



1927

c 86 Privy Council Appeals Act

Ontario

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SECTION VII.

ADMINISTRATION OF JUSTICE.

1. APPEALS TO PRIVY COUNCIL.

CHAPTER 86.

The Privy Council Appeals Act.

When appeal may be made.

1. Where the matter in controversy in any case exceeds the sum or value of \$4,000, as well as in any case where the matter in question relates to the taking of any annual or other rent, customary or other duty, or fee, or any like demand of a general and public nature affecting future rights, of what value or amount soever the same may be, an appeal shall lie to His Majesty in His Privy Council; and, except as aforesaid, no appeal shall lie to His Majesty in His Privy Council. R.S.O. 1914, c. 54, s. 2.

Security.

2. No such appeal shall be allowed until the appellant has given security in \$2,000, to the satisfaction of the court appealed from, that he will effectually prosecute the appeal, and pay such costs and damages as may be awarded in case the judgment appealed from is confirmed. R.S.O. 1914, c. 54, s. 3.

Stay of execution.

3. Subject to Rules of Court, upon the perfecting of such security, execution shall be stayed in the original cause except in the following cases,—

Exceptions: where assignment or delivery of documents or personal property directed.

Delivery into custody, or security.

(a) if the judgment appealed from directs the assignment or delivery of documents or personal property, execution shall not be stayed until the things directed to be assigned or delivered have been brought into court or placed in the custody of such officer or receiver as that court or a judge of it appoints, or until security has been given to the satisfaction of the Supreme Court or a judge thereof, and in such sum as may be directed, that the appellant will obey the order of the Privy Council;

- (b) if the judgment appealed from directs the execution of a conveyance or any other instrument, execution shall not be stayed until the instrument has been executed and deposited with the proper officer to abide the judgment of the Privy Council; Where execution of instrument directed.
- (c) if the judgment appealed from directs the sale or delivery of possession of real property or chattels real, execution shall not be stayed until security has been entered into to the satisfaction of the Supreme Court, or a judge thereof, and in such sum as such Court or judge directs, that during the possession of the property by the appellant he will not commit or suffer to be committed any waste on the property, and if the judgment is confirmed he will pay the value of the use and occupation of the property from the time of the appeal until the delivery of possession of it, and also in case the judgment is for the sale of property and the payment of a deficiency arising upon the sale, that the appellant will pay the deficiency; Where sale of real property, etc., directed. Security not to commit waste.
- (d) if the judgment appealed from directs the payment of money, execution shall not be stayed until the appellant has given security to the satisfaction of the Supreme Court or a judge thereof that if the judgment or any part of it is affirmed the appellant will pay the amount thereby directed to be paid or the part of it as to which the judgment may be affirmed, if it is affirmed only as to part, and all damages awarded against the appellant on the appeal. R.S.O. 1914, c. 54, s. 4. Where payment of money directed. Security to pay debt.

4. Subject to the provisions of *The Guarantee Companies Securities Act*, the security shall be by the bond of two sufficient sureties, each of whom shall make affidavits of justification. R.S.O. 1914, c. 54, s. 5; 1926, c. 21, s. 12 (1). Forms, etc., of security. Rev. Stat. c. 230.

5. Where security is to be given for payment of money, directed by the judgment or order appealed from to be paid, either as a debt or for damages or costs, the bond shall be in double the amount by the judgment or order directed to be paid; but where security is to be given in a sum in excess of \$2,000, the Supreme Court or a judge thereof may allow it to be given by a larger number of sureties, apportioning the amount among them as may be deemed proper; and where the amount directed to be paid exceeds \$10,000 may allow the security to be given for such amount less than double the amount directed to be paid as may be deemed proper. R.S.O. 1914, c. 54, s. 6. Amount of security where judgment directs payment of money.

Where judgment directs sale, etc.

6. Where the judgment appealed from directs the sale or delivery of possession of real property or chattels real, the bond shall be in double the yearly value of the property. R.S.O. 1914, c. 54, s. 7.

Filing of bond.

7. The bond, with an affidavit of the due execution of it, and the affidavits of justification, shall be filed in the office in which the action or matter was commenced, and shall be deemed to be perfected and allowed, unless within fourteen days after being served with notice of the filing the respondent moves for its disallowance; but the appellant may, after the filing, make a special application before the expiration of such fourteen days to stay execution. R.S.O. 1914, c. 54, s. 8.

Payment into court in lieu of bond.

8. Instead of giving a bond the appellant may, without order, pay into court a sum equal to half the penalty of the bond in cases within section 3 or section 6, or equal to the amount by the judgment or order directed to be paid in cases within section 5, and the money when so paid in shall stand as security in lieu of a bond, but either party may apply to the court or a judge to increase or diminish the amount to be paid into court. R.S.O. 1914, c. 54, s. 9.

Fiat for stay.

9. When the security has been perfected and allowed, a judge of the Supreme Court may issue his fiat to the sheriff to whom any execution upon the judgment has been issued, to stay the execution, and the execution shall be thereby stayed, whether a levy has been made under it or not; but if the grounds of appeal appear to be frivolous, the Supreme Court or a judge thereof may order execution to issue or to be proceeded with. R.S.O. 1914, c. 54, s. 10.

Unless appeal frivolous.

Approval of security.

10. A judge of the Supreme Court shall have authority to approve of and allow the security to be given by a party who intends to appeal to His Majesty in His Privy Council, whether the application for such allowance be made during the sittings of the Court, or at any other time. R.S.O. 1914, c. 54, s. 11.

Exception in appeals under Rev. Stat. c. 117.

11. The preceding sections shall not apply to an appeal to His Majesty in His Privy Council from a judgment of any court on a reference under *The Constitutional Questions Act*. R.S.O. 1914, c. 54, s. 12.