STATUTORY INSTRUMENTS

1963 No. 789

JUDICIAL COMMITTEE

The Tanganyika (Pending Appeals to Privy Council) Order in Council 1963

Made - - - - 11*th April* 1963

At the Court at Windsor Castle, the 11th day of April 1963

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers conferred by section 2 of the Tanganyika Republic Act 1962(a), and 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) This Order may be cited as the Tanganyika (Pending Appeals to Privy Council) Order in Council 1963 and shall have effect from the 9th December 1962.

(2) In this Order—

" pending appeals " means appeals from the Court of Appeal for Eastern Africa on appeal from a Court or Judge in Tanganyika the records in which have been registered in the Privy Council Office before the 9th December 1962.

" the Committee " means the Judicial Committee of the Privy Council.

(3) Save as is otherwise required by the context, the Interpretation Act 1889(b) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

2. The Committee shall have jurisdiction to continue and dispose of the pending appeals.

3. The Judicial Committee Act 1833(c) shall apply in relation to the pending appeals subject to the exceptions and modifications set out in Schedule 1 to this Order.

4. The jurisdiction which is conferred on the Committee by this Order shall be exercised in accordance with the Judicial Committee Rules set out in the Schedule to the Order in Council dated the 20th day of December 1957(d) but the said Rules shall have effect in their application to that jurisdiction subject to the modifications set out in Schedule 2 to this Order.

5. Any report or recommendation made by the Committee in respect of the pending appeals shall be in such form as may appear convenient to the Committee and shall be delivered by the Registrar of the Privy Council to the Secretary of State for Commonwealth Relations for transmission to the President of Tanganyika.

6. The pending appeals shall abate if the hearing of the same by the Committee has not been completed on or before the 8th June 1964.

W. G. Agnew.

(a) 11 & 12 Eliz. 2. c. 1. (b) 52 & 53 Vict. c. 63.
(c) 3 & 4 Will. 4. c. 41. (d) S.I. 1957/2224 (1957 I, p. 1205).

SCHEDULE 1

APPLICATION OF THE JUDICIAL COMMITTEE ACT 1833

The provisions of the Judicial Committee Act 1833 set out in Part I of this Schedule shall not apply in relation to the pending appeals and the provisions of the said Act set out in the first column of Part II shall apply subject to the modifications set out in the second column.

PART I

Section 3	Section 16
Section 4	Section 20
Section 10	Section 21
Section 11	Section 23
Section 12	Section 24
Section 14	Section 31

PART II

(1)	(2)
Section 5	The words "to his Majesty" and the proviso shall be omitted.
Section 8	The following section shall be substituted:— "8. In any matter which shall come before the said judicial committee it shall be lawful for the said committee to direct or recommend that such witnesses shall be examined or re-examined, and as to such facts, as to the said committee shall seem fit, notwithstanding any such witness may not have been examined, or no evidence have been given on any such facts in a previous stage of the matter; and it shall also be lawful for the said committee upon any appeal, to recommend that the matter which shall be the subject of such appeal shall be remitted to the court from the decision of which such appeal shall have been made, and at the same time to recommend that such court shall rehear such matter, in such form, and either generally or upon certain points only, and upon such rehearing take such additional evidence, though before rejected, or reject such evidence before admitted, as the said committee shall recommend."
Section 9	For the words "or if a Quaker or a Moravian" the words "or if he or she so desires" shall be substituted.
Section 13	The following section shall be substituted:— "13. In any matter which shall come before the said judicial committee it shall be lawful for the said committee to recommend that a new trial be held either generally or as to certain points only."

(1)	(2)
Section 15	The following section shall be substituted:— "15. The said judicial committee may recommend to the President of Tanganyika by what party or parties, person or persons, the costs in any appeal shall be paid and such costs shall be taxed by the aforesaid registrar or such other person or persons, to be appointed by Her Majesty in Council, as the said committee shall direct."
Section 28	For the words "and his Majesty in council shall have and enjoy in all respects such and the same powers of enforcing judgments, decrees, and orders, as are" there shall be substituted the words "as is".

SCHEDULE 2

MODIFICATIONS OF THE JUDICIAL COMMITTEE RULES 1957 IN THE RELATION TO APPEALS FROM THE SUPREME COURT

1. Save as is otherwise provided in this Schedule or where the context otherwise requires, any references in the Rules to Her Majesty or Her Majesty in Council shall be construed as a reference to the President of Tanganyika acting on the recommendation of the Committee, and references to Orders of Her Majesty in Council shall be construed accordingly.

2. For the definition of "Appeal" in paragraph (1) of Rule 1 there shall be substituted the definition "'Appeal' means an appeal from the Court of Appeal for Eastern Africa on appeal from a Court or Judge in Tanganyika."

3. In the definition of "Record" in paragraph (1) of Rule 1 the words "proper to be laid before Her Majesty in Council on the hearing of the Appeal" shall be omitted.

4. Paragraph 1 of this Schedule shall not apply to the definition of "Agent" in paragraph (1) of Rule 1.

5. For the words "Her Majesty in Council" in the definition of "Party" in paragraph (1) of Rule 1 there shall be substituted the words "the Judicial Committee".

6. For the words "Her Majesty in Council" in paragraph (2) of Rule 1 there shall be substituted the words "the Judicial Committee" and for the words "Downing Street, London" shall be substituted the words "Old County Hall, Spring Gardens, London".

7. Rules 2 to 11 inclusive shall be omitted.

8. For the words "Her Majesty" in Rules 36 there shall be substituted the words "the President of Tanganyika".

9. Rule 37 shall be omitted.

10. For the words "Her Majesty" in Rule 56 there shall be substituted the words "the President of Tanganyika"

11. For the word "Orders" in Rule 75 there shall be substituted the word "recommendations".

12. For the words "given their decision" in Rule 77 there shall be substituted the words "announced their recommendation".

13. The following Rule shall be substituted for Rule 80:—

"80. A statement of the amount allowed by the Taxing Officer on taxation shall, subject to any appeal from his taxation to the Judicial Committee, and subject to any recommendation from the Committee to the contrary, be transmitted to the President of Tanganyika for insertion in the Order determining the appeal or Petition".

14. The following items in Part II of Schedule B shall be omitted, that is to say:—

	£	s.	d.
"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		6	6"

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 confer on the Judicial Committee of the Privy Council jurisdiction in respect of appeals from the Court of Appeal for Eastern Africa on appeal from a Court or Judge in Tanganyika the records in which have been registered in the Privy Council Office before Tanganyika became a Republic and to make provision regulating such appeals pursuant to arrangements made between Her Majesty's Government in the United Kingdom and the Government of Tanganyika. The Order is to have retrospective effect from the 9th December 1962 as provided for in section 2 (4) of the Tanganyika Republic Act 1962. Under this Order the Judicial Committee Act 1833 and the Judicial Committee Rules 1957 apply subject to the exceptions and modifications set out in the Schedules to the Order, to those appeals.