

NOTICES.

COLONIAL SECRETARY'S DEPARTMENT.

No. 207.—The following Order of His Majesty in Council is published for general information.

W. T. SOUTHORN,
Colonial Secretary.

8th April, 1927.

The Judicial Committee Rules, 1925.

(S.R. & O. 1925, No. 440, L. 4.)

AT THE COURT AT BUCKINGHAM PALACE,

THE 2ND DAY OF MAY, 1925.

PRESENT:

THE KING'S MOST EXCELLENT MAJESTY.

LORD PRESIDENT.

CHANCELLOR OF THE DUCHY OF

LORD CHAMBERLAIN.

LANCASTER.

SIR GEORGE LLOYD.

WHEREAS there was this day read at the Board a representation from the Judicial Committee of the Privy Council in the words following, *viz.*:—

“The Lords of the Judicial Committee having taken into consideration the Practice and Procedure in accordance with which the general Appellate Jurisdiction of Your Majesty in Council is now exercised and being of opinion that the Rules regulating the said Practice and Procedure ought to be amended Their Lordships do hereby agree humbly to recommend to Your Majesty that with a view to such amendment certain Orders in Council regulating the said Practice and Procedure, *viz.*, the Orders in Council dated respectively the 21st day of December, 1908, (a) the 23rd day of May, 1916, (b) the 25th day of March, 1920, (c) the 9th day of March, 1921, (d) and the 15th day of March, 1922, (e) amending the said Practice and Procedure ought to be revoked as from the 1st day of January, 1926, and that the several Rules hereunto annexed ought to be substituted therefor and ought to come into operation on that date.”

His Majesty having taken the said representation into consideration was pleased, by and with the advice of His Privy Council, to approve thereof and to order, as it is hereby ordered, that the said Orders in Council in the said representation mentioned be and the same are hereby revoked as from the 1st day of January, 1926, and that the Rules hereunto annexed be substituted therefor to come into operation on that date.

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

M. P. A. HANKEY.

(a) S.R. & O. 1908, No. 1288.

(b) S.R. & O. 1919, No. 1810.

(c) S.R. & O. 1922, No. 789.

(d) S.R. & O. 1922, No. 278 (not printed in S.R. & O. form.)

(e) S.R. & O. 1922, No. 279.

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

Interpreta-
tion.

“Appeal” means an Appeal to His 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 His 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 His Majesty in Council on behalf of another”;

“Party” and all words descriptive of parties to proceedings before His 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 His 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.

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 His Majesty in Council upon a Petition in that behalf presented by the intending Appellant.

Leave to
appeal
generally.

Special leave to appeal.

3. A Petition for special leave to appeal to His 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 His 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.

Form of
Petition for
special leave
to appeal.

4. The Petitioner shall lodge at least five copies of his Petition for special leave to appeal together with the Affidavit in support thereof prescribed by Rule 50 hereinafter contained, 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.

Five copies
of Petition
to be lodged
together with
Affidavits in
support.

5. A Petition for special leave to appeal may be lodged at any time after the date of the judgment sought to be appealed from, but the Petitioner shall, in every case, lodge his Petition with the least possible delay.

Time for
lodging
Petition.

Security for costs and transmission of Record.

6. Where the Judicial Committee agree to advise His 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 £25 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 His 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 His 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 His 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 His 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 the 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 His 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 of Record.

12. The Record shall be printed in accordance with the Rules contained in Schedule A hereto. It may be printed either abroad or in England. When 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.

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.

Number of copies to be transmitted, where Record printed abroad.

14. Where the Record is to be printed 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 Agent in England by or on behalf of the parties to the Appeal.

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

15. Where part of the Record is printed abroad and part is to be printed 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 in England respectively.

Record printed partly abroad, partly in England.

16. The reasons given by the judge, or any of the judges, for or against any judgments 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.

Reasons for judgments to be included.

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 duplication of documents and the unnecessary repetition of headings and other merely formal parts of documents; but the documents omitted to be printed or copied shall be enumerated in a type-written list to be transmitted with the Record.

Exclusion of unnecessary documents from Record.

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 (whether abroad or 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.

Documents objected to to be indicated.

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 Record are received in the said Registry.

Registration and numbering of Records.

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

Inspection of Record by parties.

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.

Appearance by Appellant.

22. Where the Record arrives in England either wholly written, or partly written and partly printed, the Appellant shall, within a period of four months from the date of such arrival in the case of Appeals from Courts situate in any of the countries or places named in Schedule B hereto, and

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

within a period of two months from the same date in the case of Appeals from any other Courts, 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 following rates per folio typed (exclusive of tabular matter)—*2d.* per folio of English matter, *2½d.* per folio of Indian matter, and *3½d.* per folio of foreign matter; and shall also engage to pay at such price as shall be fixed by the Registrar of the Privy Council the cost of printing at least 50 copies thereof.

Preparation of copy of Record for printer.

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 the printer, 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 the printer, 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.

24. As soon as the typewritten copy of the Record is ready for the printer, the Appellant shall lodge it in the Registry of the Privy Council for printing by a printer selected by the Registrar of the Privy Council, and at the same time shall lodge the amount of the estimated cost of printing 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 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 proof prints 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 proof prints and compare the same with the certified Record, and shall, for that purpose, furnish each of the said parties with one proof print. After the examination has been completed, the Appellant shall, without delay, lodge his proof print, 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 print.

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 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 of the Record shall form part of the costs of the Appeal, but the costs of and incidental to the printing 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.

29. The Appellant shall lodge his Petition of Appeal—

- (a) Where the Record arrives in England printed, within a period of four months from the date of such arrival in the case of Appeals from Courts situate in any of the countries or places named in Schedule B hereto, and within a period of two months from the same date in the case of Appeals from any other Courts;
- (b) Where the Record arrives in England written, within a period of one month from, but not before, the date of the completion of the printing thereof;

Times within which Petition shall be lodged.

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 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.

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.

Form 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.

Service of Petition.

Withdrawal of Appeal.

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 before 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 His 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.

Withdrawal of Appeal after Petition of Appeal has been lodged.

Non-Prosecution of Appeal.

34. Where an Appellant takes no step in prosecution of his Appeal within a period of four months from the date of the arrival of the Record in England in the case of an Appeal from a Court situate in any of the countries or places named in Schedule B hereto, or within a period of two months from the same date in the case of an Appeal from any other Court, 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 where Appellant takes no steps in prosecution thereof.

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 periods prescribed by, Rule 22; or
- (b) having bespoken such copy within the periods 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 of the said Record; or
- (c) fails to lodge his Petition of Appeal within the periods respectively prescribed by Rules 29;

the Registrar of 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 effectually 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 defaults, 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 His 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 His 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.

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.

Non-appearing Respondent not entitled to receive notices or lodge Case.

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:—

Procedure on non-appearance of Respondent.

(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 His 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 His 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 three 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 His 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 three months from the date on which he shall have been served with a copy of His 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.

44. A Respondent who desires to defend an Appeal *in formâ pauperis* may present a Petition to that effect to His Majesty in Council, which Petition shall be accompanied by an Affidavit from the Petitioner stating that he is not worth £25 in the world excepting his wearing apparel and his interest in the subject-matter of the Appeal.

Respondent defending Appeal *in formâ pauperis*.

Petitions generally.

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 His Majesty in Council, but a Petition which is properly addressed to His Majesty in

Mode of addressing Petitions.

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 brief 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 five 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 papers 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 but the Petitioner may appeal, by way of motion, from such refusal to the Judicial Committee.

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

Setting down
Petition.

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 has 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.

Times within
which
set-down
Petitions
shall be
heard.

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.

Notice to
parties of day
fixed for
hearing
Petition.

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 His 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.

Procedure
where
Petition is
consented to
or is formal.

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 Petitioner 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.

Withdrawal
of Petition.

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.

Procedure
where
hearing of
Petition
unduly
delayed.

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

Only one
Counsel heard
on a side in
Petitions.

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.

Lodging of
Case.

61. The Case may be printed either abroad or in England, and shall, in either event, be printed in accordance with the Rules I to III contained in Schedule A hereto, every tenth line thereof being numbered in the margin, 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.

Printing of
Case.

Number of
prints to be
lodged.

62. Each party shall lodge 30 prints of his Case.

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 shall, as far as practicable, be printed in the margin, and care shall be taken to avoid, as far as possible, the reprinting in the Case of long extracts from the Record. The Taxing Officer, in taxing the cost 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 latter 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 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
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 ten 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 or in half leather with paper sides, and six leaves of blank paper shall be inserted before the Appellant's Case. The front cover shall bear a printed 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.

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

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.

Notice to parties of day fixed for hearing Appeal.

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

Only two Counsel heard on a side in Appeals.

73. In Admiralty Appeals the Judicial Committee may, if they think fit, require the attendance of two Nautical Assessors.

Nautical Assessors.

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.

Notice to parties of day fixed for delivery of Judgment.

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 C hereto.

Taxation of costs.

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

What costs taxed in England.

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.

Order to tax.

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.

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

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.

Appeal from decision of taxing Officer.

Amount of taxed costs to be inserted in His 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 to the contrary, be inserted in His 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 Council, 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 His 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 His 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 His 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 His 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 His 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 His Majesty in Council.

Mode of citation and date of operation.

88. These Rules may be cited as the Judicial Committee Rules, 1925, and they shall come into operation of the 1st day of January, 1926.

Schedule A.

Rules as to Printing.

I. All Records and other proceedings in Appeals or other matters pending before His 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 $8\frac{1}{2}$ 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 printed 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 printed Index.

The parties will be responsible for arranging 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" against it.

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

Countries and places referred to in Rules 22, 29 and 34.

Australia.	Fiji.
British Honduras.	Hong Kong.
British North Borneo.	India.
Brunei.	Mauritius.
Ceylon.	New Zealand.
China.	Persia.
Eastern African Dependencies.	Seychelles.
Falkland Islands.	Somaliland Protectorate.
Federated Malay States.	Straits Settlements.

Schedule C.

I.

FEES ALLOWED TO AGENTS CONDUCTING APPEALS OR OTHER MATTERS BEFORE THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL.

(33 $\frac{1}{3}$ 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 print of Record with the certified Record	3	3	0
per half-day	1	11	6
Correcting revised print of Record, per sheet of 8 pages :—			
Foreign or Indian cases	1	1	0
Other cases	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
Copying Petition, Motion, Case or Affidavit per folio	0	0	6
Correcting proof of Case, per sheet of 8 pages :—			
Foreign or Indian cases	1	1	0
Other cases	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

	£	s.	d.
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	0	0
Amending Appearance	0	10	0
Examining proof print of Record with the certified record at the Registry (chargeable to Appellant only)	2	0	0
Registry (chargeable to Appellant only)	1	0	0
Lodging Petition of Appeal	3	0	0
Lodging Petition for special leave to appeal	2	0	0
Lodging any other Petition or Motion	1	0	0
Lodging Case or Notice under Rule 60	2	0	0
Setting down Appeal (chargeable to Appellant only)	5	0	0
Setting down Petition for special leave to appeal (chargeable to Petitioner only)	2	0	0
Setting down any other Petition (chargeable to Petitioner only)	1	0	0
Summons	1	0	0
Committee Report on Petition	2	0	0
Committee Report on Appeal	3	0	0
Original Order of His Majesty in Council determining an Appeal	5	0	0
Any other original Order of His Majesty in Council	3	0	0
Plain copy of an Order of His Majesty in Council	0	5	0
Original Order of the Judicial Committee	2	0	0
Plain copy of Committee Order	0	5	0
Lodging Affidavit	0	10	0
Certificate delivered to parties	0	10	0
Lodging Caveat	1	0	0
Subpœna to witnesses	0	10	0
Taxing Fee 6d. for each pound allowed, or a fraction thereof, up to £300, and one per cent. beyond that sum, calculated at the rate of 5s. for each £25, or a portion thereof.			