

Serial Number **1953/22****THE COURT OF APPEAL AMENDMENT RULES 1953**

C. W. M. NORRIE, Governor-General  
**ORDER IN COUNCIL**

At the Government House at Wellington, this 11th day of March 1953

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Judicature Act 1908, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, and with the concurrence of the Right Honourable the Chief Justice and five other members of the Rules Committee constituted under the Judicature Amendment Act 1930 (two of such other members being Judges of the Supreme Court), hereby makes the following rules.

**RULES**

**1.** (1) These rules may be cited as the Court of Appeal Amendment Rules 1953, and shall be read together with and deemed part of the rules of the Court of Appeal set out in the Third Schedule to the Judicature Act 1908 (hereinafter referred to as the principal rules).

(2) These rules shall come into force on the fourteenth day after the date of their notification in the *Gazette*.

**2.** The principal rules are hereby amended by revoking rules 11 to 15, and substituting the following rules:—

“11. The primary responsibility for the form and contents of the case on appeal shall rest on the appellant or his solicitor, but if in any doubt or difficulty he shall consult all other parties directly affected by the appeal; and any such other party may of his own motion tender advice to the appellant or his solicitor as to the contents of the case.

“12. (1) Where any question of fact is involved in the appeal, the evidence taken in the Court of first instance or other Court below bearing on the question shall, subject to the provisions of this rule, be brought before the Court of Appeal by inclusion in the case on appeal of—

“(a) Copies of affidavits and other documents; and

“(b) In respect of oral evidence, a copy of the official notes of evidence, or failing those a copy of the Judge's notes, or failing those such other materials as the Court appealed from or a Judge thereof or the Court of Appeal may deem expedient.

“(2) As far as may be practicable, any document or part of a document or other evidence that is not relevant to any question involved in the appeal, and any merely formal document or part of a document, shall be excluded from the case on appeal, and the duplication of documents and the unnecessary repetition of headings and other merely formal parts of documents shall be avoided.

“(3) Documents wholly omitted from the case on appeal shall be enumerated in a list to be placed immediately after the table of contents.

“(4) Where one party objects to the inclusion of a document in the case on appeal on the ground that it is unnecessary or irrelevant, and any other party insists upon its being included, the case shall, with a view to the subsequent adjustment of the costs of and incidental to the document, indicate in the table of contents or otherwise the fact that, and the party by whom, the inclusion of the document was objected to.

“(5) Any party directly affected by the appeal may apply to the Court appealed from or a Judge thereof for an order that, unless the Court of Appeal otherwise directs, certain evidence be omitted from the case on appeal.

“13. (1) Where there is a statement in writing of the reasons for the judgment or order appealed from, a copy of that statement shall form part of the case on appeal.

“(2) Where those reasons have been stated orally, a proper report, to be approved by the Judge, of the statement made by him of those reasons shall form part of the case on appeal.

“14. (1) The case on appeal shall be printed, typewritten, or cyclostyled.

“(2) The back of each page of the case shall be left blank.

“(3) Each page of the case shall be numbered, and the case shall have a table of contents prefixed thereto.

“(4) The case shall be sewn or stapled, and bound down the back with a strip of cloth extending over the stitching or stapling on each cover.

“(5) Every tenth line shall be numbered in the margin.

“15. If an appellant elects to have the case on appeal printed,—

“(a) The size of the paper used shall be either demy quarto or foolscap folio:

“Provided that this paragraph shall not apply to copies of plans, drawings, or similar documentary exhibits included in the case:

“(b) The type to be used in the text shall be 12-point type, except that 10-point type shall be used in printing accounts, tabular matter, and notes:

“(c) The number of lines in each page of 12-point type shall be forty-seven on demy quarto, or sixty-five on foolscap folio:

“(d) Each line shall be 5 $\frac{3}{4}$  in. or 146 millimetres in length.

“15. If an appellant elects to have the case on appeal typewritten or cyclostyled,—

“(a) The size of the paper used shall be foolscap folio:

“Provided that this paragraph shall not apply to copies of plans, drawings, or similar documentary exhibits included in the case:

“(b) Double spacing shall be left between the lines:

“Provided that single spacing may be left between the lines of short quotations or short exhibits:

“(c) The margin shall be at least one-fourth of the width of the paper.”

3. Rule 16 of the principal rules is hereby amended as follows:—

(a) By omitting from paragraph (a)\* the words “one copy of the case and evidence printed as aforesaid”, and substituting the words “one copy of the case on appeal”:

(b) By omitting from the said paragraph (a) the words “fifteen copies of the case and evidence”, and substituting the words “fifteen copies of the case on appeal”:

(c) By omitting from paragraph (b)† the words “printed copies”, and substituting the words “copies of the case on appeal”.

4. Rule 22 of the principal rules is hereby amended by omitting the words “six days”, and substituting the words “fourteen days”.

5. Rule 26 of the principal rules, as substituted by rule 6 of the Court of Appeal Amendment Rules 1939‡, is hereby amended by revoking paragraph (ii), and substituting the following paragraph:—

“(ii) Cost of printing, typewriting, or cyclostyling: Whatever the amount paid, or, if the typewriting or cyclostyling has been carried out in the office of the solicitor for the appellant, such sum as may be allowed by the Registrar in that behalf.”

6. Rules I and II of the amendment to the principal rules made on the 9th day of October 1926§ are hereby consequentially revoked.

7. Notwithstanding the revocation of any rules by these rules, any case on appeal printed, in accordance with the rules hereby revoked, before the commencement of these rules shall be accepted for filing in the Court at any time within seven days after the commencement of these rules, and may, with the leave of the Court, be accepted at a later date if printed before the commencement of these rules.

T. J. SHERRARD,  
Clerk of the Executive Council.

\* *Gazette*, 4 November 1926, Vol. III, page 3139.

† *Gazette*, 21 December 1916, Vol. III, page 3893.

‡ Statutory Regulations 1939, Serial number 1939/110, page 547.

§ *Gazette*, 4 November 1926, Vol. III, page 3139.

#### EXPLANATORY NOTE

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

The main purpose of these rules is to allow cases on appeal to the Court of Appeal to be printed, typewritten, or cyclostyled. At present all cases on appeal are required to be printed. The use of paper of foolscap size, instead of quarto, is to be permitted where the case is printed, and required where it is typewritten or cyclostyled. The relevant provisions of the Court of Appeal Rules are accordingly redrafted, and new provisions are made as to the use of only one side of each page, the numbering of pages, the binding of the case, the spacing between lines, the number of lines to the page, and the margin to be left.

The rules relating to the contents of a case on appeal on a question of fact are also redrafted, provision being made for the exclusion of irrelevant or merely formal documents, and for the avoidance of the duplication of documents and unnecessary repetition.

Rule 4 extends the time for giving security for appeal from six days to fourteen days.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 12 March 1953.

These regulations are administered in the Department of Justice.