1971 No. 214

JUDICIAL COMMITTEE

PROCEDURE

The Judicial Committee (Medical Rules) Order 1971

Made - - -	10*th February* 1971
Laid before Parliament	16*th February* 1971
Coming into Operation	1*st March* 1971

At the Court at Buckingham Palace, the 10th day of February 1971

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 36(3) of the Medical Act 1956(**a**), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, as it is hereby ordered, as follows :—

1.—(1) This Order shall come into operation on 1st March 1971, and may be cited as the Judicial Committee (Medical Rules) Order 1971.

(2) The Judicial Committee (Medical Rules) Order 1958(**b**) is hereby revoked.

2. The Rules set out in the Schedule to this Order shall take effect for the purpose of appeals to Her Majesty in Council by virtue of the Medical Acts 1956 to 1969(**c**).

W. G. Agnew.

SCHEDULE

RULES

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

"The Act" means the Medical Act 1956 as amended.

"The Council" means the General Medical Council.

"The Committee" means the Disciplinary Committee constituted under section 32 of the Act.

"The Registry" and "the Registrar" mean the Registry and the Registrar respectively of the Privy Council.

"Typewritten" includes reproduction by type, lithography, stencil, duplicating or photography.

(**a**) 1956 c. 76. (**b**) S.I. 1958/765 (1958 I, p. 1330).
(**c**) 1956 c. 76; 1958 c. 58; 1969 c. 40.

Appeals against a direction given under section 33(1) *or an order made under section* 35 *of the Act.*

2. A person who desires to appeal to Her Majesty in Council against a direction given under section 33(1) or an order made under section 35 of the Act shall, within 28 days of the service upon him of a notification under section 36 of the Act, enter an Appearance in the Registry and at the same time lodge therein a Petition of Appeal and serve a copy thereof upon the Council.

3. The Petition of Appeal shall recite succinctly the principal steps in the proceedings leading up to the Appeal but shall not contain argumentative matter or travel into the merits of the case.

4. Upon receipt of a copy of the Petition of Appeal the Council shall with all convenient speed deliver to the Appellant an authenticated typewritten Record of the proceedings before the Committee and shall notify the Registrar of the date of such delivery and shall, if they desire to be heard as Respondents before the Judicial Committee, enter an Appearance forthwith in the Registry and give notice thereof to the Appellant.

5. Within 21 days of the receipt by the Appellant of the authenticated Record referred to in Rule 4 the Appellant shall lodge in the Registry the said authenticated Record together with eight copies thereof and shall also transmit three copies thereof to the Council.

6. Such copies and all copies of cases shall be typewritten or, if the Appellant or Council so desire, printed on foolscap paper with a quarter margin.

7. Within 28 days from the lodging in the Registry of the said authenticated Record as provided by Rule 5 there shall be lodged in the Registry eight copies of the Appellant's case in the Appeal signed by at least one of the Counsel who attends the hearing of the Appeal or by the Appellant himself if he conducts his Appeal in person.

8. Within 28 days of the transmission to the Council of the three copies of the said authenticated Record as provided by Rule 5 the Council shall likewise lodge eight copies of their Case in the Appeal signed by at least one of the Counsel who attends at the hearing of the Appeal.

9. The Cases shall consist of paragraphs numbered consecutively and shall state, as concisely as possible, the circumstances out of which the Appeal arises, the contentions to be urged by the parties lodging the same respectively, and the reasons of appeal.

10. The Appeal shall be set down *ipso facto* as soon as the Cases on both sides are lodged and the parties shall thereupon exchange cases by delivering each to the other three copies of their respective Cases.

11. If the Council do not enter an Appearance or do not lodge their Case within the period prescribed by Rule 8, or within such further period as may be allowed by the Registrar, the Appeal shall be set down for hearing *ex parte* provided that the Appellant has already lodged his Case.

Appeals against a direction given under section 33(1A) *of the Act.*

12. A person who desires to appeal to Her Majesty in Council against a direction given under section 33(1A) of the Act shall, within 28 days of the service upon him of a notification under section 36 of the Act, enter an appearance in the Registry, lodge therein six copies of a Petition of Appeal and serve one copy thereof on the Council.

13. Such Petition of Appeal shall recite succinctly the grounds of appeal. It shall consist of paragraphs numbered consecutively and shall be typewritten on foolscap paper with a quarter margin.

14. Within 14 days of the service on them of a copy of the Petition of Appeal (or within such further time as the Registrar may allow) the Council shall lodge in the Registry an authenticated typewritten Record of the proceedings before the Committee at which was given the direction appealed against and six copies thereof and shall serve

one copy thereof on the Appellant; such copies shall be typewritten on foolscap paper with a quarter margin. If the Council desire to be heard as Respondents to such Appeal they shall at the same time enter an Appearance in the Registry.

15. The Appeal shall be set down *ipso facto* when the copies of the Record are lodged.

16. At the hearing of such Appeal not more than one Counsel shall be admitted to be heard on a side.

17. The provisions of Rules 60 and 72 of the Judicial Committee Rules 1957 shall not apply to such Appeal.

General Provisions

18. Where an Appellant who has lodged his Petition of Appeal desires to withdraw his Appeal he shall present a Petition to that effect to Her Majesty in Council. On the hearing of any such Petition the Council shall be entitled to apply to the Judicial Committee for their costs.

19. Where the Appellant, who has lodged his Petition of Appeal, fails to take any further step in prosecution of his Appeal within the period prescribed by these Rules, or within such further period as may be allowed by the Registrar, the Council may lodge a Petition to Her Majesty in Council praying that the Appeal be dismissed for non-prosecution.

20. All bills of costs under any Order of the Judicial Committee made on the Appeal, shall stand referred to the Registrar, or such other person as the Judicial Committee may appoint, for taxation, and all such taxations shall be regulated by the Schedule of Fees annexed to these Rules.

21. Rules 77 to 81, inclusive, of the Judicial Committee Rules, 1957(a), shall apply, as nearly as may be, to the taxation of all such bills of costs as aforesaid.

22. Where a person desiring to appeal *in forma pauperis* proves by Affidavit to the satisfaction of the Registrar that he is not worth £100 in the world excepting his wearing apparel and that he is unable to provide sureties and also lodges a certificate of Counsel that he has reasonable grounds of appeal, the Appeal shall proceed *in forma pauperis*, and the Appellant shall not be required to pay any Council Office fees.

23. Rule 83 of the Judicial Committee Rules, 1957, shall apply as if the reference to "these Rules" therein contained wherever those words appear was a reference to the Judicial Committee (Medical Rules) Order 1971.

24. Rules 42, 60, 71, 72, 74, 84, 85 and 86 of the Judicial Committee Rules 1957 shall, so far as applicable and subject to the provisions of Rule 17 hereof and of any Statute or of any Statutory Instrument to the contrary, apply to Appeals under the Act. Save as aforesaid and as stated in Rules 21 and 23 of these Rules, the Judicial Committee Rules 1957 shall not apply to such Appeals.

(a) S.I. 1957/2224 (1957 I, p. 1205).

SCHEDULE OF FEES 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 in the Scale, but it is within the discretion of the Taxing Officer to allow further charges:—

(*a*) in relation to items not mentioned in the Scale; or

(*b*) of an amount higher than that prescribed by the Scale.

A.

Appellant's Costs of Appeal	£
Retainer Fee	3·00
Drawing Appearance	·50
Attending to enter same	1·00
Instructions for Petition of Appeal under Rule 2	1·00
Instructions for Petition of Appeal under Rule 12	—
Drawing same per foolscap page	1·25
Two copies thereof per foolscap page	·25
Attending Council Office lodging the same	1·00
Attending Respondent serving the same	1·00
Perusing Record per 6 foolscap pages	2·25
Attending stationer instructing him to make copies	1·00
Paid stationer	—
Attending paying	1·00
Attending lodging copies at Council Office	1·00
Attending Respondent with copies	1·00
Instructions for Case	—
Drawing Case per foolscap page	1·25
Copy Petition of Appeal for Counsel per foolscap page	·25
Attending Counsel with papers to settle Case	3·00
Paid his fee	—
Attending appointing conference	1·00
Paid his fee	7·50
Attending conference	2·50
Copy Case for printer per foolscap page	·25
Attending him herewith	1·00
Correcting proof of case per 8 foolscap pages	1·00
Attending stationer instructing him to strike off copies	1·00
Paid stationer	—
Attending paying him	1·00
Attending Registry lodging Case	1·00
Writing Respondent with appointment to exchange Cases	·50
Attending exchanging Cases	1·00
Perusing Respondent's Case per 6 pages	2·25
Instructions to Counsel to argue	2·50
Attending him with papers	3·00
Paid his fee	—
Copy for Counsel of Summons for hearing	·25
Attending Counsel therewith	2·00
Preparing list of authorities and lodging same	1·00

	£
Estimating length of hearing and lodging same	1·00
Attending hearing per day	10·00
Paid refresher fee to Counsel	—
Attending paying him	1·00
Copy Summons for judgment for Counsel	·25
Attending Counsel therewith	1·00
Paid Counsel to hear judgment	11·00
Attending to hear judgment	3·00
Drawing petition or motion per foolscap page	1·25
Copy petition or motion per foolscap page	·25
Perusing petition or motion per foolscap page	·50
Drawing bill of costs and copy, per page	1·00
Attending lodging same	1·00
Copy Order to tax for Respondent	·50
Copy bill of costs for Respondent per page	·25
Attending him therewith	1·00
Attending taxing...	4·50
Attending paying Office Fees	1·00
Paid fees	—
Approving draft Order	1·00
Attending lodging same	1·00
Sessions fee	6·50
Letters etc.	4·50

B.

Respondent's Costs of Appeal

With the exception of the following items, the charges are, *mutatis mutandis*, similar to those in the Appellant's Bill.

Perusing Petition of Appeal, per foolscap page	·50
Notice of entry of appearance	1·00
Attending Committee bespeaking authenticated record	1·00
Paid Committee's Shorthand Writer for transcript	—
Attending paying him	1·00
Copy Exhibits per page	·25
Drawing Index per foolscap page	1·00
Attending Appellant with authenticated record	1·00
Attending Registry notifying them thereof	1·00

SCHEDULE OF COUNCIL OFFICE FEES

Entering Appearance	1·25
Amending Appearance	0·63
Examining proof print of Record with the certified record at the Registry (chargeable to Appellant only) per day	2·50
per half day	1·25
Lodging Petition of Appeal	3·75
Lodging any other Petition or Motion	1·25
Lodging Case	2·50

Setting down Appeal (chargeable to Appellant only)	6·25
Setting down any other Petition (chargeable to Petitioner only)	1·25
Summons	1·25
Committee Report on Petition	2·50
Committee Report on Appeal	3·75
Original Order of Her Majesty in Council determining an Appeal ...	6·25
Any other original Order of Her Majesty in Council	3·75
Plain copy of an Order of Her Majesty in Council	0·33
Original Order of the Judicial Committee	2·50
Plain copy of Committee order	0·33
Lodging Affidavit	0·63
Certificate delivered to parties	0·63

Taxing fee £0·025 for each pound allowed, or a fraction thereof.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order enacts Rules to revoke and replace the Rules contained in the Judicial Committee (Medical Rules) Order 1958. The procedure in most appeals is substantially unchanged but a new procedure is provided for appeals against directions for extensions of periods of suspension from registration.

The Rules also contain a new Scale of Fees.