

EXTRAORDINARY  
**FIJI REPUBLIC GAZETTE SUPPLEMENT**

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1988

(LEGAL NOTICE No. 80)

JUDICATURE DECREE 1988

SUPREME COURT APPEAL RULES 1988

ARRANGEMENT OF RULES

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In exercise of the powers conferred upon me by Section 17 of the Judicature Decree, I hereby make the following Rules:

*Short title and commencement*

1. These Rules may be cited as the Supreme Court Appeal Rules 1988 and shall come into force on the 1st day of August 1988.

*Interpretation*

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

"appeal" means an appeal from a decision of the Fiji Court of Appeal to the Supreme Court of Fiji (hereinafter referred to as the "Supreme Court");

"court" means the Fiji Court of Appeal or any judge thereof;

"decision" means a decision of the Court in any proceedings.

"High Court Rules" means the Rules of the High Court;

"judge" means a justice of appeal or justice of the Supreme Court;

"Judicature Decree" means the Judicature Decree 1988;

"record" means the aggregate of papers relating to an appeal (including pleadings, proceedings, evidence and decisions) proper to be laid before the Supreme Court on the hearing of an appeal;

"Registrar" means the Registrar of the Court of Appeal or other proper officer having custody of the records of the Court of Appeal;

"Supreme Court Registrar" means the Registrar of the Court of Appeal acting in his capacity as Registrar of the Supreme Court pending appointment of a separate Registrar of the Supreme Court.

*Sittings and constitution of the Supreme Court*

3. Sittings of the Supreme Court shall be commenced, and the Supreme Court shall be constituted, and the venue and time for all sittings for the hearing and determination of appeals shall be settled, from time to time, in accordance with the directions to be given by the President of the Supreme Court.

*Applications to be filed*

4. All applications, including applications for leave to appeal, and for an extension of time within which to file an appeal or to apply for leave to appeal, shall ordinarily be filed with the Registrar at the Court of Appeal Registry in Suva.

*Appellant confined to the grounds of appeal*

5. The appellant shall not, without the leave of the Supreme Court, urge or be heard in support of any ground of objection not stated in his notice of appeal, but the Supreme Court in deciding the appeal shall not be confined to the grounds so stated.

Provided that the Supreme Court shall not rest its decision on any ground not stated in the notice of appeal, unless the respondent has had sufficient opportunity of contesting the case on that ground.

*Application of High Court and Court of Appeal Rules*

6. Subject to these Rules the High Court Rules and the Rules of the Court of Appeal where not in conflict shall apply to proceedings in and before the Supreme Court and where necessary may be applied *mutatis mutandis* including the use of prescribed forms.

*Applications for conditional leave to appeal*

7. Notwithstanding that an appeal lies as of right in cases specified in Section 19 subsection (1) of the Judicature Decree applications in all cases shall be made to the Court for conditional leave to appeal to the Supreme Court and shall be made by motion within 21 days of the date of the decision to be appealed from, and the applicant shall under the same period of 21 days give all other parties concerned notice of his intended application.

*Conditional leave to appeal*

8. Leave to appeal to the Supreme Court in pursuance of the provisions of any law relating to such appeal shall, in the first instance, be granted by the Court only—

- (a) upon condition of the appellant, within a period to be fixed by the Court but not exceeding 30 days from the date of the hearing of the application for conditional leave to appeal, entering into good and sufficient security to the satisfaction of the Court in a sum not exceeding 1,000 dollars for the due prosecution of the appeal and the payment of all such costs as may become payable by the applicant in the event of his not obtaining an order granting him final leave to appeal, or of the appeal being dismissed for non-prosecution, or of the Supreme Court ordering the appellant to pay the costs of the appeal (as the case may be); and
- (b) upon such other conditions (if any) as the Court having regard to all the circumstances of the case, may think it reasonable to impose.

*Final leave to appeal*

9. Upon the appellant complying fully with the condition or conditions imposed on him by the order of the Court granting conditional leave to appeal to the Supreme Court the following sub-rules shall have application:

- (1) If the appeal is one which lies as of right to the Supreme Court pursuant to Section 19 subsection (1) of the Judicature Decree and the Court is satisfied that the appellant has complied with the conditions of the order granting conditional leave to appeal it shall grant the appellant final leave to appeal to the Supreme Court upon the appellant applying in writing for such final leave.

- (2) Where the appeal is one which requires leave of the Supreme Court pursuant to Section 19 subsection (2) of the Judicature Decree and the Court is satisfied that the appellant has complied with the conditions of the order granting him conditional leave to appeal the Court shall give to the appellant a certificate certifying that the conditions of the Order giving conditional leave have been complied with and such certificate shall be attached to the application to the Supreme Court when seeking final leave to appeal.
- (3) Application for final leave to appeal shall be made to the Supreme Court within 21 days of the Court granting the appellant a certificate under sub-rule (2) of Rule 9.
- (4) The application shall be by way of notice of motion which shall be served on other parties interested in the proposed appeal.
- (5) The application to the Supreme Court for final leave shall be supported by an affidavit made by or on behalf of the appellant stating the nature of the case, the questions involved and the reasons why final leave should be given.

*Powers of a single judge*

10. A single judge shall have power and jurisdiction:
- (a) to determine any application to the Court for conditional and final leave to appeal in any case where under any provision of law an appeal lies as of right from a decision of the Court;
  - (b) to determine any application to the Court for conditional leave to appeal in any case requiring leave of the Supreme Court; and
  - (c) generally in respect of any appeal pending before the Supreme Court, to make such orders and to give such other directions as he shall consider the interests of justice or circumstances of the case require;

Provided that any order, directions or decisions made or given in pursuance of this rule may be varied, discharged or reversed by the Court when consisting of three judges which may include the judge who made or gave the order, directions or decision.

*Stay of execution*

11. Where the decision appealed from requires the appellant to pay money or do any act, the judge shall have power, when granting conditional leave to appeal, either to direct that the said decision shall be carried into execution or that the execution thereof shall be suspended pending the appeal as to the judge shall seem just, and in case the judge shall direct the said decision to be carried into execution, the person in whose favour it was given shall, before the execution thereof, enter into good and sufficient security to the satisfaction of the judge for the due performance of such Order as he shall think fit to make thereon.

*Manner of providing security*

12. For the purposes of Rules 8 and 11 a person may provide security in any manner that the judge may approve in his case, and for the avoidance of doubt it is declared that such security may with the approval of the judge consist in whole or in part of a deposit of money.

*Notice of appeal*

13.—(1) An appeal to the Supreme Court shall be by way of rehearing and shall be brought by notice of motion (in these Rules referred to as "notice of appeal")

(2) Notice of appeal shall state—

- (a) whether the whole or part only, and what part of the judgment is appealed from;
- (b) the precise form of the order or orders which the appellant seeks in lieu of the judgment appealed from; and
- (c) the grounds on which the judgment of the Court is to be challenged.

(3) A notice of appeal shall, in addition to being filed in the Registry of the Supreme Court, be served on the Registrar and upon all parties to the proceedings in the Court who are directly affected by the appeal.

*Time for appealing*

14. Every notice of appeal shall be filed and served within the following times:

- (a) within 21 days of the Court granting final leave to appeal where the court grants final leave; and
- (b) within 21 days of the Supreme Court or justice thereof granting final leave to appeal.

*Security for payment of costs*

15.—(1) The appellant shall—

- (a) upon filing notice of appeal, pay the Registrar the fee for setting down the appeal;
- (b) upon request by the Registrar deposit with him such sums as he shall assess as the probable expenses for the preparation, certification and copying of the records; and
- (c) within 30 days of service of the notice of appeal, apply to the Registrar to fix the amount and nature of the security to be given by him for the prosecution of the appeal, and for payment of all such costs as may be ordered to be paid by him, or, as the case may be to dispense with such security.

(2) In the event of non-compliance with paragraph (1) or in the event of any security required to be given, or being partly given, within the time directed, or within such extended time as a judge of the Court may allow, all proceedings in the appeal shall be stayed, unless the Court or judge shall otherwise order, and the appeal may be dismissed if so directed by the Court or a judge.

*Preparation and cost of record*

16.—(1) The Registrar shall be responsible for the preparation, certification and copying of the record and may for the purpose of the preparation thereof give an opportunity to the parties or their representatives of appearing before him and being heard. The preparation of the record shall be subject to the supervision of the Court and the parties may submit any disputed question to the decision of a judge of the Court who may give such directions thereon as the justice of the case may require.

(2) The Registrar as well as the parties and their representatives shall endeavour to exclude from the record all documents (more particularly such as are purely formal) that are not relevant to the subject-matter of the appeal, and generally to reduce the bulk of the record as far as practicable, taking special care to avoid the duplication of documents and the unnecessary repetition of headings and other merely formal parts of documents; but the documents omitted to be copied, shall subject to Rule 37, be specified in the record.

(3) Where in the course of the preparation of a record one party objects to the inclusion of a document on the ground that it is unnecessary or irrelevant and the other party nevertheless insists upon it being included, the record shall, with a view to the subsequent adjustment of the costs of and incidental thereto, indicate the fact that the inclusion of the document was objected to and the party who so objected.

(4) After the completion of the preparation of the record the Registrar shall, under his hand and the seal of the Court, certify it to be the record as made up by him and shall forward it together with four uncertified copies thereof to the Registrar of the Supreme Court.

(5) Unless, on disposing of an appeal or application for leave to appeal the Supreme Court otherwise orders, the costs as prescribed of the preparation and certification of the record and of the four uncertified copies to be forwarded by the Registrar, shall be borne by the appellant.

(6) The Registrar shall on the application of any party to the appeal furnish such party with a copy of the record, or any part thereof, on payment of the prescribed fees.

*Respondent's notice*

17.—(1) A respondent who, not having appealed from the decision of the Court, desires to contend on the appeal that the decision of that Court shall 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 he proposes to ask the Supreme 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 the decision of the Court should be affirmed on the grounds other than those relied upon by that Court shall give notice to that effect specifying the grounds of that contention.

(3) Except with the leave of the Supreme Court, a respondent shall not be entitled on the hearing of the appeal to contend that the decision of that Court should be varied upon grounds not specified in a notice given under this rule, to apply for any relief not so specified or to support the decision of that Court upon any grounds not relied upon 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 upon all parties to the proceedings in the Court who are directly affected by the contentions of the respondent, and shall be served within 21 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 four copies of the notice to the Registrar.

*Amendment of notice of appeal and respondent's notice*

18.—(1) A notice of appeal or respondent's notice may be amended—

- (a) by or with the leave of a judge at any time; and
- (b) without such leave, by supplementary notice served, not less than 14 days before the day on which the appeal is listed to be heard, upon each of the parties upon 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 four copies of the notice to the Registrar.

*Directions as to service*

19.—(1) The Supreme Court may in any case direct that the notice of appeal be served upon any party to the proceedings in the Court of Appeal on whom it has not been served, or upon any person not party to those proceedings.

(2) In any case in which the Supreme Court directs the notice of appeal to be served on any party or person, it may also direct that any respondent's notice by which that party or person is directly affected shall be served upon him.

(3) The Supreme 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 upon such terms as may be 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.

*General powers of the Supreme Court*

20.—(1) In relation to an appeal, the Supreme Court shall have all the powers and duties as to amendment and otherwise of the High Court.

(2) The Supreme Court shall have full discretionary power to receive further evidence upon questions of fact, either by oral examination in court, by affidavit, or by deposition taken before an examiner or commissioner:

Provided that in the case of an appeal from a judgment after trial or hearing of any cause or matter upon 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.

(3) The Supreme 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.

(4) The powers of the Supreme 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 Supreme 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.

(5) The powers of the Supreme Court in respect of an appeal shall not be restricted by reason of any interlocutory order from which there has been no appeal.

*Powers of the Supreme Court as to new trials*

21.—(1) On the hearing of any appeal the Supreme Court may, if it thinks fit, make any such order as could be made in pursuance of an application for a new trial or to set aside any decision.

(2) A new trial shall not be ordered on the ground of the improper admission or rejection of evidence unless in the opinion of the Supreme Court some substantial wrong or miscarriage of justice has been thereby occasioned.

(3) A new trial may be ordered on any question without interfering with the finding or decision upon any other question; and if it appears to the Supreme Court that any such wrong or miscarriage of justice as is mentioned in paragraph (2) 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.

*Evidence on appeal*

22. Where any question of fact is involved in an appeal, the evidence taken in a Court below bearing on the question shall, subject to any direction of the Supreme Court be brought before that Court as follows:

(a) in the case of evidence taken by affidavit, by the production of copies thereof; and

(b) in the case of evidence given orally, by a copy of the judge's note, or, where an official shorthand note of the evidence was taken, by a copy of the transcript thereof, or by such other means as the Supreme Court may direct.

*Stay of execution, etc.*

23. Subject to Rule 11 except so far as the Court or the Supreme Court may otherwise direct—

(a) an appeal shall not operate as a stay of execution or of proceedings under the decision of the Court of Appeal; and

(b) no intermediate act or proceeding shall be invalidated by an appeal.

(2) On any appeal, interest for such time as execution has been delayed by the appeal shall be allowed unless the Supreme Court otherwise order.

*Applications to Supreme Court and to the Court of Appeal*

24.—(1) Every application to a judge of the Supreme Court and the Court shall be by summons in chambers, and the provisions of the High Court Rules shall apply thereto.

(2) Any application to the Supreme Court and the Court for leave to appeal (whether made before or after the expiration of the time for appealing) shall be made on notice to the party or parties affected.

(3) Wherever under these Rules an application may be made either to the Court of Appeal or to the Supreme Court it shall be made in the first instance to the Court of Appeal.

*Extension of time*

25. The period of time for filing and serving notice of appeal under Rule 14 may be extended by the Court of Appeal or the Supreme Court upon application being made before the expiration of that period.



*Notice of hearing*

26. The Registrar shall, upon obtaining necessary directions thereto cause notice of the date of hearing of the appeal to be served upon the parties to the appeal.

*Consolidation of appeals*

27. Where there are two or more applications for leave to appeal arising out of the same matter, and the Court is of the opinion that it would be for the convenience of the Supreme Court and all parties concerned that the appeals should be consolidated, the Court may direct the appeals to be consolidated and grant leave to appeal by a single order.

*Failure to prosecute appeal*

28. Where an appellant, having obtained an order granting him conditional leave to appeal, and having complied with the conditions imposed on him by such order, fails thereafter to apply with due diligence to the Court or the Supreme Court as the case may be for an order granting him final leave to appeal, the Court may, on an application in that behalf made by the respondent, rescind the order granting conditional leave to appeal notwithstanding the appellant's compliance with the conditions imposed by such an order, and may give such directions as to the costs of the appeal and security entered into by the appellant as the Court shall think fit, or make such further or other order in the premises as, in the opinion of that Court, the justice of the case requires.

*Notice to other parties*

29. On an application for final leave to appeal, the Court or the Supreme Court as the case may be may enquire whether notice or sufficient notice of the application has been given by the appellant to parties concerned and, if not satisfied as to the notices given, may defer the granting of the final leave to appeal, or may give such other directions in the matter as, in the opinion of the Court or the Supreme Court, the justice of the case requires.

*Withdrawal of appeal*

30. An appellant who has obtained an order granting him conditional leave to appeal may at any time prior to the making of an order granting him final leave to appeal withdraw his appeal on such terms as to costs and otherwise as a judge may direct.

*Dismissal for non-prosecution*

31. Where an appellant, having obtained final leave to appeal, fails to show due diligence in taking all necessary steps for the purpose of completing the preparation of the record, any respondent may, after giving the appellant due notice of his intended application, apply to a judge for a certificate that the appeal has not been effectually prosecuted by the appellant, and if the judge sees fit to grant such a certificate the appeal shall be deemed, as from the date of such certificate, to stand dismissed for non-prosecution without express Order of the Court or Supreme Court and the costs of the appeal and the security entered into by the appellant shall be dealt with in such manner as the Court or Supreme Court may think fit to direct.

*Substituting parties*

32. Where at any time between the order granting final leave to appeal and the hearing of the appeal, the record becomes defective by reason of the death or change of status of a party to the appeal, the Court may, notwithstanding the order granting final leave to appeal, on an application in that behalf made by any person interested, grant a certificate showing who, in the opinion of the Court, is the proper person to be substituted or entered on the record in place of or in addition to the party who has died or undergone a change of status, and the name of such person shall thereupon be deemed to be so substituted or entered on the record as aforesaid without express Order of the Supreme Court.

*Written case*

33. Each or every party to an appeal shall prepare and file not less than 30 days before the time fixed for hearing the appeal a written case in the form provided in Rule 34.

Each or every party shall within the time for filing the written case serve a copy of the case on the other party or parties to the appeal.

*Form of written case*

34.—(1) The written case shall consist of paragraphs consecutively numbered and stating as precisely as possible the circumstances out of which the appeal arises, the contentions to be argued by the party submitting the case and the reasons relied on.

(2) So far as is practicable, in a written case references to portions of the record shall be given by page and line and extracts shall not be set out.

(3) The grounds of appeal shall be set out in the order in which they are set out in the Notice of Appeal or where it is proposed to argue two or more grounds together those grounds shall be grouped together. Any ground which is to be abandoned shall be so stated in the case.

(4) A list of authorities to be relied on by the parties shall be attached to the front of the written case and the authorities numbered consecutively and as nearly as possible in the order to which they will be referred in support of any points of argument or contention in the appeal.

(5) The taxing officer, in taxing the costs of the appeal, shall, either of his own motion or at the instance of any party, inquire into any unnecessary prolixity in the case and shall disallow the costs occasioned thereby.

*Non-compliance with Rules not wilful may be waived by the Supreme Court*

35. Non-compliance on the part of an appellant with these Rules or with any rule of practice for the time being in force under the Act, shall not prevent the further prosecution of his appeal if the Supreme Court or a judge thereof considers that such non-compliance was not wilful and that the same may be waived or remedied by amendment or otherwise. The Supreme Court or a judge thereof may in such manner as it or he thinks right, direct the appellant to remedy such non-compliance, and thereupon the appeal shall proceed. The Registrar shall forthwith notify the appellant of any directions given by the Court or the judge thereof under this rule, where the appellant was not present at the time when such directions were given.

*Non-disclosure of payment into Court*

36.—(1) Where—

- (a) any question on an appeal in an action for a debt, damages or salvage relates to liability for the debt, damages or salvage or to the amount thereof; and
  - (b) money was paid into court, in the proceedings in the court below before judgment,
- neither the fact of the payment nor the amount thereof shall be stated in the notice of appeal or the respondent's notice or in any supplementary notice or be communicated to the Supreme Court until all such questions have been decided.

This rule shall not apply in the case of an appeal as to costs only or an appeal in an action to which a defence of tender before action was pleaded.

(2) For the purpose of complying with this rule the appellant must cause to be omitted from the copies of the documents lodged by him every part thereof which states, or from which it can be inferred, that money was paid into court in the proceedings in that court before judgement.

*Application for special leave to appeal  
thereinafter referred to as "an application" or "the application"*

37.—(1) Where it is necessary to apply to the Supreme Court to grant special leave pursuant to Section 19 subsection (3) of the Judicature Decree, the applicant shall be made in Form 1 in the Schedule to these Rules.

(2) An application shall be filed within 21 days after the judgment of the Court was pronounced.

*Affidavit in support of an application*

38.—(1) An application shall be supported by an affidavit setting out briefly:

- (a) the facts on which the application is based;
- (b) the grounds on which the judgment of the Court is sought to be challenged;
- (c) the specific question of law, if any raised by the application; and
- (d) the reasons why special leave to appeal should be granted.

(2) Exhibited to the affidavit in support of the application shall be:

- (a) the formal order recording the decision of the Court;
- (b) the reasons for the judgment of the Court;
- (c) such other documents, if any, as are necessary for the proper determination of the application; and
- (d) a draft notice of appeal setting out the grounds of appeal to be relied upon in the event that special leave to appeal is granted.

(3) The affidavit shall be in Form 2 in the Schedule hereto.

*Service*

39.—(1) An application and affidavit in support shall be served on each person who was a party to the proceedings in the Court below within the time limited by rule 38 (2).

(2) Service of an application and affidavit in support may be effected in the manner provided by these rules for the service of documents, or by leaving a copy at the address for service, if any, of the party to be served in the proceeding from which the application is brought.

(3) A copy of the application shall be lodged with the Registrar or other proper officer of the Court within the time limited by rule 38 (2).

*Appearance*

40.—(1) An application shall bear a note that, before taking any steps in the proceeding, the respondent shall, within 14 days after service of the application, enter an appearance in the office of the Registry in which the application is filed and serve a copy on the applicant.

(2) The appearance shall be made in Form 3 in the Schedule hereto.

*Preparation of record and security for payment of costs in an application*

41. The provisions of rule 15, shall apply with all necessary modifications as the circumstances may require.

*Directions by Registrar*

42.—(1) At any time, after the filing of an application, the Registrar may give directions as to any matter which appears to the Registrar to be a convenient matter upon which to give directions.

(2) The directions referred to in sub-rule (1) may be given without a hearing provided that the Registrar may, at any time, issue a summons requiring the parties to an application to attend before the Registrar and any party to an application may apply, at any time, for an appointment with the Registrar.

*Discontinuance of application*

43.—(1) An applicant may discontinue his application by filing a notice of discontinuance in Form 4 in the Schedule hereto and by serving the notice on the respondent.

(2) Unless the Court or a Justice, or the Registrar, otherwise orders or directs, the applicant shall pay the respondent's costs, in respect of the application, and such costs shall be taxed, unless agreed.

(3) Production of the notice of discontinuance initialed by the Registrar shall be sufficient authority for the taxation of costs.

(4) Sub-rules (2) and (3) apply only to applications for special leave to appeal in civil matters.

*Register of applications*

44. The Registrar shall maintain a register of applications filed in which shall be entered all necessary particulars.

*Mode of hearing of the application*

45. When hearing an application the Supreme Court shall be duly constituted if it consists of not less than three judges.

*Determination of the application*

46.—(1) Where the Supreme Court grants special leave to appeal in any case, the appellant shall within 21 days from the date of such leave file a notice of appeal which shall be in Form 5 in the Schedule hereto and thereafter the provisions of these Rules relating to appeals as of right shall apply with any necessary modifications as the circumstances of the case may require.

(2) Where special leave to cross-appeal is sought, the provisions of these Rules shall apply *mutatis mutandis* to such application and the form of application and notice of cross-appeal shall be adapted as necessary.

(3) The Supreme Court shall dismiss the application unless it is shown that substantial injustice may have been done.

*Costs*

47. Where the Supreme Court directs a party to bear the costs of an appeal, such costs shall be taxed by the Registrar on the higher scale provided in Appendix 4 of the Rules of the High Court in accordance with the rules for the time being regulating taxation in the Court.

*Enforcing order*

48. Any Order made by the Supreme Court on an appeal from a decision of the Court of Appeal may be enforced in like manner as any decision of the Court of Appeal should or might have been executed.

*Fees*

49. The fees set forth in the First Schedule to the Court of Appeal Rules multiplied by two shall *mutatis mutandis* be the fees payable in respect of appeals and applications to the Supreme Court.

*Savings*

50.—(1) With respect of any appeals which have been lodged in the Privy Council in London from Fiji and have not been disposed of after the coming into force of these Rules, application may be made to the Registrar for the appeals to be filed in the Supreme Court Registry and be set down for hearing before the Supreme Court.

(2) If the President of the Supreme Court is satisfied that an appeal pending before the Privy Council ought to be admitted for hearing and determination by the Supreme Court, he may issue necessary directions with respect thereto.

(3) A sum of 100 dollars shall be paid by the appellant for costs in setting down the appeal for hearing in the Supreme Court.

(4) The rules relating to the time for appealing or filing of appeals or any applications connected therewith shall not apply to any decision of the Court which was pronounced before the 1st day of August 1988 provided that time shall run after such date.

Made this 12th day of July 1988.

T. U. TUIVAGA  
President, Supreme Court  
of Fiji

SCHEDULE

FORM 1 (rule 37)

IN THE SUPREME COURT OF FIJI

Between: No. of 19  
A.B.

Applicant  
(Respondent)

and  
X.Y.

Respondent  
(Applicant)

APPLICATION FOR SPECIAL LEAVE TO APPEAL

1. The Applicant applies for special leave to appeal from (specify part or whole) of the decision of the Court given on (specify date).

2. The grounds of the application appear in the supporting affidavit of (C.D.) sworn or affirmed on (date) 19

Dated the day of 19

\_\_\_\_\_  
(Signed, Solicitor, or Applicant)

TO: The Respondent (address)

TAKE NOTICE: Before taking any step in the proceedings you must, within FOURTEEN DAYS after service of this application, enter an appearance in the office of the Registry in which the application is filed and serve a copy on the applicant.

THE APPLICANT'S SOLICITOR IS; (name of firm and address for service).

FORM 2 (rule 38)

IN THE SUPREME COURT OF FIJI

AFFIDAVIT IN SUPPORT OF AN APPLICATION FOR SPECIAL LEAVE TO APPEAL

I \_\_\_\_\_ of \_\_\_\_\_ (description of deponent's occupation or office) make oath (or affirm) and say as follows (in numbered paragraphs):

1. (concise statement of factual circumstances on which the application is based).

2. (concise statement of the grounds on which the judgment below is sought to be challenged).

3. (the specific questions of law raised by the application).

4. (the reasons why those questions of law are sufficiently important to justify the grant of special leave to appeal).

5. (the reasons which are relied upon, including reference to any relevant decisions, in support of the contention that the judgment below was wrong in relation to the questions set out in paragraph 3).

6. (any other reasons why special leave to appeal should be granted).

(Exhibits are to be exhibited to, *not* annexed to, the affidavit).

SWORN<sup>1</sup>(affirmed) etc.

This affidavit is filed on behalf of (applicant).

FORM 3 (rule 40)

IN THE SUPREME COURT OF FIJI

APPEARANCE

I (A.B. intend to appear on the hearing of the application for special leave to appeal to (oppose or support) the application.

Dated the            day of            19    .

\_\_\_\_\_  
(Signed, Solicitor, or Applicant)

TO: The Applicant (address)

THE RESPONDENT'S SOLICITOR IS; (name of firm and address for service)

FORM 4 (rule 43)

## IN THE SUPREME COURT OF FIJI

NOTICE OF DISCONTINUANCE OF APPLICATION FOR SPECIAL LEAVE  
TO APPEAL

The Applicant (A.B.) discontinues (his or its) application for special leave to appeal.

Dated the            day of            19            .

\_\_\_\_\_  
(Signed, Solicitor, or Applicant)

TO: The Respondent (Address)

FORM 5 (rule 46)

## IN THE SUPREME COURT OF FIJI

## NOTICE OF APPEAL

1. The appellant appeals (pursuant to special leave to appeal granted on (specify date) from (specify whole or part and which part) of the decision of the Court given on (specify date).

## GROUNDS

2. (Specify briefly the grounds of appeal)

## ORDER (S) SOUGHT

3. (Specify the decision sought in lieu of that appealed from including any special order as to costs).

Dated the            day of            19            .

\_\_\_\_\_  
(Signed, solicitor or appellant)

TO: The Registrar, Supreme Court

AND TO: The Respondent and his Solicitor  
(address)

THE APPLICANT'S SOLICITOR IS: (name of firm and address of service)