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STATUTORY INSTRUMENTS

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**2013 No. 246**

**JUDICIAL COMMITTEE**

**The Judicial Committee (Appellate  
Jurisdiction) Rules (Amendment) Order 2013**

*Made* - - - - *12th February 2013*

*Coming into force* - - *1st April 2013*

At the Court at Buckingham Palace, the 12th day of February 2013

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by and with the advice of Her Privy Council, in exercise of the powers conferred by section 24 of the Judicial Committee Act 1833(1), section 1 of the Judicial Committee Act 1844(2), section 17 of the Veterinary Surgeons Act 1966(3) and section 1 of the Brunei (Appeals) Act 1989(4), orders as follows:

**Citation and commencement**

1. This Order may be cited as the Judicial Committee (Appellate Jurisdiction) Rules (Amendment) Order 2013 and shall come into force on 1st April 2013.

**Interpretation**

2. In this Order, a rule referred to by number means the rule so numbered in the Judicial Committee (Appellate Jurisdiction) Rules 2009(5) and the Appendix means the Appendix to those Rules.

**Amendments to the Judicial Committee (Appellate Jurisdiction) Rules 2009**

3. The Schedule to this Order contains amendments to the Judicial Committee (Appellate Jurisdiction) Rules 2009.

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(1) [1833 c.41.](#)

(2) [1844 c.69.](#)

(3) [1966 c.36.](#)

(4) [1989 c.36.](#)

(5) The Judicial Committee (Appellate Jurisdiction) Rules 2009 are contained in the Schedule to the Judicial Committee (Appellate Jurisdiction) Rules Order 2009, [SI 2009/224.](#)

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*Richard Tilbrook*  
Clerk of the Privy Council

## THE SCHEDULE

Article 3

### Amendments to the Judicial Committee (Appellate Jurisdiction) Rules 2009

1. In the heading to rule 1 (Scope) there shall be added “and objective” and after rule 1(2), there shall be inserted the following—

“(3) The rule in Part 9 of this Schedule applies to appeals against draft Pastoral Schemes and the rules in Part 10 of this Schedule provide the procedure where matters are referred under section 4 of the Judicial Committee Act 1833 to the Judicial Committee for the Committee to hear or consider and to give advice to Her Majesty.

(4) These Rules must be applied and interpreted with a view to securing that the Judicial Committee is accessible, fair and efficient and that unnecessary disputes over procedural matters are discouraged.”.

2. Rule 2(1) (Interpretation) shall be amended by inserting, after “certificate of service”, the following—

“‘certificate of value’ means a certificate given under rule 7(6);”.

3. Rule 7 (Filing) shall be amended by inserting, after paragraph (5), the following—

“(6) An appellant must file with an application for permission to appeal or a notice of appeal a certificate of value in accordance with paragraph (7).

(7) In a certificate of value, the appellant must state—

- (a) the sum of money or the amount of damages he is claiming;
- (b) the sum of money or the amount of damages he has been awarded;
- (c) the value of the land or property which is the subject of the appeal or
- (d) the monetary value of the relief he is seeking is—
  - (i) not more than GBP£100,000,
  - (ii) more than GBP£100,000 but not more than GBP£500,000, or
  - (iii) more than GBP£500,000.

(8) When calculating the amount or value to be specified in a certificate of value, an appellant must disregard any possibility that he may recover interest or costs.

(9) Where an appellant is unable to quantify the amount or value to be specified in a certificate of value, he must file a signed statement to that effect and the minimum fees provided for by the Appendix to these Rules will be payable.”.

4. Rule 13(1) (time limit for filing notice of objection by respondent) shall be amended by substituting “28 days” for “14 days”.

5. For rule 18(2) (filing of notice of appeal), there shall be substituted the following—

“(2) The notice of appeal together with the requisite number of copies must be filed within 56 days of the date of the order or decision of the court below granting permission or final leave to appeal.”.

6. Rule 21(1) (time limit for filing statement of facts and issues) shall be amended by substituting, for the words from “Within” to “notice of appeal”, the words “Within 42 days after the receipt by the Registrar of the record”.

7. For rule 29 there shall be substituted the following—

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**“Judgment**

- 29.** A judgment may be—
- (a) delivered in open court; or
  - (b) if the Board so directs, promulgated by the Registrar.”.
- 8.** For rule 38(3) (Financially assisted persons) there shall be substituted the following—
- “(3) Where a certificate under paragraph (2) has effect in relation to an appellant, the appellant will be entitled to remission or reduction of any liability for fees which are payable under these Rules.”.
- 9.** After rule 38(4), there shall be inserted the following—
- “(5) This rule shall apply to respondents as it applies to appellants with such modifications as may be necessary.”.
- 10.** For rule 42 (Fees), there shall be substituted the following—
- “**42.**—(1) Unless and except in so far as the fees are remitted or reduced because of the party’s status as a financially assisted person, every party in civil proceedings taking a step described in column 1 of the table in the Appendix to these Rules must pay fees in the amounts set out in column 2, according to the value of the appeal as stated in the certificate of value provided under rule 7(6).
- (2) The Registrar may refuse to accept a document or refuse to allow a party to take any step unless the relevant fee is paid.”.
- 11.** For rule 46(1) (Assessment of costs) there shall be substituted the following—
- “(1) The Registrar or a Costs Judge will assess costs in accordance with these Rules.”.
- 12.** After rule 46(2), there shall be inserted the following—
- “(3) Where one of the parties so requests or in the circumstances specified in the relevant practice direction, the Registrar may make a provisional assessment of costs without the attendance of the parties.
- (4) The Registrar must inform the parties in writing of the outcome of a provisional assessment and, if a party is dissatisfied with the outcome and points of disagreement cannot be resolved in correspondence, the Registrar shall appoint a date for an oral hearing.
- (5) Any request for an oral hearing following a provisional assessment of costs must be made within 14 days of the receipt of the Registrar’s decision on the assessment.”.
- 13.** Rule 49 (costs of financially assisted persons) shall be omitted.
- 14.** After rule 54, there shall be inserted the following—

**“PART 9**

**Appeals against draft Pastoral Schemes**

**Appeals against draft Pastoral Schemes**

**55.** The provisions of Parts 1 to 6 of these Rules (except rule 7(6)), and the Practice Directions which supplement them, shall be applied with such modifications and variations

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as may be required to applications for leave to appeal and appeals against draft pastoral schemes(6).

## PART 10

### References to the Judicial Committee

#### References under section 4 of the Judicial Committee Act 1833

**56.** Subject to the provisions of this Part, where a reference is made to the Judicial Committee, the provisions of Parts 1 to 6 of these Rules, and the Practice Directions which supplement them, shall be applied with such variations or modifications as may be required by the particular circumstances of the reference.

**57.** The person at whose request the reference was made (in this Part referred to as “the applicant”) must, within 21 days after the making of the reference—

- (a) provide the Registrar with the name and address of any person who is affected by the reference (in this Part referred to as “the respondent”); and
- (b) supply the Registrar with the names, addresses and contact details of the applicant’s legal representatives and (if known) of the respondent’s legal representatives.

**58.—**(1) At least 8 weeks before the hearing, the applicant must file 12 copies of an appendix of the essential documents which are necessary for consideration of the matter referred.

(2) The appendix must be submitted to, and agreed with, every respondent before being filed.

(3) The applicant and every respondent must then sequentially exchange their respective written cases and file 12 copies of them.

**59.** The Judicial Committee may make such orders as it considers just in respect of the reference or other proceeding on the reference before the Judicial Committee and it may, during the course of the proceedings, order the applicant to make a payment on account of the respondent’s costs in such sum as it considers fit.”.

**15.** For the Appendix there shall be substituted the following—

#### APPENDIX

Rule 42

#### Fees to be taken

<i>Column 1</i>	<i>Column 2</i>		
<i>Number and description of fee</i>	<i>Amount of Fee</i>		
	Appeal value up to £100,000	Appeal value up to	Appeal value over £500,000

(6) The [Mission and Pastoral Measure 2011 \(2011 No.3\)](#) provides for appeals to be made to the Judicial Committee against draft pastoral schemes made by the Church Commissioners.

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<i>Column 1</i>	<i>Column 2</i>		
<i>Number and description of fee</i>	<i>Amount of Fee</i>		
		£100,000 – £500,000	
1. On filing an application for permission to appeal	£150	£500	£1000
On filing notice under rule 17(1)	£100	£800	£1600
On filing a notice of appeal	£100	£800	£1600
2. On filing a notice of objection by a Respondent	£160	£160	£160
On filing an acknowledgement by a Respondent	£160	£160	£160
3. On filing an incidental application	£100		
On filing a notice of objection to an incidental application	£70		
On filing an application to appeal the Registrar's decision	£100		
4. On filing a case	£400	£2500	£5000
5. On request for a copy of a document			
(a) for ten pages or less		£5	
(b) for each subsequent page		50p	
6. On filing a request for an assessment of costs		2.5% of the sum claimed + 2.5% of the sum allowed	
7. On an appeal against a decision made on an assessment of costs		£150	
8. Certified documents		£20	

### EXPLANATORY NOTE

*(This note is not part of the Order.)*

This Order amends the rules which govern the practice and procedure for appeals to the Judicial Committee of the Privy Council, the Judicial Committee (Appellate Jurisdiction) Rules 2009.

One of the main changes effected by this Order is to introduce a revised fee structure under which the amount of the fee depends upon the value of the appeal, that is, the sum of money sought to be recovered or the value of the land, property or relief which is the subject of the appeal. The amendment to Rule 7 introduces the requirement to provide a certificate of value.

A number of other amendments are made.

Rule 1 is amended to provide an overriding objective for the Rules in terms similar to that which applies to appeals to the Supreme Court of the United Kingdom.

The amendment to rule 13 increases the time limit within which a respondent to an application for permission to appeal has to file a notice of objection.

The amendment to rule 18 makes it clear that a notice of appeal is to be filed within 56 days of the date of the Order granting final leave to appeal following the decision in *E. Anthony Ross v. Bank of Commerce (Saint Kitts Nevis) Trust and Savings Association Limited* [2010] UKPC 26.

The amendment to rule 21 amends the time limit by which the statement of facts and issues is to be filed so that the time limit runs from the receipt by the Registrar of the record.

Rule 29 is amended to enable the Registrar to promulgate a judgment if the Board so directs.

The amendment to rule 38 restricts the effect of the financially assisted persons scheme. Where a certificate is given under rule 38, a party will be entitled to remission or reduction of the fees which are payable under the Rules but the grant of a certificate will no longer affect a party's liability for costs. In future, it will be for the Judicial Committee to decide what orders for costs should be made and, as a consequence, rule 49 is omitted. The amendment to rule 38 extends the scope of the financially assisted persons scheme to respondents.

The other amendments bring the procedure of the Judicial Committee into line with that which applies in the Supreme Court of the United Kingdom. Rule 29 enables the Registrar to promulgate judgments if the Board so directs and the amendment to Rule 46 enables the Registrar to conduct a provisional assessment of costs without the attendance of the parties. Rule 46 is also amended to reflect the current practice whereby the assessment of costs is conducted by a Costs Judge sitting alone.

Finally two new Parts are added to the 2009 Rules. The first supplements the provisions relating to appeals against Pastoral Schemes and the second provides the procedure where a reference is made to the Judicial Committee. Under section 4 of the Judicial Committee Act 1833, matters may be referred to the Committee to hear or consider and for the Committee then to give advice to Her Majesty. References are commonly made where, after the report of a tribunal of inquiry, it is sought to remove a Judge from office on the ground of misconduct.