PROCEDURE

1960 No. 1661

The Judicial Committee (Opticians Rules) Order, 1960

Made - - - - 12th September, 1960

At the Court at Balmoral, the 12th day of September, 1960

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by sub-section (1) of section 14 of the Opticians Act, 1958(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. This Order may be cited as the Judicial Committee (Opticians Rules) Order, 1960.

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 Opticians Act, 1958.

W. G. Agnew.

SCHEDULE

RULES

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

"The Act" means the Opticians Act, 1958.

"The Council" means the General Optical Council.

"The Committee" means the General Optical Council Disciplinary Committee constituted under Section 10 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.

2. A person or a body corporate desiring to appeal to Her Majesty in Council shall, within 28 days of the service of the notification prescribed by sub-section (7) of Section 11 or sub-section (3) of Section 13 of the Act, as the case may be, 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.

(a) 6 & 7 Eliz. 2. c. 32.

4. Upon receipt of a copy of the Petition of Appeal the Council shall with all convenient speed deliver to the Appellant a certified 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 certified Record referred to in Rule 4 the Appellant shall lodge in the Registry the said certified 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 in the form known as Demy Quarto.

7. Within 28 days from the lodging in the Registry of the said certified 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 Party 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 certified 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 case of the Appellant has already been lodged.

12. Any Appeal may be withdrawn by the Appellant on a Petition to Her Majesty in Council for its withdrawal. On the hearing of any such Petition the Council shall be entitled to apply to the Judicial Committee for their costs.

13. Where the Appellant, who has lodged a Petition of Appeal, fails to take any further step in the prosecution of the 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.

14. All bills of costs under any Order of the Judicial Committee made on 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.

15. 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.

16. 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.

17. 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 (Opticians Rules) Order, 1960.

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

18. 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 any Statute or of any Statutory Instrument to the contrary, apply to Appeals under the Act. Save as aforesaid and as stated in Rules 15 and 17 of these Rules, the Judicial Committee Rules, 1957, shall not apply to such Appeals.

SCHEDULE of Fees allowed to Agents conducting Appeals or other matters before the Judicial Committee of the Privy Council (50 per cent. is added to these fees).

PART I

	£	s.	d.
Retainer Fee	0	13	4
Drawing Appearance	0	5	0
Perusing written Record, for every 25 folios	0	6	8
Drawing Index, per folio	0	2	0
Drawing Marginal Notes and Headings, per folio	0	0	6
Instructions for Petition or Motion, or to Oppose	0	10	0
Instructions for Petition of Appeal	0	10	0
Instructions for Case	1	0	0
Drawing Petition, Motion, Case or Affidavit, per folio	0	2	0
Copying Petition, Motion, Case or Affidavit, per folio	0	0	6
Perusing Petition, Motion or Affidavit, per folio	0	2	0
Perusing Petition of Appeal	1	1	0
Perusing Case, per 25 folios	0	6	8
Instructions for and preparing Retainer to Counsel	0	10	0
Instructions to Counsel to argue an Appeal	1	0	0
Instructions to Counsel to argue a Petition or Motion	0	10	0
Attending Consultation	1	0	0
Attending at the Council Chamber for the hearing of a Petition or Motion	1	6	8
Attending at the Council Chamber all day on an Appeal not called on	2	6	8
Attending the hearing of an Appeal, per day	3	6	8
Attending a Judgment	1	6	8
Approving draft Order	0	10	0
Attendances generally	0	10	0
Attendances on Counsel where fee is 30 guineas or over	1	0	0
Drawing Bill of Costs, per folio	0	1	0
Copying Bill of Costs, per folio	0	0	6
Attending Taxation of Costs of an Appeal	2	2	0
Attending Taxation of Costs of a Petition or Motion	1	1	0
Sessions Fee for each year or part of a year from the date of Appearance (in Appeals only)	3	3	0
Letters &c. for 1st year	2	2	0
For each following year	1	1	0

PART II

In the event of the Record or Case being printed the following fees will be allowed:

	£	s.	d.
Correcting revised print of Record, per sheet of 8 pages	0	10	6
Correcting proof of case, per sheet of 8 pages	0	10	6
Perusing case, per printed sheet of 8 pages	1	1	0
Instructions to printer	0	10	0

SCHEDULE OF COUNCIL OFFICE FEES

	£	s.	d.
Entering Appearance	1	5	0
Amending Appearance	0	12	6
Examining proof print of Record with the Certified record at the Registry (chargeable to Appellant only)			
per day	2	10	0
per half day	1	5	0
Lodging Petition of Appeal	3	15	0
Lodging any other Petition or Motion	1	5	0
Lodging Case	2	10	0
Setting down Appeal (chargeable to Appellant only)	6	5	0
Setting down any other Petition (chargeable to Petitioner only) ...	1	5	0
Summons	1	5	0
Committee Report on Petition	2	10	0
Committee Report on Appeal	3	15	0
Original Order of Her Majesty in Council determining an Appeal ...	6	5	0
Any other original Order of Her Majesty in Council	3	15	0
Plain copy of an Order of Her Majesty in Council	0	6	6
Original Order of the Judicial Committee	2	10	0
Plain copy of Committee Order	0	6	6
Lodging Affidavit	0	12	6
Certificate delivered to parties	0	12	6

Taxing fee 6d. for each pound allowed, or a fraction thereof.

EXPLANATORY NOTE

(This note is not part of the Order, but is intended to indicate its general purport.)

This Order, made under the Opticians Act, 1958, enacts Rules to provide for an appeal to Her Majesty in Council by an individual or a body corporate whose name has been erased from the register or list of opticians.