

## Procedure on non-appearance of Respondent.

43. Where a Respondent fails to enter an Appearance in an Appeal the following Rules shall, subject to any special Order of the Judicial Committee to the contrary, apply:—

- (a) If the non-appearing Respondent was a Respondent at the time when the Appeal was admitted, whether by the Order of the Court appealed from or by an Order of His Majesty in Council giving the Appellant special leave to appeal, and it appears from the terms of the said Order, or Order in Council, or otherwise from the Record, or from a Certificate of the Registrar of the Court appealed from, that the said non-appearing Respondent has received notice or was otherwise aware of the Order of the Court appealed from admitting the Appeal, or of the Order of His Majesty in Council giving the Appellant special leave to appeal, and has also received notice or was otherwise aware of the despatch of the Record to England, the appeal may, if all other conditions of its being set down are satisfied, be set down *ex parte* as against the said non-appearing Respondent at any time after the expiration of three months from the date of the lodging of the Petition of Appeal:
- (b) If the non-appearing Respondent was made a Respondent by an Order of His Majesty in Council subsequently to the admission of the Appeal, and it appears from the Record, or from a Supplementary Record, or from a Certificate of the Registrar of the Court appealed from, that the said non-appearing Respondent has received notice or was otherwise aware of any intended application to bring him on the record as a Respondent, the Appeal may, if all other conditions of its being set down are satisfied, be set down *ex parte* as against the said non-appearing Respondent at any time after the expiration of three months from the date on which he shall have been served with a copy of His Majesty's Order in Council bringing him on the Record as a Respondent:

Provided that where it is shown to the satisfaction of the Registrar of the Privy Council, by Affidavit or otherwise, either that an Appellant has made every reasonable endeavour to serve a non-appearing Respondent with the notices mentioned in clause (a) and (b) respectively and has failed to effect such service, or that it is not the intention of the non-appearing Respondent to enter an Appearance to the Appeal, the Appeal may, without further Order in that behalf, and at the risk of the Appellant, be proceeded with *ex parte* as against the said non-appearing Respondent.

Respondent defending Appeal *in forma pauperis*.

44. A Respondent who desires to defend an Appeal *in forma pauperis* may present a Petition to that effect to His Majesty in Council, which 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 Appeal.

## Petitions generally.

## Mode of addressing Petitions.

45. All petitions for orders or directions as to matters of practice or procedure arising after the lodging of the Petition of Appeal and not involving any change in the parties to an Appeal shall be addressed to the Judicial Committee. All other Petitions shall be addressed to His Majesty in Council, but a Petition which is properly addressed to His Majesty in Council may include, as incidental to the relief thereby sought, a prayer for orders or directions as to matters of practice or procedure.

## Orders on Petitions which need not be drawn up.

46. Where an Order made by the Judicial Committee does not embody any special terms or include any special directions it shall not be necessary to draw up such Order, unless the Committee otherwise direct, but a Note thereof shall be made by the Registrar of the Privy Council.

## Form of Petition and number of copies to be lodged.

47. All Petitions shall consist of paragraphs numbered consecutively, and shall be written, typewritten, or lithographed on brief paper with quarter margin, and endorsed with the name of the Court appealed from, the full title and Privy Council number of the Appeal to which the Petition relates, or the full title of the Petition (as the case may be), and the name and address of the London Agent (if any) of the Petitioner, but need not be signed, except as provided by Rule 3. Unless the Petition is a Consent Petition within the meaning of Rule 56 at least five copies thereof shall be lodged.

## Caveat.

48. Where a Petition is expected to be lodged, or has been lodged, which does not relate to any pending Appeal of which the Record has been registered in the Registry of the Privy Council, any person claiming a right to appear before the Judicial Committee on the hearing of such Petition may lodge a Caveat in the matter thereof, and shall thereupon be entitled to receive from the Registrar of the Privy Council notice of the lodging of the Petition, if at the time of the lodging of the Caveat such Petition has not yet been lodged, and, if and when the Petition has been lodged, to require the Petitioner to serve him with a copy of the Petition, and to furnish him, at his own expense, with copies of any papers lodged by the Petitioner in support of his Petition. The Caveator shall forthwith after lodging his Caveat give notice thereof to the Petitioner, if the Petition has been lodged.

## Service of Petition.

49. Where a Petition is lodged in the matter of any pending Appeal of which the Record has been registered in the Registry of the Privy Council, the Petitioner shall serve any party who has entered an Appearance in the Appeal with a copy of such Petition, and the party so served shall thereupon be entitled to require the petitioner to furnish him, at his own expense, with copies of any papers lodged by the Petitioner in support of his Petition.

## Verifying Petition by Affidavit.

50. A Petition not relating to any Appeal of which the Record has been registered in the Registry of the Privy Council, and any other Petition containing allegations of fact which cannot be verified by reference to the registered Record or any certificate or duly authenticated statement of the Court appealed from, shall be supported by Affidavit. Where the Petitioner prosecutes his Petition in person the said Affidavit shall be sworn by the Petitioner himself, and shall state that, to the best of the deponent's knowledge, information, and belief, the allegations contained in the Petition are true. Where the Petitioner is represented by an Agent the said Affidavit shall be sworn by such Agent, and shall, besides stating that, to the best of the deponent's knowledge, information, and belief, the allegations contained in the Petition are true, show how the deponent obtained his instructions, and the information enabling him to present the Petition.

## Petition for Order of Revivor or Substitution.

51. A Petition for an Order of Revivor or Substitution shall be accompanied by a certificate or duly authenticated statement from the Court appealed from showing who, in the opinion of the said Court, is the proper person to be substituted or entered on the Record in place of or in addition to a party who has died or undergone a change of status.

Petition disclosing no reasonable cause of appeal or containing scandalous matter to be refused.

52. The Registrar of the Privy Council may refuse to receive a Petition on the grounds that it discloses no reasonable cause of appeal, or is frivolous, or contains scandalous matter, but the Petitioner may appeal, by way of motion, from such refusal to the Judicial Committee.

## Setting down Petition.

53. As soon as a Petition and all necessary documents are lodged the Petition shall thereupon be deemed to be set down.

## Times within which set-down Petitions shall be heard.

54. On each day appointed by the Judicial Committee for the hearing of Petitions the Registrar of the Privy Council shall, unless the Committee otherwise direct, put in the paper for hearing all such Petitions as have been set down: Provided that, in the absence of special circumstances of urgency to be shown to the satisfaction of the said Registrar, no Petition, if opposed, shall be put in the paper for hearing before the expiration of ten clear days from the lodging thereof unless the Opponent consents to the Petition being put in the paper on an earlier day.

## Notice to parties of day fixed for hearing Petition.

55. Subject to the provisions of the next following Rule, the Registrar of the Privy Council shall, as soon as the Judicial Committee have appointed a day for the hearing of a Petition, notify all parties concerned by Summons of the day so appointed.

## Procedure where Petition is consented to or is formal.

56. Where the prayer of a Petition is consented to in writing by the opposite party, or where a Petition is of a formal and non-contentious character, the Judicial Committee may, if they think fit, make their Report to His Majesty on such Petition, or make their Order thereon, as the case may