

FIJI

**HIGH COURT ACT
(CHAPTER 13)**

HIGH COURT (AMENDMENT) RULES, 1991

IN exercise of the powers conferred upon me by Section 25 of the High Court Act, I hereby make the following Rules:

Short Title

1. These Rules may be cited as the High Court (Amendment) Rules 1991 and shall come into force on the 18th day of October 1991.

Amendment of Order 53

2. Rule 3 of Order 53 is revoked and replaced by the following Rule:

"Grant of leave to apply for judicial review (O.53, r.3)

3.-(1) No application for judicial review shall be made unless the leave of the court has been obtained in accordance with this rule.

(2) An application for leave must be commenced by originating motion and must be supported by affidavit stating the facts relied on.

(3) Order 8 rules 2, 3 and 5 shall apply to applications under this Order.

(4) Without prejudice to its powers under Order 20, rule 8, the Court hearing an application for leave may allow the applicant to file a statement whether specifying different or additional grounds or relief or otherwise, on such terms, if any, as it thinks fit.

(5) The Court shall not grant leave unless it considers that the applicant has a sufficient interest in the matter to which the application relates.

(6) Where leave is sought to apply for an order of certiorari to remove for the purpose of its being quashed any judgment, order, conviction or other proceedings which is subject to appeal and a time is limited for the bringing of the appeal, the Court may adjourn the application for leave until the appeal is determined or the time for appealing has expired.

(7) If the Court grants leave, it may impose such terms as to costs and as to giving security as it thinks fit.

(8) Where leave to apply for judicial review is granted, then:

(a) if the relief sought is an order of prohibition or certiorari and the Court so directs, the grant shall operate as a stay of the proceedings to which the

application relates until the determination of the application or until the Court otherwise orders;

(b) if any other relief is sought, the Court may at any time grant in the proceedings such interim relief as could be granted in an action begun by writ."

Made at Suva this 16th day of October 1991.

T. U. TUIVAGA
Chief Justice

PRACTICE NOTE

(This note does not form part of the above rule)

Order 53 rule 3

1. The principle effect of the High Court (Amendment) Rules 1991 is to replace the previous procedure by which applications for grant of leave to apply for Judicial Review were made *ex parte* with a procedure by which such applications shall ordinarily be made inter parties.
2. Henceforth applications for leave will be commenced by Originating Motion supported by affidavit stating the facts relied upon. The relief and grounds on which it is sought shall be set out in the Origination Motion (see Order 8 rule 3 (2)).
3. Only in cases of exceptional urgency may applications for leave be made *ex parte* (see Order 8 rule 2(1)).

Dated this 16th day of October 1991.

T.U.TUIVAGA
Chief Justice
