
STATUTORY INSTRUMENTS

1989 No. 2396

JUDICIAL COMMITTEE

The Brunei (Appeals) Order 1989

Made - - - - - *19th December 1989*

Coming into force - - - - - *1st February 1990*

At the Court at Buckingham Palace, the 19th day of December 1989

Present,

The Queen's Most Excellent Majesty in Council

Whereas an Exchange of Notes has taken place on 27th June 1989 between the Government of the United Kingdom and the Government of Brunei Darussalam concerning the arrangements for the reference to the Judicial Committee of the Privy Council of appeals from the Supreme Court of Brunei Darussalam;

Now, therefore, Her Majesty, by virtue and in exercise of the powers conferred on Her by section 1 of the Brunei (Appeals) Act 1989(1) or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1.—(1) This Order may be cited as the Brunei (Appeals) Order 1989 and shall come into force on 1st February 1990.

(2) In this Order, unless the context otherwise requires—

“appeal” includes an application for leave to appeal;

“the Committee” means the Judicial Committee of the Privy Council;

“the Supreme Court” means the Supreme Court of Brunei Darussalam.

2.—(1) The Committee shall have jurisdiction in respect of appeals from the Supreme Court to His Majesty the Sultan and Yang Di-Pertuan by leave of the Supreme Court—

(a) from any final judgment or order in any civil matter where—

(i) the matter in dispute in the appeal amounts to or is of the value of two hundred thousand Brunei dollars or upwards;

(ii) the appeal involves, directly or indirectly, some claim or question to or respecting property or some civil right of like amount or value; or

- (iii) the case is from its nature a fit one for appeal; and
 - (b) from any interlocutory judgment or order which the Supreme Court considers a fit one for appeal.
- (2) The Committee shall also have jurisdiction in respect of appeals from the Supreme Court to His Majesty the Sultan and Yang Di-Pertuan—
- (a) in any of the cases referred to in paragraph (1) above where leave of the Supreme Court has not been duly obtained;
 - (b) in any case arising in a civil matter other than the cases referred to in paragraph (1) above; and
 - (c) in any criminal matter,

where application for special leave to appeal has been made and His Majesty, acting on the recommendation of the Committee, has granted special leave to appeal.

(3) Notwithstanding the foregoing provisions of this article, the Committee shall not have jurisdiction in respect of any appeal from the Supreme Court or from the Interpretation Tribunal established under section 86 of the Constitution of Brunei Darussalam⁽²⁾ on any question involving the meaning, interpretation, construction or effect of any of the provisions of that Constitution.

3. The Judicial Committee Act 1833⁽³⁾ shall apply in relation to appeals from the Supreme Court subject to the exceptions and modifications set out in Schedule 1 to this Order.

4. The jurisdiction conferred on the Committee by this Order shall be exercised in accordance with the Judicial Committee (General Appellate Jurisdiction) Rules⁽⁴⁾ as from time to time amended, but the said Rules as so amended shall have effect in their application to that jurisdiction subject to the modifications set out in Schedule 2 to this Order.

5. Any report or recommendation made by the Committee in respect of an appeal from the Supreme Court shall be in such form as may from time to time appear convenient to the Committee and shall be delivered by the Registrar of the Privy Council to a Secretary of State for transmission to His Majesty the Sultan and Yang Di-Pertuan.

6. This Order shall apply to appeals as well from decisions given before its coming into force as from decisions given thereafter.

7.—(1) Appeals pending before the coming into force of this Order shall be treated as appeals to His Majesty the Sultan and Yang Di-Pertuan and shall be dealt with accordingly under this Order.

(2) Any appeal to which paragraph (1) of this article applies shall not be affected by the change in the value of the matter in dispute in a civil matter which is made by article 2(1)(a) of this Order.

G. I. de Deney
Clerk of the Privy Council

(2) Laws of Brunei, Revised Edition 1984, Constitutional Matters I, p. 1.

(3) 1833 c. 41.

(4) S.I. 1982/1676, Schedule 2.

SCHEDULE 1

Article 3

APPLICATION OF THE JUDICIAL COMMITTEE ACT 1833

The provisions of the Judicial Committee Act 1833 set out in Part I of this Schedule shall not apply in relation to appeals from the Supreme Court, and the provisions of the said Act set out in the first column of Part II shall apply subject to the modifications set out in the second column.

PART I

Section 3
Section 4
Section 14
Section 16
Section 20
Section 21
Section 23
Section 24
Section 31

PART II

(1)	(2)
Section 5	The words “to His Majesty” and the proviso shall be omitted.
Section 8	The following section shall be substituted— “8. In any matter which shall come before the said Judicial Committee it shall be lawful for the said Committee to direct or recommend that such witnesses shall be examined or re-examined, and as to such facts, as to the said Committee shall seem fit, notwithstanding any such witness may not have been examined, or no evidence may have been given on any such facts in a previous stage of the matter; and it shall also be lawful for the said Committee, upon any appeal, to recommend that the matter which shall be the subject of such appeal shall be remitted to the court from the decision of which such appeal shall have been made, and at the same time to recommend that such court shall rehear such matter, in such form, and either generally or upon certain points only, and

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(1)	(2)
	upon such rehearing take such additional evidence, though before rejected, or reject such evidence before admitted, as the said Committee shall recommend.”.
Section 9	For the words “or if a Quaker or a Moravian” the words “or if he so desires” shall be substituted.
Section 13	The following section shall be substituted— “13. In any matter which shall come before the said Judicial Committee it shall be lawful for the said Committee to recommend that a new trial be held either generally or as to certain points only.”.
Section 15	The following section shall be substituted— “15. The costs in any appeal or matter referred to the said Judicial Committee shall be paid by such party or parties, person or persons, as His Majesty the Sultan and Yang Di-Pertuan shall, on the recommendation of the said Committee, direct and shall be taxed by the aforesaid registrar or such other person or persons, to be appointed by Her Majesty in Council, as the said Committee shall direct.”.
Section 28	For the words “and His Majesty in Council shall have and enjoy in all respects such and the same powers of enforcing judgments, decrees, and orders, as are” there shall be substituted the words “as is”.

SCHEDULE 2

Article 4

MODIFICATIONS OF THE JUDICIAL COMMITTEE
(GENERAL APPELLATE JURISDICTION) RULES IN THEIR
RELATION TO APPEALS FROM THE SUPREME COURT

1. Save as is otherwise provided in this Schedule or where the context otherwise requires, any reference in the Rules to Her Majesty or Her Majesty in Council shall be construed as a reference to His Majesty the Sultan and Yang Di-Pertuan acting on the recommendation of the Committee, and references to Orders of Her Majesty in Council shall be construed accordingly.
2. Paragraph 1 of this Schedule shall not apply to the definition of “Agent” in paragraph (1) of Rule 1.
3. For the words “Her Majesty in Council” in the definition of “Party” in paragraph (1) of Rule 1 there shall be substituted the words “the Judicial Committee”.

4. For the words “Her Majesty in Council” in the definition of “Record” in paragraph (1) of Rule 1 there shall be substituted the words “the Judicial Committee”.

5. For the words “Her Majesty in Council” in paragraph (2) of Rule 1 there shall be substituted the words “the Judicial Committee”.

6. For the words “to advise Her Majesty” in Rule 3 there shall be substituted the words “to recommend to His Majesty the Sultan and Yang Di-Pertuan”.

7. For the words “to advise Her Majesty” in Rule 6 there shall be substituted the words “to recommend to His Majesty the Sultan and Yang Di-Pertuan”.

8. For the words “Her Majesty” in paragraph (5) of Rule 11 there shall be substituted the words “His Majesty the Sultan and Yang Di-Pertuan”.

9. For the words “Her Majesty” in paragraph (4) of Rule 36 there shall be substituted the words “His Majesty the Sultan and Yang Di-Pertuan”.

10. For the words “Her Majesty” in paragraph (1) of Rule 56 there shall be substituted the words “His Majesty the Sultan and Yang Di-Pertuan”.

11. For the word “orders” in Rule 75 there shall be substituted the word “recommendations”.

12. For the words “given their decision” in Rule 77 there shall be substituted the words “announced their recommendation”.

13. The following Rule shall be substituted for Rule 80—

“80. A statement of the amount allowed on the taxation shall, subject to any appeal to the Judicial Committee, and subject to any recommendation from the Committee to the contrary, be transmitted to His Majesty the Sultan and Yang Di-Pertuan for insertion in His Order determining the Appeal or Petition.”

14. The following items in Part II of Schedule B shall be omitted, that is to say—

“Original Order of Her Majesty in Council determining an Appeal

Any other original Order of Her Majesty in Council

Plain copy of an Order of Her Majesty in Council”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order confers jurisdiction on the Judicial Committee of the Privy Council in respect of appeals from the Supreme Court of Brunei Darussalam. Section 2(3) of the Brunei (Appeals) Act 1989 revokes the Sarawak, North Borneo and Brunei (Appeal to Privy Council) Order in Council 1951 (S.I.1951/1949) and the Brunei (Appeal to Privy Council) Order in Council 1963 (S.I. 1963/1491) as from the date of the coming into force of this Order.