

The Judicial Committee of the Privy Council

Practice Direction 1

Section 1: The Judicial Committee

General Notes

1.1 The Judicial Committee of the Privy Council is the court of final appeal for the UK overseas territories and Crown dependencies, and for those Commonwealth countries that have retained the appeal to Her Majesty in Council or, in the case of Republics, to the Judicial Committee. The Judicial Committee deals with about 55-65 Commonwealth appeals a year.

1.2 It also has other domestic jurisdiction within the United Kingdom. For further details see paragraph 2.6 below.

1.3 The membership of the Judicial Committee is generally made up as follows:

- The Justices of the UK Supreme Court (the former Lords of Appeal in Ordinary¹) who do most of the judicial work of the Privy Council;
- Other Privy Counsellors (including former Justices of the UK Supreme Court) who have held high judicial office.

Five judges normally sit to hear Commonwealth appeals and three for other matters.

Section 2 The Jurisdiction of the Judicial Committee

I. Commonwealth Jurisdiction

A. Appeals to Her Majesty in Council

2.1 An appeal lies from the countries listed at paragraph 2.2 of which The Queen is head of State and from UK overseas territories and Crown Dependencies as follows.

- 1) By leave of the local Court of Appeal. The circumstances in which leave can be granted will depend on the law of the country or territory concerned. Leave can usually be obtained as of right from final judgments in civil disputes where the value of the dispute is more than a stated amount and in cases which involve issues of constitutional interpretation. Most Courts of Appeal also have discretion to grant leave in other civil cases.

¹ Amended April 2013

² Amended April 2013

- 2) By leave of Her Majesty in Council. The Judicial Committee has complete discretion whether to grant leave. It is mostly granted in criminal cases (where leave cannot usually be granted by the Court of Appeal) but it is sometimes granted in civil cases where the local Court of Appeal has for any reason refused leave.

2.2 The countries referred to in paragraph 2.1 -

- Antigua and Barbuda
- ³The Bahamas
- Cook Islands and Niue * (Associated States of New Zealand)
- Grenada
- Jamaica
- St. Christopher and Nevis
- Saint Lucia
- Saint Vincent and the Grenadines
- Tuvalu

* **Note.** Legislation enacted in New Zealand in October 2003 abolished appeals from New Zealand to the Privy Council in respect of all cases heard by the Court of Appeal of New Zealand after the end of 2003. The New Zealand legislation does not affect rights of appeal from the Cook Islands and Niue.

The Sovereign Base Areas of Akrotiri and Dhekelia (in Cyprus)

The United Kingdom Overseas Territories, which include -

- Anguilla
- Ascension⁴
- Bermuda
- British Virgin Islands
- Cayman Islands
- Falkland Islands
- Gibraltar
- Montserrat

³ Amended April 2013

⁴ Amended April 2015

- Pitcairn Islands
- St. Helena
- Tristan da Cunha⁵
- Turks and Caicos Islands

The Crown Dependencies of Jersey, Guernsey and the Isle of Man

B. Appeal to Local Head of State

2.3 *Brunei* An appeal lies from the Court of Appeal of Brunei to the Sultan and Yang di-Pertuan, in civil cases only. By agreement between Her Majesty and the Sultan these appeals are heard by the Judicial Committee who report their opinion to the Sultan instead of to Her Majesty.

C. Appeals to the Judicial Committee

2.4 From the following independent republics within the Commonwealth an appeal lies to the Judicial Committee itself.

1. The Republic of Trinidad and Tobago
2. The Commonwealth of Dominica⁶
3. Kiribati
4. Mauritius

2.5 The circumstances in which appeals may be brought are similar to those in which appeals lie to Her Majesty in Council (see A above), except that from Kiribati an appeal lies only in cases where it is alleged that certain constitutional rights of any Banaban or of the Rabi Council have been or are likely to be infringed.

II. Domestic Jurisdiction

2.6 The Board hears appeals to Her Majesty in Council:

- a. from the Disciplinary Committee of the Royal College of Veterinary Surgeons;
- b. against certain Schemes of the Church Commissioners under the Mission and Pastoral Measure 2011⁷.

2.7 The Board also has the following rarely used jurisdictions:

- 1) Appeals from the Arches Court of Canterbury and the Chancery Court of York in non-doctrinal faculty causes.

⁵ Amended April 2015

⁶ With effect from 6 March 2015 appeals from Dominica will lie to the Caribbean Court of Justice

⁷ Amended April 2013

- 2) Appeals from Prize Courts.
- 3) Disputes under the House of Commons Disqualification Act 1975.
- 4) Appeals from the Court of Admiralty of the Cinque Ports.
- 5) Appeals from the Court of Chivalry⁸

2.8 Her Majesty has the power to refer any matter to the Board for "consideration and report" under section 4 of the Judicial Committee Act 1833.

III. United Kingdom Legislation

The following is a list of the principal items of legislation made in the United Kingdom (statutes and Orders in Council) relating to the Judicial Committee and its proceedings. Appeals from outside the United Kingdom are in many cases also governed by laws made in the countries and territories concerned.

1. General Legislation

- Judicial Committee Act 1833
- Judicial Committee Act 1843
- Judicial Committee Act 1844
- Court of Chancery Act 1851, section 16
- Privy Council Registrar Act 1853
- Appellate Jurisdiction Act 1876, sections 6 and 25
- Judicial Committee Act 1881
- Appellate Jurisdiction Act 1887, sections 3 and 5
- Judicial Committee Amendment Act 1895
- Appellate Jurisdiction Act 1908
- Judicial Committee Act 1915
- References of appeals to Judicial Committee Order in Council 1909
- (S.R. & O. 1909 No. 1228)
- Judicial Committee (Appellate Jurisdiction) Rules Order 2009, (S.I. 2009/224)
- Judicial Committee (Appellate Jurisdiction) Rules (Amendment) Order 2013 (SI 2013/246)⁹

⁸ Amended April 2015

⁹ Amended April 2014

2. Legislation governing particular proceedings

a. Appeals from outside the United Kingdom

Note: Those Orders which are wholly or partially revoked and replaced by the Judicial Committee (Appellate Jurisdiction) Rules 2009 are marked with an asterisk.

(i) Appeals from Independent Commonwealth countries to Her Majesty in Council.

Antigua and Barbuda

Antigua and Barbuda Constitution Order 1981 (S.I.1981 No.1106), Schedule 1, section 122.

Antigua and Barbuda Appeals to Privy Council Order (S.I. 1967 No. 224, as modified and retitled by the Antigua and Barbuda Modification of Enactments Order 1981, S.I. 1981 No. 1105).

Bahamas, Commonwealth of the

Bahamas Independence Order 1973 (S.I. 1973 No.1080), Schedule, Articles 104(2) and 105.

*Bahamas (Procedure in Appeals to Privy Council) Order 1964 (S.I. 1964 No. 2042), (as amended by the *Bahamas (Procedure in Appeals to Privy Council) (Amendment) Order 1973, S.I. 1973 No.1081).

Belize

The Belize Independence Order 1981 (S.I. 1981 No. 1107), Schedule 1, section 104.

Jamaica

Jamaica (Constitution) Order 1962 (S.I. 1962 No. 1550), Schedule 2, section 110.

*Jamaica (Procedure in Appeals to Privy Council) Order 1962 (S.I. 1962 No. 1650).

St. Christopher and Nevis

St. Christopher and Nevis Constitution Order 1983 (S.I. 1983 No. 881), Schedule 1, section 99.

*St. Christopher and Nevis Appeals to Privy Council Order (S.I. 1967 No. 224, as modified and retitled by the St. Christopher and Nevis Modification of Enactments Order 1983, S.I. 1983 No. 882).

St. Lucia

St. Lucia Constitution Order 1978 (S.I. 1978 No. 1901), Schedule 1, section 108.

*St. Lucia Appeals to Privy Council Order (S.I. 1967 No. 224, as modified and retitled by the St. Lucia Modification of Enactments Order 1978, S.I. 1978 No. 1899).

St. Vincent and the Grenadines

The St. Vincent Constitution Order 1979 (S.I. 1979 No. 916), Schedule 1, section 99.

*St. Vincent Appeals to Privy Council Order (S.I. 1967 No. 224, as modified and retitled by the St. Vincent Modification of Enactments Order 1979, S.I. 1979 No. 917).

Tuvalu

The Tuvalu Independence Order 1978, Schedule, section 84.

*The Tuvalu (Appeals to Privy Council) Order 1975 (S.I. 1975 No.1507).

(ii) Appeals from Commonwealth Republics to the Judicial Committee.

Dominica

Commonwealth of Dominica Constitution Order 1978 (S.I. 1978 No. 1027), Schedule 1, section 106 and Schedule 2, paragraphs 9 and 10.

*Dominica Appeals to Judicial Committee Order (S.I. 1967 No. 224, as amended and retitled by the Dominica Modification of Enactments Order 1978 (S.I. 1978 No. 1030), Schedule, paragraph 10).

Kiribati

Kiribati Independence Order 1979 (S.I. 1979 No. 719), Schedule, section 123.

*Kiribati Appeals to Judicial Committee Order 1979 (S.I. 1979 No. 720).

Mauritius

Mauritius Independence Order 1968, Schedule, section 81.

Mauritius (Appeals to Privy Council) Order 1968 (S.I. 1968 No. 294).

Mauritius Appeals to Judicial Committee Order 1992 (S.I. 1992 No. 1716).

Trinidad and Tobago

*Trinidad and Tobago Appeals to Judicial Committee Order 1976 (S.I. 1976 No. 1915).

(iii) Appeals from the Supreme Court of Brunei Darussalam to His Majesty the Sultan and Yang Di-Pertuan.

These appeals are referred to the Judicial Committee by virtue of an agreement made between Her Majesty The Queen and His Majesty The Sultan.

Brunei (Appeals) Act 1989 (1989 c.36).

*Brunei (Appeals) Order 1989 (S.I. 1989 No. 2396, as amended by Brunei (Appeals) (Amendment) Order 1998, S.I. 1998 No. 255).

(iv) Appeals from United Kingdom Overseas Territories.

Anguilla

Anguilla Constitution Order 1982 (S.I. 1982 No. 334), Schedule, section 72.

*Anguilla (Appeals to Privy Council) Order 1983 (S.I. 1983 No.1109).

Bermuda

There is no United Kingdom legislation specifically governing appeals from Bermuda.

British Antarctic Territory

*British Antarctic Territory Court of Appeal (Appeal to Privy Council) Order 1965 (S.I. 1965 No. 592).

British Indian Ocean Territory

*British Indian Ocean Territory (Appeals to Privy Council) Order 1983 (S.I. 1983 No. 1888).

British Virgin Islands

*Virgin Islands (Appeals to Privy Council Order) 1967 (S.I. 1967 No. 234, as amended by the Anguilla, Montserrat, and Virgin Islands (Supreme Court) Order 1983 (S.I. 1983 No. 1108), Article 3).

Cayman Islands

*Cayman Islands (Appeals to Privy Council) Order 1984 (S.I. 1984 No. 1151).

Falkland Islands

*Falkland Islands (Appeals to Privy Council) Order 1985 (S.I. 1985 No. 445).

Gibraltar

Gibraltar Constitution Order 2006, Chapter VI, Section 66.

*Gibraltar (Appeals to Privy Council) Order 1985 (S.I. 1985 No. 1199).

Montserrat

*Montserrat (Appeals to Privy Council) Order 1967 (S.I. 1967 No. 233), as amended by Anguilla, Montserrat and Virgin Islands (Supreme Court) Order 1983 (S.I. 1983 No. 1108), Article 3.

Pitcairn

Pitcairn Order 1970 (S.I. 1970 No.1434) as amended by S.I. 2000 No. 1340 and S.I. 2002 No. 2638.

St. Helena

*St. Helena Court of Appeal (Appeal to Privy Council) Order 1964 (S.I. 1964 No. 1846), as amended by St. Helena Court of Appeal (Appeal to Privy Council) (Amendment) Order 1990 (S.I. 1990 No. 991).

South Georgia and South Sandwich Islands

*The South Georgia and South Sandwich Islands (Appeals to Privy Council) Order 1985 (S.I.1985 No. 450).

Turks and Caicos Islands

*Turks and Caicos Islands (Appeal to Privy Council) Order 1965 (S.I. 1965 No. 1863), as amended by the *Turks and Caicos Islands (Appeal to Privy Council) (Amendment) Order 1973 (S.I. 1973 No. 1084).

The Sovereign Base Areas of Akrotiri and Dhekelia (Cyprus)

*The Sovereign Base Areas of Akrotiri and Dhekelia (Appeals to Privy Council) Order in Council 1961 (S.I. 1961 No. 59).

(v) Appeals from the Channel Islands and the Isle of Man.

Channel Islands

Order in Council of 19th May 1671 relating to appeals to His Majesty in Council from Jersey (S.R. & O. Rev 1948 XI p 341); Court of Appeal (Jersey) Law 1961, art.14.

Order in Council regulating Appeals to His Majesty in Council from Guernsey (13th May 1823) (S.R. & O. Rev 1948 XI p 344).

Order in Council regulating Appeals to His Majesty in Council from Jersey and Guernsey, 15th July 1835 (S.R. & O. Rev 1948 XI p 347).

Isle of Man

There is no United Kingdom legislation specifically governing appeals from the Isle of Man.

(b) United Kingdom Appeals

(i) Appeals from the Council of the Royal College of Veterinary Surgeons.

Veterinary Surgeons Act 1966, section 17.

(ii) Appeals against Pastoral Schemes.

Mission and Pastoral Measure 2011, section 12, Schedule 2¹⁰.

Section 3 The exercise of the Judicial Committee's Jurisdiction

3.1 Some of the powers of the Judicial Committee may be exercised by the Registrar. Rule 9 makes specific provision for procedural decisions.

3.2 The Registrar will normally make a decision without an oral hearing but may direct an oral hearing. The Registrar may also refer the matter to the Judicial Committee for decision.

3.3 A party who is dissatisfied with a decision of the Registrar may apply for that decision to be reviewed by the Judicial Committee. Any application must be made in Form 2 and must be filed within 14 days of the Registrar's decision: rule 9(4). See paragraph 7.1 of Practice Direction 7 for applications and for the relevant fee see Annex 2 to Practice Direction 7.

¹⁰ Amended April 2013