

FIJI REPUBLIC GAZETTE SUPPLEMENT

No. 37

FRIDAY, 2nd DECEMBER

1988

[LEGAL NOTICE NO. 107]

JUDICATURE DECREE 1988

SUPREME COURT APPEAL RULES (NO. 2) 1988

ARRANGEMENT OF RULES

RULE

1. Short title and commencement

PART I—GENERAL

2. Interpretation
3. Constitution and sittings of Supreme Court
4. Power of single judge of Supreme Court
5. Right of audience
6. Register of appeals
7. Appeals to be governed by these Rules
8. Matters not expressly provided for by these Rules
9. Appeal from Court of Appeal to Supreme Court
10. Security for costs
11. Leave to appeal
12. Application for special leave to appeal
13. Affidavit in support of application for special leave
14. Service
15. Appearance
16. Security for costs and transmission of record
17. Records to be transmitted without delay
18. Settling record of appeal
19. Exclusion of unnecessary documents from record
20. Documents objected to, to be indicated
21. Appellant to deposit sum for record
22. Notice to be served on parties that record is ready
23. Time within which notice of appeal shall be lodged
24. Cross appeal by respondent
25. Service of notice of cross appeal by respondent
26. Withdrawal of appeal before notice of appeal has been lodged
27. Withdrawal of appeal after notice has been lodged
28. Default in prosecution of appeal
29. Non-compliance with conditions of appeal

PART II—CIVIL APPEALS GENERALLY

30. Form of notice of appeal and number of copies to be lodged
31. Applications after appeal lodged
32. Service of notice of appeal
33. Verifying application by affidavit
34. Application for order for revivor or substitution
35. Service of application
36. Notice to parties of day fixed for hearing of application
37. Procedure where application is consented to or is formal

PART III—CASE

38. Filing case
39. Typewriting etc. of case
40. Number of copies to be filed
41. Form of case
42. Separate cases by two or more respondents
43. Notice of filing of case
44. Case notice
45. Setting down appeal
46. Amending case
47. Dispensing with case
48. Non-application to criminal appeals

PART IV—BINDING RECORD ETC.

49. Mode of binding record etc. for use of Supreme Court

PART V—HEARING

50. Notice to parties of day fixed for hearing appeal
51. Attendance of persons
52. Not more than two counsel heard on a side in appeals
53. Preliminary objection
54. New evidence
55. Objection not mentioned in notice of appeal or cross appeal

PART VI—JUDGMENT AND ORDERS

56. Notice to parties of day fixed for judgment
57. Only one counsel need attend when judgment is delivered
58. Effect of appeal
59. Determination of doubt as to finality of judgment
60. Interlocutory judgment not to prejudice appeal
61. General powers of the Court
62. Non-appearance of appellant
63. Non-appearance of respondent
64. Application to set aside
65. Costs
66. Enforcing order
67. Fees
68. Application of High Court and Court of Appeal Rules

PART VII—CRIMINAL APPEALS

69. Time for and manner of, appealing in criminal matters
70. Grounds of appeal
71. Notice of criminal appeal
72. Notice of application for extension of time for appealing
73. Notice of criminal appeal
74. Procedure on decision of application to the Court
75. Abandonment of appeal
76. Recognizances of appellant and surety
77. Notification of final determination of appeals
78. Return of exhibits, etc.

PART VIII—MISCELLANEOUS

79. Copies of record for parties
80. Consolidation of appeals
81. Appeals pending hearing or disposal in Privy Council
82. Revocation and savings

FIRST SCHEDULE
 SECOND SCHEDULE
 THIRD SCHEDULE
 FOURTH SCHEDULE

IN exercise of the powers conferred upon me by Section 17 of the Judicature Decree 1988, I hereby make the following Rules:—

Short title and commencement

1. These Rules may be cited as the Supreme Court Appeal Rules (No. 2) 1988 and shall come into force on the 1st December 1988.

PART I—GENERAL

2. In these Rules, unless the context otherwise requires—
 - “appeal” means an appeal to the Supreme Court;
 - “the court of Appeal” means the Court of Appeal established by section 2(1) of the Judicature Decree 1988;
 - “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;
 - “judgment” includes any decree, order, sentence or decision of the Court of Appeal or of any Court, judge or judicial officer;
 - “Judicature Decree” means the Judicature Decree 1988;
 - “record” means the aggregate of papers relating to an appeal proper (including pleadings, proceedings, evidence and decisions) to be laid before the Supreme Court on the hearing of an appeal or on any application;
 - “the Supreme Court” means the Supreme Court of Fiji established by section 2(1) of the Judicature Decree 1988;
 - “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 or other proper officer having custody of the records of the Court of Appeal.

Constitution and sittings of Supreme Court

3. The Supreme Court shall be duly constituted for the despatch of its business by not less than three judges.

Power of single judge of Supreme Court

4.—(1) A single judge of the Supreme Court may exercise any power vested in the Supreme Court not involving the decision of a cause or matter before the Supreme Court, save that—

- (a) in criminal matters, if any such judge refuses or grants an application in the exercise of any such power any person affected thereby shall be entitled to have the application determined by the Supreme Court constituted by three judges which may include the judge who made or gave the order; and
- (b) in civil matters, any order, direction or decision made or given in pursuance of the powers conferred by this section may be varied, discharged or reversed by the Supreme Court constituted by three judges which may include the judge who made or gave the order.

(2) The Chief Justice shall preside at the sittings of the Supreme Court and in his absence the most senior of the judges of the Supreme Court as constituted for the time being shall preside.

(3) The sittings of the Supreme Court shall be held during the year at such times and places as the Chief Justice may direct.

(4) The Supreme Court Registrar shall give or cause to be given to the parties or their solicitors reasonable notice of the hearing of an appeal or any application under these Rules.

Right of audience

5. Any party to an appeal or an application under these Rules may appear before the Supreme Court either in person or may be represented by counsel of his own choice.

Register of Appeals

6. The Supreme Court Registrar shall keep separate registers of—

- (a) Criminal appeals.
- (b) Civil appeals.

Appeals to be governed by these Rules

7. All appeals from the Court of Appeal to the Supreme Court and any application to the Supreme Court shall be governed by these Rules and any other Rules relating thereto.

Matters not expressly provided for by these Rules

8. Where no provision is expressly made by these Rules regarding the practice and procedure which shall apply to any appeal or application before the Supreme Court, the Supreme Court shall prescribe by means of practice directions such practice and procedure as in the opinion of the Supreme Court is just.

Appeal from Court of Appeal to Supreme Court

9.—(1) An appeal shall lie from the decisions of the Court of Appeal to the Supreme Court—

- (a) as of right, from final decisions in any appeal to the Court of Appeal on any constitutional question; or
- (b) as of right, from final decisions in any civil proceedings where the matter in dispute is of the value of 20,000 dollars or upwards or where the appeal involves, directly or indirectly, a claim to or a question respecting property or a right of the value of 20,000 dollars or upwards; or
- (c) with the leave of the Court of Appeal, from decisions in any civil proceedings where in the opinion of the Court of Appeal the question involved in the appeal is one that, by reason of its great general or public importance or otherwise, ought to be submitted to the Supreme Court.

(2) Notwithstanding the provisions of the preceding sub-rules, the Supreme Court shall have power to entertain any application for special leave to appeal in any cause or matter, civil or criminal, to the Supreme Court, and to grant such leave accordingly.

Security for costs

10. The Supreme Court Registrar shall within thirty days of the lodging of a Notice of Appeal (where the appeal lies as of right) or within seven days of lodging of a Notice of Appeal where leave was required and has been obtained under rule 11 notify the appellant of the sum, not exceeding 2,000 dollars, fixed by him to be deposited as security for costs for the due prosecution of the appeal and the payment of any costs that may become payable to the respondent in the event of the appeal being dismissed for non-prosecution, or of the Supreme Court ordering the appellant to pay the respondent's costs of the appeal as the case may be.

Leave to appeal

11.—(1) Every application for leave to appeal under section 19(2)(a) of the Judicature Decree shall be made to the Court of Appeal by notice of motion supported by an affidavit setting out the reasons why leave should be granted on the ground that the question involved in the appeal is one that, by reason of its great general or public importance or otherwise ought to be submitted to the Supreme Court.

(2) If leave is granted pursuant to sub-rule (1) above, the Court of Appeal under the hand of the presiding judge shall issue to the applicant a certificate to that effect.

Application for special leave to appeal

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

(2) An application for special leave shall be filed within forty-two days after the judgment of the Court of Appeal is pronounced.

Affidavit in support of application for special leave

13.—(1) An application for special leave 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 (where applicable) recording the decision of the Court;
- (b) 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 First Schedule to these Rules.

Service

14.—(1) An application for special leave and affidavit in support shall be served on each person who was a party to the proceedings in the Court below within the seven days of filing the application for special leave.

(2) Service of an application for special leave and affidavit in support may be affected 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 proceedings from which the application is brought.

Appearance

15.—(1) The application for special leave shall bear a note that, before taking any steps in the proceedings, 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 First Schedule to these Rules.

Security for costs and transmission of record

16. Where the Supreme Court grants special leave to appeal it shall specify the amount of the security for costs (if any) to be lodged by the applicant and shall also provide for the costs of the transmission of the record by the Registrar to the Supreme Court Registrar and for such further matters as justice may require.

Records to be transmitted without delay

17. As soon as the appeal has been admitted whether by an order of the Court of Appeal or by an order of the Supreme Court granting special leave to appeal, the Supreme Court Registrar shall request the Registrar to transmit to him, and the Registrar shall forthwith transmit, such record which shall comprise the following documents—

- (a) the judgment appealed from;
- (b) a copy of the drawn up order (where applicable) of the judgment appealed from;

- (c) a certified copy of the order granting leave to appeal where necessary;
- (d) a signed list of all the exhibits forming part of the record of the Court of Appeal together with the originals of all such exhibits; and
- (e) all other documents necessary for the prosecution of the appeal.

Settling record of appeal

18. The Supreme Court Registrar shall, on receipt of the record, issue a summons set out in Form 1 in the Second Schedule to these Rules requesting the parties and their counsel to appear before him at the time and place stated in the summons to settle the documents to be included in the record of appeal and shall, whether any of the parties attend to the summons or not, settle and sign, and, in due course file, a list of such documents.

Exclusion of unnecessary documents from record

19. The Supreme Court Registrar as well as the parties and their counsel shall endeavour to exclude from the record all documents (more particularly such as are merely 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 unnecessary repetition of documents and headings and other merely formal parts of documents. The documents so excluded shall be enumerated in a list to be attached to the record by the Supreme Court Registrar.

Documents objected to, to be indicated

20. Where in the course of settling the 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, as finally prepared, shall with a view to the subsequent adjustment of the costs of and incidental to such document, indicate in the index of papers or otherwise, the fact that, and the party by whom, the inclusion of the document was objected to.

Appellant to deposit sum for record

21. The appellant shall within such time as the Supreme Court Registrar may direct being not less than fourteen days and not more than twenty-eight days deposit with him a sum fixed to cover the estimated cost of making up the record:

Provided that in special circumstances such period of time may be extended by the Supreme Court Registrar.

Notice to be served on parties that record is ready

22. The Supreme Court Registrar shall, after the record is prepared and made up, cause to be served on all parties mentioned in the notice of appeal a notice that the record is ready for collection after payment of the prescribed fees.

Time within which notice of appeal shall be lodged

23.—(1) Where an appeal lies as of right the appellant shall lodge his notice of appeal within forty-two days from the date of the judgment appealed against unless the Supreme Court shall enlarge the time.

(2) Where there is no appeal as of right the appellant shall lodge his notice of appeal within forty-two days from the date on which leave to appeal or special leave to appeal is granted.

(3) An application for leave or application for special leave to appeal shall be filed within forty-two days from the date of the decision of the Court of Appeal.

(4) No application for enlargement of time in which to appeal shall be made after the expiration of thirty days from the expiration of the time prescribed within which an appeal may be brought. Every application for enlargement of time shall be by motion supported by an affidavit setting forth good and substantial reasons for the application and by grounds of appeal which *prima facie* show good cause for leave to be granted. When time is so enlarged a copy of the order granting such enlargement shall be annexed to the notice of appeal.

Cross appeal by respondent

24.—(1) A respondent may cross appeal by lodging a notice of cross appeal within thirty days from the date of the service of the Notice of Appeal on him.

(2) Where a respondent cross appeals, the provisions of these Rules shall apply *mutatis mutandis*.

Service of notice of cross appeal by respondent

25. A respondent who files a notice of cross appeal shall, within seven days of filing his notice of cross appeal, serve a copy thereof on the appellant, and where there is more than one appellant, on each appellant, and shall, before service, endorse such copy with a certificate of the date of the filing of the notice of cross appeal.

Withdrawal of appeal before notice of appeal has been lodged

26. Where an appellant who has been granted leave to appeal or who has been granted special leave to appeal has not lodged his notice of appeal desires to withdraw his appeal, he shall give notice in writing to that effect to the Supreme Court Registrar, and the said Registrar shall, with all convenient speed after the receipt of such notice, by letter notify the Registrar of the Court of Appeal that the appeal has been withdrawn, and the said appeal shall thereupon stand dismissed as from the date of the said letter without further Order.

Withdrawal of appeal after notice has been lodged

27. Where an appellant who has lodged his notice of appeal desires to withdraw his appeal, he shall give notice to that effect to the Supreme Court Registrar and to any respondent upon whom a copy of the notice of appeal may have been served in accordance with these Rules. Subject to any agreement between such appellant and the respondent to the contrary, the respondent shall be entitled to apply to the Supreme Court by motion supported by affidavit for his costs.

Default in prosecution of appeal

28.—(1) Where an appellant who has lodged his notice of appeal makes default in doing any act or taking any step within the time provided by these Rules, the Supreme Court Registrar shall with due diligence inform the Chief Justice of such default and the Chief Justice may cause the appeal to be entered on a list of the Supreme Court for mention on a particular day and time. The Supreme Court Registrar shall give not less than seven days' notice of such day, time and place to the parties.

(2) On the day of mention the Supreme Court may order that the appeal be struck out for want of prosecution or make such other order as in the circumstances may seem fit.

Non-compliance with conditions of appeal

29.—(1) Where an appellant has not fulfilled the conditions of appeal imposed by the Supreme Court to be complied with by him in accordance with these Rules, the Supreme Court Registrar shall certify such fact to the Supreme Court in Form 4 set out in the Second Schedule to these Rules, and the Supreme Court may thereupon, upon notice to all parties, order that the appeal be dismissed with or without costs.

(2) Where a respondent alleges that the appellant has failed to fulfil any of the conditions of appeal imposed by the Supreme Court to be complied with by him in accordance with these Rules, the Supreme Court may, if satisfied that the appellant has so failed, upon notice to all parties dismiss the appeal for want of prosecution or make any other order as the justice of the case may require.

(3) An appellant whose appeal has been dismissed pursuant to the provisions of this Rule may apply by Notice of Motion to have his appeal restored, and the Court may, for good and sufficient cause, order that the appeal be restored upon such terms as it may think fit.

(4) Notwithstanding the preceding provisions of this rule an appellant may apply to the Supreme Court for an extension of time within which to fulfil the conditions of appeal to be complied with in accordance with these Rules and the Supreme Court may, for good and sufficient cause shown, grant an extension of time subject to such conditions as the Supreme Court may impose.

PART II—CIVIL APPEALS GENERALLY

Form of notice of appeal and number of copies to be lodged

30.—(1) Every notice of appeal shall be in Form 2 set out in the Second Schedule to these Rules and shall recite succinctly and as far as possible, in chronological order, the principal steps in the proceedings leading up to the appeal from the commencement thereof down to the admission of the appeal, but shall not contain argumentative matter or travel into the merits of the case.

(2) Every notice of appeal shall consist of paragraphs numbered consecutively and shall be typewritten or lithographed on paper with quarter margin and endorsed with the name of the Court appealed from, the full title and Supreme Court number of the appeal to which notice relates or the full title of the appeal (as the case may be) and the name and address of the appellant or his counsel and shall be signed by counsel for the appellant or by the appellant himself if he appears in person.

Applications after appeal lodged

31. All applications whether for orders or directions as to matters of practice or procedure arising after lodging of the notice of appeal or for change in the parties to an appeal shall be addressed to the Supreme Court and may include as incidental to the relief thereby sought, a prayer for orders or directions as to matters of practice or procedure.

Service of notice of appeal

32.—(1) Every appellant shall within seven days after lodging his notice of appeal or within such time as the Supreme Court may order, serve a copy thereof on the respondent, or, in the case of a cross appeal, on the appellant, and, where there is more than one respondent or appellant, on each respondent or appellant and shall before service endorse such copy with a certificate of the date of lodgment of the notice of appeal.

(2) After such service the appellant shall file in the Registry of the Supreme Court a certificate of such service.

Verifying application by affidavit

33. An application not relating to any appeal of which the record has been registered in the Registry of the Supreme Court and any other application containing allegations of fact which cannot be verified by reference to the registered record or any certificate or duly authenticated statement of the Court of Appeal shall be supported by affidavit. Where the appellant or respondent prosecutes or defends in person, the said affidavit shall be sworn by him and shall state that, to the best of his knowledge, information and belief, the allegations contained in the application are true. Where he is represented by a legal practitioner the said affidavit shall be sworn to by such legal practitioner and shall, beside stating that, to the best of his knowledge, information and belief, the allegations contained in the application are true, show how he obtained his instructions and the information enabling him to present the application.

Application for order for revivor or substitution

34. An application for an Order for Revivor or Substitution shall be accompanied by an affidavit sworn by the applicant or where the applicant is represented by a legal practitioner the said affidavit shall be sworn by such legal practitioner showing who is the proper person to be substituted or entered on the record in place of, or in addition to, a party who has died or undergone a change of status.

Service of application

35. All applications referred to in rules 30 and 31 shall be served on all parties concerned. The applicant shall file a certificate of such service in the Registry of the Supreme Court.

Notice to parties of day fixed for hearing of application

36. Subject to the provisions of rule 35, the Supreme Court Registrar shall, as soon as the Supreme Court has appointed a day for the hearing of an application, forthwith notify all parties concerned in writing of the day so appointed.

Procedure where application is consented to or is formal

37. Where the prayer of an application is consented to in writing by the opposite party, or where an application is of a formal and non-contentious character, the Supreme Court may make the necessary order thereon without requiring the attendance of the parties and the Supreme Court Registrar shall not in any case issue the notice provided for by rule 36, but shall with all convenient speed after the Supreme Court has made the necessary Order notify the parties in writing that the Order has been made and of the date and nature of such Order.

PART III—CASE

Filing case

38.—(1) No party to an appeal shall be entitled to be heard by the Supreme Court unless he has previously filed his case in the appeal.

(2) The appellant shall, within thirty days of being notified that the record is ready in accordance with rule 22, file with the Supreme Court Registrar his case based on the grounds of appeal as set out in the notice of appeal.

(3) The respondent shall, within thirty days of the receipt of the appellant's case, file with the Supreme Court Registrar his case:

Provided that the Supreme Court may enlarge the time prescribed by sub-rules (2) and (3) as circumstances may require.

(4) Where the appellant fails to file his case in accordance with the provisions of this rule the Supreme Court Registrar shall certify such fact to the Supreme Court which may thereupon order that the appeal be dismissed with or without costs.

(5) Where a respondent fails to file his case in accordance with the provisions of this rule he shall not be allowed to be heard at the hearing of the appeal save as to the question of costs.

(6) Where a respondent does not desire to file a case in the appeal he may give the Supreme Court Registrar notice in writing of his intention not to file any case while reserving his right to address the Supreme Court on the question of costs.

Typewriting etc. of case

39. The case may be typewritten or lithographed or printed.

Number of copies to be filed

40. Each party shall file six copies of his case and shall forthwith serve a copy each on all parties concerned.

Form of case

41. The case shall consist of paragraphs numbered consecutively and shall state, as concisely as possible, the circumstances out of which the appeal arises, the contentions to be urged by the party filing the same, and the reasons of appeal. Care shall be taken to avoid, as far as practicable, the reproduction in the case of long extracts from the record. The Taxing Officer, in taxing the costs of the appeal, shall either of his own motion, or at the instance of the opposite party, inquire into any unnecessary prolixity in the case, and shall disallow the costs occasioned thereby.

Separate cases by two or more respondents

42. Two or more respondents may, and at their own risk as to costs, file separate cases in the same appeal.

Notice of filing of case

43. Each party shall, within seven days after filing his case give notice thereof to the other party.

Case Notice

44. Subject as hereinafter provided, the party who files his case first may, at any time after the expiration of seven clear days from the day on which he has given the other party the notice prescribed by the last preceding rule, serve such other party, if the latter has not in the meantime filed his case, with a "Case Notice", requiring him to file his case within thirty days from the date of the service of the said Case Notice and informing him that, in default of his so doing, the appeal will be set down for hearing *ex parte* as against him; and if the other party fails to comply with the said Case Notice, the party who has filed his case may, at any time after the expiration of the time limited by the said Case Notice for the filing of the case, file an Affidavit of Service (which shall set out the terms of the said Case Notice) and the appeal shall thereupon, if all other conditions of its being set down are satisfied, be set down *ex parte* as against the party in default:

Provided that a Case Notice shall not be served until after the completion of the preparation of the record in accordance with rule 18:

Provided further that nothing in this rule contained shall preclude the party in default from filing his case, at his own risk as regards costs and otherwise, at any time up to the date of hearing.

Setting down appeal

45. Subject to the provisions of rules 38 and 43 an appeal shall be deemed to be set down as soon as the cases on both sides are filed.

Amending case

46. Notwithstanding anything to the contrary contained in these Rules, any party to an appeal may, at any time before judgment, by leave of the Supreme Court amend any part of his case upon such terms as the Supreme Court may think fit.

Dispensing with case

47. Notwithstanding anything to the contrary contained in these Rules, any party to an appeal may, at any time within the time provided for in paragraph (2) or (3) of rule 38 as the case may be, apply to the Supreme Court by motion supported by affidavit and served on all parties for leave to dispense with the filing of a case; and the Supreme Court may order that the filing of a case by any party to the appeal be dispensed with or make such order as it may think just.

Non-application to criminal appeals

48. This Part shall not apply to criminal appeals.

PART IV--BINDING RECORD, ETC.

Made of binding record etc. for use of Supreme Court

49. As soon as an appeal is set down, the Supreme Court Registrar shall cause to be bound not less than five copies of the record and cases for the use of the Supreme Court at the hearing. The several documents shall be arranged in the following order—

- (i) appellant's Notice of Appeal;
- (ii) appellant's case (if any);
- (iii) respondent's Notice of Appeal (if any);
- (iv) respondent's case (if any)
- (v) Record (all parts being paged at the top of the page);
- (vi) supplemental record (if any);

and the short title and Supreme Court number of the appeal shall also be shown.

PART V—HEARING

Notice to parties of day fixed for hearing appeal

50. The Supreme Court Registrar shall subject to the provisions of rule 47 notify the parties to each appeal by written notice at the earliest possible date, of the day appointed by the Chief Justice for the hearing of the appeal, and the parties shall be readiness to be heard on the day so appointed.

Attendance of persons

51. Any party to an appeal in any action or cause may apply in writing to the Supreme Court Registrar and the Supreme Court may make such order for the attendance of persons at the hearing.

Not more than two counsel heard on a side in appeals

52. At the hearing of an appeal not more than two counsel shall be admitted to be heard on a side.

Preliminary objection

53.—(1) Where a party has not indicated in his case that he intends to reply upon a preliminary objection at the hearing of the appeal, he shall, before raising such objection at the hearing, give four clear days' notice to the other side in Form 3 set out in the Second Schedule to these Rules, setting out in full the grounds of objection, and the arguments in support of his objection, and shall lodge at least five copies of the said notice with the Supreme Court Registrar.

(2) The party served with the notice of preliminary objection shall, within seven days of the service of such notice on him, lodge with the Supreme Court Registrar at least five copies of any reply he may have to the grounds of objection and the arguments in support thereof, and shall serve the party making the objection with a copy of the said reply.

(3) Where either party fails to comply with the provisions of this rule, the Court may refuse to entertain the objection or the reply or may adjourn the hearing thereof and may make such order as it thinks fit.

New evidence

54.—(1) A party to an appeal shall not be entitled to refer to or adduce new evidence outside that contained in the record unless the Court, in the interest of justice, allows or requires new evidence relative to the issue before the Court to be adduced.

(2) No such evidence shall be allowed at the hearing unless the Court is satisfied that with due diligence or enquiry the evidence could not have been and was not available to the party at the hearing of the original action to which it relates or in the Court of Appeal.

(3) Any such evidence, if allowed by the Court, may be by oral examination in court or by an affidavit or by depositions taken before an examiner as the Court may direct.

Objection not mentioned in notice of appeal or cross appeal

55.—(1) The appellant or respondent shall not without leave of the Court urge or be heard in support of any ground or objection not mentioned in the notice of appeal or notice of cross appeal as the case may be, but the Court may in its discretion allow the appellant or respondent to amend the grounds of appeal or grounds of cross appeal, as the case may be, upon such terms as the court may deem just.

(2) The appellant or the respondent shall not without the leave of the court urge or be heard on any contention not urged in his case but the Court may in its discretion allow the appellant or respondent, as the case may be, to be heard on any matter not urged in his case.

(3) Notwithstanding the foregoing provisions the Court in deciding the appeal shall not be confined to the grounds set forth by the appellant or the respondent, as the case may be, or the contention urged in the case, provided that the Court shall not rest its decision on any ground not set forth by the appellant or the respondent, as the case may be, or any contention not urged in the case, unless the parties have had sufficient opportunity of contesting the appeal on that ground.

PART VI—JUDGMENT AND ORDERS

Notice to parties of day fixed for judgment

56.—(1) Where the Supreme Court, after hearing an appeal decides to reserve its judgment thereon, the Supreme Court Registrar shall in due course notify the parties by written notice of the date appointed by the Supreme Court for the delivery of the judgment.

(2) The decision of the Court of Appeal in any proceedings under this Part or of any judge taking part in the determination of the proceedings may be delivered by or in the presence of a Court constituted differently from that which heard the proceedings, and may, at the discretion of the presiding judge, be delivered by a judge who was not present at the hearing of the proceedings, or by the Registrar, in the presence of the Court as for the time being constituted.

(3) It shall be lawful for any decision to be delivered by the effect thereof being pronounced, in such terms as the Court or judge shall think appropriate provided that the full terms of the decision shall have been reduced to writing and that a copy thereof is made available to the parties.

Only one counsel need attend when judgment is delivered

57. One counsel only for each party or group of parties who have lodged a case need attend when judgment is delivered by the Supreme Court.

Effect of appeal

58.—(1) A civil appeal shall not operate as a stay of execution or of proceedings under the judgment or decision appealed against except in so far as the Supreme Court or the Court of Appeal may otherwise order.

(2) Subject to the provisions of these Rules and to any other enactment governing the same, an application for stay of execution or proceedings shall first be made to the Court of Appeal or judge thereof and if that Court or judge refuses to grant the application, the applicant shall be entitled to renew the application before the Supreme Court for determination.

Determination of doubt as to finality of judgment

59. Wherever any doubt arises as to whether any judgment, order, decree or decision is final or interlocutory, the question shall be determined by the Supreme Court.

Interlocutory judgment not to prejudice appeal

60. An interlocutory judgment, decree or order from which there has been no appeal shall not operate so as to bar or prejudice the Supreme Court from giving its own decision upon the appeal as may seem just.

General powers of the Court

61.—(1) The Supreme Court may, after considering the statement of the case of each of the parties to the appeal and any other papers or argument filed by the parties, decide to determine the appeal and give judgment in court on a fixed date without further argument or may appoint a date on which the parties shall appear before the Supreme Court for the hearing of further argument.

(2) Where the Supreme Court decides to hear oral arguments the appellant shall, unless the Supreme Court otherwise directs, first argue his case and the respondent shall unless the Supreme Court otherwise directs, be entitled to reply.

Non-appearance of appellant

62.—(1) Where an appellant fails to appear when his appeal is called for hearing the Court—

(a) may proceed to hear the appeal and consider his case on the basis of the case stated by him and allow or dismiss the appeal with or without costs; or

(b) may strike out the appeal with or without costs.

(2) When an appeal has been dismissed or struck out owing to the non-appearance of the appellant the Court may, on the application of the appellant made within thirty days of such dismissal or striking out, for sufficient cause shown, direct the appeal to be re-listed for hearing, on such terms as it may deem just.

Non-appearance of respondent

63.—(1) Where the respondent fails to appear when the appeal is called for hearing the Supreme Court may proceed to hear the appeal.

(2) Where an appeal has been heard pursuant to the provisions of sub-rule (1) and any judgment given therein is adverse to the respondent, he may within thirty days of the delivery of the judgment apply to the Supreme Court to have the judgment set aside and the appeal reheard, on such terms as the Court may direct.

Application to set aside

64. Any application as is referred to in rule 63 shall be by Notice of Motion supported by an affidavit setting forth good and sufficient reasons for the application.

Costs

65. Where the Supreme Court directs a party to bear the costs of an appeal, such costs shall, if not agreed, be taxed by the Supreme Court 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

66. Any order made by the Supreme Court may be enforced in like manner as any decision of the Court of Appeal should or might have been executed.

Fees

67. The fees prescribed in the Fourth Schedule hereto shall be charged in respect of the matters to which they are respectively assigned and shall be paid to the Supreme Court Registrar.

Application of Court of Appeal Rules

68. The Rules of the Court of Appeal may be applied to proceedings in and before the Supreme Court as circumstances may require including the use of prescribed forms.

PART VII—CRIMINAL APPEALS

Time for and manner of appealing in criminal matters

69.—(1) Where the State or any person desires to appeal to the Supreme Court in a criminal cause or matter he shall give notice of an application for special leave to appeal within thirty days of the decision of the Court of Appeal:

Provided that in the case of a conviction involving a sentence of death a notice of a criminal appeal or notice of an application for special leave to appeal may be presented to the Supreme Court within forty-two days from the date of decision of the Court of Appeal.

(2) The period within which notice of a criminal appeal or notice of an application for special leave to appeal may be given may be extended at any time by the Court of Appeal or by the Supreme Court on an application by notice of motion.

(3) The notice of a criminal appeal or notice of an application for special leave to appeal or notice of an application for extension of time within which such notice shall be given, as the case may be, shall be lodged with the Registrar.

(4) Any such notice shall be in Forms 1 and 2 as the case may be, set out in the Third Schedule to these Rules or forms as near thereto as the circumstances may require.

Grounds of appeal

70.—(1) The notice of criminal appeal or notice of an application for special leave to appeal shall set out concisely and under distinct heads numbered *seriatim* the grounds upon which the appellant intends to rely at the hearing of the appeal without any argument or narrative.

(2) No ground of appeal which is vague or general in terms or discloses no reasonable ground shall be permitted except the general ground that the judgment is unreasonable or cannot be supported having regard to the evidence; and any ground of appeal or any part thereof which is not permitted under the provisions of this rule may be struck out by the Supreme Court on its own motion or on an application by the respondent.

(3) The appellant shall not, without the leave of the Supreme Court, argue or be heard in support of any ground not mentioned in the notice of criminal appeal or the notice of an application for special leave to appeal.

(4) Notwithstanding the foregoing provisions of this rule the Supreme Court—

- (a) may grant an appellant leave to amend the grounds of appeal upon such terms as the Supreme Court may think just;
- (b) shall not, in deciding the appeal confine itself to the grounds set forth by the appellant nor shall the Supreme Court be precluded from resting its decision on any ground not set forth by the appellant.

(5) Where the Supreme Court intends to rest a decision on any ground not set forth by the appellant in his notice of appeal or on any matter not argued before it, it shall afford the parties reasonable opportunity to be heard on any such ground or matter without re-opening the whole appeal.

Notice of criminal appeal

71.—(1) Save as otherwise provided under sub-rule (5), every notice of a criminal appeal or notice of an application for special leave to appeal or notice of an application for extension of time within which such notice shall be given shall be signed by the appellant or his legal representative.

(2) Any notice or other document which is required or authorised to be given or sent shall be deemed to be given or sent at the time of posting if forwarded by registered post addressed to the person to whom such notice or other document is so required or authorised to be given or sent. Save as otherwise provided the ordinary rules of service contained herein shall apply.

(3) Where an appellant or any other person authorised or required to give any notice of a criminal appeal or notice of an application for special leave to appeal is, for any valid reason, unable to write, he may sign or affix his mark and thumbprint thereto in the presence of a witness who shall attest it, and thereupon the notice shall be deemed to be duly signed by the appellant or such other person.

(4) Where it has been contended at the original trial that a person was not responsible according to law for his actions on the ground that he was insane at the time the act was done or the omission was made by him, any notice required to be given and signed by the appellant himself may be given and signed by his legal representative.

(5) Where the appellant is a body corporate any notice or other document required to be signed pursuant to any provisions of these Rules shall be signed by a director, secretary, clerk, manager, trustee or legal representative as the case may be, of that body corporate.

Notice of application for extension of time for appealing

72. Any person making an application for extension of time within which notice may be given pursuant to the provisions of rule 69 shall send to the Registrar—

- (a) the proper form of such application for extension; and,
- (b) a form, duly filled in of notice of a criminal appeal, or of a notice of an application for special leave to appeal as the case may be.

Notice of criminal appeal

73.—(1) As soon as the Supreme Court Registrar has received a notice of a criminal appeal, the Supreme Court Registrar shall request the Registrar to transmit to him and the Registrar shall forthwith transmit the record of the Court of Appeal, which shall include the following documents—

- (a) a certified copy of the judgment of the Court of Appeal;
- (b) a certified copy of the order granting special leave to appeal;
- (c) a signed list of all the exhibits forming part of the record of the Court of Appeal together with the originals of all such exhibits; and
- (d) all other documents necessary for the prosecution of the appeal.

(2) The State shall be supplied with a copy of the record without payment.

(3) Unless otherwise directed by the Supreme Court that an appellant or respondent be supplied with the copies of the record without payment they shall be supplied by the Supreme Court Registrar on the payment of a fee calculated in accordance with the provisions of these Rules and determined by the Supreme Court Registrar.

Procedure on decision of application to the Court

74. Where any application has been dealt with by the Supreme Court in the absence of the applicant or his counsel the Supreme Court Registrar shall inform the applicant of the decision of the Supreme Court in Form 3 set out in the Third Schedule to these Rules.

Abandonment of appeal

75.—(1) An appellant or applicant (as the case may be) may, at any time after he has duly lodged notice of a criminal appeal or of an application for special leave to appeal or of an application for extension of time within which such notice shall be given to the Supreme Court Registrar abandon his appeal or application, as the case may be, by giving notice of the fact by letter and upon such notice being given the appeal or application shall be deemed to have been struck out.

(2) Upon receipt of a notice of abandonment the Supreme Court Registrar shall give notice thereof to the respondent, the Commissioner of Prisons and the Registrar of the Court of Appeal.

(3) In the case of an appeal in respect of a conviction involving a sentence of death the Supreme Court Registrar shall, in addition, give notice of the abandonment to the President of Fiji.

Recognizances of appellant and surety

76.—(1) The Supreme Court may at any time during the pendency of a criminal appeal on its own motion or on application made by any person admit the appellant to bail or revoke or vary any such order previously made.

(2) Where the Supreme Court admits an appellant to bail pending the determination of his appeal, the Supreme Court shall specify the amount in which the appellant and his surety if any, shall be bound by recognizance and unless otherwise directed by the Supreme Court the recognizance of the appellant or his surety shall be taken before the Supreme Court Registrar.

(3) The recognizance provided for in this rule shall be in Form 4 and 5 set out in the Third Schedule to these Rules.

(4) An appellant who has been admitted to bail shall be personally present at each and every hearing of his appeal and at the final determination thereof.

(5) Where an appellant is not present at the hearing of his appeal after having been admitted to bail pursuant to the provisions of this rule, the Supreme Court may—

- (a) consider the appeal in his absence and make such order as it thinks fit; or
- (b) proceed summarily to dismiss the appeal or make such other order as may be required.

(6) The provisions of the immediately preceding sub-rule shall apply with such modifications as the Supreme Court may direct in any case where an appellant indicates that he desires to be present at the hearing of his appeal but does not in fact attend.

Notification of final determination of appeals

77.—(1) The Supreme Court Registrar shall, upon the final determination of a criminal appeal, notify the Registrar, and, by a formal order, inform him of the decision of, and any orders or directions made or given by, the Supreme Court in connection therewith.

(2) The Registrar shall, on receiving the formal order referred to in this rule, enter the particulars thereof in the records of the Court of Appeal.

Return of exhibits, etc.

78. Upon the final determination of a criminal appeal the Registrar of the Supreme Court shall, where practicable and subject to any order of the Supreme Court, cause to be returned to the Registrar any exhibits or other documents forwarded to the Supreme Court in connection with the appeal.

PART VIII—MISCELLANEOUS

Copies of record for parties

79. At any time after the notice of appeal or notice of application for leave to appeal has been given, any party may obtain from the Supreme Court Registrar copies of the record and of any documents or exhibits in his possession for the purposes of such appeal. Such copies shall be supplied by the Registrar of the Supreme Court at the rate of twenty cents for the first ten folios of one hundred words each or part thereof and ten cents for each subsequent folio of one hundred words each or part thereof.

Provided that the Supreme Court may direct that any such party be supplied with any copy without payment.

Consolidation of appeals

80. Where there are two or more appeals or applications for leave to appeal or for special leave to appeal arising out of the same matter, or though not arising out of the same matter yet they raise identical points of law, and the Supreme Court is of 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.

Appeals pending hearing or disposal in Privy Council

81.—(1) With respect to 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 and in any such case the application shall be made within ninety days from the date of these Rules.

(2) If a judge 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 in respect thereof.

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

Revocation and savings

82. The Supreme Court Appeal Rules, 1988 are hereby revoked:

Provided that every act or thing done thereunder before the commencement of these Rules shall remain in force and be deemed to have been done under these Rules.

Made this 20th day of October 1988.

T. U. TUIVAGA
President, Supreme Court of Fiji

FIRST SCHEDULE

SUPREME COURT APPEAL RULES (NO. 2) 1988

FORM 1

IN THE SUPREME COURT OF FIJI

Rule 12(1)

No. of 19
Between: 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 of Appeal 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).

SUPREME COURT APPEAL RULES (NO. 2) 1988

FORM 2

Rule 13(3)

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 (affirmed) etc.

This affidavit is filed on behalf of (applicant).

SUPREME COURT APPEAL RULES (NO. 2) 1988

FORM 3

Rule 15(2)

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 Respondent)

TO: The Applicant (address)

THE RESPONDENT'S SOLICITOR IS: (Name of firm and address for service)

SECOND SCHEDULE

SUPREME COURT APPEAL RULES, (NO. 2) 1988

CIVIL APPEAL FORMS

CIVIL FORM 1

Rule 18

IN THE SUPREME COURT OF FIJI

SUMMONS TO PARTIES TO SETTLE RECORD

Between

And

Appellant

Respondent

TAKE NOTICE that all parties concerned are required to attend before me at my office at _____ on _____ day the _____ day of _____ 19 _____ at the hour of _____ o'clock in the noon to proceed with settling of the record of appeal herein.

Dated this _____ day of _____, 19 _____

Registrar, Supreme Court

To: _____

SUPREME COURT APPEAL RULES, (NO. 2) 1988

CIVIL FORM 2

Rule 30(1)

IN THE SUPREME COURT OF FIJI

NOTICE OF CIVIL APPEAL

Civil Appeal No. _____

Between

and

Appellant

Respondent

TAKE NOTICE that the Appellant being dissatisfied with the decision (that part of the decision) more particularly stated hereunder contained in the judgment (order or decree) of the Court of Appeal dated the _____ day of _____ 19 _____, and having obtained (special) leave on the _____ day of _____ 19 _____ of the Supreme Court (Court of Appeal) to appeal therefrom doth hereby appeal to the Supreme Court upon the grounds set out in paragraph 4 hereof and will at the hearing of the appeal seek the reliefs set out in paragraph 5 hereof.

2. The part of the decision complained of is as follows:

3. The particulars of misdirection or of error in law are as follows:

4. The Grounds of Appeal are:

- 1.
- 2.
- 3. etc.

5. The reliefs sought from the Supreme Court are:

6. The address for service of the Appellant is _____

and the name and address for service of Counsel for the Appellant are as follows: _____

7. The persons directly affected by this appeal are:

Name _____

Address _____

Name _____

Address _____

Dated this day of , 19 .

Appellant

SUPREME COURT APPEAL RULES, (NO. 2) 1988

CIVIL FORM 3

Rule 53(1)

IN THE SUPREME COURT OF FIJI

NOTICE OF INTENTION TO RELY UPON PRELIMINARY OBJECTION

Civil Appeal No. 19

Between

and

Appellant

Respondent

TAKE NOTICE that the _____ herein named intends at the hearing of this appeal to rely upon the following preliminary objection notice whereof is hereby given to you, viz—

AND TAKE NOTICE that the grounds of the said objection are as follows—

- 1.
- 2.
- 3.
- 4.

Dated this _____ day of _____, 19 _____

Appellant/Respondent

To the above-named Appellant/Respondent or his Solicitor.

SUPREME COURT APPEAL RULES, (NO. 2) 1988

CIVIL FORM 4

Rule 29

IN THE SUPREME COURT OF FIJI

CERTIFICATE OF NON-COMPLIANCE WITH CONDITIONS OF APPEAL

Civ. App. No.

Between

and

Appellant

Respondent

I hereby certify that the appellant(s) in the abovementioned cause has/have not compiled with the conditions imposed upon him/them as would-be appellant/appellants.

Dated the _____ day of _____, 19 _____

Registrar

THIRD SCHEDULE

SUPREME COURT APPEAL RULES, (NO. 2) 1988

CRIMINAL APPEAL FORM 1

Rule 69(4)

IN THE SUPREME COURT OF FIJI

NOTICE OF A CRIMINAL APPEAL

THE STATE v.
TO THE REGISTRAR OF THE

I/The State being dissatisfied with the decision (that part of the decision) more particularly stated in paragraph 2 hereof contained in the judgment/order of

dated the _____ day of _____ 19 _____ (and having obtained special leave to appeal therefrom) hereby give (hereby gives) you notice of a criminal appeal against the said decision (part of the decision) to the Supreme Court, on the grounds that

- (a) _____
- (b) _____
- (c) _____
- (d) _____
- (e) _____

PARTICULARS OF PROCEEDINGS IN COURT BELOW, ETC.

Fill in these Particulars.

1. Date of decision appealed against.
2. Court from whose decision appeal is made.
3. Offence to which the decision relates (e.g. stealing, murder, forgery, treason, etc.).
4. Decision of Court below (conviction, acquittal, etc.).
5. Sentence (if any).
6. In case of an appeal on a question of law whether that question of law was raised in Court below.

7. State whether you are a prisoner and if so place of confinement, and if not place of abode or other address.
8. If in custody state if you desire to be present on the hearing of your appeal by the Supreme Court.

*Signature and address of
 Witness attesting mark, etc.*

*Signature/Mark and Thumb print
 of Appellant or of Counsel*

N.B.

- (i) Strike out words which are not applicable.
- (ii) if appealing against the whole decision state in paragraph 2 above "the whole decision".
- (iii) The Supreme Court will if you desire it, consider your case and argument if put into writing by you or on your behalf instead of your case and argument being presented orally. If you desire to present your case and argument in writing set out as fully as you think right your case and argument in support of your appeal.

SUPREME COURT APPEAL RULES, (NO. 2) 1988

CRIMINAL APPEAL FORM 2

Rule 69(4)

IN THE SUPREME COURT OF FIJI

NOTICE OF APPLICATION FOR EXTENSION OF TIME
 WITHIN WHICH TO APPEAL

TO THE REGISTRAR OF THE

I/The State being dissatisfied with the decision/part of the decision more particularly stated in paragraph 2 hereof contained in the judgment/order of dated the _____ day of _____, 19____ do hereby give (hereby gives) you notice that (I/the State) hereby apply (applies) to the Supreme Court for an extension of time within which (I/the State) may give NOTICE OF APPEAL (or Notice of Application for special leave to appeal) on the grounds following:

(Here set out clearly and concisely the reasons for the delay in giving such notice and the grounds on which you submit that the Supreme Court should extend the time).

2. Part of decision of the Court below complained of—

PARTICULARS OF PROCEEDINGS IN COURT BELOW, ETC.

Fill in these particulars:

1. Date of decision complained of.
2. Court whose decision is complained of.
3. Offence to which decision relates.
4. Decision of Court below (conviction, acquittal, etc.).
5. If in custody state place of confinement, if not in custody state place of abode or other address.

(i) You are required to send to the Registrar of the Supreme Court, duly filled up Forms 1 or 2 together with this Notice (see Rule 4).

(ii) Strike out words not applicable.

SUPREME COURT APPEAL RULES, (NO. 2) 1988

CRIMINAL APPEAL FORM 3

Rule 74

IN THE SUPREME COURT OF FIJI

NOTIFICATION TO APPELLANT OF DECISION

THE STATE v.

I hereby give you notice that a Judge of the Supreme Court having considered your application(s) for:—

- (a) Leave to appeal;
- (b) For extension of time in which notice of appeal or of application for leave to appeal may be given;
- (c) Permission to be present during the hearing of any proceedings in your appeal;
- (d) Admission to bail;
- (e) Leave to withdraw abandonment of appeal, has (have) refused the application(s) marked and has (have) granted your application(s) marked.

If you desire to have the above-mentioned application(s), which has (have) been refused, determined by the full Supreme Court, you are required to fill up the enclosed form and return it to me.

Dated this day of , 19 .

Registrar, Supreme Court

To the above-named

- (1) Send copies to
 - (a) The Director of Public Prosecution or other Respondent
 - (b) The Registrar of the Court below.
 - (c) The Commissioner of Prisons.

SUPREME COURT APPEAL RULES, (NO. 2) 1988
 CRIMINAL APPEAL FORM 4
 IN THE SUPREME COURT OF FIJI
 RECOGNIZANCE OF BAIL OF APPELLANT

Rule 76(3)

THE STATE v.

BE IT REMEMBERED THAT WHEREAS _____ was convicted of _____
 on the _____ day of _____, 19____
 (and was thereupon sentenced to _____ at _____).
 and now is in lawful custody at _____ (and sentence) to the Supreme
 Court and has applied for bail pending the determination of his appeal, and has
 been granted bail on entering into his own recognizances in the sum of _____
 (with _____ sureties each in the sum of _____).
 the said undersigned, being the _____ and acknowledges himself to
 owe to the State the said sum of _____ of good and lawful money, to
 be made and levied on his goods and chattels, lands and tenements to the use of the
 State if he the said _____ should fail in the condition endorsed.
 Taken and acknowledged this _____ day of _____, 19____, at _____ Before me.

Registrar, Supreme Court

CONDITION

The condition of the within written recognizance is such that if the said
 _____ shall personally appear and surrender himself at and before the
 Supreme Court at each and every hearing of his appeal to such Supreme Court and
 at the final determination thereof and then and there abide by the judgment of the
 said Supreme Court and not depart or be absent from such Supreme Court at any
 such hearing without the leave of the said Supreme Court, and in the meantime not
 depart from his usual place of abode without the leave of the Supreme Court, then
 this recognizance shall be void, otherwise of full force and effect.

The following to be filled up by the appellant and signed by him:

When released on bail my residence, to which any Notices, etc. are to be address-
 sed, will be as follows:—

Appellant

SUPREME COURT APPEAL RULES, (NO. 2) 1988
CRIMINAL APPEAL FORM 5
IN THE SUPREME COURT OF FIJI
RECOGNIZANCES OF APPELLANT'S SURETIES

Rule 76(3)

THE STATE v.

BE IT REMEMBERED THAT on this _____ day of _____, 19____
of _____ and _____ came before
me the undersigned being the _____
and severally acknowledged themselves to owe to the State the several sums follow-
ing, that is to say, the said _____ the sum of _____
and the said _____ the sum of _____ of
good and lawful money, to be made and levied of their goods and chattels, land and
tenements respectively to the use of the State, if _____ now in lawful
custody at _____ should fail in the condition hereon endorsed.

Taken and acknowledged before me the undersigned, the day and year first
above mentioned.

Registrar, Supreme Court

CONDITION

The condition of the within written recognizance is such that whereas the said
_____ having been convicted of _____
and now in such lawful custody as before mentioned (under a sentence of _____
for such offence), has duly appealed to the Supreme Court
against his said conviction (and sentence), and having applied to the said Supreme
Court for bail pending the determination of his said appeal, has been granted bail
on his entering into recognizances in the sum of _____ with
sureties each in the sum of _____ if
the said _____ shall personally appear and surrender himself
at and before the said Supreme Court and at the final determination thereof, and
then and there abide by the judgment of the said Supreme Court and in the mean-
time not depart from his usual place of abode without the leave of the Supreme
Court, then this recognizance shall be void, otherwise of full force and effect.

Registrar, Supreme Court

Loc
Loc
Loc
On
Set
Set
F
Fili
Fili
Fili
Reg
Fili
Fili
On
e
il
On
On
On
c
On
On

FOURTH SCHEDULE

SUPREME COURT APPEAL RULES, (NO. 2) 1988
SUPREME COURT FEES

Rule 67

	\$
Lodging Notice of Appeal or Cross Appeal	100
Lodging application for special leave to Appeal	80
Lodging application for leave to Appeal	40
Lodging of any other notice of Motion	25
On settling record of appeal	25
Settling down appeal (chargeable to appellant only)	30
Settling down application for special leave to appeal (chargeable to Petitioner only)	25
Filing Case	25
Filing Amended Case	10
Filing of Notice of Preliminary objection	25
Reply thereto	10
Filing affidavit	10
Filing each document or Exhibit	5
Filing Recognisance	10
On filing motion for extension of time if the time has not expired	10
if the time has already expired	25
On filing motion for stay of execution	25
On filing motion to restore appeal struck out or dismissed	30
On filing motion for extension of time within which to fulfil conditions of appeal	25
On filing motion against taxation by Taxing Officer	25
On filing Certificate of service of notice of appeal	10
On inspection of record	10