STATUTORY RULES.

**1904. No. 50.**

IN THE HIGH COURT OF AUSTRALIA.

RULES OF COURT.

As of Monday, the 22nd day of August, a.d. 1904. It is ordered as follows:—

I. The Appeal Rules in the Schedule to the *High Court Procedure Act* 1903 shall be amended an follows:—

**1.** The following provision shall be added to Rule 2 of Section I of the said Appeal Rules:—“The notice of appeal shall state shortly the grounds on which the appellant intends to rely.”

**2.** In Rule 26 of the said Section I the words “Principal Registry” shall be omitted, and the following words shall be substituted for them:—“Registry situated at the place at which the appeal is to be heard.”

**3.** Section III of the said Appeal Rules shall be repealed, and Section IV of the said Rules shall stand as Section III thereof,

**4.** The following provision shall be added to Rule 1 of the said Section III:—“The notice of appeal shall state shortly the grounds on which the appellant intends to rely.”

**5.** The following Rule shall stand as part of the said Section III:—

**Appealable nature of judgment to be shown by affidavit.**

7a. When the appeal is not brought by leave or special leave of the High Court, the appellant shall file with the notice of appeal an affidavit setting out sufficient facts to show that the judgment is one from which an appeal lies to the High Court without either leave or special leave.

**6.** Rule 8 of the said Section III shall be amended by inserting the words “or special leave” after the words “brought by leave.”

**7.** In Rule 15 of the said Section III the words “Principal Registrar” shall be omitted, and the following words shall be substituted for them:—“Registrar of the Registry situated in the place where the appeal is to be heard.”

**8.** The following Rules shall be added to the said Appeal Rules, and shall stand as Section IV thereof:—

SECTION IV.

Appeals from Decisions of Inferior Courts.

**1.** Appeals to the High Court from decisions of inferior Courts of a State in the exercise of Federal jurisdiction shall be brought in the same manner and within the same times, and subject to the same conditions, if any, as to security or otherwise, as are respectively prescribed by the law of the State for bringing appeals from the same Courts to the Supreme Court of the State in like matters.

**Procedure in case of appeals by special leave.**

**2.** When special leave is given to appeal to the High Court from a decision of an inferior Court in the exercise of Federal jurisdiction, the appeal shall, except so far as otherwise directed by the order giving special leave be instituted in the same manner and within the same time as is prescribed by the last preceding Section of these Rules.

**Place of hearing.**

**3.** Appeals from decisions of inferior Courts shall, unless otherwise directed by the Court or a Justice, be heard at the seat of government of the State in which the decision was given. The Court or a Justice may direct that any such appeal shall be heard at the seat of government of some other State.

**Notice of appeal.**

**Security.**

**4.** Notices of appeals from decisions of inferior Courts by special leave of the High Court shall be filed in the Registry of the High Court in the State in which the decision was given. If security for the costs of the appeal is required, it shall be given in the same Registry of the High Court.

**Copy of proceedings to be filed.**

**5.** Forthwith after the security has been given, or, if no security is required, forthwith after service of the notice of appeal, the appellant shall file in the Registry of the High Court of the State a verified copy of the proceedings of the Court from which the appeal is brought.

**General provisions.**

**6.** Except as herein or by law otherwise provided, the provisions of Section III of these Rules shall apply to appeals to the High Court from decisions of inferior Courts.

II. Certain verbal errors appearing in Part I of the said Schedule shall be corrected as follows:—

In Order II, Rule 17, for “If,” the first word of the Rule, read “In:”

In Order XIII, Rule 5, in the last line of the first paragraph of the Rule for “of” read “to:”

In Order XIV, Rule 13, for “lease” read “release”

III. In Form No. 1 of the Appendix to the Rules in the said Schedule the words “at (*Principal Seat of the Court*)” in the teste of the Writ shall be omitted.

IV. The following Table shall be added to the Schedule to the Rules of Court as of Tuesday, the 6th day of October, 1903, relating to Fees and Percentages:—

III.—To be Taken by Commissioners for Affidavits.

|  |  |  |  |
| --- | --- | --- | --- |
|  | £ | *s*. | *d.* |
| For each oath or affirmation | 0 | 1 | 6 |
| If not at Registry or Commissioner’s office | 0 | 5 | 0 |
| Or if above one mile from Registry or Commissioner’s office, over and above travelling expenses | 1 | 1 | 0 |
| For marking each sheet of an affidavit or affirmation or of an annexure | 0 | 1 | 0 |
| For signing each certificate to an exhibit | 0 | 1 | 0 |
| For attesting each instrument of security, for each surety | 0 | 5 | 0 |

Note.—In the case of Commissioners who are not subject to the provisions of the *Commonwealth Public Service Act* 1902, such fees may be retained by the Commissioners for their own use.

V. Rule 5 of the Rules of Court as of Monday, the 12th day of October, 1903, is hereby repealed.

Note.—In the marginal note to Order XXV, Rule 9, the words “and counter claiming defendant” should be omitted.

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| C1904L00050.jpg | S. W. GRIFFITH C.J. |
| EDMUND BARTON, J. |
| R. B. O’CONNOR, J. |

J. W. O’HALLORAN, Deputy Registrar.

By Authority: Robt. S, Brain, Government Printer, Melbourne