EXPLANATORY NOTE

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

The purpose of this Order is to omit the Gold Coast (now known as Ghana) from the territories to which the West African (Appeal to Privy Council) Order in Council, 1949, applies, consequent upon the termination of the jurisdiction of the West African Court of Appeal in relation to appeals from the Gold Coast, and to provide for pending appeals to Her Majesty in Council from the West African Court of Appeal in appeals to that Court from Courts in the Gold Coast being treated as appeals from the Court of Appeal of Ghana under the Ghana (Appeal to Privy Council) Order in Council, 1957.

PROCEDURE

1957 No. 2224 rev 1982 | 1676

The Judicial Committee Rules, 1957

Made - - - - 20*th December*, 1957
Coming into Operation 1*st February*, 1958

At the Court at Buckingham Palace, the 20th day of December, 1957

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 certain Orders in Council relating to the practice and procedure in accordance with which the general appellate jurisdiction of Her Majesty in Council is exercised, dated respectively the second day of May, 1925(a), the eighth day of August, 1932(b), the thirtieth day of April, 1936(c), and the twenty-fifth day of February, 1944(d), ought to be revoked as from the first day of February, 1958, and that the several rules thereunto annexed ought to be substituted therefor and ought to come into operation on that date:

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

1. The Orders in Council mentioned in the said representation are hereby revoked, and the rules thereunto annexed are substituted therefor, as set out in the Schedule to this Order.

2. This Order shall come into operation on the first day of February, 1958.

Whereof all persons whom it may concern are to take notice and govern themselves accordingly.

W. G. Agnew.

(a) S.R. & O. 1925/440 (Rev. XI, p. 208: 1925, p. 668).
(b) S.R. & O. 1932/865 (1932, p. 679).
(c) S.R. & O. 1944/192 (1944 I, p. 398).
(d) S.R. & O. 1944/193 (1944 I, p. 399).
(e) 3 & 4 Will. 4. c. 41.

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Interpretation

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

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

"Judgment" includes decree, order, sentence, or decision of any Court, Judge, or Judicial Officer;

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

"Registrar" means the Registrar or other proper officer having the custody of the records in the Court appealed from;

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

"Agent" means a person 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;

"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;

"Respondent" includes Intervener;

"Month" means calendar month;

Words in the singular shall include the plural, and words in the plural shall include the singular.

(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 Petition or other document, entering an Appearance, lodging security, or otherwise, such step shall be taken in the Registry of the Privy Council, Downing Street, London.

Leave to appeal

Leave to appeal generally

2. All Appeals shall be brought either in pursuance of leave obtained from the Court appealed from, or, in the absence of such leave, in pursuance of special leave to appeal granted by Her Majesty in Council upon a Petition in that behalf presented by the intending Appellant.

Special leave to appeal

Form of Petition for special leave to appeal

3. A Petition for special leave to appeal to Her Majesty in Council shall state succinctly and clearly 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, and shall be signed by the Counsel who attends at the hearing or by the party himself if he appears in person. The Petition shall deal with the merits of the case only so far as is necessary for the purpose of explaining and supporting the particular grounds upon which special leave to appeal is sought.

Six copies of Petition to be lodged together with Affidavits in support

4. The Petitioner shall lodge at least six copies of his Petition for special leave to appeal together with the Affidavit in support thereof prescribed by Rule 50 hereinafter contained, and also six copies of the Judgment from which leave to appeal is sought, and, 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 of notice of the intended application upon such parties or their Solicitors or Agents, either abroad or in England.

Time for lodging Petition

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

Security for costs and transmission of Record

6. Where the Judicial Committee agree to advise Her Majesty to grant special leave to appeal, they shall, in their Report, specify the amount of the security for costs (if any) to be lodged by the Petitioner, and shall, unless the circumstances of a particular case render such a course unnecessary, provide for the transmission of the Record by the Registrar to the Registrar of the Privy Council and for such further matters as the justice of the case may require. Unless otherwise ordered the security shall be lodged at any time before the Appellant enters an Appearance.

General provisions

7. Save as by the four last preceding Rules otherwise provided, the provisions of Rules 47 to 50 and 52 to 59 (all inclusive) hereinafter contained shall apply *mutatis mutandis* to Petitions for special leave to appeal.

Petitions for special leave to appeal in formâ pauperis

8. Rules 3 to 7 (both inclusive) shall apply *mutatis mutandis* to Petitions for leave to appeal *in formâ pauperis*, but in addition to the Affidavits referred to in Rule 4 every such Petition shall be accompanied by an Affidavit from the Petitioner stating that he is not worth

£100 in the world excepting his wearing apparel and his interest in the subject-matter of the intended Appeal, and that he is unable to provide sureties, and also by a certificate of Counsel that the Petitioner has reasonable ground of appeal.

Exemption of pauper Appellant from lodging security and paying Office fees

9. Where a Petitioner obtains leave to appeal *in formâ pauperis*, 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 in formâ pauperis from payment of Office fees

10. A Petitioner whose Petition for leave to appeal *in formâ pauperis* is dismissed may, notwithstanding such dismissal, be excused from paying the Council Office fees usually chargeable to a Petitioner in respect of a Petition for leave to appeal, if Her Majesty in Council, on the advice of the Judicial Committee, shall think fit so to order.

Record and Appearance by Appellant

Record to be transmitted without delay

11. 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, the Appellant shall without delay take all necessary steps to have the Record transmitted to the Registrar of the Privy Council, and the Registrar shall, with all convenient speed, certify to the Registrar of the Privy Council that the Respondent has received notice, or is otherwise aware, of the Order of the Court appealed from admitting the Appeal, or of the Order of Her Majesty in Council giving the Appellant special leave to appeal, and has also received notice, or is otherwise aware, of the dispatch of the Record to England. Where an Appellant who has obtained special leave to appeal by an Order of Her Majesty in Council fails to have the Record transmitted to the Registrar of the Privy Council with due diligence, the Registrar of the Privy Council shall call upon the Appellant to explain his default, and if no explanation is offered, or if the explanation offered is, in the opinion of the said Registrar insufficient, the said Registrar may issue a Summons to the Appellant calling upon him to show cause before the Judicial Committee at a time to be named in the said Summons why the special leave to appeal granted should not be rescinded. The Respondent shall be entitled to be heard before the Judicial Committee in the matter of the said Summons and to ask for his costs and such other relief as he may be advised. The Judicial Committee may, after considering the matter of the said Summons, recommend to Her Majesty to rescind the grant of special leave to appeal or give such other directions therein as the justice of the case may require.

Printing or duplicating of Record

12.—(*a*) The Record may be printed either abroad or in England.

(*b*) When a written Record is received from abroad it shall, unless the parties agree to its being printed, be duplicated by a process approved by the Registrar of the Privy Council, and Rules IV to XI contained in Schedule A hereto shall apply.

(*c*) If the Record is printed it shall be printed in accordance with the Rules contained in Schedule A hereto.

(*d*) When the Record is printed abroad the parties in England shall, upon perusal, consider whether the order of the documents is in accordance with these Rules, and if it is not, they shall agree upon the proper order. The Appellant shall then rearrange copies of the Record for the use of the Judicial Committee and the other parties. In the event of the parties being unable to agree, the matter shall be referred to the Registrar of the Privy Council who, if he thinks fit, may require the parties to attend before the Judicial Committee for directions.

Number of copies to be transmitted, where Record printed abroad

13. Where the Record is printed abroad, the Registrar shall, at the expense of the Appellant, transmit to the Registrar of the Privy Council 40 copies of such Record, one of which copies 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.

One certified copy to be transmitted, where Record to be printed in England

14. Where the Record is to be printed or duplicated in England, the Registrar shall, at the expense of the Appellant, transmit to the Registrar of the Privy Council one certified copy of such Record, together with an index of all the papers and exhibits in the case. 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 printed partly abroad

15. Where part of the Record is printed abroad and part is to be printed or duplicated in England, Rules 13 and 14 shall, as far as practicable, apply to such parts as are printed abroad and such as are to be printed or duplicated in England respectively.

Reasons for judgments to be included

16. 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, shall by such judge or judges be communicated in writing to the Registrar and shall be included in the Record.

Exclusion of unnecessary documents from Record

17. The Registrar, as well as the parties and their Agents, shall endeavour to exclude from the Record all documents (more particularly such as are merely formal) that 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 unnecessary repetition of documents and headings and other merely formal parts of documents; but the documents omitted to be printed or copied shall be enumerated in a typewritten 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 printed abroad or printed or duplicated in England, shall, with a view to the subsequent adjustment of the costs of and incidental to such document, indicate, in the index of papers, or otherwise, the fact that, and the party by whom, the inclusion of the document was objected to.

Registration and numbering of Records

19. As soon as the Record is received in the Registry of the Privy Council, it shall be registered in the said Registry, with the date of arrival, the names of the parties, and the description whether "printed" or "written." A Record, or any part of a Record, not printed in accordance with the Rules contained in Schedule A hereto shall be treated as written. Appeals shall be numbered consecutively in each year in the order in which the Records are received in the said 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 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.

Times within which a copy of a written Record shall be bespoken

22. Where the Record arrives in England either wholly written, or partly written and partly printed, the Appellant shall, within a period of two months from the date of such arrival, enter an Appearance and bespeak a typewritten copy of the Record, or of such parts thereof as it may be necessary to have copied, and shall engage to pay the cost of preparing such copy at the current rate; and shall also engage to pay at such price as shall be fixed by the Registrar of the Privy Council the cost of printing or duplicating at least 40 copies thereof.

Preparation of copy of Record for printing or duplication

23. As soon as the Appellant has obtained the typewritten copy of the Record bespoken by him, he shall proceed, with due diligence, to arrange the documents in suitable order, to check the index, to insert marginal notes and check the same with the index, and, generally, to do whatever may be required for the purpose of preparing the copy for printing or duplication, in accordance with the Rules contained in Schedule A hereto, and shall, if the Respondent has entered an Appearance, submit the copy, as prepared for printing or duplication, to the Respondent for his approval. In the event of the parties being unable to agree, the matter shall be referred to the Registrar of the Privy Council who, if he thinks fit, may require the parties to attend before the Judicial Committee for directions.

Lodging copy of Record for printing or duplicating

24. As soon as the typewritten copy of the Record is ready, the Appellant shall lodge it in the Registry of the Privy Council for printing or duplication by a person or firm selected by the Registrar of the Privy Council, and at the same time shall lodge the amount of the estimated cost of printing or duplicating the Record.

Special Case

25. 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 of the Privy Council, may submit such question of law to the Judicial Committee in the form of a Special Case, and print or duplicate such parts only of the Record as may be necessary for the discussion of the same Provided that nothing herein contained shall in any way prevent the Judicial Committee from ordering the full discussion of the whole case, if they shall so think fit, and that, in order to promote such arrangements and simplification of the matter in dispute, the said Registrar may call the parties before him, and having heard them, and examined the Record, may report to the Judicial Committee as to the nature of the proceedings.

Examination of proof of Record and striking off copies

26. The Registrar of the Privy Council shall, as soon as the proofs of the Record are ready, give notice to all parties who have entered an Appearance requesting them to attend at the Registry of the Privy Council at a time to be named in such notice in order to examine the said proofs and compare the same with the certified Record, and shall, for that purpose, furnish each of the said parties with one proof. After the 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 of the Privy Council shall thereupon cause the 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, six copies of the Record.

How costs of printing or duplicating Record are to be borne

28. Subject to any special direction from the Judicial Committee to the contrary, the costs of and incidental to the printing or duplicating of the Record shall form part of the costs of the Appeal, but the costs of and incidental to the printing or duplicating 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

Times within which Petition shall be lodged

29. The Appellant shall lodge his Petition of Appeal—

(*a*) Where the Record arrives in England printed, within a period of two months from the date of such arrival;

(*b*) Where the Record arrives in England written, within a period of one month from the date of the completion of the printing or duplicating thereof:

Provided that nothing in this Rule contained shall preclude the Appellant from lodging his Petition of Appeal prior to the arrival of the Record, or the completion of the printing or duplicating thereof, if there are special reasons why, in the opinion of the Registrar of the Privy Council, it should be desirable for him to do so.

Form of Petition

30. The Petition of Appeal shall be lodged in the form prescribed by Rule 47 hereinafter contained. It shall 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, but shall 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 thereof without delay 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. Where an Appellant, who has not lodged his Petition of Appeal, desires to withdraw his Appeal, he shall give notice in writing to that effect to the Registrar of the Privy Council, and the said Registrar shall, with all convenient speed after the receipt of such notice, by letter notify the Registrar of the Court appealed from that the Appeal has been withdrawn, and the said Appeal shall thereupon stand dismissed as from the date of the said letter without further Order.

Withdrawal of Appeal after Petition of Appeal has been lodged

33. 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 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, but where the Respondent has not entered an Appearance, or, having entered an Appearance, consents in writing to the prayer of the Petition, the Petition may, if the Judicial Committee think fit, be disposed of in the same way *mutatis mutandis* as a Consent Petition under the provisions of Rule 56 hereinafter contained.

Non-Prosecution of Appeal

Dismissal of Appeal where Appellant takes no step in prosecution thereof

34. Where an Appellant takes no step in prosecution of his Appeal within a period of two months from the date of the arrival of the Record in England, the Registrar of the Privy Council shall, with all convenient speed, by letter notify the Registrar of the Court appealed from that the Appeal has not been prosecuted, and the Appeal shall thereupon stand dismissed for non-prosecution as from the date of the said letter without further Order, and a copy of the said letter shall be sent by the Registrar of the Privy Council 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. Where an Appellant who has entered an Appearance—

(*a*) fails to bespeak a copy of a written Record, or of part of a written Record, in accordance with, and within the period prescribed by, Rule 22; or

(*b*) having bespoken such copy within the period prescribed by Rule 22, fails thereafter to proceed with due diligence to take all such further steps as may be necessary for the purpose of completing the printing or duplication of the said Record ; or

(*c*) fails to lodge his Petition of Appeal within the periods respectively prescribed by Rule 29 ;

the Registrar of the Privy Council shall call upon the Appellant to explain his default, and, if no explanation is offered, or if the explanation offered is, in the opinion of the said Registrar, insufficient, the said Registrar shall, with all convenient speed, by letter notify the Registrar of the Court appealed from that the Appeal has not been effectively prosecuted, and the Appeal shall thereupon stand dismissed for non-prosecution as from the date of the said letter without further Order, and a copy of the said letter shall be sent by the Registrar of the Privy Council to all the parties who have entered an Appearance in the Appeal.

Dismissal of Appeal for non-prosecution after lodgment of Petition of Appeal

36. Where an Appellant, who has lodged his Petition of Appeal, fails thereafter to prosecute his Appeal with due diligence, the Registrar of the Privy Council shall call upon him to explain his default, and, if no explanation is offered, or if the explanation offered is, in the opinion of the said Registrar, insufficient, the said Registrar shall issue a Summons to the Appellant calling upon him to show cause before the Judicial Committee at a time to be named in the said Summons why the Appeal should not be dismissed for non-prosecution Provided that no such Summons shall be issued by the said Registrar before the expiration of one year from the date of the arrival of the Record in England. If the Respondent has entered an Appearance in the Appeal, the Registrar of the Privy Council shall send him a copy of the said Summons, and the Respondent shall be entitled to be heard before the Judicial Committee in the matter of the said Summons at the time named and to ask for his costs and such other relief as he may be advised. The Judicial Committee may, after considering the matter of the said Summons, recommend to Her Majesty the dismissal of the Appeal for non-prosecution, or give such other directions therein as the justice of the case may require.

Restoring an Appeal dismissed for non-prosecution

37. 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.

Appearance by Respondent

Time within which Respondent may appear

38. The Respondent may enter an Appearance at any time between the arrival of the Record and the hearing of the Appeal, but if he unduly delays entering an Appearance he shall bear, or be disallowed, the costs occasioned by such delay, unless the Judicial Committee otherwise direct.

Notice of Appearance by Respondent

39. The Respondent shall forthwith after entering an Appearance 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, and only one, or some, of them enter an Appearance, the Appearance Form shall set out the names of the appearing Respondents.

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 any notices relating to the Appeal from the Registrar of the Privy Council, nor be allowed to lodge a Case in the Appeal.

Procedure on non-appearance of Respondent

43. Where a Respondent fails to enter an Appearance in an Appeal, the following Rules shall, subject to any special Order of the Judicial Committee to the contrary, apply :—

(*a*) If the non-appearing Respondent was a Respondent at the time when the Appeal was admitted, whether by the Order of the Court appealed from or by an Order of Her Majesty in Council giving the Appellant special leave to appeal, and it appears from the terms of the said Order, or Order in Council, or otherwise from the Record, or from a Certificate of the Registrar of the Court appealed from, that the said non-appearing Respondent has received notice, or was otherwise aware, of the Order of the Court appealed from admitting the Appeal, or of the Order of Her Majesty in Council giving the Appellant special leave to appeal, and has also received notice, or was otherwise aware, of the dispatch of the Record to England, the appeal may, if all other conditions of its being set down are satisfied, be set down *ex parte* as against the said non-appearing Respondent at any time after the expiration of two months from the date of the lodging of the Petition of Appeal ;

(*b*) if the non-appearing Respondent was made a Respondent by an Order of Her Majesty in Council subsequently to the admission of the Appeal, and it appears from the Record, or from a Supplementary Record, or from a Certificate of the Registrar of the Court appealed from, that the said non-appearing Respondent has received notice, or was otherwise aware, of any intended application to bring him on the record as a Respondent, the Appeal may, if all other conditions of its being set down are satisfied, be set down *ex parte* as against the said non-appearing Respondent at any time after the expiration of two months from the date on which he shall have been served with a copy of Her Majesty's Order in Council bringing him on the Record as a Respondent:

Provided that where it is shown to the satisfaction of the Registrar of the Privy Council, by Affidavit or otherwise, either that an Appellant has made every reasonable endeavour to serve a non-appearing Respondent with the notices mentioned in clause (*a*) and (*b*) respectively and has failed to effect such service, or that it is not the intention of the non-appearing 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 said non-appearing Respondent.

Respondent defending Appeal in formâ pauperis

44. A Respondent who desires to defend an Appeal *in formâ pauperis* 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 £100 in the world excepting his wearing apparel and his interest in the subject-matter of the Appeal.

Petitions generally

Mode of addressing Petitions

45. All Petitions for orders or directions as to matters of practice or procedure arising after the lodging of the Petition of Appeal and not involving any change in the parties to an Appeal shall be addressed to the Judicial Committee. 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 be necessary to draw up such Order, unless the Committee otherwise direct, but a Note thereof shall be made by the Registrar of the Privy Council.

Form of Petition and number of copies to be lodged

47. All Petitions shall consist of paragraphs numbered consecutively and shall be written, typewritten, or lithographed, on paper with quarter margin and 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 London Agent (if any) of the Petitioner, but need not be signed, except as provided by Rule 3. Unless the Petition is a Consent Petition within the meaning of Rule 56 at least six copies thereof shall be lodged.

Caveat

48. Where a Petition is expected to be lodged, or has been lodged, which does not relate to any pending Appeal of which the Record has been registered in the Registry of the Privy Council, any person claiming a right to appear before the Judicial Committee on the hearing of such Petition may lodge a Caveat in the matter thereof, and shall thereupon be entitled to receive from the Registrar of the Privy Council notice of the lodging of the Petition, if at the time of the lodging of the Caveat such Petition has not yet been lodged, and, if and when the Petition has been lodged, to require the Petitioner to serve him with a copy of the Petition, and to furnish him, at his own expense, with copies of any paper lodged by the Petitioner in support of his Petition. The Caveator shall forthwith after lodging his Caveat give notice thereof to the Petitioner, if the Petition has been lodged.

Service of Petition

49. Where a Petition is lodged in the matter of any pending Appeal of which the Record has been registered in the Registry of the Privy Council, the Petitioner shall serve any party who has entered an Appearance in the Appeal with a copy of such Petition, and the party so served shall thereupon 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. A Petition not relating to any Appeal of which the Record has been registered in the Registry of the Privy Council, 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. Where the Petitioner prosecutes his Petition in person, the said 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. Where the Petitioner is represented by an Agent, the said Affidavit shall be sworn by such 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 the said 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 of the Privy Council may refuse to receive a Petition on the grounds 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.

Times within which set-down Petitions shall be heard

54. On each day appointed by the Judicial Committee for the hearing of Petitions the Registrar of the Privy Council shall, unless the Committee otherwise direct, put in the paper for hearing all such Petitions as have been set down Provided that, in the absence of special circumstances of urgency to be shown to the satisfaction of the said Registrar, 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 put in the paper on an earlier day.

Notice to parties of day fixed for hearing Petition

55. Subject to the provisions of the next following Rule, the Registrar of the Privy Council shall, as soon as the Judicial Committee have appointed a day for the hearing of a Petition, notify all parties concerned by Summons of the day so appointed.

Procedure where Petition is consented to or is formal

56. 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, and the Registrar of the Privy Council shall not in any such case issue the Summons provided for by the last-preceding Rule, but shall with all convenient speed after the Committee have made their Report or Order notify the parties that the Report or Order has been made and of the date and nature of such Report or Order.

Withdrawal of Petition

57. A Petitioner who desires to withdraw his Petition shall give notice in writing to that effect to the Registrar of the Privy Council. 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, but where the Petition is unopposed, or where, in the case of an opposed Petition, the parties have come to an agreement as to the costs of the Petition, the Petition may, if the Judicial Committee think fit, be disposed of in the same way *mutatis mutandis* as a Consent Petition under the provisions of the last-preceding Rule.

Procedure where hearing of Petition unduly delayed

58. Where a Petitioner unduly delays bringing a Petition to a hearing, the Registrar of the Privy Council shall call upon him to explain the delay, and if no explanation is offered, or if the explanation offered is, in the opinion of the said Registrar, insufficient, the said Registrar may, after notifying all parties interested by Summons of his intention to do so, put the Petition in the paper for hearing on the next following day appointed by the Judicial Committee for the hearing of Petitions for such directions as the Committee may think fit to give thereon.

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 where a Respondent who has entered an Appearance does not desire to lodge a Case in the Appeal, he may give the Registrar of the Privy Council 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.

Printing or duplicating of Case

61.—(*a*) The Case may be printed either abroad or in England, and shall, in either event, be printed in accordance with Rules I to III contained in Schedule A hereto.

(*b*) When the Case is not printed abroad it shall, unless the parties agree to its being printed in England, be duplicated by a process approved by the Registrar of the Privy Council.

(*c*) Whether the Case is printed or duplicated every tenth line thereof shall be numbered in the margin and it 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 30 copies of his Case either printed or duplicated.

Form of Case

63. The Case 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 party lodging the same, and the reasons of appeal. References by page and line to the relevant portions of the Record as printed or duplicated shall, as far as practicable, be printed or duplicated in the margin, and care shall be taken to avoid, as far as possible, the reproduction in the Case of long extracts from the Record. The Taxing Officer, in taxing the costs of the Appeal, shall, either of his own motion, or at the instance of the opposite party, inquire into any unnecessary prolixity in the Case, and shall 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. Subject as hereinafter provided, 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 the last-preceding Rule, serve such other party, if the later has not in the meantime lodged his Case, with a "Case Notice," requiring him to lodge his Case within one month from the date of the service of the said Case Notice and informing him that, in default of his so doing, the Appeal will be set down for hearing *ex parte* as against him, and if the other party fails to comply with the said Case Notice, the party who has lodged his Case may, at any time after the expiration of the time limited by the said Case Notice for the lodging of the Case, lodge an Affidavit of Service (which shall set out the terms of the said 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 Provided that no Case Notice shall be served until after the completion of the printing or duplication, or re-arrangement under

Rule 12, of the Record, and also that nothing in this Rule contained shall preclude the party in default 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. Subject to the provisions of Rule 43 and of the last-preceding Rule, an 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 handing one another, either at the Offices of one of the Agents or in the Registry of the Privy Council, ten copies of their respective Cases.

Binding Records, &c.

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

68. As soon as an Appeal is set down, the Appellant shall attend at the Registry of the Privy Council and obtain seven copies of the Record and Cases to be bound for the use of the Judicial Committee at the hearing. The copies shall be bound in cloth with paper sides. The front cover shall bear a label stating the title and Privy Council number of the Appeal, the contents of the volume, and the names and addresses of the London Agents. The several documents, indicated by incuts, shall be arranged in the following order: (1) Appellant's Case; (2) Respondent's Case; (3) Record (if in more than one part, showing the separate parts by incuts, all parts being paged at the top of the page); (4) Supplemental Record (if any); and the short title and Privy Council number of the Appeal shall also be shown on the back.

Time within which bound copies shall be lodged

69. The Appellant shall lodge the bound copies not less than four clear days before the commencement of the Sittings during which the Appeal is to be heard.

Hearing

Notice of day on or before which Appeals must be set down for ensuing Sittings

70. The Registrar of the Privy Council 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. All Appeals set down on or before the day named shall, subject to any directions from the Committee or to any agreement between the parties to the contrary, be entered in such List of Business and shall, subject to any directions from the Committee to the contrary, be heard in the order in which they are set down.

Notice to parties of day fixed for hearing Appeal

71. The Registrar of the Privy Council shall, subject to the provisions of Rule 42, notify the parties to each Appeal by Summons, at the earliest possible date, of the day appointed by the Judicial Committee 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 their Judgment thereon, the Registrar of the Privy Council shall in due course notify the parties by Summons of the day appointed by the Committee for the delivery of the Judgment.

Costs

Taxation of costs

75. All Bills of Costs under the Orders of the Judicial Committee on Appeals, Petitions, and other matters, shall be referred to the Registrar of the Privy Council, or such other person as the Judicial Committee may appoint, for taxation, and all such taxations shall be regulated by the Schedule of Fees set forth in 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. The Registrar of the Privy Council shall, with all convenient speed 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. The party receiving such Order to tax and Notice shall, not less than 48 hours 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 of his Bill of Costs and of the Order to tax and Notice.

Power of Taxing Officer where taxation delayed through the fault of the party whose costs are to be taxed

78. The Taxing Officer may, if he think fit, disallow to 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, 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. Any party aggrieved by a taxation may appeal from the decision of the Taxing Officer to the Judicial Committee. 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 of the Privy Council.

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

80. The amount allowed by the Taxing Officer on the taxation shall, subject to any appeal from his taxation to the Judicial Committee and subject to any direction from the Committee to the contrary, be inserted in Her Majesty's Order in Council determining the Appeal or Petition.

Taxation on the pauper scale

81. Where the Judicial Committee directs costs to be taxed on the pauper scale, the Taxing Officer shall not allow any fees of Counsel, and shall 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. Such pauper scale shall apply to and include the application upon which leave to appeal in *formâ pauperis* 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 of the Privy Council, the Registrar of the Privy Council shall deal with such security in accordance with the directions contained in Her Majesty's Order in Council determining the Appeal.

Miscellaneous

Power of Judicial Committee to excuse from compliance with Rules

83. The Judicial Committee may, for sufficient cause shown, excuse the parties from compliance with any of the requirements of these Rules, and may give such directions in matters of practice and procedure as they shall consider just and expedient. Applications to be excused from compliance with the requirements of any of these Rules shall be addressed in the first instance to the Registrar of the Privy Council, who shall take the instructions of the Committee thereon and communicate the same to the parties. If, in the opinion of the said Registrar, it is desirable that the application should be dealt with by the Committee in open Court, he may direct the party applying to lodge in the Registry of the Privy Council, and to serve the opposite party with, a Notice of Motion returnable before the Committee.

Amendment of documents

84. 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 of the Privy Council, but if the said 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 party applying to lodge in the Registry of the Privy Council, and to serve the opposite party with, a Notice of Motion returnable before the Committee.

Affidavits may be sworn before the Registrar of the Privy Council

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 of the Privy Council.

Change of Agent

86. 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 of the Privy Council and the outgoing Agent notice in writing of the change, and shall amend the Appearance accordingly. Until 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.

Scope of application of Rules

87. Subject to the provisions of any Statute or of any Statutory Rule or Order to the contrary, these Rules shall apply to all matters falling within the Appellate Jurisdiction of Her Majesty in Council.

Mode of citation

88. These Rules may be cited as the Judicial Committee Rules, 1957.

Schedule A

Rules as to Printing and Duplicating

I. All Records 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 printed shall be printed in the form known as Demy Quarto.

II. The size of the paper used shall be such that the sheet, when folded and trimmed, will be 11 inches in height and 8½ inches in width.

III. The type to be used in the text shall be Pica type, but Long Primer shall be used in printing accounts, tabular matter, and notes. The number of lines in each page of Pica type shall be 47 or thereabouts, and every tenth line shall be numbered in the margin.

IV. Records shall be arranged in two parts in the same volume, where practicable, viz.:—

Part I. The pleadings and proceedings, the transcript of the evidence of the witnesses, the Judgments, Decrees, &c., of the Courts below, down to the Order admitting the Appeal.

Part II. The exhibits and documents.

V. The Index to Part I shall be in chronological order, and shall be placed at the beginning of the volume.

The Index to Part II shall follow the order of the exhibit mark, and shall be placed immediately after the Index to Part I.

VI. Part I shall be arranged strictly in chronological order, *i.e.*, in the same order as the index.

Part II shall be arranged in the most convenient way for the use of the Judicial Committee, as the circumstances of the case require. The documents shall be as far as suitable in chronological order, mixing Plaintiff's and Defendant's documents together when necessary. 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) and in all cases documents relating to the same matter, such as

(*a*) a series of correspondence, or

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

shall be kept together. The order in the Record of the documents in Part II will probably be different from the order of the Index, and the proper page number of each document shall be inserted in the Index.

The parties will be responsible for arranging the Record in proper order for the Judicial Committee, and in difficult cases Counsel may be asked to settle it.

VII. The documents in Part I shall be numbered consecutively.

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

VIII. 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.

IX. 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.

X. 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 printed" or "not duplicated" against it.

A long series of documents, such as accounts, rent rolls, inventories, &c., shall not be printed or duplicated in full, unless Counsel so advise, but the parties shall agree to short extracts being printed or duplicated as specimens.

XI. In cases where maps sent from abroad are of an inconvenient size or unsuitable in character, the Appellant shall, in agreement with the Respondent, prepare in England, from the materials sent from abroad, maps drawn properly to scale and of reasonable size, showing, as far as possible, the claims of the respective parties, in different colours.

Schedule B

I.

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.*)

	£	*s.*	*d.*
Retainer fee	0	13	4
Drawing Appearance or Caveat	0	5	0
Perusing printed Record, for every printed sheet of 8 pages ...	1	1	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
Attending at the Registry to examine proof of Record with the certified Record ... ... per day	3	3	0
per half-day	1	11	6
Correcting revised print of Record, per sheet of 8 pages	0	10	6
Correcting revised duplicated copy of Record, per sheet of 10 pages ...	0	10	6
Instruction 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

	£	s.	d.
Copying Petition, Motion, Case or Affidavit ... ... per folio	0	0	6
Correcting proof of printed Case, per sheet of 8 pages	0	10	6
Correcting proof of duplicated copy of Case per sheet of 10 pages ...	0	10	6
Drawing and fair copy, Case Notice	0	10	0
Perusing Petition, Motion, or Affidavit ... ... per folio	0	2	0
Perusing Petition of Appeal	1	1	0
Perusing Case, per printed sheet of 8 pages	1	1	0
Perusing Case, per duplicated sheet of 10 pages	1	1	0
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
Instructions to printer	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. (in Petitions)...	1	1	0
Letters, &c. (in Appeals) for 1st year	2	2	0
For each following year	1	1	0

II.

Council Office Fees

	£	s.	d.
Entering Appearance	1	5	0
Amending Appearance	0	12	6
Examining proof 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 Petition for special leave to appeal	2	10	0
Lodging any other Petition or Motion	1	5	0
Lodging Case or Notice under Rule 60...	2	10	0
Setting down Appeal (chargeable to Appellant only)	6	5	0
Setting down Petition for special leave to appeal (chargeable to Petitioner only)	2	10	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
Lodging Caveat	1	5	0

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.)

These Rules revoke and replace the Judicial Committee Rules, 1925, as amended, with certain modifications. The most important changes are as follows:—

1. Provision is made for the Records and Cases to be duplicated instead of printed.
2. At present a litigant cannot proceed *in forma pauperis* unless he proves he is not worth £25 in the world. £100 is now substituted for £25.
3. (*a*) The Council Office fees, other than the taxing fee, are increased by 25%.

(*b*) The taxing fee (which at present is at the rate of 2½% up to £300 and thereafter 1%) is to be at the rate of 2½% throughout.

KUWAIT

1957 No. 1526

The Kuwait (Amendment) Order, 1957

Made - - - -	*23rd August*, 1957
Laid before Parliament	*29th August*, 1957
Coming into Operation	*2nd September*, 1957

At the Court at Balmoral, the 23rd day of August, 1957

Present,

The Queen's Most Excellent Majesty in Council

Whereas by treaty, capitulation, grant, usage, sufferance and other lawful means Her Majesty the Queen has jurisdiction within the territories of the Ruler of Kuwait;

And Whereas provision was made for the exercise of such jurisdiction by the Kuwait Order, 1953(**a**) (hereinafter referred to as "the Principal Order") as amended by the Kuwait (Amendment) Order, 1954(**b**), and the Kuwait (Amendment) Order, 1956(**c**);

Now, therefore, Her Majesty, by virtue and in exercise of the powers in this behalf by the Foreign Jurisdiction Acts, 1890 and 1913(**d**), or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1.—(1) In sub-paragraph (ii) of paragraph (1) of Article 8 of the Principal Order (which brings within the provisions of the Order certain persons whom the Political Agent registers as being in the regular service of a person subject to the Order) for the words

"in the regular service of a person subject to this Order"

there shall be substituted the words

"in the regular service of Her Majesty's Government in the United Kingdom or of a representative of Her Majesty".

(a) S.I. 1953/1211 (1953 I, p. 931). (b) S.I. 1954/1702 (1954 I, p. 1029).
(c) S.I. 1956/828 (1956 I, p. 1113). (d) 53 & 54 Vict. c. 37 and 3 & 4 Geo. 5. c. 16.