

SCHEDULE

THE JUDICIAL COMMITTEE (DEVOLUTION ISSUES) RULES 1999

PART V

COMMON RULES

Chapter 4

Miscellaneous

Legal aid

5.47.—(1) A party to whom a legal aid certificate has been issued for the appeal must immediately lodge the certificate, or a copy of it, in the Registry.

(2) Where applicable an emergency certificate, and subsequent amendments, and the authority for leading counsel, must also be lodged.

(3) Where a prospective petitioner or appellant has applied for legal aid, the Registry and the other parties to the proposed petition or appeal must be informed in writing within the original time limit for lodging the petition. The period within which a petition may be lodged will then be extended to 28 days after the final determination of the legal aid application.

(4) Where a respondent to an appeal has applied for legal aid, the Registry must be informed within the original time limit for lodging the statement and appendix. That time limit will then be extended to six weeks after the final determination of the legal aid application.

(5) The person applying for legal aid must inform the Registry and the other parties in writing immediately the application is finally determined indicating the date of the determination.

(6) Where a legal aid certificate is granted, the date of final determination is the date of issue of the certificate. Where legal aid is refused the date of final determination is the date of issue of the letter of refusal.

Cross-appeals

5.48.—(1) A petition of cross-appeal must be presented within six weeks of the presentation of the original appeal.

(2) Argument in respect of a cross-appeal must be included by each party in their Case in the original appeal. Such an inclusive Case must clearly state that it is lodged in respect of both the original and cross-appeals.

(3) Documents in respect of both the original appeal and the cross-appeal should be included in one appendix. Lodgement of the statement and appendix, and setting down for hearing, are the responsibility of the original appellant.

References to the European Court of Justice

5.49.—(1) An order by the Judicial Committee referring a question to the Court of Justice of the European Communities (“the European Court”) for a preliminary ruling may be made on its own motion at any stage of proceedings or on the application of a party by notice of motion before the hearing.

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(2) The proceedings in which an order is made shall, unless the Judicial Committee otherwise orders, be stayed until the European Court has given a preliminary ruling on the question referred to it or the reference is withdrawn.

Consolidation and conjoinder

5.50.—(1) Where the issues in two or more appeals are similar, they may be consolidated or conjoined to avoid, wherever possible, separate representations by counsel or any duplication in the submissions made.

(2) Applications to consolidate or to conjoin appeals and other incidental applications must be made by petition.

(3) The petition should be signed by all the petitioners or their solicitors and must be submitted to the solicitors for all the other parties who have entered appearance for the endorsement of their consent. If consent is refused, the petition must be endorsed with a certificate that it has been served on the solicitor in question.

(4) If all parties consent to or join in the petition, one copy only of the petition should be lodged. If any party refuses consent, rule 5.52 shall apply.

Withdrawal of petitions and appeals

5.51.—(1) Subject to the provisions of this rule—

- (a) a petition for special leave to appeal; or
- (b) an appeal;

may be withdrawn by giving notice in writing to the Registrar, copied to the respondent.

(2) Where the parties are agreed as to the terms on which the petition or appeal is to be withdrawn—

- (a) the notice to the Registrar should briefly indicate the terms of the agreement; and
- (b) the respondent shall confirm his agreement to the Registrar in writing.

(3) Subject to paragraph (4) below and to any agreement between the parties, the petitioner or appellant shall be liable to pay the respondent's costs on the standard basis.

(4) Any party who wishes to oppose the withdrawal of the appeal or petition, or who seeks terms for the withdrawal other than those provided for in this rule, may lodge a petition seeking some other order.

Incidental petitions and motions

5.52.—(1) Unless the Registrar directs otherwise, incidental petitions (including any interlocutory petition which relates to a petition of appeal) shall be referred to a Board.

(2) The original and six copies of the petition must be lodged and a copy served on the other party.

(3) If an oral hearing is ordered the parties may apply to the Registrar to lodge affidavits and such other documents as they may wish. In addition to the original, six copies will be required. Copies of such documents must be served on the other parties not less than seven days before the hearing.

(4) This rule shall apply, with appropriate modifications, to notices of motion as it applies to incidental petitions.

New submissions

5.53 If, after the conclusion of the argument of an appeal, a party wishes to bring to the notice of the Judicial Committee new circumstances which have arisen and which might affect the decision

or order of the Judicial Committee, application must be made forthwith to the Registrar for leave to make new submissions. The application should indicate the circumstances and the submissions it is desired to make, and a copy must be sent to the other parties to the appeal.

Interveners

5.54.—(1) Except as otherwise provided by these rules, leave to intervene in proceedings is required and must be applied for by petition. The petition should be certified with the consent of the parties in the Case or, if consent is refused, the petition should be endorsed with a certificate of service on the parties. All petitions for leave to intervene, whether opposed by the parties or not, will be referred to a Board.

(2) References in these rules to a party and to a respondent shall be deemed to include a person intervening.

Preparation of documents

5.55.—(1) Documents which are not clearly legible or which are not produced in the form specified will not be accepted by the Registry.

(2) All formal documents should be produced on good quality A4 paper, bound down the left hand edge and using both sides of the paper.

Form of statement and Case

5.56.—(1) The statement and Case should be produced with letters down the inside margin. The outside margin should carry references to the relevant pages of the appendix.

(2) The front page of the statement should carry the references of every law report of the cause in the courts below. A head-note summary should be given, whether or not the cause has been reported.

(3) The front page of the statement should carry an indication of the time occupied by the cause in each court below.

(4) The statement should be signed by counsel on both sides, and their names clearly indicated. Where the statement is not agreed to by all parties it should be signed by counsel for the appellant and should indicate that the respondent has been given an opportunity to join in the statement.

(5) Each party's Case should be signed by his counsel above their printed names.

Form of appendix

5.57.—(1) The appendix should be bound with plastic comb binding, in limp board covers.

(2) All documents must be numbered and each part of the appendix must contain a list of its contents.

(3) Documents of an unsuitable size or form for binding with the other documents, such as maps or booklets, should be inserted in pockets at the back of the appropriate volume.

Form of bound volumes

5.58 The bound volumes should be bound in the same manner as the appendix. They should contain cut out indices for each of the items listed in rule 5.33(1), tabbed with the name of the document on the front sheet of each. The front cover should carry a list of the contents and the names of the solicitors for all parties. The short title of the cause and (if there is more than one volume) the volume number should be given on a strip affixed to the plastic spine. Each volume should include a few blank pages at either end.

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Power to give directions and excuse compliance with rules

5.59.—(1) The Registrar may give such directions in matters of practice and procedure as may be just and expedient and may for sufficient cause shown—

- (a) extend or abridge any time limit laid down by these rules;
- (b) excuse the parties from compliance with any of the requirements of these rules.

(2) If in the opinion of the Registrar it is desirable that any application for such direction or excusal should be dealt with by the Judicial Committee in open court he may direct the applicant to lodge, and to serve the opposite party with, a notice of motion returnable before the Committee.

(3) The Registrar may give directions as to the total length of time allowed for a hearing or the length of time each party shall be allowed for his oral argument. Parties will be expected to complete their submissions within the time allowed.

(4) Any party aggrieved by a decision by the Registrar to exercise or refuse to exercise his powers under these rules may appeal, by notice of motion, to the Judicial Committee.

Amendment of documents

5.60.—(1) Any document lodged in connection with an appeal, petition or other matter pending before the Judicial Committee may be amended by leave of the Registrar.

(2) If the 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 applicant to lodge in the Registry, and to serve the opposite party with a notice of motion returnable before the Committee.

Fees

5.61.—(1) The Council Office fees to be taken in proceedings to which these rules apply are set out in the Table below.

(2) The Registrar may direct that the appropriate fee must be paid at the time a chargeable step is taken.

Table of Fees

	£
1. Lodging—	75.00
(a) a petition for special leave to appeal	
(b) (b) a petition of appeal	60.00
(c) (c) any other petition or motion	45.00
(d) (d) a reference by a court	nil
(e) (e) any other reference	60.00
2. Entering appearance—	50.00
(a) in the case of a reference by a court	
(b) (b) in any other case	20.00
3. Lodging Case	180.00
4. Lodging affidavit	15.00
5. Committee Report on appeal or reference	45.00

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	£
6. Original Order of the Judicial Committee	30.00
7. Office Copy of Committee Order	10.00
8. Taxing fee	5% of the sum allowed.
