

Order in Council making Rules relating to Appeals to His Majesty in Council.

Department of Justice, March, 1928.

THE following Order in Council, making rules relating to the general practice and procedure in appeals to His Majesty in Council, is published for general information.

F. J. ROLLESTON,  
Minister of Justice.

STATUTORY RULES AND ORDERS, 1925, No. 440/L. 4.

#### JUDICIAL COMMITTEE.

*The Judicial Committee Rules, 1925.*

At the Court at Buckingham Palace, the 2nd day of May, 1925.

Present :

THE KING'S MOST EXCELLENT MAJESTY.

Lord President. Chancellor of the Duchy of

Lord Chamberlain. Lancaster.

Sir George Lloyd.

WHEREAS there was this day read at the Board a representation from the Judicial Committee of the Privy Council in the words following, viz. :—

"The Lords of the Judicial Committee, having taken into consideration the Practice and Procedure in accordance with which the general Appellate Jurisdiction of Your Majesty in Council is now exercised, and being of opinion that the Rules regulating the said Practice and Procedure ought to be amended, Their Lordships do hereby agree humbly to recommend to Your Majesty that, with a view to such amendment, certain Orders in Council regulating the said Practice and Procedure—viz., the Orders in Council dated respectively the 21st day of December, 1908, the 23rd day of May, 1916, the 25th day of March, 1920, the 9th day of March, 1921, and the 15th day of March, 1922—amending the said Practice and Procedure ought to be revoked as from the 1st day of January, 1926, and that the several Rules hereunto annexed ought to be substituted therefor and ought to come into operation on that date."

His Majesty, having taken the said representation into consideration, was pleased, by and with the advice of His Privy Council, to approve thereof and to order, as it is hereby ordered, that the said Orders in Council in the said representation mentioned be and the same are hereby revoked as from the 1st day of January, 1926, and that the Rules hereunto annexed be substituted therefor, to come into operation on that date.

Whereof all persons whom it may concern are to take notice and govern themselves accordingly.

M. P. A. HANKEY.

#### RULES.

##### Interpretation.

1. (1) In these Rules, unless the context otherwise requires,—

"Appeal" means an Appeal to His Majesty in Council :

"Judgment" includes decree, order, sentence, or decision of any Court, Judge, or Judicial Officer :

"Record" means the aggregate of papers relating to an Appeal (including the pleadings, proceedings, evidence, and judgments) proper to be laid before His Majesty in Council on the hearing of the Appeal :

"Registrar" means the Registrar or other proper officer having the custody of the records in the Court appealed from :

"Abroad" means the country or place where the Court appealed from is situate :

"Agent" means a person qualified by virtue of Her late Majesty's Order in Council of the 6th March, 1896, to conduct proceedings before His Majesty in Council on behalf of another :

"Party" and all words descriptive of parties to proceedings before His Majesty in Council (such as "Petitioner," "Appellant," "Respondent") mean, in respect of all acts proper to be done by an Agent, the Agent of the party in question where such party is represented by an Agent :

"Respondent" includes Intervener :

"Month" means calendar month :

Words in the singular shall include the plural, and words in the plural shall include the singular.

(2) Where by these Rules any step is required to be taken in England in connection with proceedings before His Majesty in Council, whether in the way of lodging a Petition or other

document entering an Appearance, lodging security, or otherwise, such step shall be taken in the Registry of the Privy Council, Downing Street, London.

##### *Leave to appeal.*

Leave to appeal generally.

2. All appeals shall be brought either in pursuance of leave obtained from the Court appealed from, or, in the absence of such leave, in pursuance of special leave to appeal granted by His Majesty in Council upon a Petition in that behalf presented by the intending Appellant.

##### *Special Leave to appeal.*

Form of Petition for special leave to appeal.

3. A petition for special leave to appeal to His Majesty in Council shall state succinctly and clearly all such facts as it may be necessary to state in order to enable the Judicial Committee to advise His Majesty whether such leave ought to be granted, and shall be signed by the Counsel who attends at the hearing, or by the party himself if he appears in person. The Petition shall deal with the merits of the case only so far as is necessary for the purpose of explaining and supporting the particular grounds upon which special leave to appeal is sought.

Five copies of Petition to be lodged together with Affidavits in support.

4. The Petitioner shall lodge at least five copies of his Petition for special leave to appeal, together with the Affidavit in support thereof prescribed by Rule 50 hereinafter contained, and, unless a Caveat as prescribed by Rule 48 has been lodged by the other parties who appeared in the Court below, an Affidavit of service of notice of the intended application upon such parties, or their Solicitors or Agents, either abroad or in England.

Time for lodging Petition.

5. A Petition for special leave to appeal may be lodged at any time after the date of the judgement sought to be appealed from, but the Petitioner shall, in every case, lodge his Petition with the least possible delay.

Security for costs and transmission of Record.

6. Where the Judicial Committee agree to advise His Majesty to grant special leave to appeal, they shall, in their Report, specify the amount of the security for costs (if any) to be lodged by the Petitioner, and shall, unless the circumstances of a particular case render such a course unnecessary, provide for the transmission of the Record by the Registrar to the Registrar of the Privy Council, and for such further matters as the justice of the case may require. Unless otherwise ordered, the security shall be lodged at any time before the Appellant enters an Appearance.

General provisions.

7. Save as by the four last preceding Rules otherwise provided, the provisions of Rules 47 to 50 and 52 to 59 (all inclusive) hereinafter contained shall apply *mutatis mutandis* to Petitions for special leave to appeal.

Petitions for special leave to appeal *in forma pauperis*.

8. Rules 3 to 7 (both inclusive) shall apply *mutatis mutandis* to Petitions for leave to appeal *in forma pauperis*, but in addition to the Affidavits referred to in Rule 4 every such Petition shall be accompanied by an Affidavit from the Petitioner stating that he is not worth £25 in the world excepting his wearing-apparel and his interest in the subject-matter of the intended Appeal, and that he is unable to provide sureties, and also by a certificate of Counsel that the Petitioner has reasonable ground of appeal.

Exemption of pauper Appellant from lodging security and paying Office fees.

9. Where a Petitioner obtains leave to appeal *in forma pauperis* he shall not be required to lodge security for the costs of the Respondent or to pay any Council Office fees.

Exemption of unsuccessful Petitioner for leave to appeal *in forma pauperis* from payment of Office fees.

10. A Petitioner whose Petition for leave to appeal *in forma pauperis* is dismissed may, notwithstanding such dismissal, be excused from paying the Council Office fees usually chargeable to a Petitioner in respect of a Petition for leave to appeal, if His Majesty in Council, on the advice of the Judicial Committee, shall think fit so to order.

##### *Record and Appearance by Appellant.*

Record to be transmitted without delay.

11. As soon as the Appeal has been admitted, whether by an Order of the Court appealed from or by an Order of His Majesty in Council granting special leave to appeal, the