

Supreme Court (Criminal Appeals) Rules

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**SUPREME COURT OF JUDICATURE ACT
(CHAPTER 322)**

SUPREME COURT (CRIMINAL APPEALS) RULES

R 6

REVISED EDITION 1997

(26th September 1997)

[15th March 1964]

PART I

PRELIMINARY

Citation

1. These Rules may be cited as the Supreme Court (Criminal Appeals) Rules.¹

¹ *Note:* These Rules were made under section 87 of the Malaysia Act (M. Act 26/63) by the Lord President of the Federal Court of Malaysia, after consultation with the Chief Justices of the High Courts in Malaya, Borneo and Singapore, when Singapore was a component part of Malaysia.

Definitions

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

“appellant” means a person who has been convicted of a criminal offence in any court and who by any written law is entitled to appeal to the Court of Criminal Appeal, and includes where the context requires a person desirous of appealing;

“Court” means the Court of Criminal Appeal and includes a Judge thereof.

PART II

COMMENCEMENT OF APPEAL AND PROCEEDINGS PRIOR TO HEARING

Notice

3.—(1) Within 14 days of his conviction or within such extended time as the Court may allow, the appellant shall file with the Registrar a notice of appeal and 6 copies thereof.

(2) The notice of appeal shall be substantially in the Form A set out in the Schedule.

Notice where appellant in prison

4.—(1) Where an appellant is in prison he may inform the officer in charge of the prison orally or in writing that he wishes to appeal against his conviction or against his sentence and of the grounds on which he wishes to appeal.

(2) The officer in charge of the prison on receiving any such communication as in paragraph (1) shall complete the Form B set out in the Schedule and 4 copies thereof which shall be signed by the appellant and by the officer in charge of the prison, and the officer in charge of the prison shall deliver the same or send the Form by registered post to the Registrar.

(3) The Form B completed and filed in accordance with this rule shall for all purposes be treated as a notice of appeal and as a petition of appeal for the purposes of rule 10 and shall be deemed to have been filed in accordance with these Rules.

(4) Nothing in this rule shall prevent an appellant from filing a petition of appeal in pursuance of rule 10.

Notice to be forwarded to Public Prosecutor

5. On receipt of a notice of appeal, the Registrar shall forthwith make a note of the particulars of the notice in a register to be kept by him and shall forthwith send one copy of the notice to the Public Prosecutor.

Papers

6. As soon as practicable after the filing of a notice of appeal, the Registrar shall forward to the Court particulars of the appellant's trial in the Form C set out in the Schedule together with 5 copies of the following papers:

- (a) the trial Judge's note of the trial;
- (b) all documentary exhibits produced at the trial except such as are of so voluminous a nature that the copying thereof in the opinion of the Registrar will cause undue delay;
- (c) where the trial has been by a Judge alone any written judgment delivered by the trial Judge or where no such written judgment has been delivered a statement in writing by the trial Judge of the grounds of his decision; and
- (d) a list of the exhibits at the trial.

More than one appellant

7. Where more persons than one have been convicted at any one trial and more than one of such persons appeal then and in that case the number of papers to be filed or supplied under these Rules shall be increased by one for each appellant in addition to one.

Record

8. As soon as may be practicable, the Registrar shall cause copies of all the papers mentioned in rule 6 to be served on the Public Prosecutor and on the appellant.

Service

9. Any notice, order or other document required or authorised to be served under

these Rules may be served by delivering a true copy or duplicate thereof to the person on whom it is to be served or to his solicitor, or in such other manner as the Court may direct.

Petition of appeal

10.—(1) The appellant shall within a period of 10 days after service upon him of the papers mentioned in rule 6 or within such extended period as the High Court may allow file with the Registrar a petition of appeal and 5 copies thereof.

(2) A petition of appeal shall be substantially in the Form D set out in the Schedule.

(3) On receipt of a petition of appeal, the Registrar shall cause a copy of the petition to be served on the Public Prosecutor.

Legal aid

11. In an appeal where the appellant is not legally represented the Registrar shall assign an advocate and solicitor to represent him —

- (a) in every case where the appellant has been sentenced to death; and
- (b) in any other case where the Chief Justice considers it is in the interests of justice that legal aid should be given.

Fees

12.—(1) No fees shall be charged in respect of any appeal or any proceeding therein.

(2) No fees shall be charged for any papers which by these Rules are required to be supplied to any appellant.

PART III

APPLICATIONS

Applications

13.—(1) All applications to the Court shall, unless otherwise provided, be made by motion and shall be heard in open Court.

(2) A notice of motion shall be substantially in the Form E set out in the Schedule.

(3) A notice of motion shall be served on the parties concerned not less than 4 days before the return day, unless the Court otherwise orders.

(4) Application for leave to give shorter notice may be made by motion ex parte.