



Supreme Court Amendment Rules 2009

Anand Satyanand, Governor-General

Order in Council

At Wellington this 30th day of March 2009

Present:

His Excellency the Governor-General in Council

Pursuant to section 51C of the Judicature Act 1908, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, and with the concurrence of the Right Honourable the Chief Justice and at least 2 other members of the Rules Committee (of whom at least 1 was a Judge of the High Court), makes the following rules.

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Rules

1 Title

These rules are the Supreme Court Amendment Rules 2009.

2 Commencement

These rules come into force on 1 May 2009.

3 Principal rules amended

These rules amend the Supreme Court Rules 2004.

4 Directions

Rule 5 is amended by inserting the following subclause after subclause (1):

“(1A) The Court or a Judge may extend or shorten the time appointed by these rules, or fixed by any order, for doing any act or taking any proceeding or any step in a proceeding on any terms that the Court or the Judge thinks just.”

5 Written submissions on leave application

Rule 20 is amended by revoking subclause (4) and substituting the following subclause:

“(4) The written submissions of each party represented by counsel must provide an indication of counsel’s preferred dates for the hearing of the appeal, in the event that leave is given.”

6 New rule 20A inserted

The following rule is inserted after rule 20:

“20A Notice in respondent’s submission that judgment will be supported on other grounds

If a respondent does not wish the judgment appealed from to be varied but intends to support it on another ground (being a

ground that the court appealed from did not decide or decided erroneously), the respondent must give notice of that intention in the respondent's written submissions."

7 New rule 32 substituted

Rule 32 is revoked and the following rule substituted:

“32 Allocation of hearing date

- “(1) Within 10 working days after the date on which the Court gives leave to appeal, any party may make submissions to the Registrar on the appropriate hearing date for the appeal.
- “(2) After the expiry of the period allowed for submissions under subclause (1), the Registrar must promptly—
- “(a) allocate a hearing date; and
 - “(b) give the parties written notification of that hearing date.”

8 Obligations of parties in preparing draft case on appeal

Rule 34 is amended by revoking subclause (5) and substituting the following subclause:

- “(5) Within 20 working days after the date on which the Court gives leave to appeal, the appellant must submit the draft of the case on appeal to the Registrar for approval.”

9 Written submissions on appeals

- (1) Rule 36 is amended by revoking subclauses (3) and (4) and substituting the following subclauses:
- “(3) The appellant's written submissions must be filed and served on the other party not later than 30 working days after the date on which the Court gives leave to appeal.
- “(4) The respondent's written submissions must be filed and served on the other party not later than 15 working days after the date on which the appellant's written submissions are filed.”
- (2) Rule 36 is amended by inserting the following subclause after subclause (5):
- “(5A) No further written submission may be filed by the parties without the leave of the Court given on written application.”

10 Transitional provision

The principal rules as in force immediately before the commencement of these rules continue to apply to any appeal for which leave has been given before that commencement as if these rules (other than this rule) had not been made.

Michael Webster,
for Clerk of the Executive Council.

Explanatory note

This note is not part of the rules, but is intended to indicate their general effect.

These rules, which come into force on 1 May 2009, amend the Supreme Court Rules 2004 (the **principal rules**).

Rule 4 gives the Supreme Court (the **Court**) or a Judge of the Court the power to extend or shorten time limits fixed by the principal rules or under any order. This is in line with powers exercised by the Court of Appeal and the High Court.

Rule 5 amends rule 20 of the principal rules, which relates to submissions on applications for leave to bring an appeal to the Court. The amendment requires counsel to indicate their preferred dates for the hearing of the appeal, in the event that leave to bring the appeal is given.

Rule 6 inserts a *new rule 20A* to relocate and re-enact without change existing rule 20(4), which concerns respondents who wish to uphold the judgment appealed from on grounds other than those given by the Judge.

Rule 7 replaces rule 32 of the principal rules, which relates to the allocation of hearing dates for appeals. The existing rule does not specify a time for the allocation of hearing dates. Under the new rule, parties may, within 10 working days after the giving of leave to appeal, make submissions to the Registrar on the appropriate hearing date. After the expiry of the period allowed for submissions, the Registrar must promptly allocate a hearing date.

Rule 8 amends rule 34 of the principal rules to change the time within which the case on appeal must be submitted to the Registrar. Under the existing rule, it must be submitted within 25 working days after the allocation of a hearing date. The amendment changes that time limit to 20 working days after the Court gives leave to appeal.

Rule 9 amends rule 36 of the principal rules, which relates to the written submissions required to be filed for an appeal. Under the existing rule, the appellant's submissions must be filed not later than 20 working days before the date fixed for the hearing of the appeal, and the respondent's submissions not later than 10 working days before that date. The amendment changes those time limits, in the case of the appellant's submissions, to 30 working days after the Court gives leave to appeal, and in the case of the respondent's submissions, to 15 working days after the filing of the appellant's submissions.

Rule 10 is a transitional provision. It clarifies that the changes made by these rules do not affect any appeal for which leave to appeal has been given before the commencement of these rules.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 2 April 2009.

These rules are administered by the Ministry of Justice.
