STATUTORY INSTRUMENTS

1982 No. 1676

JUDICIAL COMMITTEE

PROCEDURE

The Judicial Committee (General Appellate Jurisdiction) Rules Order 1982

Made	- - - -	*24th November* 1982
Coming into Operation	-	*7th February* 1983

At the Court at Buckingham Palace the 24th day of November 1982

Present,
The Queen's Most Excellent Majesty in Council

Whereas there was this day read at the Board a representation from the Judicial Committee of the Privy Council recommending that the Judicial Committee Rules 1957(a) relating to the practice and procedure in accordance with which the general appellate jurisdiction of Her Majesty in Council is exercised ought to be revoked and that new Rules thereunto annexed ought to be substituted therefor:

Now, therefore, Her Majesty, having taken the said representation into consideration, and in exercise of the powers conferred upon Her by section 24 of the Judicial Committee Act 1833(b) or otherwise in Her vested, is pleased, by and with the advice of Her Privy Council, to approve thereof and to order, and it is hereby ordered, as follows:—

1. The Judicial Committee Rules 1957 as amended are hereby revoked and the Rules set out in Schedule II to this Order are substituted therefor.

2. This Order may be cited as the Judicial Committee (General Appellate Jurisdiction) Rules Order 1982 and shall come into operation on 7th February 1983.

3. The Rules set out in Schedule II to this Order may be cited as the Judicial Committee (General Appellate Jurisdiction) Rules and subject to any Statute or Statutory Instrument to the contrary shall apply to all matters falling within the appellate jurisdiction of Her Majesty in Council.

(a) S.I. 1957/2224, as amended by S.I. 1969/365, 1980/714, 1981/1124.
(b) 1833 c. 41.

4. The words "Judicial Committee (General Appellate Jurisdiction) Rules" shall be substituted for the words "Judicial Committee Rules 1957" or the words "Rules set out in the Schedule to the Order in Council dated 20th December 1957" wherever those words appear in the Statutory Instruments listed in Schedule I to this Order.

N. E. Leigh,
Clerk of the Privy Council.

SCHEDULE I

The Malaysia (Appeals to Privy Council) Order 1978(**a**).

The Republic of Singapore (Appeals to Judicial Committee) Orders 1966 and 1969(**b**).

The Judicial Committee (Medical Rules) Order 1980(**c**).

The Judicial Committee (Dentists Rules) Order 1958(**d**).

The Judicial Committee (Veterinary Surgeons Rules) Order 1967(**e**).

The Judicial Committee (Opticians Rules) Order 1960(**f**).

The Judicial Committee (Professions Supplementary to Medicine Rules) Order 1964(**g**).

(**a**) S.I. 1978/182.
(**b**) S.I. 1966/1182 and 1969/370.
(**c**) S.I. 1980/873.
(**d**) S.I. 1958/599.
(**e**) S.I. 1967/1150.
(**f**) S.I. 1960/1661.
(**g**) S.I. 1964/1001.

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RULES

Interpretation

1.—(1) In these Rules, unless the context otherwise requires:—

"Abroad" means the country or place where the Court appealed from is situate;

"Agent" means a solicitor qualified by virtue of Her late Majesty's Order in Council of the 6th March 1896 to conduct proceedings before Her Majesty in Council on behalf of another;

"Appeal" means an appeal to Her Majesty in Council;

"Judgment" includes decree, order, sentence, or decision of any Court, judge or judicial officer;

"Party" and all words descriptive of parties to proceedings before Her Majesty in Council (such as "petitioner", "appellant", "respondent") mean, in respect of all acts proper to be done by an agent, the agent of the party in question where such party is represented by an agent;

"Pending appeal" means an appeal in respect of which the Record has been registered in the Registry;

"Proper officer" means the registrar or other proper officer of the Court appealed from;

"Record" means the aggregate of papers relating to an appeal (including the pleadings, proceedings, evidence, judgments and order granting leave to appeal) proper to be laid before Her Majesty in Council on the hearing of the appeal;

"Registrar" means the Registrar of the Privy Council;

"Registry" means the Registry of the Privy Council, Downing Street, London;

"Respondent" includes intervener.

(2) Where by these Rules any step is required to be taken in England in connection with proceedings before Her Majesty in Council, whether in the way of lodging a document, entering an appearance, lodging security, or otherwise, such step shall be taken in the Registry.

Leave to appeal

Leave to appeal generally

2. No appeal shall be admitted unless either—

(a) leave to appeal has been granted by the Court appealed from; or

(b) in the absence of such leave, special leave to appeal has been granted by Her Majesty in Council.

Special leave to appeal

Form of petition for special leave to appeal

3.—(1) A petition for special leave to appeal shall—

(a) state succinctly all such facts as it may be necessary to state in order to enable the Judicial Committee to advise Her Majesty whether such leave ought to be granted;

(b) deal with the merits of the case only so far as is necessary to explain the grounds upon which special leave to appeal is sought; and

(c) be signed by the Counsel who attends at the hearing or by the party himself if he appears in person.

(2) A petition for special leave to appeal may include a prayer for special leave to appeal as a poor person.

Six copies of petition to be lodged together with affidavits in support

4. A petitioner for special leave to appeal shall lodge—

(a) six copies of the petition and of the judgment from which special leave to appeal is sought;

(b) an affidavit in support of the petition as prescribed by rule 50;

(c) unless a caveat as prescribed by rule 48 has been lodged by the other parties who appeared in the Court below, an affidavit of service upon such parties of notice of the intended application.

Time for lodging petition

5. A petition for special leave to appeal shall be lodged with the least possible delay after the date of the judgment from which special leave to appeal is sought.

Security for costs and transmission of Record

6.—(1) Where the Judicial Committee agree to advise Her Majesty to grant special leave to appeal, they shall, in their Report—

(a) specify the amount of the security for costs (if any) to be lodged by the petitioner; and

(b) subject to paragraph (3), provide for the transmission of the Record by the proper officer to the Registrar and for such further matters as may be necessary.

(2) Unless otherwise ordered, the security for costs shall be lodged before the appellant enters an appearance.

(3) Where an appeal has been admitted by Order of Her Majesty in Council granting special leave to appeal and an authenticated copy of the Record was produced upon the hearing of the petition for such special leave, then if the Order in Council so provides, such copy may be accepted as the Record proper to be laid before Her Majesty on the hearing of the appeal and the provisions of rule 14 shall not apply.

General provisions

7. Save as otherwise provided by rules 3 to 6, the provisions of rules 47 to 50 and 52 to 59 shall apply to petitions for special leave.

Petition for special leave to appeal as a poor person

8. A petitioner who seeks special leave to appeal as a poor person shall lodge together with his petition—

(a) an affidavit that he is not worth £500 apart from his wearing apparel and his interest in the subject-matter of the appeal and that he is unable to provide sureties; and

(b) a certificate of Counsel that the petitioner has reasonable ground of appeal.

Exemption of poor person appellant from lodging security and paying Office fees

9. Where a petitioner has obtained special leave to appeal as a poor person he shall not be required to lodge security for the costs of the respondent or to pay any Council Office fees.

Exemption of unsuccessful petitioner for leave to appeal as a poor person from payment of Office fees

10. A petitioner whose petition for special leave to appeal as a poor person is dismissed may, if Her Majesty in Council so orders, be excused from paying any Council Office fees in respect of that petition.

Record and appearance by appellant

Record to be transmitted without delay

11.—(1) As soon as the appeal has been admitted, whether by an order of the Court appealed from or by an Order of Her Majesty in Council granting special leave to appeal (unless in such case the said Order in Council otherwise provides), the appellant shall without delay take all necessary steps to have the Record transmitted to the Registrar.

(2) The proper officer shall, as soon as the Record is so transmitted, certify to the Registrar that the respondent has received notice, or is otherwise aware of—

(a) the order of the Court appealed from granting leave to appeal or of Her Majesty in Council granting special leave to appeal; and

(b) the dispatch of the Record to the Registrar.

(3) If an appellant who has obtained special leave to appeal fails to have the Record transmitted promptly to the Registrar the Registrar may—

(a) call upon the appellant to explain his default; and

(b) in the absence of any, or any sufficient, explanation of the default, summon the appellant to show cause before the Judicial Committee why the special leave to appeal should not be rescinded.

(4) On the hearing of a summons issued under paragraph (3), the respondent shall be entitled to be heard and to apply for costs or other relief.

(5) The Judicial Committee may, after considering any such summons, recommend to Her Majesty to rescind the grant of special leave to appeal or may give such directions as the justice of the case may require.

Reproduction of Record

12.—(1) The Record may be reproduced either abroad or in England.

(2) The reproduction shall comply with the provisions contained in Schedule A hereto.

Number of copies to be transmitted where Record reproduced abroad

13.—(1) Where the Record is reproduced abroad, the proper officer shall, at the expense of the appellant, transmit to the Registrar 30 copies, one of which he shall certify to be correct by signing his name on, or initialling, every eighth page thereof and by affixing thereto the seal, if any, of the Court appealed from.

(2) If on the arrival in the Registry of a Record which has been reproduced abroad it is found that it has not been reproduced in accordance with these Rules, the Registrar may direct that it be re-arranged or that further copies be reproduced as may be necessary.

One certified copy to be transmitted where Record to be reproduced in England

14.—(1) Where the Record is to be reproduced in England the proper officer shall, at the expense of the appellant, transmit to the Registrar one certified copy, together with an index of all the papers and exhibits in the case.

(2) No other certified copies of the Record shall be transmitted to the agents in England by or on behalf of the parties to the appeal.

Record to include order granting leave

15. The order of the Court appealed from granting leave to appeal, or the Order of Her Majesty in Council granting special leave to appeal, as the case may be, shall be included in the Record.

Reasons for judgments to be included

16. There shall be included in the Record the reasons given by the judge, or any of the judges, for or against any judgment pronounced in the course of the proceedings out of which the appeal arises.

Exclusion of unnecessary documents from Record

17.—(1) The proper officer, as well as the parties, shall endeavour to exclude from the Record all documents which are merely formal and are not relevant to the subject-matter of the appeal and, generally, to reduce the bulk of the Record as far as practicable, taking special care to avoid the repetition of documents and headings and other merely formal parts of documents.

(2) Documents excluded from the Record shall be enumerated in a list to be transmitted with the Record.

Documents objected to to be indicated

18. Where in the course of the preparation of a Record one party objects to the inclusion of a document on the ground that it is unnecessary or irrelevant, and the other party nevertheless insists upon its being included, the Record as finally reproduced shall, with a view to the subsequent adjustment of the costs of and incidental to such document, indicate, in the index or elsewhere, the fact that, and the party by whom, the inclusion of the document was objected to.

Registration and numbering of Records

19.—(1) As soon as the Record is received in the Registry it shall be registered with the date of arrival, the names of the parties and the description whether "reproduced" or "not reproduced".

(2) Appeals shall be numbered consecutively in each year in the order in which the Records are received in the Registry.

Inspection of Record by parties

20. The parties shall be entitled to inspect the Record and to extract all necessary particulars therefrom for the purpose of entering an appearance.

Appearance by appellant

21. The appellant shall enter an appearance before taking any further step in the prosecution of the appeal, and after entering such appearance, shall forthwith give notice thereof to the respondent, if the latter has entered an appearance.

Time within which appellant shall enter an appearance

22. Where the Record arrives in the Registry not having been reproduced, the appellant shall enter an appearance and bespeak at his expense a copy of the Record, or of such parts thereof as he may require—

(a) within two months of its arrival, or

(b) in a case to which rule 6(3) applies, within one month from the date of the Order in Council granting special leave to appeal.

Preparation of copy of Record for reproduction

23.—(1) As soon as the appellant has entered an appearance and obtained any copy of the Record bespoken by him, he shall arrange the documents in suitable order, check the index, insert marginal notes and generally do what is required to prepare the copy for reproduction in accordance with Schedule A hereto.

(2) If the respondent has entered an appearance, the appellant shall send him the copy of the Record, as prepared for reproduction, for his approval.

(3) In the event of the parties being unable to agree, the matter shall be referred to the Registrar who may himself give directions or may, if he thinks fit, require the parties to attend before the Judicial Committee.

Lodging copy of Record for reproduction

24. As soon as the parties have agreed the Record, the appellant shall lodge it for reproduction by a person or firm selected by the Registrar and on being notified of the estimated cost of reproduction shall lodge the same.

Special case

25.—(1) Whenever it shall be found that the decision of a matter on appeal is likely to turn exclusively on a question of law, the parties, with the sanction of the Registrar, may submit such question to the Judicial Committee in the form of a special case, and reproduce such parts only of the Record as may be necessary to enable the question to be argued.

(2) Nothing contained in sub-paragraph (1) shall in any way prevent the Judicial Committee from ordering full argument on the whole case, if they shall so think fit.

Examination of proof of Record and striking off copies

26.—(1) The Registrar shall, as soon as proofs of the Record are ready, give notice to every party who has entered an appearance requesting them to attend at the Registry to examine the proofs and compare them with the certified Record, and shall, for that purpose, furnish every such party with one proof.

(2) After such examination has been completed, the appellant shall, without delay, lodge his proof duly corrected and (so far as necessary) approved by the respondent and the Registrar shall thereupon cause at least 30 copies of the Record to be struck off from such proof.

Number of copies of Record for parties

27. Each party who has entered an appearance shall be entitled to receive, for his own use, five copies of the Record.

How costs of reproduction of Record are to be borne

28.—(1) Subject to any special direction from the Judicial Committee to the contrary, the costs of and incidental to the reproduction of the Record shall form part of the costs of the appeal.

(2) The costs of and incidental to the reproduction of any document objected to by one party, in accordance with rule 18, shall, if such document is found on the taxation of costs to be unnecessary or irrelevant, be disallowed to, or borne by, the party insisting on including the same in the Record.

Petition of appeal

Time within which petition shall be lodged

29. The appellant shall lodge his petition of appeal—

(a) where the Record arrives in the Registry having been reproduced, within two months of such arrival;

(b) where the Record arrives in the Registry not having been reproduced, within one month from completion of the reproduction thereof: or, in a case to which the provisions of rule 6(3) apply, within a period of fourteen days from completion of the reproduction of the Record:

Provided that nothing in this rule shall preclude the appellant from lodging his petition of appeal prior to the arrival of the Record, or the completion of the reproduction, if there are special reasons why, in the opinion of the Registrar, it is desirable for him to do so.

Form of petition of appeal

30. The petition of appeal shall—

(a) be in the form prescribed by rule 47(1);

(b) recite succinctly and, as far as possible, in chronological order, the principal steps in the proceedings leading up to the appeal from the commencement thereof down to the admission of the appeal;

(c) not contain argumentative matter or travel into the merits of the case.

Service of petition

31. The appellant shall, after lodging his petition of appeal, serve a copy on the respondent, as soon as the latter has entered an appearance, and shall endorse such copy with the date of the lodgment.

Withdrawal of appeal

Withdrawal of appeal before petition of appeal has been lodged

32.—(1) Where an appellant, who has not lodged his petition of appeal, wishes to withdraw his appeal he shall give notice to the Registrar.

(2) The Registrar shall forthwith by letter notify the proper officer that the appeal has been withdrawn and the appeal shall thereupon stand dismissed without further order.

Withdrawal of appeal after petition of appeal has been lodged

33.—(1) Where an appellant, who has lodged his petition of appeal, wishes to withdraw his appeal, he shall present a petition to that effect to Her Majesty in Council.

(2) On the hearing of any such petition a respondent who has entered an appearance in the appeal shall, subject to any agreement between him and the appellant to the contrary, be entitled to apply to the Judicial Committee for his costs.

Non-prosecution of appeal

Dismissal of appeal where appellant takes no step in prosecution thereof

34.—(1) Where an appellant takes no step in the prosecution of his appeal within two months from the arrival of the Record in England, or, in a case to which rule 6(3) applies, within one month from the date of the Order in Council granting special leave, the Registrar shall with all convenient speed by letter notify the proper officer that the appeal has not been prosecuted and the appeal shall thereupon stand dismissed for non-prosecution without further order.

(2) A copy of the said letter shall be sent by the Registrar to any respondent who has entered an appearance in the appeal.

Dismissal of appeal for non-prosecution after appellant's appearance and before lodgment of petition of appeal

35.—(1) Where an appellant who has entered an appearance—

(a) fails to proceed with due diligence to take all such further steps as may be necessary for the purpose of completing the reproduction of the Record; or

(b) fails to lodge his petition of appeal within the periods respectively prescribed by rule 29;

the Registrar shall call upon him to explain his default.

(2) If no explanation is offered, or if the explanation offered is, in the opinion of the Registrar, insufficient, the Registrar shall, with all convenient speed, by letter notify the proper officer that the appeal has not been effectively prosecuted, and the appeal shall thereupon stand dismissed for non-prosecution.

(3) A copy of the said letter shall be sent by the Registrar to every party who has entered an appearance in the appeal.

Dismissal of appeal for non-prosecution after lodgment of petition of appeal

36.—(1) Where an appellant, who has lodged his petition of appeal, fails thereafter to prosecute his appeal with due diligence, the Registrar shall call upon him to explain his default.

(2) If no explanation is offered, or if the explanation offered is, in the opinion of the Registrar, insufficient, the Registrar shall issue a summons to the appellant calling upon him to show cause before the Judicial Committee why the appeal should not be dismissed for non-prosecution:

Provided that no such summons shall be issued before the expiration of one year from the arrival of the Record in the Registry.

(3) A copy of the summons shall be sent to the respondent if he has entered an appearance in the appeal and he shall be entitled to be heard at the hearing of the summons and to ask for his costs and other relief.

(4) The Judicial Committee may, after considering the matter, recommend to Her Majesty that the appeal be dismissed for non-prosecution, or give such other directions therein as the justice of the case may require.

Restoring an appeal dismissed for non-prosecution: Costs

37.—(1) An appellant whose appeal has been dismissed for non-prosecution may present a petition to Her Majesty in Council praying that his appeal may be restored.

(2) Where an appeal has been dismissed under rules 32, 34 or 35, a respondent who has entered an appearance before such dismissal may apply to the Judicial Committee for an order for costs.

Appearance by respondent

Time within which respondent may appear

38.—(1) The respondent may enter an appearance at any time between the arrival of the Record and the hearing of the appeal.

(2) If the respondent unduly delays entering an appearance he shall, unless the Judicial Committee otherwise direct, bear, or be disallowed, the costs occasioned by such delay.

Notice of appearance by respondent

39. The respondent shall after entering an appearance forthwith give notice thereof to the appellant, if the latter has entered an appearance.

Form of appearance where all the respondents do not appear

40. Where there are two or more respondents, of whom not all enter an appearance, the appearance form shall set out the names of those who do enter an appearance.

Separate appearances

41. Two or more respondents may, at their own risk as to costs, enter separate appearances in the same appeal.

Non-appearing respondent not entitled to receive notices or lodge case

42. A respondent who has not entered an appearance shall not be entitled to receive from the Registrar any notices relating to the appeal, nor be allowed to lodge a case in the appeal.

Procedure on non-appearance of respondent

43.—(1) Subject to any order of the Judicial Committee to the contrary, the following provisions of this rule shall apply where a respondent fails to enter an appearance in an appeal.

(2) If the Registrar is satisfied by a certificate under rule 11(2) or otherwise that the non-appearing respondent has received notice, or is otherwise aware, that the appeal has been admitted and that the Record has been dispatched to England, the appeal may, if all other conditions of its being set down are satisfied, be set down *ex parte* as against the non-appearing respondent at any time after the expiration of two months from the lodging of the petition of appeal.

(3) Where it is shown to the satisfaction of the Registrar, by affidavit or otherwise, either that an appellant has made every reasonable endeavour to serve a respondent with the notices mentioned in paragraph (2) and has failed to effect such service, or that it is not the intention of the respondent to enter an appearance to the appeal, the appeal may, without further order in that behalf and at the risk of the appellant, be proceeded with *ex parte* as against the non-appearing respondent.

Respondent defending appeal as a poor person

44. A respondent who desires to defend an appeal as a poor person may present a petition to that effect to Her Majesty in Council, which Petition shall be accompanied by an affidavit from him stating that he is not worth £500 apart from his wearing apparel and his interest in the subject-matter of the appeal.

Petitions generally

Mode of addressing petitions

45.—(1) All petitions for orders or directions as to matters of practice or procedure not involving any change in the parties to an appeal shall be addressed to the Judicial Committee.

(2) All other petitions shall be addressed to Her Majesty in Council, but a petition which is properly addressed to Her Majesty in Council may include, as incidental to the relief thereby sought, a prayer for orders or directions as to matters of practice or procedure.

Orders on petitions which need not be drawn up

46. Where an order made by the Judicial Committee does not embody any special terms or include any special directions, it shall not, unless the Committee otherwise direct, be necessary to draw up such order, but a note thereof shall be made by the Registrar.

Form of petition and number of copies to be lodged

47.—(1) All petitions shall consist of paragraphs numbered consecutively and be endorsed with the name of the Court appealed from, the full title and Privy Council number of the appeal to which the petition relates or the full title of the petition (as the case may be), and the name and address of the agent of the petitioner.

(2) Except as provided by rule 3, a petition need not be signed.

(3) Unless the petition is a consent petition within the meaning of rule 56, at least six copies shall be lodged.

Caveat

48.—(1) Where a petition which does not relate to any pending appeal is expected to be, or has been, lodged, any person claiming a right to appear before the Judicial Committee on the hearing of such petition may lodge a caveat relating thereto.

(2) A caveator shall be entitled to receive—

(a) from the Registrar, notice of the lodging of the petition, if the petition has not then been lodged; and

(b) from the petitioner, if and when the petition is lodged, a copy of the petition and (at his own expense) of any paper lodged by the petitioner in support of his petition.

(3) If the petition has been lodged, a caveator shall after lodging his caveat forthwith give notice to the petitioner.

Service of petition

49.—(1) Where a petition is lodged in the matter of any pending appeal, the petitioner shall serve a copy thereof on every party who has entered an appearance.

(2) A party so served shall be entitled to require the petitioner to furnish him, at his own expense, with copies of any papers lodged by the petitioner in support of his petition.

Verifying petition by affidavit

50.—(1) A petition not relating to any pending appeal, and any other petition containing allegations of fact which cannot be verified by reference to the registered Record or any certificate or duly authenticated statement of the Court appealed from, shall be supported by affidavit.

(2) Where the petitioner prosecutes his petition in person, the affidavit shall be sworn by the petitioner himself and shall state that, to the best of the deponent's knowledge, information and belief, the allegations contained in the petition are true.

(3) Where the petitioner is represented by an agent, the affidavit shall be sworn by the agent and shall, besides stating that, to the best of the deponent's knowledge, information and belief, the allegations contained in the petition are true, show how the deponent obtained his instructions and the information enabling him to present the petition.

Petition for order of revivor or substitution

51. A petition for an order of revivor or substitution shall be accompanied by a certificate or duly authenticated statement from the Court appealed from showing who, in the opinion of that Court, is the proper person to be substituted, or entered, on the Record in place of, or in addition to, a party who has died or undergone a change of status.

Petition disclosing no reasonable cause of appeal or containing scandalous matter to be refused

52. The Registrar may refuse to receive a petition on the ground that it discloses no reasonable cause of appeal, or is frivolous, or contains scandalous matter or fails to comply with the provisions of rule 3, but the petitioner may appeal, by way of motion, from such refusal to the Judicial Committee.

Setting down petition

53. As soon as a petition and all necessary documents are lodged the petition shall thereupon be deemed to be set down.

Time within which set down petitions shall be heard

54. On each day appointed for the hearing of petitions the Registrar shall, unless the Judicial Committee otherwise direct, put in the list for hearing all such petitions as have been set down:

Provided that, in the absence of special urgency, no petition, if opposed, shall be put in the paper for hearing before the expiration of ten clear days from the lodging thereof, unless the opponent consents to the petition being heard earlier.

Notice to parties of day fixed for hearing petition

55. Subject to the provisions of the next following rule, the Registrar shall, as soon as a day has been appointed for the hearing of a petition, notify all parties concerned of the day so appointed.

Procedure where petition is consented to or is formal

56.—(1) Where the prayer of a petition is consented to in writing by the opposite party, or where a petition is of a formal and non-contentious character, the Judicial Committee may, if they think fit, make their report to Her Majesty on such petition or make their order thereon, as the case may be, without requiring the attendance of the parties in the Council Chamber.

(2) The Registrar shall in that event as soon as the Committee have made their report or order notify the parties that the report or order has been made and of its date and nature.

Withdrawal of petition

57.—(1) A petitioner who desires to withdraw his petition shall give notice in writing to that effect to the Registrar.

(2) Where the petition is opposed, the opponent shall, subject to any agreement between the parties to the contrary, be entitled to apply to the Judicial Committee for his costs.

Procedure where hearing of petition unduly delayed

58.—(1) Where a petitioner unduly delays bringing a petition to a hearing, the Registrar shall call upon him to explain the delay.

(2) If no explanation is offered, or if the explanation offered is, in the opinion of the Registrar, insufficient, the Registrar may, after notifying all parties interested of his intention to do so, list the petition for hearing on the next following day appointed for the hearing of petitions for such directions as the Judicial Committee may think fit.

Only one Counsel heard on a side in petitions

59. At the hearing of a petition not more than one Counsel shall be admitted to be heard on a side.

Case

Lodging of case

60. No party to an appeal shall be entitled to be heard by the Judicial Committee unless he has previously lodged his case in the appeal:

Provided that a respondent who has entered an appearance but does not desire to lodge a case in the appeal may give the Registrar notice in writing of his intention not to lodge any case while reserving his right to address the Judicial Committee on the question of costs.

Reproduction

61. The case shall be reproduced in accordance with rule 1 of Schedule A hereto and shall be signed by at least one of the Counsel who attends at the hearing of the appeal or by the party himself if he conducts his appeal in person.

Number of copies to be lodged

62. Each party shall lodge 20 copies of his case.

Form of case

63.—(1) The form of the case shall comply with the following requirements of this rule—

(a) it shall consist of paragraphs numbered consecutively;

(b) it shall state, as concisely as possible, the circumstances out of which the appeal arises, the contentions to be urged by the party lodging it, and the reasons of appeal;

(c) references by page and line to the relevant portions of the Record as reproduced shall, as far as practicable, be reproduced in the margin;

(d) care shall be taken to avoid, as far as possible, the recital of long extracts from the Record.

(2) The taxing officer, in taxing the costs of the appeal, may, either of his own motion or at the instance of the opposite party, inquire into any unnecessary prolixity in the case and disallow the costs occasioned thereby.

Separate cases by two or more respondents

64. Two or more respondents may, at their own risk as to costs, lodge separate cases in the same appeal.

Notice of lodgment of case

65. Each party shall, after lodging his case, forthwith give notice thereof to the other party.

Case notice

66.—(1) The party who lodges his case first may, at any time after the expiration of three clear days from the day on which he has given the other party the notice prescribed by rule 65, serve such other party with a notice (in this rule called a "case notice") requiring him to lodge his own case within one month of the service of the case notice:

Provided that no case notice shall be served until after the completion of the reproduction of the Record.

(2) If the party on whom a case notice has been served fails to comply therewith, the party who served the case notice may, at any time after the expiration of the time limited by the case notice, lodge an affidavit of service setting out the terms of the case notice and the appeal shall thereupon, if all other conditions of its being set down are satisfied, be set down *ex parte* as against the party in default.

(3) Nothing shall preclude a party in default under paragraph (2) hereof from lodging his case, at his own risk as regards costs and otherwise, at any time up to the date of hearing.

Setting down appeal and exchanging cases

67.—(1) Subject to the provisions of rule 43 and of the last-preceding rule, an appeal shall be set down as soon as the cases on both sides are lodged.

(2) The parties shall thereupon exchange cases by handing one another five copies of their respective cases.

Binding Record, &c.

Mode of binding Record, &c., for use of Judicial Committee

68.—(1) As soon as an appeal is set down, the appellant shall obtain from the Registry seven copies of the Record and cases to be bound for the use of the Judicial Committee at the hearing and shall lodge the seven bound copies at the earliest possible date.

(2) The copies shall be bound with plastic comb binding in limp cornflower blue covers of fibre board substance.

(3) The front cover shall state the title and Privy Council number of the appeal, the contents of the volume, and the names and addresses of the agents.

(4) The several documents, indicated by incuts, shall be arranged in the following order—

(1) Appellant's case; (2) Respondent's case; (3) Record; (4) Supplemental Record (if any).

Hearing

List of authorities to be lodged

69. Not less than 3 clear days before the hearing of an appeal, each party shall lodge a written list of authorities to be cited at the hearing.

Notice of day on or before which appeals must be set down for ensuing sittings

70. The Registrar shall name a day on or before which appeals must be set down if they are to be entered in the list of business for the ensuing sittings.

Notice to parties of day fixed for hearing appeal

71. The Registrar shall, at the earliest possible date, notify every party to an appeal, who has entered an appearance, of the day appointed for the hearing of the appeal and the parties shall be in readiness to be heard on the day so appointed.

Only two counsel heard on a side in appeals

72. At the hearing of an appeal not more than two counsel shall be admitted to be heard on a side.

Nautical assessors

73. In Admiralty appeals the Judicial Committee may, if they think fit, require the attendance of two nautical assessors.

Judgment

Notice to parties of day fixed for delivery of judgment

74. Where the Judicial Committee, after hearing an appeal, decide to reserve judgment, the Registrar shall in due course notify the parties of the day appointed for the delivery of the judgment.

Costs

Taxation of costs

75. 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, and all such taxations shall be regulated by the scale set forth in Part I of Schedule B hereto.

What costs taxed in England

76. The taxation of costs in England shall be limited to costs incurred in England.

Order to tax

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 party to whom costs have been awarded an order to tax and a notice specifying the day and hour appointed by him for taxation.

(2) The party receiving such order and notice shall, not less than 4 clear days before the time appointed for taxation, lodge his bill of costs (together with all necessary vouchers for disbursements) and serve the opposite party with a copy thereof and of the order and notice.

Power of taxing officer where taxation delayed through the fault of the party whose costs are to be taxed

78. Any party who fails to lodge his bill of costs (together with all necessary vouchers for disbursements) within the time prescribed by the last-preceding rule, or who in any way delays or impedes a taxation, may be disallowed the charges to which such party would otherwise be entitled for drawing his bill of costs and attending the taxation.

Appeal from decision of taxing officer

79.—(1) Any party aggrieved by a taxation may appeal to the Judicial Committee.

(2) The appeal shall be heard by way of motion, and the party appealing shall give three clear days' notice of motion to the opposite party, and shall also leave a copy of such notice in the Registry.

Amount of taxed costs to be inserted in Her Majesty's Order in Council

80. The amount allowed on the taxation shall, subject to any appeal to the Judicial Committee, be inserted in Her Majesty's Order in Council determining the appeal or petition:

Provided that, where such taxation has not been completed before the date of Her Majesty's said Order in Council, the Registrar may issue a certificate of the amount allowed.

Taxation on the poor person scale

81.—(1) Where the Judicial Committee directs costs to be taxed on the poor person scale, the taxing officer shall—

(a) not allow any fees of Counsel, and

(b) only award to the agents out-of-pocket expenses and a reasonable allowance to cover office expenses, such allowance to be taken at about three-eighths of the usual professional charges in ordinary appeals.

(2) The poor person scale shall apply to and include the application upon which leave to appeal as a poor person was granted.

Security to be dealt with as Her Majesty's Order in Council determining appeal directs

82. Where the appellant has lodged security for the respondent's costs of an appeal in the Registry, the Registrar shall deal with such security in accordance with the directions contained in Her Majesty's Order in Council determining the appeal.

Miscellaneous

Power to excuse from compliance with Rules

83.—(1) The Registrar may give such directions in matters of practice and procedure as may be just and expedient and may for sufficient cause shown excuse the parties from compliance with any of the requirements of these Rules.

(2) If in the opinion of the Registrar it is desirable that any application for such direction or such excusal should be dealt with by the Judicial Committee in open Court he may direct the applicant to lodge in the Registry, and to serve the opposite party with, a notice of motion returnable before the Committee.

(3) Any party aggrieved by a direction given by the Registrar may appeal, by way of motion, to the Judicial Committee.

Amendment of documents

84.—(1) Any document lodged in connection with an appeal, petition or other matter pending before Her Majesty in Council or the Judicial Committee may be amended by leave of the Registrar.

(2) If the Registrar is of opinion that an application for leave to amend should be dealt with by the Committee in open Court, he may direct the applicant to lodge in the Registry, and to serve the opposite party with, a notice of motion returnable before the Committee.

Affidavits may be sworn before the Registrar

85. Affidavits relating to any appeal, petition or other matter pending before Her Majesty in Council or the Judicial Committee may be sworn before the Registrar.

Change of agent

86.—(1) Where a party to an appeal, petition or other matter pending before Her Majesty in Council changes his agent, such party, or the new agent, shall forthwith give the Registrar and the outgoing agent notice of the change, and shall amend the appearance accordingly.

(2) Unless such notices are given the former agent shall be considered the agent of the party until the final conclusion of the appeal, petition or other matter.

SCHEDULE A

RULES AS TO REPRODUCTION OF DOCUMENTS

1.—(1) All Records, cases and other proceedings in appeals or other matters pending before Her Majesty in Council or the Judicial Committee which are required by the above Rules to be reproduced shall be reproduced on A4 ISO paper.

(2) Each page shall be numbered.

(3) The number of lines on each page of type shall be 47 or thereabouts, and every tenth line shall be numbered in the margin.

2. The Record shall, where practicable, be arranged in two parts in the same volume, viz:—

Part I. The pleadings and proceedings, the transcript of the evidence of the witnesses, the judgments, orders etc., of the courts below down to the order admitting the appeal.

Part II. The exhibits and documents.

3.—(1) The index to both parts of the Record shall be placed at the beginning of Part I.

(2) Where a Record is in more than one volume, each volume shall contain an index of its contents.

(3) The index to Part I shall be in chronological order: the index to Part II shall follow the order of the exhibit mark.

(4) A list of any documents transmitted to the Privy Council but not reproduced shall be inserted in the Record after the index to Part II.

4.—(1) The documents in Part I of the Record shall be arranged in chronological order.

(2) *(a)* Part II shall be arranged in the most convenient way for the use of the Judicial Committee, as the circumstances of the case require.

(b) The documents shall be as far as suitable in chronological order, mixing plaintiff's and defendant's documents together when necessary.

(c) Each document shall show its exhibit mark and whether it is a plaintiff's or defendant's document (unless this is clear from the exhibit mark).

(d) Documents relating to the same matter, such as—

(i) a series of correspondence, or

(ii) proceedings in a suit other than the one under appeal,

shall be kept together.

(e) The page number of each document shall be inserted in the index.

5.—(1) The documents in Part I shall be numbered consecutively.

(2) The documents in Part II shall not be numbered, apart from the exhibit mark.

6. Each document shall have a heading which shall consist of the number or exhibit mark and the description of the document in the index, without the date.

7. Each document shall have a marginal note which shall be repeated on each page over which the document extends, viz.—

PART I

(a) Where the case has been before more than one Court, the short name of the Court shall first appear. Where the case has been before only one Court, the name of the Court need not appear.

(b) The marginal note of the document shall then appear consisting of the number and the description of the document in the index, with the date, except in the case of oral evidence.

(c) In the case of oral evidence, "plaintiff's evidence" or "defendant's evidence" shall appear beneath the name of the Court, and then the marginal note consisting of the number in the index and the witness's name, with "examination", "cross-examination" or "re-examination", as the case may be.

PART II

The word "Exhibits" shall first appear.

The marginal note of the exhibit shall then appear consisting of the exhibit mark and the description of the document in the index, with the date.

8.—(1) The parties shall agree to the omission of formal and irrelevant documents, but the description of the document may appear (both in the index and in the Record), if desired, with the words "not reproduced" against it.

(2) A long series of documents, such as accounts, rent rolls, inventories, etc., shall not be reproduced in full unless Counsel so advise, but the parties shall agree to short extracts being reproduced as specimens.

SCHEDULE B

PART I

SCALE OF COSTS ALLOWED IN APPEALS OR OTHER MATTERS BEFORE THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

Agents are required to adhere as far as possible to the items shown below, but it is within the discretion of the taxing officer to allow further charges:—

(a) in relation to items not mentioned;

or

(b) of an amount higher than that prescribed.

A

APPELLANT'S COSTS OF PETITION FOR SPECIAL LEAVE TO APPEAL(**a**)

	£
Retainer	4.00
Perusing papers sent from abroad in support of petition(**b**)	...
Copies of necessary papers for Counsel, per page(**c**)	0.25
Paid fee to Counsel to settle petition	...
Six copies of petition and judgment for lodging, per page	0.25
Affidavit in support of petition (including drawing, swearing and lodging)	7.00
Copy petition and affidavit for respondent, per page	0.25
Instructions to Counsel to support petition	4.00
Copy petition and affidavit for Counsel, per page	0.25
Paid fee to Counsel(**d**)	...
Attending Council Chamber when petition heard	10.00–20.00
Paid Council Office fees (as paid)	...
Order (including approving draft and writing agent abroad with Order and copy for use)	6.00
Instructions. (This item should include itemised breakdown of any work necessarily done which is not otherwise provided for)	...

B

RESPONDENT'S COSTS OF OPPOSING PETITION FOR SPECIAL LEAVE TO APPEAL(**e**)

	£
Retainer	4.00
Caveat (including lodging and service on petitioner if petition already lodged)	4.00
Perusing documents sent from abroad, according to length	...

(a) These fees are applicable *mutatis mutandis* to an application for stay of execution and other matters of a similar character. The costs of obtaining special leave to appeal form part of the bill of costs of the appeal, and are usually taxed at the conclusion of the matter.

(b) If leave to appeal is granted, this amount is taken into consideration in connection with the fee allowed for perusing the Record, as most of the documents sent over for the application for special leave to appeal ultimately form part of the Record. At this preliminary stage an entire perusal of the Record is unnecessary.

(c) Only those strictly necessary for the purpose of settling the petition—not the whole Record.

(d) One Counsel only is allowed. Retainer fee not allowed.

(e) When special leave to appeal is granted, these costs form part of a successful respondent's costs of appeal, and are taxed on the conclusion of the matter. This contemplates the petition being dismissed with costs.

	£
Perusing petition, per 5 pages	2.00
Copies of necessary papers for Counsel, per page	0.25
Instructions to Counsel to oppose petition	4.00
Paid Counsel's fee(a)	...
Attending Council Chamber when petition heard	10.00–20.00
Bill of costs (including drawing and copying) per page	2.00
Attending taxation	10.00
Paid Council Office fees (as paid)	...
Order (including approving draft and writing agent therewith)	6.00
Instructions. (This item should include an itemised breakdown of any work necessarily done which is not otherwise provided for)	...

C

APPELLANT'S COSTS OF APPEAL

	£
Retainer	3.00
Filing enquiry card at Registry	2.00
Appearance (including drawing, entering and notifying respondent)	5.00

Record reproduced abroad

	£
Perusing Record, per each 10 pages	4.00

Record reproduced in England

	£
Paid Registry for copy of certified Record or part thereof (as paid)(b)	...
Perusing the same, for each 10 pages(c)	2.00
Preparing Record for reproduction (including making copy for stationer, drawing index and marginal notes, and obtaining respondent's approval) for the first 100 pages	35.00
for each additional 10 pages(d)	2.00
Examining proof at Registry with certified copy(e)—	
each day	15.00
each half day	7.50
Correcting revised reproduced copy for striking off, per 10 pages	1.00
Paid stationer's bill (as paid)	...

(a) One Counsel only is allowed. Retainer fee not allowed.

(b) If the appellant has a duplicate Record in his possession, this should be used instead of obtaining a copy, after checking same against certified copy.

(c) If the Record is in a confused state and requires re-arrangement, a further fee may be allowed.

(d) Attention is directed to rules 17 and 18 as to the disallowance of the costs of including unnecessary documents.

(e) Appointments for this are made by the Registry.

Revivor or consolidation

	£
Petition for revivor or consolidation (including receiving instructions, drawing and copying petition, serving, lodging and approving draft Order)	25.00

Retainer to Counsel

	£
Instructions for retainer to Counsel	2.00
Paid his fee...	5.00

Petition of appeal

	£
Petition of appeal (including drawing, copying and lodging)... ...	12.00
Instructions to Counsel to settle(a)	2.00
Paid his fee...	10.00

Case

	£
Paid Junior Counsel to settle	...
Two copies of case as settled by Junior Counsel, to settle in consultation, per page	0.25
Paid Senior Counsel to settle	...
Paid consultation fee to Senior Counsel	...
Paid consultation fee to Junior Counsel	...
Attending consultation	10.00
Copy case for stationer, per page	0.25
Paid stationer	...
Lodging and exchanging cases	5.00
Perusing respondent's case, per 10 pages	3.00

Case notice

	£
Case notice (drawing, copying and serving)	5.00
Affidavit of service (drawing, copying, swearing and lodging)...	10.00

Binding Record and cases(b)

	£
Obtaining copies for binding and giving instructions to bind and lodging seven bound copies for the use of the Board	9.00
Paid binder...	...

Briefs(c)

	£
Instructions to Senior Counsel to argue	6.00
Paid his fee...	...
Instructions to Junior Counsel to argue	6.00
Paid his fee...	...

(a) The petition of appeal is not now usually settled by Counsel.
(b) No charge for binding must appear in the respondent's bill as this is entirely a matter for the appellant.
(c) Two Counsel only allowed.

Hearing

	£
Preparing and lodging list of authorities	2.00
Preparing and lodging estimate of hearing	2.00
Attending Council Chamber when appeal heard, each day(a)	15.00–30.00
Paid refresher fee to Senior Counsel	...
Paid refresher fee to Junior Counsel	...

Judgment

	£
Attending to hear judgment	5.00
Paid Counsel to hear judgment	15.00

Taxation and concluding charges

	£
Drawing and copying bill of costs, per page	2.00
Lodging and serving bill of costs	4.00
Attending taxing	15.00
Paid Office fees (as paid)	...
Order (approving draft and writing agent abroad with final Order)	6.00

General

Instructions—To include itemised breakdown of any necessary work done and not otherwise provided for. Details showing time occupied and by whom, personal attendances, telephone attendances and letters in and out should be set out. The amount sought for general care and conduct should be shown.

D

RESPONDENT'S COSTS OF APPEAL

With the exception of the following items the scale is similar to the appellant's bill.

Record reproduced in England

	£
Perusing record as received, for each 10 pages	2.00
Examining proof at Registry with certified copy—	
each day	15.00
each half day	7.50
Correcting revised reproduced copy, per 10 pages	1.00

Petition of appeal

	£
Perusing petition of appeal	3.00

(a) Cost of shorthand notes are not allowed.

PART II

COUNCIL OFFICE FEES

	£
Entering appearance	4.00
Amending appearance	2.00
Examining proof of Record with the certified Record at the Registry (chargeable to appellant only) ... per day	8.00
per half-day	4.00
Lodging petition of appeal	15.00
Lodging petition for special leave to appeal	8.00
Lodging any other petition or motion	4.00
Lodging case or notice under rule 60	8.00
Setting down appeal (chargeable to appellant only)	22.00
Setting down petition for special leave to appeal (chargeable to Petitioner only)	8.00
Setting down any other petition (chargeable to petitioner only)	4.00
Summons	4.00
Committee report on petition	15.00
Committee report on appeal	24.00
Original Order of Her Majesty in Council determining an appeal	12.00
Any other original Order of Her Majesty in Council	8.00
Plain copy of an Order of Her Majesty in Council	2.00
Original Order of Judicial Committee on Appeal	24.00
Any other original Order of Judicial Committee	15.00
Plain copy of Committee Order	2.00
Lodging affidavit	4.00
Certificate delivered to parties	4.00
Lodging caveat	4.00

Taxing fee—5% of the sum allowed.

EXPLANATORY NOTE

(This Note is not part of the Order)

This Order revokes and replaces the Judicial Committee Rules 1957, as amended, with certain modifications. The most important changes are as follows:—

1. Provision is made for current methods of reproducing documents.
2. Summonses, which were previously served for the hearing of appeals and petitions, are discontinued in most instances.
3. The number of items in a bill of costs is reduced.
4. The poor person limit is increased from £100 to £500.

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