

24/9/99

CAYMAN ISLANDS



Supplement No. 2 published with Gazette No. 18, dated
30 August, 1999.

**THE COURT OF APPEAL LAW (1996 REVISION)
THE COURT OF APPEAL (AMENDMENT) RULES 1999**

THE COURT OF APPEAL LAW (1996 REVISION)
THE COURT OF APPEAL (AMENDMENT) RULES 1999

In exercise of the powers conferred on the Rules Committee of the Court by subsection 3 of Section 34 of the Court of Appeal Law (1996 Revision), the following Rules of Court are hereby made.

Citation and Date of Commencement

1. These Rules of Court may be cited as the Court of Appeal (Amendment) Rules 1999 and shall come into force on the 1st day of September, 1999.

Amendment

2. Rule 2 of the Court of Appeal Rules 1987 is hereby amended by revoking the definition of "order" and substituting the following-

"Order" includes decree, judgement, sentence, decision or direction of a court below and references to filing of orders means the drawing up and filing of orders in accordance with GCR O.42, r.5.

Amendment

3. Rule 11 of the Court of Appeal Rules 1987 is hereby amended by adding the following:

(4) For the purposes of Section 20(1) of the Law, time shall be calculated from the date upon which a judgement or order (whether final or interlocutory) is filed in accordance with GCR O.42, r.5.

(5) In any case in which leave to appeal is required, an application for leave shall be made to the court below-

(a) at the time the judgement or order is pronounced; or

(b) by summons or motion issued within 14 days from the date on which the judgement or order is filed,

and, if leave is granted, the appellant's notice of appeal shall be lodged within 14 days of the date upon which the order giving leave to appeal is filed.

(6) An application for leave to appeal out of time shall be made by summons or motion to a single judge.

Amendment

4. Rule 12 of the Court of Appeal Rules 1987 is hereby revoked and substituted with the following:

Final and Interlocutory Orders

12. (1) For all purposes connected with appeals to the Court of Appeal, a judgement or order shall be treated as final or interlocutory in accordance with the following provisions of this rule.

(2) In this rule, unless the context otherwise requires, reference to an order giving specified directions or granting a specified form of remedy or relief shall include an order-

- (a) refusing to give such directions or grant such remedy or relief;
- (b) refusing to give such directions or granting such remedy or relief on terms;
- (c) varying, suspending or revoking such an order, and
- (d) determining an appeal from such an order.

(3) A judgement or order shall be treated as final if the entire cause or matter would (subject only to any possible appeal) have been finally determined whichever way the court below had decided the issues before it.

(4) For the purposes of paragraph (3), where the final hearing or the trial of a cause or matter is divided into parts, a judgement or order made at the end of any part shall be treated as if made at the end of the complete hearing or trial.

(5) Notwithstanding anything in paragraph (3), the following orders shall be treated as final-

- (a) an order for discovery of documents made in an action for discovery only;
- (b) an order granting any relief made at the hearing of an application for judicial review;
- (c) an order made on an originating summons under GCR Order 85, rule 2(2)(b) or (c);
- (d) an order for the winding up of a company;

- (e) a decree absolute of divorce or nullity of marriage;
- (f) an order absolute for foreclosure;
- (g) an order as to costs made as part of a final judgement of order;
- (h) an order of committal.
- (6) Notwithstanding anything in paragraph (3), but without prejudice to paragraph (5), the following judgements and orders shall be treated as interlocutory-
 - (a) an order extending or abridging the period for the doing of any act;
 - (b) an order for or relating to the transfer or consolidation of proceedings;
 - (c) an order for or relating to the validity, service (including service out of the jurisdiction) or renewal of a writ or other originating process;
 - (d) an order for or relating to the amendment of an acknowledgement of service;
 - (e) any judgement in default or any "unless" order;
 - (f) an order for or relating to the joinder of causes of action;
 - (g) an order for or relating to the addition, substitution or striking out of parties;
 - (h) an order granting relief by way of interpleader, under GCR Order 17;
 - (i) an order for or relating to the service or amendment of any pleading;
 - (j) an order striking out an action or other proceedings or any pleading under GCR Order 18, rule 19 or under the inherent jurisdiction of the court;
 - (k) an order dismissing or striking out an action or other proceeding for want of prosecution;
 - (l) an order staying proceedings or execution;
 - (m) an order for or relating to a payment into or out of court;
 - (n) an order for or relating to security for the costs of an action or other proceedings;

- (o) subject to paragraph (5)(a), an order for or relating to the discovery or inspection of documents;
- (p) an order for or relating to the service of or answer to interrogatories;
- (q) a judgement or order on admissions under GCR Order 27, rule 3;
- (r) an order granting an interlocutory injunction or for the appointment of a receiver;
- (s) an order for or relating to an interim payment under GCR Order 29;
- (t) an order made under or relating to a summons for directions;
 - (u) an order directing a trial with a jury;
- (v) an order for or relating to the fixing or adjournment of trial dates;
 - (w) an order directing a new trial or a re-hearing;
- (x) an order relating to access to, or the custody, care, education or welfare of a minor whether in matrimonial, wardship, guardianship or any other proceedings;
- (y) an order for or relating to ancillary relief in matrimonial proceedings, including a property adjustment order, an order for the payment of a lump sum and any other order making or relating to financial provisions whether of a capital or income nature;
- (z) a judgement or order under GCR Order 14, Order 14A or Order 86;
- (aa) an order setting aside or refusing to set aside another judgement or order (whether such other judgement or order is final or interlocutory);
- (bb) an order made for or relating to the enforcement of an earlier order (whether such earlier order is final or interlocutory) or giving further directions as to such an order and (without prejudice to the generality of the foregoing)-
 - (i) a garnishee order nisi or a garnishee order absolute;

- (ii) a charging order nisi or a charging order absolute;
 - (iii) an order for the sale of any property by way of enforcement of an earlier order (whether such earlier order is final or interlocutory) or an order giving directions regarding any sale, or an order designed to regulate or facilitate such sale;
- (cc) an order for or relating to the taxation of costs or the delivery, withdrawal or amendment of bills of costs;
 - (dd) without prejudice to paragraph (5)(d), an order made in the course of or by way of regulation of a liquidation and any other order ancillary to or consequential on a winding up order;
 - (ee) an order directing or otherwise determining an issue as to limitation of actions other than as part of a final judgement or order within the meaning of paragraph (3);
 - (ff) an order made on an originating summons under GCR Order 85, rule 2, other than such an order as is mentioned in paragraph (5)(c);
 - (gg) an order made on an application under GCR Order 82, rule 3A.
- (7) Notwithstanding anything in paragraph (3),
 - (a) an order made under GCR Order 73, rule 2 shall be treated as final;
 - (b) an order made under GCR Order 73, rule 3, 4 or 4A shall be treated as interlocutory.

MADE by the Rules Committee of the Court of Appeal this 12th day of August, 1999.

The Rt. Hon. Mr. Justice Edward Zacca, P.C., O.J.,
President

The Rt. Hon. Mr. Justice Telford Georges, P.C.,
Justice of Appeal

The Hon. Mr. Justice I.D. Rowe, Justice of Appeal

(Price \$1.60 Cents)