2005 No. 1139

JUDICIAL COMMITTEE

The Judicial Committee (General Appellate Jurisdiction) Rules (Amendment) Order 2005

Made - - - - -	*11th April 2005*
Coming into force - -	*1st June 2005*

At the Court at Windsor Castle, the 11th day of April 2005

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 24 of the Judicial Committee Act 1833(**a**) and section 1 of the Judicial Committee Act 1844(**b**) or otherwise in Her vested, 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 Judicial Committee (General Appellate Jurisdiction) Rules (Amendment) Order 2005 and shall come into force on 1st June 2005.

Amendment of the Judicial Committee (General Appellate Jurisdiction) Rules

2. The Judicial Committee (General Appellate Jurisdiction) Rules(**c**) shall be amended in accordance with articles 3 to 6 below.

3. For rule 75(**d**) there shall be substituted—

"75.—(1) All bills of costs under the orders of the Judicial Committee shall be taxed by the Registrar, or such other person as the Judicial Committee may appoint.

(2) The amount of costs which a party shall be entitled to recover shall be the amount allowed after taxation on the standard basis unless the Judicial Committee has expressly awarded costs on the indemnity basis or the poor person scale.

(3) In no case will costs be allowed which have been unreasonably incurred or are unreasonable in amount.

(4) On a taxation on the standard basis costs will only be allowed if they are reasonable and proportionate to the matters in issue and any doubt as to whether costs were reasonably incurred or are reasonable and proportionate in amount shall be resolved in favour of the party against whom the award of costs has been made ("the paying party").

(**a**) 1833 c. 41.
(**b**) 1844 c. 69.
(**c**) S.I. 1982/1676, Schedule II; amended by S.I. 1990/2297, S.I. 1996/3170 (since revoked) and S.I. 2003/1879.
(**d**) Rule 75 was inserted by S.I. 1990/2297.

(5) On a taxation on the indemnity basis, any doubt as to whether costs were reasonably incurred or are reasonable in amount shall be resolved in favour of the party to whom costs have been awarded ("the receiving party").".

4. For rule 77 there shall be substituted—

"77.—(1) The Registrar shall, as soon as possible after the Judicial Committee have given their decision as to the costs of an appeal, petition or other matter, issue to the receiving party an order to tax and a notice requiring him within three months of the date of the notice (or such other period as the Registrar may specify) to lodge his bill of costs and serve a copy on the paying party; and the Registrar shall send a copy of the order and notice to the paying party.

(2) Together with the bill of costs the receiving party shall lodge counsel's receipted fee notes and written evidence of any other disbursement that is claimed and that exceeds £250.

(3) Within 21 days after service of the bill upon him, the paying party may lodge points of dispute, to which the receiving party may lodge a response.

(4) As soon as possible after the expiry of 21 days after the bill of costs has been lodged the Registrar shall issue a notice to all parties specifying the day and hour appointed by him for taxation.

(5) A copy of every document lodged by a party under this rule must at the same time be served on the opposite party, and the Registry must be notified in writing that such service has been effected.".

5. For rule 79 there shall be substituted—

"79.—(1) Any party who is dissatisfied with all or part of a taxation may within 14 days after the taxation appeal to the Judicial Committee by lodging a petition setting out the items objected to and stating concisely in each case the nature and grounds of the objections.

(2) Any party to whom a copy of the petition is delivered may within 14 days after such delivery lodge a response to the grounds of appeal stating concisely the reasons why they are opposed.

(3) A petition lodged under paragraph (1) above and a response lodged under paragraph (2) above must be served on all other parties who attended the taxation and on any other party to whom the Registrar directs that a copy should be delivered.

(4) The petition shall in the first instance be considered by a Board of the Judicial Committee which may—

(a) allow or dismiss the appeal without a hearing;

(b) invite any or all of the parties to lodge submissions or further submissions in writing on such matters connected with the appeal as may be specified;

(c) direct that the appeal be referred for an oral hearing.".

6. After rule 86 there shall be inserted the following new rule—

"87. Council Office fees shall be regulated by the table set out in schedule B to these rules.".

Revocation

7. The Judicial Committee (General Appellate Jurisdiction) Rules (Amendment) Order 1990(**a**) shall be revoked.

A. K. Galloway
Clerk of the Privy Council

(**a**) S.I. 1990/2297.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the rules governing the taxation of bills of costs in the Judicial Committee of the Privy Council in Commonwealth appeals. The new rule 75 adopts definitions of the "standard" and "indemnity" bases for taxing costs that are now used in the House of Lords. Under new rule 77, the Registrar's notice to the parties will not in future specify a date for taxation but simply a date (usually three months ahead) within which the party that has been awarded its costs must lodge and serve its bill. The paying party will then have 21 days from receipt of the bill in which to lodge points of dispute (a procedure which is introduced in the Judicial Committee for the first time). It is only thereafter that a taxation appointment will be fixed. The new rule 79 specifies in more detail than before the procedure for an appeal against a Registrar's taxation of costs, providing for a response by the other party and enabling the Judicial Committee to allow or dismiss an appeal against the taxation without a hearing. New rule 87 merely reproduces old rule 75(5).

STATUTORY INSTRUMENTS

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