

1977/123



THE COURT OF APPEAL RULES 1955, AMENDMENT NO. 3

DENIS BLUNDELL, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 16th day of May 1977

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 at least two of the other members of the Rules Committee (of whom at least one was a Judge of the Supreme Court), hereby makes the following rules.

RULES

1. Title and commencement—(1) These rules may be cited as the Court of Appeal Rules 1955, Amendment No. 3, and shall be read together with and deemed part of the Court of Appeal Rules 1955* (hereinafter referred to as the principal rules).

(2) These rules shall come into force on the 14th day after the date of their notification in the *Gazette*.

2. Costs in discretion of Court—The principal rules are hereby amended by revoking rule 46, and substituting the following rule:

“46. (1) The Court shall have power to make such order concerning the whole or any part of the costs of an appeal, or of any other proceedings in the Court, as may seem just, and may in any case direct that costs awarded to any party shall be taxed as between party and party or as between solicitor and client.

“(2) All costs shall be in the discretion of the Court and may, if the Court thinks fit, be ordered to be charged upon or paid out of any fund, estate, or assets, before the Court.

“(3) The Court may, in giving judgment or making any order, fix a sum in full of all costs or of any particular class of costs, notwithstanding that such sum is greater or smaller than the sum prescribed under rule 47 of these rules.”

*S.R. 1955/30

Amendment No. 1: S.R. 1966/69

Amendment No. 2: (*Revoked* by S.R. 1975/129)

3. Scale of costs—Rule 47 of the principal rules (as substituted by rule 2 of the Court of Appeal Rules 1955, Amendment No. 1) is hereby amended—

- (a) By omitting from paragraph (b) the words “or cyclostyling” in the first place where they appear, and substituting the words “cyclostyling, or copying (by photographic or other copying process)”:
- (b) By omitting from the proviso to paragraph (b) the words “or cyclostyling”, and substituting the words “cyclostyling, or copying”.

4. Expenses and disbursements—(1) The principal rules are hereby amended by revoking rule 48 (as amended by regulation 4 (2) of the Court of Appeal Fees Regulations 1975*), and substituting the following rule:

“48. (1) Where costs are allowed, there shall also be allowed as disbursements—

“(a) Fees of Court paid under the Court of Appeal Fees Regulations 1975:

“(b) Witnesses’ and interpreters’ fees, allowances, and travelling expenses actually paid by the party in accordance with the Witnesses and Interpreters Fees Regulations 1974†.

“(2) If the Court sees fit, it may in addition allow as disbursements—

“(a) Reasonable agency charges and any other necessary payments:

“(b) A reasonable allowance for travel and accommodation expenses of counsel.

“(3) The Court may direct that the amount of any items allowed as disbursements under subclause (2) of this rule be fixed by the Registrar.

“(4) Upon application, the Court may review any decision of a Registrar made pursuant to a direction given under subclause (3) of this rule.”

(2) The Court of Appeal Fees Regulations 1975 are hereby consequentially amended by revoking subclause (2) of rule 4.

P. G. MILLEN,
Clerk of the Executive Council.

*S.R. 1975/129

†S.R. 1974/124

EXPLANATORY NOTE

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

These rules amend the Court of Appeal Rules 1955. These rules spell out in some detail the powers that the Court of Appeal may exercise in making orders for costs.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 19 May 1977.

These rules are administered in the Department of Justice.