1961 No. 3

LANCASTER

COURT OF CHANCERY

The Chancery of Lancaster Rules, 1961

Made - - - -	2*nd January*, 1961
Laid before Parliament	10*th January*, 1961
Coming into Operation	12*th January*, 1961

The Right Honourable Charles Hill, M.D., Chancellor of the Duchy and County Palatine of Lancaster with the advice and consent of Sir Leonard Stone, O.B.E., Vice-Chancellor of the said County Palatine of Lancaster, and with the approval of the authority empowered to make rules for the Supreme Court and in pursuance of the powers and authorities conferred by the Chancery of Lancaster Acts 1850 to 1952(a) and all other powers and authorities enabling him in that behalf doth hereby order and direct as follows:—

1. After Order XLVIII E there shall be inserted the following Order:—

"ORDER XLVIII F

PROCEEDINGS UNDER THE CHARITIES ACT, 1960

1.—(1) In this Order—

"the Act" means the Charities Act, 1960(b);

"charity proceedings" means proceedings brought under the court's jurisdiction with respect to charities or brought under the court's jurisdiction with respect to trusts in relation to the administration of a trust for charitable purposes;

"Commissioners" means the Charity Commissioners for England and Wales;

"certificate" means a certificate that a case is a proper one for an appeal.

(2) References in this Order to the Commissioners shall, in relation to any matter in which the Minister of Education has acted under or by virtue of the Act, be construed as references to the Minister.

2. Except as provided in the next following Rule, Charity proceedings and proceedings brought by virtue of the Act shall be commenced by originating notice of motion or petition.

3.—(1) An application shall not be made under the proviso to section 18 (11) of the Act for leave to appeal against an order of the Commissioners unless the applicant has requested the Commissioners to grant a certificate and they have refused to do so.

(2) An application under the said proviso for leave to appeal or under section 28 (5) of the Act for leave to take charity proceedings shall be made within twenty-one days after the refusal by the Commissioners of a certificate or, as the case may be, of an order authorising the taking of proceedings.

(3) The application shall be made by lodging at the chambers of the Registrar a statement showing—

(*a*) the name, address and description of the applicant;

(*b*) particulars of the order against which it is desired to appeal or the proceedings which it is desired to take;

(a) 13 & 14 Vict. c. 43; 17 & 18 Vict. c. 82; 53 & 54 Vict. c. 23; 15 & 16 Geo. 6 & 1 Eliz. 2. c. 49.

(b) 8 & 9 Eliz. 2. c. 58.

(*c*) the date of the Commissioner's refusal to grant a certificate or an order authorising the taking of proceedings;

(*d*) the grounds on which the applicant alleges that it is a proper case for an appeal or for taking proceedings.

(4) The application may be made *ex parte* in the first instance and if it is made with the consent of any other party to the proposed appeal or proposed proceedings that fact shall be mentioned in the statement.

(5) If the Vice-Chancellor on considering the application so directs, the Commissioners shall furnish him with a statement in writing of their reasons for refusing a certificate or, as the case may be, an order authorising the taking of proceedings, and a copy of any such statement shall be sent by the Registrar to the applicant.

(6) The Vice-Chancellor may determine the application on the documents without a hearing or may direct that it be heard and determined in the same manner as if it was a summons under Rule 1 of Order XLVIII.

(7) Where the application is directed to be so heard, notice of the day and time fixed for the hearing shall be sent by the Registrar to the applicant, and where the application is determined without a hearing, a copy of the order made on the application shall be sent by the Registrar to the Commissioners and the applicant.

4. Where an appeal is brought against any order or decision of the Commissioners—

(*a*) the originating notice of motion or petition shall state the grounds of the appeal and, except with leave of the Court the appellant shall not be entitled to rely on any ground not so stated;

(*b*) the Attorney-General of the Duchy of Lancaster shall be made a party to the notice of motion or petition in addition to any other persons who are necessary and proper parties thereto.

5. In proceedings under this Order any document required or authorised to be served on the Commissioners shall be served on the Treasury Solicitor in accordance with paragraph (2) of Rule 1A of Order LIV, and any document required or authorised to be served on the Attorney-General of the Duchy of Lancaster shall be served on the Solicitor for the Affairs of the Duchy of Lancaster.

6. Subject to the provisions of the Act and this Order, the practice and procedure of the Court shall apply to proceedings under this Order".

2. Rule 12 of Order XLVIII is hereby revoked.

3. These Rules may be cited as "The Chancery of Lancaster Rules, 1961" and shall come into operation on the 12th day of January, 1961.

Dated this 2nd day of January, 1961.

Charles Hill,
Chancellor.

Leonard Stone,
Vice Chancellor.

Approved by the authority empowered to make Rules for the Supreme Court.

D. W. Dobson.