

**SECOND SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 2,621, Thursday 18th July, 1991.

LEGAL NOTICE NO.128 OF 1991.

COURT OF APPEAL ACT.

COURT OF APPEAL (AMENDMENT) RULES, 1991.

In exercise of the powers conferred on me by sections 8 and 8A of the Court of Appeal Act, and of all other enabling powers, I have made the following rules

Title.

1. These rules may be cited as the Court of Appeal (Amendment) Rules 1991.

Amendment to rule 8.

2. Rule 8 of the Court of Appeal Rules (hereinafter referred to as "the principal rules") is amended in sub-rule (1) -

(a) by omitting the colon and substituting therefor a full stop;

(b) by omitting the proviso.

Amendment to rule 12

3. Rule 12 of the principal rules is amended by omitting the proviso and substituting the following new proviso

"Provided that -

(a) no such fees shall be payable by the Crown; and

(b) the court or a judge may reduce or remit any such fee if it appears that the payment of such fee would cause undue hardship."

Amendment to rule 38

4. Rule 38 of the principal rules is amended by adding the following additional sub-rule -

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"(4) Notwithstanding the provisions of sub-rule (1), the court may, on the termination of the hearing of an appeal, give its decision but reserve its reasons and in such a case the reasons may -

(a) be delivered in court; or

(b) deposited in the Registry, in which case copies thereof shall be available to the parties and they shall be so informed."

Amendment to rule 48.

5. Rule 48 of the principal rules is amended as follows

(a) by omitting sub-rules (1), (2) and (3) and substituting therefor the following sub-rules

"(1) Any person desiring to appeal to the court in any civil cause or matter shall, within fourteen days of the decision complained of, give notice of appeal (in duplicate) to the Registrar of the Supreme Court, who shall forward one copy to the Registrar.

(2) A notice of appeal shall be substantially as in Form D in Schedule 1 and shall be intitled in the proceedings from which it is intended to appeal.", and

(b) by re-numbering sub-rules (4), (5) and (6) as (3), (4) and (5) respectively; and

(c) by adding the following new sub-rule -

"(6) for the purposes of this rule, where a judge has given, judgment but reserved his reasons, "decision" means the judgment and the reasons, and the date when the reasons were delivered shall be deemed to be the date of the decision."

Insertion of new rule 48A.

6. The principal rules are amended by inserting the following new rule immediately after rule 48

"Application for transcript or copy

48A. (1) A notice of appeal given under rule 48 (1) shall be accompanied by an application in writing for:

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(a) when a recording was made of the hearing in the Supreme Court, a transcript of the recording or such parts of the recording as may be specified: or

(b) where no recording was made of the hearing, a typewritten copy of the Judge's notes of the hearing or of such parts of those notes as may be specified:

Provided that where any recording made is found to be defective, either in whole or in part, an application for a transcript under paragraph (a) of this sub-rule shall be deemed to be or to include (as the case may require) an application for a typewritten copy of the Judge's notes of the hearing or of the appropriate part or parts of those notes.

(2) Subject to rule 12, an application under subrule (1) shall be accompanied by such deposit as the Registrar may require towards the prescribed fee, and the balance of the fee shall be paid when the transcript or copy is supplied."

Amendment to rule 52.

7. Rule 52 of the principal rules is amended by re-numbering the same as rule 52 (1) and adding the following new sub-rules

"(2) A person who has applied for a transcript or copy in accordance with rule 48A and who, on enquiry of the Registrar, is informed that it is not yet ready for collection, may apply in writing to the Registrar for an extension of time for lodging the appeal:

Provided that no such application shall be made less than thirty days nor more than forty-five days after the filing of the notice of appeal.

(3) On any such application, the Registrar may extend the time for lodging the appeal for any period expiring not later than thirty days from the date when the applicant is informed, in writing, by the Registrar that the transcript or copy is ready for collection.

(4) The provisions of sub-rules (2) and (3) are without prejudice to those of rule 8."

Revocation and replacement of rule 73.

8. Rule 73 of the principal rules, including the marginal note thereto, is revoked and replaced by the following new rule -

"Pronouncement of judgement

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73, (1) Judgment may be pronounced at the of Judgment conclusion of the hearing of an appeal or reserved for delivery on some future date which may be appointed at the hearing or subsequently notified to the parties.

(2) In civil appeals, separate judgments shall be given by the members of the court unless, the decision being unanimous, the presiding Judge otherwise directs.

(3) Reserved judgments may be delivered, notwithstanding the absence of the judges who composed the court, or any of them, and the judgment of any judge not present may be read by any judge present or by the Registrar.

(4) Notwithstanding the provisions of sub-rule (1), the court may, on the termination of the hearing of an appeal, give its decision but reserve its reasons and in such a case the reasons may

(a) be delivered in court; or

(b) deposited in the Registry, in which case copies thereof shall be available to the parties and they shall be so informed.

(5) When reserved judgments are delivered, the order of the court may include an order nisi as to costs and, unless notice of application to vary that order has been, given, it shall become absolute fourteen days after delivery."

Amendment to Schedule 1.

9. For n D in Schedule 1 to the principal rules is amended by inserting after the words "setting out details" the following -

"It is intended to serve copies of this notice on the following person (s)

(Name)

(Address)

(Name)

(Address)

Amendment to Schedule 2.

10. Part II of Schedule 2 to the principal rules is amended as follows—

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(a) by omitting the comma after the expression "Part IV" and substituting a fullstop;

(b) by omitting the words "unless the appellant is the Crown".

Dated this 18th day of July, 1991.

J.C.R. FIELDSEND,
President.