



THE HIGH COURT AMENDMENT RULES (NO. 2) 1991

CATHERINE A. TIZARD, Governor-General

ORDER IN COUNCIL

At Wellington this 16th day of December 1991

Present:

THE HON. W. F. BIRCH PRESIDING IN COUNCIL

PURSUANT to section 51c of the Judicature Act 1908, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, and with the concurrence of the Honourable the Acting Chief Justice and at least two of the other members of the Rules Committee (of whom at least one was a Judge of the High Court), hereby makes the following rules.

ANALYSIS

1. Title and commencement

2. Judgment wrong on finding of Judge
3. Hearing of appeal

RULES

1. Title and commencement—(1) These rules may be cited as the High Court Amendment Rules (No. 2) 1991, and shall be read together with and deemed part of the High Court Rules from time to time set out in the Second Schedule to the Judicature Act 1908 (hereinafter referred to as the High Court Rules).

(2) These rules shall come into force on the 3rd day of February 1992.

2. Judgment wrong on finding of Judge—The High Court Rules are hereby amended by revoking rule 528.

3. Hearing of appeal—Rule 718 of the High Court Rules (as substituted by rule 20(1) of the High Court Rules 1991*) is hereby amended by revoking subclauses (9) and (10), and substituting the following subclause: “(9) At the hearing of any appeal, the tribunal which, or person who, made the decision appealed from shall, unless the Court otherwise directs, be entitled to be represented and heard on all matters arising in the appeal.”

MARIE SHROFF,
Clerk of the Executive Council.

*S.R. 1991/132

EXPLANATORY NOTE

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

These rules, which come into force on 3 February 1992, amend the High Court Rules.

Rule 2 revokes rule 528 of the High Court Rules. That rule provided for the setting aside of a judgment and the entry of another judgment, on the ground that, upon the finding of the Judge on any question of fact, the judgment was wrong.

Rule 3 revokes subclauses (9) and (10) of rule 718 (which relates to the hearing of appeals), and substitutes a new subclause (9).

The new subclause provides that, at the hearing of any appeal, the tribunal which, or person who, made the decision appealed from shall, unless the Court otherwise directs, be entitled to be represented and heard on all matters arising in the appeal.

The subclauses revoked made a distinction between an appeal from a decision arising from a contested application and a decision arising from an uncontested application.

That distinction disappears and the new subclause proceeds on the basis that the tribunal which, or person who, made the decision appealed from will normally be entitled to be heard.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 19 December 1991.

These rules are administered in the Department of Justice.