appellant to the Registrar in accordance with the provisions of paragraph (1) of this Rule the appeal shall be deemed to have been dismissed by the Court.

6. (1) A certificate of the judge who presided at the trial given under the provisions of paragraph (b) of section twenty-four of the Law that the case is one fit for appeal under that paragraph may be given in Form 4.

Certificate of judge presiding at the trial.

(2) The judge who presided at the trial may, in any case in which he considers it desirable so to do, inform the person convicted before him that the case is, in his opinion, one fit for appeal under the provisions of paragraph (b) of section twenty-four of the Law and may give to such person a certificate to that effect in Form 4.

Notes and
report of
judge
presiding at
the trial.

7. (1) In any case where the Registrar has received a notice of appeal, notice of application for leave to appeal or notice of application for extension of time to appeal and in any case where the Secretary of State shall have exercised any of his powers under section forty-two of the Law, the Registrar shall—

- (a) inform the judge who presided at the trial of the person to whom such notice or such case relates;
- (b) give to such judge a certified copy of the notice received by him, if any, and of any document referred to in the notice;
- (c) give to such judge any other document or information which the Court may direct him to give to such judge or which such judge may have requested to have furnished to him;

and such judge shall, as soon as may be, furnish to the Registrar a copy of his notes of the trial and a report in writing giving his opinion upon the case generally or upon any point arising upon the case.

(2) The report of the judge who presided at the trial required under the provisions of paragraph (1) of this Rule shall be made to the Court and, except with the leave of the Court or any judge thereof, the Registrar shall not furnish any person with a copy of the report or any part thereof.

Orders made
at trial, etc.

8. (1) Where, upon the trial of a person entitled to appeal under Part III of the Law against his conviction, an order is made by the Royal Court as to the disposal of any property (hereinafter referred to as a "disposal order")—

- (a) the person in whose favour or against whom the disposal order was made;
- (b) with the leave of the Court, any other person;

shall be entitled to be heard by the Court on the final hearing of an appeal against the conviction on which the disposal order was made and before any order is made under the provisions of subsection (3) of section twenty-nine of the Law annulling or varying the disposal order.

(2) Where the operation of a disposal order is suspended under the provisions of subsection (1) of section twenty-nine of the Law, any property which is the subject of the disposal order shall be kept in the custody of the Registrar during the period of that suspension.

(3) Where the Royal Court is of the opinion that the title to any property which is the subject of a disposal order is not in dispute and has directed under the provisions of subsection (1) of section twenty-nine of the Law that the operation of the disposal order shall not be suspended under those provisions, the Royal Court, if it is of the 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 directions to or impose such conditions upon the person in whose favour the disposal order is made as the Royal Court thinks fit in order to secure the production of such sample, portion or facsimile representation for use at the hearing of the appeal.

(4) Subject to the provisions of paragraph (7) of this Rule, where, on the conviction of a person, the Royal Court makes an order condemning such person to the payment of the whole or any part of the costs of the prosecution for the offence of which he shall have been convicted or any order for the payment of money by such person, the operation of such orders—

(a) shall be suspended until the expiration of the ten days next following the date of the conviction on which they were made;

- (b) if notice of appeal or notice of application for leave to appeal is given in respect of such conviction, shall be further suspended until the determination of the appeal;

and any such orders may be annulled or varied by the Court by order on the determination of the appeal and any such orders, if annulled, shall not take effect and any such order, if varied, shall take effect as varied.

(5) Where the Royal Court, on the conviction of a person, makes any order to which the provisions of the last preceding paragraph relate, the Royal Court shall give such directions as it thinks fit as to the retention by any person of any money or valuable securities belonging to the person convicted and taken from him on his apprehension or of any money or valuable securities at the date of his conviction in the possession of the prosecution for the period of ten days next following the date of his conviction or, in the event of an appeal, until the determination thereof by the Court.

(6) Where, on the conviction of a person of any offence, any disqualification, forfeiture or disability attaches to such person by reason of such conviction, such disqualification, forfeiture or disability shall not attach to such person for the period of ten days next following the date of his conviction and, in the event of an appeal, shall not attach to such person until the determination of the appeal by the Court.

(7) Where the Royal Court, on the conviction of a person, makes an order for the payment of money by such person and under the provisions of paragraph (4) of this Rule such order would otherwise be suspended, the Royal Court may direct that the operation of such order shall not be suspended unless the person on whom it has been made shall, in such manner and within such time as the Royal Court

shall direct, give security by way of an undertaking or otherwise for the payment to the person in whose favour such order was made of the amount therein specified and such security may be to the satisfaction of the person in whose favour the order for payment was made or of any other person as the Royal Court shall direct.

(8) Where, on the conviction of a person by the Royal Court, any property, matters or things which were the subject of the prosecution or connected therewith, are to be, or are ordered to be, destroyed or forfeited under the provisions of any enactment, the destruction or forfeiture or order for destruction or forfeiture thereof shall be suspended for the period of ten days next following the date of such conviction and, in the event of an appeal, shall be further suspended until the determination thereof by the Court.

(9) Where, on the conviction of a person by the Royal Court, any claim may be made or any proceedings may be taken under any enactment against such person or any other person in consequence of such conviction, such proceedings shall not be taken until after the expiration of the period of ten days next following the date of such conviction and, in the event of an appeal, until the determination thereof by the Court.

(10) Any person affected by any order suspended under this Rule may, with the leave of the Court, be heard on the final determination of any appeal and before such order is annulled or varied by the Court.

(11) Nothing in this Rule contained shall affect the operation of any order made by the Royal Court for the suspension or withdrawal of a licence or other permit or for the disqualification of any person from applying for or holding a licence or other permit unless the Royal Court otherwise directs.

Appeals
where fine
only is
inflicted.

9. (1) Where a person has, on conviction, been sentenced to payment of a fine and, in default of payment, to imprisonment, Her Majesty's Sheriff shall, on receiving the fine, retain it until the determination of any appeal in relation thereto.

(2) A person sentenced to payment of a fine who is undergoing imprisonment in default of payment of the fine shall be deemed, for all purposes of the Law and of these Rules, to be a person sentenced to imprisonment.

(3) Where any person who has been convicted and thereupon sentenced to payment of a fine and, in default of such payment, to imprisonment, intimates to the judge presiding at the trial that he desires to appeal against his conviction upon grounds of law alone or, with the certificate of the judge, upon any of the grounds mentioned in paragraph (b) of section twenty-four of the Law, the judge may—

(a) order such person forthwith to enter into a recognizance in Form 5, in such amount as shall be specified in the order, to prosecute his appeal;

(b) if any surety is required, order the surety to enter into a recognizance in Form 6 in such amount as shall be specified in the order;

and, subject thereto, may order that payment of the said fine shall be made after the final determination of the appeal, if the same be dismissed.

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

(5) If an appellant to whom the provisions of paragraph (3) of this Rule apply does not give in

accordance with these Rules a notice of appeal upon grounds of law alone or, with the certificate of the judge who presided at the trial, upon any of the grounds mentioned in paragraph (b) of section twenty-four of the Law within the ten days next following the date of his conviction, the Registrar shall report such omission to a judge of the Court, who may direct the Registrar to cause—

- (a) a notice in Form 7 to be served upon the appellant;
- (b) a notice in Form 8 to be served upon any surety of the appellant;

and after such notice or notices have been so served such judge may make any such order as he is empowered to make under paragraph (10) of the next succeeding Rule and may order the appellant to be apprehended and committed to prison in default of payment of his fine.

10. (1) Where a person convicted and sentenced Bail to imprisonment has given notice of appeal and desires to be admitted to bail pending the determination of his appeal, he shall give to the Registrar notice of his desire to apply for bail in Form 9.

(2) A notice given under paragraph (1) of this Rule shall be deemed to be an application for bail and the Registrar shall as soon as may be after receiving the same inform a judge of the Court thereof and shall thereupon notify the Attorney General and the appellant of the place, day and hour appointed by the judge at and on which he will hear the application.

(3) Where an appellant is admitted to bail, the Court or the judge thereof, as the case may be, shall, by the order under which the appellant is admitted to bail—

- (a) require the appellant to enter into a recognizance in Form 10 in such amount as shall be specified in the order as the amount by which the appellant shall be bound by his recognizance;
- (b) if any surety is required, require the surety to enter into a recognizance in Form 11 in such amount as shall be specified in the order as the amount by which the surety shall be bound by his recognizance;

and any such recognizance shall be taken before a judge of the Court or before a Jurat of the Royal Court.

(4) The Attorney General, on being satisfied that any recognizance of an appellant admitted to bail or of his sureties, if any, is in due form and in compliance with the order under which the appellant has been admitted to bail, shall forthwith authorise the Governor of the Prison to release the appellant from custody.

(5) An appellant who has been admitted to bail shall, by the order under which he was so admitted, be ordered to be and shall be personally present at each and every hearing of his appeal and at the final determination thereof and in the event of the appellant not being so present the Court may decline to consider the appeal and may proceed to summarily dismiss the same and may order the appellant to be apprehended and committed to prison:

PROVIDED that the Court may consider the appeal in the absence of the appellant or make such other order as it thinks fit.

(6) Where an appellant is present before the Court, the Court may, upon application being made in that behalf by any person or without such application—

- (a) order the appellant to be admitted to bail;
- (b) revoke or vary any order under which the appellant has been admitted to bail;
- (c) enlarge the recognizance of the appellant or his sureties or substitute any other surety for a surety previously bound.

(7) At any time after an appellant has been released on bail, the Court or any judge thereof may, if satisfied that it is in the interest of justice so to do, revoke the order under which the appellant was admitted to bail and order the appellant to be apprehended and committed to prison.

(8) Where the Attorney General or the surety for an appellant released on bail suspects that the appellant is about to depart out of the Bailiwick or in any manner to fail to observe any of the conditions of his recognizance on which he was so released, the Attorney General or such surety, as the case may be, may apply to a judge of the Court for an order directing the appellant to be apprehended and brought before the judge and the judge may thereupon make such an order.

(9) In any case where an appellant has been brought before a judge of the Court in pursuance of an order under the last preceding paragraph the judge may, upon verification of the grounds upon which the order was made, order the appellant to be committed to prison and may give to the Registrar such directions as to the appeal or otherwise as he thinks fit.

(10) The Court or a judge thereof may, on the application of the Attorney General and upon being satisfied that there has been a breach of the recognizance on which an appellant was released on bail—

- (a) make an order requiring the appellant forthwith to pay to the Registrar the sum by

which he is bound by his recognizance or such part thereof as shall be specified in the order;

- (b) make an order requiring any surety for the appellant forthwith to pay to the Registrar the sum by which he is bound by his recognizance or such part thereof as shall be specified in the order;
- (c) make an order empowering the Attorney General to levy execution against the personalty of the appellant or of any surety for the appellant as respects the sums which they may have been respectively required to pay to the Registrar under an order made under sub-paragraph (a) or sub-paragraph (b) of this paragraph;
- (d) make an order empowering the Attorney General to levy execution on the realty of the appellant or of any surety of the appellant as respects the sums which they may have been respectively required to pay to the Registrar under an order made under sub-paragraph (a) or sub-paragraph (b) of this paragraph, and any order made under this sub-paragraph shall have effect as a Preliminary Vesting Order;
- (e) make such other order as the Court or the judge thereof, as the case may be, thinks fit.

(11) An appellant who is not in custody shall, whenever his case is called on before the Court, surrender himself to such person as the Court or a judge thereof may from time to time direct and thereupon shall be searched by that person and shall be deemed to be in the lawful custody of that person until further released on bail or otherwise dealt with as the Court shall direct.

(12) The provisions of this Rule, other than the first four paragraphs thereof, shall apply in relation to an appellant to whom the provisions of paragraph (3) of the last preceding Rule apply and to his sureties as the provisions of this Rule apply in relation to an appellant released on bail under this Rule and to his sureties respectively:

PROVIDED that an appellant to whom the provisions of paragraph (3) of the last preceding Rule apply shall not be ordered to be committed to prison under this Rule except in default of payment of his fine.

11. (1) A recognizance entered into by any person in pursuance of an order made under the provisions of Rule 9 or Rule 10 of these Rules shall be given to and kept by the Registrar and shall, if the order contains a direction in that behalf—

Registration
of re-
cognizances.

- (a) in the case where such person is the beneficial owner of realty in Guernsey, be registered by the Registrar in the "Livre des Obligations" kept at the Greffe;
- (b) in the case where such person is the beneficial owner of realty in Alderney, be registered by the Clerk of the Court of Alderney in whichever register kept in Alderney is appropriate for the registration of "obligations" enforceable against such realty;
- (c) in the case where such person is the beneficial owner of realty in Sark, be registered by the Greffier of Sark in the register kept in Sark in which "obligations" enforceable against realty are registered;

and thereupon such recognizance shall operate as a charge on the whole of the realty of such person in Guernsey, Alderney or Sark, as the case may be, as

respects the sum by which he is for the time being bound by such recognizance.

(2) Any registration made in pursuance of the provisions of paragraph (1) of this Rule shall be cancelled by the Registrar, the Clerk of the Court of Alderney or the Greffier of Sark, as the case may be, upon being authorised so to do by the Attorney General.

Exhibits.

12. (1) The Attorney General or the appellant or his advocate on his behalf may at any stage of the appeal make an application to the Court for an order under paragraph (a) of subsection (1) of section thirty-two of the Law requiring any person to produce to the Registrar or before the Court any document, exhibit or other thing and in any case where the Court shall have made any such order, whether upon such application or otherwise, the Registrar shall cause a certified copy of the order to be served personally upon the person required to produce the document, exhibit or other thing to which the order relates and shall give a certified copy of the order to the Attorney General.

(2) Any document, exhibit or other thing produced by any person in compliance with an order made under paragraph (a) of subsection (1) of section thirty-two of the Law and any document, exhibit or other thing obtained by the Registrar in pursuance of the provisions of subsection (1) of section thirty-eight of the Law shall be kept in the custody of the Registrar pending the determination of the appeal to which they relate and shall on the determination of the appeal—

(a) in the case of any such document, exhibit or other thing produced by such person, be returned to him by the Registrar except where the Court otherwise directs;

- (b) in any other case, be retained by the Registrar or disposed of by him in such manner as the Court may direct.
- (3) The Registrar shall, if requested so to do by the Attorney General or the appellant or his advocate on his behalf—
- (a) make arrangements for the inspection by the Attorney General, the appellant or his advocate, as the case may be, of any document, exhibit or other thing kept in his custody in accordance with the provisions of the last preceding paragraph;
- (b) furnish copies to the Attorney General, the appellant or his advocate, as the case may be, of any such document, exhibit or other thing upon payment, in the case where such copies are to be furnished to the appellant or his advocate, of such charges, if any, as are payable in respect of such copies.

13. (1) Where any application on the part of an appellant has been made to a single judge of the Court to exercise any of the powers of the Court exercisable by a single judge of the Court under the provisions of section forty of the Law, the Registrar shall give notice to the appellant of the decision of the judge in Form 12.

Proceedings
before a
single judge
of the Court.

(2) In the event of a single judge of the Court refusing any application to which the provisions of paragraph (1) of this Rule relate, the Registrar shall give to the appellant a notice in Form 13 together with the said notice in Form 12 and—

- (a) if the appellant desires to have the application determined by the Court as duly constituted for the hearing and determining of appeals under Part III of the Law, he shall complete Form 13 and shall return it

to the Registrar within the five days next following the day on which it was given to him by the Registrar;

- (b) if the appellant does not desire to have the application so determined or fails to complete and return Form 13 as aforesaid, the refusal of his application by the judge shall be final.

(3) Where an appellant has duly completed Form 13 and returned the same to the Registrar in accordance with the provisions of the last preceding paragraph and has expressed therein the desire to be present at the hearing and determination by the Court of the application in respect of which such Form has been so completed, such Form shall be deemed to be an application by the appellant for leave to be so present.

(4) A judge of the Court by whom any application to which this Rule relates has been refused may sit as a member of the Court duly constituted as aforesaid at the hearing of that application by the Court and may take part in the determination of that application by the Court.

Examina-
tion of
witnesses.

14. (1) Where the Court has made an order under the provisions of paragraph (b) of subsection (1) of section thirty-two of the Law directing any witness to attend and be examined before the Court or before any person appointed by the Court under the provisions of that paragraph for the purpose of examining the witness (hereafter in this Rule referred to as "an examiner"), the Registrar shall—

- (a) in the case where the witness is directed to attend and be examined before the Court, cause a notice in Form 14 to be served upon the witness specifying the time and place at which the Court has directed the witness to attend for such purpose;

- (b) in the case where the witness is directed to attend and be examined before an examiner, upon the request of the examiner, cause a notice in Form 15 to be served upon the witness specifying the name of the examiner and the time and place appointed by the examiner at which the witness is required to attend for such purpose and shall notify the Attorney General, the appellant and his advocate, if any, of such time and place;

and shall give a certified copy of any such notice to the Attorney General.

(2) An order under the provisions of paragraph (b) of subsection (1) of section thirty-two of the Law may be made by the Court at any time—

- (a) upon application being made to it in that behalf by the Attorney General or an appellant, if he is not in custody;
- (b) if an appellant is in custody and is not legally represented, upon application being made to it by the appellant in that behalf in Form 16.

(3) The Registrar shall furnish to an examiner any documents, exhibits or other things connected with the appeal to which the examination before the examiner relates as and when requested so to do by the examiner and such documents, exhibits and things shall, after the examination has been concluded, be returned by the examiner to the Registrar together with any depositions taken by the examiner under this Rule.

(4) Every witness examined before an examiner under this Rule shall give his evidence upon oath to be administered by the examiner except where the witness, if he were giving evidence as a witness on a trial on indictment, would not need to be sworn.

(5) The examination of every witness under this Rule shall be taken—

- (a) in the form of a deposition in the same manner as depositions are taken in committal proceedings before the Magistrate's Court and a caption in Form 17 shall be attached to any such deposition; and
- (b) in private except where the Court has otherwise directed.

(6) The Attorney General, the appellant or his advocate on his behalf shall be entitled to be present at and take part in the examination of any witness under this Rule.

(7) Where an order is made by the Court under the provisions of paragraph (d) of subsection (1) of section thirty-two of the Law referring any question arising on an appeal to a special commissioner appointed by the Court, the Court may in the order or by giving directions from time to time as it thinks fit—

- (a) specify whether the Attorney General or the appellant or any person on his behalf may be present at any examination or investigation or at any stage thereof as may be ordered under the said provisions;
- (b) specify any and what powers of the Court under the Law or these Rules may be delegated to such special commissioner;
- (c) require such special commissioner to make interim reports from time to time to the Court upon the question referred to him under the said provisions;
- (d) if the appellant is in custody, give leave to him to be present at any stage of any examination or investigation;

- (e) direct the Registrar to furnish copies of any report made by such special commissioner to the Attorney General and to the appellant or his advocate, if any.

15. (1) On the final determination of any appeal under Part III of the Law or of any matter under section forty of the Law, the Registrar shall give to the appellant, if he is in custody and was not present at such final determination, and to the Governor of the Prison—

Notifications
as to result
of appeals,
etc.

(a) in the case of the final determination of any such appeal, notice in Form 18;

(b) in the case of the final determination of any such matter, notice in Form 19.

(2) In the case of an appeal in relation to a conviction involving sentence of death the Registrar shall—

(a) on receiving notice of appeal or notice of application for leave to appeal in relation to such conviction, furnish to the Bailiff a certified copy of such notice for transmission to the Secretary of State;

(b) on the final determination of the appeal, forthwith notify the appellant and the Governor of the Prison of such determination and furnish to the Bailiff a notice of such determination for transmission to the Secretary of State.

16. (1) Except where otherwise provided in these Rules, any application to the Court may be made by the Attorney General or by the appellant or his advocate on his behalf orally or in writing.

Applications
not specially
provided for.

(2) Where an appellant is not legally represented and is in custody and is not entitled to be present

before the Court or has not obtained leave to be so present, he shall make any application to the Court under these Rules by forwarding the same in writing to the Registrar, who shall take the proper steps to obtain the decision of the Court thereon.

Non-compliance on the part of appellants with the Rules.

17. (1) Non-compliance on the part of an appellant with these Rules or with any rule of practice for the time being in force under the Law shall not prevent the further prosecution of his appeal if the Court or a judge thereof considers that such non-compliance was not wilful and that the same may be waived or remedied by amendment or otherwise.

(2) In any case of non-compliance on the part of the appellant as aforesaid the Court or a judge thereof may, in such manner as the Court or the judge, as the case may be, thinks right, direct the appellant to remedy such non-compliance and thereupon the appeal shall proceed.

(3) Where an appellant was not present before the Court or a judge thereof, as the case may be, at the time when any direction was given under the last preceding paragraph, the Registrar shall forthwith notify him of the direction.

References by Secretary of State to the Court under section forty-two of the Law.

18. Where, as respects the conviction of any person or the sentence passed on that person, the Secretary of State has referred—

(a) the whole case to the Court under the provisions of paragraph (a) of section forty-two of the Law, that person shall be deemed to be for all the purposes of the Law and of these Rules a person who has obtained leave to appeal under Part III of the Law and the Court may proceed to deal with his case accordingly;

- (b) any point arising in the case to the Court under the provisions of paragraph (b) of that section, the Court shall, unless it otherwise determines, consider such point in private.

19. (1) Subject to the provisions of this Rule, every notice or other document which is required or authorised by the Law or these Rules to be given to the Registrar by an appellant—

General provisions as to notices, etc.

- (a) shall be signed by the appellant or his advocate on his behalf;

(b) shall be given—

- (i) in the case where the appellant is in custody and is not legally represented, by delivering it to the Governor of the Prison who shall forthwith deliver the same to the Registrar;
- (ii) in the case where the appellant is in custody and is legally represented, by his advocate by delivering the same to the Registrar at the Greffe, Guernsey;
- (iii) in the case where the appellant is not in custody, by delivering the same or sending the same by registered post, to the Registrar at the Greffe, Guernsey.

(2) Subject to the provisions of this Rule, any notice required by these Rules to be given by the Registrar to an appellant shall—

- (a) in the case where the appellant is in custody and is not legally represented, be given by delivering it to the Governor of the Prison who shall forthwith deliver the same to the appellant;
- (b) in the case where the appellant is in custody and is legally represented, be given by delivering it to his advocate;

(c) in the case where the appellant is not in custody, be served personally upon the appellant.

(3) Where an appellant is unable to write he may affix his mark to any notice or other document which he is required to sign under the provisions of paragraph (1) of this Rule in the presence of a witness who shall attest the same and thereupon such notice or document shall be deemed to be duly signed by the appellant.

(4) Where on the trial of a person who is entitled or may be authorised to appeal under Part III of the Law it has been contended that he was not responsible according to law for his actions on the ground that he was insane at the time the act was done or the omission made by him then, if such person is not legally represented—

(a) any notice or other document which is required or authorised by the Law or these Rules to be given to the Registrar by an appellant may be given and signed by any person authorised to act on his behalf;

(b) any notice required by these Rules to be given by the Registrar to an appellant may be given by the Registrar to any person authorised to act on his behalf.

(5) In the case of a person who is entitled or may be authorised to appeal under Part III of the Law and who is for the time being certified as a person of unsound mind under the Mental Treatment (Guernsey) Laws, 1939 and 1956, or in respect of whom there is for the time being in force a temporary admission order under those Laws, then if such person is not legally represented—

(a) any notice or other document which is required or authorised by the Law or these

Rules to be given to the Registrar by an appellant may be given and signed by the natural or legal guardian of such person;

- (b) any notice required by these Rules to be given by the Registrar to an appellant may be given by the Registrar to the natural or legal guardian of such person.

(6) In the case of a body corporate, where by the Law or these Rules any notice or other document is required to be given and signed by the appellant, it shall be sufficient compliance therewith if such notice or other document is given and signed by a Director, the Secretary or other officer of such body corporate duly authorised in that behalf.

(7) Any notice or other document required by these Rules to be served personally upon any person shall be so served—

- (a) in the Islands of Guernsey, Herm and Jethou, by Her Majesty's Sergeant;
- (b) in the Island of Alderney, by the Clerk of the Court of Alderney;
- (c) in the Island of Sark, by the Prévôt of Sark;

and the certificate of Her Majesty's Sergeant, the Clerk of the Court of Alderney or the Prévôt of Sark, as the case may be, that such notice or other document has been so served shall be conclusive proof of such service.

(8) The Registrar shall give to the Attorney General a certified copy of each and every notice or other document which shall have been given to him by or on behalf of an appellant or which shall have been given by the Registrar to the appellant or any person authorised to act on his behalf under the Law or under these Rules.

Citation and
commence-
ment.

20. (1) These Rules may be cited as the Court of Appeal (Criminal Division) (Guernsey) Rules, 1964.

(2) These Rules shall come into force on the fourth day of June, nineteen hundred and sixty-four.

SCHEDULE

Forms to be used in connection with appeals under Part III of the Law

Form 1

Rule 2 No.

THE COURT OF APPEAL (GUERNSEY) LAW,
1961
COURT OF APPEAL (CRIMINAL DIVISION)

NOTICE OF APPEAL OR OF APPLICATION FOR LEAVE TO APPEAL

To the Registrar of the Court of Appeal

Name of appellant
Offence(s) of which convicted
by the Royal Court (1)
Sentence(s)
Date when convicted
Address (2)

I, the above-named appellant, hereby give you notice that I desire to appeal to the Court of Appeal against my (3) on the grounds set forth on page 2 of this notice.

(Signed) Appellant

Dated the (4) day of , 19 .

- (1) e.g. Larceny, Forgery, etc.
- (2) If the appellant is in custody write "States' Prison".
- (3) If the appellant wishes to appeal against conviction he must write the word "conviction". If he wishes to appeal against sentence he must write the word "sentence". If he wishes to appeal against both conviction and sentence he must write the words "conviction and sentence". If an appellant convicted of more than one offence wishes to appeal against some only of his convictions or sentences, he must state clearly the convictions or sentences, against which he wishes to appeal.
- (4) If this notice is signed more than ten days after the conviction or sentence appealed against the appellant must fill in Form 2 and give it to the Registrar with this notice.

Questions (5)

Answers

1. Have you been granted a certificate by the judge who presided at your trial that the case is a fit case for appeal?
2. Do you desire the Court of Appeal to assign you legal aid?

If your answer to this question is "Yes" then answer the following questions—

- (a) What was your occupation and what wages, salary or income were you receiving before your conviction?
 - (b) Have you any means to enable you to obtain legal aid for yourself?
3. Is any advocate now acting for you?
If so, give his name.
 4. Do you desire to be present when the Court considers your appeal?(6)

(5) The appellant must answer each of these questions.

(6) An appellant is not entitled to be present on the hearing of an application for leave to appeal nor where the appeal is on some ground involving a question of law alone.

5. Do you desire to apply for leave to call any witness on your appeal?

If your answer to this question is "Yes", you must also fill in Form 16 and give it to the Registrar with this notice.

GROUNDS OF APPEAL OR APPLICATION (7)

-
- (7) These must be filled in before the notice is given to the Registrar. The appellant must here set out the grounds or reasons he alleges why his conviction should be quashed or his sentence varied. If one of the grounds set out is misdirection by the judge, particulars of such alleged misdirection must be set out in this notice. The appellant can also, if he wishes, set out his case and argument fully.

FORM 2

Rule 2

No.

THE COURT OF APPEAL (GUERNSEY) LAW,
1961
COURT OF APPEAL (CRIMINAL DIVISION)

NOTICE OF APPLICATION FOR EXTENSION
OF TIME TO APPEAL

To the Registrar of the Court of Appeal

I,
hereby give you notice that I desire to apply to the
Court of Appeal for an extension of the time within
which I may give notice of appeal/notice of applica-
tion for leave to appeal (1) against my conviction and/
or sentence on the following grounds (2):—

(Signed)

Appellant

Dated the day of , 19 .

-
- (1) Form 1 (notice of appeal or application for leave to appeal) must be filled up and sent with this application to the Registrar.
 - (2) Here set out clearly and concisely the reasons for the delay in giving notice of appeal or application for leave to appeal, and the grounds on which you submit the Court should extend the time.

THE COURT OF APPEAL (GUERNSEY) LAW,
1961
COURT OF APPEAL (CRIMINAL DIVISION)

NOTICE OF ABANDONMENT OF APPEAL (1)

To the Registrar of the Court of Appeal

Name of appellant

Offence(s) of which convicted

by the Royal Court (2)

Sentence(s)

Address (3)

I, the above-named appellant, having been convicted and sentenced as above stated and having duly given to the Registrar of the Court of Appeal notice that I desired to appeal to the said Court, do now hereby give notice that I do not intend further to prosecute my appeal but that I hereby abandon all proceedings in regard thereto as from the date hereof.

Dated the day of , 19 .

(Signed)(4)

Appellant

This notice was signed by the above-named appellant on the day above stated in my presence

Signature of witness

Address of witness

Occupation of witness

-
- (1) By Rule 5 of the Court of Appeal (Criminal Division) (Guernsey) Rules, 1964, upon this notice being given, the appeal shall be deemed to have been dismissed by the Court of Appeal.
(2) e.g. Larceny, Forgery, etc.
(3) If the appellant is in custody write "States' Prison".
(4) This notice must be signed in the presence of a witness.

FORM 4

Rule 6

No.

THE COURT OF APPEAL (GUERNSEY) LAW,
1961
COURT OF APPEAL (CRIMINAL DIVISION)

CERTIFICATE OF PRESIDING JUDGE

Law Officers of the Crown v.

In the Royal Court of Guernsey

WHEREAS the said
was tried and convicted by the Royal Court on the
day of , 19 , on an
indictment/charge (1)
charging him with (2)
and was thereupon sentenced by the Royal Court to

:

I DO HEREBY CERTIFY that the case is a fit
case for an appeal by the said
to the Court of Appeal under paragraph (b) of section
twenty-four of the Court of Appeal (Guernsey) Law,
1961, upon the following grounds (3):—

(Signed)

Presiding judge

Dated the day of , 19 .

(1) Delete whichever is inapplicable.

(2) State shortly the offence, e.g., Larceny, Forgery, etc.

(3) Here specify in general terms the grounds on which the
certificate is granted.

FORM 5

Rule 9

No.

THE COURT OF APPEAL (GUERNSEY) LAW,
1961
COURT OF APPEAL (CRIMINAL DIVISION)

RECOGNIZANCE OF APPELLANT
SENTENCED TO A FINE

I (hereinafter called "the appellant") acknowledge that I owe to our Sovereign Lady the Queen the sum of , payment to be enforced against me in accordance with such order as may be made in that behalf under the Court of Appeal (Criminal Division) (Guernsey) Rules, 1964, if I fail to comply with the conditions endorsed hereon.

(Signature of appellant)

(Address at which appellant proposes to reside pending appeal)

Taken before me the day of , 19 .

(Endorsement)

Conditions

The conditions of this recognizance are that whereas the appellant has intimated that he is desirous of appealing to the Court of Appeal against his conviction of (state the offence):

If, therefore the appellant duly prosecutes his appeal and appears in person before the Court of Appeal unless the Court otherwise orders at each and every hearing of his appeal and at the final determination thereof and in the meantime does not depart out of the Bailiwick of Guernsey except with the leave of the Court or a judge thereof (and, unless his appeal is successful, pays to the Registrar of the Court of Appeal the sum of _____, being the fine imposed on him or such other sum as the Court may order), then this recognizance shall be void, but otherwise shall remain in full force.

Rule 9

No.

THE COURT OF APPEAL (GUERNSEY) LAW.
1961
COURT OF APPEAL (CRIMINAL DIVISION)

RECOGNIZANCE OF SURETY OF APPELLANT
SENTENCED TO A FINE

I _____, as surety, acknowledge that I owe to our Sovereign Lady the Queen the sum of _____, payment to be enforced against me in accordance with such order as may be made in that behalf under the Court of Appeal (Criminal Division) (Guernsey) Rules, 1964, if

(hereinafter called "the appellant") fails to comply with any of the conditions endorsed hereon.

(Signature)

Taken before me the _____ day of _____, 19 ____ .

(Endorsement)

Conditions

The conditions of this recognizance are that whereas the appellant has intimated that he is desirous of appealing to the Court of Appeal against his conviction of (state the offence):

If, therefore, the appellant duly prosecutes his appeal and appears in person before the Court of Appeal unless the Court otherwise orders at each and every hearing of his appeal and at the final determination thereof and in the meantime does not depart out of the Bailiwick of Guernsey except with the leave of the Court or of a judge thereof (and, unless his appeal is successful, pays to the Registrar of the Court of Appeal the sum of _____, being the fine imposed on him, or such other sum as the Court may order), then this recognizance shall be void, but otherwise shall remain in full force.

Rule 9

No.

THE COURT OF APPEAL (GUERNSEY) LAW.
1961

COURT OF APPEAL (CRIMINAL DIVISION)

NOTICE TO SURETY OF APPELLANTS'S
FAILURE TO PROSECUTE

TO

of

Whereas you are bound in the sum of £
as surety for that the said
having been convicted of
should duly prosecute an appeal in relation to his
said conviction before the Court of Appeal:

And Whereas the said has not so
prosecuted his appeal:

Now I hereby give you notice that the said
has been given notice to attend before
one of the judges of the Court of Appeal on
at and that the said judge may
make an order under the Court of Appeal (Criminal
Division) (Guernsey) Rules, 1964, for payment of the
said sum by which you are bound, unless you then
show good cause to the contrary.

(Signed)

Registrar of the Court of Appeal.

FORM 9

Rule 10

No.

THE COURT OF APPEAL (GUERNSEY) LAW,
1961
COURT OF APPEAL (CRIMINAL DIVISION)

NOTICE OF APPLICATION BY APPELLANT
FOR BAIL PENDING APPEAL

To the Registrar of the Court of Appeal

I,
having been convicted of the offence of

and being now detained in the States' Prison and
having given notice of my desire to appeal to the
Court of Appeal,

Do hereby give you notice that I desire to apply
to a judge of the Court of Appeal for bail, with
sureties on the following grounds:—

The undermentioned persons are willing to become
sureties for my presence at the hearing and determina-
tion of the appeal in the sum of £ (1) each.

Name of surety

Occupation

Address

Name of surety

Occupation

Address

(Signed)

Dated the day of , 19 .

(1) Fill in the amount for which surety is willing to be bound.

FORM 10

Rule 10

No.

THE COURT OF APPEAL (GUERNSEY) LAW,
1961
COURT OF APPEAL (CRIMINAL DIVISION)

RECOGNIZANCE OF APPELLANT

I, _____ (hereinafter called "the appellant") acknowledge that I owe to our Sovereign Lady the Queen the sum of _____, payment thereof to be enforced against me in accordance with such order as may be made in that behalf under the Court of Appeal (Criminal Division) (Guernsey) Rules, 1964, if I fail to comply with the conditions endorsed hereon.

(Signature of appellant)

(Address at which appellant proposes to reside pending appeal).

Taken before me the _____ day of _____, 19 ____ .
(Endorsement)

Conditions

The conditions of this recognizance are that if the appellant appears in person before the Court of Appeal unless the Court otherwise orders at each and every hearing of his appeal and at the final determination thereof and abides by the judgement of the Court, and in the meantime does not depart out of the Bailiwick of Guernsey except with the leave of the Court or of a judge thereof, then this recognizance shall be void, but otherwise shall remain in full force.

FORM 11

Rule 10 No.
 THE COURT OF APPEAL (GUERNSEY) LAW,
 1961
 COURT OF APPEAL (CRIMINAL DIVISION)

RECOGNIZANCE OF APPELLANT'S
 SURETY

I, _____, as surety, acknowledge that I owe to our Sovereign Lady the Queen the sum of _____, payment thereof to be enforced against me in accordance with such order as may be made in that behalf under the Court of Appeal (Criminal Division) (Guernsey) Rules, 1964, if _____ (hereinafter called "the appellant"), detained in the States' Prison, fails to comply with any of the conditions endorsed hereon.

(Signature)

Taken before me the _____ day of _____, 19 ____ .
 (Endorsement)

Conditions

The conditions of this recognizance are that if the appellant appears in person before the Court of Appeal unless the Court otherwise orders at each and every hearing of his appeal and at the final determination thereof and abides by the judgement of the Court, and in the meantime does not depart out of the Bailiwick of Guernsey except with the leave of the Court or of a judge thereof, then this recognizance shall be void, but otherwise shall remain in full force.

FORM 12

Rule 13 No.
 THE COURT OF APPEAL (GUERNSEY) LAW,
 1961
 COURT OF APPEAL (CRIMINAL DIVISION)

NOTIFICATION OF RESULT OF APPLICATION
 UNDER SECTION FORTY OF THE LAW

Law Officers of the Crown v. (Appellant)

This is to give you notice that , one
 of the judges of the Court of Appeal, acting under
 section forty of the Court of Appeal (Guernsey) Law,
 1961, has considered the application of the above-
 named appellant for:—

- (a) extension of time within which notice of appeal
 or application for leave to appeal may be given;
- (b) leave to appeal against ;
- (c) legal aid;
- (d) permission to be present during the proceed-
 ings in the appeal;
- (e) bail;

and has determined the same, and has

Dated the day of , 19 .

Registrar of the Court of Appeal

If any of the above-mentioned applications have been refused,
 the appellant may, if he so desires, have the same determined
 by the full Court of Appeal as duly constituted for the hearing
 of appeals. In such case the appellant must give notice of appeal
 to the Registrar on Form 13 attached hereto within five days.

FORM 13

Rule 13

No.

THE COURT OF APPEAL (GUERNSEY) LAW,
1961
COURT OF APPEAL (CRIMINAL DIVISION)

NOTICE OF APPEAL FROM JUDGE UNDER
SECTION FORTY OF THE LAW

Law Officers of the Crown v. (Appellant)

To the Registrar of the Court of Appeal

I, the above-named appellant, having received your notification that my application(s) for:—

- (a) extension of time within which notice of appeal or application for leave to appeal may be given;
- (b) leave to appeal;
- (c) legal aid;
- (d) permission to be present during the proceedings in the appeal;
- (e) bail;

have been refused by , one of the judges of the Court of Appeal

Do hereby give you notice that I desire that the said application(s) shall be considered and determined by the Court of Appeal.

(Signed)

Appellant

Dated the day of , 19 .

If you wish to state any reasons in addition to those set out by you in your original notice upon which you submit that the Court of Appeal should grant your said application(s), you may do so in the space below. You must not repeat reasons that you have already stated in previous notices.
Do you desire to be present at the hearing and determination by the Court of your said application(s)?

Rule 14

No.

THE COURT OF APPEAL (GUERNSEY) LAW,
1961
COURT OF APPEAL (CRIMINAL DIVISION)

NOTICE TO WITNESS TO ATTEND COURT
FOR EXAMINATION

Law Officers of the Crown v. (Appellant)

To

of

Whereas on good cause shown to the Court of Appeal you have been ordered to attend and be examined as a witness before the Court upon the appeal of the above-named appellant:

This is to give you notice to attend before the Court on the day of , 19 , in the Royal Court House, at o'clock in the noon.

You are also required to have with you at the said time and place any books, papers or other things relating to the said appeal which you may have had notice so to produce.

(Signed)

Registrar of the Court of Appeal

Dated the day of , 19 .

FORM 15

Rule 14

No.

THE COURT OF APPEAL (GUERNSEY) LAW,
1961
COURT OF APPEAL (CRIMINAL DIVISION)

NOTICE TO WITNESS TO ATTEND BEFORE
EXAMINER

Law Officers of the Crown v. (Appellant)

To
of

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

This is to give you notice to attend at
on the day of , 19 ,
before at o'clock in the
noon.

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

(Signed)
Registrar of the Court of Appeal

Dated the day of , 19 .

Rule 14

No.

THE COURT OF APPEAL (GUERNSEY) LAW.
1961
COURT OF APPEAL (CRIMINAL DIVISION)

NOTICE OF APPLICATION FOR FURTHER
WITNESS (1)

Law Officers of the Crown v. (Appellant)

To the Registrar of the Court of Appeal

I, the above-named appellant, hereby give you notice that I wish to apply to the Court for leave to call the following witness (1)

(Signed)

Appellant

Dated the day of , 19

Witness

1. Name and address of witness.
2. Was the witness examined at the trial? If not, why was not the witness so examined?
3. State shortly the evidence the witness can give.

(1) A separate form must be filled up for each witness.

FORM 17

Rule 14

No.

THE COURT OF APPEAL (GUERNSEY) LAW,
1961
COURT OF APPEAL (CRIMINAL DIVISION)

CAPTION FOR DEPOSITION OF WITNESS
EXAMINED BEFORE EXAMINER

Law Officer of the Crown v. (Appellant)

The depositions (on oath) taken by me the under-
signed, being an Examiner duly appointed by the
Court of Appeal in that behalf

of

of

and

of

witnesses, examined before me under an order of the
said Court dated day of , 19 , in the
presence of the said appellant (or his
advocate) and the Attorney General at
on the day of , 19 , which said
appellant (personally, or by his advocate) and
Attorney General had full opportunity of asking
questions of the said witnesses, to whom the deposi-
tions following were read by me before being signed
by them the said witnesses respectively.

The deposition of
of

who (upon oath duly administered by me) saith as follows:—

(Here follows deposition)

(Signed)

Witness

Taken before me the day of , 19 .

(Signed)

Examiner.

Rule 15

No.

THE COURT OF APPEAL (GUERNSEY) LAW,
1961 .
COURT OF APPEAL (CRIMINAL DIVISION)

NOTIFICATION OF RESULT OF
FINAL APPEAL

Law Officers of the Crown v. (Appellant)

This is to give you notice that the Court of Appeal,
as duly constituted for the hearing of appeals under
the Law, has this day considered the appeal of the
above-named appellant against
and has finally determined the same, and has

Dated the day of , 19 .

Registrar of the Court of Appeal.

Rule 15 No.

THE COURT OF APPEAL (GUERNSEY) LAW,
1961
COURT OF APPEAL (CRIMINAL DIVISION)

NOTIFICATION OF RESULT OF APPLICATION
TO THE FULL COURT

Law Officers of the Crown v. (Appellant)

This is to give you notice that the Court of Appeal, as duly constituted for the hearing of appeals under the Law, has this day considered the application of the above-named appellant for:—

- (a) extension of the time within which notice of appeal or application for leave to appeal may be given;
- (b) leave to appeal against ;
- (c) legal aid;
- (d) permission to be present during the proceedings in the appeal;
- (e) bail;
- (f) leave to call further evidence;

and has determined the same, and has

Dated the day of , 19 .

Registrar of the Court of Appeal.

R. H. VIDELO,
Registrar of the Court of Appeal.