



CONSTITUTIONAL COMMISSION

15 NOVEMBER 2022

Judicial Committee of the Privy Council Explanatory Notes



Introduction

These explanatory notes on the Judicial Committee of the Privy Council (JCPC) have been published on the occasion of the first ever sitting of the JCPC in a United Kingdom Overseas Territory (UKOT). Accordingly, this is a constitutional landmark both for the JCPC and for the Cayman Islands, where the jurisdiction's court of final appeal will sit locally and hear three cases between 15 November 2022 and 18 November 2022.

A wealth of information in relation to the JCPC; its history and the role it now performs, along with its more recently decided cases; is already available on the JCPC's website (<https://www.jcpc.uk>). The objective of these notes, however, is not simply to rely on this information, and while further references will be made where these are useful and appropriate, the Constitutional Commission's goal here is to provide further context and explanation for the enduring position of the JCPC as the court of final appeal for the Cayman Islands.

JCPC and the Court Hierarchy

The JCPC sits at the top of the hierarchy of courts in the Cayman Islands. Further information about the various courts in the Cayman Islands can be found on the Judicial Administration's website at: <https://www.judicial.ky/courts>. This information has been showcased previously by the Constitutional Commission in its 2022 Update, which was published on 1 July 2022 in advance of Constitution Day in the Cayman Islands, and which is also available at: https://www.constitutionalcommission.ky/uploads/publicationdoc/ConstitutionalCommission2022Update-FINAL_1656778434_1656778439.pdf.

History of the JCPC

As regards the JCPC and its continuing role as the court of final appeal for various jurisdictions, including from certain independent Commonwealth countries and independent republics within the

Commonwealth, from the Crown Dependencies of Jersey, Guernsey and the Isle of Man, as well as from the UKOTs, it is impossible to fully appreciate this situation without reference to colonial history. The Judicial Administration's website (<https://www.judicial.ky/courts/judicial-committee-of-the-privy-council>) accordingly advises that:

"As appeals from colonial courts were historically ultimately referred to the Sovereign as the final arbiter of justice, such appeals were referred to the King or Queen who considered them upon the advice of His or Her Privy Council."

The jurisdiction of the Privy Council was then formalised as a Judicial Committee with the enactment of an Imperial Act of the British Parliament, the Judicial Committee Act of 1833.

Thereafter, as the United Kingdom Supreme Court's Guide to the JCPC (<https://www.supremecourt.uk/docs/beginners-guide-to-the-judicial-committee-of-the-privy-council.pdf>), explains:

"The JCPC used to be the highest court of appeal for the overseas countries, which made up the British Empire, including places such as Canada, Australia, New Zealand and

India. In the 1920's, the JCPC was said to be the final court of appeal for more than a quarter of the world's population. When the British Empire became the Commonwealth of Nations and its members gradually sought independence, many established their own "Supreme Court" to serve as their final court of appeal. However, some chose to retain their links with the United Kingdom and the JCPC."

Without this context, the JCPC might appear to be somewhat of an oddity in that it is a court of final appeal for the Cayman Islands, yet its home is neither in the Cayman Islands, nor indeed in the Caribbean region. As noted above, the Cayman Islands is not unique in this regard and, for example, as at the date of publication, both Jamaica and Trinidad and Tobago (the two largest English-speaking jurisdictions in the Caribbean and the first two such jurisdictions to become independent, as long ago as 1962) also still maintain the JCPC as their court of final appeal.

Appealing to the JCPC from the Cayman Islands

Appeals from the Cayman Islands to the

JCPC are governed by The Cayman Islands (Appeals to Privy Council) Order 1984 (<https://www.legislation.gov.uk/ukSI/1984/1151/made>) (the CI Appeal Order), as amended by The Cayman Islands (Appeals to Privy Council) (Amendment) Order 2009 (<https://www.legislation.gov.uk/ukSI/2009/3206/made>). Under these provisions, there are three types of appeals to the JCPC: (1) an appeal as of right; (2) an appeal with leave of the Cayman Islands Court of Appeal (CICA); and (3) an appeal by special leave of the JCPC.

An appeal as of right is available where there is a final decision in civil proceedings where the dispute is £300 or more, or a claim or question regarding property or a right valued £300 or more; in final decisions for dissolution or nullity of marriage; and in any other case prescribed by the laws of the Cayman Islands. The JCPC decision of *Jacpot Ltd v Gambling Regulatory Authority* [2018] UKPC 16 (<https://www.jcpc.uk/cases/jcpc-2017-0032.html>), which was applied in the CICA decision in *Essar Global Fund Limited v Arcelormittal USA LLC*, CICA (Civil) Appeal 15 of 2019 (dated 6 May 2021), provides guidance on the interpretation of the statutory rules governing appeals as of right, the salient points of which are summarised

here:

<https://www.conyers.com/publications/view/appeals-from-the-cayman-islands-to-the-judicial-committee-of-the-privy-council-a-summary-of-the-rules/>, as follows:

- “There are three requirements for an appeal as of right which must be strictly construed and satisfied, that is, (a) there must be civil proceedings (no criminal element); (b) there must be a ‘final decision’; and (c) the dispute or matter must reach the statutory value.”
- “The value threshold applies to any (1) matter in dispute; (2) claim to, or question respecting, property; or (3) a right.”
- “A money claim is not required to satisfy the value threshold but it is essential to value the matter or right that is the subject of the appeal. If the value of the right or matter exceeds the value threshold then there is an appeal as of right.”
- “In an appeal as of right, an application for leave to appeal must nevertheless be made to the local Court. The local Court is to verify that an appeal lies as of right and deal with procedural matters (such as the conditions upon which leave is granted). If the application for leave as of right is wrongly refused by the local Court in civil

cases, then the JCPC will grant special leave unless the substantive appeal is abusive or bound to fail.”

With respect to appeals with leave of the Court, the previously referenced summary advises:

- “For an appeal with leave of the Court of Appeal, section 3(2) of the CI Appeal Order permits a litigant to seek leave to appeal a decision in any civil proceedings, which, in the opinion of the Court, concerns such a question of great general or public importance that it should be submitted to the JCPC.”
- “Section 22 of the CI Appeal Order provides that the JCPC may grant special leave to any person aggrieved by any judgment of the Court. Special leave appeals are discretionary, conditional and usually granted in criminal cases (where the local Court of Appeal cannot grant leave), but can also be granted in civil cases where the local Court of Appeal refused leave to appeal. The test applied by the JCPC in civil cases is whether the appeal raises an arguable point of law of general public importance which ought to be considered by the JCPC.”

Further information on the applicable procedural rules to an appeal can be found

on the Judicial Administration's website at: <https://www.judicial.ky/courts/judicial-committee-of-the-privy-council>; in the aforementioned summary, at: <https://www.conyers.com/publications/view/appeals-from-the-cayman-islands-to-the-judicial-committee-of-the-privy-council-a-summary-of-the-rules/>; and on the Court Procedures page of the JCPC website, at: <https://www.jcpc.uk/procedures/index.html>.

Composition of the JCPC

The following groups of people are eligible to sit as the judges of the JCPC: (1) Justices of the Supreme Court of the United Kingdom; (2) Privy Counsellors who are (or have been) judges of the Court of Appeal of England and Wales, the Inner House of the Court of Session in Scotland, or of the Court of Appeal in Northern Ireland; and (3) Judges of superior courts in certain Commonwealth countries. In practice, the JCPC is usually composed entirely of Justices of the Supreme Court of the United Kingdom; and, presently at least, there are no Commonwealth judges listed in the biographies for the current JCPC Justices on the JCPC's website, at:

<https://www.jcpc.uk/about/biographies-of-the-justices.html>, or former Justices at: <https://www.jcpc.uk/about/former-justices.html>.

In the past, however, there have been Justices appointed from the Commonwealth and, indeed, from former colonies prior to the establishment of the Commonwealth. As long ago as the late nineteenth century, judges with Indian experience had sat on the JCPC, initially as assessors, and then as full members. More recently, notable Caribbean jurists, such as the Right Honourable, Justice Michael de la Bastide (<https://ccj.org/about-the-ccj/judges/past-president---the-rt-hon-mr-justice-michael-de-la-bastide/>) and the Right Honourable, Sir Dennis Byron (<https://ccj.org/about-the-ccj/judges/byron/>) have been appointed to the Privy Council. While no Caymanian judge has ever been afforded this honour, perhaps the closest connection is the renowned Jamaican jurist and former President of CICA, the Right Honourable, Justice Edward Zacca. Justice Zacca was appointed as a member of the Privy Council on 1 September 1992, and who notably sat as part of a nine-member JCPC panel in *Matthew v The State (Trinidad and Tobago)* [2004] UKPC 33, on appeal from the Court of Appeal of Trinidad and Tobago, and where he supported the majority judgement

delivered by Lord Hoffmann in a panel that was split five and four (<https://www.casemine.com/judgement/in/5779fc32e561096c93131a46>).

Alternatives to the JCPC

Some English-speaking, common law countries in the Caribbean region – namely, Barbados, Belize, Dominica, Guyana, and, most recently, St Lucia – have, however, recently opted to replace the JCPC with the appellate jurisdiction of the Caribbean Court of Justice (CCJ) for both civil and criminal matters, and it is highly likely that some others will follow suit in the not-too-distant future. The debate surrounding the relative merits of a local final court of appeal versus the JCPC has its origins in the post-colonial independence movement and has strong advocates on both sides.

Some view the disassociation with the JCPC as an aspect of sovereignty (see: https://archive.stlucia.gov.lc/pr2004/july/the_ccj_an_affirmation_of_our_independence_and_sovereignty.htm), while others are inclined to prefer the appellate jurisdiction of the CCJ as a boon to regional integration in addition to the CCJ's original jurisdiction applying

rules of international law in respect of the interpretation and application of the Treaty of Chaguaramas (see: <https://ccj.org/wp-content/uploads/2022/07/RegionalIntegrationMovement.pdf>). On the other side of the debate, supporters of retaining the JCPC have often pointed to the difficulties of sustaining judicial independence in small states and the related challenges with potential corruption.

In many respects, the contentious issues can be mobilised by both sides, a scenario that was captured by Justice de la Bastide, the former Chief Justice of Trinidad and Tobago, who as well as being a Privy Councillor was also the first President of the CCJ, in the introduction to his review of Commonwealth Caribbean Jurisprudence and the Privy Council (<https://www.corteidh.or.cr/tablas/r08071-2.pdf>), where he began:

“It is almost impossible to win an argument on whether or not the Privy Council should be replaced by a regional Court as the final Court of Appeal for the Commonwealth Caribbean. The problem is that so many of the points that are made for and against are matters of perception or impression and are incapable of being proved to the satisfaction of the determined disbeliever. For example, is the retention of a right of appeal to a Court in a foreign land

incompatible with Independence, or is it an exercise of sovereignty? Is the remoteness of the Judges in the Privy Council, both culturally and geographically, an asset or a handicap? Will the cost to the taxpayer of having to pay for our own final Court of Appeal be effectively offset by the saving to the litigant who will no longer have to pay fees, at London rates and in pounds sterling, to English solicitors and counsel, or alternatively meet the expense (irrecoverable as costs according to a Privy Council ruling) of transporting his own attorney to England and putting him up in a London hotel?"

JCPC and the Cayman Context

While this debate has churned across much of the English-speaking Caribbean over several decades and is therefore something that the Cayman Islands should be cognizant of, it has not registered with quite the same intensity here in the Cayman Islands. This is not necessarily just because that Cayman Islands is a UKOT, as other UKOTs in the eastern Caribbean are part of the sub-regional Eastern Caribbean Supreme Court (ECSC), under whose auspices Anguilla, the

British Virgin Islands and Montserrat already share a common High Court and Court of Appeal. It is not inconceivable therefore, where other independent ECSC jurisdictions adopt the appellate jurisdiction of the CCJ, that the ECSC UKOTs could, at least in principle, also make this transition.

One explanation for less interest in the Cayman Islands is that the cause *célèbre* – the application of the death penalty – around which the debate on the future of the JCPC for the English-speaking Caribbean rather polarised following the decision of the JCPC in *Pratt and Morgan v A-G for Jamaica* [1994] 2 AC 1 (PC), was effectively defused once the death penalty was abolished in the Cayman Islands by The Caribbean Territories (Abolition of Death Penalty for Murder) Order 1991 (<https://www.legislation.gov.uk/ukxi/1991/988/made>).

More positively, there is also strong support for the continuation of the appellate jurisdiction of the JCPC in the Cayman Islands, particularly on the basis that the JCPC provides support for the prosperity of the local financial services industry. Writing on behalf of Cayman Finance, in a publication entitled, *Cayman: Engine of Growth and Good Governance*, economist Julian Morris explains:

“Another major advantage for Cayman is its legal system, which is based on English common law. This means important legal concepts such as directors’ fiduciary duties, a company’s powers and capacity, limited liability of shareholders, and creditors’ rights and remedies are very similar to those under English common law and Cayman courts frequently refer to decisions of English courts. Cayman’s final court of appeal is the Judicial Committee of the Privy Council (which comprises five members usually drawn from members of the UK Supreme Court). Cayman therefore offers international investors both the comfort of a legal system with which they are generally familiar and the legal security of an established body of law. Indeed, it is difficult to underestimate the importance of legal security as a factor underpinning investment and, ultimately, the innovation and economic growth upon which such investment rests.”

Further illustration for this proposition is provided by Lord Mance, who while serving as a United Kingdom Supreme Court Justice and Privy Councillor in 2015 delivered the Fifth Annual Judicial Distinguished Guest Lecture in the Cayman Islands, entitled Jurisdiction and Justiciability (<https://www.supremecourt.uk/docs/speech-150331.pdf>), during which His Lordship

underscored the importance of the role of the JCPC in supporting financial integrity and reliability through legal security, noting that:

“As in the case of London itself, so in the case of offshore financial centres, the integrity and reliability are vital factors underpinning their business and fortunes. But financial integrity and reliability ultimately depend on legal security – the knowledge that bargains made will be performed: *pacts sunt servanda*.”

The JCPC and the Cayman Islands: An Enduring Relationship

And so, despite the distance from the the Cayman Islands to the JCPC’s home in London, at the Middlesex Guildhall (<https://www.jcpc.uk/about/middlesex-guildhall.html>), along with the United Kingdom Supreme Court, on Parliament Square, Westminster, opposite the Houses of Parliament; and notwithstanding the successful adoption of the appellate jurisdiction of the CCJ by others in the Caribbean region; there remains widespread support in the Cayman Islands at this time for the continuing relationship with the JCPC.

Some of the logistical concerns regarding distance have been mitigated in part by the availability of the JCPC proceedings live online at: <https://www.jcpc.uk/live/court-03.html>, in addition to recordings of decided cases, which can also be accessed at: (<https://www.jcpc.uk/decided-cases/index.html>); and anyone wishing to familiarise themselves with the JCPC can also take a 360-degree virtual tour of the JCPC and the Supreme Court facilities online at: <https://www.jcpc.uk/visiting/360-degree-virtual-tour.html>. In addition, the United Kingdom Supreme Court also has an initiative for schools in JCPC countries, further information in respect of which can be found at: <https://www.supremecourt.uk/news/education-team-reach-out-to-schools-in-jcpc-countries.html>.

The visit of the JCPC to the Cayman Islands is a further example of the JCPC's commitment to outreach and engagement. It is not the first such venture – as the JCPC has previously sat in both The Bahamas (<https://bfsb-bahamas.com/blog/2006/12/19/privy-councils-judicial-committee-meets-in-nassau/>) and in Mauritius – but the visit to the Cayman Islands will be first sitting in a UKOT. These visits have always been well received and certainly serve as a welcome counter to some of the more circumspect soundings in preceding years, such as those of the first President of the United Kingdom's Supreme Court, Lord Phillips, who described the time

spent by the JCPC on hearing Commonwealth appeals in 2009 as “disproportionate” and who was also quoted as saying that he “personally would like to see it [appeals to the JCPC] reduced” (<https://www.ft.com/content/3c5b14a6-a61d-11de-8c92-00144feabdc0>).

Despite these visits, the JCPC's base is still very much in London, and it has not, by any means, morphed into the sort of “peripatetic court”, once envisaged by Lord Wilfred Green, the Master of Rolls and the head of the Chancery Division of the British judiciary, in a secret memorandum authored in early 1943 (see: De, R. (2014). “A Peripatetic World Court” *Cosmopolitan Courts*, Nationalist Judges and the Indian Appeal to the Privy Council. *Law and History Review*, 32(4), 821-851).

JCPC Decided Cases

Insofar as the Cayman Islands is concerned, there seems to have been a marked increase in the number of cases that have been heard by the JCPC in recent years, which is another example of the enduring strength of the relationship between the JCPC and the Cayman Islands.

The most recent cases emanating from the Cayman Islands determined by the JCPC over the last two years (starting with the most recent and working backwards in time) are:

- *Ennismore Consulting Ltd (Respondent) v Fenris Consulting Ltd (Appellant)* [2022] UKPC 27

(<https://www.jcpc.uk/cases/jcpc-2020-0076.html>), where the issues to be decided by the JCPC were whether the Court of Appeal of the Cayman Islands err in respect of (i) the basis on which it calculated the damages payable to Fenris and (ii) its decision that the period of loss ended at the first instance judgment in 2012, rather than in May 2016.

- *Gol Linhas Aereas S.A (formerly VRG Linhas Aereas S.A.) (Respondent) v MatlinPatterson Global Opportunities Partners (Cayman) II L.P. and others (Appellants)* [2022] UKPC 21
(<https://www.jcpc.uk/cases/jcpc-2020-0086.html>), where the issue to be decided by the JCPC was whether a Brazilian arbitral award made against the Appellants in favour of the Respondents should be refused recognition and enforcement in the Cayman Islands.
- *Day and another (Appellants) v The Government of the Cayman Islands and another (Respondents)* [2022] UKPC 6

(<https://www.jcpc.uk/cases/jcpc-2020-0033.html>), where the issues to be decided by the JCPC were: (1) Does the Bill of Rights in the Constitution of the Cayman Islands provide a right for Ms Day and Ms Bush to access the institution of marriage?; and (2) If so, should the Order of the Grand Court of the Cayman Islands – which modified the Marriage Law so as that "marriage" is defined to mean "the union between two people as one another's spouses" – be restored?

- *Primeo Fund (in Official Liquidation) (Appellant) v Bank of Bermuda (Cayman) Ltd and another (Respondents)* [2021] UKPC 22 (<https://www.jcpc.uk/cases/jcpc-2019-0089.html>), where the appeal concerned claims brought by the appellant, Primeo Fund (In Official Liquidation) (Primeo), against the respondents for breach of their contractual duties, arising in the context of the fraud perpetrated by Bernard Madoff, and where the JCPC was asked to decide the remaining issues on Primeo's appeal and also decide the respondents' cross-appeal/additional grounds for upholding the decision below, following its previous decision to allow Primeo's appeal in relation to the application of the reflective loss rule to the extent explained in its judgment dated 9 August 2021.
- *Royal Cayman Islands Police Association and others (Appellants) v Commissioner*

of the Royal Cayman Island Police Service and another (Respondents) [2021] UKPC 21 (<https://www.jcpc.uk/cases/jcpc-2019-0103.html>), where the appeal concerned whether the Appellants were discriminated against unjustifiably on the ground of age because they were required to retire aged 55 whereas colleagues appointed after 22 November 2010 were not required to retire until aged 60; and the three issues to be determined in this appeal were: (1) Did the discriminatory treatment of the Appellants on the grounds of age by requiring them to retire at the age of 55 fall within the ambit of section 9 of the Cayman Islands Constitution Order 2009, Part 1 of the Bill of Rights (such that there was an unjustified breach of section 16 of the Bill of Rights when read with section 9)?; (2) Was the re-engagement policy a free-standing policy (such that its rigid application was a breach of section 19 of the Bill of Rights)?; and (3) Do the Third and Ninth Appellants have standing to challenge the re-engagement policy?

Earlier decided cases, dating back until 2009, can be accessed at the tab for the relevant year via: <https://www.jcpc.uk/decided-cases/index.html>, while judgments handed down prior to 31 July 2009 can also be searched for at: <https://privycouncilpapers.exeter.ac.uk>.

Significance of JCPC Case Law

These cases from 2021 and 2022 nevertheless provide an excellent example of the variety and complexity of matters from the Cayman Islands, which the JCPC has been called upon to consider. These very same sentiments were explored by Lady Arden, a recently retired Justice of the United Kingdom Supreme Court, who also served on the JCPC, including as a member of the Board in the *Day* appeal noted above, in her 2022 Guest Lecture in the Grand Court of the Cayman Islands. In the aptly entitled, *Taking Stock of Recent Case Law of the Judicial Committee of the Privy Council – Its Breadth and Depth* (available at: <https://judicial.ky/wp-content/uploads/publications/speeches/TakingStockassenttotheGrandCourtoftheCaymanIslandson29April2022.pdf>), Lady Arden highlighted: (i) the significance of the JCPC as a constitutional court; (ii) the importance of the JCPC's role in public law; and (iii) relevance of the JCPC's work in relation to commercial matters.

Concluding on the theme of the JCPC as a constitutional court, Lady Arden advised that“:

"It performs this role even though the UK itself does not have a written constitution or any concept of fundamental rights.

The Judicial Committee discharges its role by focusing on the constitution of the jurisdiction from which the appeal comes in the light of its particular content and provisions as a unique document and in the context of the traditions and customs of that jurisdiction. There is evidence that the original constitutions of countries that had formerly been British colonies that they were negotiated individually with local representatives of the people of that country. This supports the Judicial Committee's approach. Moreover, even applying a generous interpretation, these are limits on fundamental rights, and that where those limits apply, it is for the democratically elected legislature of that country to decide what steps to take. The Judicial Committee will consider any relevant international instrument that will help it interpret the text. The [European] Convention [on Human Rights] is particularly relevant where the bill of rights or constitution reflects those rights. The Judicial Committee does not, of course, apply its own conception of values. It will give the provisions of the constitution a liberal or generous interpretation so far as the text permits."

For a critique of this interpretive approach by

the JCPC, which asserts that it leads to a uniformly narrow reading of bills of rights and the protections they provide, see *The Past and Future of the World's Smallest Global Court: Comments on Tracy Robinson and Arif Bulkan, 'Constitutional Comparisons by a Supranational Court in Flux: The Privy Council and Caribbean Bills of Rights'* (2017) 80(3) MLR 379-411 (<https://www.modernlawreview.co.uk/kirkby-robinson-bulkan/>).

Turning to the JCPC's role in public law, and drawing upon the JCPC decisions in *United Policyholders Group v Attorney General of Trinidad and Tobago* [2016] UKPC 17 (<https://www.jcpc.uk/cases/jcpc-2015-0017.html>) and the appeal to the JCPC from the Cayman Islands in *Almazeedi v Penner* [2018] UKPC 1 (<https://www.jcpc.uk/cases/jcpc-2016-0054.html>), Lady Arden concluded in this regard that:

"There are very many other cases, including cases dealing with the independence of the judiciary, the rules of natural justice, the conditions of service of civil servants, and policemen whose rights are governed by statute law, the conduct of public service commissions, the abuse or fettering of discretion by a public body or official, and so on. The case law of the Judicial Committee has made a substantial contribution in this important area, and it has taken strength from, and given strength to, the principles of judicial review in the UK."

Finally, on commercial matters, and with reference to the decision of the JCPC in *Investec Trust (Guernsey) Ltd and another v Glenalla Properties Ltd*. [2018] UKPC 7 (<https://www.jcpc.uk/cases/jcpc-2016-0016.html>), Lady Arden explained that:

“The case I have cited is about commercial trusts, but the points could equally be made in other areas of common law which are used in commerce, such as contract, tort and property law. The common law is the language of commerce. Commercial law is widely considered to be much more flexible and facultative under the common law system because under that system the courts take one case at a time and focus on the facts to see if the rule that was laid down in case A applies in case B. There is a constant process of refining the law in the light of experience, not of refining the law in terms of abstract intellectual analysis. Or as one of my former colleagues recently put it, as a broad generalisation, the courts tend to oil the wheels of commerce rather than throw grit in the engine [Procter v Procter [2021] EWCA Civ 167, [2021] Ch 395 para 8 per Lewison LJ].”

JCPC Cases to be Decided in the Cayman Islands

On the announcement that the JCPC will be sitting in the Cayman Islands (<https://www.jcpc.uk/news/jcpc-in-the-cayman-islands.html>), the recently retired Chief Justice, the Hon. Sir Anthony Smellie, commented: “The visit ... signifies that the JCPC is an integral part of the Cayman Islands Justice System when it provides a final opportunity for judicial resolution of cases that may be appealed to it from the Cayman Islands Court of Appeal”; and Sir Anthony continued: “So, the visit really symbolises the connectivity and links among all our courts right up to the final appellate court for the Cayman Islands - the Judicial Committee of the Privy Council.”

The three cases that will be heard at the landmark sitting of the JCPC in the Cayman Islands are:

- *FamilyMart China Holding Co Ltd (Respondent) v Ting Chuan (Cayman Islands) Holding Corporation (Appellant)*, JCPC 2020/0055

(<https://www.jcpc.uk/cases/jcpc-2020-0055.html>), where the issue to be decided by the JCPC will be whether any part of a § petition to wind up a company on just and equitable grounds is susceptible to arbitration?

- *HEB Enterprises Ltd and another (Respondents) v Bernice Richards (as Personal Representative of the Estate of Anthony Richards, Deceased) (Appellant)*, JCPC 2020/0087 (<https://www.jcpc.uk/cases/jcpc-2020-0087.html>), where the appeal concerns two disputed commercial property transactions in the Cayman Islands, in which the purchase price was advanced by Mr Richards to HEB by way of instalments but completion did not occur; and where the JCPC will be asked to consider whether the Court of Appeal (Cayman Islands) was correct to determine that: (1) there had been no total failure of basis; and (2) that Mr Richards' recovery in restitution was limited by a deduction for "mesne profits" (to represent rent accrued, but unpaid, during his occupation).

- *Justin Ramoon (Appellant) v Governor of the Cayman Islands and another (Respondent)*, JCPC 2022/0066 (<https://www.jcpc.uk/cases/jcpc-2022-0066.html>), where the appeal concerns the lawfulness of the appellant's removal from the Cayman Islands to serve his prison sentence in England; and which raises the following issues for the JCPC: (1) whether the Grand Court of the Cayman Islands has an implied statutory power or an inherent power to hold a closed material procedure (CMP) when determining claims brought under the Bill of Rights of the Cayman Islands; (2) if there is no power to order a CMP, what approach should the Grand Court adopt?; and (3) whether the appellant's rights were sufficiently safeguarded to ensure compliance with the Cayman Bill of Rights when the challenged decision was taken.