

(SOR/DORS)

The rules committee established under section 45.1^a of the *Federal Courts Act*^b, pursuant to subsection 75(1)^c of the *Immigration and Refugee Protection Act*^d, and subject to the approval of the Governor in Council, hereby makes the annexed *Rules Amending the Federal Court Immigration and Refugee Protection Rules*.

Ottawa, , 2005

President of the Federal
Courts Rules Committee

^a S.C. 2002, c. 8, s. 43
^b S.C. 2002, c. 8, s. 14
^c S.C. 2002, c. 8, s. 194
^d S.C. 2001, c. 27

(SOR/DORS)

Her Excellency the Governor General in Council, on the recommendation of the Minister of Citizenship and Immigration, pursuant to subsection 75(1)^a of the *Immigration and Refugee Protection Act*^b, hereby approves the annexed *Rules Amending the Federal Court Immigration and Refugee Protection Rules*, made by the rules committee established under section 45.1^c of the *Federal Courts Act*^d.

^a S.C. 2002, c. 8, s. 194

^b S.C. 2001, c. 27

^c S.C. 2002, c. 8, s. 43

^d S.C. 2002, c. 8, s. 14

(SOR/DORS)

RULES AMENDING THE FEDERAL COURT IMMIGRATION AND REFUGEE
PROTECTION RULES

AMENDMENTS

1. The title of the *Federal Court Immigration and Refugee Protection Rules*¹ is replaced by the following:

FEDERAL COURTS IMMIGRATION AND REFUGEE PROTECTION RULES

2. (1) Rule 2 of the Rules is amended by adding the following before the definition "Act":

2. The following definitions apply in these Rules.

(2) Rule 2 of the Rules is amended by adding the following in alphabetical order:

"Court" means, as the circumstances require,

- (a) the Federal Court of Appeal, including, in respect of a motion, a single judge of that court; or
- (b) the Federal Court, including a prothonotary acting within his or her jurisdiction. (*Cour*)

"Registry" means a registry within the meaning of the *Federal Courts Act*. (*greffe*)

3. Rule 4 of the Rules is replaced by the following:

4. (1) Subject to subrule (2), except to the extent that they are inconsistent with the Act or these Rules, Parts 1 to 3, 6, 7, 10 and 11 and rules 383 to 385 of the *Federal Courts Rules* apply to applications for leave, applications for judicial review and appeals.

(2) Rule 133 of the *Federal Courts Rules* does not apply to the service of an application for leave or an application for judicial review.

4. Subrule 5(2) of the Rules is replaced by the following:

(2) Unless he or she is the applicant, the Minister responsible for the administration of the *Immigration and Refugee Protection*

¹ SOR/93-22; SOR/2002-232

Act in respect of the matter for which leave is sought shall be the respondent in an application for leave.

5. The portion of subrule 20(1) of the Rules before paragraph (a) is replaced by the following:

20. (1) An appeal to the Federal Court of Appeal shall be commenced by filing a notice of appeal in Form IR-4 as set out in the schedule within

6. The schedule to the Rules is replaced by the following:

SCHEDULE

Form IR-1 (Rules 5 and 6)

Court File No.

FEDERAL COURT

Between:

(Insert full name of party or the Minister responsible for the administration of the Immigration and Refugee Protection Act in respect of the matter for which leave is sought)

Applicant(s)

and

(The Minister responsible for the administration of the Immigration and Refugee Protection Act in respect of the matter for which leave is sought or full name of the other party if the Minister is the Applicant)

Respondent(s)

APPLICATION FOR LEAVE
and for JUDICIAL REVIEW

TO THE RESPONDENT(S)

AN APPLICATION FOR LEAVE TO COMMENCE AN APPLICATION FOR JUDICIAL REVIEW UNDER SUBSECTION 72(1) OF THE *IMMIGRATION AND REFUGEE PROTECTION ACT* has been commenced by the applicant.

UNLESS A JUDGE OTHERWISE DIRECTS, THIS APPLICATION FOR LEAVE will be disposed of without personal appearance by the parties, in accordance with paragraph 72(2)(d) of the *Immigration and Refugee Protection Act*.

IF YOU WISH TO OPPOSE THIS APPLICATION FOR LEAVE, you or a solicitor authorized to practice in Canada and acting for you must immediately prepare a Notice of Appearance in Form IR-2 prescribed by the *Federal Courts Immigration and Refugee Protection Rules*, serve it on the tribunal and the applicant's solicitor or, if the applicant does not have a solicitor, serve it on the applicant, and file it, with proof after service, at the Registry, within 10 days after the service of this application for leave.

IF YOU FAIL TO DO SO, the Court may nevertheless dispose of this application for leave and, if the leave is granted, of the subsequent application for judicial review without further notice to you.

Note: Copies of the relevant Rules of Court, information on the local office of the Court and other necessary information may be obtained from any local office of the Federal Court or the Registry in Ottawa, telephone: (613) 992-4238.

The applicant seeks leave of the Court to commence an application for judicial review of:

(Set out the date and details of the matter — the decision, determination or order made, measure taken or question raised — in respect of which a judicial review is sought and the date on which the applicant was notified or otherwise became aware of the matter.)

(Set out the name, address and telephone number of the tribunal and, if the tribunal was composed of more than one person, the name of each person who was on the tribunal.)

(Set out the tribunal's file number(s), if applicable.)

(Add the following paragraph if applicable.)

[The applicant further applies to the Court to allow an extension of time under paragraph 72(2)(c) of the Immigration and Refugee Protection Act on the following grounds:

(Set out the grounds for the request for the extension of time to file the application for leave.)]

In the event that the leave is granted, the applicant seeks the following relief by way of a judicial review:

(Set out the precise relief sought should leave be granted, including any statutory provision or rule relied on.)

In the event that the leave is granted, the application for judicial review is to be based on the following grounds:

(Set out the grounds to be argued, including a reference to any statutory provision or rule to be relied on.)

The applicant has *(has not)* received written reasons from the tribunal.

In the event that the leave is granted, the applicant proposes that the application for judicial review be heard at....., in the (*English and/or French*) language.

(*Signature of Solicitor/Applicant*)

Name of Solicitor/Applicant

Address

Telephone Number

To: (*Name(s) and address(es) of respondent(s)*)

Form IR-2 (Rule 8)

Registry No.

FEDERAL COURT

Between:

Applicant(s)

and

Respondent(s)

NOTICE OF APPEARANCE

THE RESPONDENT(s) (*name(s)*) intend(s) to respond to this application for leave.

The tribunal's file number(s), as set out in the application for leave is (are):

(Date)

(Name, address and telephone number of respondent's solicitor, or respondent if acting in person)

TO: *(Name and address of applicant's solicitor, or applicant if acting in person)*

AND TO: *(Name and address of tribunal)*

Form IR-3 (Rule 9)

Court File No.

FEDERAL COURT

Between:

Applicant(s)

and

Respondent(s)

REQUEST TO TRIBUNAL

TO: (Name and address of tribunal)

RE: (Set out the complete particulars of the matter — decision, determination or order made, measure taken or question raised — as they appear in the application, with the tribunal's file number(s), if any.)

DATE:

In an application filed on, 20.., the applicant set out that he/she had not received written reasons for the above-captioned matter.

Pursuant to rule 9 of the *Federal Courts Immigration and Refugee Protection Rules*, you are hereby requested, without delay, to

- (a) send a copy of the matter — the decision, determination or order made, measure taken or question raised — and written reasons for it, duly certified by an appropriate officer to be correct, to each of the parties, and two copies to the Registry; or
- (b) send written notice to all the parties and the Registry indicating either that no reasons were given for the matter — decision, determination or order made, measure taken or question raised — in respect of which the application is made, or that reasons were given but not recorded.

(Signature of Registry Officer)
Name of Registry Officer

Telephone Number

Form IR-4 (Rule 20)

Court File No.

FEDERAL COURT OF APPEAL

Between:

Appellant
(Applicant (Respondent) in the Federal Court)

and

(name)

Respondent
(Applicant (Respondent) in the Federal Court)

NOTICE OF APPEAL

THE APPELLANT (name) appeals from the judgment of the Honourable (name of judge) of the Federal Court, delivered on (date).

Pursuant to paragraph 74(d) of the *Immigration and Refugee Protection Act*, the learned Federal Court Judge certified that the following serious question(s) of general importance was(were) involved:

(Set out question(s) certified by Federal Court Judge.)

The appellant seeks the following relief on the determination of the question(s) under section 52 of the *Federal Courts Act*:

(Set out the relief sought, with reference to the specific provisions in section 52 of the *Federal Courts Act* relied on.)

The appellant requests that this appeal be heard at(place), in the (English and/or French) language.

Dated at....., this..... of....., 20...

(Name, address and telephone number of appellant's solicitor)

TO: (Name and address of respondent's solicitor or respondent if acting in person)

COMING INTO FORCE

7. These Rules come into force on the day on which they are registered.