

[Canada Federal Rules](#)

[Can. Reg. SI/2002-96 — Supreme Court of Newfoundland and Labrador — Court of Appeal Criminal Appeal Rules \(2002\)](#)

SI/2002-96

to

SI/2002-96, Form H

C

made under the *Criminal Code*

SI/2002-96

The following Rules are made pursuant to subsection 482(1) of the *Criminal Code* of Canada.

Interpretation

C

**1.**

**1(1)** In these Rules, unless the context otherwise requires:

"**appeal**" includes an application for leave to appeal and cross-appeal. ("*appel*")

"**appellant**" means the person who is appealing from conviction or sentence, or both, and in an appeal by the Crown means Her Majesty the Queen represented by the Attorney General and includes an appellant by cross-appeal. ("*appellant*")

"**Attorney General**" means the Attorney General as defined in section 2 of the Code and includes counsel instructed by him or her, and Her Majesty the Queen represented in an appeal by the Attorney General. ("*procureur général*")

"**Chief Justice**" means the Chief Justice of Newfoundland and Labrador or, in the absence of the Chief Justice of Newfoundland and Labrador, the next senior judge. ("*juge en chef*")

"**Code**" means the Criminal Code. ("*Code*")

"**Court**" means the Supreme Court of Newfoundland and Labrador — Court of Appeal or a judge or judges. ("*Cour*")

"**judge**" means a judge of the Court and includes a judge of the Trial Division of the Supreme Court of Newfoundland and Labrador, whenever any such judge is sitting ex-officio, as a judge of the Court. ("*juge*")

"**judgment**" means the formal disposition of an appeal by the Court and includes an order for judgment. ("*jugement*")

"**notice of appeal**" includes notice of application for leave to appeal and notice of cross-appeal. ("*avis d'appel*")

"**prisoner appeal**" means an appeal by a person who at the time of the filing of the notice of appeal is in custody and not represented by counsel. ("*appel d'un détenu*")

"**provincial court judge**" includes the definition ascribed to that term by the Code. ("*juge de la cour provinciale*")

"**Registrar**" means the officer of the Court appointed as deputy registrar or a clerk of the Court discharging the functions of deputy registrar. ("*registraire*")

"**respondent**" means Her Majesty the Queen represented by the Attorney General in the case of a person who appeals against conviction or sentence, and where an appeal is by Her Majesty the Queen represented by the Attorney General, means the person whose acquittal or sentence is appealed, or in whose favour a court has refused to exercise its jurisdiction or has issued an order to quash or stay an indictment. ("*intimé*")

"**time prescribed**" means the time limited or appointed by these Rules or by a judgment or order. ("*délai prescrit*")

"**trial judge**" means the judge who presided at trial. (*"juge de première instance"*)

**1(2)** The interpretation sections of the Code apply to these Rules.

#### Application of Rules



### **2.**

**2(1)** These Rules shall apply to appeals under Part XXI and under sections 784, 830 and 839 of the Code, and to any other appeal filed in the Court in relation to any cause or matter processed in accordance with criminal procedures, so far as the Rules are not inconsistent with any provision of the Code or any other statute or any uniform rules of court made by the Governor in Council under subsection 482(5) of the Code.

**2(2)** The provisions of these Rules relating to prisoner appeals shall, subject to Rule 2(1) and with the necessary modifications, apply to an appeal by any person who, although not convicted, is detained in custody and appeals under section 672.72 of the Code.

#### Notice of Appeal



### **3.**

**3(1)** The notice of appeal shall set out the grounds of appeal. In appeals by a convicted person not represented by counsel, the notice shall be in the manner set out in Form B. In all other appeals by a convicted person or by the Attorney General or an informant, the notice shall be in Form A.

**3(2)** The senior official of every penal institution shall supply to any prisoner in custody, on request, forms of notice of appeal for the prisoner's use.

**3(3)** Except where Rules 3(4), (5) or (6) apply, a notice of appeal

(a) from conviction or conviction and sentence, or sentence only, shall be filed not later than 30 days after the date of sentence; and

(b) from acquittal shall be filed not later than 30 days after the date of acquittal.

**3(4)** Where a person is acquitted of an offence but is convicted instead of an included offence, a notice of appeal from the acquittal shall be filed not later than 30 days after the date of sentence imposed in respect of the included offence.

**3(5)** Where an appeal is to be taken in respect of one or more counts in an indictment, a notice of appeal from conviction, acquittal or sentence shall be filed not later than 30 days after the acquittal or sentence, in respect of any count in the indictment.

**3(6)** Where an appeal is to be taken under section 784 or 839 of the Code, a notice of appeal shall be filed not later than 30 days after the date of pronouncement of the decision in the court appealed from or, if the decision is reserved, after the date of the filing of written reasons for the decision.

#### Filing and Service of the Notice of Appeal



### **4.**

**4(1)** In a prisoner appeal, filing of a notice of appeal shall be effected by delivering the notice of appeal to the senior official of the penal institution in which the appellant is imprisoned. The senior official shall endorse on the document the date of receipt and shall then return a copy so endorsed to the appellant and forthwith forward the original to the Registrar.

**4(2)** In all cases where the Attorney General is not the appellant, other than in a prisoner appeal, filing of a notice of appeal shall be effected by

(a) filing the original and four copies of a notice of appeal with the Registrar; or

(b) mailing the documents to the Registrar by prepaid registered mail.

**4(3)** The Registrar shall, on receipt of the notice of appeal under Rules 4(1) and (2), effect service by forwarding a copy to the Attorney General and to the court appealed from.

**4(4)** In an appeal by the Attorney General, the notice of appeal shall be filed with the Registrar. Service by the Attorney General on the respondent or other parties shall be effected within 30 days after such filing by

- (a) personal service on the respondent;
- (b) service on the respondent's legal counsel, if counsel accepts service on behalf of the respondent or if counsel already appears as counsel of record in the Court;
- (c) service on the appropriate senior official of the penal institution if the respondent is in custody;
- (d) verified facsimile transmission; or
- (e) any other manner as may be directed by the Court.

**4(5)** Proof of service of the notice of appeal, in appeals under Rule 4(4), shall be filed with the Registrar forthwith.

**4(6)** A notice of cross-appeal shall be filed not later than 30 days after receipt by the cross-appellant of the notice of appeal and shall be served in accordance with this Rule.

#### Intervention



### 5.

**5(1)** Any person, including an Attorney General, interested in an appeal between other parties may, by leave of the Court, intervene in the appeal on any terms and conditions that the Court determines.

**5(2)** An application for intervention shall briefly

- (a) describe the intervenor and the intervenor's interest in the appeal;
- (b) identify the position to be taken by the intervenor on the appeal; and
- (c) set out the submissions to be advanced by the intervenor and their relevance to the appeal, and the reasons for believing that those submissions will be useful to the Court and different from those of the parties or other intervenors.

#### Leave to Appeal



### 6.

**6(1)** Where leave to appeal is required, arguments respecting leave shall be presented at the hearing of the appeal unless

- (a) the appellant or respondent applies, with appropriate supporting materials, for the issue of leave to be determined prior to the hearing of the appeal; or
- (b) the Court of its own motion requires the parties to appear, with appropriate supporting materials, at a hearing to determine the issue of leave.

**6(2)** On the hearing of an application, the Court may grant leave, refuse leave or postpone the decision until the hearing of the appeal.

#### Report of a Trial Judge

### 7.

**7(1)** Where the Court or one of the parties requests that the trial judge furnish a report on the case or on any matter relating to the case, notice shall be given to the parties who shall have the opportunity to make submissions to the Court concerning

- (a) whether the trial judge's report is to be furnished; and

(b) if the report is to be furnished, the scope of the report to be requested.

**7(2)** Where the Court directs that a report of the trial judge is to be furnished, the Registrar shall, on receipt of the report, mail copies to the parties to the appeal.

#### Appeals in Writing

### **8.**

**8(1)** Where an appellant desires to present argument on appeal in writing instead of appearing in person or by counsel, he or she shall state the intention to do so in the notice of appeal and may include in it points of argument, or file and serve a factum in the manner and within the time prescribed by these Rules.

**8(2)** Where a respondent desires to present argument on appeal in writing instead of appearing in person or by counsel, he or she shall advise the Registrar and the appellant of their intention to do so at the time he or she files and serves a factum. Such factum shall be filed and served in the manner and within the time prescribed by these Rules.

#### Extension or Abridgment of Time

### **9.**

**9(1)** Any time prescribed by these Rules, including the time prescribed for the filing of a notice of appeal, may be extended or abridged by the Court before or after the expiration of the period.

**9(2)** Notice of an application to extend or abridge the time shall be given to the opposite party, unless such application is made by consent or unless otherwise directed by the Court.

**9(3)** An application to extend or abridge the time for filing a notice of appeal shall include an affidavit and any other relevant material indicating

- (a) the potential merits of the appeal, including any questions of law that may be in issue on the appeal;
- (b) an explanation for the failure to have filed the notice of appeal in accordance with the time limits prescribed by these Rules;
- (c) whether the applicant had demonstrated an intention to appeal within the appeal period;
- (d) the existence of any prejudice to the intended respondent and any third parties if the appeal were allowed to proceed;
- (e) the existence of any special circumstances that might cause an injustice to the applicant if the application were refused; and
- (f) any other information or factors as might reasonably have a bearing on the application.

**9(4)** An appellant not represented by counsel may apply for an extension or abridgement of time by including with the proposed Form B notice of appeal an application for such extension. The Court may, on notice to the Attorney General and on giving the Attorney General an opportunity to be heard, consider the application and either grant or refuse the requested extension. The Registrar shall send to each party a copy of the Court's order.

**9(5)** Where an application under this Rule is heard by a judge, and the judge dismisses it, the applicant may, by filing a notice in writing with the Court within seven days after such dismissal, have the application to extend or abridge the time determined by a panel of the Court.

#### Effect of Non-Compliance With Rules

### **10.**

**10(1)** Subject to Rule 10(3), non-compliance with these Rules does not render a proceeding void, but where non-compliance occurs, the Court may give any direction or make any order it considers appropriate to give effect to the intent of these Rules.

**10(2)** Where a party to an appeal or counsel fails to perfect the appeal within a period of 6 months after the filing of the transcript

or, where no transcript is filed, within a period of 12 months after the filing of the notice of appeal, or a party or their counsel otherwise fails to comply with these Rules, the Court, on application of any other party to the appeal or of its own motion, on giving to the parties such notice, if any, as the Registrar is able to effect, or without notice if reasonable notice cannot be effected, may

- (a) strike out the appeal;
- (b) direct the appellant to perfect the appeal within a specified time;
- (c) fix a date for hearing of the appeal; or
- (d) make any other order as may be just.

**10(3)** Where the notice of appeal was filed prior to January 1, 2000, and 12 months after the day on which these Rules come into force have passed since the last step was taken, and no other order has been made under these Rules, the appeal shall be deemed to have been abandoned and the Registrar shall file a notice of deemed abandonment.

**10(4)** On filing a notice of deemed abandonment of the appeal, the Registrar shall send a copy of the notice by ordinary mail or by facsimile transmission to counsel of record or to the parties at the last known addresses, if any, of such counsel or parties indicated in the documents filed in the appeal. The Registrar shall, within three months of filing of such notice of deemed abandonment, publish notice of it in *The Newfoundland and Labrador Gazette*, or publish notice in a single notice containing a list of all the appeals abandoned during the preceding three months.

**10(5)** Inability or failure of the Registrar to effect any notice required by this Rule shall not affect the deemed abandonment or striking out of an appeal.

**10(6)** No proceedings shall thereafter be taken in any appeal deemed abandoned or struck out under this Rule unless the appeal is reinstated by the Court, which the Court may do on such terms as the Court deems just.

**10(7)** The Court shall, on application by a party prior to the date on which the appeal would be deemed to be abandoned, on such terms as the Court deems just, order that the appeal not be deemed abandoned.

#### Transcripts



## 11.

**11(1)** Subject to this Rule, the parties to an appeal shall file with the Court only those portions of the transcript of the proceedings in the court appealed from that are necessary to enable the issues raised on appeal to be determined.

**11(2)** Except:

- (a) in a prisoner appeal,
- (b) in an appeal from a summary conviction appeal court, or
- (c) where a judge otherwise orders,

an appellant shall file with the notice of appeal a copy of the request for transcript and certificate in Form D requesting the preparation of those portions of the record in the proceedings that he or she believes are necessary to enable the issues on appeal to be determined and containing certificates stating that the request has been sent to other parties and to the court reporter's office.

**11(3)** The appellant shall, within 15 days after filing the notice of appeal, file with the Registrar a certificate of court reporter in Form E certifying receipt of the request for transcript.

**11(4)** In a prisoner appeal, the Attorney General shall, after receiving a notice of appeal

- (a) send a request for transcript and certificate in Form D and a certificate of court reporter in the manner set out in Form E, with such modifications as may be necessary;

- (b) file copies of the completed certificates with the Registrar; and
- (c) forward copies to the prisoner.

**11(5)** In an appeal from a summary conviction appeal court, the transcript shall, unless otherwise ordered by the Court, consist of

- (a) the transcript of proceedings in the trial court as it was submitted on appeal to the summary conviction appeal court, and
- (b) only those portions of the transcript of proceedings in the summary conviction appeal court as may be necessary to enable the issues on appeal to be determined,

and the appellant shall file with the notice of appeal a request for transcript and certificate in Form D and, within 15 days thereafter a certificate of court reporter in Form E, with such modifications as may be necessary, in relation to any portions of the proceedings in the summary conviction appeal court which the appellant believes are necessary to enable the issues on appeal to be determined.

**11(6)** Unless the Court otherwise orders, where an appeal is against sentence only, the transcript shall be limited to

- (a) the evidence given and submissions made on the issue of sentence; and
- (b) the reasons for sentence given by the sentencing judge.

**11(7)** Where a party to an appeal receives a copy of a request for transcript and certificate prepared by another party, the receiving party may

- (a) where he or she believes that additional portions of the transcript of the proceedings are necessary to enable the issues on appeal to be determined, and
- (b) within 15 days after receipt, or within such longer time as in the Court may allow,

deliver a request for further portions of transcript and certificate in Form F to the applicable court reporter's office and to the other parties to the appeal, file a copy of it with the Registrar, and within 15 days thereafter file with the Registrar a certificate of court reporter in Form E, with such modifications as may be necessary, certifying receipt of the request for additional transcript.

**11(8)** A party to an appeal may at any time apply to the Court for an order

- (a) excising portions of the transcript of the proceedings which have been requested or prepared and which are unnecessary or inappropriate for the determination of the issues on an appeal; and
- (b) adding such further portions of the transcript of the proceedings as may be determined to be necessary to the determination of the issues on an appeal.

**11(9)** The Court may at any time of its own motion order that the transcript of the proceedings be abridged or amplified.

**11(10)** The parties to an appeal may agree, in writing to be filed in the Court:

- (a) to substitute an agreed statement of facts in place of all or any portion of the transcript of the proceedings and the exhibits; and
- (b) to submit a joint request for transcript in Form D and certificate of court reporter in Form E, with such modifications as may be required.

**11(11)** Where the Court concludes that all or any parties to an appeal have not made reasonable efforts to abridge the transcript of the proceedings so that only those portions as may be reasonably necessary to enable the issues on appeal to be determined are filed with the Court, the Court may make any order that it deems appropriate in the circumstances.

**11(12)** When the transcript of the proceedings has been prepared as requested, the court reporter shall forthwith forward the original transcript and three copies, together with the original file, to the Registrar and shall make arrangements for the delivery of copies to the parties to the appeal, or their counsel. The Attorney General shall, in the case of a prisoner appeal, be responsible for service of the transcript on the parties to the appeal.

**11(13)** The Registrar shall, on receipt of the original transcript and copies, notify the parties that the transcript has been received by the Court.

#### Exhibits

### 12.

**12(1)** Except where otherwise provided by the Code, all documents, exhibits and other things received in connection with a trial or proceeding that is appealable under these Rules shall be retained by the trial court, the Crown or the Registrar, as the case may be, for a period of 90 days after the expiration of the time limited for filing a notice of appeal. If an appeal is not commenced before that time and unless a judge or the trial judge otherwise orders, all such documents, exhibits or other things shall be returned to and received by the party who produced them at the trial or proceeding or who had custody and control of them at the trial or proceeding or to counsel.

**12(2)** On receipt or filing of a notice of appeal, the Registrar or clerk of the trial court shall forthwith

- (a) cause to be sent to the Registrar a list of all documents, exhibits and other things that were before the trial court; and
- (b) advise any other person who has custody of those documents, exhibits and other things of the appeal.

Thereafter the documents, exhibits and other things shall be retained in the custody of that person until the appeal is finally disposed of. On the final disposition of the appeal and subject to any order that may be made by a judge, the custodian of those items shall dispose of them in the manner provided in Rule 12(1).

**12(3)** Notwithstanding the provisions of this Rule, the Court may at any time prior to the final disposition of the appeal request the custodian of the documents, exhibits and other things to forward all or any of them to the Court, and the custodian shall immediately comply with such request.

**12(4)** Nothing in this Rule shall alter the results of application of the provisions of the *Controlled Drugs and Substances Act* or of any other federal or provincial enactment insofar as they relate to documents, exhibits or other things seized and to their forfeiture.

#### Appeal Book

### 13.

**13(1)** Subject to Rule 13(3), the appellant shall prepare an appeal book which shall contain, where applicable, in the following order:

- (a) an index;
- (b) a copy of the notice of appeal and notice of cross-appeal;
- (c) a copy of any order respecting conduct of the appeal;
- (d) a copy of the information or indictment;
- (e) a copy of any decision of the trial court that is the subject of the appeal or related to it, whether or not it is included in the transcript;
- (f) a copy of any agreed statement of facts entered at the trial or agreed to under these Rules;
- (g) any portions of the transcript as the appellant deems appropriate; and
- (h) any other item that was before the trial court which the appellant deems necessary for the appeal.

**13(2)** In the case of an appeal against sentence, in addition to the items mentioned in Rule 13(1), there shall be filed

- (a) a completed Form G;
- (b) a copy of any pre-sentence report and victim impact statement;
- (c) a copy of any compensation, probation, or conditional sentence order or any other order which is the subject of the appeal;



(d) a copy of the criminal record of the offender if one is entered at the trial; and

(e) any medical or psychiatric reports filed at the time of sentence.

**13(3)** Where the appellant is a convicted person not represented by counsel, the Attorney General shall, unless otherwise ordered by the Court, prepare the appeal book required under this Rule and shall forward a copy of the appeal book to the appellant free of charge.

**13(4)** The respondent may file an appeal book.

**13(5)** The Registrar may refuse to accept an appeal book that does not comply with these Rules or that is not legible.

**13(6)** Unless the Court otherwise orders or on consent by the parties, exhibits shall be retained by the trial court, Crown or the Registrar as provided by Rule 12 and need not be reproduced in the appeal book. Counsel may prepare copies of key documents or extracts therefrom for the use of the Court.

#### Factums | Appellant's Factum

### 14.

**14(1)** An appellant shall prepare an appellant's factum unless

- (a) the appellant is not represented by counsel and has stated in the notice of appeal that he or she desires to present oral argument only;
- (b) the appeal is against sentence only; or
- (c) the Court orders otherwise.

**14(2)** The appellant's factum shall be signed by the appellant or the appellant's counsel and shall consist of

- (a) Part I, containing a concise summary of the facts relevant to the issues in the appeal, including identification of the court appealed from and the result in the court appealed from, with reference to the evidence by page and line,
- (b) Part II, containing a concise statement setting out clearly and particularly the points in issue in the appeal,
- (c) Part III, containing a concise statement of the argument, law and authorities relied on,
- (d) Part IV, containing a statement of the order that the Court will be asked to make,

in paragraphs numbered consecutively throughout the factum; and

- (e) Schedule A, containing a list of the authorities relied on with a reported citation if available and a court citation if not, and
- (f) Schedule B, containing
  - (i) an index,
  - (ii) the headnote and the relevant portions of the text, or the complete text if most of the text is relevant to the issues on appeal, of the authorities relied on, and
  - (iii) all relevant provisions of statutes, regulations and bylaws, with each authority and relevant provision separately tabbed.

**14(3)** Unless authorized by the Chief Justice, Part III, excluding the Schedules, shall not ordinarily exceed 40 pages in length.

#### Factums | Respondent's Factum

### 15.

**15(1)** Subject to Rules 15(4) and 17(2), each respondent shall prepare and file a respondent's factum.

**15(2)** The respondent's factum shall be signed by the respondent or the respondent's counsel and shall consist of



- (a) Part I, containing a statement of the facts in the appellant's summary of relevant facts that the respondent accepts as correct and those facts with which the respondent disagrees and a concise summary of any additional facts relied on, with reference to the evidence by page and line,
- (b) Part II, containing the position of the respondent on the points in issue in the appeal,
- (c) Part III, containing a concise statement of the argument, law and authorities relied on,
- (d) Part IV, containing a statement of the order that the Court will be asked to make,

in paragraphs numbered consecutively throughout the factum; and

- (e) Schedule A, containing a list of the authorities relied on with a reported citation if available and a court citation if not, and
- (f) Schedule B, containing
  - (i) an index,
  - (ii) the headnote and the relevant portions of the text, or the complete text if most of the text is relevant to the issues on appeal, of the authorities relied on, and
  - (iii) all relevant provisions of statutes, regulations and bylaws, with each authority and relevant provision separately tabbed.

**15(3)** Unless authorized by the Chief Justice, Part III; excluding the Schedules, shall not ordinarily exceed 40 pages in length.

**15(4)** A respondent who is not represented by counsel need not comply with this Rule.

#### Factums | Form of Appeal Book and Factum

### 16.

**16(1)** An appeal book shall be printed double-spaced on one side of letter size paper with the printed pages to the left and with each page numbered at the upper left corner. Printing includes reproduction of copies by typing, offsetting, mimeographing, photocopying or any other process. The cover of the appeal book shall be grey and each volume shall have marked on it its volume number and a reference to index page numbers contained in it.

**16(2)** A factum shall be double-spaced on one side of the paper only with printed pages to the left. All pages shall be numbered consecutively. All paragraphs in a factum shall be numbered consecutively throughout the factum. The covers of an appellant's factum shall be coloured buff or yellow, and the covers of the respondent's factum, including the factum of a cross-appellant, shall be coloured blue.

#### Perfecting Appeals



### 17.

**17(1)** Subject to Rule 17(2), within 60 days after being notified that the evidence has been transcribed, or if no evidence is to be transcribed, within 60 days after the filing of the notice of appeal, an appellant shall

- (a) serve on each party
  - (i) a copy of the appeal book, and
  - (ii) a copy of the appellant's factum, if one is required; and
- (b) file with the Registrar
  - (i) proof of service of the notice of appeal,
  - (ii) four copies of the appeal book,
  - (iii) the original and three copies of the appellant's factum, if one is required, and

(iv) written confirmation that the appeal book and, if required, a factum have been forwarded to the respondent.

**17(2)** Where the appellant is a convicted person not represented by counsel, within the time prescribed by Rule 17(1)

- (a) the Attorney General shall file with the Registrar four copies of the appeal book;
- (b) if the appellant files a factum, the appellant shall file with the Registrar the original and four copies of the appellant's factum; and
- (c) the Registrar shall forward to the respondent a copy of the appellant's factum, if any.

**17(3)** Within 30 days after receipt of the appellant's factum, the respondent shall

- (a) file with the Registrar the original and three copies of the respondent's factum, if one is required; and
- (b) serve on each party a copy of the respondent's factum, if one is required.

**17(4)** When Rule 17(1) or (2) is complied with, then, on the expiration of 30 days or on the filing of a factum by every respondent, and intervenor if any, entitled to do so, whichever shall first occur, either the appellant or a respondent may file an application to set a date for a hearing, the filing of which shall perfect the appeal.

#### Appeal Process | Hearing of Appeals

### 18.

**18(1)** The Court may on application by any party after perfection of the appeal or at any time of its own motion, whether the appeal is perfected or not, set a time for the hearing of any appeal. If the appeal has not been perfected, the Court may direct which materials may be filed and when they may be filed.

**18(2)** A perfected cross-appeal may, with leave of the Court, be set down for hearing even though the main appeal has not been perfected.

#### Appeal Process | Evidence on Appeal



### 19.

**19(1)** In seeking to adduce evidence on appeal under the Code, the applicant shall file an interlocutory application, which shall concisely set out the nature of the evidence sought to be adduced and the manner in which such evidence is said to bear on a decisive or potentially decisive issue at trial.

**19(2)** The interlocutory application shall

- (a) be supported by affidavit(s) as to the facts raised and to be relied on in support of the application;
- (b) set out the order sought; and
- (c) be accompanied by a memorandum of the points of argument and a list of authorities relied on.

**19(3)** A party opposing the application shall file with the Registrar any affidavit or memorandum on which that party relies and serve a copy of it on the applicant and on any other parties. The memorandum shall contain the points of argument and a list of authorities relied on.

**19(4)** Either prior to or after ruling on the admissibility of the proposed evidence, the Court may, of its own motion or that of counsel, order that the evidence be taken by oral examination before the Court, by affidavit, by commission evidence, by deposition or in any other manner that the Court directs.

#### Appeal Process | Abandonment of Appeals

### 20.

**20(1)** An appellant who desires to abandon an appeal shall complete a notice of abandonment of appeal in Form C, signed by the appellant or the appellant's counsel of record on the appeal.

**20(2)** The notice of abandonment shall be filed, directly or by facsimile transmission, with the Registrar and the Registrar shall forward a copy to the respondent and to the court reporter's office.

**20(3)** Where a notice of abandonment has been filed, no formal order shall be required. If requested, the Registrar may provide a certificate of abandonment of appeal.

**20(4)** Except where there is a formal order dismissing the appeal, the Court may, at any time on application, grant an order permitting withdrawal of the notice of abandonment if, in its opinion, it is in the interest of justice to do so.

#### Appeal Process | Failure to Appear at Hearing of Appeal

### **21.**

Where a party fails to appear at the hearing of the appeal, the Court may adjourn the hearing or hear the appeal in that party's absence.

#### Appeal Process | Pre-hearing Conferences

### **22.**

**22(1)** At any time after the notice has been filed, the Chief Justice may direct a pre-hearing conference.

**22(2)** Where a direction is made under this Rule, the parties or their counsel shall attend before a judge, at the time and place directed, to consider one or more of:

- (a) the reduction in size of the appeal book or transcript;
- (b) the simplification or clarification of issues in the appeal;
- (c) the fixing of the time for the hearing of the appeal;
- (d) the conduct of the hearing of the appeal; and
- (e) any other matter that might expedite the appeal.

**22(3)** After a pre-hearing conference, the judge who held it may make a direction on any matter referred to in Rule 22(2) and that direction shall govern the conduct of the appeal unless the Court orders otherwise.

**22(4)** The judge conducting a pre-hearing conference shall not sit on the hearing of the appeal, except by request of the parties, and shall not disclose to the appeal panel positions taken or admissions or concessions made by the parties or their counsel at the conference.

#### Appeal Process | Release from Custody Pending Appeal

### **23.**

**23(1)** An application, under the provisions of the Code, for release pending appeal shall set forth the evidence and argument to be presented in support of the requirements stipulated by the Code for release.

**23(2)** The application shall be accompanied by affidavit or affidavits, including where practicable an affidavit of the applicant, setting forth

- (a) the particulars respecting the conviction and sentence,
- (b) any grounds of appeal not specified in the notice of appeal;
- (c) the applicant's
  - (i) age, marital status, and dependents if any,
  - (ii) places of abode in the three years preceding conviction,
  - (iii) proposed place of abode if released,
  - (iv) employment prior to conviction and expected employment and address of employment if released, and

(v) criminal record, if any; and

(d) where the appeal is as to sentence only, any unnecessary hardship that would be caused if the applicant were detained in custody and the reasons why leave to appeal the sentence should be granted.

**23(3)** Where the Attorney General desires to assert that the detention of the applicant is necessary and to rely on material other than that contained in the material filed by the applicant, the Attorney General shall file an affidavit setting out the facts on which the Attorney General relies.

**23(4)** The applicant and the Attorney General may, with leave of the Court, cross-examine on affidavits filed by the opposite party.

**23(5)** A judge may dispense with the filing of the affidavits referred to in this Rule and act on a statement of facts agreed on by counsel for the applicant and the Attorney General.

**23(6)** The applicant may file a concise memorandum of fact and law and any portions of the transcript of the trial or hearing that may be required, in support of the argument that the appeal or application for leave to appeal is not frivolous. The Attorney General may file in reply.

**23(7)** When granting an application for judicial interim release, the judge may make a separate order requiring that the applicant is to file his or her factum within a specified time period after receipt of the transcript by the Registrar, or after release is granted, if the transcript has been filed. The factum shall not be filed after the time specified except with the leave of the Chief Justice or the Court.

**23(8)** Where judicial interim release is granted, the applicant shall prepare and file with the Registrar the order for judicial interim release, any recognizance or undertaking, which may take the form provided in the Code or the *Young Offenders Act*, and a notice to release from custody in Form H of these Rules.

#### Appeal Process | Post-Sentence Report



## 24.

**24(1)** A party to the appeal may apply to the Court for an order that a post-sentence report be prepared.

**24(2)** A party to the appeal may, with consent of the other party or with leave of the Court, file post-sentence information.

**24(3)** Where a post-sentence report is ordered by the Court, the report shall be prepared in writing by the appropriate official of the penal institution and filed with the Registrar within any time limits specified in the order, and the Registrar shall forward a copy of the report to counsel for each party to the appeal and to any party who is not represented by counsel.

#### Appeal Process | Delivery of Judgment

## 25.

**25(1)** The judgment of the Court may be given orally or determined from the judge's written reasons for judgment to be filed with the Registrar.

**25(2)** An oral judgment may be given at the conclusion of the hearing of an appeal, or subsequently. The Court may, at the time of giving oral judgment or subsequently, file written reasons explaining the oral judgment. Where, at the time of delivery of oral judgment, the Court does not file, or express an intention to file, written reasons explaining the oral judgment, the chairperson of the appeal panel shall prepare, sign and file with the Registrar a memorandum succinctly explaining the disposition of the matter by the Court.

**25(3)** Written reasons explaining an oral judgment or, where none are filed, the memorandum of disposition shall be the decision of the Court.

**25(4)** Where separate written reasons are filed by more than one judge, the judgment of the Court shall be that indicated by the majority of the panel hearing an appeal.

**25(5)** Unless delivered orally, the judgment of the Court shall be deemed to have been delivered on the day when a majority of the decisions of the judges of the panel hearing the appeal have been filed or, if those decisions are in conflict, when a sufficient

number of written decisions have been filed or assented to from which the majority view of the panel hearing the appeal may be determined.

**25(6)** The Registrar shall send a copy of all written reasons for judgment, the reasons explaining oral judgment or the memorandum of disposition, as the case may be, without charge to the parties or their counsel, to the court appealed from, and to any libraries and other persons as the Chief Justice authorizes in the particular case or generally. Copies may be supplied to other persons on payment of the applicable charges.

#### Appeal Process | Formal Order

### 26.

**26(1)** On a decision having been filed or deemed filed, an order shall be prepared by the appellant or may be prepared by any party stating the disposition of the appeal as directed by the Court and served on the opposite party. The order shall be approved by the judge who acted as chairperson of the appeal panel, or in the absence of that judge, the next senior judge on the panel, and shall be signed by and filed with the Registrar, who shall then notify all parties of the filing.

**26(2)** Any party to an appeal who wishes the order amended to express better the intent of the decision of the Court may apply to the Court, which may correct or otherwise amend the formal order, and the amended order shall then without a change of date, be signed and entered by the Registrar as the formal order disposing of the appeal.

#### General | Civil Procedure Rules to Apply

### C

### 27.

The rules, with any necessary modifications, of the Supreme Court of Newfoundland and Labrador relating to civil procedure and other related rules of the Court shall, if not inconsistent with these Rules, the Code or any other statute having application, apply to these Rules in all matters not provided for herein.

#### General | Time with Respect to Applications and Responses

### 28.

**28(1)** Any party may seek from the Registrar a date and time for the hearing of an interlocutory application. When the date and time are set, the applicant shall serve copies of the documentation to be relied on, on all other parties at least four clear days before the hearing, unless the application is made by consent or the Court otherwise directs.

**28(2)** Any written response to the application shall be filed with the Registrar and served on all other parties at least one clear day before the hearing.

#### General | Manner of Service of Other Notices and Documents in Prisoner Appeals

### 29.

**29(1)** In a prisoner appeal, service of all notices and other documents pertaining to the appeal, other than the notice of appeal, shall be effected by delivery to the senior official of the penal institution in which the appellant is imprisoned.

**29(2)** Where a notice or document is initiated by the appellant, the official shall endorse on it the date of receipt, return a copy so endorsed to the appellant and forthwith forward the original to the Registrar. The Registrar shall file the original and forward a copy to the Attorney General.

**29(3)** Where a notice or document is initiated by the Attorney General, the original shall be filed with the Registrar. Service shall be effected by delivery to the senior official of the penal institution in which the appellant is imprisoned who shall forthwith deliver the notice or document to the appellant. Delivery may be carried out by

- (a) delivery to the official;
- (b) prepaid registered or certified mail or courier to the official;
- (c) verified facsimile transmission, except in respect of transcripts, appeal books, factums and other documents exceeding 10 pages; or
- (d) any other manner that may be directed by the Court.

General | Manner of Service of Other Notices and Documents in All Other Appeals

**30.**

**30(1)** In all other appeals, where the Attorney General is not the appellant, or a party is not represented by counsel, or both, service of notices and documents, other than the notice of appeal,

- (a) when directed to the Attorney General shall be effected by
  - (i) service on legal counsel instructed by the Attorney General,
  - (ii) prepaid registered mail to the Attorney General or counsel directed by the Attorney General, or
  - (iii) verified facsimile transmission, except in respect of transcripts, appeal books, factums and other documents exceeding 10 pages; and
- (b) when directed to another party, shall be effected by
  - (i) personal service,
  - (ii) prepaid registered or certified mail to the address of the party set out in the notice of appeal or as filed with the Registrar,
  - (iii) verified facsimile transmission, except in respect of transcripts, appeal books, factums and other documents exceeding 10 pages, or
  - (iv) any other manner that may be directed by the Court.

**30(2)** In all other appeals, service of notices and documents shall be effected by

- (a) personal service;
- (b) service on legal counsel;
- (c) verified facsimile transmission, except in respect of transcripts, appeal books, factums and other documents exceeding 10 pages; or
- (d) any other manner that may be directed by the Court.

**30(3)** In all appeals referred to in this Rule, the original notice or document, and documents evidencing proof of service, if necessary, shall be filed with the Registrar.

Coming Into Force and Repealing

**31.**

**31(1)** These Rules come into force on July 1, 2002, without prejudice to any proceeding which may have been taken prior to that date.

**31(2)** The Criminal Appeal Rules of the Newfoundland Supreme Court, Court of Appeal, registered in the *Canada Gazette* SI/87-129, are repealed effective July 1, 2002.

Coming Into Force and Repealing

**Form A**

(Rules 3(1) and 9(4))

*(To be used where Notice is filed by Counsel on Behalf of Appellant)*

(This Form A may be varied to meet the case where the Attorney General is the appellant, or where circumstances require changes in it.)

20 ... No.

**In the Supreme Court of Newfoundland and Labrador — Court of Appeal**

IN THE MATTER OF

\_\_\_\_\_  
(name of appellant) who was  
convicted at \_\_\_\_\_  
(name of town/city) in the Province  
of Newfoundland and Labrador  
by Judge \_\_\_\_\_

BETWEEN:

\_\_\_\_\_  
(Name of Appellant)

Appellant

AND:

HER MAJESTY THE QUEEN  
as represented by the Attorney General

Respondent

**Notice of Appeal (Or Notice of Application for Leave to Appeal) (Or Notice of Cross-Appeal)**

1. Section of the *Criminal Code* pursuant to which the appeal is taken.....
2. Place of trial .....
3. Name of judge .....
4. Name of court .....
5. Name of crown prosecutor at trial .....
6. Name of defence counsel at trial .....
7. Offence(s) of which appellant convicted .....
8. Sections of the *Criminal Code* or other statutes under which appellant convicted .....
- .....
9. Plea at trial .....
10. Length of trial .....
11. Sentence imposed .....
12. Date of conviction .....
13. Date of imposition of sentence .....
14. If the appellant is in custody, place of incarceration .....
15. Appellant's date of birth .....
16. Appellant's last known address .....
17. Trial court case number .....



Take notice that the appellant (insert whichever of the following is applicable)

- (a) appeals against conviction on grounds involving a question of law alone;
- (b) applies for leave to appeal conviction on grounds involving a question of fact alone or a question of mixed law and fact, and if leave is granted, hereby appeals against the said conviction; or
- (c) applies for leave to appeal against sentence, and if leave be granted hereby appeals against sentence.

The grounds of appeal are annexed hereto as "Appendix A".

The relief sought is .....

*Note: If the appellant had a right to be tried by judge and jury originally but chose a judge alone, the appellant would have the right to be tried by judge and jury if a new trial is ordered but only if the appellant indicates a desire to be so tried in this notice.*

If a new trial is ordered and the appellant would have the right to trial by judge and jury, does the appellant wish trial by judge and jury? Yes \_\_\_\_ No \_\_\_\_

The appellant's address for service is .....

.....

Dated at \_\_\_\_\_, Newfoundland and Labrador, this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

\_\_\_\_\_  
(Counsel on behalf of appellant)

TO:

The Registrar

Court of Appeal

P.O. Box 937

287 Duckworth Street

St. John's

Newfoundland and Labrador

A1C 5M3

Coming Into Force and Repealing

## Form B

(Rules 3(1) and 9(4))

*(To be used where Accused is not Represented by Counsel)*

20 ... No.

### In the Supreme Court of Newfoundland and Labrador — Court of Appeal

IN THE MATTER OF

\_\_\_\_\_  
(name of appellant) who was

convicted at \_\_\_\_\_

(name of town/city) in the Province

of Newfoundland and Labrador

by Judge \_\_\_\_\_

BETWEEN:

\_\_\_\_\_  
(Name of Appellant)

Appellant

AND:

HER MAJESTY THE QUEEN  
as represented by the Attorney General

Respondent

**Notice of Appeal (Or Notice of Application For Leave to Appeal)**

1. Name of appellant .....

2. Place of trial .....

3. Name of judge .....

4. Name of court (Supreme Court of Newfoundland and Labrador — Trial Division; Provincial Court or Youth Court) .....

.....

5. Name of your defence council (if any) at the trial .....

6. Offence(s) of which appellant was convicted (example: theft, forgery, sexual assault)

.....

.....

7. Plea at trial .....

8. Sentence imposed .....

9. Date of conviction .....

10. Date of imposition of sentence .....

11. Is your appeal from a conviction or sentence under the *Young Offenders Act*? .....

Yes \_\_\_\_ No \_\_\_\_

12. (If applicable) If the appellant is a young person as defined in the *Young Offenders Act* and has applied for legal aid, indicate the location of the legal aid office.

.....

Has the appellant been refused a legal aid certificate? Yes \_\_\_\_ No \_\_\_\_

13. Name and address of place where appellant is in custody, or if not in custody, the appellant's address

.....

.....

14. If the appellant is in custody, appellant's address other than institution

.....

.....

*Note: The Rules of Court provide for delivery of certain materials to you at the address stated in the notice of appeal. If you change your address, notify the Registrar. If you do not notify the Registrar, delivery of documents at your old address will be deemed to constitute proper delivery to you and the appeal may proceed in your absence (even if you have not received the documents).*

15. Appellant's date of birth .....

16. Trial court case number .....

I, the above appellant, hereby give notice that I desire to appeal and if necessary for me to do so, to apply for leave to appeal against

(a) conviction only\_\_\_\_\_;

(b) sentence only\_\_\_\_\_; or

(c) both conviction and sentence\_\_\_\_\_.

*Note: If you are convicted of more than one offence and you wish to appeal against only some of your convictions, you must state clearly the convictions against which you wish to appeal.*

.....

.....

*Note: If you are convicted of more than one offence and you wish to appeal against only some of your sentences, you must state clearly the sentences against which you wish to appeal.*

.....

.....

*Note: You must here set out the grounds or reasons why the conviction should be quashed or the sentence reduced. If space is insufficient, put additional grounds on the reverse side of this Form.*

I wish to appeal for the following reasons:

### **Grounds of appeal**

.....

.....

.....

.....

.....

.....

.....

.....

I desire to present my case and argument

(a) in writing only\_\_\_\_\_;

(b) in person\_\_\_\_; or

(c) in writing and in person\_\_\_\_\_.

*Note: If you desire to submit your case and argument in writing, you must file with the Court your written argument within 60 days after receiving the transcript and the appeal book from the Attorney General, unless otherwise allowed by the Court.*

*Note: If you had the right to be tried by judge and jury originally but chose a judge alone, you would have the right to be tried by judge and jury if a new trial is ordered but only if you indicate a desire to be so tried in this notice.*

If a new trial is ordered and you would have the right to trial by judge and jury, do you wish trial by judge and jury? Yes \_\_\_\_  
No \_\_\_\_

Dated at \_\_\_\_\_, Newfoundland and Labrador, this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

\_\_\_\_\_

(Signature of appellant)

*Note: You must sign this notice. If you cannot write you must affix your mark in the presence of a witness. The name and address of the witness must be given.*

TO:

The Registrar

Court of Appeal

P.O. Box 937

287 Duckworth Street

St. John's

Newfoundland and Labrador

A1C 5M3

(if you are not in custody) or

TO: The Senior Official of the Penal Institution (if you are in custody)

*If you are in custody, this notice of appeal is to be provided to the senior officer of the institution in which the appellant is imprisoned not later than 30 days after the date of sentence. If you are not in custody, this notice of appeal is to be provided to the Registrar not later than 30 days after the date of sentence.*

*Note: If more than 30 days have expired since the date of your sentence, then you must apply for an extension of time by completing the application below. If you do not apply to the Court for such extension of time or if your application for extension is refused, your appeal will be dismissed without further hearing.*

### **Application for Extension of Time**

I hereby apply for an extension of time, within which I may launch the within appeal, on the following grounds.

(State reasons for delay below.)

.....

.....

.....

.....

Signed \_\_\_\_\_ Date \_\_\_\_\_

Coming Into Force and Repealing

## Form C

(Rule 20(1))

20 ... No.

### In the Supreme Court of Newfoundland and Labrador — Court of Appeal

IN THE MATTER OF

\_\_\_\_\_

(name of appellant) who was

convicted at \_\_\_\_\_

(name of town/city) in the Province

of Newfoundland and Labrador

by Judge \_\_\_\_\_

BETWEEN:

\_\_\_\_\_  
(Name of Appellant)

Appellant

AND:

HER MAJESTY THE QUEEN  
as represented by the Attorney General

Respondent

### Notice of Abandonment of Appeal

I hereby give notice that I, \_\_\_\_\_, abandon the appeal herein.

Dated at \_\_\_\_\_, Newfoundland and Labrador, this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

\_\_\_\_\_

(Appellant or appellant's counsel, as the case may be.)

TO:

The Registrar

Court of Appeal

P.O. Box 937

287 Duckworth Street

St. John's

Newfoundland and Labrador

A1C 5M3

Coming Into Force and Repealing

## Form D

(Rule 11)

20 ... No.

### In the Supreme Court of Newfoundland and Labrador — Court of Appeal

IN THE MATTER OF

\_\_\_\_\_

(name of appellant) who was

convicted at \_\_\_\_\_

(name of town/city) in the Province

of Newfoundland and Labrador

by Judge \_\_\_\_\_

### Request for Transcript and Certificate

To: Court Reporters' Office of the Supreme Court of Newfoundland and Labrador — Trial Division (or the Provincial Court of Newfoundland and Labrador, as the case may be) located at \_\_\_\_\_ (town/city) in the Province of Newfoundland and Labrador.

### Request for Transcript

Pursuant to Rule HI of the Criminal Appeal Rules, you are hereby requested to prepare a transcript of those portions of the record in the proceeding known as

\_\_\_\_\_ v. \_\_\_\_\_,

cause no. \_\_\_\_\_ as are specified as follows:

*Note: Check only such items as are applicable, and delete such portions of items as are inapplicable.*

- The evidence taken at trial (whether taken in the presence or in the absence of the jury) together with objections to and rulings on admissibility of that evidence;
- The evidence taken at trial in the presence of the jury together with
  - objections to and rulings on admissibility of that evidence;
  - evidence taken on the *voir dire(s)* in relation to \_\_\_\_\_, and submissions made and rulings given in respect of same;
  - \_\_\_\_\_;
- The evidence of the following witnesses together with objections to and rulings on admissibility of that evidence:
  - \_\_\_\_\_
  - \_\_\_\_\_
  - \_\_\_\_\_
  - \_\_\_\_\_

- The evidence taken and submissions made on the issue of sentence;
- Proceedings in respect of the selection of the jury;
- The opening address of the trial judge;
- Submissions as to the proposed content of the judge's charge to the jury and the judge's rulings thereon and reasons;
- The closing addresses to the jury;
- The final arguments, where there is no jury;
- Any objections to the judge's charge to the jury and the judge's rulings thereon and reasons;
- Submissions respecting questions from the jury and the judge's rulings thereon and reasons;
- The recording of the verdict of the jury;
- The reasons for judgment, if any;
- The reasons for sentence given by the judge;
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

On completion of preparation of the transcript, you are hereby requested to

(a) deliver the original and three copies to the

Registrar, Court of Appeal,  
P.O. Box 937,  
287 Duckworth Street,  
St. John's, Newfoundland and Labrador,  
A1C 5M3; and

(b) either

(i) notify the appellant(s) and respondent(s) that the transcript has been prepared and may be collected from your office; or

(ii) forward one copy of the transcript by ordinary mail to each of the appellant(s) and respondent(s) as follows:

Appellant(s): \_\_\_\_\_

\_\_\_\_\_

Respondent(s): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Signature of the appellant or appellant's counsel)

#### **Certificate of Appellant or Appellant's Counsel**

I hereby certify that I have sent to the respondent's counsel (or the respondent(s), if unrepresented,) and the court reporters' office



a true copy of the foregoing request for transcript by leaving it at, (or mailing it by ordinary mail to,) the following addresses:

.....

.....

or by sending the same by facsimile transmission to \_\_\_\_\_ (state facsimile number) \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
(Signature of the appellant or appellant's counsel)

Coming Into Force and Repealing

## Form E

(Rule 11)

20 ... No.

### In the Supreme Court of Newfoundland and Labrador — Court of Appeal

IN THE MATTER OF

\_\_\_\_\_  
(name of appellant) who was

convicted at \_\_\_\_\_

(name of town/city) in the Province

of Newfoundland and Labrador

by Judge \_\_\_\_\_

### Certificate of Court Reporter

I, (name of court reporter or supervisor of court reporters' office) \_\_\_\_\_, hereby certify that the court reporters' office received the within request for transcript on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ and acknowledge that, on completion of preparation of same shall cause the original and copies to be delivered, provided or forwarded as requested.

\_\_\_\_\_  
(Supervisor or court reporter)

Coming Into Force and Repealing

## Form F

(Rule 11)

20 ... No.

### In the Supreme Court of Newfoundland and Labrador — Court of Appeal

IN THE MATTER OF

\_\_\_\_\_

(name of appellant) who was

convicted at \_\_\_\_\_

(name of town/city) in the Province

of Newfoundland and Labrador

by Judge \_\_\_\_\_

### **Request for Further Portions of Transcript and Certificate**

TO: Court Reporters' Office of the Supreme Court of Newfoundland and Labrador — Trial Division (or the Provincial Court of Newfoundland and Labrador, as the case may be) located at \_\_\_\_\_ (town/city) in the Province of Newfoundland and Labrador.

Pursuant to Rule 11(7) of the Criminal Appeal Rules, you are hereby requested to prepare a transcript of additional portions of the record in the proceeding known as

\_\_\_\_\_ v. \_\_\_\_\_,

cause no. \_\_\_\_\_ as follows:

- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

*Note: On completion of preparation of these additional portions of the transcript, you are hereby requested to deliver the original and copies to the Court and the parties in the same manner as the other portions of the transcript already requested.*

### **Certificate of Requesting Party**

I hereby certify that I have delivered to counsel for the other parties or the parties themselves, if unrepresented, and the court reporters' office a true copy of the foregoing request

by .....

.....

on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_

(Requesting party or party's counsel)

Coming Into Force and Repealing

## **Form G**

(Rule 13(2)(a))

20 ... No.

**In the Supreme Court of Newfoundland and Labrador — Court of Appeal**

IN THE MATTER OF

\_\_\_\_\_

(name of appellant) who was

convicted at \_\_\_\_\_

(name of town/city) in the Province

of Newfoundland and Labrador

before Judge \_\_\_\_\_

### Questionnaire Concerning Sentence

1. Length of trial .....
2. Present place of incarceration (if applicable) .....
3. If appellant released on bail pending appeal, date of release .....
4. Period spent in pre-trial or pre-sentence incarceration .....
5. Parole eligibility date .....
6. Date of mandatory release .....
7. Names of co-accused (if any) and sentences imposed for offences of which they were convicted .....
8. Prior criminal record (if any, if such was introduced at trial) .....
9. Present employment .....
10. Present marital status .....
11. Appellant's present age and age at time of offence .....
12. Was a pre-sentence report prepared? Yes \_\_\_\_ No \_\_\_\_
13. Was there a victim impact statement? Yes \_\_\_\_ No \_\_\_\_
14. Were there any medical or psychiatric reports? Yes \_\_\_\_ No \_\_\_\_

Coming Into Force and Repealing

## Form H

(Rule 23(8))

20 ... No.

### In the Supreme Court of Newfoundland and Labrador — Court of Appeal

IN THE MATTER OF an Appeal by

\_\_\_\_\_

(name of appellant) from a conviction

and (or) sentence entered against him (her)

by \_\_\_\_\_ Judge,

on \_\_\_\_\_, 20 \_\_\_\_, for a

breach of section \_\_\_\_ of the

*Criminal Code* or section \_\_\_\_\_

of the *Young Offenders Act*

AND IN THE MATTER OF an application

by \_\_\_\_\_ for bail

pending appeal pursuant to subsection 679(3)

of the *Criminal Code*

BETWEEN:

\_\_\_\_\_  
(Name of Appellant)

Appellant

AND:

HER MAJESTY THE QUEEN  
as represented by the Attorney General

Respondent

### **Notice to Release from Custody**

An order has been made to allow the release of \_\_\_\_\_ (name of appellant) from custody pending appeal, on the following terms and conditions:

*Note: List terms and conditions.*

Therefore, pursuant to the provisions of the *Criminal Code* of Canada, I hereby notify and direct you that \_\_\_\_\_ has the right to be released from custody pending appeal (unless he or she is detained for some reason other than the sentence imposed in relation to the subject of the appeal).

Dated at St. John's, Newfoundland and Labrador, this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
(Deputy Registrar)

### **Currency**

Federal English Statutes reflect amendments current to March 17, 2021

Federal English Regulations are current to Gazette Vol. 155:5 (March 3, 2021)

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End of Document

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