



High Court Amendment Rules (No 2) 2006

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 3rd day of July 2006

Present:

Her Excellency the Governor-General in Council

Pursuant to section 51C of the Judicature Act 1908, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, and with the concurrence of the Right Honourable the Chief Justice and at least 2 other members of the Rules Committee (of whom at least 1 was a Judge of the High Court), makes the following rules.

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Rules

1 Title

These rules are the High Court Amendment Rules (No 2) 2006.

2 Commencement

These rules come into force on 7 August 2006.

3 Principal rules amended

These rules amend the High Court Rules set out in Schedule 2 of the Judicature Act 1908.

4 Application of this Part

Rule 701 is amended by inserting the following subclause after subclause (2):

“(2A) In any case where an enactment provides for an appeal to the Court of Appeal with leave of the Court, this Part also applies to an application for that leave.”

5 New heading and rules 718E and 718F inserted

The following heading and rules are inserted after rule 718D:

“Applications for leave to appeal to Court of Appeal

“718E Time for making application for leave

“(1) In any case where an enactment provides that an appeal against a decision may be made to the Court of Appeal with leave of the Court, an application for that leave must be made to the Court within 20 working days after the decision is given.

“(2) A respondent who wishes to cross-appeal must apply for leave to cross-appeal within 10 working days after the date on which a copy of the appellant’s application for leave is served on the respondent.

“718F Form of application for leave

An application for leave to appeal or cross-appeal must be by interlocutory application.”

Diane Morcom,
Clerk of the Executive Council.

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 7 August 2006, amend the High Court Rules. In general terms, the amendments insert new rules governing the time and procedure for making an application to the Court for leave to appeal to the Court of Appeal in certain circumstances. Such applications were formerly governed by rules 13(2) and 14(1) of the Court of Appeal (Civil) Rules 2005. As a consequence, only the Court of Appeal could extend the time appointed in those rules for filing such an application in the Court. The revocation of those rules by the Court of Appeal (Civil) Amendment Rules 2006, which also come into force on 7 August 2006, and the insertion of these new rules mean that the Court's power under rule 6 to enlarge time will apply to these applications. Key features of the new rules are—

- they apply where an enactment provides for an appeal to the Court of Appeal with leave and that an application for that leave may be made to the High Court:
- an application to the Court for leave to appeal to the Court of Appeal must be filed within 20 working days after the decision appealed against is given:
- a respondent who wishes to cross-appeal must apply for leave to cross-appeal within 10 working days after the date on which the appellant's application for leave is served on the respondent:
- an application for leave to appeal or cross-appeal must be by interlocutory application.

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

Date of notification in *Gazette*: 6 July 2006.

These rules are administered by the Ministry of Justice.
