

## **COURT OF APPEAL**

### **PRACTICE DIRECTION NO 1/2016**

#### **(Applications for Conditional and Final Leave to Appeal to Her Majesty in Council)**

##### **1. Introduction**

- 1.1 This Practice Direction is made with the concurrence of the President and Judges of the Court of Appeal.
- 1.2 The court, cognizant of the powers of single judges of appeal under section 5(a) of the Jamaica (Procedure in Appeals to Privy Council) Order in Council 1962 to hear and determine any application to the court for leave to appeal in any case where under any provision of law an appeal lies as of right from a decision of the court, issues this Practice Direction in order to:
  - (a) facilitate a more efficient and effective use of judicial time in considering applications for conditional and final leave to appeal to Her Majesty in Council, and
  - (b) promote a speedier and more cost efficient determination of applications for conditional and final leave to appeal to Her Majesty in Council.
- 1.3 This Practice Direction takes effect on 10 May 2016.
- 1.4 This Practice Direction applies to cases where appeals lie as of right from decisions of this court.
- 1.5 Applications for conditional or final leave to appeal to Her Majesty in Council where appeals do not lie as of right shall continue to be heard before the Court.

##### **2. Conditional Leave**

- 2.1 Upon the filing of an application for conditional leave pursuant to section 3 of the Jamaica (Procedure in Appeals to Privy Council) Order in Council 1962 the applicant(s) shall serve on the respondent(s) a copy of the said application along with the affidavit and any other documents in support of the application.
- 2.2 Upon service of the application, affidavit in support and any supporting documents on the respondent(s), the applicant(s) shall file an affidavit of service.

- 2.3 The respondent(s) to an application for conditional leave to appeal to Her Majesty in Council may within seven days from the date of service of the application file a response to the said application.
- 2.4 Parties may then file and serve written submissions and authorities within 14 days of service of the application and affidavit in support on the respondent(s).

### **3. Final Leave**

- 3.1 Upon the fulfillment of the conditions upon which the single judge of appeal granted conditional leave to appeal, and upon the filing of an application for final leave and affidavit in support, the applicant(s) shall serve on the respondent(s) a copy of the said application along with the affidavit and any other documents in support of the application.
- 3.2 Upon service of the application, affidavit in support and any supporting documents on the respondent(s), the applicant(s) shall file an affidavit of service.
- 3.3 The respondent(s) to an application for final leave to appeal to Her Majesty in Council may within seven days from the date of service of the application file a response to the said application.

### **4. Consideration by a Single Judge of Appeal**

- 4.1 The application for conditional leave or final leave (as the case may be), affidavit in support, any other supporting documentation and any responses filed shall be considered by a single judge of appeal.
- 4.2 The general rule is that the application will be considered by the single judge on paper. However, where the circumstances warrant, the single judge may direct that there be an oral hearing.
- 4.3 The parties will be notified in writing of any direction or order of the single judge of appeal.
- 4.4 The applicant(s) shall then file and serve the order of the single judge of appeal.

### **5. Form of Applications**

- 5.1 Applications for conditional or final leave to appeal to Her Majesty in Council shall include the following statement:

"Pursuant to Practice Direction No 1/2016 you may be served with this application without the insertion of a hearing date. If you are

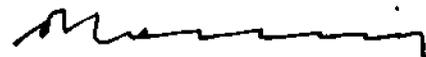
so served, please note that unless you respond in keeping with the said Practice Direction, either personally or by an attorney-at-law, within seven (7) days of the date of service of this application on you, the application may be considered on paper by a judge of appeal without further reference to you and an order may be made in the absence of your response."

## **6. Varying, Discharging or Reversing the Order of a Single Judge of Appeal**

- 6.1 In keeping with the provision of section 5 of the Jamaica (Procedure in Appeals to Privy Council) Order in Council 1962, any order, direction or decision made or given in pursuance of that section and this Practice Direction may be varied or discharged or reversed by the court.

## **7. Pending Applications**

- 7.1 This Practice Direction applies to pending applications for conditional or final leave to appeal to Her Majesty in Council for which hearing dates have not yet been scheduled. For these pending applications the registry will issue notification to the parties that the application shall be considered by a single judge.
- 7.2 Upon receipt of such notification the applicant(s) shall serve the respondent(s) with a copy of the said application along with the affidavit and any other documents in support of the application and shall thereafter file an affidavit of service.
- 7.3 The respondent(s) may within seven days from the date of service of the application file a response to the said application.
- 7.4 Parties may then file and serve written submissions and authorities within 14 days of service of the application and affidavit in support on the respondent(s).



**C. Dennis Morrison, OJ, CD**  
**President of the Court of Appeal**  
**10 May 2016**