PROCEDURE

1959 No. 450 (L. 2)

The Rules of the Supreme Court (No. 1), 1959

Made - - - -	*16th March*, 1959
Laid before Parliament	*23rd March*, 1959
Coming into Operation	*1st April*, 1959

We, the Rule Committee of the Supreme Court, hereby make the following Rules:—

1. In Order LVA (which relates to proceedings under the Guardianship of Infants Acts, 1886 and 1925), after Rule 8 there shall be added the following heading and new Rule:—

"APPEALS UNDER SECTION 10 OF ADOPTION ACT, 1958

9. An appeal under section 10 of the Adoption Act, 1958(a), from the making or refusal of an adoption order by a magistrates' court shall lie to a single judge of the Chancery Division and the provisions of Rules 4 and 6 of this Order shall apply to the appeal as they apply to an appeal under the Act of 1886 or the Act of 1925."

2. After Order LIX there shall be inserted the following Order:—

"ORDER LIXA

PROCEEDINGS UNDER SECTION 9 OF TRIBUNALS AND INQUIRIES ACT, 1958

1. Proceedings in the High Court under section 9 of the Tribunals and Inquiries Act, 1958(b), shall be heard by a Divisional Court of the Queen's Bench Division and, except as otherwise provided by this Order, the provisions of Order LIX shall apply to such proceedings as they apply to appeals to the High Court from inferior courts of civil jurisdiction.

2.—(1) An appeal from the decision of a tribunal to which subsection (1) of the said section 9 applies shall be brought by notice of motion specifying the grounds of the appeal.

(2) The notice of motion shall be served on every party to the proceedings before the tribunal and on the chairman of the tribunal.

(3) The notice of motion shall be served and the appeal entered within twenty-eight days (or, in the case of an appeal from the tribunal constituted under section 42 of the National Health Service Act, 1946(c), within fourteen days) of the date of the decision appealed against, calculated from the time when the decision was sent or otherwise communicated to the appellant, and there shall be at least fourteen days between the service of the notice and the day named therein for the hearing.

3. Where an appeal is brought from such a decision of the Minister of Transport and Civil Aviation as is mentioned in subsection (5) of the said section 9—

(*a*) the notice of motion shall, in lieu of being served on the persons mentioned in paragraph (2) of the last foregoing Rule, be served on the Minister and on every person who had, or if aggrieved

(a) 7 & 8 Eliz. 2. c. 5. (b) 6 & 7 Eliz. 2. c. 66. (c) 9 & 10 Geo. 6. c. 81.

would have had, a right to appeal to the Minister (whether or not he has exercised that right);

(*b*) the Minister shall be entitled to take such part in the proceedings as he may think fit;

(*c*) if the court is of opinion that the decision of the Minister was erroneous in point of law, it shall not set aside or vary the order of the Minister but may remit the matter to him for determination in accordance with the decision of the court on the point of law;

(*d*) any document required or authorised to be served on the Minister shall be served on the Treasury Solicitor in accordance with paragraph (2) of Rule 1A of Order LXVII.

4.—(1) A tribunal to which subsection (2) of the said section 9 applies may of its own motion or at the request of any party to the proceedings, state, in the form of a special case for the opinion of the High Court, any question of law arising in the course of proceedings before the tribunal.

(2) Any party to proceedings before the tribunal who is aggrieved by the tribunal's refusal to state a case may apply to the High Court for an order requiring the tribunal to do so.

(3) An application under the last foregoing paragraph shall be made by notice of motion specifying the grounds of the application and the question of law on which it is desired that a case shall be stated, together with any reasons given by the tribunal for its refusal; and the notice of motion shall be served on the chairman of the tribunal and on every other party to the proceedings before the tribunal, and a copy shall be lodged in the Crown Office and Associates' Department, within fourteen days after the tribunal's refusal to state a case.

(4) Every case stated under this Rule shall be signed by the chairman of the tribunal and served on the party on whose application it was stated or, if the case was stated by the tribunal of its own motion, on such party as the tribunal thinks appropriate.

(5) The party on whom a case is served pursuant to the last foregoing paragraph shall, within fourteen days after service—

(*a*) lodge the case in the Crown Office and Associates' Department together with a notice of motion stating his contentions on the question of law,

(*b*) serve on every other party to the proceedings before the tribunal a copy of the case and of the notice of motion, and

(*c*) serve on the chairman of the tribunal a copy of the notice of motion;

and there shall be at least seven days between the service of the notice and the day named therein for the hearing.

(6) On the hearing of the case the High Court may, if it thinks fit, amend the case or order it to be sent back to the tribunal for amendment, and shall have power to draw inferences of fact from the facts stated in the case.

5. In this Order for the references to the chairman of a tribunal there shall be substituted—

(*a*) in the case of a tribunal which has no chairman or member who acts as chairman, references to the member or members of the tribunal;

(*b*) in the case of any such tribunal as is specified in paragraph 3 of the First Schedule to the Tribunals and Inquiries Act, 1958, references to the secretary of the tribunal."

3. The following amendments shall be made in Order LIXB (which prescribes the procedure on references to the High Court by agricultural land tribunals):—

(1) In Rule 1 (2) (*b*) and in Rule 2 of that Order for the words "where the Minister of Agriculture and Fisheries is not a party to the said proceedings, on that Minister", there shall be substituted the words "where the proceedings arose from an application under section 4 of the Agriculture Act, 1958(a), on the authority having power to enforce the statutory requirement specified in the application" and in the said Rule 2 after the words "the said Act" there shall be inserted the words "of 1954".

(2) For Rule 3 of the said Order there shall be substituted the following Rule:—

"3. Where in accordance with the provisions of this Order notice is served on an authority having power to enforce a statutory requirement specified in an application to an agricultural land tribunal under section 4 of the Agriculture Act, 1958, the authority shall be entitled to appear and be heard on the reference."

4. These Rules may be cited as the Rules of the Supreme Court (No. 1), 1959, and shall come into operation on the first day of April, 1959.

Dated the sixteenth day of March, 1959.

Kilmuir, C.
Parker of Waddington, C.J.
Evershed, M.R.
Merriman, P.
B. Ormerod, L.J.
G. Raymond Hinchcliffe, J.
Reginald W. Goff.
J. R. Cumming-Bruce.
W. Charles Norton.

EXPLANATORY NOTE

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

Rule 1 prescribes the procedure on an appeal from the making or refusal of an adoption order by a magistrates' court. Rule 2 makes provision for appeals on a point of law under section 9 of the Tribunals and Inquiries Act, 1958. Rule 3 amends Order 59B (relating to references to the High Court by agricultural land tribunals) in consequence of the Agriculture Act, 1958.

(a) 6 & 7 Eliz. 2. c. 71.