

SCHEDULE

THE JUDICIAL COMMITTEE (DEVOLUTION ISSUES) RULES 1999

PART II

PROCEEDINGS UNDER THE SCOTLAND ACT 1998

Interpretation of Part II

2.1 In this Part, except where the context otherwise requires, references by number to sections and to paragraphs of Schedule 6 are references to those provisions of the Scotland Act 1998(1).

References under section 33

2.2.—(1) A reference by a Law Officer to the Judicial Committee under section 33 shall be made by—

- (a) lodging the reference, and
- (b) serving a copy on the other Law Officers,

within the time limits specified in section 33(2).

(2) The reference shall state—

- (a) the question to be determined with respect to the Bill to which the reference relates,
- (b) whether it applies to the whole Bill or to a provision of it.

(3) The reference shall have annexed to it a copy of the Bill to which it relates.

(4) In this and the next two rules “Law Officer” does not include the Attorney General for Northern Ireland.

2.3 Any Law Officer (other than the one making the reference) who wishes to participate in the proceedings shall within 14 days of service of the reference on him enter an appearance and serve notice of having done so on the other Law Officers; and he shall thereupon become a respondent to the proceedings.

2.4.—(1) The Law Officer making the reference shall, within 14 days of lodging it, lodge a Case with respect to the question referred.

(2) The referring Law Officer’s Case shall include a copy of any statement made in relation to the Bill in accordance with section 31 and any relevant extracts from the Official Report of proceedings in the Parliament.

(3) Any other Law Officer who is participating in the proceedings shall lodge a Case with respect to the question referred within 14 days of entering an appearance.

References under paragraph 34 of Schedule 6

2.5.—(1) A reference by a Law Officer to the Judicial Committee under paragraph 34 of Schedule 6 shall be made by lodging the reference and serving a copy on the other Law Officers.

(2) The reference shall state the question to be determined.

(3) In a case to which paragraph 35 of Schedule 6 applies the reference shall be accompanied by a certificate that paragraph 35(2) has been complied with.

(1) 1998 c. 46.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

2.6 Any Law Officer (other than the one making the reference) who wishes to participate in the proceedings shall enter an appearance within 14 days of service of the reference on him and serve notice of having done so on the other Law Officers; and he shall thereupon become a respondent to the proceedings.

2.7.—(1) Each party to the proceedings shall lodge a Case with respect to the question referred.

(2) The Law Officer making the reference shall lodge his Case within two months of lodging the reference, and each respondent shall lodge his Case within two months of entering an appearance.

Reference by courts

2.8.—(1) A reference to the Judicial Committee under paragraph 10, 11, 22, 30, 32 or 33 of Schedule 6 shall be made by lodging the reference.

(2) The court lodging the reference shall serve copies of it on the parties and on any Law Officer who is not already a party and who has a potential interest in the proceedings.

(3) For the purposes of this rule and rules 2.10, 2.11 and 2.12 Law Officers shall be regarded as having a potential interest as follows—

- (a) where the reference or appeal is from a court in Scotland or from the House of Lords in Scottish proceedings, the Lord Advocate and the Advocate General;
- (b) where the reference or appeal is from a court in England and Wales or from the House of Lords in proceedings that originated in England and Wales, the Attorney General and the Lord Advocate;
- (c) where the reference or appeal is from a court in Northern Ireland or from the House of Lords in proceedings that originated in Northern Ireland, the Attorney General for Northern Ireland and the Lord Advocate.

2.9.—(1) The reference shall set out the following—

- (a) the question referred;
- (b) the addresses of the parties;
- (c) the name and address of the person who applied for or required the reference to be made;
- (d) a concise statement of the background to the matter including—
 - (i) the facts of the case, including any relevant findings of fact by the referring court or lower courts; and
 - (ii) the main issues in the case and the contentions of the parties with regard to them;
- (e) the relevant law, including the relevant provisions of the Scotland Act 1998(2);
- (f) the reasons why an answer to the question is considered necessary for the purpose of disposing of the proceedings.

(2) All judgments already given in the proceedings, including copies of any interlocutors and any notes attaching to such interlocutors, shall be annexed to the reference.

2.10.—(1) Any party to the proceedings in the court making the reference who intends to participate in the proceedings in the Judicial Committee shall within 14 days of service of the copy reference on him—

- (a) enter an appearance; and
- (b) give notice to the other parties that he has done so.

(2) 1998 c. 46.

(2) Any party who does not intend to participate shall give notice in writing to the Registry and the other parties accordingly.

(3) Where notice has to be given under this rule it shall also be given to any Law Officer who is not already a party and who has a potential interest in the proceedings.

2.11.—(1) Any Law Officer who is not already a party to the proceedings may intervene in the proceedings on the reference by taking the steps specified in paragraph (2) below within 14 days; and he shall thereupon become a party to the proceedings or the reference.

(2) The steps are—

- (a) entering an appearance; and
- (b) giving notice of having done so to the parties, the Law Officers with a potential interest (as defined in rule 2.8(3) above) and, in the case of a reference under paragraph 33 of Schedule 6, the court making the reference.

Appeals

2.12.—(1) A person who desires to appeal to the Judicial Committee—

- (a) under paragraph 12 of Schedule 6, or
- (b) having obtained the necessary leave to appeal from the court appealed from, under paragraphs 13, 23 or 31 of Schedule 6,

shall lodge a petition of appeal within six weeks of the date on which the order appealed from was made or leave to appeal was granted, as the case may be.

(2) A person who desires to appeal to the Judicial Committee under paragraphs 13, 23 or 31 of Schedule 6, having obtained special leave to appeal from the Judicial Committee, shall lodge a petition of appeal within 14 days of the grant of special leave.

(3) The appellant shall serve a copy of the petition on all the other parties and on any Law Officer who is not already a party and who has a potential interest in the proceedings.

(4) Any Law Officer who is served with a copy of a petition of appeal under this rule may intervene in the proceedings on the appeal in the Judicial Committee if within 14 days of service of the petition on him he enters an appearance and gives notice of having done so to the parties; and he shall thereupon become a respondent to the appeal.