

FIJI ISLANDS

[LEGAL NOTICE NO. 39]

**HIGH COURT ACT
(CAP. 13)**

—————
NO.16 OF 2006
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HIGH COURT (AMENDMENT) RULES 2006

IN exercise of the powers conferred upon me by sections 21A and 25 of the High Court Act, I make these Rules-

Citation, etc

1. (1). These Rules may be cited as the High Court (Amendment) Rules 2006.
- (2). In these rules unless the context otherwise requires "the Principal Rules" means the High Court Rules 1988.

Amendment of Order 1 rule 2

2. Order 1, Rule 2 of the Principal Rules is amended -

(a) by replacing the definition of "the Court" by the following definition -

""the Court" means the High Court or any Judge thereof, whether sitting in court or in chambers and, where appropriate, the Master or the Registrar, provided that this definition shall not be taken to affect any provision of these Rules and, in particular the provisions of Order 32, Rule 9 and Order 59 by virtue of which the authority and jurisdiction of the Registrar and the Master are defined and regulated;"

(b) by inserting the following definition after the definition of the word "judgment" and before the definition of the word "matter-

""Master" means the Master of the High Court;"

Order 59 allocated

3. The Principal Rules are amended by allocating the following Order 59-

"ORDER 59"

MASTER OF THE HIGH COURT

PART I - JURISDICTION OF THE MASTER

Master may exercise powers of the Registrar (O. 59, r.1)

1. The jurisdiction conferred on the Registrar under these Rules may be exercised by the Master.

Jurisdiction of the Master (O. 59, r. 2)

2. The Master shall have and exercise all the power, authority and jurisdiction which may be exercised by a judge in relation to the following causes and matters -

(a) chamber applications, except in respect of -

(i) injunctions, other than injunctions by consent or in connection with or ancillary to charging orders;

(ii) proceedings involving the liberty of the subject;

(iii) criminal proceedings;

(iv) proceedings under the Family Law Act 2003;

(v) appeals from Magistrates' Courts or any other tribunal;

(vi) applications for leave to seek judicial review; or

(vii) applications for constitutional redress;

(b) applications for summary judgment;

(c) proceedings under the Land Transfer Act (Cap. 131) relating to caveats;

(d) assessment of damages where liability has been determined;

(e) entry of any order or judgment by consent;

(f) costs;

(g) applications for winding-up of companies;

(h) mediation;

(i) applications and proceedings under the Fiji National Provident Fund Act (Cap. 219);

(j) grants of Probate and Letters of Administration, where uncontested;

(k) possession of land under section 169 of the Land Transfer Act (Cap. 131) and Orders 88 and 113, where uncontested; and

(l) any other matter in respect of which jurisdiction is conferred upon the Master by or under any other written law or by the Chief Justice.

Jurisdiction of judge not affected (0. 59, r. 3)

3. The conferring of power, authority and jurisdiction on the Master under this Order shall not prevent a judge from exercising any such power, authority and jurisdiction.

Reference of matter to judge (0. 59, r. 4)

4. The Master may refer to a judge any matter which the Master thinks should properly be decided by a judge who may either dispose of the matter or refer it back to the Master with such directions as may be necessary.

Master may adjourn proceedings (0. 59, r. 5)

5. The Master shall have the power to grant adjournments or issue directions in any proceedings, not withstanding that the Master would not otherwise have jurisdiction in respect of those proceedings.

Master may act as a referee (0. 59, r. 6)

6. The Master may act as a special referee or mediator in respect of any proceedings or any question arising in any cause.

References (0. 59, r. 7)

7. For the purposes of any cause or matter over which power, authority and jurisdiction is conferred upon the Master in relation to such cause or matter reference to a judge or the Registrar under these Rules shall be deemed to be a reference to the Master.

PART II - APPEAL FROM THE MASTER

Appeal from Master's decision (0. 59, r. 8)

8. (1) An appeal shall lie from a final order or judgment of the Master to a single judge of the High Court.

(2) No appeal shall lie from an interlocutory order or judgment of the Master to a single judge of the High Court without the leave of a single judge of the High Court which may be granted or refused upon the papers filed.

Time for appealing (O. 59, r. 9)

9. An appeal from an order or judgment of the Master shall be filed and served within the following period -

(a) 21 days from the date of the delivery of an order or judgment; or

(b) in case of an interlocutory order or judgment, within 7 days from the date of the granting of leave to appeal.

Extension of time (O. 59, r. 10)

10. (1) An application to enlarge the time period for filing and serving a notice of appeal or cross-appeal may be made to the Master before the expiration of that period and to a single judge after the expiration of that period.

(2) An application under paragraph (1) shall be made by way of an inter-partes summons supported by an affidavit.

Application for Leave to Appeal (O. 59, r. 11)

11. Any application for leave to appeal an interlocutory order or judgment shall be made by summons with a supporting affidavit, filed and served within 14 days of the delivery of the order or judgment.

Notice of appeal (O. 59, r. 12)

12. An appeal shall be brought by way of a notice of appeal, which may be given in respect of the whole or any specified part of the order or judgment of the Master.

Cross-appeal (O. 59, r.13)

13. Where a respondent to an appeal under this part wishes to appeal, the respondent shall file and serve a notice of cross-appeal within 7 days from the service of the notice of appeal.

Contents of notice of appeal and cross-appeal (O. 59, r. 14)

14. A notice of appeal or cross-appeal filed under rules 12 or 13 shall state -

(a) whether the appeal is from the whole or part only and what part of the order or judgment of the Master;

(b) the grounds of appeal succinctly;

(c) the precise form of the order which is sought in place of the order or judgment of the

Master.

Amendment of notice of appeal and cross-appeal (O. 59, r.15)

- 15. (1).** A notice of appeal or cross-appeal may be amended by or with leave of the Court.
- (2) An application for amendment under paragraph (1) shall be by way of a summons filed and served upon each of the parties to the appeal not less than 14 days before the date on which the appeal is listed for hearing.

Stay of proceedings or execution (O.59 r 16)

- 16. (1)** The filing of a notice of appeal or an application for leave shall not operate as a stay of execution or proceedings, or any step therein, unless the Court so directs.
- (2) An application under paragraph (1) shall be made by way of an inter-parte summons supported by an affidavit.

Procedure after filing appeal (O.59, r17)

- 17. (1).** The appellant shall, upon serving the notice of appeal on the party or parties to the appeal, file an affidavit of service within 7 days of such service.
- (2). The appellant shall, within 21 days of the filing of notice of appeal, file and serve a summons returnable before a judge for directions and a date for the hearing of the appeal.
- (3). If this rule is not complied with, the appeal is deemed to have been abandoned.

Made this 8th day of June 2006

D. V. FATIAKI
Chief Justice