



Jersey

COURT OF APPEAL (CIVIL) RULES 1964

Official Consolidated Version

This is an official version of consolidated legislation compiled and issued under the authority of the Legislation (Jersey) Law 2021.

Showing the law from 1 January 2019 to 22 July 2019



Jersey

COURT OF APPEAL (CIVIL) RULES 1964

Contents

Rule

1	Interpretation	3
2	Notice of appeal	3
3	Time for appealing	4
4	Setting down	4
5	Respondent's notice	4
6	Amendment of notice of appeal and respondent's notice	5
7	Transcript	5
8	Timetable, directions <i>etc.</i> for the appeal	5
9	Notification of hearing of appeal	6
10	Abandonment of appeal by non-prosecution	6
10A	Voluntary abandonment of appeal	6
11	Directions of the Court as to service	7
12	General powers of the Court	7
13	Powers of the Court as to new trials	8
14	Evidence on appeal	8
15	Stay of execution, <i>etc.</i>	8
16	Power to extend and abridge time	8
17	Service of documents	9
18	Costs of the proceedings	9
18A	Appeals from proceedings under the Terrorist Asset-Freezing and Money Laundering and Weapons Development Laws	9
19	Citation	10

SCHEDULE **11**

NOTICE OF APPEAL	11
------------------	----

ENDNOTES **12**

Table of Legislation History	12
Table of Renumbered Provisions	12
Table of Endnote References	12



Jersey

COURT OF APPEAL (CIVIL) RULES 1964

THE COURT OF APPEAL, in pursuance of Article 19 of the [Court of Appeal \(Jersey\) Law 1961](#), and of all other powers enabling it in this behalf, has made the following Rules –

Commencement [[see endnotes](#)]

1 Interpretation

- (1) In these Rules, unless the context otherwise requires –
 - “appeal” and “application” mean respectively an appeal and an application under Part 2 of the Law;
 - “appellant’s case” has the meaning assigned thereto by Rule 8(1)(f);
 - “Court” means the Court of Appeal;
 - “court below” means the court whose decision is appealed from;
 - “Law” means the [Court of Appeal \(Jersey\) Law 1961](#);
 - “respondent’s case” has the meaning assigned thereto by Rule 8(6);
 - “respondent’s notice” has the meaning assigned thereto by Rule 5(4);
 - “timings letter” means the letter referred to in paragraphs (1) and (2) of Rule 8;
 - “transcript” means the transcript referred to in Rule 7(1).¹
- (2) These Rules shall not apply to appeals to the Court under Rule 3, 4 or 5 of the [Court of Appeal \(Civil\) \(Judicial Review\) Rules 2000](#).²

2 Notice of appeal

- (1) An appeal to the Court shall be by way of re-hearing and shall be brought by notice of appeal in the form set out in the Schedule hereto.
- (2) Notice of appeal may be given either in respect of the whole or in respect of any specified part of the judgment or order of the court below; and every such notice shall specify the grounds of the appeal and the precise form of the order which the appellant proposes to ask the Court to make.

- (3) Except with the leave of the Court, the appellant shall not be entitled on the hearing of an appeal to rely on any grounds of appeal, or to apply for any relief, not specified in the notice of appeal.
- (4) A notice of appeal shall be served on all parties to the proceedings in the court below who are directly affected by the appeal; and subject to the provisions of Rule 11 it shall not be necessary to serve the notice on parties not so affected.

3 Time for appealing³

Subject to paragraphs (2) and (3) of Rule 16, a notice of appeal must be served or, if leave to appeal is required, an application for leave to appeal must be made, within 28 days from the date on which the judgment or order of the court below was pronounced.

4 Setting down

- (1) The appellant shall, within 7 days after service of the notice of appeal (or where the notice has been served on more than one party, within 7 days after the latest service) or within such further time as may be allowed by the Judicial Greffier, apply in accordance with this Rule to set down the appeal.
- (2) An application to set down an appeal shall be made by leaving with the Judicial Greffier –
 - (a) a copy of the notice of appeal; and
 - (b) the record of the Viscount certifying that the notice of appeal has been duly served.
- (3) Upon application being made as aforesaid, the Judicial Greffier shall file the copy of the notice of appeal and cause the appeal to be set down in the list of appeals.
- (4) Within 2 days after an appeal has been set down, the appellant shall give notice to that effect to all parties on whom the notice of appeal was served.

5 Respondent's notice

- (1) A respondent who, not having appealed from the decision of the court below, desires to contend on the appeal that the decision of that court should be varied, either in any event or in the event of the appeal being allowed in whole or in part, shall give notice to that effect, specifying the grounds of that contention and the precise form of the order which the respondent proposes to ask the Court to make, or to make in that event, as the case may be.
- (2) A respondent who desires to contend on the appeal that that decision of the court below should be affirmed on grounds other than those relied on by that court shall give notice to that effect specifying the grounds of that contention.
- (3) Except with the leave of the Court, a respondent shall not be entitled on the hearing of the appeal to contend that the decision of the court below should be varied on grounds not specified in a notice given under this Rule, to apply for any relief not so specified, or to support the decision of the court below on any grounds not relied on by that court or specified in such a notice.
- (4) Any notice given by a respondent under this Rule (in these Rules referred to as a “respondent's notice”) shall be served on the appellant and on all parties to the

proceedings in the court below who are directly affected by the contentions of the respondent, within 14 days after the service of the notice of appeal on the respondent.

- (5) A party by whom a respondent's notice is given shall, within 2 days after service of the notice, furnish a copy of the notice to the Judicial Greffier.

6 Amendment of notice of appeal and respondent's notice

- (1) A notice of appeal or respondent's notice may be amended –
- (a) by or with the leave of the Court, at any time;
 - (b) without such leave, by supplementary notice served at least 14 days before the day fixed for the hearing of the appeal, on each of the parties on whom the notice to be amended was served.
- (2) A party by whom a supplementary notice is served under this Rule shall, within 2 days after service of the notice, furnish a copy of the notice to the Judicial Greffier.

7 Transcript⁴

- (1) Subject to any direction of the Court or the court below under Article 21(1) of the Law, after an appeal has been set down, the Judicial Greffier shall, upon the request of either party to the appeal, make a transcript of the official record of the proceedings at the hearing.
- (2) The transcript shall be furnished to the appellant and to every other party to the appeal upon payment of such charges as are fixed for the time being by rules of court pursuant to Article 21(4) of the Law.

8 Timetable, directions etc. for the appeal⁵

- (1) Within 7 days of receiving the notice of appeal in accordance with Rule 4(2), the Judicial Greffier shall prepare and circulate to each of the parties to the appeal a timings letter.
- (2) The timings letter will –
- (a) contain a timetable of the dates by which submissions and other documents referred to in this Rule are to be lodged with the Judicial Greffier;
 - (b) specify the manner, including the number of copies of documents to be lodged, in which the other matters referred to in this Rule are to be completed; and
 - (c) specify the sitting of the Court at which the appeal is scheduled to be heard, and may deal with any ancillary timetabling or related matter if expedient to do so.
- (3) The Judicial Greffier may at any stage of the appeal issue to the parties a supplementary or revised timings letter if the Judicial Greffier, on application by any party to the appeal, or otherwise, thinks it expedient to do so; and, if a supplementary or revised timings letter is issued, references in these Rules to the timings letter shall be construed as references to the timings letter as so supplemented or revised.

- (4) The appellant shall, in accordance with the timetable and in the manner specified in the timings letter, lodge with the Judicial Greffier –
- (a) the acts or other documents containing the pleadings and proceedings in the court below, including –
 - (i) the order, judgment, decree or award under appeal,
 - (ii) so much of the legislation referred to, and of all documentary or other material produced, in the court below as is considered germane to the appeal;
 - (b) the notice of appeal;
 - (c) such parts of the transcript as are considered germane to the appeal;
 - (d) where evidence was taken on affidavit, on commission or before the Viscount, such affidavit or the official record of such evidence given on commission or before the Viscount as is considered germane to the appeal;
 - (e) the contentions to be urged and the authorities to be cited by the appellant in support of the appellant’s appeal (hereinafter referred to as the “appellant’s case”).
- (5) When the appellant has complied with paragraph (4) he or she shall, within 2 days, deliver to all parties on whom the notice of appeal was served a copy of the appellant’s case.
- (6) A respondent shall, in accordance with the timetable and in the manner specified in the timings letter, lodge with the Judicial Greffier the contentions to be urged and the authorities (to the extent that they are additional to those contained in the appellant’s case) to be cited by the respondent at the hearing of the appeal (hereinafter referred to as a “respondent’s case”).
- (7) When a respondent has complied with paragraph (5) he or she shall, within 2 days, deliver to the appellant a copy of the respondent’s case.

9 Notification of hearing of appeal⁶

No later than 7 days before the first day of the sitting of the Court at which the appeal is scheduled to be heard, the Judicial Greffier shall circulate to each of the parties, or to his or her advocate or solicitor, a copy of the Court’s agenda for the relevant sitting.

10 Abandonment of appeal by non-prosecution⁷

Subject to Rule 16, if the appellant has not complied with Rule 8(4), the appellant’s appeal shall be deemed to have been abandoned.

10A Voluntary abandonment of appeal⁸

- (1) The appellant may abandon his or her appeal by written notice to the Judicial Greffier.
- (2) A notice under this Rule must be served on the parties on whom the notice of appeal was required under Rule 2(4) to be served.

- (3) A notice under this Rule does not affect the power of the Court under Article 16 of the Law in relation to costs.

11 Directions of the Court as to service

- (1) The Court may in any case direct that the notice of appeal be served on any party to the proceedings in the court below on whom it has not been served, or on any person not party to those proceedings.
- (2) In any case in which the Court directs the notice of appeal to be served on any party or person, the Court may also direct that any respondent's notice by which that party or person is directly affected shall be served on the party or person.
- (3) The Court may in any case where it gives a direction under this Rule –
 - (a) postpone or adjourn the hearing of the appeal for such period and on such terms as the Court thinks just; and
 - (b) give such judgment and make such order on the appeal as might have been given or made if the persons served in pursuance of the direction had originally been parties.

12 General powers of the Court

- (1) The Court shall have full discretionary power to receive further evidence on questions of fact, either by oral examination in court, by affidavit, or by deposition taken before the Viscount or on commission:

Provided that in the case of an appeal from a judgment after hearing of any cause or matter on the merits, no such further evidence (other than evidence as to matters which have occurred after the date of the trial or hearing) shall be admitted except on special grounds.
- (2) The Court shall have power to draw inferences of fact and to give any judgment and make any order which ought to have been given or made, and to make such further or other order as the case may require.
- (3) The powers of the Court under the foregoing provisions of this Rule may be exercised notwithstanding that no notice of appeal or respondent's notice has been given in respect of any particular part of the decision of the court below or by any particular party to the proceedings in that court, or that any ground for allowing the appeal or for affirming or varying the decision of that court is not specified in such a notice; and the Court may make any order, on such terms as the Court thinks just, to ensure the determination on the merits of the real question in controversy between the parties.
- (4) The Court may, in special circumstances, order that such security shall be given for the costs of an appeal as the Court thinks just.
- (5) The powers of the Court in respect of an appeal shall not be restricted by reason of any interlocutory order from which there has been no appeal.

13 Powers of the Court as to new trials

- (1) A new trial shall not be ordered on the ground of misdirection, or of the improper admission or rejection of evidence, unless in the opinion of the Court some substantial wrong or miscarriage has been thereby occasioned.
- (2) A new trial may be ordered on any question without interfering with the finding or decision on any other question; and if it appears to the Court that any such wrong or miscarriage as is mentioned in paragraph (1) affects part only of the matter in controversy, or one or some only of the parties, the Court may order a new trial as to that part only, or as to that party or those parties only, and give final judgment as to the remainder.

14 Evidence on appeal

Where any question of fact is involved in an appeal, the evidence taken in the court below bearing on the question, shall, subject to any direction of the Court, be brought before the Court as follows –

- (a) in the case of evidence taken on affidavit, on commission or before the Viscount, by the production of copies of such affidavit or of the official record of such evidence given on commission or before the Viscount;
- (b) in the case of evidence given orally, by a copy of the transcript or by such other means as the Court may direct.⁹

15 Stay of execution, etc.

- (1) Except so far as the court below or the Court may otherwise direct –
 - (a) an appeal shall not operate as a stay of execution or of proceedings under the decision of the court below;
 - (b) no intermediate act or proceeding shall be invalidated by an appeal.
- (2) Where execution has been delayed by an appeal, interest for the period of delay at the rate of 4% per annum shall be allowed unless the Court otherwise orders.

16 Power to extend and abridge time¹⁰

- (1) The Court or a judge thereof shall have power to enlarge the time appointed by these Rules, or fixed by an order enlarging time, for doing any act or taking any proceeding, on such terms (if any) as the justice of the case may require, and any such enlargement may be ordered although the application for the same is not made until after the expiration of the time appointed or allowed.
- (2) Without prejudice to the power of the Court or a judge thereof under paragraph (1) to enlarge the time prescribed by any provision of these Rules, the period for serving notice of appeal or applying for leave to appeal under Rule 3 may be extended by the court below at any time.¹¹
- (3) Without prejudice to the power of the Court or a judge thereof under paragraph (1) or of the court below under paragraph (2), where leave to appeal is required and is granted, the time for serving a notice of appeal shall be automatically extended by 7 days from the date of the grant of leave to appeal.¹²

- (4) Nothing in this Rule affects the power to abridge time for doing any act or taking any proceeding.¹³

17 Service of documents

Unless otherwise directed by the Court, a notice or other document required to be served for the purposes of Part 2 of the Law or these Rules shall be served through the medium of the Viscount's Department.

18 Costs of the proceedings¹⁴

- (1) If the Court in the exercise of its discretion under Article 16 of the Law sees fit to make any order as to the costs of the proceedings before it, the amount of costs which any party to those proceedings shall be entitled to recover is the amount allowed after taxation on the standard basis unless it appears to the Court to be appropriate in the circumstances to order costs to be awarded on an indemnity basis.
- (2) For the purposes of paragraph (1) the terms "standard basis" and "indemnity basis" shall be construed and ascertained in the same way as if the proceedings in question were before the Royal Court.

18A Appeals from proceedings under the Terrorist Asset-Freezing and Money Laundering and Weapons Development Laws¹⁵

- (1) In this Rule –
- “2011 Law” means the [Terrorist Asset-Freezing \(Jersey\) Law 2011](#);
- “2012 Law” means the [Money Laundering and Weapons Development \(Directions\) \(Jersey\) Law 2012](#);
- “appeal” means an appeal against a decision of the Royal Court in proceedings under Article 28 or Article 29 of the 2011 Law or under Article 10 of the 2012 Law.
- (2) These Rules apply to an appeal subject to paragraphs (3) and (4).
- (3) Any special counsel appointed in the proceedings shall be taken to be a party directly affected by the appeal for the purposes of Rule 2(4) and by the contentions of the respondent for the purposes of Rule 5(4).
- (4) Rules 16A/7 to 16A/17 of the [Royal Court Rules 2004](#) shall apply in relation to the appeal proceedings as they did in relation to the proceedings in the court below with the following modifications –
- (a) references to the appellant or applicant in the proceedings in the court below shall be taken to refer to the appellant in the appeal;
- (b) references to the Court shall be taken to refer to the Court of Appeal, or a judge thereof; and
- (c) the reference in Rule 16A/7(1)(b) to the Chief Minister shall be construed as a reference to the respondent in the appeal.

19 Citation

These Rules may be cited as the Court of Appeal (Civil) Rules 1964.

SCHEDULE

NOTICE OF APPEAL

ISLAND OF JERSEY

IN THE COURT OF APPEAL

On appeal from the Royal Court of Jersey.....Division.

Between.....Plaintiff

and

.....Defendant.

TAKE NOTICE that, on appeal from the judgment given [*or order made*] by the.....Division of the Royal Court at the hearing of this action on the.....day of....., 20....., whereby it was adjudged [*or ordered, or directed*] that..... [*or, if only part of the judgment or order is appealed from, on appeal from so much of the judgment given [*or order made*] by the.....day of....., 20....., as adjudged [*or ordered, or directed*] that.....*] the plaintiff/defendant will ask the Court of Appeal to order [*state precise form of the order applied for, e.g., that the said judgment may be set aside; that the amount of damages awarded to the plaintiff may be increased to £ , etc.*]

AND FURTHER TAKE NOTICE that the grounds of this appeal are –

.....

Advocate for the above-named

plaintiff/defendant

To the above-named defendant/plaintiff or to the defendant's/plaintiff's advocate or solicitor.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement
Court of Appeal (Civil) (Jersey) Rules 1964	R&O.4561	5 June 1964
Court of Appeal (Civil) (Amendment) Rules 1990	R&O.8021	22 January 1990
Court of Appeal (Civil) (Amendment No. 2) Rules 1999	R&O.9383	1 June 1999
Court of Appeal (Civil) (Judicial Review) Rules 2000	R&O.11/2000	3 April 2000
Court of Appeal (Civil) (Amendment No. 3) Rules 2009	R&O.81/2009	3 August 2009
Court of Appeal (Civil) (Amendment No. 4) Rules 2014	R&O.115/2014	1 September 2014

Table of Renumbered Provisions

Original	Current
1(1)	19
(2)	1(1)
(3)	(2)

Table of Endnote References

¹ Rule 1(1)	<i>amended by R&O.115/2014</i>
² Rule 1(2)	<i>inserted by R&O.11/2000</i>
³ Rule 3	<i>substituted by R&O.81/2009, amended by R&O.115/2014</i>
⁴ Rule 7	<i>substituted by R&O.115/2014</i>
⁵ Rule 8	<i>substituted by R&O.115/2014</i>
⁶ Rule 9	<i>substituted by R&O.115/2014</i>
⁷ Rule 10	<i>substituted by R&O.115/2014</i>
⁸ Rule 10A	<i>inserted by R&O.81/2009</i>
⁹ Rule 14	<i>amended by R&O.115/2014</i>
¹⁰ Rule 16	<i>heading substituted by R&O.81/2009</i>
¹¹ Rule 16(2)	<i>amended by R&O.8021, R&O.81/2009</i>
¹² Rule 16(3)	<i>inserted by R&O.8021</i>
¹³ Rule 16(4)	<i>inserted by R&O.81/2009</i>
¹⁴ Rule 18	<i>inserted by R&O.9383</i>
¹⁵ Rule 18A	<i>inserted by R&O.115/2014</i>