

COURT OF APPEAL FOR SASKATCHEWAN  
APPEALS TO THE COURT OF APPEAL

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**Notices to be signed and directed to registrar**

1 Every notice of appeal and every notice of an application for leave to appeal shall be signed by the appellant his counsel or agent and shall be directed to the Registrar of the Court of Appeal for Saskatchewan. R. 1.

**Contents of notice of appeal; powers of court; form of notice**

2 In an appeal against conviction and/or sentence by a person convicted and/or sentenced, the notice, whether of appeal or of an application to the Court of Appeal or a judge thereof for leave to appeal, shall set forth the offence of which the appellant was convicted, the date of the conviction and of sentence, and the place where the trial was held, the court which made the conviction and the sentence passed upon the appellant, shall state whether the appellant desires to be present in person on the hearing of the appeal, and shall specify the nature of the order which the appellant intends to ask the court to make and the reasons therefor, but the court may make any order allowed by law notwithstanding that it is not asked for in the notice, or that proper reasons are not stated therein. The notice of appeal, or of an application for leave to appeal, shall set out the grounds to be argued, and may be in accordance with Form 1 in the appendix hereto, varied as the circumstances may require. *(It is to be noted that the appellant may in his notice, in the cases referred to in subsection 686(5) of the Criminal Code, request that if a new trial be granted, he be tried by a jury.)* R.2.

**Filing of notice**

3 The appellant, as defined in the preceding rule, shall, if his application is to the Court of Appeal or a judge thereof, within one calendar month from the date of conviction, if the appeal is from the conviction only, or from the date of the sentence if the appeal is from both conviction and sentence, or from sentence only, send by prepaid registered mail three copies of the notice addressed to the Registrar of the Court of Appeal, Regina, Saskatchewan, or he may within the said period file three copies of the notice in the office of the said registrar. The registrar shall retain and file one copy of the notice and shall forthwith after the receipt thereof deliver or send one copy by prepaid registered mail to the Attorney General, and the third copy by prepaid registered mail to the local registrar of the court before which the appellant was tried or to the magistrate who convicted him. R. 3.

**Appeal by Attorney General, contents of notice**

4 In an appeal by the Attorney General, or counsel instructed by him for the purpose, the notice, whether of appeal or of an application to the Court of Appeal, or a judge thereof, for leave to appeal, shall set forth the offence on which the accused was acquitted or sentenced, the date of acquittal or sentence, the place where the trial was held, the court which made the acquittal or passed the sentence, and shall specify the nature of the order which the court will be asked to make and the reasons therefor. The notice of appeal or of an application for leave to appeal, shall set forth the grounds to be argued. R. 4.

**Appeal by Attorney General, filing and service of notice**

5 The Attorney General, or counsel instructed by him, shall, if the application is to the Court of Appeal or a judge thereof for leave to appeal against sentence, within one calendar month from the date of the sentence, or if the appeal is from an order or judgment of acquittal within one calendar month from the date of the judgment or order of acquittal, send by prepaid registered mail two copies of the notice addressed to the Registrar of the Court of Appeal, Regina, Saskatchewan, or may, within the said period, file two copies of the notice in the office of the registrar and shall also serve a copy thereof personally upon the respondent. If the respondent to be so served is in custody, service may be effected by forwarding a copy of the notice to the warden or gaoler in whose custody the respondent is, and such warden or gaoler shall forthwith hand the said copy to the said respondent. Such service by the warden or gaoler upon the person convicted shall be made within the said period of one calendar month after the date of the sentence. A certificate purporting to be signed by the warden or gaoler and the date upon which such service was made, shall be sufficient proof of such service. R. 5.

**Where leave granted, no further notice required**

6 If an application for leave is granted by the Court of Appeal or a judge thereof, no further notice of appeal shall be necessary, but, upon the granting of the application the court or judge may give such directions as to the hearing of the appeal as may be deemed necessary. R. 6.

**Service of notices**

7 Any notice required or authorized by the Act or these rules to be given shall be deemed to be duly given if sent by registered post (prepaid) addressed to the person to whom such notice is to be given, but where an appeal is by the Attorney General or counsel for the Crown from the sentence under section 676 of the *Criminal Code* notice shall be personally served on the person convicted. R. 7.

**Obtaining certificate of trial judge that case proper for appeal**

8 An application, to the trial court or judge or magistrate, for a certificate under subclause 675(1)(a)(ii) of the *Criminal Code* may be made *ex parte* but such court, judge or magistrate may, if it or he think proper, require notice of the application for the certificate to be given to the Attorney General. If the certificate be granted the same with a copy thereof shall be forwarded to or filed with the registrar, along with the regular notice of appeal, and the registrar shall forward the copy to the Attorney General along with the copy of the notice of appeal. If the court, judge or magistrate requires notice of an application for such certificate to be given, a copy of such notice shall be forwarded to, or filed with the registrar. The application for such certificate shall be made within one calendar month after the date of the conviction, but if the trial court, judge or magistrate requires notice of the application for the certificate to be given, the notice may be given within two clear days after the first application to such trial court, judge or magistrate and may be returnable at such time as the court, judge or magistrate may fix notwithstanding that the calendar month may have elapsed. If the certificate be granted, the appellant shall have two clear days after the granting of the same within which to mail or file his notice of appeal notwithstanding that the calendar month may have elapsed, but otherwise the notice may be mailed or filed at any time before the expiration of the said period. R. 8.

**Material to be obtained by registrar**

9(1) Immediately after the filing of a notice of appeal or of an application for leave to appeal, the registrar shall procure the material provided for by section 682 of the *Criminal Code*, including the opinion of the trial judge or magistrate upon the case.

(2) The trial judge or magistrate shall, upon receiving a request from the registrar, give such report as to his opinion upon the case as he may think proper to make and shall also, if so requested by the judge presiding at the hearing of any appeal or application for leave to appeal, furnish in writing to the Court of Appeal his opinion upon any point of the case referred to in such request.

(3) The production of a copy of the judge's or magistrate's notes of the trial verified by his signature shall be considered by the Court of Appeal as a sufficient compliance with the requirements of section 682 of the *Criminal Code* with respect to the judge's or magistrate's notes of the trial.

(4) In the case of shorthand notes of evidence, a certificate signed by the shorthand writer who made or extended the said notes as to the correctness thereof shall be *prima facie* proof of the accuracy of the said notes and transcript thereof. R.9.

**Notice need not state time or place of hearing**

10(1) No time or place for the hearing need be stated in any notice of appeal or of application for leave to appeal, but the registrar shall, forthwith after the receipt of the notice other than a notice to a judge for leave to appeal from a sentence, enter the case on the list of appeals whereupon directions may be given as to the hearing of the appeal or application.

**Appointment for hearing application**

(2) Where the application is to a judge of the Court of Appeal for leave to appeal from the sentence, the applicant shall, within seven days after filing his notice, apply to a judge for an appointment for the hearing of the application, and the judge, in making the appointment, shall give directions as to its service and the application may be heard by any judge of the Court of Appeal.

**Registrar to give notice of date for hearing**

(3) As soon as the appeal or application for leave to appeal is ready for hearing, the registrar shall give notice to the appellant, and to the Attorney General, of the date that has been fixed for the hearing of the application, and shall place the case upon the list for hearing upon that day.

**Discretion of court**

(4) Where upon an application for leave to appeal the court is of the opinion that leave to appeal should be granted, the court may, thereupon and without further delay, hear the appeal upon its merits, or may, if it sees fit, direct the case to be placed upon the list for hearing at such future time as the court may determine. R.10.

**Charges for copies of evidence**

11 The charges which may be made under subsection 682(4) of the *Criminal Code* for copies of the notes of evidence shall not exceed 10 cents per folio. The charges for the notes of evidence necessary for an appeal shall be paid by the appellant and the registrar may require such amount as he may deem sufficient to cover such charges to be deposited with him in cash before proceeding under subrule 9(1). R.11.

**Argument may be presented in writing**

12 Any convicted person may present his argument in writing if he so desires by filing the same with the registrar at any time before the day fixed for the hearing. R.12.

**Contents of notice on application to extend time**

13 A notice under subsection 678(2) of the *Criminal Code* of an application to extend the time for appealing or for applying for leave to appeal shall contain the same information as required by Rule 2 and shall be given in the same way, and dealt with by the registrar, and proceeded with, in the same manner as a notice of appeal or of application for leave to appeal under the foregoing rules. R.13.

**Rules, etc. to be sent to gaolers**

14 A sufficient number of copies of these rules shall be sent by the registrar to every keeper of a provincial gaol or place of detention in Saskatchewan, and to the warden of the penitentiary at Prince Albert, and the registrar shall therewith also send to said gaolers and warden a copy of section 684 of the *Criminal Code*, and the said gaolers and warden shall furnish a copy of these rules to any convicted person in his custody who asks for the same. R.14.

**Crown to be provided with certain material**

15 The local registrar of every court before whom a person has been tried and convicted, and every magistrate who has convicted any person under Part XIX of the *Criminal Code*, shall furnish to the Attorney General and to the counsel who acted for the Crown at the trial, whenever requested so to do, certified copies of such documents, exhibits, and other things connected with the proceedings being in his custody or control as they may require for the purposes of their duties in respect to appeals and applications for leave to appeal. R.15.

**Disposition of exhibits, etc., after trial**

16(1) All documents, exhibits or other things connected with the proceedings on the trial of any person in the Court of Queen's Bench, who has been convicted, shall, subject to the provisions of subrules (2), (4) and (5) hereof, be retained by the local registrar of the trial court in his possession or, in the case of chattels of inconvenient size, in the possession of the sheriff under the local registrar's direction, for a period of one calendar month after the date of the sentence, and thereafter shall continue to be so retained until a fiat by a judge of the court in which he was tried has been made for the disposition of the same.

(2) The judge or magistrate who presided at the trial of any person, or any judge of the court in which he was tried, may, at any time after the trial, make a special order as to the custody or conditional release of any such documents, exhibits or other things, as the special circumstances or special nature thereof may make desirable and proper, and upon such terms as he may impose.

(3) A magistrate presiding at a trial under Part XIX of the *Criminal Code* shall, subject to the provisions of subrules (2), (4) and (5) hereof, retain all documents, exhibits or other things connected with the trial of any person convicted at such trial, or in the case of chattels in inconvenient size, shall direct them to be retained by the proper police officers for 35 days after the sentence, unless in the meantime an order has been made by a judge of the Court of Queen's Bench respecting the custody and control of the same.

(4) The local registrar of the court at which any person was tried or the magistrate before whom he was tried under Part XIX of the *Criminal Code*, may, at any time after the trial, upon having filed with him the written consent, whether absolute or upon terms, of the counsel who acted for the Crown at the trial and of the counsel who acted for the accused, or, if the accused was not represented by counsel, of the accused personally, deliver any document, exhibit or other thing produced at the trial to the person producing the same.

**Transmission of exhibits, etc., where appeal commenced**

(5) Subject to the provisions of subrule (2) hereof the local registrar of every court before which a person has been tried and convicted and every magistrate who has convicted any person under Part XIX of the *Criminal Code* shall, after he has received from the registrar a copy of a notice of appeal or of an application for leave to appeal, upon the request of the Attorney General or his agent, or of the convicted person, or his counsel, or of the registrar, forward by registered mail to the registrar all documents, exhibits and other things used or produced at the trial which are in his custody or control except such things as cannot conveniently be sent by mail. R.16.

**Securing property pending appeal**

17 A judge or magistrate who, after a conviction makes any order for the restitution of any property to any person or any order under section 725 or 726, of the *Criminal Code*, shall, upon making such order, make such further order as he may think proper for securing the safe custody of any such property or of any money referred to in any such order for the period during which the operation of such order of restitution is suspended by virtue of the provisions of section 689 of the *Criminal Code*.

**'Magistrate' defined**

18 In these rules the word "**magistrate**" shall include any provincial court judge acting under the provisions of the *Criminal Code*. R.18.

**Effect of non-compliance**

19 Non-compliance with these rules shall not render any proceeding void, but the same may be amended, or may be set aside as irregular or otherwise dealt with, as may be just. R.19.

**Extension of time**

20 The times limited by the statute or by these rules may, subject to the provisions of the statute, be extended by the court or a judge of the Court of Appeal, either before or after the expiry of the times limited. R.20.

**Notice to Attorney General**

21 Notice of any application to extend time shall, unless otherwise directed, be given to the Attorney General. R.21.

**Applications for bail**

22 Applications by an appellant for release under section 679 of the *Criminal Code* shall be made upon notice to the Attorney General. Such notice shall set out the amount of bail which the appellant is prepared to give. R.22.

**Attendance of appellant where in custody**

23 When an appellant who is in custody is entitled and desires to be present at the hearing of his appeal, the registrar of the Court of Appeal shall issue directions to the proper officer or officers to enable the provisions of section 688 of the *Criminal Code* to be carried into effect. R.23.

**Application of Crown Practice Rules**

24 The practice and procedure laid down in the Crown Practice Rules shall apply to all similar proceedings taken in respect to criminal matters. R.24.

**Procedure in Crown Practice appeals in criminal matters**

25 The practice and procedure in respect to appeals made in proceedings under the Crown Practice Rules in criminal matters shall be the same as in appeals from orders made by a Queen's Bench judge in chambers in respect to civil matters originating in that court. R.25.

**Application of Queen's Bench Rules**

26 In matters not herein specifically provided for, the Rules of the Court of Queen's Bench shall *mutatis mutandis* apply. R.26.

**Rules apply to Minister of Justice, Attorney General of Canada**

27 These rules shall apply *mutatis mutandis* to appeals by the Minister of Justice and by the Attorney General of Canada and to appeals in which the Minister of Justice or the Attorney General of Canada is interested rather than the Attorney General, and in the latter case the notices and documents directed to be sent to the Attorney General shall be sent or delivered to the Minister of Justice or to the Attorney General of Canada or to their legal representative in the appeal. R.27.

APPENDIX

FORM 1

NOTICE OF APPEAL (R. 2 AND 13)  
In the Court of Appeal for Saskatchewan

IN THE MATTER OF AN APPEAL BY \_\_\_\_\_  
*(name of appellant)*

convicted by \_\_\_\_\_ at \_\_\_\_\_  
*(state by whom)* *(state place of conviction)*

of \_\_\_\_\_  
*(state fully the offence or offences on which convicted)*

on the \_\_\_\_\_ and was sentenced to \_\_\_\_\_  
*(date of conviction)* *(state sentence imposed)*

on the \_\_\_\_\_ and now a prisoner in \_\_\_\_\_ *(or as the case may be).*  
*(date of sentence)* *(state where is a prisoner)*

I hereby give you notice that I desire to appeal to the Court of Appeal against my conviction.

*or*

I hereby give you notice that I desire to apply to the Court of Appeal, or a judge thereof, for leave to appeal against my conviction.

*or*

I hereby give you notice that I desire to apply to the Court of Appeal, or a judge thereof, for leave to appeal against my sentence.

*(See section 675 of the Criminal Code)*

The following are my grounds of appeal *(here set out the grounds of appeal fully).*

I desire to present my case and argument \_\_\_\_\_ .  
(state 'by oral argument', or 'in writing' as the case may be)

If a new trial is directed I desire to be tried \_\_\_\_\_ .  
(state 'by judge and jury' or 'by single judge')

I desire (or do not desire as the case may be) to be present in person on the hearing of the appeal.

My address for service is: \_\_\_\_\_

Dated the \_\_\_\_\_  
(date)

\_\_\_\_\_  
(Signature of appellant or his solicitor.)

TO: The Registrar of the Court of Appeal.