

## SCHEDULE

### THE JUDICIAL COMMITTEE (DEVOLUTION ISSUES) RULES 1999

#### PART V

#### COMMON RULES

##### Chapter 1

##### Special leave to appeal

**5.1.**—(1) Special leave to appeal to the Judicial Committee may be sought only if leave to appeal has been applied for and refused by the court below.

(2) The provisions of this chapter apply, with necessary modifications, to petitions for special leave to cross-appeal as they apply to petitions for special leave to appeal.

##### **Time limits**

**5.2.**—(1) A petition for special leave to appeal shall be lodged within 28 days of the date on which the judgment appealed from was made.

(2) A petition lodged after the prescribed time limit has expired must state that it is out of time.

(3) A petition for special leave to appeal out of time shall first set out the reasons why the petition was not lodged within the time limit. The reasons should not normally exceed a paragraph in length.

(4) A petition for special leave to appeal lodged more than three months after the date of the judgment appealed from will be allowed only in exceptional circumstances.

##### **Form of petition**

**5.3.**—(1) A petition for special leave to appeal shall—

- (a) briefly set out the facts and points of law involved in the appeal;
- (b) conclude with a summary of the reasons why special leave to appeal should be granted; and
- (c) not normally be accompanied by supporting documents except those specified in rule 5.7(1).

(2) Amendments to existing petitions and supplementary petitions will be allowed only in exceptional circumstances.

**5.4** Petitions must be—

- (a) set out in numbered paragraphs; and
- (b) signed by the petitioners or their counsel or solicitors.

**5.5** In any petition where in the courts below the title used for the proceedings has been such as to conceal the identity of any person this fact should be clearly drawn to the attention of the Registry at the time the petition is lodged, so that the title adopted in the Judicial Committee may take due account of the need to protect the identity of the person in question.

##### **Service of petition**

**5.6** A copy of the petition must be served on the respondents.

*Status: This is the original version (as it was originally made).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

### **Lodgement of petition**

**5.7.**—(1) The original and six copies of the petition must be lodged in the Registry, together with seven copies of each of the following—

- (a) the order appealed from;
- (b) the judgment appealed from; and
- (c) if separate, the order of the court below refusing leave to appeal to the Judicial Committee.

(2) If the judgment and orders are not immediately available, the petition should be lodged in time and the judgment and orders lodged as soon as possible thereafter.

### **Entry of appearance by respondent**

**5.8.**—(1) A respondent who intends to participate in the proceedings in the Judicial Committee shall enter an appearance to a petition for special leave within 14 days of receiving service of it and inform the petitioner he has done so.

(2) A respondent who intends to take no part in the proceedings before the Judicial Committee should notify the Registry in writing of that fact.

(3) Communications from the Registry concerning the petition will be sent only to those who have entered an appearance.

### **Reference of petition to a Board**

**5.9** On presentation to the Judicial Committee a petition for special leave to appeal will be referred to a Board.

### **Additional papers for use by the Board**

**5.10.**—(1) The following additional papers must be lodged within 7 days of lodgement of the petition—

- (a) seven copies of the order of the court of first instance;
- (b) seven copies of the judgment (if any) of the court of first instance.

No other papers are required, and documents other than those listed above and in rule 5.7(1) will not normally be received.

(2) Where the necessary papers are not lodged within three months of presentation of the petition, and no good reason for such failure is given, the petition may, at the direction of the Registrar, be referred to the Board without the papers.

### **Submissions in writing and disposal without a hearing**

**5.11.**—(1) If a petition is admissible, the Board will consider whether or not special leave to appeal should be granted and may—

- (a) refuse special leave at that stage without a hearing; or
- (b) invite any or all of the parties to lodge submissions in writing on such matters connected with the petition as may be specified.

(2) Parties invited to lodge submissions will be informed of the date by which they may do so. Five copies should be lodged by that date. The Registry should be informed by the same date if no such submissions are to be made.

(3) Having considered the written submissions of the parties, the Board may either grant or refuse special leave to appeal without a hearing, and parties will be notified of that result.

- (4) At any stage the Board may direct that the petition be referred for an oral hearing.

**Oral hearing**

**5.12.**—(1) If a petition for special leave to appeal is referred for an oral hearing, the petitioner and all respondents who have entered an appearance will be notified of the date appointed for the hearing. Once referred for an oral hearing a petition may be listed at any time, possibly at short notice.

- (2) If counsel is briefed, the Registry must be notified of the name.
- (3) Only one counsel may be heard for each party.
- (4) Authorities may not be cited without the leave of the Board.