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EXTRAORDINARY

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PART II - LEGAL
Supreme Court Notices

THE SUPREME COURT 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,
26th September 2018.

1. These rules may be cited as the Supreme Court Rules of 2018. These rules amend the Supreme Court Rules 1990 by the addition of Rule 41A, 41B and 41C to Part II and addition of Part III (A) immediately following Part III 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.

1. Amendment to Part II of the Supreme Court Rules 1990 by the addition of Rule 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.

2. Amendment to Part II of the Supreme Court Rules 1990 by the addition of Rule 41B

“It shall be sufficient compliance of the following rules :

- (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.

3. Amendment to Part II of the Supreme Court Rules 1990 by the Addition of Rule 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.
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.

4. Amendment to the Supreme Court Rules 1990 by the addition of Part IIIA Part III(A)

Application to which public officers are respondents

- (1) 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)

- (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 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 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 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 resign 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.

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 Supreme Court 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,.....ofconsent to the above appointment.

.....
Signature.

I,ofbeing 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,.....ofconsent to the above appointment.

.....
Signature.

I,ofbeing 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

3. I,.....ofconsent to the above appointment.

.....
Signature.

I,ofbeing 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