

No. 331.

Rules made by the Chief Justice of the Supreme Court of Hong Kong under section 10 of the Criminal Procedure Ordinance, 1899, Ordinance No. 9 of 1899, as enacted by the Criminal Procedure Amendment Ordinance, 1933, Ordinance No. 5 of 1933.

Interpretation of Rules.

1. These Rules may be cited as the Criminal Appeal Citation Rules, 1933.

2. The expression "The Ordinance" shall mean the Criminal Procedure Ordinance, 1899, as amended by the Criminal Procedure Amendment Ordinances, 1930, 1931 and 1933. Definitions.

3. The forms set out in the Schedule to these Rules, or forms as near thereto as circumstances permit, shall be used in all cases to which such forms are applicable. Scheduled Forms to be used.

Notices of Appeal.

4.—(a) Every Notice of Appeal or Notice of Application for leave to appeal or Notice of Application for extension of time within which such Notice shall be given under the Ordinance shall be signed by the Appellant himself, except under the provisions of paragraphs (d) and (e) of this Rule or where otherwise authorised by the Full Court or a Judge. Notices of Appeal to be signed by Appellant and addressed to Registrar.

Any other Notice required or authorised to be given for the purposes of the Ordinance or these Rules shall be in writing and signed by the person giving the same or by his Solicitor. All Notices required or authorised to be given for the purposes of the Ordinance or these Rules to the Full Court shall be addressed to "The Registrar, Courts of Justice, Hong Kong".

(b) Any notice or other document which is required or authorised by the Ordinance or these Rules to be given or sent shall be deemed to be duly given or sent if forwarded by Registered Post addressed to the person to whom such notice or other document is so required or authorised to be given or sent. How Notices, &c., may be sent or given.

(c) When an Appellant or any other person authorised or required to give or send any notice of appeal or notice of any application for the purposes of the Ordinance or of these Rules is unable to write he may affix his mark thereto in the presence of a witness who shall attest the same and thereupon such notice shall be deemed to be duly signed by such Appellant. Where Appellant unable to write.

(d) Where, on the trial of a person who is entitled or may be authorised to appeal under the Ordinance, 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, any notice required by these Rules to be given and signed by the Appellant himself may be given and signed by his Solicitor or other person authorised to act on his behalf. Appellants' representative may act for him where question of insanity involved.

Notices,
&c., on
behalf of
Corpora-
tions.

(e) In the case of a body corporate where by the Ordinance or these Rules any notice or other document is required to be signed by the Appellant himself, it shall be sufficient compliance therewith if such notice or other document is signed by the Secretary, Clerk, Manager, or Solicitor of such body corporate.

Record of Case.

Record of
Case.

5. The record of an appeal case for the purposes of the Full Court shall comprise the notes of the Trial Judge and such other matter as the Trial Judge, or, in his absence, the Full Court, may direct.

Certificate of Trial Judge.

Judge's
Certificate
under
s. 78A (1)
(b) or (c).

6.—(a) The certificate of the Trial Judge under section 78A (1) (b) or (c) of the Ordinance may be in the form (1A) or (1B) in the schedule to these Rules.

Judge's
Certificate
may be
given at
trial without
application.

(b) The Trial Judge may, in any case in which he considers it desirable so to do, inform the person convicted before or sentenced by him that the case is in his opinion one fit for an appeal to the Full Court under section 78A (1) (b) or (c), and may give to such person a certificate to that effect in the form (1A) or (1B) in the Schedule to these Rules.

Appeals where fine only is inflicted.

Where fine
imposed on
conviction to
be retained
pending
Appeal.

7.—(a) Where a person has, on his conviction, been sentenced to payment of a fine, and in default of payment to imprisonment, the person lawfully authorised to receive such fine shall, on receiving the same, retain it until the determination of any Appeal in relation thereto.

Person in
custody in
default of
payment of
fine, deemed
to be person
sentenced to
imprison-
ment.

(b) If such person remains in custody in default of payment of the fine, he shall be deemed, for all purposes of the Ordinance or these Rules, to be a person sentenced to imprisonment.

Person fined
may in
certain cases
intimate
appeal, and
not pay
fine. Power
of Trial
Judge in
such cases
to impose
recogniz-
ances.

(c) Where any person has been convicted and is thereupon sentenced to the payment of a fine, and, in default of such payment, to imprisonment and he intimates to the Trial Judge that he is desirous of appealing against his conviction to the Full Court, upon grounds of law alone, or, against his conviction or sentence with the Certificate of the Trial Judge, upon any grounds mentioned in Section 78A (1) (b) or (c) of the Ordinance, such Judge may, if he thinks right so to do, order such person forthwith to enter into recognizances in such amount, and with or without sureties in such amount as such Judge may think right, to prosecute his appeal. And, subject thereto, the Trial Judge may order that payment of the said fine shall be made at the final determination of his said appeal, if the same be dismissed, to the Registrar, or as the Full Court may then order. The recognizance under this Rule, shall be in the forms (XX) and (XXI) in the Schedule hereto. A surety becoming duly bound by recognizance under this Rule, shall be deemed to be, for all purposes, and shall have all the powers of a surety under the provisions of Rule 26.

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

Fine to be repaid on success of Appeal.

(e) If an Appellant to whom Rule 7 (c) applies, does not serve in accordance with these rules, a Notice of Appeal upon grounds of law alone, or with the Certificate of the Trial Judge upon any grounds mentioned in Section 78A (1) (b) or (c) of the Ordinance, within 10 days from the date of his conviction and sentence, the Registrar shall report such omission to a Judge and the Full Court may, after notice in the forms (XXII) and (XXIII) in the Schedule hereto has been given to the Appellant and his sureties, if any, order an estreat of the recognizances of the Appellant and his sureties in manner provided by Rule 26 (p) hereof, and may issue a warrant for the apprehension of the Appellant, and may commit him to prison in default of payment of his fine, or may make such other order as they think right.

How Appellant committing breach of recognizance under this Rule may be dealt with.

Custody of Exhibits used at Trial.

8. Except in so far as the Trial Judge shall direct, all exhibits in the case shall remain in the custody of the Registrar, or of such other person as the Registrar directs, pending any appeal or the final determination of an appeal.

Custody of exhibits.

Order made at Trial. Consequential Orders and Suspension of same pending Appeal.

9.—(a) Where, on the conviction of a person, the Trial Judge makes an order under sections 72, 73, 79 or 80 of the Ordinance, the operation of any such order shall be suspended until the expiration of 10 days after the day on which such order was made, and when Notice of Appeal or Notice of Application for leave to appeal or Notice of Application for extension of time within which to appeal is given the operation of any such order shall be further suspended until the determination of the appeal. Provided that the Trial Judge may direct that the operation of any order made under section 73 of the Ordinance shall not be suspended unless the person on whom such order has been made shall give to the satisfaction of the Registrar security for the payment to the person in whose favour such order shall have been made of the amount therein **named**.

Suspension of orders made by Trial Judge.

(b) The Full Court may by order annul any order to which this Rule refers on the determination of any appeal under the Ordinance, or may vary such order, and such order, if annulled, shall not take effect, and, if varied, shall take effect as so varied.

Annulment or variation of orders.

(c) Any person affected by any orders which are suspended under this Rule may, with the leave of the Full Court, be heard on the final determination of any appeal, before any such orders are annulled or varied by the Full Court.

Persons affected may be heard on appeal.

(d) The Registrar shall keep a record of any orders to which this Rule refers and any orders of the Full Court annulling or varying the same.

Record of orders.

Non-suspension of Orders for Restitution, &c., to be subject to property or a sample, &c., being necessary for purposes of Appeal.

10. Where the Trial Judge is of opinion that the title to any property the subject of an order of restitution made on a conviction of a person before him, or any property to which the provisions of sub-section 1 of Section 24 of the Sale of Goods Ordinance, 1896, apply, is not in dispute, he, if he 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 directions to or impose such terms upon the person in whose favour the order of restitution is made, or in whom such property reverts under such sub-section as he 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.

Judge's directions as to property of convicted person pending appeal.

11.—(a) Where the Trial Judge makes any such Order on a person convicted before him, as in Rule 9 mentioned, he shall give such directions as he thinks right as to the retention by any person of any money or valuable securities belonging to the person so convicted and taken from such person 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, or in the event of an appeal, until the determination thereof by the Full Court. The Registrar shall keep a record of any directions given under this Rule.

Suspension of disqualifications consequent on conviction.

(b) Where upon conviction of any 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 for the period of ten days from the date of the verdict against such person nor in the event of an appeal under the Ordinance to the Full Court, until the determination thereof.

Suspension of order for destruction or forfeiture of property.

(c) The operation of any Order made, on a conviction, by the Trial Judge under any Ordinance for the destruction or forfeiture of any thing which is the subject of the prosecution or connected therewith shall be suspended in like manner as the orders referred to in Rule 9 (a).

Suspension of proceedings or claims consequent on conviction.

(d) Where, upon conviction of any person of any offence, any claim may be made or any proceedings may be taken under any Ordinance against such person or any other person in consequence of such conviction, such proceedings shall not be taken until after the period of 10 days from the date on which the verdict against such person was returned nor in the event of an appeal under the Ordinance to the Full Court, until the determination thereof.

Period of suspension of orders under s. 78A(5) (e) of Ordinance.

12. The time during which an Order of Restitution or the operation of sub-section 1, of Section 24 of the Sale of Goods Ordinance, 1896, is suspended under Section 78A (5) (e) of the Ordinance, shall commence to run from the day on which the Verdict of the Jury was returned, and, in cases where Notice of Appeal or Notice of Application for leave to appeal is duly given within 10 days after such day, the period of suspension of such order or of the operation of the sub-section shall continue until the determination of the appeal.

Notes and Report of Trial Judge.

Judge's note to be furnished to the Registrar on request.

13. The Registrar when he has received a Notice of Appeal, or a Notice of Application for leave to appeal under the Ordinance, or a Notice of Application for extension of the time within which under the Ordinance such notices shall be

given, shall obtain from the Trial Judge the whole of or any part of his note of the trial or a copy of such note or any part thereof.

14.—(a) The Registrar when he has received a Notice of Appeal, or a Notice of Application for leave to appeal under the Ordinance, or a Notice of Application for extension of time within which under the Ordinance such notice shall be given, may apply to the Trial Judge for a Report in writing, giving his opinion upon the case of the Appellant.

Report of Trial Judge.

(b) The Report of the Judge shall be made to the Full Court, and except by leave of the Full Court the Registrar shall not furnish to any person any part thereof.

Judge's Report to be furnished to Full Court.

*Notices of Appeal and Period for Appealing,
Abandonment of Appeals.*

15. A person desiring, under the provisions of the Ordinance, to appeal to the Full Court against his conviction or sentence, shall commence his appeal by sending to the Registrar a Notice of Appeal or Notice of Application for leave to appeal, or Notice of Application for extension of time within which such Notice shall be given, as the case may be, in the form of such Notices respectively set forth in the Schedule to these Rules, and in the Notice or Notices so sent, shall answer the questions and comply with the requirements set forth thereon, subject to the provisions of Rule 41.

Obligation on Appellants to fill up forms of appeal notices and answer questions thereon.

16. The time within which a person convicted shall give Notice of Appeal or Notice of his Application for leave to appeal to the Full Court against his conviction, shall commence to run from the day on which the verdict of the Jury was returned, whether the Trial Judge shall have passed sentence or pronounced final judgment upon him on that day or not.

Time for appealing against conviction to run from Verdict.

17. The time within which a person convicted and sentenced, shall give Notice of Appeal or Notice of Application for leave to appeal against such sentence under the Ordinance to the Full Court, shall commence to run from the day on which such sentence shall have been passed upon him by the Trial Judge.

Time for appealing against sentence to run from pronouncement of sentence.

18. When the Registrar has received a Notice of Appeal, or a Notice of Application for leave to appeal, or a Notice of Application for extension of time within which, under the Ordinance, such notices shall be given, he shall forthwith prepare for the information of the Full Court particulars of the trial and conviction according to the form (II) in the Schedule hereto, and also an extract from or copy of the Calendar of the Court of Trial so far as the same refers to the Appellant.

Registrar to prepare particulars etc. of trial.

19. Where the Full Court has, on a Notice of Application for leave to appeal duly served, and in the form provided under these Rules, given an Appellant leave to appeal, it shall not be necessary for such 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.

20. An Appellant at any time after he has duly served Notice of Appeal or of Application for leave to Appeal, or of Application for extension of time within which under the Ordinance such notices shall be given, may abandon his appeal by giving notice of abandonment thereof in the form (III) in the

Abandonment of appeal.

Schedule to these Rules to the Registrar, and upon such Notice being given the appeal shall be deemed to have been dismissed by the Full Court.

Notice of Application for extension of time for appealing.

21. An application to the Full Court for an extension of time within which Notices may be given, shall be in the form (IX), in the Schedule hereto. Every person making an application for such extension of time shall send to the Registrar together with the proper form of such application, a form, duly filled up, of Notice of Appeal, or of Notice of Application for leave to appeal, appropriate to the ground or grounds upon which he desires to question his conviction or sentence, as the case may be.

Proceedings before a Single Judge.

Powers which may be exercised by a single Judge.

22.—(a) The powers of the Full Court under the Ordinance and these Rules to give leave to appeal, to extend the time within which notice of appeal or an application for leave to appeal may be given, to assign legal aid to an Appellant, to allow the Appellant to be present at any proceedings in cases where he is not entitled to be present without leave, and to admit an Appellant to bail, may be exercised by a Judge in the same manner as they may be exercised by the Full Court, and subject to the same provisions; but, if a Judge refuses an application on the part of the Appellant to exercise any such power in his favour, the Appellant shall be entitled to have the application determined by the Full Court as duly constituted for the hearing and determination of appeals.

(b) The powers of the Full Court under the Ordinance or these Rules to estreat the recognizances of an Appellant or those of his surety or sureties may be exercised by a Judge, but if a Judge shall order the estreat of a recognizance in the exercise of this power the Appellant or the surety or sureties affected by such order shall be entitled, on giving notice to the Registrar within four days after the date of such order, to have the order reviewed by the Full Court as duly constituted for the hearing and determination of appeals.

Notices of Applications.

How Application for leave to appeal and other preliminary applications are to be dealt with.

23.—(a) Notice of Appeal or Notice of Application for leave to appeal or for extension of time within which Notice of Appeal or Notice of Application for leave to appeal shall be given under the Ordinance in the forms in the Schedule hereto, and the answers to the questions on forms (IV), (V), (VI), (VII) and (VIII) which an Appellant is by these Rules required to make, in reference to legal aid being assigned to him, or to leave being granted to him to be present at the hearing of his appeal, shall be deemed to be applications to the Full Court in such matters respectively.

Procedure where Judge refuses applications under Rule 22.

(b) The Registrar when any application mentioned in this Rule has been dealt with by a Judge shall notify to the Appellant the decision. In the event of such Judge refusing all or any of such applications the Registrar on notifying such refusal to the Appellant shall forward to him form (XIII) in the Schedule hereto which form the Appellant is hereby required to fill up and forthwith return to the Registrar. If the Appellant does not desire to have his said application or applications determined by the Full Court as duly constituted for hearing of appeals or does not return within 5 days to the Registrar form (XIV) duly filled up by him, the refusal of his

application or applications by such Judge shall be final. If the Appellant desires that his said application or applications shall be determined by the Full Court as duly constituted for the hearing of appeals he may, if the Full Court give him leave, be present at the hearing and determination by the Full Court of his said application.

When an Appellant duly fills up and returns within the prescribed time to the Registrar form (XIV) expressing a desire to be present at the hearing and determination by the Full Court of the applications mentioned in this Rule, such form shall be deemed to be an application by the Appellant for leave to be so present. And the Registrar, on receiving the said form, shall take the necessary steps for placing the said application before the Full Court. If the said application to be present is refused by the Full Court, the Registrar shall notify the Appellant; and if the said application is granted, the Registrar shall notify the Appellant and the Superintendent of Prisons, as provided by these Rules. For the purpose of constituting a Full Court the Judge who has refused any such application may sit as a member of such Court, and take part in determining such application.

(c) A Judge sitting under the provisions of Rule 22 may sit and act wherever convenient.

Sittings of
a Judge
under
Rule 22.

Duties of the Registrar.

24. When the Registrar has received a Notice of Appeal, or Notice of Application for leave to appeal under the Ordinance, or a Notice of Application for extension of the time within which under the Ordinance such Notices shall be given, he shall forthwith send a copy of such Notice to the Crown Solicitor.

Registrar
to send
copies of
Notices
to Crown
Solicitor.

Function of the Attorney General.

25.—(a) If in any case the Attorney General is of opinion that the appeal is frivolous or vexatious and can properly be determined without the appearance of the Crown he shall deliver to the Registrar his certificate to that effect.

Frivolous
and
vexatious
appeals.

(b) If in any case the Attorney General is of opinion that the Crown should not appear and oppose the appeal he shall deliver to the Registrar his certificate to that effect.

Unopposed
appeal.

(c) Save where the Attorney General shall deliver his certificate as provided by this rule the Crown shall appear and defend every appeal.

Defence of
Appeals.

Procedure on applications for Bail: Rights of Sureties; Estreat of Recognizances.

26.—(a) When the Full Court under the Ordinance admits an Appellant to bail pending the determination of his appeal on an application by him duly made in compliance with these Rules, the Court shall specify the amounts in which the Appellant and his surety or sureties (if any be required) shall be bound by recognizance, and shall direct, if they think right so to do, before whom the recognizances of the Appellant and his surety or sureties (if any) may be taken.

Bail. Full
Court to
specify
amount and
before
whom
recogniz-
ances to
be taken.

Appellant's recognizances to be taken before a Justice or Superintendent of Prisons. Surety's recognizances before Registrar or Magistrate.

(b) In the event of the Full Court not making any special order or giving special directions under this Rule, the recognizances of the Appellant may be taken before a Justice of the Peace or the Superintendent of Prisons, and the recognizances of his surety or sureties (if any) may be taken before the Registrar or a Magistrate.

Appellant and Superintendent of Prisons to receive notice of terms of bail.

(c) The Registrar shall notify to the Appellant and to the Superintendent of Prisons, the terms and conditions on which the Court shall admit the Appellant to bail under the Ordinance.

Police to assist Registrar or Magistrate in inquiring as to surety's sufficiency.

(d) The Registrar or Magistrate shall be entitled to require the assistance of the Police for the purpose of making inquiry as to the sufficiency or otherwise of any person offering himself as a surety on behalf of any Appellant who has, under the Ordinance, been granted bail, and it shall be the duty of such Police to give such assistance to and as and when required by the Registrar or a Magistrate under this Rule.

Appellant's and surety's recognizances to be forwarded to Registrar. Registrar or Magistrate to give surety certificate of recognizances.

(e) After the recognizance of a surety has been duly taken under these Rules by a Magistrate such Magistrate shall forward such recognizance to the Registrar, and the Superintendent of Prisons shall, after the Appellant's recognizance has been duly taken in pursuance of this Rule, forward the same to the Registrar. The Registrar or Magistrate shall after the recognizance of a surety is taken give to him a certificate in the form (XV) in the Schedule hereto, which such surety shall sign, and retain.

Registrar on receiving recognizances in due form to notify the Superintendent of Prisons to release Appellant.

(f) The Registrar on being satisfied that the recognizances of the Appellant and his surety or sureties (if any) are in due form and in compliance with the order of the Court admitting the Appellant to bail, shall send in the form (XII) in the Schedule to these Rules a notice to the Superintendent of Prisons. This notice, when received by the said Superintendent, shall be a sufficient authority to him to release the Appellant from custody.

Form of recognizance.

(g) The Recognizances provided for in this Rule, shall be in the forms (X) and (XI) in the Schedule hereto.

Presence of Appellant on bail at hearing of his appeal.

(h) An Appellant who has been admitted to bail under the Ordinance shall, by the order of the Full Court or a Judge under which he was so admitted to bail, be ordered to be and shall be personally present at each and every hearing of his appeal, and at the final determination thereof. The Full Court may, in the event of such Appellant not being present at any hearing of his appeal, if they think 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 (XIX) in the Schedule hereto. Provided that the Full Court may consider the appeal in his absence, or make such other order as they think right.

Varying order for bail, by Full Court.

(i) When an Appellant is present before the Full Court such Court **may on an application** made by any person, or if they think right so to do, without any application make any order admitting the Appellant to bail, or revoke or vary any such order previously made, or enlarge from time to time the

recognizance of the Appellant or of his sureties or substitute any other surety for a surety previously bound as they think right.

(j) Where the surety or sureties, for an Appellant under the Ordinance, upon whose recognizances such Appellant has been released on bail by the Full Court, suspects that the said Appellant is about to depart out of the Colony of Hong Kong, or in any manner to fail to observe the conditions of his recognizances on which he was so released, such surety or sureties may lay an information before a Magistrate, in the form (XVI) in the Schedule hereto, and such Magistrate shall thereupon issue a Warrant in the form (XVII) in the Schedule hereto, for the apprehension of the said Appellant.

Provisions for sureties discharging their obligations.

(k) The said Appellant shall, on being apprehended under the said Warrant, be brought before a Magistrate. The said Magistrate shall, on verification of the said information by oath of the informant, by Warrant of Commitment in the form (XVIII) in the Schedule hereto, commit him to prison.

How Appellant on bail to be dealt with on arrest at instance of sureties.

(l) The Magistrate, on the commitment of any such Appellant, shall forthwith notify the Registrar to that effect, and shall forward to the Registrar the said information and the deposition in verification thereof taken before him together with a copy of the said Warrant of Commitment.

Arrest and commitment of Appellant to be notified to Registrar by Magistrate.

(m) At any time after an Appellant has been released on bail under the Ordinance a Judge may, if satisfied that it is in the interest of justice so to do, revoke the order admitting him to bail, and issue a Warrant in the form (XIX) in the Schedule hereto for his apprehension, and order him to be committed to prison.

Power to revoke order for bail.

(n) When an Appellant has been released on bail and has, under a Warrant under these Rules or by his surety or sureties, been apprehended and is in prison, the Superintendent of Prisons shall forthwith notify the Registrar who shall take steps to inform a Judge thereof who may give to the Registrar such directions as to the appeal or otherwise as he shall think right.

Superintendent of Prisons on commitment of Appellant to notify Registrar.

(o) Nothing in these Rules shall effect the lawful right of a surety to apprehend and surrender into custody the person for whose appearance he has become bound, and thereby to discharge himself of his suretyship.

Sureties rights at Common Law preserved.

(p) The Full Court may on any breach of the recognizances of the Appellant, if they think right so to do, order such recognizances and those of his surety or sureties to be estreated.

Estreat of recognizances.

27. It shall be the duty of the Inspector General of Police and the Secretary for Chinese Affairs to enquire as to and to report to the Registrar when applied to by him, upon the means and circumstances of any Appellant where a question as to his means and circumstances arises under the Ordinance or these Rules.

Duty of Police &c. to enquire and report as to Appellant's means for purposes of Ordinance on request of Registrar.

28.—(a) The Superintendent of Prisons shall on notice from the Registrar cause from time to time such sufficient number of male and female warders to attend the sittings of the Full Court as having regard to the list of appeals thereat they shall consider necessary.

Warders &c., to attend sittings of Full Court.

Appellant to surrender on appeal, be searched, and remain in custody until further dealt with.

(b) An Appellant who is not in custody, shall, whenever his case is called on before the Full Court, surrender himself to such persons as the Court shall from time to time direct, and thereupon shall be searched by them, and shall be deemed to be in their lawful custody until further released on bail or otherwise dealt with as the Court shall direct.

Registrar to keep documents, exhibits, &c., for purposes of appeal, and same to be open for inspection.

29.—(a) The Registrar shall keep available for use by the Full Court any documents, exhibits, or other things relating to the proceedings before the Court, and pending the determination of the appeal, such documents, exhibits, or other things shall be open as and when the Registrar may arrange, for the inspection of any party interested.

Full Court may order production of any document or exhibits &c.

(b) The Full Court or any Judge may, at any stage of an appeal, whenever they or he may think it necessary or expedient in the interest of justice so to do, on application by any party to an appeal, order any document, exhibit, or other thing connected with the proceedings, to be produced to the Registrar or before the said Court, by any person having the custody or control thereof. Any order made under this Rule may be served as in this Rule provided.

Service of orders.

(c) Service of any order made under this Rule shall be personal service, unless the Court or the Judge aforesaid otherwise order, and for the purpose of effecting due service thereof the Registrar may require the assistance of the Police and may forward the order together with instructions to the Inspector General of Police; and it shall be the duty of the Inspector General of Police to carry out any directions of the Registrar under this Rule.

Exhibits in Court of Trial, how dealt with.

Exhibits to which Rule 8 relates to be returned to persons producing the same subject to order of Court.

30. Exhibits, other than such documents as are usually kept by the Registrar shall, after the determination of the appeal and subject to any order which the Full Court may make, be returned to the person who originally produced the same, provided that any such exhibit as to which an order for restitution may have been made by the Trial Judge or the property in which may re-vest on conviction under the provisions of sub-section 1 of section 24 of the Sale of Goods Ordinance, 1896, shall not be so returned except under the direction of the Full Court.

Notifying Result of Appeals.

On final determination of appeals, &c. Registrar to notify Appellant and Superintendent of Prisons.

31.—(a) On the final determination of any appeal under the Ordinance or of any matter under Rule 22, the Registrar shall give to the Appellant, if he is in custody and has not been present at such final determination, and to the Colonial Secretary, and to the Superintendent of Prisons notice of such determination in the forms (XXVIII), (XXIX), (XXX) and (XXXI) respectively provided for such cases in the Schedule hereto.

in cases of death sentence, Notice of Appeal and of final determination to be sent to the Colonial Secretary.

(b) In any case of an appeal in relation to a conviction involving sentence of death, the Registrar shall on receiving the Notice of Appeal or of Application for leave to appeal, send a copy thereof to the Colonial Secretary and on the final determination of any such appeal by the Full Court shall forthwith notify the Appellant, the Colonial Secretary and the Superintendent of Prisons.

*Legal Aid to Prisoners in Capital cases
and Appellants.*

32. The Chief Justice, or in his absence a Puisne Judge, may in capital cases or in any case in which a question of law is reserved under section 78 of the Criminal Procedure Ordinance, 1899, and the Full Court or a Judge under Rule 22 may at any time in any appeal or proceedings preliminary or incidental to an appeal in which, in the opinion of the Court, it appears desirable in the interests of justice that the Prisoner or Appellant should have legal aid, and that he has not sufficient means to enable him to obtain that aid, assign to a Prisoner or Appellant a Solicitor and Counsel, or Counsel only.

Legal Aid
in capital
cases and
on appeals.

33. The Registrar shall report to a Judge any case in which it appears to him that, although no application has been made for the purpose, a Solicitor and Counsel, or Counsel only, ought to be assigned to an Appellant under these Rules, and any directions given thereupon by such Judge shall be final.

Registrar
to report if
legal aid
should be
given.

34. When legal aid is assigned to an Appellant, the Full Court or a Judge may give such directions as to the stage of the appeal at which such legal aid shall commence and whether Counsel only, or Counsel and Solicitor, shall be assigned or otherwise as they or he may think right.

Directions
as to
Legal Aid.

Copies of Documents for use of Appellants.

35.—(a) At any time after Notice of Appeal or Notice of Application for leave to appeal has been given under the Ordinance or these Rules, an Appellant or his Solicitor, or the Crown Solicitor, may obtain from the Registrar copies of any documents or exhibits in his possession under the Ordinance or these Rules for the purposes of such appeal. Such copies shall be supplied by the Registrar to the Appellant or his Solicitor at the same fees as are taken for copies in the original jurisdiction of the Supreme Court and such fees shall be paid by stamps.

How
Appellant
or Crown
Solicitor
may obtain
from
Registrar
copies of
documents
or exhibits.

(b) Where Solicitor and Counsel, or Counsel only, are assigned to an Appellant under these Rules or where an Appellant is not legally represented, copies of any documents or exhibits which they or he may request the Registrar to supply shall with leave of a Judge be supplied by the Registrar without charge.

Appellant
may receive
copies of
documents
and
exhibits free
on his
request.

*Procedure as to Witnesses before Full Court, and
their Examination before Examiner.*

36.—(a) Where the Full Court have ordered any witness to attend and be examined before them under section 78A (8) (b) of the Ordinance, an order in the form (XXV) in the Schedule hereto shall be served upon such witness specifying the time and place at which to attend for such purpose.

Attendance
of witness
before Full
Court.

(b) Such order may be made on the application at any time of the Crown or of the Appellant, but if the Appellant is in custody and not legally represented the application shall be made by him in the form (XXVI) in the schedule hereto.

Application
to Court
to hear
witnesses.

(c) Where the Full Court order 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.

Order
appointing
Examiner.

Registrar
to furnish
Examiner
with
Exhibits, &c
necessary for
examination.

(d) 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 so to do. Such documents and exhibits and other material shall after the examination has been concluded be returned by the Examiner together with any depositions taken by him under this Rule to the Registrar.

Notification
of date of
examination.

(e) When the Examiner has appointed the day and time for the examination he shall request the Registrar to notify the Crown Solicitor and the Appellant or his legal representatives, if any, and when the Appellant is in prison, the Superintendent of Prisons, thereof. The Registrar shall cause to be served on every witness to be so examined a notice in the form (XXVII) in the schedule hereto.

Evidence to
be given
on oath.

(f) Every witness examined before an Examiner under this Rule shall give his evidence upon oath to be administered by such Examiner, except where any such witness if giving evidence as a witness on a trial on indictment need not be sworn.

Deposition
of witness,
how to be
taken.

(g) The examination of every such witness shall be taken in the form of a deposition in the same manner as is prescribed by Section 75 of the Magistrate's Ordinance, 1932, and unless otherwise ordered shall be taken in private. The caption in the form (XXIV) in the schedule hereto shall be attached to any such deposition.

Service of
Notices and
Orders under
Rule.

(h) Any order or notice required by this Rule to be given to any witness may be served as an order may be served under Rule 29 (c) hereof, and any such notice shall be deemed to be an order of the Full Court on such witness to attend at the time and place specified therein.

Presence of
parties at
examination
of witnesses.

(i) The Appellant or Counsel or Solicitor concerned in the appeal shall be entitled to be present at and take part in any examination of any witness to which this Rule relates and, if the Appellant is in custody, a Judge may by Warrant under the hand of the Registrar give directions to the Superintendent of Prisons for securing the attendance of the Appellant at any examination.

Proceedings
under
section 78A
sub-section
8 (d) on
Reference.

37. When an order of Reference is made by the Full Court under Section 78A (8) (d) of the Ordinance, 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 Full Court may in such order, or by giving directions as and when they from time to time shall think right, specify whether the Appellant or any other person may be present at any examination or investigation or at any stage thereof as may be ordered under Section 78A (8) (d) of the Ordinance, and specify any and what powers of the Full Court under the Ordinance or these Rules may be delegated to such Special Commissioner, and may require him from time to time to make interim reports to the Full Court upon the question referred to him under Section 78A (8) (d) of the Ordinance, 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 the necessary directions to the Superintendent of Prisons accordingly, and may give directions to the Registrar that copies of any Report made by such Special Commissioner shall be furnished to the Crown Solicitor or to the Appellant or to Counsel or Solicitor on behalf of the Appellant.

Cause Lists.

38.—(a) The Registrar shall keep a Register, in such form as he think right, of all cases in which he shall receive a Notice of Appeal, or Notice of Application for leave to appeal under the Ordinance, which Register shall be open for public inspection in such place and at such hours as the Registrar, subject to the approval of the Chief Justice, shall consider convenient.

Register of Appeals to be kept by the Registrar.

(b) The Registrar shall also take the necessary steps for preparing from time to time, a general list of cases to be dealt with by the Full Court when fully constituted for hearing appeals or for considering applications which a Judge has, when sitting, under Rule 22, refused to grant, and shall cause such list to be published at such times in such a manner and at such places as subject to the approval of the Chief Justice he shall think convenient for giving the notice to any parties interested, of the hearing of such cases by the Full Court.

Registrar to keep general list of appeals.

(c) The Registrar shall also prepare from such general list a list of appeals and applications which have been refused by a Judge when sitting under Rule 22, which the Full Court may consider on the days on which the Full Court as fully constituted shall sit, and shall cause such list to be published at such times, in such places, and in such a manner as he, subject to the approval of the Chief Justice, shall think convenient for giving the notice to any parties interested therein of the hearing of the cases in such list by the Full Court. Provided that, where an Appellant is in custody and has obtained leave or is entitled to be present at the hearing and determination of his application or appeal, the Registrar shall notify the Appellant and the Superintendent of Prisons of the probable day on which his appeal or application will be heard.

List of cases for sittings of Court.

Notices to Appellants in custody.

Miscellaneous Provisions.

39.—(a) Except where otherwise provided in these Rules, any application to the Full Court may be made by the Crown or by the Appellant or by Counsel on his behalf, orally or in writing, but in regard to such applications if the Appellant is unrepresented and is 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 proper steps to obtain the decision of the Court thereon.

Application not specially provided for how made.

(b) In all proceedings before a Judge under Rule 22 and in all preliminary and interlocutory proceedings and applications except such as are heard before the Full Court, the parties thereto may be represented and appear by a Solicitor alone.

Audience of Solicitors.

40. When the Full Court have heard and dealt with any application under the Ordinance or these Rules, the Registrar shall (unless it appears to him unnecessary so to do) give to the Appellant (if he is in custody and has not been present at the hearing of such application), notice of the decision of the Full Court in relation to the said application.

Notice by Registrar to Appellant of results of all applications.

41. 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 Ordinance, shall not prevent the further prosecution of his appeal if the Full Court or a Judge under Rule 22 consider that such non-compliance was not wilful, and that

Non-compliance with Rules not wilful may be waived by Court.

the same may be waived or remedied by amendment or otherwise. The Full Court or a Judge under Rule 22 may, in such manner as they or he think right, direct the Appellant to remedy such non-compliance, and thereupon the appeal shall proceed. The Registrar shall forthwith notify to the Appellant any directions given by the Court or the Judge under this Rule, where the Appellant was not present at the time when such directions were given.

Enforcing
duties under
Rules.

42. The performance of any duty imposed upon any person under the Ordinance or these Rules may be enforced by Order of the Full Court.

Warrant to
secure
attendance of
Appellant.

43. An appellant, who is in custody, may, at any time before the determination of his appeal, be brought before the Full Court or any Judge, Examiner or Special Commissioner by Warrant under the hand of the Registrar in Form XXXII in the Schedule hereto.

Dated the 27th day of April, 1933.

J. R. WOOD,
Chief Justice.

Approved by the Legislative Council on the 11th day of May, 1933.

R. A. C. NORTH,
Deputy Clerk of Councils.

SCHEDULE.

FORM I—A.

Criminal Procedure Ordinances, 1899 to 1933.

Judge's Certificate.

In the Supreme Court of Hong Kong.

Ordinary Criminal Session holden at Victoria for the month
of _____, 19____ R. v.

WHEREAS the said
was tried and convicted before me, the undersigned, in the said Court
on the _____ day of _____, 19____, on an indictment
charging him with _____
and was thereupon sentenced by me to _____

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

I DO HEREBY CERTIFY that the case is a fit case for an Appeal against conviction by the said to the Full Court under Section 78A (1) (b) of the Criminal Procedure Ordinance, 1899, as enacted by the Criminal Procedure Amendment Ordinance, 1933, upon the following grounds:—

Here specify in general terms the grounds on which Certificate granted.

Signed: *Chief Justice*
or
Puisne Judge.

Dated this day of , 19 .

FORM I—B.

Criminal Procedure Ordinances, 1899 to 1933.

Judge's Certificate.

In the Supreme Court of Hong Kong.

Ordinary Criminal Session holden at Victoria for the month of , 19 .
R. v.

WHEREAS the said was tried and convicted before me, the undersigned, in the said Court on the day of , 19 , on an indictment charging him with and was thereupon sentenced by me to

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

I DO HEREBY CERTIFY that the case is a fit case for an Appeal against sentence by the said to the Full Court under Section 78A (1) (c) of the Criminal Procedure Ordinance, 1899, as enacted by the Criminal Procedure Amendment Ordinance, 1933, upon the following grounds:—

Here specify in general terms the grounds on which Certificate granted.

(Signed) *Chief Justice*
or
Puisne Judge.

Dated this day of , 19 .

FORM II.

Criminal Procedure Ordinances, 1899 to 1933.

R. v.

Particulars of Trial.

1. When tried.
2. Name of Trial Judge.
3. Verdict of Jury.

4. Sentence, and any orders made consequent thereon.
5. Copy of the list of exhibits.
6. Whether a Certificate under Section 78A (1) (b) or (c) was given.
7. Whether Appellant was defended by Counsel and Solicitor privately, or by Counsel at request of Court.

Give names of Counsel and/or Solicitor for Appellant.

8. Whether Appellant bailed before trial, if so in what amount, and whether with sureties, if so in what amount.

(Signed)

Registrar.

Dated this day of , 19

FORM III.

Criminal Procedure Ordinances, 1899 to 1933.

R. v.

Notice of Abandonment.

I,
 having been convicted of
 at the Criminal Sessions for the month of 19 , and having
 been desirous of appealing and having duly sent notice to that effect
 to the Full Court against my said conviction (or the sentence
 of
 passed upon me on my said conviction) do hereby give you notice that
 I do not intend further to prosecute my appeal, but that I hereby
 abandon all further proceedings in regard thereto as from the date
 hereof.

(Signed)

(Witness)

Dated this day of , 19

To the Registrar,
 Courts of Justice,
 Hong Kong.

FORM IV.

Criminal Procedure Ordinances, 1899 to 1933.

Notice of Appeal.

Question of Law only.

To the Registrar, Courts of Justice, Hong Kong.

I, _____, having been convicted of the offence of _____ and being now a prisoner in His Majesty's Prison at _____ (or * now living at _____) do hereby give you Notice of Appeal against my conviction (particulars of which hereinafter appear) to the Full Court on questions of law, that is to say—

(Here state the offence, e.g., Larceny, Murder, Forgery, &c.)

*Where appellant for any reason not in custody.

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

(or Mark)

(Signed)

Appellant.

Signature and address of _____

Witness attesting Mark: _____

Dated this _____ day of _____, 19 _____

Particulars of Trial and Conviction.

Fill in all these particulars.

1. Date of Trial.
2. Sentence.
3. Whether above questions of law were raised at the Trial?

You are required to answer the following questions:—

1. If you desire to apply to the Full Court to assign you legal aid on your appeal, state your position in life, and amount of wages, or salary, &c., and any other facts which you submit show reasons for legal aid being assigned to you.
2. Do you desire to be present on the hearing of your appeal by the Full Court? If you do so desire, state the reasons upon which you submit the said Court should give you leave to be present.
3. The Full Court will, if you desire it, consider your case and argument if put into writing by you or on your behalf, instead of your case and argument being presented orally. If you desire to present your case and argument in writing, set out here as fully as you think right your case and argument in support of your appeal.

FORM V.

*Criminal Procedure Ordinances, 1899 to 1933.**Notice of Appeal Upon Certificate of the Trial Judge.*

To the Registrar, Courts of Justice, Hong Kong.

Here state
the offence,
e.g.,
Larceny,
Murder,
Forgery,
&c.

*Where
appellant
for any
reason not
in custody.

I,
having been convicted of the offence of _____ and being now
a prisoner in His Majesty's Prison at _____
(or * now living at _____)
and having duly obtained a Certificate which is hereto annexed from
the Judge before whom I was tried for the said offence, that it is
a fit case for appeal, do hereby give you Notice of Appeal against
my said conviction (particulars of which hereinafter appear) to the
Full Court.

(or Mark)

(Signed)

Appellant.

Signature and address of
Witness attesting Mark.

Dated this _____ day of _____, 19 _____

Particulars of Trial and Conviction.

Fill in
all these
particulars.

1. Date of Trial.

2. Sentence.

You are required to answer the following questions:—

1. If you desire to apply to the Full Court to assign you legal aid on your appeal, state your position in life, amount of wages, or salary, &c., and any other facts which you submit show reasons for legal aid being assigned to you.

2. Do you desire to be present on the hearing of your appeal by the Full Court.

3. The Full Court will, if you desire it, consider your case and argument if put into writing by you or on your behalf instead of your case and argument being presented orally. If you desire to present your case and argument in writing, set out here as fully as you think right your case and argument in support of your appeal.

You must send with this Notice to the Registrar the Certificate of the Judge who tried you.

FORM VI.

*Criminal Procedure Ordinances, 1899 to 1933.**Notice of Appeal Upon Certificate of the Trial Judge.*

To the Registrar, Courts of Justice, Hong Kong.

Here state
the offence
e.g.,
Larceny,
Murder,
Forgery,
&c.

I,
having been convicted of the offence of _____ and being now
a prisoner in His Majesty's Prison at _____
(or * now living at _____)

and having duly obtained a Certificate which is hereto annexed from the Judge before whom I was tried for the said offence, that it is a fit case for appeal, do hereby give you Notice of Appeal against the sentence passed upon me (particulars of which hereinafter appear) to the Full Court. *Where Appellant for any reason not in custody.

(or Mark)

(Signed)

Appellant.

Signature and address of
Witness attesting Mark.

Dated this _____ day of _____, 19____.

Particulars of Trial and Conviction.

Fill in
all these
particulars.

1. Date of Trial.

2. Sentence.

You are required to answer the following questions:—

1. If you desire to apply to the Full Court to assign you legal aid on your appeal, state your position in life, amount of wages, or salary, &c., and any other facts which you submit show reasons for legal aid being assigned to you.

2. Do you desire to be present on the hearing of your appeal by the Full Court.

3. The Full Court will, if you desire it, consider your case and argument if put into writing by you or on your behalf instead of your case and argument being presented orally. If you desire to present your case and argument, in writing, set out here as fully as you think right your case and argument in support of your appeal.

You must send with this Notice to the Registrar the Certificate of the Judge who tried you.

FORM VII.

Criminal Procedure Ordinances, 1899 to 1933.

Notice of Application for Leave to Appear against a Conviction under s. 78A (1) (b).

To the Registrar, Courts of Justice, Hong Kong.

I, _____, having been convicted of the offence of _____ and being now a prisoner in His Majesty's Prison at _____ (or * now living at _____) and being desirous of appealing against my said conviction Do Hereby Give You Notice that I hereby apply to the Full Court for leave to appeal against my said conviction on the grounds hereinafter set forth.

(Here state the offence, e.g., Larceny, Murder, Forgery, &c.)

(or Mark)

(Signed)

*Where applicant for any reason not in custody.

Appellant.

Signature and address of
Witness attesting Mark.

Dated this _____ day of _____, 19____.

Fill in all these particulars:—

Particulars of Trial and Conviction.

1. Date of Trial

(Here state as clearly and concisely as possible the grounds on which you desire to appeal against your conviction).

2. Sentence. *Grounds for Application.*

You are required to answer the following questions:—

1. If you desire to apply to the Full Court to assign you legal aid on your appeal, state your position in life, amount of wages or salary, &c., and any other facts which you submit show reasons for legal aid being assigned to you.
2. If you desire to be present when the Full Court consider your present application for leave to appeal, state the grounds on which you submit that the Full Court should give you leave to be present thereat.
3. The Full Court will, if you desire it, consider your case and argument if put into writing by you or on your behalf, instead of your case and argument being presented orally. If you desire to present your case and argument in writing set out here as fully as you think right your case and argument in support of your appeal.

State if you desire to be present at the final hearing of your appeal.

FORM VIII.

Criminal Procedure Ordinances, 1899 to 1933.

Notice Application for Leave to Appeal against Sentence.

To the Registrar, Courts of Justice, Hong Kong.

(Here state the offence e.g., Larceny, Murder, Forgery, etc.)

I, _____, having been convicted of the offence of _____ and being now a prisoner in His Majesty's Prison at _____ (or * now living at _____) Do Hereby Give You Notice that I desire to apply to the Full Court for leave to appeal to the said Court against the sentence of _____ passed upon me for the said offence, on the following grounds:—

*Where appellant for any reason not in custody.

(or Mark) _____ (Signed) _____

Appellant.

(Here set forth the grounds on which you desire to question the sentence).

Signature and address of Witness attesting Mark.

Dated this _____ day of _____, 19 _____

Particulars of Trial and Conviction.

Fill in all these particulars:—

1. Date when sentence passed.

You are required to answer the following questions:—

1. If you desire to apply to the Full Court to assign you legal aid on your appeal, state your position in life, wages, salary, &c., and any other facts which you submit show reason for legal aid being assigned to you.
2. If you desire to be present when the Full Court consider your present application for leave to appeal, state the grounds on which you submit that the Full Court should give you leave to be present thereat.

the sum of \$ _____
 (and with _____ sureties each in the sum of \$ _____),
 the said _____
 personally cometh before me the undersigned being one of the
 Justices of the Peace for the Colony of Hong Kong (or Super-
 intendent of Prisons), and acknowledges himself to owe to our
 Lord the King the said sum of \$ _____
 of good and lawful money of Hong Kong, to be made and levied of
 his goods and chattels, lands and tenements to the use of our said
 Lord the King, his heirs and successors, if he the said
 fail in the condition endorsed.

Taken and acknowledged this _____ day of _____
 19 _____, at the Prison at _____ before me,

Justice of the Peace.
 or
Superintendent of Prisons.
 (as the case may be).

Condition.

The condition of the within written recognizance is such that
 if he the said _____
 shall personally appear and surrender himself at and before the
 Full Court at each and every hearing of his appeal to such Court
 and at the final determination thereof and to then and there abide
 by the Judgment of the said Court and not to depart or be absent
 from such Court at any such hearing without the leave of the said
 Court, and in the meantime not to depart out of the Colony of
 Hong Kong, then this recognizance to be void or else to stand in
 full force and effect.

The following to be filled up by the Appellant and signed by
 him:—

When released on bail my residence, to which any Notices, &c.,
 are to be addressed, will be as follows:—

(Signed) _____ *Appellant.*

FORM XI.

Criminal Procedure Ordinances, 1899 to 1933.

Recognizance of Appellant's Sureties.

Be it remembered that on this _____ day of _____
 19 _____, of _____
 (occupation) and _____ of _____
 (occupation) personally came before me the undersigned being the
 Registrar of the Supreme Court (or a Magistrate in the Colony of
 Hong Kong) and severally acknowledged themselves to owe to our
 Lord the King the several sums following, that is to say, the said
 _____ the sum of \$ _____,
 and the said _____ the sum of \$ _____,
 of good and lawful money of Hong Kong, to be made and levied
 of their goods and chattels, lands and tenements, respectively, to
 the use of our said Lord the King, his heirs and successors, if
 _____ now in lawful custody in His Majesty's
 Prison at _____, fail in the condition
 hereon endorsed.

Taken and acknowledged before me the undersigned, the day
 and year first above mentioned.

Registrar
 or
Magistrate.

Condition.

The condition of the within written Recognizance is such that whereas the said
 having been convicted of
 and now in such lawful custody as before-mentioned (under a sentence of _____ for such offence),
 has duly appealed to the Full Court against his said conviction (and sentence), and having applied to the said Court for bail, pending the determination of his said appeal, has been granted bail on his entering into recognizance in the sum of \$ _____ with
 sureties each in the sum of \$ _____
 if the said
 shall personally appear and surrender himself at and before the said Court at each and every hearing of his said appeal to such Court and at the final determination thereof, and to there and then abide by the Judgment of the said Court and not depart or be absent from the said Court at any such hearing without the leave of the Court, and in the meantime not be depart out of the Colony of Hong Kong, then this recognizance to be void or else to stand in full force and effect.

FORM XII.

Criminal Procedure Ordinances, 1899 to 1933.

Notice to Superintendent of Prisons to Release Appellant on Bail.

R. v.

To the Superintendent of Prisons:

WHEREAS
 has duly appealed to the Full Court against his conviction for _____ (and sentence of _____), and having duly applied to the said Court has been granted bail by the said Court pending the determination of his said appeal on entering into recognizances himself in the sum of \$ _____, (and with _____ sureties each in the sum of \$ _____,) in the forms provided under the said Ordinance. And Whereas I, the Registrar of the Supreme Court, have been given to understand that the said _____ is now in your lawful custody in the said prison under the said conviction and sentence. And Whereas I have received a recognizance of the said _____ from you, (and recognizances from sureties for the said _____), and the said recognizances are in due form and in compliance with the order of the said Full Court, admitting the said _____ to bail.

NOW I DO GIVE YOU NOTICE that if the said _____ do remain in your custody under the said conviction (and sentence) and for no other cause you shall on receipt of this Notice suffer him to go at large. And this Notice shall be your authority in that behalf.

Registrar, Supreme Court.

Dated this _____ day of _____ 19 _____

FORM XIII.

—
Criminal Procedure Ordinances, 1899 to 1933.
—

Notification to Appellant of Judge's Decision under Rule 22.

—
R. v.
—

I HEREBY GIVE YOU NOTICE that The Chief Justice (or, the Puisne Judge) having considered your application for—

- (a) leave to appeal;
- (b) for extension of time within which Notice of Appeal or of Application for leave to appeal may be given;
- (c) legal aid to be assigned to you;
- (d) permission to you to be present at the hearing of any proceedings in relation to your appeal;

has refused the applications marked
marked (and has granted your applications marked).

If you desire to have the above mentioned Applications which have been refused determined by the Full Court you are required to fill up the enclosed form and return it to me forthwith.

Dated this day of 19 .

(Signed)

Registrar.

To the above named.

FORM XIV.

—
Criminal Procedure Ordinances, 1899 to 1933.
—

Notice of Appeal by Appellant from Judge under Rule 22.

—
R. v.
—

Strike out any of those which have not been made or which have been granted.

I, having received your notification that my Applications for—

- (a) leave to appeal;
- (b) for extension of the time within which Notice of Appeal or application for leave to appeal may be given;
- (c) legal aid to be assigned to me;
- (d) permission to me to be present at the hearing of any proceedings in relation to my appeal

have been refused;

do hereby give you notice that I desire that the said applications shall be considered and determined by the Full Court (* and that as I am not legally represented I desire to be present at the determination of my said applications).

*Strike out this if you do not desire to be present.

(Signed)

Appellant.

Witness attesting Mark.

†Here fill
in the
name, address
and descrip-
tion of
Surety.

The said †
saith as follows:—

I, †
do say that the above named*
having been granted bail by the Full Court, himself in the sum of
\$, and with
surety in the sum of \$, was released on such bail on
condition that he should personally appear and be present at and
before the Full Court at each and every hearing of his appeal and at
the final determination thereof and to then and there abide by the
Judgment of the said Court and not to depart or be absent from such
Court on any such hearing without the leave of the said Court and in
the meantime not to depart out of the Colony of Hong Kong.

And that I became surety for the performance of the said condi-
tions by the said
in the sum of \$, a Certificate whereof signed by
the Magistrate and by me is now
shown to me marked (a).

And that I suspect that the said
is about to depart out of the said Colony (or state in what manner the
Appellant is believed to be about to fail in the observance of his re-
cognizances) and I therefore desire to surrender the said
into custody and thereby discharge myself from
my said recognizances. I verily believe that the said
is now living at

(Signed)

(Surety).

Laid before me the day and year first above written.

(Signed)

Magistrate.

FORM XVII.

Criminal Procedure Ordinances, 1899 to 1933.

Warrant on Information of Surety.

(.....)
To Wit.

To each and all of the Constables of the Colony of Hong Kong.

†Here fill
in the
Appellant's
name.

WHEREAS Information hath been duly laid before me the
undersigned by*
of for that†
having been released on bail by the Full Court on recognizances con-
ditioned to appear and to be present at and before the Full Court at
each and every hearing of his appeal and at the final determination
thereof and to then and there abide by the Judgment of the said
Court and not to depart or be absent from such Court on any such
hearing without the leave of the said Court and in the meantime not
to depart out of the Colony of Hong Kong.

*Here fill
in Surety's
name.

And that the said*
doth suspect that the said
is about to depart out of the said Colony (or as the case may be).
And that the said
is believed to be living at
These are therefore to authorise you the said Constables forthwith
to apprehend the said
and to bring him before a Magistrate
to the intent that he may be committed to prison and there to be
detained according to law.

Given under my hand and seal this day of

A.D. 19

(Signed)

Magistrate.

FORM XVIII.

*Criminal Procedure Ordinances, 1899 to 1933.**Commitment of Appellant on Surety's Information.*

To each and all of the Constables of the Colony of Hong Kong and ^(.....) To Wit.
to the Superintendent of Prisons.

WHEREAS on the _____ day of _____
Information was laid before a Magistrate
upon an application for a warrant for the apprehension of _____
for that he being a
prisoner released on bail by the Full Court was believed and suspected
of being about to fail to observe the conditions of his recognizance by
the said _____
his surety. And that the said _____
was then desirous of surrendering the said _____

AND WHEREAS the said* _____ (*Appellant).
being now before me and surrendered by the said _____
in discharge of his recognizances *You are therefore*
hereby commanded forthwith to deliver him the said _____
to the Superintendent of Prisons at Victoria
Gaol together with this warrant of Commitment and you the said _____
Superintendent of Prisons are required
to receive the said _____
into your custody in the said Prison and there safely to keep him
according to law.

Given under our hand and seal this _____ day of _____
, A.D. 19 _____ .

(Signed)

Magistrate.

FORM XIX.

*Criminal Procedure Ordinances, 1899 to 1933.**Warrant for Arrest of Appellant on Bail.*

R. v.

To each and all of the Constables of the Colony of Hong Kong and
to the Superintendent of Prisons.

WHEREAS _____ an Appellant
in the Full Court has been released by the said Court on bail, and ^{issued by}
it has now been ordered by the said Court that a Warrant be issued ^{Full Court.}
for the apprehension of the said _____ ^{Warrant}

These are therefore to command you the said Constables forthwith
to apprehend the said _____
and to bring him to the Superintendent of Prisons at Victoria Gaol
and there deliver him with this Warrant into the custody of the said
Superintendent and you the said Superintendent of Prisons are hereby
required to receive the said _____
into your custody in the said prison and there safely to keep him
until further order of the said Court.

(Signed)

Chief Justice
or
Puisne Judge.

(as the case may be)

Dated this _____ day of _____, 19 _____ .

FORM XX.

—
Criminal Procedure Ordinances, 1899 to 1933.
—

—
Recognizance of Appellant sentenced to Payment of a Fine.
—

To Wit. Be it remembered that whereas
of _____ was on the _____ day of
A.D. 19____, in the Supreme Court convicted
of _____
and was thereupon sentenced to pay the sum of \$ _____
as a fine for his said offence by the _____
and has intimated to the Trial Judge that he desires to appeal against
his said conviction on a question of law alone (or upon a certificate of
the Trial Judge that this is a fit case for appeal). And whereas the
said Trial Judge considers that the said Appellant may, in lieu of pay-
ment at and upon his said conviction of the said sum, be ordered to
enter into recognizance of bail himself in the sum of \$ _____
and with _____ sureties, each in the sum of \$ _____
to prosecute his said appeal before the Full Court.

The said _____
doth hereby acknowledge himself to owe to our Lord the King the said
sum of \$ _____ of good and lawful money of Hong Kong,
to be made and levied of his goods and chattels lands and tenements
to the use of our said Lord the King his heirs and successors if he the
said _____
fail in the condition endorsed.

Taken and acknowledged this _____ day of _____
at the Courts of Justice, Hong Kong, before me.

(Signed)

Registrar.

Condition.

The condition of the within written recognizance is such that if
the said _____ of _____
shall personally appeal and be present at and before the Full Court at
each and every hearing of his appeal to such Court, and at the final
determination thereof and then and there to prosecute his said appeal
and abide by the Judgment of the said Court, and not to depart or
be absent from such Court at any such hearing without leave of the
said Court, and to pay the sum of \$ _____ or such sum as
the said Court may order to the Registrar thereof, then this recogniz-
ance shall be void, otherwise of full force and effect.

FORM XXI.

—
Criminal Procedure Ordinances, 1899 to 1933.
—

—
Recognizance of Sureties for Appellant sentenced to a Fine.
—

To Wit. Be it remembered that on the _____ day of _____,
19____, _____ of _____
(occupation) and _____ of _____
(occupation) personally came before the Registrar of the Supreme
Court and severally acknowledged themselves to owe to our Lord the
King the several sums following, that is to say, the said _____
the sum of \$ _____ and the
said _____
the sum of \$ _____ of good and lawful money of
Hong Kong, to be made and levied of their goods and chattels lands
and tenements respectively to the use of our said Lord the King his
heirs and successors if _____
now before the said Court fail in the condition hereon endorsed.

Taken and acknowledged before me the said Registrar on the day and year first above mentioned.

(Signed)

Registrar.

Condition.

The condition of the within written recognizance is such that whereas the said having been convicted of and having been sentenced to pay a fine of \$ for his said offence, and having now intimated his desire to appeal on question of law alone (or with the certificate of the Trial Judge) to the Full Court against the said conviction, and having, in lieu of payment at and upon his said conviction of the said sum of \$ been ordered to enter into recognizance of bail himself in the sum of \$ and with sureties in the sum of \$ if the said shall personally appear and be present at and before the Full Court at each and every hearing of his appeal to such Court and at the final determination thereof, and then and there to prosecute his said appeal and abide by the Judgment of the said Court, and not to depart or be absent from such Court at any such hearing without the leave of the said Court, then this recognizance to be void, or else to stand in full force and effect.

FORM XXII.

Criminal Procedure Ordinances, 1899 to 1933.

Notice to Appellant Sentenced to Fine, of Breach of His Recognizances.

R. v.

To the above named Appellant.

Whereas you were convicted on the day of 19 , of the offence of and were sentenced to the payment of \$, and in default of such payment to imprisonment, and that under the Criminal Appeal Rules, 1933, you entered into recognizances in the sum of \$ with sureties in the sum of \$ each to prosecute your Appeal, and whereas 10 days have elapsed since your said conviction, and no Notice of Appeal has been served by you, Now I hereby Give You Notice that unless you attend before on the day of 19 , at o'clock in the noon at the Courts of Justice, Victoria, and then shew good cause to the contrary, the said may order an estreat of your recognizances and those of your sureties; or may otherwise deal with you according to law.

Full Court of Judge as the case may be.

(Signed)

Registrar.

FORM XXIII.

Criminal Procedure Ordinances, 1899 to 1933.

Notice to Surety for Appellant Before Estreat of Recognizance.

R. v.

Fill in here Surety's name and address.

To *

WHEREAS you the above named, became duly bound in recognizances as surety, for that the said

having been convicted of

and for his said offence fined the sum of

\$ should duly prosecute an appeal in relation to his said conviction before the Full Court, and whereas the said

has not so prosecuted his appeal, now I Hereby Give

Full Court or Judge as the case may be.

You Notice that unless you attend before

on the day of

19 at o'clock in the noon at the Courts of Justice, Victoria, your recognizances may be ordered to be estreated, unless you then shew good cause to the contrary.

(Signed)

Registrar.

FORM XXIV.

Criminal Procedure Ordinances, 1899 to 1933.

Caption for Deposition of Witness Examined Before Examiner.

R. v.

The depositions (on oath) taken before me the undersigned, being an Examiner duly appointed by the Full Court in that behalf, of of and of witnesses, examined before me under an order of the said Court dated the day of , 19 , in the presence of the said Appellant (or of his Counsel and Solicitor) and the Attorney General or his duly authorised representative at on the day of which said Appellant (personally, or by his Counsel and Solicitor) and the Attorney General or his duly authorised representative had full opportunity of asking questions of the said witnesses, to whom the depositions 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 this

day of , 19 .

Examiner.

FORM XXV.

—
Criminal Procedure Ordinances, 1899 to 1933.
 —

Order to Witness to Attend Court for Examination.

—
 R. v.
 —

To _____ of _____ (name, &c. of witness)

WHEREAS on good cause shown to the Full Court you have been ordered to attend and be examined as a witness before such Court upon the appeal of the above named

This is to Give You Notice to attend before the said Court on the _____ day of _____, 19____, at the Courts of Justice, Victoria, in this Colony, 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.

Registrar.

Dated _____ day of _____, 19____.

FORM XXVI.

—
Criminal Procedure Ordinances, 1899 to 1933.
 —

Appellant's Application for further Witnesses.

—
 R. v.
 —

I, _____, having appealed to the Full Court hereby request you to take notice that I desire that the said Court shall order the witness(es) hereinafter specified to attend the Court and be examined on my behalf.

(Signed)

(or Mark)

Appellant.

Dated this _____ day of _____, 19____.

Signature of witness-attesting mark.

You are required to fill up the following form and sign the same.

1. Name and address of witness.
2. Whether such witness has been examined at Trial.
3. If not, state the reason why he was not so examined.
4. On what matters do you wish him to be examined on the appeal.

State shortly the evidence you think he can give.

FORM XXVII.

—
Criminal Procedure Ordinances, 1899 to 1933.
 —

Notice to Witness to Attend before Examiner.
 —

R. v.
 —

To _____ of _____ (Name, &c. of witness)

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

*Specify
 place of
 examination.

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

†Fill in
 examiner's
 name.

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.

Registrar.

Dated the _____ day of _____, 19____.

FORM XXVIII.

—
Criminal Procedure Ordinances, 1899 to 1933.
 —

Notification to Appellant of Result of His Appeal.
 —

R. v.
 —

To the above-named Appellant.

This is to give you notice that the Full Court having considered the matter of your appeal, have finally determined the same, and have this day given judgment to the effect following (here shortly state the judgment of the Court *e.g.*, that your appeal be dismissed or that the sentence against which you appealed be altered from _____ to _____)

(or as the case may be).

(Signed)

Registrar, Supreme Court.

Date this _____ day of _____, A.D. 19____.

FORM XXIX.

*Criminal Procedure Ordinances, 1899 to 1933.**Notification to Appellant of Result of Application Under Rule 22.*

R. v.

To the above-named Appellant.

This is to give you notice that the Full Court have considered the matter of your Application for—

- (a) leave to appeal to the said Court;
- (b) leave to extend the time within which you may give Notice of Appeal or of Application for leave to appeal;
- (c) legal aid to be assigned to you;

(d) permission to be present during the proceedings in your appeal and have finally determined the same and have this day given judgment to the effect following (here set out decision of Full Court *e.g.*, that you have days from the day of within which you may give Notice of Appeal, (or) that you may be admitted to bail in your own recognizances in the sum of \$ with two sufficient sureties in the sum of \$ each, or as the case may be)

(Signed)

Registrar, Supreme Court.

Date this day of , A.D. 19 .

FORM XXX.

Criminal Procedure Ordinances, 1899 to 1933.

R. v.

To The Honourable the Colonial Secretary.

To the Superintendent of Prisons.

This is to give you Notice that the above-mentioned having applied for—

- (a) leave to appeal to the Full Court;
- (b) leave to extend the time within which he may give Notice of Appeal or of an Application for leave to appeal;
- (c) legal aid to be assigned to him;
- (d) permission to be present during the proceedings in his Appeal;
- (e) his admission to bail;

under the said Ordinances, the Full Court has this day finally determined his said Applications and has given judgment to the effect following (here set out the decision of the Court)

(Signed)

Registrar, Supreme Court.

Date this day of , A.D. 19 .

FORM XXXI.

—
Criminal Procedure Ordinances, 1899 to 1933.
 —

R. v.
 —

To The Honourable the Colonial Secretary.

To the Superintendent of Prisons.

This is to give you Notice that the above-named
 having appealed against his conviction of the offence
 of _____ at the Criminal Sessions
 for the month of _____, 19____, (or, the sentence
 of _____ passed upon him for the
 offence of _____ at the Criminal Sessions for the
 month of _____, 19____), the Full Court has finally
 determined the said appeal and has this day given judgment therein
 to the effect following (here set out the decision of the Court).

(Signed)

Registrar, Supreme Court.

Date this _____ day of _____, A.D. 19____.

FORM XXXII.

—
Criminal Procedure Ordinances, 1899 to 1933.
 —

IN THE SUPREME COURT OF HONG KONG.

—
 Criminal Appeal No. _____ of 19____.

—
 R. v.
 —

To the Superintendent of Prisons.

GREETING:

WHEREAS the above-named
 is detained in prison under your custody

THESE are therefore to command you to have the body of the
 said _____
 under safe and secure conduct at the Courts of Justice, at Victoria in
 this Colony (or, elsewhere, as the case may be)
 at _____ o'clock in the _____ noon on the _____ day of
 _____, 19____, and so on from day to day and there to
 bring him before*
 and immediately after the proceedings before the said*
 shall have terminated to take him the said
 _____ back without delay to the prison and there
 detain him until he be discharged in due course of law.

*The Full
 Court, a
 Judge,
 Examiner or
 Special Com-
 missioner as
 the case
 may be.

Given under my hand and the Seal of the Supreme Court this
 day of _____, 19____.

Registrar.