

Subsidiary Legislation

SECTION 218—CUSTOMS (COURT OF REVIEW) RULES

Rules 10th Jan. 1969

Made by the Chief Justice

Short title

1. These Rules may be cited as the Customs (Court of Review) Rules.

Interpretation

2. In these Rules, unless the context otherwise requires—
“Court” means the Court of Review as for the time being constituted under section 217 of the Act;
“Registrar” means the Registrar of the Court.

Registrar of the Court

3. The Chief Registrar of the Supreme Court shall be the Registrar of the Court.

Office of the Court

4. The office of the Court shall be at the Supreme Court Registry at Suva.

Place of sittings

5. The Court may **Sit** for the hearing of an appeal, or for the hearing of any interlocutory application incidental to an appeal, at any place within Fiji which the Court from time to time or at any time may deem convenient for the sitting.

Notice of appeal

6.—(1) Every appeal to the Court shall be brought by notice of motion (in these Rules referred to as “the notice of appeal”) in the form appearing in the First Schedule.

(2) The notice of appeal shall state clearly and concisely the grounds of the appeal. The notice shall be signed by the appellant or his agent or barrister and solicitor and shall state therein an address for service in Fiji to or at which notices, process, and other documents and written communications relating to the appeal may be sent by registered post or left for the appellant. Service by post or delivery as aforesaid shall be deemed to be good service on the appellant.

(3) The original notice of appeal and one copy thereof shall be filed in the office of the Court within the time permitted by subsection (2) of section 57 of the Act as that within which the appellant may enter an appeal to the Court.

(4) The appellant shall cause a copy of the notice of appeal to be served upon the Comptroller at his office at Suva, either personally or by registered post, within the time referred

to in paragraph (3).

Entry of appeal and direction for hearing

7.—(1) Upon the filing of the notice of appeal, the Registrar shall cause the appeal to be entered in the books of the Court and shall obtain a direction by the Court as to the day, time and place to be appointed for the hearing of the appeal.

(2) Unless, on the application of the appellant, it is otherwise directed, the place of the hearing of the appeal shall be at Suva. An appellant may apply at any time to the Court for a direction that the appeal be entered for hearing at any place other than at Suva or, if the appeal has been entered for hearing at Suva, to change the place of hearing. Any such application may be made by motion on not less than four days' notice to the Comptroller.

Notice of hearing of appeal

8. The Registrar shall give not less than one month's notice in writing (in these Rules referred to as "the notice of hearing") to the appellant and to the Comptroller, of the day, time and place appointed for the hearing of the appeal.

Service

9. Service of the notice of hearing on the Comptroller may be effected by sending a copy of the notice by registered post to him at his office at Suva, or by leaving a copy of the notice at that office. Service on the appellant may be effected in accordance with the provisions of paragraph (2) of rule 6.

Amendment of notice of appeal

10. A notice of appeal may be amended at any time by or with the leave of the Court on such terms and conditions as the Court may think just.

Attendance of witness under subpoena

11. At the request of the appellant or the Comptroller or by the direction of the Court itself, a subpoena may be issued requiring any person to attend to give evidence or to produce documents in connexion with the appeal.

Hearing of appeal

12.—(1) Subject to the provisions of section 221 of the Act, on the day fixed for the hearing of the appeal or on any other day to which the hearing may be adjourned, the appellant, or his agent or his barrister and solicitor, shall be heard in support of the appeal.

(2) The Court shall then, if it does not dismiss the appeal at once, hear the Comptroller or his officer or barrister and solicitor, and in such case the appellant shall have the right of reply.

(3) Subject to the provisions of the Act or of these Rules, the ordinary practice and the Rules of the Supreme Court shall apply, with the necessary modifications, in relation to an appeal under these Rules.

Fees of Court

13.—(1) The fee set out in the Second Schedule shall be charged and paid in respect of the matter therein specified.

(2) The fees to be charged and paid in respect of matters not specified in the said Schedule shall be the fees payable in respect of similar matters in civil proceedings in the Supreme Court.

(3) No fees shall be charged to or be payable by the Comptroller in relation to any act, application or proceeding by him in relation to an appeal.

Costs

14.—(1) Subject to the provisions of section 222 of the Act, the costs of and incidental to an appeal shall be in the discretion of the Court but, unless the Court in any particular case for good reason shall think fit otherwise to order, barristers' and solicitors' costs shall not exceed the maximum allowances prescribed by the scale of costs set out in the Appendix 4 to the Rules of the Supreme Court.

(2) When the Court directs that the costs, or any part of the costs, of an appeal be paid by the appellant or by the Crown, the Court may specify the amount of such costs to be paid or may direct that the costs be taxed by the Registrar.

(3) The Court may allow as costs of an appeal the allowances and expenses of witnesses attending the hearing of the appeal in accordance with the Rules for the time being in force in the Supreme Court of Fiji in relation to allowances and expenses of witnesses attending at trials before the Supreme Court, and for that purpose any reference in such Rules to the Chief Registrar of the Supreme Court shall be deemed to be a reference to the Registrar of the Court of Review.

(4) The Court may allow such other necessary costs or allowances as may seem to the Court to be fair and reasonable.

FIRST SCHEDULE
(RULE 6 (1))

CUSTOMS ACT

In the matter of an appeal to the Court of
Review
by the Appellant.

WHEREAS the Comptroller of Customs and Excise decided that—

(summarise the decision which is disputed)

and, consequent upon that decision, demanded the payment of the sum of
as duty, which sum the appellant has on
(date) paid under protest;

TAKE NOTICE that the Court of Review will be moved that the said decision of the Comptroller be revised or set aside and that the Crown do pay to the appellant the costs of this appeal;

AND FURTHER take notice that the grounds of this appeal are as follows:—

[set out clearly and concisely the grounds of appeal]

Dated this day of , 196 .
agent, or barrister

(Signature of appellant, or his
and solicitor)
Address for service:

To the Comptroller of Customs and Excise, Suva.

SECOND SCHEDULE
(RULE 13)

FEE

On filing notice of appeal and copy	\$10
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