

HOUSE OF LORDS

SESSION 2001–02
58th REPORT

APPEAL COMMITTEE

CONDITIONAL FEE AGREEMENTS

REPORT

Ordered to be printed 11th February 2002

LONDON

(HL Paper 78)

FIFTY-EIGHTH REPORT

from the Appeal Committee

11TH FEBRUARY 2002

ORDERED TO REPORT

1. Following judgment in the cause *Designers Guild Limited (Appellants) v. Russell Williams (Textiles) Limited (trading as Washington DC) (Respondents)* on 23rd November 2000, a petition was lodged on 27th November 2001 praying that the determination by the Clerk of the Parliaments of the appellants' costs in the appeal might be reviewed.

RECOMMENDATION

2. The Appeal Committee recommend that the petition be allowed and that the following rules apply to costs including conditional fee agreements in this and subsequent appeals—

- (i) that conditional fee agreements may properly be made by such parties to appeals before the Appellate Committee of the House of Lords. Such agreements are sanctioned by the Courts and Legal Services Act 1990, as amended by the Access to Justice Act 1999. They do not derive their validity from the Civil Procedure Rules, although those rules govern the procedure relating to conditional fee agreements in proceedings to which they apply. The Taxing Officer should not therefore have ruled out in principle the recovery of the percentage uplift under the conditional fee agreement in the present case;
- (ii) that it is open to the Taxing Officer to reduce the percentage uplift recoverable under a conditional fee agreement if he considers it to be excessive. The approach followed under the Civil Procedure Rules should generally be followed by analogy;
- (iii) that if a party appearing before the Appellate Committee seeks a ruling that the percentage uplift provided for in a conditional fee agreement should be wholly disallowed on legal grounds, such a ruling should (unless otherwise ordered) be expressly sought from the Committee before the end of the hearing.