

FIJI

ACT NO. 13 OF 1998



I assent.

[L.S.]

K. K. T. MARA
President

[20 April 1998]

AN ACT

TO AMEND THE COURT OF APPEAL ACT

ENACTED by the Parliament of Fiji—

Part I—PRELIMINARY

Short title etc

- 1.—(1) This Act may be cited as the Court of Appeal (Amendment) Act 1998.
- (2) The Court of Appeal Act (Cap. 12) is in this Act referred to as the Principal Act.

Commencement

2. This Act commences on a date appointed by the Minister and published in the *Gazette*.

Part 2—AMENDMENTS OF PRINCIPAL ACT

Interpretation

3. Section 2 of the Principal Act is amended by omitting the definitions of “Court of Appeal” and “High Court”.

*Court of Appeal (Amendment) — 13 of 1998**Name of Court and general jurisdiction*

4. Section 3 of the Principal Act is amended by omitting subsection (3) and substituting—

“(3) Appeals lie to the Court as of right from final judgments of the High Court given in the exercise of the original jurisdiction of the High Court.

(4) Subject to subsection 121(2) of the Constitution, appeals lie to the Court on a question of law only from final judgments of the High Court given in the exercise of the appellate jurisdiction of the High Court.”

Seal of Court

5. Section 4 of the Principal Act is amended by omitting “Royal Arms” and substituting “Coat of Arms of the State”.

Repeal of section 4A

6. Section 4A of the Principal Act is repealed.

Number of judges

7. Section 6 of the Principal Act is amended by omitting from the proviso to subsection (3) “before appeal to the Privy Council”.

Repeal of sections 9, 10 and 11

8. Sections 9, 10 and 11 of the Principal Act are repealed.

Substitution of new section 20

9. Section 20 of the Principal Act is repealed and the following substituted—

“Powers of a single judge of appeal

20.—(1) A judge of the Court may exercise the following powers of the Court—

- (a) to give leave to appeal;
- (b) to extend the time within which a notice of appeal or an application for leave to appeal may be given or within which any other matter or thing may be done;
- (c) to give leave to amend a notice of appeal or respondent's notice;
- (d) to give directions as to service;
- (e) to stay execution or make an interim order to prevent prejudice to the claims of any party pending an appeal;

- (f) to give judgment by consent or make an order by consent;
 - (g) to dismiss an appeal for want of prosecution or for other causes specified in the rules;
 - (h) to dismiss an appeal on the application of the appellant;
 - (j) to deal with costs and other matters incidental to matters in any of the above paragraphs;
 - (k) generally, to hear any application, make any order or give any direction that is incidental to an appeal or intended appeal.
- (2) If a judge of the Court considers it appropriate to do so, he or she may recommend that legal aid be granted to a party.
- (3) A reserved judgment of the Court may be delivered by a single judge of the Court if any or all judges who heard the appeal are absent.”.

Substitution of new section 35

10. Section 35 of the Principal Act is repealed and the following substituted—

“Powers of a single judge of appeal

- 35.—(1) A judge of the Court may exercise the following powers of the Court—
- (a) to give leave to appeal to the Court;
 - (b) to extend the time within which notice of appeal or of an application for leave to appeal may be given;
 - (c) to allow the appellant to be present at any proceedings in cases where he or she is not entitled to be present without leave;
 - (d) to admit an appellant to bail;
 - (e) to cancel an appellant’s bail on good cause being shown;
 - (f) to recommend that legal aid be granted to an appellant.
- (2) If on the filing of a notice of appeal or of an application for leave to appeal, a judge of the Court determines that the appeal is vexatious or frivolous or is bound to fail because there is no right of appeal or no right to seek leave to appeal, the judge may dismiss the appeal.
- (3) If the judge refuses an application on the part of the appellant to exercise a power under subsection (1) in the appellant’s favour, the appellant may have the application determined by the Court as duly constituted for the hearing and determining of appeals under this Act.

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- (4) The decision of a single judge to cancel bail under subsection (1)(e) may at the appellant's request be reviewed by the Court as duly constituted for the hearing and determining of appeals under this Act.
- (5) A reserved judgment of the Court may be delivered by a single judge of the Court if any or all judges who heard the appeal are absent."

Passed by the House of Representatives this Seventeenth day of March, in the year of our Lord One Thousand, Nine Hundred and Ninety-Eight.

Passed by the Senate this Second day of April, in the year of our Lord One Thousand, Nine Hundred and Ninety-Eight.