

ශ්‍රී ලංකා ප්‍රජාතාන්ත්‍රික සමාජවාදී ජනරජයේ ගැසට් පත්‍රය

අති විශේෂ

# The Gazette of the Democratic Socialist Republic of Sri Lanka

## EXTRAORDINARY

අංක 2091/58 - 2018 ඔක්තෝබර් මස 04 වැනි බ්‍රහස්පතින්දා - 2018.10.04

No. 2091/58 - THURSDAY, OCTOBER 04, 2018

(Published by Authority)

## PART II — LEGAL

### Supreme Court Notices

#### THE COURT OF APPEAL (APPELLATE PROCEDURE) RULES - 2018

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. W. P. G. Dep, Chief Justice
2. S. E. Wanasundera, Judge of the Supreme Court
3. B. P. Aluwihare, Judge of the Supreme Court
4. K. S. J. de Abrew, Judge of the Supreme Court.

Colombo,  
04th October, 2018.

1. These rules may be cited as the Court of Appeal (Appellate Procedure) Rules of 2018. These rules amend the Court of Appeal (Appellate Procedure) Rules 1990 by the addition of Rule 3 (1) (c) and 3 (1) (d) to Part II, addition of Rule 5 (8) to Part IV and addition of Part VI 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.

#### Amendment to Part II of the Court of Appeal (Appellate Procedure) Rules 1990 by the Addition of Rule 3 (1) (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.



**Amendment to Part II of the Court of Appeal (Appellate Procedure) Rules 1990 by the Addition of Rule 3 (1) (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.

**An Amendment to Court of Appeal (Appellate Procedure) Rules 1990 by the Addition of Rule 5 (8) to Part IV**

(8) For the purposes of this rule “Public Officer” shall mean,” a person who holds any paid officer 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 41 B 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.

**Amendment to Court of Appeal (Appellate Procedure) Rules 1990 by the Addition of 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.

W. P. G. Dep,  
Chief Justice.

S. E. Wanasundera,  
Judge of the Supreme Court.

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

K. S. J. de Abrew,  
Judge of the Supreme Court.

### Schedule

#### FORM OF MEMORANDUM NOMINATING LEGAL REPRESENTATIVE

In the Court of Appeal Petition/ Application No.

I, ..... (Petitioner/ Applicant/ Respondent/ Party seeking to be added/ Substituted) hereby nominate :

Preference No. 1. .... (Name) of .....  
(address)

(address) 2. .... (Name) of .....

(address) 3. .... (Name) of .....

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, .....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

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 of ..... 20 .....

.....  
Signature.

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

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.

10- 1078