1957 No. 1361

The Ghana (Appeal to Privy Council) Order in Council, 1957

Made - - - -	31*st July*, 1957
Laid before Parliament	7*th August*, 1957
Coming into Operation	*On a date to be appointed by the Governor-General under section* 1.*

At the Court at Goodwood House, the 31st day of July, 1957

Present,

The Queen's Most Excellent Majesty in Council

Whereas by the Ghana Independence Act, 1957(a), provision was made for and in connection with the attainment by Ghana of fully responsible status within the British Commonwealth of Nations:

And whereas Her Majesty has been requested by Her Majesty's Government in Ghana to make provision for the hearing and determining of appeals from the Court of Appeal of Ghana:

Now, therefore, Her Majesty, by virtue and in exercise of the powers conferred upon Her by the British Settlements Acts, 1887 and 1945(b), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation and commencement

1. This Order may be cited as the Ghana (Appeal to Privy Council) Order in Council, 1957, and shall come into operation on a date to be appointed by the Governor-General by notice in the *Gazette*, which date shall not be earlier than the day after the day upon which this Order shall have been laid before both Houses of Parliament.

Interpretation

2.—(1) In this Order, unless the context otherwise requires—

"appeal" means appeal to Her Majesty in Council;

"Her Majesty" includes Her Majesty's Heirs and Successors;

"judgment" includes decree, order, sentence or decision;

"Court" means either the full Court or a single Judge of the Court of Appeal of Ghana, according as the matter in question is one which, under the rules and practice of the said Court or under section 7 of this Order, properly appertains to a full Court or to a single Judge;

"record" means the aggregate of papers relating to an appeal (including the pleadings, proceedings, evidence and judgments) proper to be laid before Her 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.

* 31.8.57. (a) 5 & 6 Eliz. 2. c. 6. (b) 50 & 51 Vict. c. 54; 9 & 10 Geo. 6. c. 7.

(2) The Interpretation Ordinance(a) shall apply for the interpretation of this Order as it applies for the interpretation of an Ordinance.

Appealable limit

3. Subject to the provisions of this Order, an appeal shall lie—

(*a*) as of right, from any final judgment of the Court, where the matter in dispute on the appeal amounts to or is of the value of five hundred pounds sterling or upwards, or where the appeal involves directly or indirectly some claim or question to or respecting property or some civil right amounting to or of the said value or upwards; and

(*b*) at the discretion of the Court, from any other judgment of the Court, whether final or interlocutory, if, in the opinion of the Court, the question involved in the appeal is one which, by reason of its great general or public importance or otherwise, ought to be submitted to Her Majesty in Council for decision.

Entering judgment pro forma

4. Where in any action or other proceeding no final judgment can be duly given in consequence of a difference of opinion between the Judges, the final judgment may be entered pro forma on the application of any party to such action or other proceeding according to the opinion of the Senior Member of the Court or, in his absence, of the Member of the Court next in seniority, but such judgment shall only be deemed final for purposes of an appeal therefrom and not for any other purpose.

Application for leave to appeal

5. Applications to the Court for leave to appeal shall be made by motion or petition within 21 days from the date of the judgment to be appealed from, and the applicant shall give the opposite party notice of his intended application.

Conditions governing grant of leave to appeal

6. Leave to appeal under section 3 shall only be granted by the Court in the first instance—

(*a*) upon condition of the appellant, within a period to be fixed by the Court but not exceeding three months from the date of the hearing of the application for leave to appeal, entering into good and sufficient security to the satisfaction of the Court in a sum not exceeding five hundred pounds sterling for the due prosecution of the appeal and the payment of all such costs as may become payable to the respondent in the event of the appellant not obtaining an order granting him final leave to appeal, or of the appeal being dismissed for non-prosecution, or of Her Majesty in Council, ordering the appellant to pay the respondent's costs of the appeal (as the case may be); and

(*b*) upon such other conditions (if any) as to the time or times within which the appellant shall take the necessary steps for the purpose of procuring the preparation of the record and the dispatch thereof to England as the Court, having regard to all the circumstances of the case, may think it reasonable to impose.

Powers exercisable by a single Judge of the Court

7. A single Judge of the Court shall have power and jurisdiction to hear and determine any application to the Court for leave to appeal under section 3 (*a*), and generally in respect of any appeal pending before Her

(a) Laws of Ghana, Rev. 1951, Chapter I

Majesty in Council to make such other order and to give such other directions as he shall consider the interests of justice or the circumstances of the case to require:

Provided always that any order or directions so made or so given by a single Judge as aforesaid may be varied, discharged or reserved by the Court.

Court to give directions as to execution or otherwise of judgment appealed from

8. Where the judgment appealed from requires the appellant to pay money or perform a duty, the Court shall have power, when granting leave to appeal, either to direct that the said judgment shall be carried into execution or that the execution thereof shall be suspended pending the appeal, as to the Court shall seem just, and in case the Court shall direct the said judgment to be carried into execution, the person in whose favour it was given shall, before the execution thereof, enter into good and sufficient security, to the satisfaction of the Court, for the due performance of such Order as Her Majesty in Council shall think fit to make thereon.

Preparation of record

9. The preparation of the record shall be subject to the supervision of the Court, and the parties may submit any disputed question arising in connection therewith to the decision of the Court, and the Court shall give such directions thereon as the justice of the case may require.

Exclusion from record of irrelevant matter

10. The Registrar, as well as the parties and their legal agents, shall endeavour to exclude from the record all documents (more particularly such as are merely formal) that are not relevant to the subject matter of the appeal and, generally, to reduce the bulk of the record as far as practicable, taking special care to avoid the duplication of documents and the unnecessary repetition of headings and other merely formal parts of documents; but the documents omitted to be copied or printed shall be enumerated in a list to be placed after the index or at the end of the record.

Procedure when one of the parties to appeal objects to inclusion of particular document in record

11. Where in the course of the preparation of a record one party objects to the inclusion of a document on the ground that it is unnecessary or irrelevant and the other party nevertheless insists upon its being included, the record, as finally printed (whether in Ghana, or in England) shall, with a view to the subsequent adjustment of the costs of and incidental to such document, indicate in the index of papers or otherwise, the fact that, and the party by whom, the inclusion of the document was objected to.

Printing of record

12. The record shall be printed in accordance with the Rules set forth in the Schedule hereto. It may be so printed either in Ghana or in England.

Procedure when record printed locally

13. Where the record is printed in Ghana the Registrar shall at the expense of the appellant, transmit to the Registrar of the Privy Council 40 copies of such record, one of which copies he shall certify to be correct by signing his name on, or initialling, every eighth page thereof and by affixing thereto the seal of the Court.

Procedure when record printed in England

14. Where the record is to be printed in England the Registrar shall, at the expense of the appellant, transmit to the Registrar of the Privy Council one certified copy of such record, together with an index of all the papers and exhibits in the case. No other certified copies of the record shall be transmitted to the agents in England by or on behalf of the parties to the appeal.

Procedure when record is printed partly locally and partly in England

15. Where part of the record is printed in Ghana and part is to be printed in England, sections 13 and 14 shall, as far as possible, apply to such parts as are printed in Ghana and such as are to be printed in England respectively.

Reasons given by Judge or Judges for or against judgment appealed from to be communicated by them to Registrar

16. The reasons given by the Judge, or any of the Judges, for or against any judgment pronounced in the course of the proceedings out of which the appeal arises shall by such Judge or Judges be communicated in writing to the Registrar, and shall be included in the record.

Certificate to be sent by Registrar to Registrar of Privy Council

17. The Registrar shall, with all convenient speed, transmit to the Registrar of the Privy Council a certificate to the effect that the respondent has received due notice of the admission of the appeal and of the transmission of the record to England.

Consolidation of appeal

18. Where there are two or more applications for leave to appeal arising out of the same matter, and the Court is of opinion that it would be for the convenience of the Lords of the Judicial Committee and all parties concerned that the appeals should be consolidated, the Court may direct the appeals to be consolidated and grant leave to appeal by a single order.

Withdrawal of appeal

19. An appellant who has obtained an order granting him conditional leave to appeal may at any time prior to the making of an order granting him final leave to appeal withdraw his appeal on such terms as to costs and otherwise as the Court may direct.

Rescinding leave to appeal

20. Where an appellant, having obtained an order granting him conditional leave to appeal, and having complied with the conditions imposed on him by such order, fails thereafter to apply with due diligence to the Court for an order granting him final leave to appeal the Court may, on an application in that behalf made by the respondent rescind the order granting conditional leave to appeal, notwithstanding the appellant's compliance with the conditions imposed by such an order, and may give such directions as to the costs of the appeal and security entered into by the appellant as the Court shall think fit, or make such further or other order in the premises as, in the opinion of the Court, the justice of the case requires.

Appellant to give notice to all concerned of application for final leave

21. On an application for final leave to appeal, the Court may enquire whether notice or sufficient notice of the application has been given by the appellant to all parties concerned and, if not satisfied as to the notices

given, may defer the granting of the final leave to appeal, or may give such other directions in the matter as, in the opinion of the Court, the justice of the case requires.

Prosecution of appeal

22. An appellant who has obtained final leave to appeal shall prosecute his appeal in accordance with the Rules for the time being regulating the general practice and procedure in appeals to Her Majesty in Council.

Withdrawal of appeal after grant of final leave

23. Where an appellant, having obtained final leave to appeal, desires, prior to the dispatch of the record to England, to withdraw his appeal, the Court may, upon an application in that behalf made by the appellant, grant him a certificate to the effect that the appeal has been withdrawn, and the appeal shall thereupon be deemed, as from the date of such certificate, to stand dismissed without express Order of Her Majesty in Council, and the costs of the appeal and the security entered into by the appellant shall be dealt with in such manner as the Court may think fit to direct.

Dismissal for non-prosecution

24. Where an appellant, having obtained final leave to appeal, fails to show due diligence in taking all necessary steps for the purpose of procuring the dispatch of the record to England, the respondent may, after giving the appellant due notice of his intended application, apply to the Court for a certificate that the appeal has not been effectually prosecuted by the appellant, and if the Court sees fit to grant such a certificate the appeal shall be deemed, as from the date of such certificate, to stand dismissed for non-prosecution without express Order of Her Majesty in Council, and the costs of the appeal and the security entered into by the appellant shall be dealt with in such manner as the Court may think fit to direct.

Substituting parties before dispatch of record

25. Where at any time between the order granting final leave to appeal and the dispatch of the record to England, the record becomes defective by reason of the death, or change of status of a party to the appeal, the Court may, notwithstanding the order granting final leave to appeal on an application in that behalf made by any person interested, grant a certificate, showing who, in the opinion of the Court, is the proper person to be substituted or entered on the record in place of or in addition to, the party who has died, or undergone a change of status, and the name of such person shall thereupon be deemed to be so substituted or entered on the record as aforesaid without express Order of Her Majesty in Council.

Substituting parties after dispatch of record

26. Where the record subsequently to its dispatch to England becomes defective by reason of the death or change of status of a party to the appeal, the Court shall, upon an application in that behalf made by any person interested, cause a certificate to be transmitted to the Registrar of the Privy Council showing who, in the opinion of the Court, is the proper person to be substituted, or entered on the record, in place of, or in addition to, the party who has died or undergone a change of status.

Printing of case

27. The case of each party to the appeal may be printed either in Ghana or in England and shall, in either event, be printed in accordance with the Rules set forth in the Schedule hereto, every tenth line thereof being

numbered in the margin, and shall be signed by at least one of the counsel who attends at the hearing of the appeal, or by the party himself if he conducts his appeal in person.

Form of case

28. The case shall consist of paragraphs numbered consecutively and shall state, as concisely as possible, the circumstances out of which the appeal arises, the contentions to be urged by the party lodging the same, and the reasons of appeal. Reference by page and line to the relevant portions of the record as printed shall, as far as practicable, be printed in the margin, and care shall be taken to avoid, as far as possible, the reprinting in the case of long extracts from the record. The taxing officer, in taxing the costs of the appeal shall, either of his own motion, or at the instance of the opposite party, inquire into any unnecessary prolixity in the case, and shall disallow the costs occasioned thereby.

Costs in Ghana

29. Where the Judicial Committee directs a party to bear the costs of an appeal incurred in Ghana such costs shall be taxed by the proper officer of the Court in accordance with the rules for the time being regulating taxation in the Court.

Enforcing judgment

30. The Court shall conform with, and execute, any Order which Her Majesty in Council may think fit to make on an appeal from a judgment of the Court in like manner as any original judgment of the Court should or might have been executed.

Special leave to appeal

31. Nothing in this Order contained shall be deemed to interfere with the right of Her Majesty upon the humble petition of any person aggrieved by any judgment of the Court, to admit his appeal therefrom upon such conditions as Her Majesty in Council shall think fit to impose.

W. G. Agnew.

SCHEDULE

I. Records and cases in appeals to Her Majesty in Council shall be printed in the form known as demy quarto.

II. The size of the paper used shall be such that the sheet, when folded and trimmed, will be 11 inches in height and 8½ inches in width.

III. The type to be used in the text shall be pica type, but long primer shall be used in printing accounts, tabular matter and notes.

IV. The number of lines in each page of pica type shall be 47 or thereabouts, and every tenth line shall be numbered in the margin.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order makes provision regulating appeals from the Court of Appeal of Ghana to Her Majesty in Council.