

SUPREME COURT RULES

(Incorporating Amendments up to March 2022)

(With case Law Reference)

Bar Association of Sri Lanka

SUPREME COURT RULES

(Incorporating Amendments up to 2022)
(With case Law Reference)

No.2090/16 of 2018.09.26

No.2091/58 of 2018.10.04

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Compiled by:
Bar Association of Sri Lanka
2021/2022

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23rd March 2022

MESSAGE FROM THE PRESIDENT

The publication of the e-version of the updated Supreme Court Rules together with judgments and orders on the application of such rules is timely.

I thank the Secretary of the Bar Association of Sri Lanka Mr. Rajeev Amarasuriya and his team for this publication.

I hope that these updated set of rules will be of benefit for members not only engaging in practice in the Appellate Courts but also those members engaged in practice in the other courts including the Provincial High Courts.



Saliya Pieris, PC
President
Bar Association of Sri Lanka

23rd March 2022

MESSAGE FROM THE SECRETARY

I take this opportunity to thank His Lordship Justice S. Thuraiaraja, PC, Justice of the Supreme Court for proposing last year that it would be beneficial if the BASL could update its compilation of the Supreme Court Rules together with the relevant Case Law.

It was thereafter that we embarked upon this initiative and I take this opportunity to thank very much Mr. Pasindu Silva, Assistant Secretary, BASL, Mr. Budhdhika Tilakaratne, AAL, Ms. Chamani Hatharasinghe, AAL, Ms. Shani Senarathne, AAL and Ms. Thara Devani, AAL for all the work put in and support given to complete this compilation.

I also take this opportunity to thank the BASL President Mr. Saliya Pieris, PC and the other Members of the Management Committee for the guidance provided.

We decided that we will have this publication in an E-Form which would be a convenient source of reference for our membership and those who wish to have a hardcopy have the option of printing same as well.



Rajeev Amarasuriya

Secretary

Bar Association of Sri Lanka

NEW COURT RULES

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Note: I. HIGH COURT (ADMIRALTY JURISDICTION)
RULES 1991 have not been reproduced. Please see Page 22

2. Copy of the Gazette of 10.1.1992 containing the notifications of five Orders of the Chief Justice fixing dates are reproduced below: -

Part II - Gazette of the Democratic Socialist Republic of Sri Lanka -No. 697 of 1992.01. 10

Supreme Court Notices
SUPREME COURT RULES-1990
Notification under Rule I

By virtue of the powers vested in me by Rule I of the Supreme Court Rules 1990, I Ginige Palinda Srilal de Silva, Chief Justice, do by this Notification appoint April 27, 1992 as the date on which Parts I, II, III and IV of the said Rules shall come into force.

Colombo,
16th December, 1991

G. P. S. de Silva,
Chief Justice.

THE COURT OF APPEAL (APPELLATE PROCEDURE) RULES- 1990
Notification under Rule 4 (I)

IT is hereby notified that the Chief Justice has determined that the provisions of Rule 4(1) shall apply with effect from April 27, 1992 to all classes and categories of appeals and applications, filed on or after the aforesaid date.

16th December, 1991. -

Private Secretary
to the Chief Justice.

THE SUPREME COURT RULES - 1990
Notification under Rule 44 (7) (C)

IT is hereby notified that the Chief Justice has directed that the provisions of Sub-Rule 7 of Rule 44 shall come into operation on April 27, 1992.

16th December, 1991

Private Secretary
to the Chief Justice.

THE COURT OF APPEAL (APPELLATE PROCEDURE) RULES - 1990
Notification under Rule 5 (5)

IT is hereby notified that the Chief Justice has specified December 31, 1991, as the date for the purposes of Sub-rule 5 of Rule 5 of the Court of Appeal (Appellate Procedure) Rules 1990.

16th December, 1991

Private Secretary
to the Chief Justice.

THE COURT OF APPEAL (APPELLATE PROCEDURE) RULES- 1990
Notification under Rule I

By virtue of the powers vested in me by Rule I of the Court of Appeal (Appellate Procedure) rules 1990, Ginige Palinda Srilal de Silva, Chief Justice, do by this notification appoint April 27, 1992 as the date on which Parts I, II, III, IV and V of the said Rules shall come into force.

Colombo

G. P. S. de Silva
Chief Justice.

THE COURT OF APPEAL (APPELLATE PROCEDURE) RULES- 2018
Notification under Rule 1

BY virtue of the powers vested in me by Rule 1 of the Court of Appeal (Appellate Procedure) Rules of 2018, I Wewage Priyasath Gerard Dep, Chief Justice, do by this notification /appoint 15th of October 2018 as the date on which the said Rules shall come into force.

Colombo, 06th October 2018

W. P. G. DEP,
Chief Justice.

SUPREME COURT RULES – 2018
Notification under Rule 1

BY virtue of the powers vested in me by Rule 1 of the Supreme Court Rules 2018, I, Jayantha Chandrasiri Jayasuriya, Chief Justice, do by this notification appoint 15th of October, 2020 as the date on which Rules 1, 3 and 4 of the Supreme Court Rules of 2018 shall come into force.

Colombo,
30th September, 2020

J. C. JAYASURIYA,
Chief Justice.

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THE COURT OF APPEAL (APPELLATE PROCEDURE) RULES 1990

THE COURT OF APPEAL (MEDIATION IN APPEAL) RULES 1990

THE MAINTENANCE OF RECORDS AND PREPARATION OF APPEAL BRIEFS RULES 1990

Published in the Gazettes of the Democratic Socialist Republic of Sri Lanka

(EXTRAORDINARY)

NO. 645/4 - TUESDAY, JANUARY 15, 1991

THE COURT OF APPEAL (APPELLATE PROCEDURE) RULES 1990

THE CONSTITUTION OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

RULES made under Article 136 of the Constitution of the Democratic Socialist Republic of Sri Lanka by the Chief Justice and the other Judges of the Supreme Court nominated by him under that Article.

1. K.A.P. Ranasinghe, Chief Justice.
2. G.P.S. de Silva, Judge of The Supreme Court.
3. M. Jameel, Judge of the Supreme Court.
4. Mark D. H. Fernando, Judge of the Supreme Court.

Colombo, 13th November, 1990.

1. These rules may be cited as the Court of Appeal (Appellate Procedure) Rules, 1990, and shall come into force on such date as may be appointed by the Chief Justice by Notification published in the Gazette. Different dates may be appointed in respect of different Parts of these rules.

PART I

GRANT OF INTERIM RELIEF BY COURT OF APPEAL

2. (l) Every application for a stay order, interim injunction or other interim injunction or other interim relief (hereinafter referred to as 'interim relief') shall be made with notice to the adverse parties or respondents (hereinafter in this rule referred to as 'the respondents') that the applicant intends to apply for such interim relief; such notice shall set out the date on which the applicant intends to support such application, and shall be accompanied by a copy of the application and the documents annexed thereto:

Provided that –

- (a) interim relief may be granted although such notice has not been given to some or all of the respondents if the Court is satisfied that there has been no unreasonable delay on the part of the applicant and that the matter is of such urgency that the applicant could not reasonably have given such notice; and
 - (b) in such event the order for interim relief shall be for a limited period not exceeding two weeks Sufficient to enable such respondents to be given notice of the application and to be heard in opposition thereto on a date to be then fixed.
- (2) Where the application for interim relief relates to a judgment given or order made in any action or proceeding pending in any other Court or tribunal, any notice required to be given to any person who is a party to such action or proceeding may be given to the registered attorney, in such action or proceeding, of such party.

- (3) Any order for interim relief shall be forthwith communicated by the Registrar to the persons, and the court or tribunal, concerned.
- (4) The provision of the preceding sub-rules shall apply to every application for the extension of an order for interim relief.
- (5) The Court may, in order to avoid or to mitigate hardship or possible hardship to any respondent, in the order granting, interim relief or by a subsequent order (made ex mero motu or upon the application of any respondent)-
 - (a) limit the period of operation of such order for interim relief;
 - (b) require the applicant to furnish forthwith or within a specified period security for (i) the costs which may be incurred by any respondent, (ii) the loss or damage which may be suffered by any respondent and (iii) the restitution to any respondent of any benefits obtained by virtue of such order, if such order is ultimately discharged; and
 - (c) impose such other terms and conditions as it thinks just.
- (6) Upon sufficient cause being shown an order for interim relief may be varied or set aside by the same or another bench or Judge, as the case may be of the Court. The failure to comply with an order under the preceding sub-rule shall constitute sufficient cause as aforesaid.
- (7) An appeal or application in respect of, or incidental to which an order for interim relief has been granted shall be heard and finally determined early.
- (8) The Court may direct the parties to file written submissions in respect of any matter relating to an order for interim relief, whether in respect of extension variation dissolution or otherwise and may thereupon deal with and determine such matter upon a consideration of such written submissions alone.

PART II APPLICATIONS

3. (1) (a) Every application made the Court of Appeal for the exercise of the powers vested in the Court of Appeal by Articles 140 or 141 of the Constitution shall be by way of petition, together with an affidavit in support of the averments therein, and shall be accompanied by the originals of documents material to such application (or duly certified-copies thereof) in the form of exhibits. Where a petitioner is unable to tender any such document, he shall state the reason for such inability and seek the leave of the Court to furnish such document later. Where a petitioner fails to comply with the provisions of this rule the Court may, ex mero motu or at the instance of any party, dismiss such application.
- (b) Every application by way of revision or restitutio in integrum under Article 138 of the constitution shall be made in like manner together with copies of the relevant proceedings (including pleadings and documents produced), in the Court of First Instance, tribunal or other institution to which such application relates.
- (c) In any Motion in respect of an application filed under Articles 138, 140 and 141 it shall be sufficient to have a short caption consisting only the name of the First Petitioner and the First Respondent if there are more than one Petitioner or one Respondent.
- (d) It shall be sufficient compliance of the rules 3 (1) (a) and 3 (1) (b) of the Court Appeal (Appellate Procedure) Rules 1990 when and if applicable if the petition and / or application contains an averment stating;
 - a. I swear/ affirm that the averments contained in the petition are true or I am advised to swear/ affirm that the contents of the Petition are true.
 - b. I hereby affirm/ swear from my own knowledge and upon perusing the documents available to me that the contents of the Petition are true.

No.2091/58 of
04.10.2018. (In)

No.2091/58 of
04.10.2018. (In)

- (2) The petition and affidavit, except in the case of an application for the exercise of the powers conferred by Article 141 of the Constitution shall contain an averment that the jurisdiction of the Court of Appeal has not previously been invoked in respect of the same matter. If such jurisdiction has previously been invoked the petition shall contain an averment disclosing relevant particulars of the previous application. Where any such averment as aforesaid is found to be false or incorrect the application may be dismissed.
- (3) Every application which is accepted and registered shall be listed for support in open Court within two weeks of registration.
- (4) Where upon such application being supported, the Court orders the issue of notice -
 - (a) the Court shall fix the date for the tendering by the petitioner of the requisite notices, together with such number of copies of his application as there are respondents, and stamped addressed envelopes for dispatch of such notices by registered post to the respondents, it being the duty of the petitioner to ensure the accuracy of such notices, copies and addresses; if no date is fixed by the Court, the petitioner shall tender such notices, copies and envelopes within two weeks;
 - (b) the Court shall fix the dates for the filing of statements of objections by the respondents, for the filing of counter affidavits by the petitioner, and for the hearing of the application; if any of such dates is not fixed by the Court, the following provisions shall apply: -
 - (i) a statement of objections shall be filed by each respondent within four weeks of the date of service of notice; -
 - (ii) counter-affidavits if any, shall be filed by the petitioner within four weeks of the date of receipt of the statement of objections; and
 - (iii) the date of hearing shall be fixed by the Registrar;
 - (c) the dates fixed by the Court, or specified in the preceding paragraph, shall not be varied by the Registrar except upon a consent motion signed by all the parties or their Attorneys-at-law. Any party may by motion apply for variation without such consent after giving notice thereof (including notice of date on which such motion will be supported) to all other parties; such application shall be dealt with by a single judge in Chambers, who may, however direct that the matter be dealt with in open court.
- (5) Every respondent who lodges a statement of objections, and every petitioner who lodges a counter affidavit shall forthwith serve a copy thereof, together with any supporting affidavit and exhibits on every other party (other than a party who waives the right to receive the same).
- (6) The petitioner and the respondents shall also lodge in court two sets of copies of the petition, or statement of objections or counter affidavit, as the case may be, including any supporting affidavits and exhibits.
- (7) Upon an application being registered, the respondent shall be entitled to take notice of it, and file a statement of objections at any time before the date fixed by Court for filing objections. A statement of objections containing any averments of fact shall be supported by an affidavit in support of such averments.
- (8) A party may, with the prior permission of the Court, amend his pleadings, or file additional pleadings affidavits or other documents, within two weeks of the grant of such permission, unless the Court otherwise directs. After notice has been issued, such permission shall not be granted ex parte.
- (9) Where the Court orders the deposit of any sum of money as security, such sum will be deposited in such manner and within such time as may be directed by the Court.
- (10) Where an order or notice is required to be served on any party, such service shall ordinarily be effected by registered post.

- (11) All notice tendered to the Registrar, shall be issued or re-issued, where necessary, returnable on a date within two weeks, unless the Court otherwise directs. Where a notice is returned undelivered, the Registrar shall take steps to ascertain from the petitioner the correct address and such other particulars as may be necessary, and shall take all necessary steps to ensure that notice is duly served.
- (12) Any motion for substituted service by any party, shall be supported by affidavit and filed within two weeks of the receipt by the Registrar of the report of non-service of notice, and shall be dealt with by a single Judge in Chambers, who may, however, direct that the matter be dealt with in open court.
- (13) It shall be the duty of the petitioner to take such steps as may be necessary to ensure the prompt service of notice, and to prosecute his application with due diligence.
- (14) Where the parties fail to comply with the requirements set out in the preceding rules, the Registrar shall without any delay, list such application for an Order of Court.
- (15) These rules shall also apply, mutatis mutandis, to applications made to the Court under any provision of law, other than Articles 138, 140 and 141 of the Constitution, subject to any directions as may be given by the Court in any particular case.
- (16) Every notice under sub-rule (14) of this rule shall be substantially in the following form: -

**IN THE COURT OF APPEAL OF THE REPUBLIC OF
SR LANKA**

C. A. Application,

(CAPTION)

No. of 19

To: [Number. name and address of respondent]

WHEREAS upon consideration of this application (a copy of which is annexed) the Court on . . . ordered notice to be issued to you to enable you to show cause why the prayer of the petitioner/s should not be allowed:

AND WHEREAS the Court further ordered that . . . [set out the terms of any order granting interim relief].

In terms of Rule 3 (4) of the Court of Appeal (Appellate Procedure) Rules, 1990

- (a) you are required to lodge your statement of objections on or before . . . (OR within four weeks of the date of service of this notice) **; such statement must comply with the provisions of sub-rules (5) and (6).
- (b) the Petitioner is required to file his. Counter affidavit, of any, on or before . . . (OR within four weeks of the date of receipt of the statement of objections) **; and
- (c) the application will be taken up for hearing on....

By order of the Court of Appeal
Registrar/Deputy/Assistant Registrar.

Thethe day of 199....

(**delete whatever is inapplicable)

Note: Rule 3 (4) (c) provides as follows:

[reproduce the text of Rule 3 (4) (c)].

PART III
WRITTEN SUBMISSIONS IN THE COURT OF APPEAL

4. (1) This rule shall apply to such classes or categories of appeals and applications and to appeals and applications of any class or category filed on or after a specified date or during a specified period, as the Chief Justice may from time to time determine, with effect from such date or dates as may be specified by him.
- (2) No party to an appeal shall be entitled to be heard unless he has previously lodged three copies of his written submissions (hereinafter referred to as “submissions”), complying with the provisions of this rule.
- (3) The submissions shall be typewritten, printed or lithographed, and shall be in the form of paragraphs numbered consecutively.
- (4) The submissions of the appellant or petitioner shall contain as concisely as possible -
- (a) a chronological statement of relevant facts, referring to the evidence both oral and documentary, (and wherever possible the pages of the brief or record at which such evidence appears), indicating also which facts are agreed, or have been established, or are otherwise no longer in dispute, and which facts are disputed;
 - (b) the questions of law or the matters which are in issue in the appeal or application;
 - (c) a specification of the errors alleged to have been committed by the Court or tribunal in respect of the judgment or order of which the appeal or application has been filed; and in relation to each such question of law or matter in issue, the citations or references to all the authorities (including judicial decisions, text books, statutes and subordinate legislation) relied on to justify the reversal, variation or affirmation of the said judgment or order (or any part thereof); and
 - (d) a conclusion specifying the relief which the appellant or petitioner claims.
- (5) The submissions of the respondent shall contain as concisely as possible
- (a) statement in reply to the appellant’s or petitioner’s statement of facts, confirming whether, and if not to what extent, the respondent agrees with such statement of facts; and a statement of the other relevant facts, referring to the evidence, both oral and documentary, (and wherever possible the pages of the brief or record at which such evidence appears), indicating which of such facts, according to the respondent, have been established or are otherwise no longer in dispute, and which facts are disputed;
 - (b) the questions of law or the matters which are in issue in the appeal or application;
 - (c) in relation to each such question of law or matter in issue the citations or references to all the authorities (including judicial decisions, text books, statutes and subordinate legislation) relied on for the dismissal of the appeal or application or to justify the affirmation of the judgment or order (or any part thereof) to which the appeal or application relates; and
 - (d) a conclusion specifying the relief which the respondent claims.
- (6) Where a party fails to lodge submissions, or lodges submissions which are not in substantial compliance with the foregoing provisions, the Court may restrict the duration of the oral submissions of such party at the hearing of the appeal or application to 45 minutes.
- (7) The appellant shall within six weeks of the filing of the petition of appeal, and the petitioner within six weeks of the filing of the respondent’s statement of objections, (as the case may be) lodge his submissions at the Registry, and shall forthwith give notice thereof to each respondent by serving on him a copy of such submissions.
- (8) The respondent shall within six weeks of the receipt of notice of the lodging of the appellant’s or petitioner’s submissions, lodge his submissions at the Registry, and shall forthwith give notice thereof to the appellant and to every other respondent, by serving on each of them a copy of such submissions. Where the appellant or petitioner
-

has failed to lodge his submissions as required by sub-rule (7), the respondent shall lodge his submissions within twelve weeks of the filing of the petition of appeal, or the respondents statement of objections (as the case may be), giving notice in like manner.

- (9) Every party shall tender to the Registrar. not less than one week before the date first fixed for the hearing of an appeal or application, a complete list of the authorities which he proposes to refer to or rely on at the hearing so as to ensure that there is full disclosure and to preclude surprise, together with at least one set of copies or photocopies of such authorities or relevant portions thereof (other than statutes of Sri Lanka, subordinate legislation published in the Subsidiary Legislation Of Ceylon, Law Reports published in Sri Lanka, and such other authorities as may be specified by the Chief Justice from time to time).
- (10) A party shall not be obliged to file submissions in conformity with the provisions of the preceding sub-rules, if
- (a) the duration of the oral submissions on behalf of such party at the hearing of the appeal or application will be confined to a period of 45 minutes;
 - (b) the oral submissions of such party at the hearing of the appeal or application will be confined to questions of fact, which are notified to the Court not less than one month before the date first fixed for the hearing of an appeal or application;
 - (c) the matters required to be set out by way of written submissions have been set out in the petition of appeal, or petition, or some other pleading or document already filed, and this fact is notified to the Court not less than one month before the date first fixed for the hearing of an appeal or application;
 - (d) the appeal or application involves only such questions or matters as the Chief Justice may specify from time to time by direction.
- (11) Where all the parties to any appeal or application, (whether pending on the date when this rule comes into operation or instituted subsequently), agree that such appeal or application may be dealt with and determined solely on the basis of written submissions the court shall thereupon make order for the filing of written submissions, if not already filed, or further written submissions if necessary, and may thereupon determine such matter without hearing oral submissions.
- (12) Where parties agree that a pending appeal or application involves a substantial question of law of such a nature that it will in any event (whether the appeal or application be allowed or dismissed) be the subject of an appeal to the Supreme Court, and that according to the precedents then binding on the Court of Appeal, the appeal or application must be allowed (or dismissed, as the case may be) it shall be lawful for parties to agree that the Court of Appeal may, pro forma, allow (or dismiss, as the case may be) such appeal or application without any further hearing, and grant leave to appeal to the Supreme Court upon such question of law, and the Court of Appeal may make an order accordingly. The parties shall thereupon file written submission in conformity with the Supreme Court rules (unless written submission have already been filed in accordance with the preceding provisions of this rule), and the matter shall thereupon be heard and determined by the Supreme Court as if it were an appeal duly lodged and perfected in conformity with the Supreme Court Rules, 1990.

PART IV

APPLICATION TO WHICH PUBLIC OFFICERS ARE RESPONDENTS

5. (1) This rule shall apply to applications under Articles 140 and 141 of the Constitution, in which a public officer has been made a respondent in his official capacity, (whether on account of an act or omission in such official capacity, or to obtain relief against him in such capacity, or otherwise).
- (2) A public officer may be made a respondent to any such application by reference to his official designation only (and not by name), and it shall be accordingly be sufficient to describe such public officer in the caption by reference to his official designation or office held by him, omitting reference to his name. If a respondent cannot be sufficiently identified in the manner it shall be sufficient if his name is disclosed in the averments in the petition.

- (3) No such application shall be dismissed on account of any omission, defect or irregularity in regard to the name designation, description, or address of such respondent, if the Court is satisfied that such respondent has been sufficiently identified and described, and has not been misled or prejudiced by such omission, defect or irregularity. The Court may make such order as it thinks fit in the interests of justice, for amendment of pleadings fresh or further notice, costs, or otherwise in respect of any such omission, defect or irregularity.
- (4) (a) In respect of an act or omission done in official capacity by a public officer who has thereafter ceased to hold such office, such application may be made and proceeded with against his successor, for the time being, in such office, such successor being made a respondent, by reference to his official designation only, in terms of sub-rule (2).
- (b) If such an application has been made against a public officer, who has been made a respondent by reference to his official designation (and not by name), in respect of an act or omission in his official capacity and such public officer ceases to hold such office, during the pendency of such application, such application may be proceeded with against his successor, for the time being, in such office, without any addition or substitution of respondent afresh, proxy or the issue of any notice, unless the Court considers such addition substitution, proxy or notice to be necessary in the interests of justice. Such successor will be bound, in his official capacity, by any order made, or direction given, by the Court against, or in respect of, such original respondent.
- (c) Where such an application has been made against a public officer, who has been made a respondent by reference to his official designation (and not by name), and such public officer ceases to hold such office after the final determination of such application, but before complying with the order made or direction given therein, his successor, for the time being, in such office will be bound by and shall comply with, such order or direction.
- (5) The provisions of sub-rules (4) (b) and (4) (c) shall apply to an application under Article 140 or 141, filed before such date as may be specified by the Chief Justice by direction, against a public officer, in respect of an act or omission in his official capacity, even if such public officer described in the caption both by name and by reference to his official designation.
- (6) Nothing in this rule shall be construed as imposing any personal liability upon a public officer in respect of the act or omission of any predecessor in office.
- (7) In this rule, "ceases to hold office" means "dies, or retires or resigns from, or in any other manner ceases to hold office".
- (8) For the purposes of this rule "Public Officer" shall mean, a person who holds any paid office under the Republic other than a judicial officer and shall include,
- (i) A person holding any office in a Public Corporation
- (ii) A Minister of the Government or Provincial Minister of any Province
- (iii) A member of a commission referred to in the Schedule to Article 41 B of the Constitution
- (iv) A member of a Commission appointed under and in terms of the provisions of the Commission of the Inquiry Act as amended
- (v) A member of a Commission appointed under the Special Presidential Commission of Inquiry Act No. 7 of 1978 as amended and/ or any member of a commission appointed under any other law other than the Commission of Inquiry Act as amended.

No. 2091/58 Of
04.10.2018. (In)

PART V
POSTPONEMENTS

6. (l) Where an appeal, application or other matter pending in the Court of Appeal is fixed for consideration or hearing on a date which has been notified to the Court (in accordance with the procedure then prevailing) as being a “free date” of an Attorney-at-law, and such matter has been duly placed on the list of cases for that date, such Attorney-at-law shall not be entitled to -

(a) an adjournment or postponement of such matter on the ground that he is engaged in a court of first instance or other tribunal, or that he is not ready;

Or

(b) to an adjournment or postponement of any appeal, application, action or other proceeding in any other court or tribunal on the ground that he is engaged in the Court of Appeal.

Provided that nothing herein contained shall prejudice or affect the discretion of the Court of Appeal, or other court or tribunal to grant a postponement or adjournment on that ground.

- (2) When an application is made by an Attorney-at-law for an adjournment or postponement on personal grounds, the specific reason shall be notified to the Court; if for good cause, such reason cannot be disclosed in open court, it must be notified to the Judge or bench in Chambers. An application on personal grounds must be made as soon as the need for a postponement or adjournment becomes known, and may be refused if delayed unreasonably.

“Personal grounds” shall mean illness of such a nature which prevents an Attorney-at-law from getting ready for, or from appearing at, the hearing, illness of close family members of such a nature, or in such circumstances, as to reasonably prevent him from appearing; travel abroad for medical, official or professional reasons; a bereavement in the family; an important family social occasion; and other like circumstances which are both personal and urgent.

- (3) An application for a postponement on any ground, shall be made as soon as the need for such postponement becomes known, and shall be made (as far as practicable) with notice to the other parties, together with dates convenient for the postponed hearing.

PART VI

1. Every Petitioner who files any application under Article 138, 140 and 141 of the Constitution to the Court of Appeal shall file together with such application, a memorandum as set out in the schedule of these rules nominating at least one person and not more than three persons in order of preference to be his legal representative for the purpose of prosecuting his application in the event of the Applicant’s death and/ or change of status in cases where the application and / or appeal survives the death and/ or change of status of the petitioner.
2. Every Respondent when tendering an appearance shall file a memorandum as set out in the schedule of these rules nominating at least one person and not more than three persons in order of preference to be his legal representative for the purpose of prosecuting his application in the event of the Respondent’s death and/ or change of status.
3. If the Petitioner does not file such a memorandum the Court may dismiss the application in the event of the death of the Petitioner or the change of status of the Petitioner.
4. If the Respondent does not so file a memorandum the court may proceed to hear and determine the application without substituting a legal representative in the place of the Respondent.
5. Every Petitioner and/ or Respondent within three months from filing any application to the Court of Appeal file a document which expresses written consent of the person and/ or persons nominated to be the legal representative of the Petitioner or the Respondent in the event of the death or the change of status of the Petitioner or the Respondent.

6. Every Petitioner and/ or Respondent who does not do so may face the consequences set out above.
7. The Petitioner/ Applicant shall within one month of change to the caption being necessitated amend the caption.
8. If the Petitioner/ Applicant fails to do so the Court may dismiss the application/ petition.
9. This rule does not apply to a public officer who files any application in his official capacity or cited as a respondent in his official capacity.

The Court of Appeal (Mediation in Appeals) Rules 1990

THE CONSTITUTION OF THE DEMOCRATIC. SOCIALIST REPUBLIC OF SRI LANKA

RULES made under Article 136 of the Constitution of the Democratic Socialist Republic of Sri Lanka by the Chief Justice and the other Judges of the Supreme Court nominated by him under that Article.

1. K.A.P. Ranasinghe, Chief Justice.
2. G.P.S. de Silva, Judge of the Supreme Court.
3. M. Jameel, Judge of the Supreme Court.
4. Mark D.H. Fernando, Judge of the Supreme Court.

Colombo, 13th November, 1990.

1. These rules may be cited as the Court of Appeal (Mediation in Appeals) Rules, 1990, and shall come into force on such date as may be appointed by the Chief Justice (hereinafter referred to as "the appointed date") by Notification published in the Gazette.
2. (1) These rules shall apply to -
 - (a) all appeals preferred, after the appointed date, to the Court of Appeal from such courts of first instance and tribunals (hereinafter referred to as "courts"), established for such areas as may be determined by the Chief Justice from-time to time; provided that any such determination may be restricted to appeals in such classes or categories of cases as may be determined by him, or to appeals filed on or after a specified date, or during a specified period, as may be determined by him;
 - (b) all appeals, preferred before the appointed date, to the Court of Appeal from such courts established for such areas, and in such classes or categories of cases, as may be determined by the President of the Court of Appeal from time to time.
- (2) In making a determination under sub-rule (1) the Chief Justice or the President of the Court of Appeal, as the case may be, shall have regard, inter alia, to the number of appeals of any class or category of appeals, and the number of appeals preferred from any court established for any area, pending in the Court of Appeal on the date of such determination, and the availability of Mediators to mediate in such appeals.
- (3) No such determination shall be made with respect to any appeal preferred against a conviction, sentence or order entered, imposed or made, by a court exercising criminal jurisdiction. .
- (4) An appeal with respect to which a determination has been made under sub-rule (1) is hereinafter referred to as "an appeal to which these rules apply".
3. The President of the Court of Appeal shall nominate a Judge of the Court of Appeal as the Mediator to mediate in respect of any appeal or class or category of appeals to which these rules apply.

4. (1) Where an appeal to which these rules apply has been preferred to the Court of Appeal from any judgment of any court, the Registrar of such court shall, upon receipt of the notice of appeal in respect of such appeal, issue a notice in writing to the parties to such appeal requiring them to appear before the Mediator nominated under these rules in respect of such appeal.
 - (2) Where an appeal to which these rules apply has been preferred to the Court of Appeal from any order of a court, the Registrar of the Court of Appeal shall, upon the filing of the petition of appeal in respect of such appeal, issue a notice in writing to the parties to such appeal requiring them to appear before the mediator nominated under these rules in respect of such appeal.
 - (3) It shall be the duty of a party to an appeal to which these rules apply to appear before the mediator nominated in respect of such appeal when required to do so by a notice sent under sub-rule (1) or (2) of this rule, at the date, time and, place therein specified, and to permit himself to be examined by such Mediator.
 - (4) in this rule “judgment” has the same meaning as in section 754 of the Civil Procedure Code.
5. A mediator appointed to mediate in an appeal to which these rules apply shall assist the parties to such appeal to arrive at a settlement, compromise or other agreement (hereinafter referred to as a “settlement”) with regard to the matters in issue in such appeal and may, for that purpose, suggest the terms of a settlement which in his view are reasonable in all the circumstances of the case:
- Provided that nothing in these rules shall be read or construed as requiring such parties to accept any settlement suggested by such Mediator.
6. (1) Where in the course of proceedings before a Mediator a settlement is arrived at in regard to all or some of the matters in issue in any appeal to which these rules apply, the Mediator shall cause the terms of such settlement to be reduced to writing and to be signed by such of the parties to the appeal as agree to such settlement. The Mediator shall countersign such settlement. Copies of the settlement shall be issued by him to each of the parties to such appeal.
 - (2) Such settlement shall be binding on the parties who have agreed to its terms, and the Court of Appeal shall give effect thereto as respects such parties, but without prejudice to the rights of the parties who have not agreed thereto.
7. The Mediator may adopt any procedure which he thinks fit for the purpose of enabling the parties, or some of them, to reach a settlement. He may accordingly discuss the questions of fact and law involved in the appeal, and all matters connected therewith, with all the parties in person and/or with their Attorneys-at-law, or separately with one or more of the parties, with or without their Attorneys-at-law being, present. He may himself suggest a basis for settlement, or may ascertain the terms on which one or more of the parties are willing to settle; he may do so on the understanding that certain matters or terms, disclosed to or discussed with him, will not be disclosed to any other party.
8. It shall be lawful for the parties to reach an agreement as to what questions of fact and law are admitted by them for the purpose of the appeal, and what questions are disputed; and that all or any of such questions may be determined by the Court of Appeal wholly or mainly on the basis of written submissions, without prejudice to the right of the Court to call for oral submissions.
9. Where the Mediator has -
- (a) discussed any question of fact or law separately with one or more of the parties, or their Attorneys-at-law, in the absence of one or more of the other parties and their Attorneys-at-law; or
 - (b) suggested a basis for settlement or ascertained the terms on which one or more of the parties are willing to settle, on the understanding that certain matters or terms, disclosed to or discussed with him, will not be disclosed to any other party.

but the parties fail to reach a settlement, he shall be disqualified from participating in the hearing of the appeal by the Court of Appeal.

The Maintenance of Records and Preparation of Appeal Briefs Rules 1990

THE CONSTITUTION OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

Rules made under Article 136 of the Constitution of the Democratic Socialist Republic of Sri Lanka by the Chief Justice and the other Judges of the Supreme Court nominated by him under that Article.

1. K.A.P. Ranasinghe, Chief Justice.
2. G.P.S. de Silva, Judge of the Supreme Court.
3. M.Jameel, Judge of the Supreme Court.
4. Mark D.H. Fernando, Judge of the Supreme Court.

Colombo, 13th November, 1990.

1. These rules may be cited as the Maintenance of Records and Preparation of Appeal Briefs Rules, 1990, and shall come into force on such date as may be appointed by the Chief Justice by Notification published in the Gazette.
 2. For the purpose of ensuring uniformity and efficiency in regard to the maintenance of the records of courts of first instance and tribunals (hereinafter referred to as "courts"), and the preparation of copies thereof, the Chief Justice may from time to time give directions to any such court as the manner in which its records, or any class or category thereof, shall be maintained.
 3. Where copies of the record, or part thereof, of any matter or proceeding in any court is required for the purpose of an appeal or other proceeding in the Court of Appeal, such copies may be prepared by photocopying. All courts shall maintain their records in such a manner as to facilitate the preparation of such copies by photocopying.
 4. A party to an appeal or other proceeding in the Court of Appeal may, in order to expedite the preparation of the briefs required for the use of the parties and the Judges, undertake to bear the additional costs, if any, that may be incurred by reason of copies of the record, or any part thereof, having to be prepared by means of photocopying. Upon payment of such additional costs, such copies shall be prepared by photocopying, and the required number of briefs shall thereupon be prepared as expeditiously as possible.
 5. (I) The record in any civil action or proceeding in any such court shall ordinarily be maintained in eleven parts, the folios in each such part being arranged chronologically and numbered separately:
 - Part A: the notice of appeal and the petition of appeal;
 - Part B: the journal entries, commencing with the caption sheet in which shall also be entered all amendments to the caption;
 - Part C: the stamp sheet and the accounts sheet;
 - Part D: commission and requisition papers, and returns to commissions, (including survey plans and reports, reports of the Government Analyst, the Examiner of Questioned Documents, medical practitioners, radiographers, accountants, auditors, valuers, and other experts, reports and awards of arbitrators, and evidence recorded de bene esse or on commission);
 - Part E: the pleadings, including all preliminary, interlocutory and pre-trial applications;
 - Part F: the proceedings, including the issues, the transcript of the oral evidence and of the oral submissions, and the written submissions, if any;
 - Part G: orders, judgment and decrees;
 - Part H: the documents produced by each party, arranged in sequence of production;
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Part I: application for execution, and the record of the Proceedings relating to execution, including orders made therein;

Part J: security bonds; and

Part K: motions, process, and other documents.

- (2) Where the record is so maintained, a party to an appeal or other proceeding in the Court of Appeal shall not be required to obtain copies of the record, but may for all purposes use and refer to the copies of the pleadings, proceedings, orders, judgment and other documents served, used or obtained in the original court, provided such copies are accurate copies of the relevant parts of the record and are arranged and numbered exactly as in the record.

THE COURT OF APPEAL (ASSIGNED COUNSEL) RULES 1991

Published in the Gazette of the Democratic Socialist Republic of Sri Lanka EXTRAORDINARY No. 672/7 - WEDNESDAY, JULY 24, 1991.

THE CONSTITUTION OF THE DEMOCRATIC SO-CIALIST REPUBLIC OF SR1 LANKA

Rules made under Article 136 of the Constitution of the

Democratic Socialist Republic of Sri Lanka, read with section 453 of the code of Criminal Procedure Act, No. 15 of 1979. by the Chief Justice and the other Judges of the Supreme Court nominated by him under that Article.

1. K.A.P. Ranasinghe, Chief Justice.
2. G.P.S. de Silva, Judge of the Supreme Court.
3. Mark D.H. Fernando, judge of the Supreme Court.
4. A.R.B. Amerasinghe, Judge of the Supreme Court.

Colombo, 11th February 1991.

- I. These rules may be cited as the Court of Appeal (Assigned Counsel) Rules, 1991.
2. Attorneys-at-Law assigned by the Court of Appeal under the provisions of the Code of Criminal Procedure Act, No. 15 of 1979, shall be entitled to the following fees

Court of Appeal: appeals from High Courts	Rs. 750.
Court of Appeal: other appeals	Rs. 500.

THE HIGH COURT (ADMIRALTY JURISDICTION) RULES 1991

NOTE: RULES made under Article 136 of the Constitution of the Democratic Socialist Republic of Sri Lanka read with Section 11 (3) of the Admiralty Jurisdiction Act, No.40 of 1983 made by the Chief Justice and the other Judges of the Supreme Court nominated by him under that Article, to be cited as the HIGH COURT (ADMIRALTY JURISDICTION) RULES 1991 were also published in the Gazette of the Democratic Socialist Republic of Sri Lanka Extraordinary No. 672/7 of Wednesday, July 24, 1991. Those are not reproduced here for want of space. Those wishing to obtain copies of these rules are kindly requested to write to the BASL office.

The Court of Appeal (Electronic Filing and Urgent Digital Virtual Hearings) (Special Provisions) Rules, 2021

Published in the Gazette of the Democratic Socialist Republic of Sri Lanka Extraordinary No. 2216/08 of Tuesday 23rd February, 2021.

THE CONSTITUTION OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

The Court of Appeal Rules

RULES made under Article 136 of the Constitution of the Democratic Socialist Republic of Sri Lanka by the Chief Justice and the other Judges of the Supreme Court nominated by him under that Article.

JAYANTHA JAYASURIYA,
Chief Justice.

B. P. ALUVIHARE,
Judge of the Supreme Court.

P. PADMAN SURASENA,
Judge of the Supreme Court.

YASANTHA KODAGODA,
Judge of the Supreme Court

Colombo,
22nd February, 2021.

RULES

1. These rules may be cited as the Court of Appeal (Electronic Filing and Urgent Digital Virtual Hearings) (Special Provisions) Rules, 2021 and shall come into operation with effect from March 1, 2021.
2. Without prejudice to the generality of the provisions of the Court of Appeal (Appellate Procedure) Rules, 1990 published in Gazette Extraordinary No. 645/4 of January 15, 1991, Court of Appeal (Procedure for appeals from High Courts established by Article 154P of the Constitution) Rules, 1988 published in Gazette Extraordinary No. 549/6 of March 13, 1989, as amended from time to time (hereinafter referred to as the “existing rules”) and any other written law applicable to applications and appeals in the Court of Appeal, these rules shall apply for-
 - (a) electronic filing of applications, appeals, motions and other documents pertaining to such applications and appeals, in the Court of Appeal; and
 - (b) conducting urgent digital virtual hearings by the Court of Appeal with regard to applications, appeals and motions, filed under any written law including these rules and existing rules, deemed to be urgent in terms of rule 3.
3. An application, appeal or a motion filed under any written law including these rules and existing rules shall be deemed to be urgent, if the Judge of the Court of Appeal designated in that behalf by the President of the Court of Appeal, having regard to the inability to conduct conventional physical hearings due to any reason prejudicial to national security, public safety or the order and security within the precincts of the Court of Appeal, and the need to make available the smooth and uninterrupted administration of Justice by the Court of Appeal in urgent cases during the aforesaid inability, considers that such application, appeal or motion requires an urgent digital virtual hearing (hereinafter referred to as the “digital hearing”) in terms of these rules.
4.
 - (1) A person who intends to file an application or appeal in the Court of Appeal electronically or a party to an application or appeal already filed in the Court of Appeal under any written law including existing rules who intends to file other documents pertaining to such application or appeal in the Court of Appeal electronically, may, by himself or through an attorney-at-law acting on his behalf submit through electronic mail to the Registrar of the Court of Appeal (hereinafter referred to as the “Registrar”) the application, appeal or other documents along with a motion addressed to the President of the Court of Appeal and other Judges of the Court of Appeal.
 - (2)
 - (a) An applicant, appellant or other party to any case or matter in the Court of Appeal (hereinafter referred to as the “party”) who seeks to have a digital hearing shall file a motion electronically, as specified in sub-rule (1), by himself or through an attorney-at-law acting on his behalf.
 - (b) Such motion shall inter-alia state specifically and in detail the reason which warrants and justifies the hearing of the application, appeal or motion by a digital hearing and such motion shall contain the full name and contact details including the electronic mail address and mobile telephone number of the party seeking such hearing or such details of an attorney-at-law with whom the Registrar may contact for making arrangements for the digital hearing.
 - (3) The provisions of existing rules shall apply to every application, appeal, motion or other document referred to in sub-rules (1) and (2) in so far as such provisions are not inconsistent with these rules.
 - (4) Every application, appeal, motion or other document referred to in sub-rules (1) and (2) shall -
 - (a) be computer generated on A4 size page setting, with 4cm margins on left and right sides and 2cm top and bottom borders of the page using font size 12 of Times New Roman with 1.5 line spacing;
 - (b) accompany documents in compliance with the existing rules, including signatures or certifications where required;
 - (c) be prepared and scanned without any watermark and whenever possible be at 300 dots per inch (dpi) with optical character recognition (OCR);

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- (d) be amalgamated wherever possible into a single portable document format (PDF) file with the page number at the bottom of every page in a single series, commencing from the covering motion; and
 - (e) in the event of an application, appeal, motion, other documents or attachments thereunder exceeding file size 20 MB, such application, appeal, motion, other documents or attachments shall be split into multiple PDF files as may be required to achieve the designated file size, and be submitted through one or more electronic mails or stored in a suitable data storage web based mechanism such as 'cloud storage' and necessary access to such storage mechanism be provided through electronic mail to the Registrar.
- (5) The party or an attorney- at- law filing documents electronically in terms of these rules shall retain the hard copies of such documents so filed in the safe custody of such party or the attorney- at- law as the case may be, and submit them to the Registrar on the direction of the Court of Appeal.
5. (1) A Judge of the Court-of Appeal designated in that behalf by the President of the Court of Appeal sitting in chambers shall consider motions filed electronically in the Court of Appeal under rule 4, and where necessary, the applications, appeals or other documents filed therewith and decide whether such applications, appeals or motions shall be taken up for digital hearing.
- (2) Where it appears to the satisfaction of such Judge that the matter pertaining to any motion filed electronically in the Court of Appeal is urgent within the meaning of rule 3 and it is expedient to refer such matter for a digital hearing, he shall make an appropriate direction to the Registrar to arrange a digital hearing pertaining to such matter.
- (3) It shall be the duty of the Registrar to comply with the provisions specified in rule 6 in order to make arrangements for a digital hearing.
6. (1) The Registrar shall require the party or the attorney-at-law who has been nominated by the party -
- (a) to pay the relevant fees applicable in respect of electronic filing and digital hearing, and submit proof of payment to the Registrar;
 - (b) to notify all the parties to such application or appeal, regarding the filing of the application, appeal or the motion, in the manner specified by the Registrar, and to submit proof of such notice to the Registrar.
- (2) The Registrar, shall not process any such application, appeal or motion unless he is satisfied that the party or the attorney- at- law, as the case may be, has acted in compliance with sub-rule (1) (a).
- (3) Where the party or the attorney- at- law fails to comply with the preceding provisions of this rule at the first instance, such party or the attorney- at- law shall be notified by the Registrar through electronic mail that such application, appeal or motion will not be processed unless he acts in compliance with this rule within a period specified in such notification.
- (4) Where the party or the attorney- at- law fails to comply with the notification of the Registrar within the period specified in such notification, the application, appeal or motion shall be forwarded to the Judge referred to in rule 5 for an appropriate direction.
- (5) Where it has been decided under sub- rule (2) of rule 5 that any motion filed under rule 4 warrants a digital hearing and the party or the attorney- at- law, as the case may be, complies with the provisions of this rule, the Registrar shall fix a date and time for the digital hearing on the direction of the Judge referred to in rule 5.
- (6) The date and time fixed for the digital hearing shall be informed either through electronic mail or by telephone to the Judges designated by the President of the Court of Appeal to hear the case or matter and to the parties or to their attorneys-at-law, as the case may be.
7. (1) With the view to ensuring the conduct of a proper digital hearing, every party shall ensure that-
- (a) the digital hearing be conducted using a real time contemporaneous or near contemporaneous internet based video conferencing platform specified by the Registrar; '
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- (b) he shall be equipped with a properly functioning computer with a web cam, microphone and a speaker when participating in a digital hearing;
 - (c) a suitable and quiet location be used when participating in the digital hearing and shall locate himself in a place which has a non-descriptive and plain background behind him that will be displayed on the screen;
 - (d) he be available online at least fifteen minutes prior to the scheduled time of the digital hearing, in order to verify the proper functioning of the internet connection and network among all parties in order to commence the digital hearing.
- (2) An attorney- at- law who participates in the digital hearing shall use his name with surname as the “display name”.
8. (1) The following persons shall be entitled to participate at a digital hearing: -
- (a) attorneys- at- law of the respective parties ;
 - (b) parties to the application, appeal or motion or their authorized representatives with the permission of the Court of Appeal obtained through their attorneys-at- law, who may observe the proceedings of the digital hearing, by remaining in the vicinity of the computer used by such attorneys-at-law;
 - (c) parties to the application, appeal or motion not represented by an attorney- at- law; and
 - (d) officials of the Court of Appeal.
- (2) All such Persons are required to inform the Registrar of their names, identification details and contact details, prior to the commencement of the proceedings of the digital hearing, including details of persons not captured within the video frame:
- Provided however, every endeavor shall be made to have all the persons present, to be seated within the range of the web cam of the computer.
- (3) A person shall not attend or be present in the vicinity of a digital hearing unless the prior permission of the Court of Appeal has been obtained for such attendance or presence.
 - (4) A person shall not address the Court or display any matter for the attention of the Court without obtaining prior permission from such Court.
 - (5) The parties shall ensure that the webcam of the computer and the “video” option in the video conferencing platform remains turned “on” at all times during the digital hearing, unless prior permission is obtained from the Court.
 - (6) All persons are strictly prohibited from recording, copying, storing, sharing, broadcasting, telecasting or otherwise transmitting the whole or part of a digital hearing in the form of a video, audio, digital or in any other form.
 - (7) All parties taking part in a digital hearing shall remain online until the Court concludes the hearing: Provided however, a party may leave the venue from which he is participating in the digital hearing, or switch “off” the “video” option, with the prior permission of the Court.
 - (8) A party may seek permission from the Court to adjourn the digital hearing, if such party undergoes any difficulty which requires technical assistance, until such difficulty is resolved or an alternate system is implemented with the permission of the Court.
 - (9) Proceedings relating to an application, appeal or a motion commenced or dealt with in a digital hearing, may be subsequently proceeded with, either as a further session of digital hearing or as a conventional physical hearing.
9. (1) Subject to the provisions of section 350 of the Code of Criminal Procedure Act, No. 15 of 1979, the Court of Appeal may permit a remand prisoner, a convicted prisoner or a person detained at a detention facility in terms of any written law, to observe through a contemporaneous or near contemporaneous audio-visual linkage, the

- proceedings instituted by, on behalf of, or relating to such prisoner or person, conducted under these rules either as a digital hearing or a conventional physical hearing.
- (2) The Registrar shall make necessary arrangements in the Court to facilitate the proceedings to be observed as referred to in sub-rule (1).
- (3) The Superintendent of the prison wherein such prisoner is detained or the officer-in-charge of the detention facility wherein such person is detained, shall in consultation with the Registrar provide necessary facilities to such prisoner or person being detained, to observe the proceedings of the Court as referred to in sub-rule (1).
10. Every digital hearing shall be conducted in compliance with the existing Rules made under Article 136 of the Constitution generally applicable for hearings in the Court of Appeal, to the greatest extent possible and be deemed to be a proceeding conducted in the Court of Appeal with the physical participation of the Judges and the persons referred to in sub-rule (1) of rule 8.
11. For the purposes of these rules “other documents” include objections, counter affidavits, written submissions and any other documents permitted to be filed in the Court of Appeal with regard to any-case or matter in the Court of Appeal.

THE SUPREME COURT RULES 1990

Published in the Gazette of the Democratic Socialist Republic of Sri Lanka (EXTRAORDINARY) No. 665/32 -FRIDAY, JUNE 07, 1991.

THE CONSTITUTION OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SR1 LANKA

RULES made under Article 136 of the Constitution of the Democratic Socialist Republic of Sri Lanka by the Chief Justice and the other Judges of the Supreme Court nominated by him under that Article.

1. K.A.P. Ranasinghe, Chief Justice.
2. G.P.S. de Silva, Judge of the Supreme Court.
3. M. Jameel, Judge of the Supreme Court.
4. Mark D. H. Fernando, Judge of the Supreme Court.

Colombo, 25th September 1990.

1. These rules may be cited as the Supreme Court Rules,1990, and shall come into force on such date as maybe appointed by the Chief Justice by Notification published in the Gazette. Different dates may be appointed in respect of different Parts of these rules.

PART 1 A. SPECIAL LEAVE TO APPEAL

2. Every application for special leave to appeal to the Supreme Court shall be made by a Petition in that behalf lodged at the Registry, together with affidavits and documents in support thereof as prescribed by rule 6, and a certified copy, or uncertified photocopy, of the Judgment or order in respect of which leave to appeal is sought. Three additional copies of such Petition, affidavits, documents, and Judgment or order shall also be filed;

Provided that if the Petitioner is unable to obtain any such affidavit, document, Judgment or order, as is required

by this rule to be tendered with his Petition, he shall set out the circumstances in his Petition, and shall pray for permission to tender the same, together with the requisite number of copies, as soon as he obtains the same. If the Court is satisfied that the Petitioner had exercised due diligence in attempting to obtain such affidavit, document, judgment or order, and that the failure to tender the same was due to circumstances beyond his control, but not otherwise, he shall be deemed to have complied with the provisions of this rule.

3. Every such application shall be typewritten, printed or lithographed on suitable paper, with a margin on the left side, and shall contain the Court of Appeal number, and shall be signed by the Petitioner himself, if he appears in person, or by his instructing Attorney-at-Law. It shall contain a plain and concise statement of all such facts and matters as are necessary to enable the Supreme Court to determine whether special leave to appeal should be granted, including the questions of law in respect of which special leave to appeal is sought, and the circumstances rendering the case or matter fit for review by the Supreme Court.
4. In every such application, there shall be named as Respondent, the party or parties, (whether complainant or accused, in a criminal cause or matter or whether plaintiff, Petitioner, defendant, Respondent, intervenient or otherwise, in a civil cause or matter) in whose favor the Judgment or order complained against was delivered , or adversely to whom such application is preferred , or whose interest may be adversely affected by the success of the appeal, and the names and present addresses of all such Respondents shall be set out in full.
5. Every such application and every proxy or appointment of an Attorney-at-Law to act on behalf of a party (herein referred to as "instructing Attorney-at-Law") shall be accompanied by the appropriate fee specified by the rules in that behalf. Every such appointment shall specify the full name of such instructing Attorney -at-Law, his address for service of process, notices and documents and his telephone number if any, and shall be substantially in the prescribed form:

Provided that no such fee shall be necessary if the application is preferred or the appointment is made by the Attorney-General.

6. Where any such application contains allegations of fact which cannot be verified by reference to the judgment or order of the Court of Appeal in respect of which special leave to appeal is sought, the Petitioner shall annex in support of such allegations an affidavit or other relevant document (including any relevant portion of the record of the Court Appeal or of the Original Court or Tribunal). Such affidavit may be sworn to or affirmed by the Petitioner, his instructing attorney-at-law, or his recognized agent, or by any other person having personal knowledge of such facts. Every affidavit by a petitioner, his instructing attorney-at-law , or his recognized agent shall be confined to the statement of such facts as the declarant is able of his own knowledge and observation to testify to provided that statements of such declarant's belief may also be admitted, if reasonable grounds for such belief be set forth in such affidavit.
7. Every such application shall be made within six weeks of the order, judgment, decree or sentence of the Court of Appeal in respect of which special leave to appeal is sought.

No. 2174/4 of
06. 05. 2020.

The period beginning with March 16, 2020 and ending on May 18, 2020 shall not be taken into account in computing the period of six weeks referred to in rule 7.

8. (1) Upon an application for special leave to appeal being lodged in the Registry of the Supreme Court, the Registrar shall forthwith give notice, by registered post, of such application to each of the Respondents, in the manner hereinafter set out. There shall be attached to the notice a copy of the Petition, a copy of the Judgment against which the application for special leave to appeal is preferred, and copies of affidavits and annexures filed therewith.
 - (2) Such notice shall be in the prescribed form, and shall specify –
 - (a) that the Respondent, if he intends to oppose the grant of special leave to appeal, shall lodge, within fourteen days of the receipt of such notice, a caveat indicating such intention; and
 - (b) the date of hearing of the application (being a date not less than eight weeks after the lodging of the application)

Such notice shall be dispatched within five working days after the application has been lodged.

- (3) The Petitioner shall tender with his application such number of notices as is required for service on the Respondents and himself together with such number of copies of the document referred to in sub-rule (1) of this rule as is required for service on the Respondents. The Petitioner shall enter in such notices the names and addresses of the parties, and the name, address for service and telephone number of his instructing Attorney-at-Law, if any, and the name, address and telephone number, if any of the Attorney-at-Law, if any who has been retained to appear for him at the hearing of the application, and shall tender the required number of stamped addressed envelopes for the service of notice on the Respondents by registered post. The Petitioner shall forthwith notify the Registrar of any change in such particulars.
- (4) Upon an application for special leave to appeal being lodged, the Registrar shall insert in the notices tendered by the Petitioner the Supreme Court number allotted to the said application, and the date of hearing of the application, after consulting the Petitioner. He shall issue one copy to the Petitioner upon request, obtaining a written acknowledgement on the record itself; a copy of such notice shall not be posted to the Petitioner.
- (5) The Petitioner shall, not less than two weeks and not more than three weeks after the application has been lodged, attend at the Registry in order to verify that such notice has not been returned undelivered. If such notice has been returned undelivered, the Petitioner shall furnish the correct address for the service of notice on such Respondent. The Registrar shall thereupon dispatch a fresh notice by registered post, and may in addition dispatch another notice, with or without copies of the annexures, by ordinary post.

He may, if he thinks fit, and after consulting the Petitioner, substitute a fresh date of hearing, or direct that the matter be called in the Registry, on the date originally fixed for the hearing, or direct that the matter be called in the Registry, on the date originally fixed for the hearing, for the purpose of fixing a fresh date of hearing.

- (6) The Respondent shall, within fourteen days of the receipt of such notice, enter an appearance in the Registry of the Supreme Court, and if he intends to oppose the grant of special leave to appeal shall lodge a Caveat indicating such intention.
- (7) Not less than twenty one days before the date specified in the aforesaid notice as the date of hearing of the application, any Respondent may lodge (with notice to the Petitioner and other Respondents) a statement, together with three additional copies thereof, setting out his objections to the grant of special leave to appeal or controverting the allegations of fact set out in the Petition; where such statement contains allegations of fact which cannot be verified by reference to the Judgment or order of the Court of Appeal in respect of which special leave to appeal is sought, affidavits and other relevant documents shall be annexed in support, and the provisions of rule 6 shall apply *mutatis mutandis*.
9. The Registrar may call upon the parties from time to time to furnish such number of additional copies of the documents filed, or such further documents, as he may deem necessary for the proper determination of the application.
10. (l) A single Judge of the Supreme Court, sitting in Chambers, may refuse to entertain any application for special leave to appeal on the ground that it discloses no reasonable cause of appeal, or is frivolous or vexatious, or contains scandalous matter, or is preferred merely for the purpose of causing delay, or that such application does not comply with these rules.
 - (2) Where a Judge refuses to entertain an application for special leave to appeal under the provisions of the preceding sub-rule, the Petitioner may appeal, by way of Motion, to the Supreme Court against such refusal.
11. Where the Supreme Court grants special leave to appeal, the questions or the matters arising for determination in the appeal shall be specified in the order granting special leave to appeal.
12. Where an application for special leave to appeal has been allowed, it shall not be necessary for the Petitioner to give notice of appeal, or to lodge a Petition of Appeal, and the application for special leave to appeal shall be deemed to be the Petition of Appeal, and the Petitioner shall be deemed to be the Appellant for the purpose of these rules.

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13. (1) The grant of special leave to appeal shall be on such terms and conditions as to costs, security and otherwise as to the Supreme Court shall seem meet.
- (2) The Supreme Court may at any time after an application for special leave to appeal is lodged in the Registry, or after special leave to appeal is granted, direct the Registrar of the Court of Appeal to transmit to the Supreme Court the entire record of the proceedings (including the journal entries, pleadings, evidence, submissions, judgments and orders and the documents produced in the Court of Appeal and in the original Court or Tribunal) and the Judges' briefs, and may give such other directions as to the Court may seem expedient, and the Registrar shall forthwith comply with all such directions.
14. Where there are two or more applications for special leave to appeal arising out of the same matter, or involving the same Questions of Law, the Supreme Court may direct that such applications be consolidated, or taken up for hearing together, if it is of the opinion that such a direction would be for the convenience of the Court and all parties concerned.
15. The Petitioner in an application for special leave to appeal may apply, at any time, to withdraw such application, having served notice of such application to withdraw on every Respondent who has entered an appearance at the Registry; and the Court may, after making any necessary inquiry into the matter, permit the withdrawal of such application on such terms as to costs and otherwise as it thinks fit.
16. (I) If special leave to appeal is granted, the Court shall, after consulting the parties, or their Attorneys-at-Law, if any, forthwith fix the date or dates of hearing of the appeal. If the Court for any reason does not fix the date of hearing, the date or dates of hearing shall be fixed by the Registrar on the date fixed in terms of sub-rule (2), after consulting the parties present and obtaining their assessment of the likely duration of the argument;
- Provided that the Court may, with the consent of the parties or their attorney-at-law, proceed to hear to determine the appeal, either forthwith or on another date to be then fixed, dispensing with compliance with the provisions of these rules in regard to the steps preparatory to the hearing of such appeal.
- (2) The parties shall attend at the Registry at 1.00p.m. on the next working day or upon such other date, or at such other time, as the Court may direct in the order granting leave) for the purpose of fixing the dates for other necessary steps to be taken in connection with the appeal, and of dealing with all matters connected with the preparation of the record.
- (3) No notice shall be given to any party of the date and time fixed in terms of the preceding sub-rule;
- Provided that the Court may in the order granting leave direct that notice be given, by registered post, of such date and time to a party who was absent and unrepresented at the hearing of the application for special leave to appeal, but the non-receipt of such notice shall not in any manner affect the validity of the proceedings..
- (4) Upon the date fixed in terms of sub-rule (2), the Registrar shall, after consulting the parties present, determine what documents should be included in the record. As far as possible, the briefs used in the Court of Appeal shall be used for the appeal. In any event, the Registrar shall endeavor to exclude from the record all documents (more particularly such as are purely formal) that are not relevant to the subject-matter of the appeal, and, generally, to reduce the bulk of the record as far as practicable, taking special care to avoid the duplication of documents and the unnecessary repetition of heading and other formal parts of documents. The decision of the Registrar as to the exclusion of any documents or part thereof shall be final, but any party dissatisfied therewith shall be entitled to require the matter to be submitted to a single Judge sitting in Chambers for review. The preparation of the record shall be the duty of the Registrar, who shall prepare as many copies as are required for the Court and the parties. Before the preparation of a copy of the record for any party, such party shall pay therefore such fee as may be determined in accordance with the rules made in that behalf.
- (5) The Registrar shall thereupon issue to the parties a notice in the prescribed form specifying –
- (a) the periods for the filing of the Written Submission by the parties;
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- (b) the date for deposit of fees for the issue of the briefs, or copies of any part of the record, and the amount thereof (or if such amount cannot then be calculated, the rate per folio);
- (c) the date for issue of briefs; and
- (d) the date or dates for the hearing of the appeal.

A written acknowledgement of the issue of such notice shall be obtained from each of the parties, on the record itself.

Every Respondent who has not done so previously, shall enter an appearance in the Registry of the Supreme Court.

Each party shall notify the Registrar of the name, address and telephone number, if any, of the Attorney-at-Law, who has been retained to appear for him at the hearing of the appeal, and shall forthwith notify him of any change in such particulars.

- (6) If any party fails to attend on the date and at the time fixed in terms of sub-rule (2), the Registrar shall nevertheless proceed to take action, as nearly as practicable, in terms of these rules, and it shall be the sole responsibility of such party to attend at the Registry thereafter, to examine the record, and to obtain the aforesaid information.

No notice shall be dispatched to such party, by post or otherwise provided that if such party had been absent and unrepresented at the hearing of the application for special leave, and if no direction had been given by the Court for the issue of notice, under the proviso to sub-rule (3), the Registry may dispatch, by registered post, a copy of such notice to such party, but the non-receipt of such notice shall not in any manner affect the validity of the proceedings.

- 17. Where costs ordered by the Supreme Court to be paid by a party to an application for special leave to appeal have not been fixed by the Court, such costs shall be taxed by the Registrar in accordance with the rules for the time being regulating the taxation of costs in the Court.

- 18. (1) In rules 16, 24 and 27, "record" means the aggregate of the papers necessary for the hearing and determination of the appeal by the Supreme Court, including the journal entries, pleadings, evidence, submissions, judgments and orders, and the documents produced in the Court of Appeal and in the original Court or Tribunal, and in the proceedings relating to the grant of leave to appeal.

- (2) Where a Respondent is required by the provisions of rules 8(6), 16 (5) or 27(2) to enter an appearance in the Registry of the Supreme Court, he shall do so by tendering a writing

- (a) Setting out his name and address in full,
- (b) Stating whether he appears in person or by an Attorney-at-Law,
- (c) If he appears by an Attorney-at-Law, the full name of such instructing Attorney-at-Law, his address for service of process, notices and documents, and his telephone number if any, and
- (d) The name, address and telephone number, if any of the Attorney-at-Law who has been retained to appear at the hearing of the matter to which such appearance relates;

and he shall forthwith-notify the Registrar of any charge in such particulars.

B. LEAVE TO APPEAL

- 19. Where the Court of Appeal grants leave to appeal to the Supreme Court from any final order, Judgment, decree or sentence of the Court of Appeal in any matter or proceeding, in which is involved a substantial Question of Law, such Question of Law shall be specified in the order granting leave.

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20. (1) When a submission is made, by or on behalf of a party to any matter or proceeding in the Court of Appeal, at any time before the conclusion of the hearing by the Court of Appeal, that a substantial Question of Law is involved in such matter or proceeding, it shall be lawful for an application to be simultaneously made, by or on behalf of any party, that such Question of Law be forthwith recorded and that the Court of Appeal, in its final order or Judgment, do grant leave to appeal to the Supreme Court in respect of such question.
- (2) The Court of Appeal shall, either in its final order or Judgment or in a separate order made at the time of such final order or Judgment, consider such submission and application and grant or refuse such leave. Where the Court of Appeal fails to make an order in respect of such submission and application, it will be deemed for all purposes to have refused to grant leave to appeal. A certified typed copy, or an uncertified photocopy, of such judgment or order of the Court of Appeal shall be issued to any party requiring such copy, within forty-eight hours.
- (3) Where the Court of Appeal does not grant or refuse to grant, leave to appeal an application for special leave to appeal to the Supreme Court may be made in terms of rule 7.
- (4) Where such submission and application relates to more than one Question of Law, and the Court of Appeal grants leave to appeal in respect of one or more, but not all of such questions, an application for special leave to appeal to the Supreme Court may be made under and in terms of rule 7, in respect of such other questions.

21. Notwithstanding that no such submission or application has been made in terms of rule 20 (1), it shall be lawful for the Court of Appeal, ex mero motu, either in its final order or Judgment, or in a separate order made at the time of such final order or Judgment, to grant leave to appeal to the Supreme Court upon any substantial Question of Law involved in such matter or proceeding:

Provided that any party may make an application for leave to appeal upon any other substantial Question of Law under and in terms of rule 22.

22. (1) Notwithstanding that no such submission or application has been made in terms of rule 20(1) an application may be made orally by or on behalf of any party aggrieved by such final order, Judgment, decree or sentence on the day such final order or Judgment is delivered.
- (i) for leave to appeal to the Supreme Court in respect of a substantial question of law, which shall then be specified and recorded; or
- (ii) for time to consider the making of an oral application for such leave.
- (2) An oral application for leave to appeal shall be determined by the Court of Appeal forthwith, or may be adjourned for consideration and determination within twenty-one days.
- (3) Where an oral application for time to consider the making of an application for leave to appeal is made, a certified typed copy or an uncertified photocopy, of the Judgment or order of the Court of Appeal shall be issued to the applicant, and to any other parties requiring such copies, within forty-eight hours. The Court shall forthwith fix a date, not later than twenty days from the date of delivery of such final order or Judgment, for the consideration and determination of such application. On or before the date so fixed, the party applying for leave to appeal shall tender to the Court and to all other parties present or represented a written statement of the Questions of Law in respect of which leave to appeal is sought.
- (4) No notices shall be issued to any party in respect of any such application, or the date fixed for the consideration and determination thereof, or of the order made, nor shall any written pleadings or statements whatsoever be required (other than written statement referred to in sub-rule (3)).
- (5) The Court of Appeal shall make an order granting or refusing leave to appeal within the aforesaid period of twenty-one days;

Provided that if the Court of Appeal does not sit on the date fixed for the determination of such application, or if for any reason the hearing and determination thereof has to be postponed, the Court shall make its order within

three days thereafter, and provided further that if that Court of Appeal fails to make an order in respect of such application within the period hereinbefore specified, it will be deemed for all purposes to have refused to grant, leave to appeal.

- (6) Where upon an application made in terms of sub-rule (1) of this rule, the Court of Appeal does not grant, or refuses to grant, leave to appeal, in accordance with the preceding provisions of this rule, an application for special leave to appeal to the Supreme Court may be made under and in terms of rule 7.
23. The Court of Appeal may make such order as it considers just in regard to the costs of any applications for leave to appeal, and where the amount thereof has not been fixed, such costs shall be taxed by the Registrar in accordance with the rules for the time being regulating the taxation of costs in the Court.
24. Where the Court of Appeal grants leave to appeal, the Registrar of the Court of Appeal shall transmit to the Supreme Court the entire record of the proceedings, including the Judgment or order granting leave to appeal and the Judges' briefs.
25. (1) Where an application for leave to appeal has been allowed by the Court of Appeal, the Appellant shall within fourteen days of the grant of leave to appeal by the Court of Appeal lodge at the Registry of the Supreme Court a notice of appeal in the prescribed form, together with such number of copies as is required for service on the Respondents and himself, and three additional copies and shall also tender the required number of stamped addressed envelopes for the service of notice on the Respondents by registered post.
- (2) Such notice shall be signed by the Appellant, if he appears in person, or by his instructing Attorney-at-Law, if he has appointed an Attorney-at-Law to act on his behalf; in the latter event, the name, address and telephone number of such Attorney-at-Law shall be stated in such notice, and a proxy or appointment of such Attorney-at-Law shall be filled therewith; the Petitioner shall also enter in such notice the name, address and telephone number of the Attorney-at-Law, if any, who has been retained to appear for him at the hearing of the appeal; he shall forthwith notify the Registrar of any change in such particulars.
- (3) In every such notice of appeal, there shall be named as Respondents, all parties in whose favour the Judgment or order complained against was delivered, or adversely to whom such appeal is preferred, or whose interests may be adversely affected by the success of the appeal, and the names and present addresses of the Appellant and the Respondents shall be set out in full.
26. Every notice of appeal, and every proxy or appointment of an Attorney-at-Law to act on behalf of a party shall be accompanied by the appropriate fee specified by the rules in that behalf. Every such appointment shall specify the full name of such instructing Attorney-at-Law, his address for service of process, notices and documents, and his telephone number if any, and shall be substantially in the prescribed form; provided that no such fee shall be necessary if the appeal is preferred or the appointment is made by the Attorney-General.
27. (1) Upon receipt of a notice of appeal, the Registrar shall insert therein, and in the copies tendered therewith, the Supreme Court number allotted to such appeal, and the date (being a date not less than six weeks after the date on which such notice was lodged) and time at which the parties shall attend at the Registry for the purpose of fixing the date or dates for the hearing of the appeal, and shall forthwith dispatch by registered post a copy of such notice of appeal to each Respondent named therein. He shall issue one copy to the Appellant upon request, obtaining a written acknowledgement on the record itself; a copy of such notice shall not be posted to the Appellant.
- (2) Each Respondent shall enter an appearance in the Registry of the Supreme Court on or before the date on which he is required to attend at the Registry in terms of sub-rule (1).
- (3) The Appellant shall not less than two weeks and not more than three weeks after the notice of appeal has been lodged, attend at the Registry in order to verify that such notice has not been returned undelivered. If such notice has been returned undelivered, the Appellant shall furnish the correct address for the service of notice on such Respondent. The Registrar shall thereupon dispatch a fresh notice by registered post, and may in addition dispatch

another notice, by ordinary post, he may, if he thinks fit, and after consulting the Appellant substitute a fresh date for the attendance of parties at the Registry:

Provided, however, that a Respondent who was represented at the hearing of the application for leave to appeal made to the Court of Appeal shall be obliged, in any event, to attend at the Registry of the Supreme Court after the lapse of fifteen days from the grant of leave to appeal and to ascertain the date fixed for the attendance of parties at the Registry, and accordingly if a notice dispatched under this sub-rule to such a party is returned undelivered the Registrar shall be under no obligation to dispatch a fresh notice.

- (4) Upon the date fixed in terms of sub-rule (1), the Registrar shall, after consulting the parties present, determine what document should be included in the record. As far as possible, the briefs used in the Court of Appeal shall be used for the appeal. In any event, the Registrar shall endeavour to exclude from the record all documents (more particularly such as are purely formal) that are not relevant to the subject-matter of the appeal, and generally, to reduce the bulk of the record as far as practicable taking special care to avoid the duplication of documents and the unnecessary repetition of headings and other formal parts of documents. The decision of the Registrar as to the exclusion of any document or part thereof shall be final, but any party dissatisfied therewith shall be entitled to require the matter to be submitted to a single Judge sitting in Chambers for review. The preparation of the record shall be the duty of the Registrar, who shall prepare as many copies as are required for the Court and the parties. Before the preparation of a copy of the record for any party, such party shall pay therefor such fee as may be determined in accordance with the rules made in that behalf.
- (5) Upon the date fixed in terms of sub-rule (1), the Registrar shall, after consulting the parties present and obtaining their assessment of the likely duration of the argument, (and after reference to a single Judge in Chambers if necessary), fix the date or dates for the hearing of the appeal, and shall immediately issue to such parties a notice in the prescribed form specifying –
- (a) the periods for the filing of written submissions by the parties;
 - (b) the date for deposit of fees for the issue of the briefs, or copies of any part of the record, and the amount thereof (or if such amount cannot then be calculated, the rate per folio) ;
 - (c) the date for issue of briefs; and
 - (d) the date or dates for the hearing of the appeal.

A written acknowledgement of the issue of such notice shall be obtained from each of the parties, on the record itself.

Each party shall notify the Registrar of the name, address and the telephone number, if any, of the Attorney-at-Law who has been retained to appear for him at the hearing of the appeal, and shall forthwith notify the Registrar of any change in such particulars.

- (6) If any party fails to attend on the date and at the time fixed in terms of sub-rule (1), the Registrar shall nevertheless proceed to take action as nearly as practicable, in terms of this rule, and it shall be the sole responsibility of such party to attend at the Registry thereafter, to examine the record, and to obtain the aforesaid information.

C. OTHER APPEALS

28. (1) Save as otherwise specifically provided by or under any law passed by Parliament, the provisions of this rule shall apply to all other appeals to the Supreme Court from an order, Judgment, decree or sentence of the Court of Appeal or any other Court or Tribunal.
- (2) Every such appeal shall be upon a Petition in that behalf lodged at the Registry by the Appellant, containing a plain and concise statement of the facts and the grounds of objection to the order, judgment, decree or sentence appealed against, set forth in consecutively numbered paragraphs, and specifying the relief claimed. Such Petition shall be typewritten, printed or lithographed on suitable paper, with a margin on the left side, and shall contain the

full title and number of the proceedings in the Court of Appeal or such other Court or Tribunal, and the full title of the appeal. Such appeal shall be allotted a number by the Registrar.

- (3) The Appellant shall tender with his Petition of Appeal, a notice of appeal in the prescribed form, together with such number of copies of the Petition of appeal and the notice of appeal as is required for service on the Respondents and himself, and three additional copies, and shall also tender the required number of stamped addressed envelopes for the service of notice on the Respondents by registered post.
- (4) Such Petition of appeal and notice of appeal shall be signed by the Appellant, if he appears in person, or by his instructing Attorney-at-Law if he has appointed an Attorney-at-Law to act on his behalf; in the latter event, the name, address and telephone number of such Attorney-at-Law shall be filed therewith. He shall also set out in such notice the name, address and telephone number, if any, of the Attorney-at-Law, if any, who has been retained to appear for him at the hearing of the appeal. The Petitioner shall forthwith notify the Registrar of any change in such particulars.
- (5) In every such Petition of appeal and notice of appeal, there shall be named as Respondents, all parties in whose favour the judgment or order complained against was delivered, or adversely to whom such appeal is preferred, or whose interests may be adversely affected by the success of the appeal, and the names and present addresses of the Appellant and the Respondents shall be set out in full.
- (6) Every such Petition of appeal and every proxy or appointment of an Attorney-at-Law to act on behalf of a party (herein referred to as "instructing Attorney-at-Law") shall be accompanied by the appropriate fee specified by the rules in that behalf. Every such appointment shall specify the full name of such instructing Attorney-at-Law, his address for service of process, notices and documents, and his telephone number if any, and shall be substantially in the prescribed form;

Provided that no such fee shall be necessary if the appeal is preferred or the appointment is made by the Attorney-General.

- (7) The provisions of rule 27 shall apply mutatis mutandis to such appeals.

PART II GENERAL PROVISIONS REGARDING APPEALS AND APPLICATIONS

29. The Registrar may call upon the parties from time to time to furnish to the Supreme Court such number of additional copies of the documents filed, or further documents, as he may deem necessary for the proper determination of the appeal.
30. (1) No party to an appeal shall be entitled to be heard, unless he has previously lodged five copies of his written submissions (hereinafter referred to as "submissions"), complying with the provisions of this rule.
 - (2) The submissions shall be typewritten, printed or lithographed, and shall be in the form of paragraphs numbered consecutively.
 - (3) The submissions of the Appellant shall contain as concisely as possible –
 - (a) a chronological statement of the relevant facts, referring to the evidence, both oral and documentary, (and wherever, possible the pages of the brief at which such evidence appears), indicating also which facts are agreed, or have been established, or are otherwise no longer in dispute and which facts are disputed;
 - (b) the Questions of Law or the matters which are in issue in the appeal;
 - (c) a specification of the errors alleged to have been committed by the Court the Judgment of which is under appeal; and reference to and discussion of the authorities (judicial decisions, text books, statutes and subordi-

nate legislation) relied on to justify the reversal, variation or affirmation of the Judgment (or any part thereof) under appeal; and

(d) a conclusion specifying the relief which the Appellant claims.

(4) The submissions of the Respondent shall contain as concisely as possible –

(a) a statement, in reply to the Appellant’s statement of facts, confirming whether, and if not to what extent, the Respondent agrees with such statement of facts; and a statement of the other relevant facts, referring to the evidence, both oral and documentary, (and wherever possible the pages of the brief at which such evidence appears), indicating which of such facts, according to the Respondent, have been established or are otherwise no longer in dispute, and which facts are disputed;

(b) the Questions of Law or the matters which are in issue in the appeal;

(c) reference to and discussion of the authorities (judicial decisions, text books, statutes and subordinate legislation) relied on for the dismissal of the appeal or to justify the affirmation of the judgment (or any part thereof) under appeal; and

(d) a conclusion specifying the relief which the Respondent claims.

(5) Submissions not in substantial compliance with the foregoing provisions may be struck out by the Court, whereupon such party shall not be entitled to be heard.

(6) The Appellant shall within six weeks of the grant of special leave to appeal, or leave to appeal, as the case may be, lodge his submissions at the Registry, and shall forthwith give notice thereof to each Respondent by serving on him a copy of such submissions.

(7) The Respondent shall within six weeks of the receipt of notice of the lodging of the Appellant’s submissions, lodge his submissions at the Registry, and shall forthwith give notice thereof to the Appellant and to every other Respondent, by serving on each of them a copy of such submissions. Where the Appellant has failed to lodge his submissions as required by sub-rule(6), the respondent shall lodge his submissions within twelve weeks of the grant of special leave to appeal, or leave to appeal, as the case may be, giving notice in like manner.

(8) Every party shall tender to the Registrar, not less than one week before the date first fixed for the hearing of an appeal, a complete list of the authorities which he proposes to refer to or rely on at the hearing, so as to ensure that there is full disclosure and to preclude surprise, together with at least one set of copies or photocopies of such authorities or the relevant portions thereof (other than statutes of Sri Lanka, subordinate legislation published in the Subsidiary Legislation of Ceylon, Law Reports published in Sri Lanka, and such other authorities as may be specified by the Chief Justice from time to time).

31. Where there are two or more appeals arising out of the same matter, or involving the same Questions of Law, the Supreme Court may direct that such appeals be consolidated, or taken up for hearing together, if it is of the opinion that such a direction would be for the convenience of the Court and all parties concerned.

32. An Appellant may apply, at any time, to withdraw his appeal, having served notice of such application to withdraw on every Respondent who has entered an appearance at the Registry: and the Court may, after making any necessary inquiry into the matter, permit the withdrawal of such appeal on such terms as to costs and otherwise as it thinks fit.

33. At the hearing of the appeal by the Supreme Court, the Appellant shall be entitled to be heard first, followed by the Respondents in their numerical order, unless the Court decides otherwise. The Appellant shall be entitled to reply to the arguments of the Respondents.

34. Where an Appellant, or a Petitioner who has obtained leave to appeal, fails to show due diligence in taking all necessary steps for the purpose of prosecuting the appeal or application, the Court may, on an application in

that behalf by a Respondent, or of its own motion, on such notice to the parties as it shall think reasonable in the circumstances, declare the appeal or application to stand dismissed for non-prosecution, and the costs of the appeal or application and any security entered into by the Appellant shall be dealt with in such manner as the Court may think fit.

35. Where costs ordered by the Supreme Court to be paid by a party to an appeal have not been fixed by the Court, such costs shall be taxed by the Registrar in accordance with the rules for the time being regulating the taxation of costs in the Court.
36. Every appeal referred to in Article 128 (3) of the Constitution shall be dealt with in accordance with special directions, either general or particular, given by the Chief Justice. The Registrar shall maintain a special Register in respect of such appeals.
37. (1) An application for postponement of the date fixed for the hearing of an application for special leave to appeal, or an appeal or an application under Article 126, on the ground that Counsel is engaged in any other Court will not be entertained.

In exceptional circumstances, such an application may be made in writing to the Chief Justice in Chambers, or in his absence to the most Senior Judge present, setting out the grounds therefor, with notice to the other parties or their Attorneys-at-Law. Where any such application is allowed, the order, together with the reasons therefor, shall be endorsed upon the application, which shall be filed in a register maintained for the purpose and kept open for public inspection.

- (2) (a) Any application for a postponement, on any other ground, of a date fixed for the hearing of an application for special leave to appeal, or an appeal, or an application under Article 126, shall be made to a single Judge nominated by the Chief Justice, in Chambers, after notice to the other party.
 - (b) If all parties are present, and if such postponement is allowed, a fresh date of hearing shall be fixed immediately.
 - (c) If any party is not present, and if such Judge is of the opinion that a postponement should be allowed, he shall direct that the application for special leave, or appeal, or application under Article 126 be mentioned in open Court on the date originally fixed for hearing for the purpose of fixing a fresh date of hearing or that the parties shall attend at the Registry on such date for such purpose.
 - (d) Where before the date of hearing, it becomes necessary for an application for special leave, or appeal, or application under Article 126, to be postponed, otherwise than upon an application by a party, the Registrar shall inform the parties of such postponement, by a notice which also requires the parties, or their instructing Attorneys-at-Law, to attend at the Registry on the date originally fixed for hearing, for the purpose of fixing a fresh date of hearing, convenient to all concerned. If the date on which the parties are required to attend is a holiday or is not a working-day the parties shall attend on the next succeeding working day.
 - (3) Where a postponement is granted on the date fixed for hearing, the Court shall forthwith fix the next date of hearing.
 - (4) Where the date fixed for hearing is a holiday or is not a working day, the application for special leave, or appeal, or application under Article 126, shall be called in open Court on the next succeeding working day, for the purpose of fixing the next date of hearing.
38. Where at any time after the lodging of an application for special leave, or appeal, or application under Article 126, or notice of appeal, or the grant of special leave to appeal, or the grant of leave to appeal by the Court of Appeal, the record becomes defective by reason of the death or change of status of a party to the proceedings, the Supreme Court may, on application in that behalf made by, any person interested, or ex mero motu, require such applicant, or the Petitioner or Appellant, as the case may be, to place before the Court sufficient material to establish who is the proper person to be substituted or entered on the record in place of, or in addition to, the party who has died or undergone a change of status;

Provided that where the party who has died or undergone a change of status is the Petitioner or Appellant, as the case may be the Court may require such applicant or any party to place such material before the Court.

The Court shall thereafter determine who shall be substituted or added, and the name of such person shall thereupon be substituted, or added, and entered on the record as aforesaid. Nothing herein before contained shall prevent the Supreme Court itself ex mero motu, where it thinks necessary, from directing the substitution or addition of the person who appears to the Court to be the proper person therefor.

39. Unless the Context otherwise requires, where a party is required by these rules to do any act, or to appear in Court, or to attend at the Registry, if such party has appointed an Attorney-at-Law to act on his behalf by means of an appointment in terms of these rules, such act, appearance or attendance may be done or made by his instructing Attorney-at-Law, and not in person unless so required by an order of the Court.

40. An application for variation, or an extension of time, in respect of the following matters shall not be entertained by the Registrar, but shall be submitted by him to a single Judge, nominated by the Chief Justice, in Chambers:

- Tendering notices as required by rule 8(3) and 25(2);
- Deposit of brief fees as required by rules 16(5) or 27 (5);
- Filing written submissions as required by rule 30;
- Furnishing the address of a Respondent as required by rules 8(5) and 27(3);
- Filing counter-affidavits and counter-submissions as required by rule 45;
- Furnishing material as required by rule 38.

41. Application for substituted service, where notices sent by registered post are returned undelivered, even after compliance with rules 8(5) and 27(3), shall be submitted to a single Judge in Chambers.

41A. In any motion in respect of an application filed in the Supreme Court it shall be sufficient to have a short caption consisting only the name of the First Petitioner and the First Respondent if there are more than one Petitioner or one Respondent.

No. 2090/16 of
26.09.2018. (In)

41B. It shall be sufficient compliance of the following rules :

No. 2090/16 of
26. 09. 2018. (In)

- (i) Part 1A Special Leave to Appeal of the Supreme Court Rules 1990
- (ii) Part 1B Leave to Appeal of the Supreme Court Rules 1990
- (iii) Part 1C other Appeals of the Supreme Court Rules 1990
- (iv) Part IV Application under Article 126 of the Supreme Court Rules 1990

When and if applicable if the Petition and/or application contains an averment stating;

- (a) I swear/affirm that the averments contained in the Petition are true or I am advised to swear/affirm that the contents of the Petition are true.
- (b) I hereby affirm/swear from my own knowledge and upon perusing the documents available to me that the contents of the Petition are true.

41C. 1. Every Petitioner who files any application and/or appeal inclusive of application under Article 126 of the Constitution, to the Supreme Court shall file together with such application, a memorandum as set out in the Schedule of these rules nominating at least one person and not more than three persons in order of preference to be his legal representative for the purpose of prosecuting his application in the event of the Applicant's death and/or change of status in cases where the application and/or appeal survives the death and/or change of status of the Petitioner.

No. 2090/16 of
26.09.2018. (In)

2. Every Respondent when tendering an appearance shall file a memorandum as set out in the schedule of these rules nominating at least one person and not more than three persons in order of preference to be his legal representative for the purpose of prosecuting his application in the event of the Respondent's death and/or change of status.

3. If the Petitioner does not file such a memorandum the Court may dismiss the application in the event of the death of the Petitioner or the change of status of the Petitioner.
4. If the Respondent does not so file a memorandum, the Court may proceed to hear and determine the application without substituting a legal representative in the place of the Respondent.
5. Every Petitioner and/or Respondent within three months from filling any application and/or appeal to the Supreme Court file a document which expresses written consent of the person and/or persons nominated to be the legal representative of the Petitioner or the Respondent in the event of the death or the change of status of the Petitioner or the Respondent.
6. Every Petitioner and/or Respondent who does not do so may face the consequences set out above.
7. The Petitioner/Applicant shall within one month of change to the caption being necessitated amend the caption.
8. If the Petitioner/Applicant fails to do so the Court may dismiss the application/Petition.
9. This rule does not apply to a public officer who files any application and/or appeal in his official capacity or cited as a Respondent in his official capacity.

PART III STAY OF PROCEEDINGS

42. Where an application for special leave to appeal, or a notice of appeal, has been lodged with the Registrar in compliance with provisions of these rules, or special leave to appeal has been granted, and the Petitioner or the Appellant seeks the stay of execution of the judgment in respect of which the application or appeal is made, the Registrar shall submit the application for the stay of execution of the judgment to a Judge of the Supreme Court.
43. (l) The Judge to whom an application for the stay of execution of a judgment is submitted-
 - (a) may order the stay of execution of such Judgment till the determination of the application for special leave to appeal, or of the appeal, as the case may be;

Provided that where such application has been made, or is supported, without notice to the adverse party, the Judge may order the stay of execution of the Judgment if he is satisfied that the matter was such urgency that the applicant could not reasonably have given such notice; in such event he may make an interim order for the stay of execution of the Judgment for a limited period, not exceeding ten days, sufficient to enable the adverse party to be given notice of such application, and to be heard in opposition thereto, on a date to be then fixed, in Chambers or in open Court; or
 - (b) may direct that the application be supported after notice to the adverse party, in Chamber or in open Court.

Upon sufficient cause being shown, any Judge of the Supreme Court may set aside any such interim order.
- (2) Any order, or interim order, for the stay of execution of the Judgment shall be forthwith communicated by the Registrar to the Court or Tribunal concerned.
- (3) Where an order has been made for stay of execution of the Judgment till the determination of an application for special leave to appeal –
 - (a) If special leave to appeal is granted, the Petitioner may make a further application for the stay of execution of the Judgment till the final determination of appeal, and the Court may make such order thereon as it considers expedient; and
 - (b) if special leave to appeal is not granted, the Registrar shall forthwith notify the court or tribunal concerned.

PART IIIA

No. 2090/16 of
26.09.2018. (In)

Application to which public officers are Respondents;

This rule shall apply to all applications made to the Supreme Court, in which a public officer has been made a Respondent in his official capacity (whether on account of an act or omission in such official capacity, or otherwise)

A public officer may be made a Respondent to any such application by reference to his official designation only (and not by name), and it shall accordingly be sufficient to describe such public officer in the caption by reference to his official designation or the office held by him, If a Respondent cannot be sufficiently identified in the manner, it shall be sufficient if his name is disclosed in the averments in the Petition.

- (3) No such application shall be dismissed on account of any omission, defect or irregularity in regard to the name, designation, description or address of such Respondent, if the Court is satisfied that such Respondent has been sufficiently identified and described, and has not been misled or prejudiced by such omission, defect or irregularity, The Court may make such order as it thinks fit in the interests of justice, for amendment of pleadings, fresh or further notice, costs or, otherwise, in respect of any omission, defect or irregularity.
- (4) (a) In respect of an act or omission done in official capacity by a public officer who has thereafter ceased to hold such office, such application may be made and proceeded with against his successor, for the time being, in such office, such successor being made a Respondent, by reference to his official designation only, in terms of sub-rule (2).

(b) If such an application has been made against a public officer who has been made a Respondent by the reference to his official designation (and not by name), in respect of an act or omission in his official capacity and such public officer ceases to hold such office, during the pendency of such application, such application may be proceeded with against his successor, for the time being, in such office, without any addition or substitution of a Respondent afresh, proxy, or the issue of any notice, unless the Court considers such addition, substitution, proxy or notice to be necessary in the interest of justice. Such successor will be bound in his official capacity by any order made, or direction given by the Court against or in respect of such original Respondent.

(c) Where such an application has been made against a public officer, who has been made a Respondent by reference to his official designation (and not by name) and such public officer ceases to hold such office after the final determination of such application, but before complying with the order made or direction given therein, his successor, for the time being in such office will be bound by and shall comply with such order or direction.
- (5) The provisions of sub-rules (4)(b) and (4)(c) shall apply to all applications filed in the Supreme Court before such date as may be specified by the Chief Justice by direction, against a public officer in respect of an act or omission in his official capacity, even if such public officer is described in the caption both by name and by reference to his official designation.
- (6) Nothing in this rule shall be constructed as imposing any personal liability upon a public officer in respect of the act or omission of any predecessor in office.
- (7) In this rule “ceases to hold office” means dies, or retires or resigns from office, or in any other manner ceases to hold office.
- (8) For the purposes of this rule “public officer” shall mean, “a person who holds any paid office under the Republic other than a judicial officer and shall include
 - (i) A person holding any office in a Public Corporation.
 - (ii) A Minister of the Government or a Provincial Minister of any Province.
 - (iii) A member of a commission referred to in the Schedule to Article 41B of the Constitution.
 - (iv) A member of a Commission appointed under and in terms of the provisions of the Commission of Inquiry Act as amended

- (v) A member of a Commission appointed under the Special Presidential Commission of Inquiry Act, No. 7 of 1978 as amended and/or any member of a Commission appointed under any other law other than the Commission of Inquiry Act as amended.

PART IV
APPLICATIONS UNDER ARTICLE 126

44. (1) Where any person applies to the Supreme Court by a Petition in writing, under and in terms of Article 126 (2) of the Constitution, for relief or redress in respect of an infringement or an imminent infringement, of any fundamental right or language right, by executive or administrative action, he shall –
- (a) Set out in his Petition a plain concise statement of facts and circumstances relating to such right and the infringement or imminent infringement thereof, including particulars of the executive or administrative action whereby such right has been, or is about to be, infringed; where more than one right has been, or is about to be, infringed, the facts and circumstances relating to each such right and infringement, or imminent infringement thereof shall be clearly and distinctly set out. He shall also refer to the specific provisions of the Constitution under which any such right is claimed.
 - (b) Name as Respondents the Attorney- General and the person or persons who have infringed, or are about to infringe, such right;
 - (c) Tender in support of such Petition such affidavits and documents as are available to him; and,
 - (d) Shall specify in such Petition the relief or redress prayed for including the grant of leave to proceed in the first instance.
- (2) The person whose fundamental right or language right has been, or is about to be infringed shall be named in the Petition as the Petitioner, and the Petition shall be signed by him, if he appears in person, or by his instructing Attorney-at-Law, if he has appointed an Attorney-at-Law to act on his behalf. Where for any reason he is unable to sign a proxy appointing an Attorney-at-Law to act on his behalf, any other person authorized by him (whether orally or in any other manner, and whether directly or indirectly) to retain an Attorney-at-Law to act on his behalf, may sign such proxy on his behalf.
- (3) An application may be made by an Attorney-at-Law on behalf of any person whose fundamental right or language right has been, or is about to be infringed, without a proxy in his favour, provided that-
- (a) The Petition contains an averment to the effect that such application is made on behalf of such person, who is named therein;
 - (b) Either such person or such Attorney-at-Law is named in the Petition as the Petitioner; and
 - (c) Such Petition is signed by such Attorney-at-Law or by an instructing Attorney-at-Law appointed by him.
- Such Attorney-at-Law shall furnish the particulars referred to in sub-rule (5) of this rule, and may instruct another Attorney-at-Law to appear without executing any proxy or other document in his favour.
- (4) No application shall be dismissed on account of any omission defect or irregularity in regard to the name of the Petitioner, the signing of the Petition, or the proxy, if the Court is satisfied that the person whose fundamental right or language right is alleged in such Petition to have been, or to be about to be, infringed expressly or impliedly authorized or approved, or ratified the filling of such application.
- (5) Every proxy or appointment of an Attorney-at-Law to act on behalf of a party shall specify the full name of such instructing Attorney-at-Law, his address for his service process, notices and documents, and his telephone number, if any, and shall be substantially in the prescribed form.
- (6) There shall be filed with the Petition four additional copies thereof (including the annexures thereto); one copy of the Petition and annexures shall be served on the Attorney General in compliance with the provisions of Article 134(1).

(7) (a) Where any alleged infringement, or imminent infringement, of any fundamental right or language right by executive or administrative action is brought to the notice of the Supreme Court, or any Judge thereof, in writing such matter may be referred by the Chief Justice, in accordance with such directions as may be given by him from time to time, to a single Judge sitting in Chambers.

(b) If it appears to such Judge that such complaint discloses, prima facie an infringement, or imminent infringement, of a fundamental right or language right of any person, whether such person be the complainant or not, he may in his discretion, direct that such complaint be treated as a Petition in writing under and in terms of Article 126(2), notwithstanding non-compliance with any of the foregoing provisions of this rule, if he is satisfied that-

- (i) Such person does not, or may not have the means to pursue such complaint in accordance with the fore-going provisions of this rule; and
- (ii) Such person has suffered, or may suffer, substantial prejudice by reason of such infringement, or imminent infringement

and may further direct the Registrar to refer such complaint to the Legal Aid Commission, or to any Attorney-at-Law who is a member of any panel or organization established for such purpose, for the purpose of enabling the preparation and submission of an amended Petition, affidavits, documents written submissions, and other material in clarification, and support of such complaint. Such complaint shall thereupon be deemed to be a Petition filed in the Supreme Court on the date on which such complaint was received, and shall be dealt with under and in terms of rule 45, in like manner as other applications under and in terms of Article 126(2) of the Constitution;

Provided that where the complainant is not himself the person aggrieved, the Court may direct the Registrar to ascertain from the person to whom such complaint relates whether he desires that action be taken in respect of such complaint. If such person notifies the Court at any time that he does not desire that any action be taken in respect of such complaint, all proceedings in respect thereof shall forthwith stand terminated.

(c) The provisions of this sub-rule shall come into operation on such day as the Chief Justice may direct.

45. (1) Every application, by way of Petition in writing under and in terms of Article 126 (2) of the Constitution, shall be referred to a Bench of not less than two Judges of the Supreme Court, nominated by the Chief Justice, within four days of filing on a date fixed by the Chief Justice in accordance with such directions as may be given by him from time to time, or a decision whether leave to proceed should be granted or refused. After such consideration, and after granting such hearing, to the Petitioner as the Court may seem necessary or expedient, the Court shall make order granting or refusing leave to proceed; the Court may, in an order granting leave to proceed, specify the allegations and the rights in respect of which leave to proceed has been granted;

Provided that during any period during which the sitting of the Court is suspended, such Petition shall be so referred within seven working days of filing.

(2) Where leave to proceed is granted under the provisions of the preceding sub-rule, proceedings upon the application shall be had by the Court.

(3) Upon leave to proceed being granted, the Petitioner shall within two working days, tender such number of notices, in the prescribed form, as is required for service on the Respondents, together with copies of his Petition, affidavits and annexures, as well as four additional copies of the notice. One copy of the notice shall be served on the Attorney General in compliance with the provisions of Article 134 (1).

(4) The Petitioner shall enter in such notices the names and addresses of the parties, the name and address of his instructing Attorney-at-Law, if any, and the name of the Attorney-at-Law, if any, who has been retained to appear for him at the hearing of the application, and shall tender the required number of stamped addressed envelopes for the service of notice on the Respondents by registered post.

(5) The Registrar shall insert in such notices the date of hearing of the application, (being a date not less than four weeks, and not more than six weeks after the grant of leave to proceed) after consulting the Petitioner, and shall

dispatch such notices by registered post to the Respondents within two working days after the grant of leave to proceed. He shall issue one copy to the Petitioner upon request, obtaining a written acknowledgement on the record itself; a copy of such notice shall not be posted to the Petitioner.

- (6) Each Respondent may file a counter-affidavit within fourteen days of receipt of such notice, with notice to the Petitioner and the other Respondents. The Petitioner may in like manner file a counter-affidavit within seven days, replying to the allegations of fact contained in any Respondent's affidavit.
 - (7) The Petitioner and the Respondents shall file their written submissions at least one week before the date fixed for the hearing of the application with notice to every other party.
 - (8) The provisions of Part II of these rules shall apply, mutatis mutandis, to applications under Article 126.
46. (a) Part I of the Supreme Court Rules; 1978, (in this rule referred to as " the 1978 Rules") is hereby revoked with effect from the date on which Part I of these rules comes into force;
- (b) Part II of the 1978 rules is hereby revoked with effect from the date on which Part II of these rules comes into force;
- (c) Part III of the 1978 rules is hereby revoked with effect from the date on which Part III of these rules comes into force; and
- (d) Rule 65 of the 1978 rules is hereby revoked with effect from the date on which Part IV of these rules comes into force.

SCHEDULE

PRESCRIBED FORMS

Form 1: Form of Notice of Hearing: Rule 8 (2)

In the Supreme Court of the Democratic Socialist Republic of Sri Lanka

S. C. (S.L.A.) Application No.

Lower Court No.:

.....
Petitioner

vs.

- 1.
- 2.

.....
Respondents.

To: The Respondent

Whereas the above-named petitioner has filed an application for Special Leave to Appeal to this Court, against the judgment/order of the Court of Appeal, dated A copy of the petition, and the annexures thereto, is annexed

Take notice that the said application will be heard by the Supreme Court at Hulftsdorp, Colombo 12, on theday of 19 at a.m. (or as the case may be).

You are required within fourteen (14) days of the receipt of this notice, to enter an appearance in the Registry of the Supreme Court, and, if you intend to oppose the grant of Special Leave to Appeal, to lodge a Caveat indicating your intention to oppose the said application.

If Special Leave to Appeal is granted, the date for the hearing of the Appeal will be fixed under and in terms of rule 16 of the Supreme Court Rules, 1990.

Petitioner's instructing Attorney-at-law:

Name:

Address:

Telephone No.:

Attorney-at-law retained to appear for petitioner at the hearing of the application

Name:

Address:

Telephone No.:

Registrar,
Supreme Court.

Form 2:Form of Notice of Hearing: Rule 16 (5)

In the Supreme Court of the Democratic Socialist Republic of Sri Lanka Supreme Court Appeal No.:

Lower Court No.:

Appellant.

vs.

- 1.
- 2.

Respondents.

To: The Respondent.

Take notice that the Supreme Court having granted Special Leave to Appeal, the appeal has been allotted the number set out above and will be heard by the Supreme Court, at Hulftsdorp. Colombo12, on the day of 19at a.m..

The appellant’s written submissions are required to be filed within six weeks of the grant of Special Leave to Appeal. The Respondent’s written submissions are required to be filed within six weeks of the receipt of the appellant’s written submissions (or within twelve weeks of the grant of Special Leave to Appeal, if the appellant fails to lodge his submissions as aforesaid).

The briefs used in the Court of Appeal will be used for the Supreme Court Appeal as well. If additional copies of the briefs or any part of the record are required, fees calculated at the rate of Rs.per folio shall be deposited on or before the day of 19.....

The briefs will be issued on the day of19

between and

Registrar:
Supreme Court.

**Form 3:Form of Proxy or Appointment of an Attorney-at-law
A [Rules 26, 28(6) and 44(5)]**

Know all men by these presents that ** of have nominated, constituted and appointed and do hereby nominate constitute and appoint Attorney-at-law, to be my instructing Attorney-at-law and to appear for me and in my name and behalf before the Supreme Court of the Democratic Socialist Republic of Sri Lanka, to appear and therein to (sue or defend, as the case may be, showing what the action is).

And to receive and to take all moneys that may be paid to him by me in the said action, and to move for and obtain in my name any order or orders from the said court for any payments of any sum or sums of money that may be deposited therein in respect of me, and to give all necessary receipts, releases and discharges therefor.

I do further authorize and empower my said Attorney-at-law to take and use all lawful ways and means, and to do and perform all such acts, matters and things as may be necessary in and about the premises which I being personally present might, or could, lawfully do. And I further promise and agree to release all kinds of irregularities, and to ratify, confirm and allow all and whatsoever the said Attorney-at-law shall do herein.

Signed at.....this.....day of 19

The address for service of the said Attorney-at-law is at and his telephone number is

(Signature)

** This Form may be used, with appropriate modifications, by two or more parties.

Form 4: Form of Notice of Appeal: Rules 25 and 27

In the Supreme Court of the Democratic Socialist Republic of Sri Lanka S. C. No.:

Court of Appeal/ Application No.:

Lower Court No.:

Appellant.

vs.

1.

2.

Respondent

To: The Respondent

Take notice that the Court of Appeal has on the day of 19 granted leave to Appeal from the order/Judgment decree/sentence dated the day of 19

The Appellant will appear in person.

The Appellant has appointed –

.....Attorney-at-law (instructing Attorney-at-law) of (Telephone No.:) to act on his behalf, and has retained Attorney-at-law, of (Telephone No.:) to appear for him at the hearing of the appeal.

The Registrar has, in terms of rule 27 (I), fixed...

a.m. on the day of 19 as the date and time at which the parties shall attend at the Registry, for the purposes of fixing the date or dates for the hearing of the appeal.

(Signature).

Form 5: Form of Notice of Hearing: Rule 27 (5)

In the Supreme Court of the Democratic Socialist Republic of Sri Lanka

Supreme Court Appeal No.:

Court of Appeal Appeal / Application No.:

Lower Court No.

Appellant

vs.

1.

2.

Respondents.

To: The Respondent

Take notice that the Court of Appeal having granted leave to Appeal, the appeal has been allotted the number set out above and, will be heard by the Supreme Court, at Hulftsdorp, Colombo 12, on the day of 19 ata.m.

The appellant's written submissions are required to be filed within six weeks of the grant of leave to appeal. The Respondent's written submissions are required to be filed within six weeks of the receipt of the appellant's written submissions (or within twelve weeks of the grant of leave to appeal, if the appellant fails to lodge his submissions as aforesaid).

The briefs used in the Court of Appeal will be used for the Supreme Court Appeal as well. If additional copies of the briefs or any part of the record are required, fees calculated at the rate of Rs.per folio shall be deposited on or before the day of19

The briefs will be issued on the day of 19between and

Registrar,
Supreme Court.

Form 6: Form of Notice: Rule 45 (3)

In the Supreme Court of the Democratic Socialist Republic of Sri Lanka Supreme Court Application No.:

Petitioner

vs.

- 1.
- 2.

Respondents.

To: The Respondent

Take notice that Supreme Court has granted the Petitioner leave to proceed with his application under and in terms of Article 126(2) of the Constitution; a copy of the petition dated the day of 19is forwarded herewith. The application will be taken up for hearing in the Supreme Court at Hulftsdorp, Colombo 12, at a.m. on the day of..... 19

Rule 45 provides that each Respondent may file counter affidavits within fourteen days of the receipt of this notice, with notice to the Petitioner and the other Respondents; that the Petitioner may in like manner file a counter affidavit, within seven days, replying to the allegations of fact contained in any Respondent's affidavit; and that the Petitioner and the Respondents shall file their written submissions at least one week before the date fixed for the hearing of this application, with notice to every other party.

The Petitioner's instructing Attorney-at-law:

Name:

Address:

Telephone No.:

Attorney-at-Law retained to appear for petitioner at the hearing of the application

Name:

Address:

Telephone No.:

Registrar,
Supreme Court.

**Form of Memorandum Nominating Legal Representative
In the Supreme Court Petition/Application No.**

No. 2091/58 of
04.10.2018. (In)

I, Petitioner/ Applicant/Respondent/Party seeking to be added/ substituted) hereby nominate:

- Preference No. 1. (Name) of(Address)
- 2..... (Name) of.....(Address)
- 3..... (Name) of.....(Address)

As my legal representative for the purpose of the action in the event of my death, before the final determination of this action and I hereby further request that they be appointed in the order of the preference given above as my legal representative for the purpose of the action in the event of my death as aforesaid.

- 1. I, ofconsent to the above appointment.

.....
Signature.

I, of.....being an Attorney-at-Law/ Justice of the Peace/Commissioner of Oaths certify that the above named person having read over and understood the contents of this memorandum/to whom the contents of this memorandum were read and explained by me/placed his signature in my presence at.....on this day of20.....

.....
Signature.

Attorney-at-Law/Justice of the Peace/Commissioner of Oaths

- 2. I,of consent to the above appointment.

.....
Signature.

I, of being an Attorney-at-Law/ Justice of the Peace/Commissioner of Oaths certify that the above named person having read over and understood the contents of this memorandum/to whom the contents of this memorandum were read and explained by me/placed his signature in my presence at.....on this day of20.....

.....
Signature.

Attorney-at-Law/Justice of the Peace/Commissioner of Oath

- 3. I, of consent to the above appointment.

.....
Signature.

I, of being an Attorney-at-Law/ Justice of the Peace/Commissioner of Oaths certify that the above named person having read over and understood the contents of this memorandum/to whom the contents of this memorandum were read and explained by me/placed his signature in my presence at.....on this day of 20.....

.....
Signature.

Attorney-at-Law/Justice of the Peace/Commissioner of Oaths

The Supreme Court (Exemption from Fees) Rules 1991

Published in the Gazette of the Democratic Socialist Republic of Sri Lanka Extraordinary No. 697/20 of Friday 17th January, 1992.

THE CONSTITUTION OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SR1 LANKA.

RULES made under Article 136 of the Constitution of the Democratic Socialist Republic of Sri Lanka by the Chief Justice and the other Judges of the Supreme Court nominated by him under that Article.

1. H.D. Thambiah, Chief Justice.
2. G.P.S. de Silva, Judge of the Supreme Court.
3. Mark D.H. Fernando, Judge of the Supreme Court.
4. A.R.B. Amerasinghe, Judge of the Supreme Court.

Colombo,
2nd October, 1991.

RULES

1. These rules may be cited as the Supreme Court (Exemption from Fees) Rules 1991.
2. Notwithstanding anything to the contrary in any Rule made under Article 136 of the Constitution, the Chief Justice may make order exempting a petitioner or a respondent to an application made under Article 126 of the Constitution (or to any class or category of such applications) from the payment of fees in respect thereof, where he is satisfied that insistence upon the payment of such fees may result in a denial of justice.

We give below a Note on the new Court Rules which are being brought into operation in 1992 and also the old court Rules which will continue in operation. For the convenience of practitioners, we reproduce below those Rules which will remain in operation- Ed.

SUPREME COURT AND COURT OF APPEAL RULES

1. Supreme Court Rules 1990 (Vide Gazette Extraordinary No. 665/32 of 07.06.1991)

Parts	Subjects	Coming into force 27.04.1992	Vide Gazette No. and Date
PART I	(a) Special Leave to Appeal	-do-	No. 697 of 10.1.1992
	(b) Leave to Appeal	-do-	-do-
	(c) Other Appeals	-do-	-do-
	General Provisions regarding Appeals and Applications	-do-	-do-
PART II PART III PART IV	Stay of Proceedings	-do-	-do-
	Applications under Article 126	-do-	-do-

2. Supreme Court Rules 1978 (Vide Gazette Extraordinary No. 9/10 of 08.11.1978)

Parts	Subjects	Date of coming into force	Vide Gazette No. and date
PART I	(a) Special Leave to Appeal	27.04.1992	No. 697 of 10.1.1992
	(b) Leave to Appeal Appeal Procedure	-do-	-do-
	Stay of Proceedings	-do-	-do-
PART II	Writs & Examination of Records	-do-	-do-
PART III	Suspension of sittings of Courts	Not repealed, still in force	
PART IV	Constitutional & Fundamental Rights Jurisdiction	-do-	
PART V			
PART VI		Only Rule 65 is repealed with effect from 27.04.1992.	-do-
PART VI	The Admissions, Enrolment, suspension and removal of Attorneys-at-law		
PART VII		Not repealed, still in force	

The Supreme Court (Exemption from Fees) Rules 1991 (Vide Gazette Extraordinary No. 697.20 of 17.01.1992)

Deemed to have come into operation as from 17.01.1992 (date of gazetting) by virtue of Article 136 (2) of the Constitution.

4. The Supreme Court (Conduct of and Etiquette for Attorneys-at-Law) Rules 1988 (Vide Gazette Extraordinary No. 535/7 of 07.12.1988)
Still in force
5. Supreme Court (Fees and Costs) Rules 1978 (Vide Gazette Extraordinary No. 12/11 of 30.11.1978)
Still in force
6. Supreme Court (Court of Appeal - Appellate Procedure - Copies of Records) Rules 1978 (Vide Gazette Extraordinary No. 18/6 of 10.01.1979)
Still in force
7. Attire of Judges and Attorneys-at-Law Rules 1978 (Vide Gazette Extraordinary No. 1/4 of 07.09.1978)
Still in force
8. Supreme Court (Senior Attorneys-at-Law) Rules, 1980 (Vide Gazette Extraordinary No. 115/9 of 19.11.1980).
Rescinded by the 8th Amendment to the Constitution.

9. Court of Appeal (Appellate Procedure) Rules 1990 (Vide Gazette Extraordinary No. 645/4 of 15.01.1991)

Parts	Subjects	Date of coming into force	Vide Gazette No. and date
PART I	Grant of interim Relief by Court of Appeal Applications -	27.04.1992	No. 697 of 10.1.1992
PART II	Written Submissions in the Court of Appeal -	-do-	-do-
PART III	Applications to which Public Officers are Respondents	-do-	-do-
PART IV	Postponements	-do-	-do-
PART V		-do-	-do-

10. Court of Appeal (Procedure for Appeals from High Courts established by Article 154 p of the Constitution) Rules 1988 (Vide Gazette Extraordinary No. 549/6 of 13.3.1989)
Still in force

11. Court of Appeal (Mediation in Appeals) Rules 1990 (Vide Gazette Extraordinary No. 645/4 of 15.01.1991)
No determination as yet as to date of operation.

12. Maintenance of Records and preparation of Appeal Briefs Rules 1990 - (Vide Gazette Extraordinary No. 645/4 of 15.01.1991)
No determination as yet as to date of operation.

13. Court of Appeal (Assigned Counsel) Rules 1991 (Vide Gazette Extraordinary ~ No. 672/7 of 24.07.1991)
Deemed to have come into operation as from 24.07.1991 (date of gazetting) by virtue of Article 136 (2) of the Constitution.

14. Security of Costs of Appeal (Vide Gazette No. 92/5 January 1974)
Prescribed in regulations which were made under the Administration of Justice Law on 17.12.1973 and which are still applicable by virtue of Sec. 755 (2) of the Civil Procedure Code)

15. Supreme Court (High Court - Jury Panels Procedure) Rules 1978 (Vide Gazette Extraordinary No. 18/6 of 10.01.1979)
Not reproduced here. Still in force.

SUPREME COURT RULES 1978

**Published in Gazette Extraordinary No. 9/10
Wednesday, November 08, 1978.**

THE CONSTITUTION OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SR1 LANKA

RULES under Article 136 of the Constitution of the Democratic Socialist Republic of Sri Lanka made by the Chief Justice and the other Judges of the Supreme Court nominated by him under that Article.

1. N.D.M. Samarakoon, Chief Justice.
2. G.T.Samarawickrema, Judge of the Supreme Court.
3. V.T. Thamotheram, Judge of the Supreme Court.
4. R.S, Wanasundera, Judge of the Supreme Court.

Colombo, this 7th day of November, 1978.

I. These Rules may be cited as the Supreme Court Rules,1978,

Part I }
Part II } Stand revoked with effect from 27.4.1992.
Part III }

PART IV WRITS AND EXAMINATION OF RECORDS

46. Every application made to the Court of Appeal for the exercise of powers vested in the Court of Appeal by Articles 140 and 141 of the Constitution shall be by way of petition and affidavit in support of the averments set out in the petition and shall be accompanied by originals of documents material to the case or duly certified copies thereof, in the form of exhibits. Application by way of revision or restitution in integrum under Article 138 of the Constitution shall be made in like manner and be accompanied by two sets of copies of proceedings in the Court of first Instance, tribunal or other institution.
47. The petition and affidavit except in the case an application for the exercise of the powers conferred by Article 141 of the Constitution shall contain an averment that the jurisdiction of the Court of Appeal has not previously been invoked in respect of the same matter. Where such an averment is found to be false and incorrect the application maybe dismissed.
48. Every application which is accepted and registered shall be listed for an order of Court within two weeks of registration.
49. Where the Court orders the issue of notice, it shall be the duty of the petitioner within two weeks of the date of the order of Court unless the Court otherwise directs to tender the requisite notices along with such number of copies of his application as there may be respondents.
50. Where a petitioner moves to amend any of the paper she has filed or to tender any additional papers he shall do so within two weeks of the order made by Court on such motion unless the Court otherwise directs.
51. Where any papers are filed under rule 50 the application shall be listed for an order of Court within a week of such filing.

52. Where notice is served upon the respondent, he shall file his objections, if any, within two weeks of the service of such notice, unless the Court directs otherwise. A copy of such objections shall also be served on the petitioner, and each of the other respondents, if any, unless any of the respondents, waives the right to receive a copy of such objections. The respondent shall also lodge in Court the same number of copies as have been filed by the petitioner.
53. Upon an application being registered, the respondent shall be entitled to take notice of it, and file objections, if any, at any time before the date fixed by Court for filing objections. Objections shall be supported by an affidavit in support of the averments set out in such objections.
54. Where the respondent is permitted by Court to amend his objections, or to file additional objections, or other papers, he shall file them within two weeks of such order, unless the Court otherwise directs.
55. Where the Court orders the deposit of any sum of money as security, such sum shall be deposited in such manner and within such time as may be directed by Court.
56. Any motion for substituted service by any party, shall be supported by affidavit and filed within two weeks of the receipt by the Registrar of the report of non-service of notice.
57. It shall be the duty of the petitioner, to take such steps as may be necessary to ensure the prompt service of notice, and to prosecute his application with due diligence.
58. All notices tendered to the Registrar, shall be issued or re-issued, where necessary, returnable on a date within two weeks, unless the Court otherwise directs.
59. Where the parties fail to comply with the requirements, set out in the preceding rules, the Registrar of the Court shall without any delay, list such application for an order of Court.
60. These rules shall, mutatis mutandis, also apply to applications made to the Court under any provisions of law, other than Articles 138, 140 and 141 of the Constitution. subject to any such directions that may be given by the Court in any particular case.
61. Where an order or notice is required to be served on any party, such service shall be effected in the manner prescribed for the service of summons.

PART V

SUSPENSION OF SITTINGS OF COURTS

62. (1) The sittings of the Supreme Court and the Court of Appeal will be suspended for periods of three weeks, two weeks and three weeks in each year commencing on such date in the months of April, August and December respectively as the Chief Justice may determine. During the period the sittings of the Supreme Court and Court of Appeal so suspended, the Chief Justice and the President of the Court of Appeal will make arrangements for the Supreme Court or the Court of Appeal, as the case may be, to sit for the purpose of hearing any urgent matters.
- (2) Judges of the Courts of First Instance may suspend sittings of their courts on such dates as the Chief Justice may determine commencing in the months of April, August and December for periods of two weeks, one week and two weeks respectively. The periods during which sittings of the Courts of First Instance are so suspended shall fall within the period fixed for the suspension of sittings of the Supreme Court.
- (3) During the period of suspension of a sittings of Court of a First Instance the Judge of that Court shall unless he has previously taken leave, be available at his station for the disposal of any urgent matters.

PART VI
CONSTITUTIONAL AND FUNDAMENTAL RIGHTS
JURISDICTIONS

63. (1) Where a Bill endorsed in the manner provided for in Article 122 (1) of the Constitution is referred for special determination of the Supreme Court by the President, a Bench of the Court shall be assembled and the Attorney-General shall be invited to be present and to assist the Court.
- (2) (i) Where a citizen invokes the jurisdiction of the Court to determine any question as to whether any Bill or any provision thereof is inconsistent with the Constitution by a petition in writing addressed to the Court in terms of Article 121 (1) of the Constitution, such petition shall specify the provision or provisions of the Bill which he alleges are inconsistent with the Constitution together with the section or sections of the Constitution with which such provision or provisions are alleged to be inconsistent and the reasons and ground for his allegation. -
- (ii) Whenever the jurisdiction of the Court is duly invoked by the President by a written reference addressed to the Chief Justice or by any citizen by a petition in writing addressed to the Court in terms of Article 121 (1) of the Constitution the Court shall hold proceedings to determine the question or questions raised on such written reference or petition.
- (iii) On application being made to it, the Court may, at its discretion, permit any person claiming to be interested in the determination of the question or questions involved to be heard at the said proceedings, on such terms and conditions as the Court may determine.
- (iv) Before the commencement of the proceedings, any citizen who has addressed a petition in writing and any person permitted by the Court to be heard at the proceedings, shall lodge with the Registrar, seven type-written copies of his submissions. Any written submissions lodged with the Registrar after the commencement of such proceedings shall be admitted only at the absolute discretion of the Court.
- (v) The Registrar shall cause a copy of any submissions lodged under Sub-rule 2 (iv) to be served on the Attorney-General.
- (vi) the Attorney-General may lodge with the Registrar, seven type written copies of his counter-submissions within three days of the service on him of any written submissions, and such counter-submissions shall be made available for inspection of the other parties.
- (vii) The Attorney-General shall be entitled to make oral submissions at any proceedings held by the Court in the exercise of the jurisdiction conferred on it by Article 121 (1) of the Constitution.
- (3) The Court may so conduct its proceeding and limit the duration of oral submissions, so as to enable it to make and communicate its decision within the prescribed period.
64. (1) Whenever any other Court or tribunal or other institution empowered by law to administer justice or to exercise judicial or quasi-judicial functions, refers any question to the Supreme Court for determination in terms of Article 125 (1) of the Constitution, such Court, tribunal or other institution shall - .
- (a) submit a written reference to the Supreme Court setting out concisely and clearly the question for determination;
- (b) notify all parties to the proceedings in the course of which the question arose, that such question is referred to the Supreme Court and that they should file seven copies of written submissions in the Supreme Court within seven days of the reference;
- (c) set out in the written reference that the said parties had been informed of the facts required to be notified to them under sub-paragraph (b) above; -

- (d) forward to the Supreme Court the record of the proceedings in which such question arose unless the Court otherwise directs.
- (2) The Registrar shall cause a copy of the submissions lodged under Sub-rule (1) (b) to be served on the Attorney-General and the Attorney-General may lodge with the Registrar seven type-written copies of his submission within seven days of the service on him of any written submissions and such submissions by the Attorney-General shall be made available for inspection by the other parties.
- (3) The Attorney-General shall be entitled to be heard and to make oral submissions at any proceeding held by the Supreme Court in the exercise of its jurisdiction under Article 125 (l) of the Constitution.
- (4) In any proceedings held in the exercise of its jurisdiction under Article 125 (l) of the Constitution the Court may so conduct its proceedings and limit the duration of oral submissions as it may think expedient or necessary to enable it to give its determination within the period fixed by the said Article.
65. (Stands revoked with effect from 27th April 1992).
66. (l) Where the Court of Appeal refers any matter for determination to the Supreme Court in terms of Article 126(3) of the Constitution it shall -
- (a) make a written reference setting out succinctly and clearly the facts and matters constituting prima facie evidence of an infringement or imminent infringement of the provisions of Chapter III or Chapter IV. of the Constitution by a party to the application before it;
- (b) forward the record of proceedings of the application before it;
- (c) notify the parties to the application had before it that they may within seven days of the reference file seven copies of written submissions in the Supreme Court.
- (2) Upon such a reference by the Court of Appeal, the Supreme Court may give such directions and direct such further steps as it may deem expedient or desirable for the purpose of hearing and finally disposing of the matter referred to it.
- (3) In respect of any proceedings to which these rules apply, the Registrar may from time to time call for such additional copies of any papers filed as may be required from any person or party and such person or party shall forthwith supply such additional copies.

PART VII
THE ADMISSIONS, ENROLMENT, SUSPENSION AND
REMOVAL OF ATTORNEYS-AT-LAW

67. Every person who intends to apply for admission as an Attorney-at-law shall, not less than six weeks before he shall so apply, give notice of such intention to the Registrar of the Supreme Court and to the Registrar of the Council of Legal Education or of such other governing body as may at the time be established for the purpose, of supervising and controlling the legal education of students desirous to qualify themselves as Attorneys-at-law and shall cause his name and place of abode to be posted up at the Registry of the Supreme Court and shall also cause notice of his intended application to be published once at least in the Gazette of the Republic of Sri Lanka and in any Sinhala, Tamil or English daily newspaper published in Colombo.
68. Every such application shall be in the form of a petition to the Supreme Court to which shall be annexed-
- (a) the certificates issued to him by the Ceylon Law College or by or under the authority of such other governing body as aforesaid in proof of his having passed the various examinations prescribed for the admission of Advocates or Proctors or Attorneys-at-law or of his having been exempted from the whole or any part of any

such examination by reason of his having passed an equivalent or higher examination in law of a recognized University or other educational institution;

- (b) an affidavit that the applicant is the identical person mentioned in such certificates and that he has attained the age of twenty-one years;
- (c) a certificate from the Attorney-at-law whose chambers he has attended that he duly attended his Chambers and that he practically understands the details of the practice of an Attorney-at-law;
- (d) a certificate from the Principal of the Ceylon Law College or of such other governing body, as afore-said that he has successfully completed any practical training course as may be prescribed:

Provided that in the case of a person who was registered as a student before January 1, 1974, the certificates given under the Rules of the Council in force at that time shall be accepted for the purpose of this Rule; and

- (e) certificate from two or more Attorneys-at-law of at least seven years' standing that the applicant is a person of good repute and that there is no impediment or objection to his enrolment as an Attorney-at-law.

69. The Supreme Court shall thereupon direct the Registrar to inquire and report whether the applicant is of good repute and whether there exists any impediment or objection to his enrolment as an attorney-at-law, and upon such report the Supreme Court shall either direct the applicant to be sworn or affirmed, and admitted and enrolled, or make such other order as it may deem proper.

70. No person who has not been duly admitted and enrolled as an Attorney-at-law or who has been suspended from practice or removed from office after having been so admitted and enrolled shall be allowed to assist and advise clients or to appear, plead or act for or on behalf of clients in any Court or other institution established by law for the administration of Justice.

71. Every order under Section 43 of the Judicature Act, No. 2 of 1978, directing a preliminary inquiry to be held by a Disciplinary Committee shall be transmitted to the Chairman thereof together with a certified copy of the material on which the order is made, or a statement setting out the alleged misconduct of the Attorney-at-law which has occasioned the making of the order.

72. The matters mentioned in the petition or complaint or in the statement referred to in rule 71 shall be the matters in issue at the inquiry by the Disciplinary Committee.

73. A Disciplinary Committee appointed under Section 44 (4) of the Judicature Act, No. 2 of 1978, shall have the following powers :-

- (a) to procure and receive all such evidence, written or oral, and to examine all such persons as witnesses, as the Committee may think it necessary or desirable to procure or examine;
- (b) to require the evidence (Whether written or oral) of any witness to be given on oath or affirmation, such oath or affirmation to be that which could be required of the witness if he were giving evidence in a court of law, and to administer or cause to be administered by an officer authorized in that behalf by the Committee on oath or affirmation to every such witness; and
- (c) to summon any person residing in Sri Lanka to attend any meeting of the Committee, to give evidence and to produce any document or other thing in his possession.

74. (1) The Registrar of the Supreme Court or such other officer of the Supreme Court authorised by him in writing shall be Secretary to the Disciplinary Committee and every summons, notice or other instrument issued by the Committee shall be signed on their behalf by such Registrar or such officer.

- (2) (a) Any summons may be served by delivering it to the person named therein, or if that is not practicable, by leaving it at the last known place of abode of that person.

- (b) Every person or whom a summons is served shall attend before the Committee at the time and place mentioned therein and shall give evidence or produce such documents or other things as are required of him and are in his possession or power according to the tenor of the summons.

75. (a) If any person upon whom a summons is served under these rules-
- (i) fails, without reasonable cause, to appear before the Committee at the time and place mentioned in the summons; or
 - (ii) refuses to be sworn, or, having been duly sworn, refuses or fails, without reasonable cause, to answer any question put to him touching the matter directed to be inquired into by the committee; or
 - (iii) refuses or fails, without reasonable cause, to produce and show to the Committee any document or other thing which is in his possession or power and which is in the opinion of the Committee necessary for arriving at the truth of the matters to be inquired into;

such person may be reported by the Disciplinary Committee to the Supreme Court with a certificate from the Chairman, setting out the facts and circumstances of the non-compliance with its directions.

- (b) The Supreme Court may thereupon make such order as it shall deem fit, on such person to comply with all or any of the directions of the Disciplinary Committee.
 - (c) Failure to comply with such orders of the Supreme Court shall render such person liable to be dealt with for the offence of contempt of the authority of the Supreme Court;
 - (d) No Stamp duty shall attach to or be payable for any process issued by or by the authority of a Committee appointed under Section 44 (4) of the Judicature Act. No. 2 of 1978.
76. Where any Attorney-at-Law whose conduct is the subject of any inquiry before the Disciplinary Committee fails without sufficient cause to appear in person and is not represented, the inquiry may be held or continued in his absence.
77. The Disciplinary Committee shall hold the inquiry or hear the evidence of any person, in camera.
78. Upon the conclusion of the inquiry, the Disciplinary Committee shall prepare and transmit to the Supreme Court a report embodying its findings on each of the matters in issue and its recommendation on the question whether or not proceedings should be taken under Section 42 (2) of the Judicature Act, No. 2 of 1978, for the suspension or removal of the Attorney-at-law, together with the record of the proceedings at the inquiry;
- Provided that no such recommendation shall in any way affect or prejudice the right of the Supreme Court or any Judge thereof to determine whether or not any proceedings for suspension or removal should be taken under that Section.
79. (1) Where the Supreme Court decides that proceedings for the suspension or removal of the Attorney-at-law should be taken, the Court will issue a Rule containing the charge or charges against him and calling upon him to show cause, within a period of three weeks or such further time as it may deem fit, why he should not be suspended or removed from office.
- (2) Such Rule shall be served personally on such Attorney-at-law and if personal service cannot be effected the Supreme Court may direct such substituted service as it may deem fit.
 - (3) Notice of such Rule shall also be given to the Bar Association of Sri Lanka.
 - (4) The Attorney-General, the Solicitor-General, or any other officer of the Attorney-General's Department will be entitled to appear in support of the Rule.
 - (5) A list of witnesses and documents shall accompany the said Rule.

80. (1) If, on the day appointed for showing cause, the respondent does not appear or appears and states that he has no cause to show, the Supreme Court shall make such order in the Rule as it thinks fit.
- (2) If however, the respondent states that he has cause to show, the Court shall fix the matter for hearing.
- (3) If the respondent intends to rely on evidence, he shall file a list of witnesses and documents on or before a date fixed by Court, but not less than seven days before the date of hearing. A copy of such list shall be served on the Attorney-General. He shall also furnish seven copies of such lists for the use of the Court.
81. The Attorney-General, the Solicitor-General or other officer at the Attorney-General's Department appearing in support of the rule shall adduce his evidence. The respondent shall be entitled to cross-examine any witnesses. After the evidence in support of the rule has been adduced, the respondent shall adduce his evidence and the counsel in support of the rule shall have the right to cross-examine any witnesses. After all the evidence has been adduced, the officer appearing in support of the Rule shall make his submission. Thereafter the Bar Association of Sri Lanka shall make submissions, if any, Counsel for the respondent shall be entitled to reply.
82. Any person who intends to apply for re-admission and re-enrolment as an Attorney-at-law shall, not less than six weeks before he shall so apply, give notice of such intention to the Registrar of the Supreme Court, the Attorney-General, and the Bar Association of Sri Lanka and shall cause his name and place of abode to be pasted up at the Registry of the Supreme Court and also cause notice of his intended application to be published once at least in the Gazette of the Republic of Sri Lanka and also in a Sinhala, a Tamil and an English daily newspaper published in Colombo.
83. (1) Such application shall be in the form of a petition to the Supreme Court and shall be supported by an affidavit or affidavits. The applicant shall furnish the Registrar seven copies of such application and papers.
- (2) Every application shall state fairly and honestly all such facts as may be necessary to enable the Court to decide the application.
- (3) The Attorney-General and the Bar Association of Sri Lanka shall be made respondents to the application.
84. The Supreme Court shall thereupon direct the Registrar to inquire into and report, what reputation the applicant bears and whether there exists any impediment or objection to his re-admission or re-enrolment as an Attorney-at-law. The Registrar shall submit his report to the Supreme Court.
85. The Supreme Court shall thereafter hold such inquiry as it considers necessary and make such order as it thinks fit.
86. In this part —

"Committee" means the Disciplinary Committee appointed under Section 44 (4) of the judicature Act, No. 2 of 1978;

"Council" means the Council of Legal Education established under Ordinance No. 2 of 1900 (Chapter 276);

"Registrar" means the Registrar of the Supreme Court of the Republic of Sri Lanka.

ATTIRE OF JUDGES AND ATTORNEYS-AT-LAW RULES 1978

(Reproduced from Gazette of the Democratic Socialist
Republic of Sri Lanka, Extraordinary No. I/4, Thursday, September 07, 1978)

Rules of Court made by the Supreme Court under Article 136 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Chief Justice and other judges of the Supreme Court
Colombo, September 7, 1978.

RULES

1. These rules may be cited as the Attire of Judges and Attorneys-at-Law Rules, 1978.
2. The attire of the Judges of the Supreme Court and Court of Appeal shall be as determined by the Chief Justice after consultation with the other Judges of the Supreme Court.
3. The attire of the Judges of the High Court other than women Judges of that Court shall be as follows:-
 - (a) black gown with red lapel; and
 - (b) black shervani and dark trousers or black coat, dark trousers and black tie.
4. The attire of the Judges of the District Court Magistrates other than women Judges of the District Courts and women Magistrates shall be as follows:-
 - (a) black gown with purple lapel; and
 - (b) black shervani and dark trousers or black coat, dark trousers and black tie.
5. The attire of women Judges of the High Courts, District Courts and women Magistrates shall be as follows: -
 - (a) gown as prescribed in rule 3 (a) or rule 4 (a) as the case may be; and
 - (b) black, white or- grey saree and jacket or black, white or grey frock.
6. The attire for Attorneys-at-Law other than women Attorneys-at-Law shall be as follows: -
black coat and dark or white trousers and black tie, or white National costume or black shervani with dark or white trousers.
7. The attire of women Attorneys-at-Law shall be as follows: -
White, black, grey or mauve saree and jacket, or white, black, grey or mauve frock below the knee length or black coat and black long trousers up to the ankle with high necked white long sleeved shirt with collar tucked inside the trouser and black gown/cloak.

Maternity wear shall be a black high necked long frock below the knee length with white long sleeved shirt and black gown or the saree and jacket of the correct colours as aforementioned with black gown/cloak.
8. Attorneys-at-Law appearing in the Supreme Court and the Court of Appeal shall also wear a black gown.
9. The Attire of Judges and Attorneys-at-Law Rules, 1974, published in Gazette No. 95/5 of January 23, 1974, as amended by rules published in Gazette No. 115/4 of June 12, 1974, are hereby revoked.

No. 2091/72 of
05.10.2018.
(Amend.)

Supreme Court (Fees and Costs) Rules 1978 (Reproduced from Gazette Extraordinary No. 12/11 Thursday, November 30, 1978)

Rules under Article 136 of the Constitution of the Democratic Socialist Republic of Sri Lanka made by the Chief Justice and the other Judges of the Supreme Court nominated by him under that Article.

1. N.D.M. Samarakoon, Chief Justice.
2. G.T. Samarawickdema, Judge of the Supreme Court.
3. V.T. Thamotheram, Judge of the Supreme Court.
4. R.S. Wanasundera, Judge of the Supreme Court.

Colombo, this 30th day of November, 1978.

RULES

1. These Rules may be cited as the Supreme Court (fees and Costs) Rules, 1978.
2. (a) When disposing of an application, appeal or any other matter the Supreme Court may award to any party the costs of such application, appeal or other matter as determined by the Court or on agreement of parties or may reserve the consideration of such costs for any future stage.

(b) The decree or order for the payment of costs shall direct by whom the costs of each party are to be paid and whether in whole or in what part or proportion.
3. All Bills of Costs relating to applications, appeals or other matters disposed of by the Supreme Court shall be referred to the Registrar for taxation in accordance with the rates set out in the Schedule hereto:

Provided, however, that on an application made the Registrar may in special circumstances allow a charge or fee not provided for in such Schedule.
4. The taxation of costs shall be limited to the costs incurred in an application, appeal or other matter disposed of by the Supreme Court and shall not include any costs incurred in any other Court.
5. After the Supreme Court has given its decision as to the taxing of costs of any application, appeal or other matter, the Registrar shall without delay issue to the party to whom costs have been awarded an order to tax and a notice specifying the date and the time appointed by him for the taxation. The party receiving an order to tax and notice shall, not less than forty-eight hours before the time appointed for taxation, lodge with the Registrar his Bill of Costs (together with all necessary vouchers for disbursements) and serve on the opposite party a copy of such Bill and of the order to tax and notice.
6. The Registrar may disallow to any party who fails to lodge his Bill of Costs together with all necessary vouchers for disbursement within the time specified in Rule 5 or who in any way delays or impedes the taxation the charges to which such party would have been entitled for drawing his Bill of Costs and attending the taxation.
7. A party aggrieved by a taxation may appeal from the decision of the Registrar to the Supreme Court. Such appeal may be heard and disposed of by a single Judge. Notice of such appeal shall be served on the opposite party by the party aggrieved and an affidavit of the service lodged with the Registrar.
8. The fees payable in respect of applications, appeals, or other matters to the Supreme Court shall be in accordance with the rates specified in the Schedule hereto.

9. The fees payable in respect of a petition filed in the Court of Appeal for leave to appeal to the Supreme Court shall be rupees twenty-five, other than in Criminal cases in respect of which no fee is payable.
10. In these rules, "costs" means the whole of the expenses necessarily incurred by any party on account of an application, appeal or other matter and in enforcing a decree passed thereon and includes the fees of Court, charges for copies of proceedings and documents and fees for charges of agents and counsel of such party.

SCHEDULE

A. TABLE OF COSTS: Rs. Cts.

(1) To Agents of Parties

Proxy to Agent	7.50
Receiving instructions from client re application /appeal	100.00
Instructing Counsel to prepare application/appeal	35.00
Necessary attendance on client during pendency of matter	20.00
Necessary attendance on Counsel during pendency of matter	20.00
Necessary attendance on Registrar during pendency of matter	20.00
Attending Court at hearing	30.00
Attending Court for hearing of deferred judgment	20.00
Attending taxation meeting	40.00
Drawing application/appeal	40.00
Drawing affidavit when required by rules	25.00
Drawing bill of costs	40.00
Drawing motion when necessary	20.00
Making copy of application appeal, affidavit where necessary, motion where necessary, written submissions and bill of costs (fair copy per folio)	1.00
Making additional copies of above (copy per folio)	0.50
Notice of intended application appeal on Respondent	10.00
Notice of lodging of appeal with copy	15.00
Service of copy of bill of costs with notice of taxation on opposite party	10,00

(2) To Counsel

Retainer	from 50.00 to 100.00
Consultation fee	from 50,00 to 250,00
Brief fee at hearing application/appeal	from 300.00 to 3,000.00
Drawing, perusing or settling an application/appeal	150 to 500.00
Supporting or opposing motion where necessary	50.00
Drawing, Perusing or settling written submissions	from 150.00 to 1,000.00

B. TABLE OF FEES OF COURT

Proxy of agent	10.00
Application (criminal cases)	50.00
Application (other than criminal cases)	200.00
Appeal (criminal cases)	50.00
Appeal (other than criminal cases)	200.00
Explanatory Note - 1folio equals 120 words.	

S. C. (Court of Appeal- Appellate Procedure copies on Records Rules) 1978

(Reproduced from the Gazette of the Democratic Socialist Republic of Sri Lanka No. 18/6 - Wednesday, January 10,1979)

Rules under Article 136 of the Constitution of the Democratic Socialist Republic of Sri Lanka made by the Chief Justice and the other Judges of the Supreme Court nominated by him under that Article.

1. N.D.M. Samarakoon, Chief Justice.
2. G.T. Samarawickrema, Judge of the Supreme Court.
3. V.T. Thamotherarn, Judge of the Supreme Court.
4. R.S. Wanasundara, Judge of the Supreme Court.

Colombo, this 5th day of December, 1978.

RULES

- I. These rules may be cited as the Supreme Court (Court of Appeal-Appellate Procedure-Copies of Records), Rules,1978.
2. (1) In every Civil appeal preferred after the date of the Commencement of these rules, the appellant shall provide,in the manner hereinafter prescribed, for the use of the Judges who shall sit on the hearing of the appeal, a copy typewritten or photocopies of so much of the record of the case as maybe necessary for the decision of the appeal.

(2) For the purposes of sub-rule (1) an appeal shall be deemed to be preferred on the date of the presentation of the petition of appeal in the Court of first instance.
3. Within one week of the presentation of the Petition of appeal the Court of first instance shall transmit the record to the Court of Appeal.
4. Within two weeks of the presentation of the Petition of Appeal the appellant shall apply in writing to the Registrar of the Court of Appeal for the number of copies of the record stating in such application whether copies of the whole portions only, and if so of what portions of the record as necessary for the decision of appeal. Such application shall state the number of copies required by him. The appellant shall within three days of his so filing his application serve a copy of the same on the respondent who shall within seven days of receipt of the said copy file in the said court a memorandum of any further portions of the record which he considers necessary together with an application specifying the number of copies required by him.
5. On receipt of such applications and payment in terms of these rules, the Registrar shall furnish the parties as soon as possible, with copies applied for.
6. The Registrar shall cause to be made for the use of the Court.
7. Payment for the copies applied for shall be made to the Registrar.
8. Payment shall be made at the rate of one rupee per page of the record of the Court of first instance.
9. In the event of any additional copy being found necessary subsequent to the original application the court may in its discretion, direct the Registrar to supply such additional copies on application being made to him, and the provisions of these rules as to payment and scale of charges shall apply to every such application.

Supreme Court (Conduct of and Etiquette for Attorneys-at-Law) Rules 1988

(Reproduced from Gazette Extraordinary of the Democratic Socialist Republic of Sri Lanka No. 535/7 of 07.12.1988.)

RULES under Article 136 of the Constitution of the Democratic Socialist Republic of Sri Lanka made by the Chief Justice and the other Judges of the Supreme Court nominated by him under that article.

1. S. Sharvananda, Chief Justice.
2. R.S. Wanasundera, Judge of the Supreme Court.
3. K.A.P. Ranasinghe, Judge of the Supreme Court.
4. E.A.D. Atukorale, Judge of the Supreme Court.

Colombo, this 11th day of February. 1988.

RULES

1. These rules may be cited as the Supreme Court (conduct of and Etiquette for attorneys at law) Rule 1988.
2. These rules shall apply to every Attorney-at-Law admitted and enrolled by the Supreme Court of the Democratic Socialist Republic of Sri Lanka.
3. An Attorney-at-Law who holds any office or appointment in his professional capacity shall be entitled to practice the profession only in so far as in necessary for the due performance of his duties in such employment.
4. Where in any legal matter proceeding the appearance of an Attorney-at-Law has been registered no other Attorney-at-Law, may appear in the said matter or proceedings unless he is so instructed by the said registered Attorney-at-Law. Provided however any Attorney-at-Law may be assigned to or appointed by Court to appear in such legal matter or proceeding.

ACCEPTANCE OF INSTRUCTION

5. An Attorney-at-Law may not refuse to act on behalf of a party or person in any matter of proceeding before any Court, Tribunal or other Institution established for the Administration of Justice or in any professional matter at his or her Professional fee.

Provided, however an Attorney-at-Law may refuse to act on behalf of a client in special circumstances which in his opinion would render it difficult for him to maintain his professional independence or would otherwise make acceptance of such professional matter incompatible with the best interest of the Administration of Justice.

6. An Attorney-at-Law shall not act for any party or person in professional matters in which the said Attorney-at-Law has a personal interest unless after making full disclosure of the said interest to the client and after obtaining a declaration in writing that the client has no objection to the Attorney-at-Law acting for him.
7. An Attorney-at-Law shall not appear or advise in any professional matter which in his opinion would be in conflict of interest with the interest of any other client in such or connected professional matter.
8. Where a conflict arises between the interests of two or more clients for whom the Attorney-at-Law is acting, the Attorney-at-Law shall cease to act for all his said clients unless he decides that he can without any professional impropriety or embarrassment to himself appear for any one or more of such clients provided others such client or clients agree that he might so appear.

9. An Attorney-at-Law shall not accept professional matter which may, in his opinion, embarrass him by reason of his holding any office or appointment.
10. An Attorney-at-Law shall not accept any professional matter unless he can attend to it with due diligence.
11. An Attorney-at-Law shall not accept any professional matter which would involve him in the commission or in the furtherance of the commission of an offence.
12. An Attorney-at-Law shall not accept any professional matter in respect of which he knows or has reason to believe that he would be required as a witness.

The same principle would apply where an Attorney-at-Law after accepting any professional matter finds that he would be required as a witness in the same matter:

Provided, however, an Attorney-at-Law may accept any professional matter in which he may be required only as a witness in respect of any formal non-contentious matter.

13. An Attorney-at-Law from the same Law Firm shall not appear for separate parties in any case matter or proceeding where there is or likely to be a conflict of interest between the said parties.

Provided that this rule shall not apply negotiations with a view to or conciliations for settlement between the parties of the dispute.

14. An Attorney-at-Law whose name appears in the said Legal Aid Scheme approved the Bar Association of Sri Lanka, shall offer his professional services to a client whose eligibility has been accepted by the said Scheme without extra charges to the client unless he decides in his discretion that he would be justified in refusing to advise or accept such instructions for any of the reasons hereinbefore stated.

Similarly, an Assigned Counsel shall not be entitled to charge any fee from the accused whose defense he has undertaken, other than what he is paid by the State.

AFTER RETAINER

15. On accepting any professional matter from a client or on behalf of any client, it shall be the duty of an Attorney-at-Law to exercise his skill with due diligence to the best of his ability and care in the best interests of his client in such matter as he may decide and he should do so without regard to any unpleasant consequences either to himself or to any other person. Furthermore, he should at all times so act with due regard to his duty to Court, Tribunal or any Institution established for the Administration of Justice before which he appears and to his fellow Attorneys-at-Law opposed to him.
16. Where the services of an Attorney-at-Law have been retained in any proceedings in any Court, Tribunal or other Institution established for the Administration of Justice, it shall be the duty of such Attorney-at-Law to appear at such proceeding unless prevented by circumstances beyond his control.
17. An Attorney-at-Law shall not take champertous advantage of his client in any professional matter in which he had been retained.
18. An Attorney-at-Law shall act with complete frankness and honesty in advice to and in all dealings with his client.
18. (a) An Attorney-at-Law should never act in a manner detrimental and/or prejudicial to his client.

CEASING TO ACT AS AN ATTORNEY-AT-LAW

19. An Attorney-at-Law on accepting instructions from a client, is under a duty not to withdraw his services in respect thereof except for good cause.
20. Where a client refuses to accept an act upon the advice of his Attorney-at-Law and such Attorney-at-Law decides that thereby it would be improper or embarrassing for him to continue to act for his client or where there is a loss of confidence between an Attorney-at-Law and his client he may cease to act.
21. An attorney-at-law may cease to act for his client if the client being requested to do so, declines or neglects to give further instructions in circumstances where the Attorney-at-Law would be left with no authority to take further action on behalf of his client in any professional matter or proceeding.
22. An Attorney-at-Law may withdraw from any professional matter on the failure of the client to pay his fees or provide for disbursements in respect of such professional matter.
23. An Attorney-at-Law in the event of his ceasing to practice his profession is under a duty to give his client or clients reasonable notice of such cessation.
24. Where an Attorney-at-Law practices the profession in partnership and it is sought to dissolve the said partnership firm or to amalgamate with another firm, it is the duty of the partnership firm ceasing to practice to give a notice to his clients of such cessation or amalgamation.
25. An Attorney-at-Law shall cease to act on behalf of his client if so requested by the client.
26. An Attorney-at-Law shall preserve and safeguard all property of the client entrusted to him.

FEES AND DISBURSEMENTS

27. An Attorney-at-Law may in the best traditions of the profession, reduce or waive a fee on account of poverty of, or hardship to, the client or prospective client or where otherwise the client or prospective client would be effectively deprived of legal advice or representation..
28. An Attorney-at-Law shall not appropriate any funds of his client held by him in trust for a specific purpose except with the permission of his client.
29. A "Retainer" is an engagement by a client of an Attorney-at-Law to appear for him in any litigation in which he may at that time been involved subject to the payment of his fees and subject to such conditions as the Attorney-at-Law may lay down.

"A Special Retainer" is an engagement of an Attorney-at-Law by a client to appear or act for him subject to the payment of his fees in some particular suit or action in prospect

"A General Retainer" is an engagement by a client of an Attorney-at-Law to appear for him in all matters of litigations in which he may at any time be involved, subject to the payment of his fees and to such terms as such Attorney-at-Law may prescribe.
30. (a) Where after a General Retainer, a client does not instruct the said Attorney-at-Law in any manner to which such retainer is applicable even after a reasonable time has elapsed after the Attorney-at-Law has inquired from the said client or legal representative as to whether he is to receive instructions, the Attorney-at-Law may treat the said retainer as being determined in respect of that matter.
30. (b) The same principles, where applicable, would apply in respect a special retainer.

CONFIDENTIAL INFORMATION

31. An Attorney-at-Law shall keep in strict confidence all information whether oral or documentary acquired by him from or on behalf of his client in any matter in respect of an concerning the business and affair of his client.
32. An Attorney-at-Law however may disclose such information if it is expressly or impliedly authorized by his client in writing or in the event of the death of his client by the legal representative of the client. Even then he should be careful to disclose only such information as is necessary in the circumstances and no more.
33. This duty on the part of an Attorney-at-Law to refrain from disclosing such confidential information lies not only during the existence of his professional relationship with the client but indefinitely thereafter even after the said Attorney-at-Law has ceases to act for the said client and after the death of the clients as well.
34. This duty extends to any partner or associate of the Attorney-at-Law in the profession and to any employee of the Attorney-at-Law. in fact, in the normal course if he becomes aware of such information it would be the duty of the said Attorney-at-Law in such circumstances to take all reasonable steps to prevent the disclosure of any such information by such persons even after the termination of his relationship with such persons.
35. It would be contrary to professional etiquette for an Attorney-at-Law possessing such confidential information concerning his client to undertake any professional work for the opposite party in the same matter or in some other matter where there is or is a likelihood of a conflict between his client and another party to such matter. Further, if such information could be used to the prejudice of his former client in any other professional matter, the said Attorney-at-Law shall not undertake such work.
36. There would, however be no objections to an Attorney -at-Law accepting professional work on behalf of the opposite party where, having been retained by the former client in respect of the same professional work, the Attorney-at-Law has not received any such confidential information.
37. The above provisions shall apply when one Law Firm amalgamates with another Law Firm or when a new Law Firm is formed.
38. Other than in the instances referred to in Rule 32 and subject to any written law, an Attorney-at-Law may disclose such confidential information: -
 - (1) In order to defend himself, his associates or employees against any allegation of misconduct or malpractice made by his client
 - (2) to prevent the commission of a crime, fraud or illegal act.
 - (3) in the case of joint retainer or where the client has a joint interest with others, the said information to such members of the joint retainer or others having a joint interest with the client. as the case may be.

TOUTING AND ADVERTISING

39. An Attorney-at-Law shall not under any circumstances by himself or through another directly or indirectly resort to the practice of Touting.

The expression Touting shall include the following acts or conduct:

 - (1) engaging in any manner for any commission, payment or consideration the services of any person to solicit clientele;
 - (2) advertising in any manner, for the purpose of unfairly attracting clientele for himself.

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40. An Attorney-at-Law may display his professional nameplate at his office and/or residence.
- (a) such name plate may contain only the following information: ‘
 - (1) The name of the Attorney-at-law and/or the Law Firm;
 - (2) The professional qualifications of the Attorney-at-Law or members or partners of the Law Firm such as the descriptions “Attorney-at-Law, Notary Public”, “Solicitors”, “Commissioner of Oaths”, “J.P., U.M.”;
 - (3) Academic qualifications such as University degrees
 - (4) Office hours.
 - (b) Illuminated name plates or boards showing the directions to the office of an Attorney-at-law shall not be used.
 - (c) The Professional or Law Firm name plate shall be of a reasonable size sufficient only to enable clients to find the office or the residence of the Attorney – at – law.
41. In the event of any Attorney-at-Law changing the premises where he practices, He may leave a notice at his former premises for a reasonable length of time giving the address of his new premises.
42. An Attorney-at-Law may have professional stationery and the Professional stationery shall contain only the following information:
- (1) Name of Attorney-at-Law and/or Law Firm, address and residential address, telephone and telex number, post office box number, cable address of Law Firm, hours of office;
 - (2) Names of Partners or members of Law Firm;
 - (3) Professional qualifications, academic qualifications of Attorney-at-Law including those who may be partners or members of Law Firm;
 - (4) In the case of Law Firms it may be described as “Attorneys-at-Law and Notaries Public” or as “Attorneys-at-Law and Solicitors”, as the case may be.
43. An Attorney-at-Law or a Law Firm may have his or its name, address and description on cheques, envelopes and documents.
44. An Attorney-at-Law may use a Card which may contain his name and/or Professional or residential addresses such telephone numbers, his Professional and academic qualifications and the name of the legal firm of which he may be a member.
45. An Attorney-at-Law or a Law Firm may have his or its name; address and description in any law list or Legal Directory or such other directories, including Telephone Directory as provided in Clause 40.
46. An Attorney-at-Law may broadcast on radio or appear on television or deliver a lecture or give a talk or interview the press or write an article or letter for publication on any legal or professional matter.
47. Where an Attorney-at-law knows or has reason to believe that his name would be advertised in any particular instance, he should take all reasonable steps to see that such advertisement would not offend the rules or etiquette in regard to advertising. .
48. An Attorney-at-Law should not give any interview or broadcast or permit the publication of any matter relating to a client’s business or former client’s business without that clients consent.
49. An Attorney-at-Law should not cause or permit to be published any particulars of -
- (1) his practice;
 - (2) any matter in which he has been instructed, unless he can do so without disclosing confidential information pertaining to such matter and without giving publicity to his own appearance in the matter or part played in it.
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RELATIONSHIP WITH COURT

50. An Attorney-at-Law owes a duty to Court, Tribunal or other institution created for the Administration of Justice before which he appears to assist it in the proper administration of justice without interfering with the independence of the Bar.
51. An Attorney-at-Law shall not mislead or deceive or permit his client to mislead or deceive in any way the Court or Tribunal before which he appears.
52. It shall be the duty of an Attorney-at-Law appearing for the prosecution to bring to the notice of the Court any matter which if withheld may lead to a miscarriage of justice.
- 53 (i) An Attorney-at-Law shall not question or make any statements merely to insult, or degrade the opposite party or a witness or any other person.

(ii) An Attorney-at-Law shall not make statements or question a witness imputing or suggesting bad character, fraud, commission of a criminal offence or lack of credibility, if the Attorney-at-Law has reason to believe that such allegation is unfounded or untrue.
54. An Attorney-at-Law shall not permit his personal feelings and/or interest to influence his conduct before Court, Tribunal or other institution established for the Administration of Justice before which he appears.
55. An Attorney-at-Law shall not discuss the merits of a case with the Judge or other presiding officer before whom he appears, in the absence of the opposite party.

**RELATIONSHIP WITH OTHER MEMBERS OF THE
PROFESSION**

56. An Attorney-at-Law shall act with all courtesy, respect and fairness towards his fellow members of the profession in all Professional matters.
57. It shall be improper for an Attorney-at-law to deal with the opposite party except in the presence and with the consent of the Attorney-at-Law representing such party.
58. An Attorney-at-Law should not permit his personal feelings and/or personal interest to influence his conduct of his Professional matter.
59. The above principles would apply when an Attorney-at-Law is opposed to a person who is not an Attorney-at-Law in any professional matter.
60. An Attorney-at-Law must not conduct himself in any manner which would be reasonably regarded as disgraceful or dishonourable by Attorneys-at-Law of good repute and competency or which would render him unfit to remain an Attorney-at-Law or which is inexcusable and such as to be regarded as deplorable by his fellows in the profession.
61. An Attorney-at-Law shall not conduct himself in any manner unworthy of an Attorney-at-Law.
62. The above Rules are not exhaustive.

SECURITY OF COSTS OF APPEAL

(As prescribed in Regulations which were made under Administration of Justice Law on 17.12.1973 and which are still applicable - vide Sec. 755 (2) of Civil Procedure Code)

(Extracted from Gazette No. 92/5 of January 1974)

Where cause of action, title to land or property, value of estate or subject-matter of action is	Under Rs.1,500/-	Rs. 1500/- & Under Rs. 5,000/-	Rs. 5000/- & Under Rs. 10,000/-	Rs. 10000/- & over
	Rs.	Rs.	Rs.	Rs.
Cash to be deposited to credit of the Court in a Bank, OR	150/-	250/-	375/-	750/-
Mortgage of immovable properties or Bond with two or more sureties	300/-	500/-	750/-	1500/-

SUPREME COURT (Senior Attorneys- at- Law) RULES 1980

(Reproduced from The Gazette of the Democratic Socialist Republic of Sri Lanka Extraordinary No. 115/9 of 19.11.1980)

Rules under Article 136 of the Constitution of the Democratic Socialist Republic of Sri Lanka made by the Chief Justice and other Judges of the Supreme Court nominated by him under that Article.

1. N.D.M. Samarakoon, Chief Justice,
2. G.T. Sarnarawickrema,
3. R.S. Wanasundera,.
4. I.M. Ismail,

Chief Justice and other Judges of the Supreme Court,
Colombo, October 29, 1980.

RULES

1. These Rules may be cited as the Supreme Court (Senior Attorneys-at-Law) Rules, 1980.
2. An Attorney-at-law who has been in continuous active practice in the Courts for not less than twenty years shall be eligible for appointment as a Senior Attorney-at-Law, if he is eminent in the profession, and is a person of integrity who has maintained high standards of conduct and professional rectitude.
3. An application for appointment as a Senior Attorney-at-law shall be made to the Chief Justice in writing.
4. (1) Upon the receipt of an application made under rule 3, the Chief Justice shall make his recommendation thereon and submit such application to the President.

(2) The President may, where the Chief Justice has so recommended, appoint an Attorney-at-law who has made an application under rule 3, as a Senior Attorney-at-law.

5. A Senior Attorney-at-law appointed under paragraph (2) of rule 4 shall not be entitled to take his seat at the inner Bar until he takes his oath at a sitting of the Supreme Court.
6. The attire of a Senior Attorney-at-law on ceremonial occasions of a Court shall be black coat, white shirt and dark trousers, or white national dress, with wing-collar and white bands and silk gown. Women Attorneys-at-law appointed as Senior Attorneys-at-law shall wear white dress, or white saree and jacket, together with wing-collar and bands and silk gown. A full bottomed wig is optional.
7. A Queen's Counsel shall continue to have all privileges hitherto enjoyed by a Queen's Counsel and shall in addition be deemed to be a Senior Attorney-at-law for the purposes of these rules and shall be entitled to the privileges of a Senior Attorney-at-law.
8. A Senior Attorney-at-law shall not appear in a Court, give written opinions or settle pleadings except with the assistance of an Attorney-at-law who is not a Senior Attorney-at-law and in no circumstances act without the instructions of another Attorney-at-law.
9. A Senior Attorney-at-law shall not charge a fee which is less than the minimum fee prescribed by the Bar Association of Sri Lanka for a Senior Attorney-at-law.

Note by Editor: Amendment to the Constitution was made subsequent to the making of the Rules. These Rules have been rescinded [Vide Article 169 A (2)].

THE COURT OF APPEAL (Procedure for Appeals from High Courts) RULES 1988

(Reproduced from the Gazette of the Democratic Socialist Republic of Sri Lanka Extraordinary No. 549/6 of 13.3.1989).

Rules made by the Supreme Court under Article 136 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

1. K.A.P. Ranasinghe, Chief Justice
2. R.S. Wanasundera, Judge of the Supreme Court
3. E. A. D. Atukorale, Judge of the Supreme Court
4. H. D. Tambiah, Judge of the Supreme Court

Colombo, 14, September, 1988.

RULES

- I. These rules may be cited as the Court of Appeal (Procedure for appeals from High Courts established by Article 154P of the Constitution) Rules, 1988.

PART I

Appeals from Orders made by a High Court in the exercise of its jurisdiction under Article 154P (3) (b) of the Constitution.

2. (I) Any person who shall be dissatisfied with any judgment or final order or sentence pronounced by a High Court in the exercise of the appellate or revisionary jurisdiction vested in it by Article 154 P (3) (b) of the Constitution may prefer an appeal to the Court of Appeal against such judgment for any error in law, or in fact -
 - (a) by lodging within fourteen days from the time of such judgment or order being passed or made with such High Court, at petition of appeal addressed to the Court of Appeal, or

Right of appeal

(b) by stating within the time aforesaid to the Registrar of such court or to the jailer of the prison in which he is for the time being confined his desire to appeal-and the grounds therefor, providing at the same time a stamp of the value of five rupees, and it shall thereupon be the duty of such Registrar or jailer as the case may be, to prepare a petition of appeal and lodge it with- the court by which such judgment or order was pronounced.

(2) The Attorney-General may prefer an appeal to the Court of Appeal against any judgment or final order pronounced by High Court in the exercise of the appellate or revisionary jurisdiction vested in it by Article 154 (3) (b) of the Constitution, and where he so appeals, or where he sanctions an appeal, the time within which the petition of appeal must be preferred shall be twenty-eight days.

3
Computation
Of time

(1) In computing the time within which an appeal shall be preferred, the day on which the judgment or order complained of was pronounced shall be included, but all Saturdays, Sundays and Public holidays shall be excluded.

(2) If the time for preferring a petition of appeal expires on a day on which the office of the court is closed the appeal shall be deemed in time if such petition be preferred on the first day next thereafter on which such office is open.

4
What petition of
appeal shall state

(1) Every petition of appeal shall state shortly the grounds of appeal and shall be signed by the appellant or his Attorney-at-Law.

(2) Where the appeal is on a matter of law the petition shall contain a statement of the matter of law to be argued and shall bear a certificate by an attorney-at-law that such matter of law is a fit question for adjudication by the Court of Appeal.

(3) Every such petition shall bear a stamp of five rupees:

Provided that such stamp shall not be necessary -

(a) if the appeal is preferred by the Attorney-General under rule 2(2):

(b) if the appeal is preferred by any such person as is preferred of to in section 136 (l) (b) of the Code of Criminal Procedure Act No. 15 of 1979;

Provided further that the court from which an appeal is preferred may if it sees fit allow the payment of the stamp fee to stand over until judgment on the appeal shall have been given.

(4) If the appeal is decided in whole or in part in favour of the appellant, the amount of stamp fee when such fee has been paid shall be returned to him.

(5) If the appeal be decided against the appellant such stamp fee when such fee has not been paid shall be paid by him or recovered from him in the way of fine unless the Court of Appeal shall deem fit to remit all or any part of such stamp fee in which case only such part as shall not be remitted shall be recovered.

Appellant to be
released on giving
security

(1) When an appeal has been preferred the High Court from which the appeal is preferred shall order the appellant if in custody to be released on his entering into a recognizance in such sum and with or without a surety or sureties as such court may direct conditioned to abide the judgment of the Court of Appeal and to pay such costs as maybe awarded:

Provided always that the appellant may if the court from which the appeal is preferred thinks fit instead of entering into a recognizance give such other security by deposit of money with such court or otherwise as that court may deem sufficient.

(2) Upon the appellant's entering into such recognizance or giving such other security as aforesaid he shall be released from custody.

(3) Such recognizance may if the appellant is in prison be entered into before the Superintendent or jailer of the prison and if so entered into shall be as valid in all respects as if it had been entered into before the court from which the appeal is preferred; and for this purpose the court shall endorse on the warrant of committal the amount and nature of the security which is to be given in case an appeal is preferred

(4) When a person sentenced to a term of rigorous imprisonment has preferred an appeal, but is unable to give the required recognizance or other security he shall be detained in custody without hard labour until the judgment of the court of Appeal is made known to the Superintendent of the prison.

(5) On a petition of appeal being lodged the High Court shall transmit the record of the case to the Court of Appeal together with the petition of appeal and shall forthwith issue notice thereof to the party, in whose favour the judgment or order appealed against was pronounced or made or adversely to whom the appeal is preferred.

Procedure in Court of Appeal on appeals

6. (1) When the record and petition of appeal have been transmitted to the Court of Appeal. the Registrar shall number the appeal and enter it on the list of appeals and such list shall be kept suspended in the Registry of the Court of Appeal.

(2) The appeal shall come on for hearing in its order without further notice to the parties concerned:

Provided that the court may of its own motion or on the application of a party concerned accelerate or postpone the hearing of an appeal upon any such terms as to the prosecution or the costs of the appeal or otherwise as it may think fit.

Appellant to be heard first

7. (1) When the appeal comes on for hearing the appellant if present shall be first heard in support of the appeal and then the respondent if present shall be heard against it.

(2) If the appellant does not appear to support his appeal the court shall consider the appeal and may make such order thereon as it may deem fit.

Procedure if respondent not present

8. If at the hearing of an appeal the respondent is not present and the court is not satisfied that the notice of appeal was duly served upon him the court may adjourn the hearing of the appeal to a future day for his appearance and in that case shall issue the requisite notice to him for service through the fiscal, but unless the court is so satisfied as aforesaid it shall not, in the absence of the respondent, make any order to his prejudice.

State representation

9. (1) The Attorney-General shall appear for the state in every appeal to the Court of Appeal under this Code to which the state or a public officer is a party and all such documents, exhibits and other things connected with the proceedings as the Attorney-General may require for the purpose of his duties under this section shall be transmitted to him by the Registrar of the court having custody of such documents, exhibits and things.

(2) The Solicitor-General or a State Counsel or an Attorney-at-Law specially or generally authorized by the Attorney-General in that behalf shall be titled to appear for the State in place of the Attorney-General in any such appeal.

Judge of High Court to carry into effect orders of Court of Appeal

10. (1) Wherever a case is decided in the exercise of its jurisdiction under Article 154P (3) (b) by the Court of Appeal such court shall certify its order under its seal to the High Court by which the verdict, sentence or order appealed from was recorded or passed, and shall return to such court the record accompanied by a copy of the reasons given by the Court of Appeal for its order.

The Court to which the order is so certified shall thereupon make such orders as are conformable to the order so certified and if necessary the record shall be amended in accordance therewith.

PART II

Appeals from orders made by a High Court in the exercise of its jurisdiction under Article 154P (4) of the Constitution.

Mode of preferring appeal

11. (1) Any person who shall be dissatisfied with any other made by the High Court, in the exercise of the jurisdiction vested in it by Article 154P (4) of the Constitution, on an application to which he is a party, may prefer an appeal to the Court of Appeal against such order for any error in fact or in law.

(2) Every appeal to the Court of Appeal from any order made by a High Court made in the exercise of the jurisdiction vested in it by Article 154P (4) of the Constitution shall be lodged by giving notice of appeal to the High Court within such time and in the form and manner hereinafter provided.

(3) The notice of appeal shall be presented to the High Court for this purpose by the party appellant or his registered attorney within a period of fourteen days from the date when the order appealed against was pronounced, exclusive of the day of that date itself and at the day when the petition is presented and public holidays, and the court to which the notice is so presented shall receive it and deal with it as hereinafter provided. If such conditions are not fulfilled, the court shall refuse to receive it.

Notice of appeal

- 12 (l) Every notice of appeal shall be distinctly written on good and suitable paper and shall be signed by the appellant or his registered attorney and shall be duly stamped. Such notice shall also contain the following particulars:
- (a) the name of the court from which the appeal is preferred;
 - (b) the number of the application;
 - (c) the names and addresses of the parties to the application;
 - (d) the names of the appellant and respondent;
 - (e) the nature of the relief claimed;

Provided that where the appeal is lodged by the Attorney-General, no such stamps shall be necessary.

- (2) Every appellant shall within sixty days from the date of the order appealed against present to the High Court a petition of appeal setting out the circumstances out of which the appeal arises and the grounds of objection to the order appealed against, and containing the particulars required by Rule 22 which shall be signed by the appellant or his registered attorney. Such petition of appeal shall be exempt from stamp duty:

Provided that if such petition is not presented to the High Court within sixty days from the order appealed against, the court shall refuse to receive it.

Procedure in respect of appeal

- (3) Upon the petition of appeal being filed, the court shall forward the petition of appeal together with all the papers and proceedings in the case relevant to the order appealed against as speedily as possible, to the Court of Appeal retaining however an office copy of the order appealed against for the purposes of execution, if necessary. Such proceedings shall be accompanied by a certificate from the Registrar of the court stating the dates of the application and decision of the case, in whose favour it was decided and the dates on which the notice and the petition of appeal were filed.

13. On receipt of the petition of appeal, the Registrar of the Court of Appeal shall forthwith number the petition and shall enter such number in the Register of Appeals and notify the parties concerned by registered post.

Form of appeal

14. (l) The petition of appeal shall be distinctly written upon good and suitable paper, and shall contain the following particulars: -
- a. the name of the court in which the application is pending;
 - b. the names of the parties to the application;
 - c. the names of the appellant and of the respondent;
 - d. the address to the Court of Appeal; -
 - e. a plain and concise statement of the grounds of objection to the order appealed against, such statement to be set forth in duly numbered paragraphs; -
 - f. a demand of the form of relief claimed.

- (2) The court in deciding any appeal shall not be confined to the grounds set forth by the appellant, but it shall not rest its decision on any ground not set forth by the appellant, unless the respondent has had sufficient opportunity of being heard on that ground.

Where petition to be rejected

15. (1) If the petition of appeal is not drawn up in the manner in the last preceding rule prescribed, it may be rejected or be returned to the appellant for the purpose of being amended, within a time to be fixed by the court; or be amended then and there. When the court rejects under this rule any petition of appeal, it shall record the reasons of such rejection. And when any petition of appeal is amended under this rule the Judge, or such officer as he shall appoint in that behalf, shall attest the amendment by his signature.

- Where one of several applicants or respondents may appeal against whole order
16. Where there are more applicants or more respondents than one to an application and the order appealed against proceeds on any ground common to all the applicants or to all the respondents any one of the applicants or of the respondents may appeal against the order and thereupon the Court of Appeal may reverse or modify the order in favour of all the applicants of respondents, as the case may be.
17. Where at any time after the lodging of an appeal against an order made by a High Court in the exercise of the jurisdiction vested in it by Article 154P (4) of the constitution the record becomes defective by reason of the death or change of status of a party to the appeal, the Court of Appeal may in the manner provided in rule 34 of the Supreme Court Rules 1978 determine who, in the opinion of the Court, is the proper person to be substituted or entered on the record in place of, or in addition to, the party who has died or undergone a change of status, and the name of such person shall thereupon be deemed to be substituted or entered of record as aforesaid.
- 18 (1) The Registrar may, from time to time, call upon the parties to furnish to the Court of Appeal such number of additional copies of the documents filed or further document as he may deem necessary for the proper determination of the appeal.
- (2) The Supreme Court (Court of Appeal of Appellate Procedure-copies of Records) rules 1978 shall mutatis mutandis apply in the case of appeals to the Court of Appeal from order of a High Court in the exercise of the jurisdiction vested in such High Court by Article 154P (4) of the Constitution.
19. When the petition of appeal has been preferred to the Court of Appeal in the manner hereinbefore prescribed or in the event of the petition of appeal being presented immediately to the Court of Appeal and when the order for the admission has been made, the Registrar of the Court of Appeal shall enter in the roll of pending appeals, and the matter of the appeal shall come up for hearing before the court without further notice to the parties concerned, accordance with the direction given to such Registrar by the President of the Court of Appeal or any other Judge of the Court of Appeal authorized by him in that behalf:
- Provided however that the preceding provisions of this section shall not in any event derogate from the right power or authority of any division of the Court of Appeal or any Judge thereof to make any order in regard to any case or matter listed for hearing, order or disposal before such court or Judge:
- Provided further that a list of the appeals pending before the court in their order on the roll or of a sufficient number of them be daily kept suspended upon the notice-board of the court, and that- no appeal shall come on for hearing until it has been in that list for fourteen days:
- Provided also that the court may of its own motion or on the application of a party concerned and with reasonable notice to the parties accelerate or postpone the hearing of an appeal, upon any such terms as to the prosecution or the costs of the appeal, or otherwise as it may think fit.
20. (1) When the appeal comes on for hearing, the appellant shall be heard in support of the appeal. The court shall then, if it does not at once dismiss the appeal or affirm the order appealed from hear the Respondent against the appeal, and in such case the Appellant shall be entitled to reply.
- (2) If the Appellant does not appear either in person or by an Attorney-at-Law to support his appeal, the court shall consider the appeal and make such order thereon as it think fit:
- Provided that, on sufficient cause shown, it shall be lawful for the Court of Appeal to reinstate upon such terms as the court shall think fit any appeal that has been dismissed under this rule.
21. If, at the hearing of the appeal, the Respondent is not present and the Court is not satisfied upon the material in the record or upon other evidence that the notice of appeal was duly served upon him or his registered attorney as herein before provided, or if it appears to the court at such hearing that any person who was a party to the application in the court against who order the appeal, is made, but who has not been made a party to the appeal, who is interested in the appeal the court may issue the requisite notice of appeal for service.
- Death or change of status of party to appeal
- hearing of appeal
- Appellant and respondent to be heard
- Powers of Court to adjourn hearing

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22. When an appeal is heard *ex parte* in the absence of the respondent, and order is given against him, he may apply to the Appellate Court to rehear the appeal and if he satisfies the court that the notice of appeal was not duly served, or that he was prevented by sufficient cause from attending when the appeal was called on for hearing the court may rehear the appeal on such terms as to costs or otherwise as the court thinks fit to impose upon him.
23. (1) On the termination of the hearing of the appeal, the Court of Appeal shall either at once or on some future day, which shall either then be appointed for the purpose, or of which notice shall subsequently be given to the parties or their counsel, pronounce judgment in open court; each Judge may, if he desires it, pronounce a separate judgment.
- (2) The judgment which shall be given or taken down in writing, shall be signed and dated by the Judge or Judges, as the case may be, and shall state
- (a) the points for determination;
 - (b) the decision of the Judge or Judges thereon;
 - (c) the reasons which have led to the decision;
 - (d) the relief, if any, to which the Appellant is entitled on the appeal consequence of the decision.
24. (1) The Order of the Court of Appeal shall be passed in accordance with the judgments of the judges of which the bench hearing the appeal is composed, if they are unanimous in regard to it. but if otherwise, in accordance with the judgments of the majority of them. It shall bear the date the day on which the judgment was pronounced, and shall contain the following particulars: -
- (a) the heading 'In the Court of Appeal';
 - (b) the court number and title of the appeal;
 - (c) the names of the parties;
 - (d) the names of the appellant and of the respondents cited;
 - (e) the parties present and heard;
 - (f) a clear specification of the order made and relief granted or other determination of the appeal;
- (2) The Order shall also state by what parties, and in what and in what proportions, the costs of the action are to be paid.
- (3) The Order shall be sealed with the seal of the court.
- (4) As soon as the Order is sealed all the proceedings in the case sent up to the Court of Appeal on appeal (together with the petition of appeal and order thereon, if any, a copy of the order of the Court of Appeal) shall be forthwith returned to the High Court; which shall conform to and execute such Order in all particulars.

The Supreme Court (Electronic Filing and Urgent Digital Virtual Hearings) (Special Provisions) Rules, 2021

Published in the Gazette of the Democratic Socialist Republic of Sri Lanka Extraordinary No. 2212/54 of Friday 29th January, 2021.

THE CONSTITUTION OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA The Supreme Court Rules

RULES made under Article 136 of the Constitution of the Democratic Socialist Republic of Sri Lanka by the Chief Justice and the other Judges of the Supreme Court nominated by him under that Article.

JAYANTHA JAYASURIYA,
Chief Justice.

B. P. ALUVIHARE,
Judge of the Supreme Court.

P. PADMAN SURASENA,
Judge of the Supreme Court.

YASANTHA KODAGODA,
Judge of the Supreme Court

Colombo,
27th January, 2021.

RULES

1. These rules may be cited as the Supreme Court (Electronic Filing and Urgent Digital Virtual Hearings) (Special Provisions) Rules, 2021 and shall come into operation with effect from February 15, 2021.
2. Without prejudice to the generality of the provisions of the Supreme Court Rules, 1990 published in Gazette Extraordinary No. 665/32 of June 7, 1991, as amended from time to time (hereinafter referred to as the “existing rules”), these rules shall apply for-
 - (a) electronic filing of applications, appeals, motions and other documents pertaining to such applications and appeals, in the Supreme Court; and
 - (b) conducting urgent digital virtual hearings by the Supreme Court with regard to applications, appeals and motions, filed under these rules or existing rules, deemed to be urgent in terms of rule 3.
3. An application, appeal or a motion filed under these rules or existing rules shall be deemed to be urgent, if the Judge of the Supreme Court designated in that behalf by the Chief Justice, having regard to the inability to conduct conventional physical hearings due to any reason prejudicial to national security, public safety or the order and security within the precincts of the Supreme Court, and the need to make available the smooth and uninterrupted administration of Justice by the Supreme Court in urgent cases during the aforesaid inability, considers that such application, appeal or motion requires an urgent digital virtual hearing (hereinafter referred to as the “digital hearing”) in terms of these rules.
4. (1) A person who intends to file an application or appeal in the Supreme Court electronically or a party to an application or appeal already filed in the Supreme Court under the existing rules who intends to file other documents pertaining to such application or appeal in the Supreme Court electronically, may, by himself or through an attorney-at-law acting on his behalf submit through electronic mail to the Registrar of the Supreme Court (hereinafter referred to

as the “Registrar”) the application, appeal or other documents along with a motion addressed to the Chief Justice and other Judges of the Supreme Court.

- (2) (a) An applicant, appellant or other party to any case or matter in the Supreme Court (hereinafter referred to as the “party”) who seeks to have a digital hearing shall file a motion electronically, as specified in sub rule(1), by himself or through an attorney- at- law acting on his behalf.
 - (b) Such motion shall inter-alia state specifically and in detail the reason which warrants and justifies the hearing of the application, appeal or motion by a digital hearing and such motion shall contain the full name and contact details including the electronic mail address and mobile telephone number of the party seeking such hearing or such details of an attorney- at- law with whom the Registrar may contact for making arrangements for the digital hearing.
 - (3) The provisions of existing rules shall apply to every application, appeal, motion or other document referred to in sub-rules (1) and (2) in so far as such provisions are not inconsistent with these rules.
 - (4) Every application, appeal, motion or other document referred to in sub-rules (1) and (2) shall -
 - (a) be computer generated on A4 size page setting, with 4cm margins on left and right sides and 2cm top and bottom borders of the page using font size 12 of Times New Roman with 1.5 line spacing;
 - (b) accompany documents in compliance with the existing rules, including signatures or certifications where required;
 - (c) be prepared and scanned without any watermark and whenever possible be at 300 dots per inch (dpi) with optical character recognition (OCR);
 - (d) be amalgamated wherever possible into a single portable document format (PDF) file with the page number at the bottom of every page in a single series, commencing from the covering motion; and
 - (e) in the event of an application, appeal, motion, other documents or attachments thereunder exceeding file-size 20 MB, such application, appeal, motion, other documents or attachments shall be split into multiple PDF files as may be required to achieve the designated file size, and be submitted through one or more electronic mails or stored in a suitable data storage web based mechanism such as ‘cloud storage’ and necessary access to such storage mechanism be provided through electronic mail to the Registrar.
 - (5) The party or an attorney- at- law filing documents electronically in terms of these rules shall retain the hardcopies of such documents so filed in the safe custody of such party or the attorney- at- law as the case may be, and submit them to the Registrar on the direction of the Supreme Court.
5. (1) A Judge of the Supreme Court designated in that behalf by the Chief Justice sitting in chambers shall consider motions filed electronically in the Supreme Court under rule 4, and where necessary, the applications, appeals or other documents filed therewith and decide whether such applications, appeals or motions shall be taken up for digital hearing.
 - (2) Where it appears to the satisfaction of such Judge that the matter pertaining to any motion filed electronically in the Supreme Court is urgent within the meaning of rule 3 and it is expedient to refer such matter for a digital hearing, he shall make an appropriate direction to the Registrar to arrange a digital hearing pertaining to such matter.
 - (3) It shall be the duty of the Registrar to comply with the provisions specified in rule 6 in order to make arrangements for a digital hearing.
 6. (1) The Registrar shall require the party or the attorney-at-law who has been nominated by the party -
 - (a) to pay the relevant fees applicable in respect of electronic filing and digital hearing, and submit proof of payment to the Registrar;

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- (b) to notify all the parties to such application or appeal, regarding the filing of the application, appeal or the motion, in the manner specified by the Registrar, and to submit proof of such notice to the Registrar.
- (2) The Registrar, shall not process any such application, appeal or motion unless he is satisfied that the party or the attorney- at- law, as the case may be, has acted in compliance with sub-rule (1) (a).
- (3) Where the party or the attorney- at- law fails to comply with the preceding provisions of this rule at the first instance, such party or the attorney- at- law shall be notified by the Registrar through electronic mail that such application, appeal or motion will not be processed unless he acts in compliance with this rule within a period specified in such notification.
- (4) Where the party or the attorney- at- law fails to comply with the notification of the Registrar within the period specified in such notification, the application, appeal or motion shall be forwarded to the Judge referred to in rule 5 for an appropriate direction.
- (5) Where it has been decided under sub- rule (2) of rule 5 that any motion filed under rule 4 warrants a digital hearing and the party or the attorney- at- law, as the case may be, complies with the provisions of this rule, the Registrar shall fix a date and time for the digital hearing on the direction of the Judge referred to in rule 5.
- (6) The date and time fixed for the digital hearing shall be informed either through electronic mail or by telephone to the Judges designated by the Chief Justice to hear the case or matter and to the parties or to their attorneys-at-law, as the case may be.
7. (1) With the view to ensuring the conduct of a proper digital hearing, every party shall ensure that-
- (a) the digital hearing be conducted using a real time contemporaneous or near contemporaneous internet based video conferencing platform specified by the Registrar;
 - (b) he shall be equipped with a properly functioning computer with a web cam, microphone and a speaker when participating in a digital hearing;
 - (c) a suitable and quiet location be used when participating in the digital hearing and shall locate himself in a place which has a non-descriptive and plain background behind him that will be displayed on the screen ;
 - (d) he be available online at least fifteen minutes prior to the scheduled time of the digital hearing, in order to verify the proper functioning of the internet connection and network among all parties in order to commence the digital hearing.
- (2) An attorney- at- law who participates in the digital hearing shall use his name with surname as the “display name”.
8. (1) The following persons shall be entitled to participate at a digital hearing:-
- (a) attorneys- at- law of the respective parties;
 - (b) parties to the application, appeal or motion or their authorized representatives with the permission of the Supreme Court obtained through their attorneys-at- law, who may observe the proceedings of the digital hearing, by remaining in the vicinity of the computer used by such attorneys-at-law;
 - (c) parties to the application, appeal or motion not represented by an attorney- at- law; and
 - (d) officials of the Supreme Court.
- (2) All such persons are required to inform the Registrar of their names, identification details and contact details, prior to the commencement of the proceedings of the digital hearing, including details of persons not captured within the video frame:
- Provided however, every endeavor shall be made to have all the persons present, to be seated within the range of the web cam of the computer.

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- (3) A person shall not attend or be present in the vicinity of a digital hearing unless the prior permission of the Supreme Court has been obtained for such attendance or presence.
 - (4) A person shall not address the Court or display any matter for the attention of the Court without obtaining prior permission from such Court.
 - (5) The parties shall ensure that the webcam of the computer and the “video” option in the video conferencing platform remains turned “on” at all times during the digital hearing, unless prior permission is obtained from the Court.
 - (6) All persons are strictly prohibited from recording, copying, storing, sharing, broadcasting, telecasting or otherwise transmitting the whole or part of a digital hearing in the form of a video, audio, digital or in any other form.
 - (7) All parties taking part in a digital hearing shall remain online until the Court concludes the hearing:

Provided however, a party may leave the venue from which he is participating in the digital hearing, or switch “off” the “video” option, with the prior permission of the Court.
 - (8) A party may seek permission from the Court to adjourn the digital hearing, if such party undergoes any difficulty which requires technical assistance, until such difficulty is resolved or an alternate system is implemented with the permission of the Court.
 - (9) Proceedings relating to an application, appeal or a motion commenced or dealt with in a digital hearing, may be subsequently proceeded with, either as a further session of digital hearing or as a conventional physical hearing.
9. Every digital hearing shall be conducted in compliance with the existing Rules of the Supreme Court generally applicable for hearings in the Supreme Court, to the greatest extent possible and be deemed to be a proceeding conducted in the Supreme Court with the physical participation of the Judges and the persons referred to in sub-rule(1) of rule 8.
 10. For the purposes of these rules “other documents” include objections, counter, affidavits, written submissions and any other documents permitted to be filed in the Supreme Court with regard to any case or matter in the Supreme Court.

TIME LIMITS: IN APPEALS
1. Appeals to Supreme Court

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|----------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (i) From Court of Appeal - Application to C.A. for Leave to Appeal | (a) to be made orally at the time of delivery of final order, judgment, decree or sentence; or

(b) move for time to consider making such an application within 21 days of such final order etc. (vide Rule 22 (1)(2) & (3) of Supreme Court Rules 1990) |
| Application to S.C. for Special Leave to Appeal | within six weeks of the order, judgment, decree or sentence of the Court of Appeal in respect of which Special Leave to Appeal is sought. |
| Caveat by Respondent of his intention to oppose an application for special leave | Within 14 days of the receipt of notice. |
| Appearance by Respondent in S.C. Appeals | within 14 days of the receipt of notice from the Registrar |
| Lodging Notice of Appeal in S.C. if C.A. grants such leave | 14 days from the date of grant of leave |
| Appellant's written submissions | within six weeks of grant of special leave to appeal or leave to appeal. |
| Respondent's written submission | within six weeks of the receipt of notice of the lodging of the appellant's submissions, or if the appellant has failed to file his submissions, within twelve weeks of the grant of special leave to appeal or leave to appeal. |
| (ii) From High Courts of the Provinces - | an appeal lies direct to the Supreme Court from a final order, judgment, decree or sentence of a High Court in the exercise of the appellate jurisdiction vested in it by paragraph (3) (b) of Article 154P of the Constitution or Section 3 of High Court of the Provinces (Special Provisions) Act No. 19 of 1990, with leave from the High Court or special leave from the Supreme Court. However no rules relating to the procedure and the appealable period have yet been framed. |

2. Appeals to Court of Appeal

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| (i) From High Courts exercising Original Criminal Jurisdiction | 14 days from date of conviction/judgment |
| (ii) Appeals from Orders made by a High Court in the exercise of its J jurisdiction under Article 154P (3) (b) of the Constitution | |
| (a) Petition of Appeal to Court of Appeal | within 14 days of Judgment or order of the High Court |
| (b) if by Attorney General | within 28 days. |
| (iii) Appeals from orders made by a High Court in the exercise of its Jurisdiction under Article 154P (4) of the constitution | |
| (a) Notice of Appeal to be presented to High Court. | within 14 days from the date of order |
| (b) Petition of Appeal | within 60 days from the date of the Order |
- [Vide - Court of Appeal (Procedure for Appeals from High Courts established by Article 154P of the Constitution) Rules - 1988]**
- Note:** See also Section 9&10 of the High Court of the Provinces (Special Provisions) Act No. 19 of 1990.
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|-------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (iv) From the Board of Review under the In land Revenue Act | 1 month of the decision of the Board |
| (v) From Land Acquisition Board of Review. | Petition of Appeal within 21 days of Board's decision |
| (vi) From District Courts | |
| (a) Notice of Appeal | |
| (b) Petition of Appeal | |
| (c) Written Submissions (D.C; Appeals) | |
| Appellant | 6 weeks after filing Petition of Appeal |
| Respondent | Within 6 weeks of Appellant's written submissions or if Appellant fails to file w/s, then within 12 weeks of Petition of Appeal. |
| (d) Leave to Appeal to C.A. Petition | Within 14 days of impugned order. |
| (e) Revision and other applications to CA | |
| Written Submissions (Petitioner's) | within 6 weeks of filing of Respondent's Statement of Objections |
| Written Submissions (Respondent's) | within 6 weeks of receipt of Petitioner's Submissions or if Petitioner fails to file written submissions, within 12 weeks of Respondent's Statement of Objections |

3. Appeals to High Court

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|----------------------------------------------|------------------------------------------------------------------------|
| (i) From Magistrate’s Court | 14 days from date of judgment.
(28 days if by the Attorney General) |
| (ii) From Primary Courts | 14 days from date of judgment. |
| (iii) From Labour Tribunals | 30 days from date of order. |
| (iv) From Agricultural
Tribunals | 30 days of the Communication of decision. |
| (v) From Workmen’s
Compensation Tribunals | 30 days from the date of the Commissioner’s order |

4. Appeals to Boards of Review

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|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------|
| (i) Under the Rent Act from a Rent Board to
Rent Board of Review | 21 days of communication of Order. |
| (ii) Under the Land Acqn. Ord. from Chief
Valuer’s award to LA Board of Review | 21 days of receipt of notice of Award |
| (iii) Under the Inland Revenue Act from
Assessment to C.G.I.R. | 30 days of notice of assessment. |
| (iv) Under the Inland Revenue Act from C.G.I.R.
to Board of Review | 1 month of receipt of determination. |
| (v) Under Ceiling on Housing Property Law
(from Order of Commissioner of National
Housing to Board of Review).
within 60 days from date of judgment/order | 1 month from date of communication |

NOTE: This is intended to serve only as a guide and is not an exhaustive statement of the law.

TABLE OF CASES

Abbreviations

Sri LR - Sri Lanka Law Reports

BLR - Bar association of Sri Lanka Law Reports

ABH - Athula Bandara Herath Law Reports

BASL - News - Bar Association News letters

ALR - Appellate Law Reports

ACJ - Appellate Court Judgments

JBLJ - Junior Bar Law journal

Sris.LR - Sriskantha Law Reports

GLJ - Galle Law Journal

HLJ - Hulftsdorp Law Journal

SUPREME COURT (CONDUCT OF AND ETIQUETTE FOR ATTORNEYS-AT-LAW) RULES 1988

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Rules 2

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Rule 2, 6, 8(1) and 8(5)

Saman Karl Jayasinghe v. Ruwa Anouka De Silva SC LA NO: SC/HCCA/LA/36/2021 SC Minutes 21.10.2021

Rules 2, 6 and 34

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Rules 2, 6, 8 (6), 30, 30 (1), 30(6), 30(7), 34, 35(c)

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Rules 2 and 8(2)

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Rule 3

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Dissanayake Mudiyansele Jayasiri v. The Hon. Attorney-General S.C. Appeal 73/2015 SC Minutes 18.09.2018

Rule 3(1)

Sukumaran v The Maharaja Organisation (2008) BLR 398 CA

Jayathilaka v Peoples' Bank (2015) BLR 52, (2014-I) SC

Perera V Perera(2001) 3 Sri LR 30

R.P.D. Peruma& others Vs. H.P.D. Baby & Others CA 922/87 BASL News 2/7/96

Rumesh v Attorney-General (2018-1) ACJ 133 CA

Urban Development Authority v Ceylon Entertainments Ltd (2004)1 Sri LR 95, (2003) BLR 66 SC

Rule 3(1)A

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Ebert Silva Touring Co. Ltd., Vs. A.J. Vimalasena CA Application 469/96 CA Minutes 13.06.1997

Rule 4

Leader Publication (Pvt) Limited C/o Com- Sec Management Services (Pvt) Ltd Vs Ronnie Peiris SC Appeal 81/2014 SC. Minutes 09.02.2018
Jinadasa and another v. Sam Silva and others, (1994] 1 Sri L R 232 SC

Rule 4 and 13(b)

Leader Publication (Pvt) Limited v. Ronnie Peiris SC Appeal 81/2014 SC Minutes 02.09.2018

Rule 4, 28(2) and 28(5)

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Rule 4(7)

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Rules 7 and 20(3)

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Rule 7 and 28(3)

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Rule 8

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Rule 8(3)

Fowzie v Vehicles Lanka (Pvt) Ltd (2008) 1 Sri LR 23, (2008) Jinadasa v Hemamali [2011] 1 Sri LR 337, (2011-2) BLR 388 SC
Peiris, Rohitha v. Doreen Peiris (2015) BLR 101 SC

Tissa Attanayake v. Commissioner General of Election SC Spl LA 55/2011, SC Minutes 21.07.2011

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Rules 8(3) and 40

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Rules 10, 15 and 23

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Rules 12 and 35(c)

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Rules 12(2) and 35(a)

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Rule 12 and 35(e)

Gunawardane v. Pussadeniya, Commissioner of National Housing & another (1983) 2 Sri LR 458 SC

Rule 13(b) and 4

Leader Publication (Pvt) Limited v. Ronnie Peiris SC Appeal 81/2014 SC Minutes 09.02.2018

Rules 15, 16 and 28

Daniel v. Chandradeva, (1994) 2 Sri LR 01 SC

Rule 22(3)

Dharmasiri v Janatha Fertilizer Enterprise (2004) 2 Sri LR 27 CA

Rule 25(1)

Abdul Cader Sanoon v. Sithy Kamaroon Nisa Rahuman (2000) BLR 22, (2004) 3 Sri LR 363 SC

Rules 28(2) and (5)

Illangakoon Mudiyansele Gnanathilaka Illangakoon v. Anula Kumarihmy(2013) 2 Sri LR 21, (2013) GLJ 418 SC

Rule 30(6)

Horangalle Samiddhi Thero v. Gammaddegoda Amarasiri Thero SC Appeal No. 92/2010 Sc Minutes 19.01.2018

Rules 30 and 34

Adamjee Lukmanjee & Sons Limited v. Samarasinghe Arachchige Premasiri (2015) BLR 91 SC

Premasiri v. Adamjee Lukmanjee (2014) BLR 330 SC

Ananda Dharmasinghe Bandara and Others v. Herath Mudiyansele Leelawathie Menike and Others, SC Appeal 172/2011, SC Minutes 22.01.2014

Rule 34

Fernando v. Francis Fernando (2010) 1 Sri LR 25 SC

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