

# **RULES OF THE SUPREME COURT OF THE UNITED KINGDOM**

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## **I Interpretation and Scope**

### *Interpretation*

1. (1) In these Rules –

- (a) “The Act” means the Constitutional Reform Act 2005.
- (b) “The Court” means the Supreme Court of the United Kingdom.
- (c) “Justice” means a judge of the Court.
- (d) “Registrar” means the Registrar of the Court.
- (e) “Registry” means the Registry of the Court.

(2) In these Rules where the context admits –

- (a) “Counsel” includes any person with the right to be heard as an advocate at a full hearing before the Court.
- (b) “The court below” means the court from which an appeal (or application for permission to appeal) is made to the Court.
- (c) “Electronic means” means CD Roms, memory sticks, email, fax or other means of electronic communication of the contents of documents.
- (d) “The House of Lords” means that House acting in its judicial capacity before the coming into force of Part 3 of the Act.
- (e) “Filing” (and related expressions) mean (subject to Rule 4(3)) delivery at the Registry either personally or by first-class post or through a document exchange.
- (f) “Party” includes an applicant for permission to appeal and an intervener under Rule 24.
- (g) “Respondent” includes a respondent to an application for permission to appeal and (subject to Rule 13) an intervener under Rule 24.
- (h) “Permission to appeal” means permission to appeal to the Court.
- (i) “Practice directions” means directions issued under Rule 6(1).
- (j) “Service” (and related expressions) mean (subject to Rule 4(3)) service personally or by first-class post or (with the consent of the party to be served) through a document exchange or electronic means.
- (k) “Solicitor” includes any person authorised to provide legal services (other than advocacy) in connection with proceedings before the Court.
- (l) References to a notice of appeal or cross-appeal include an application for permission to appeal or cross-appeal standing as a notice of appeal or cross-appeal.

- (3) References in these Rules or in any standard form to a party’s signing, filing or serving any document or taking any other procedural step include the signature, filing or service of that document or the taking of such other procedural step by the party’s solicitor.

- (4) References in these Rules to a period of days are to clear days (that is to say excluding the day from which the period begins and the day on which the relevant event occurs).

### *Scope and Aim*

2. (1) These Rules apply to civil and criminal appeals and to appeals and references raising issues under the Court's devolution jurisdiction.
- (2) In interpreting and applying these Rules the Court and the Justices shall have regard to section 45(3)(a) of the Act (the Court to be accessible, fair and efficient) and shall discourage undue controversy over procedural matters.

### *Limits*

3. (1) The Court may extend or shorten any time limit set by these Rules (unless to do so would be contrary to some statutory provisions).
- (2) The Court may exercise these powers either on an application by one or both parties or on its own initiative with notice to the parties.
- (3) An application for an extension may be granted on an application made after the time limit has expired.
- (4) Where a party to a proposed appeal has applied for public funding and the Registrar is informed of the application the time limits in Rules 9 and 17 shall be extended until 28 days after the final determination of the application for public funding.

### *Filing*

4. (1) A document filed or served by first-class post or through a document exchange shall be taken to be filed or served on the second day after it is posted or left at the document exchange (not counting days which are not business days).
- (2) The Registrar may give directions as to substituted service in cases where the address of the person on whom a document is to be served is unknown.
- (3) It is intended that in due course the filing and service of all documents relating to proceedings before the Court will normally be carried out by electronic means. This will be provided for (after consultation) by amendment of these Rules and by practice directions. In the meantime (except where there is a litigant in person or with the consent of the Registrar) the contents of documents required to be filed in hard copy must also be transmitted to the Registry by electronic means in accordance with practice directions. [See Practice Direction 1].

### *Non-Compliance with Rules*

5. Failure to comply with these Rules shall not automatically invalidate any proceedings and in the event of non-compliance the Court may give such directions as it thinks appropriate (including where appropriate summary dismissal of an appeal or debarring a respondent from resisting an appeal) having regard to the seriousness of the non-compliance and generally to the circumstances of the case.

### *Supplementing the Rules*

6. (1) The Court (acting by its President) may from time to time issue, amend or revoke any practice directions and any standard forms so long as they are consistent with the Act and with these Rules.
  - (2) A practice direction may provide for the establishment (for consultative purposes) of a Court users' committee.
  - (3) If any procedural question arises which is not covered by these Rules the Court may adopt any procedure that is consistent with the Act and with these Rules.

### *Procedural Decisions*

7. (1) Subject to Rule 7(2) the powers of the Court under Rules 3, 5, 6(3), 31, 32, 33, 34 and 38 may be exercised by a single Justice without an oral hearing but the single Justice may direct an oral hearing or may refer the matter to a panel of three Justices to be decided with or without an oral hearing.
  - (2) Any contested application (a) alleging contempt of the court or (b) for a direction under Rule 5 dismissing an appeal or debarring a respondent from resisting an appeal or (c) for security for costs shall be referred to a panel of three Justices who shall (in a case of alleged contempt) and may (in any other case) hold an oral hearing.
  - (3) Where under these Rules any matter is to be decided by the Registrar he or she may refer the matter to the Court for decision (and Rule 7(1) shall then apply).
  - (4) A party may apply (in Form 1 to be lodged within 7 days) for a decision of the Registrar to be reviewed and Rule 7(1) shall then apply as if the Registrar had referred the matter to the Court.
  - (5) Oral hearings on procedural matters shall be heard in open court or in a place to which the public are admitted.

## **II Application for Permission to Appeal**

### *Form of Application*

8. (1) Every application to the Court for permission to appeal shall be made in writing in Form 2.
- (2) The title of the proceedings shall comply with any applicable practice direction [see Practice Direction 2]

### *Filing of Application*

9. The application must be lodged (subject to Rule 3) within 28 days from the order or decision to be appealed from.

### *Service of Application*

10. (1) Before the application is filed a copy must be served on every respondent.
- (2) A certificate of service on each respondent is to be included in the original application.

### *Appearance by Respondent*

11. (1) Each respondent who intends to participate in the application shall within 14 days after service enter an appearance in Form 3.
- (2) In the form of entry of appearance a respondent may include a statement of objections to the application.
- (3) A respondent who does not enter an appearance will not be permitted to participate in the application and will not be given notice of its progress.

### *Documents in Support of Application*

12. (1) Two copies of the application must be filed at the Registry together with a copy of the order appealed from and any separate order refusing permission to appeal. If the order appealed from is not immediately available the application should be filed without delay and the order filed as soon as possible.
- (2) Within 7 days from filing the application the applicant must file the further documents required for the use of the Court [see Practice Direction 3].

### *No Intervention in Application*

13. (1) No intervention may be made in support of an application for permission to appeal (but an applicant may refer in his application to any proposed intervention in an eventual appeal)
- (2) If permission to appeal is granted the applicant must give notice of the grant to any person who participated as an intervener in the court below.

### *Consideration on the Papers*

14. (1) Every admissible application for permission to appeal (and any respondent's statement of objections) shall be considered on the papers (and without a hearing) by a panel of three Justices.
- (2) The panel (acting unanimously) may-
  - (a) grant or refuse permission on all or any of the grounds of appeal
  - (b) invite the parties' written submissions (to be lodged within 14 days) as to the grant of permission on terms (as to costs or otherwise).
- (3) Where the panel has invited the parties' submissions as to terms it shall reconsider the application on the papers (and without a hearing) and may (acting unanimously) refuse permission or grant permission (either unconditionally or on terms) on all or any of the grounds of appeal.
- (4) Where the panel grants permission on limited grounds of appeal it shall (unless it directs otherwise) be taken to have refused permission on the other grounds.
- (5) The parties will be given written notice of any decision taken on the papers.
- (6) If the application is not fully disposed of under the above provisions it shall be referred for an oral hearing, by the same panel if possible.

### *Oral Hearing of Application*

15. (1) The applicant and every respondent who has entered an appearance will be informed of the date of the oral hearing.
- (2) A party may be heard before the panel by counsel, by solicitor or in person. The duration of the hearing will normally be limited to 30 minutes. Only one speaker (counsel, solicitor or party in person) will be heard on each side. Authorities are not normally cited or provided to the panel.
- (3) The panel will normally give its decision orally at the end of the hearing either to grant permission to appeal (unconditionally or on terms) on all or any of the grounds of appeal or to refuse permission to appeal.

### **III Commencement and Preparation of Appeal**

#### *Form of Notice*

16. (1) Where the Court grants permission to appeal the application for permission to appeal shall stand as the notice of appeal (the grounds of appeal being limited to those on which permission has been granted) and Rules 17 to 19 shall not apply.
- (2) In any other case an appeal to the Court is commenced by a notice of appeal in Form 4.
- (3) Rule 8(2) shall apply to a notice of appeal. [see Practice Direction 2].

#### *Filing of Notice*

17. (1) The notice of appeal together with seven copies must be filed (subject to Rule 3) within 42 days of the date of the order appealed from.
- (2) There must also be lodged a copy of the order appealed from and (if separate) a copy of any order granting permission to appeal. If the order appealed from is not immediately available the notice of appeal should be filed without delay and the order filed as soon as possible.

#### *Service of Notice*

18. (1) Before the notice of appeal is filed a copy must be served on each respondent (including any person who participated in the proceedings below as an intervener).
- (2) A certificate of service on each respondent is to be included in the original notice of appeal.

#### *Appearance by Respondent*

19. (1) Where a notice of appeal is given each respondent who intends to participate in the appeal shall within 14 days after service on him enter an appearance in Form 5 signed by him.
- (2) A respondent who does not enter an appearance will not be permitted to participate in the appeal and will not be given notice of the progress of the appeal.

### *Documents for Appeal Hearing*

20. (1) Within 112 days (subject to Rule 3) of the grant by the Court of permission to appeal or the filing of the notice of appeal the appellant must lodge –
  - (a) a statement of facts and issues and
  - (b) an appendix of essential documents which were in evidence before or which record the proceedings in the courts below prepared in accordance with any practice direction [see Practice Direction 4].
- (2) Both the statement and the appendix must be submitted to and agreed with every respondent before being filed.
- (3) On the filing of the statement and the appendix the appeal will be set down for hearing and the parties must within 7 days notify the Registry of the number of hours that their respective counsel estimate to be necessary for their oral submissions. The Registrar will subsequently inform the parties of the date fixed for the hearing [see Practice Direction 5].
- (4) The appellant and every respondent (and any advocate to the Court) must then sequentially exchange their respective written cases and file them, and every respondent (and any advocate to the Court) must for the purposes of Rule 21 provide copies of their respective written cases, in compliance with any practice direction [see Practice Direction 6]

### *Appeal Volumes*

21. As soon as the parties' cases have been exchanged and in any event not later than 14 days before the date fixed for the hearing the appellant shall lodge core volumes and (if necessary) additional volumes containing further parts of the appendix in compliance with any practice direction [see Practice Direction 7]

### *Authorities*

22. Copies of all authorities that may be referred to during the hearing (prepared in accordance with any practice direction) shall be lodged by the appellant at the same time as the core volumes [see Practice Direction 8].

### *Cross-Appeals*

23. (1) A respondent who wishes to argue that the order appealed from should be upheld on grounds different from those relied on by the court below should state that clearly in his or her case (but need not cross-appeal).
- (2) If (except in an appeal for which no permission to appeal is required) a respondent wishes to argue that the order appealed from should be varied he or

she must obtain permission (either from the court below or from the Court) to cross-appeal.

- (3) Part II of these Rules shall apply (with appropriate modifications) to an application to the Court for permission to cross-appeal and if possible applications for permission to appeal and to cross-appeal shall be considered together by the same panel of Justices.
- (4) Where there is a cross-appeal Part III of these Rules shall apply with appropriate modifications and in particular:
  - (a) Either the application for permission to cross-appeal will stand as a notice of cross-appeal or such a notice (in Form 4) shall be lodged and served within 42 days of the grant by the Court of permission to appeal or of the lodging of the notice of appeal.
  - (b) There shall be a single statement of facts and issues, a single appendix of essential documents (divided if necessary into parts) and a single case for each party in respect of the appeal and the cross-appeal (and each case should state clearly that it is in respect of both the appeal and the cross-appeal).
  - (c) The appellant shall remain primarily responsible for the preparation of all the papers for the appeal and for setting it down.

#### *Intervention*

24. (1) After an appeal has been commenced any person (and in particular (i) any official body or non-governmental organization seeking to make submissions in the public interest or (ii) any person with an interest in proceedings by way of judicial review) may apply to the Court for permission to intervene in the appeal.
- (2) Any such application shall be made in Form 6 and shall be considered and decided on the papers by a panel of three Justices who may refuse permission to intervene or may permit intervention
  - (a) by written submissions only or
  - (b) by written submissions and oral submissions (which may be limited to a specified duration)
- (3) No permission is required for an intervention by written submissions only by a person who participated as an intervener in the court below
- (4) No permission is required for an intervention by the Crown under section 5 of the Human Rights Act 1998 nor for an intervention by the appropriate Law Officer on a devolution issue [see Rules 37 and 38 and Practice Direction 12 and 13]

## **IV Hearing and Decision of Appeal**

### *Hearing in Open Court*

25. (1) Every appeal shall be heard in open court (subject to Rule 25(2)) and shall be conducted in accordance with any applicable practice direction [see Practice Direction 9].
- (2) If it is necessary in the interests of justice the Court may (for reasons announced publicly in advance) sit in private for part of an appeal hearing.

### *Judgment in Open Court*

26. (1) Every judgment shall be delivered in open court.
- (2) Judgment will normally be reserved and delivered at a date and time of which the parties and the general public are to be notified.

### *Final Order*

27. Every final order of the Court shall be prepared and sealed by the Registrar who may invite written submissions as to the form of the order [see Practice Direction 10].

## **V Further General Provisions**

### *Procedural applications*

28. (1) Except where another form is prescribed every procedural application to the Court shall be made in Form 7 and a copy of the application shall be served on every other party before it is filed.
- (2) Any other party opposing an application shall lodge objections in Form 8 and serve a copy on the applicant.

### *Amendment of parties' documents*

29. Any application for permission to appeal, notice of appeal or other document filed under these Rules may be amended with permission of the Registrar on such terms as the Registrar considers appropriate. The Registrar may invite the parties' written submissions as to any application to amend.

### *Grouping appeals*

30. The Registrar may direct that appeals raising the same or similar issues shall be heard either together or consecutively by the Court constituted by the same Justices and may give any consequential directions.

### *Change of interest*

31. (1) The Registry must be informed promptly of
- (a) the death or bankruptcy of any individual party
  - (b) the winding up or dissolution of any corporate party
  - (c) any compromise of the subject matter of an appeal
  - (d) any event which does or may deprive an appeal of practical significance to the parties

and the Registrar may give any consequential directions or may refer the matter to the Court for directions.

- (2) An appeal may be withdrawn with the written consent of both parties or with the permission of the Court on such terms as the Court thinks appropriate.

### *Advocate to the Court and Assessors*

32. (1) The Court may request the Attorney General, the Advocate General or the Attorney General for Northern Ireland to appoint or may itself appoint an advocate to the Court to assist the Court with legal submissions.
- (2) In accordance with section 44 of the Act the Court may appoint one or more independent specialist advisers to assist the Court as assessors on any technical matter.
- (3) The fees and expenses of any advocate to the Court or assessors shall be costs in the appeal.

### *Security for Costs*

33. The Court may on the application of a respondent order an appellant to give security for the costs of the appeal [see Practice Direction 11].

### *Stay of execution*

34. Any appellant who wishes to obtain a stay of execution of the order appealed from must seek it from the court below. Only in wholly exceptional circumstances will the Court grant a stay.

### *London agents*

35. Solicitors practising outside London may appoint London agents and additional costs incurred by not appointing London agents may be disallowed.

### *Disposal of documents*

36. (1) All documents filed become the property of the Court and may (with the permission of the Registrar) be inspected by the press or members of the public. In considering whether to give permission (and on what terms) the Registrar shall have due regard to personal and commercial confidentiality and national security.
- (2) Original documents will be retained in the records of the Registry.
- (3) Other documents shall be destroyed unless the Registrar (on a written application made within 21 days of the end of the proceedings) directs otherwise.

## **VI Particular Appeals and References**

### *Human Rights Act issues*

37. (1) Where an appeal raises a question of incompatibility under sections 4 and 5 of the Human Rights Act 1998 and the Crown is not already a party to the appeal the Registrar shall give notice to the appropriate Law Officer inviting him to give notice within 21 days whether the Crown wishes to be joined as a party to the appeal.
- (2) If notice is given that the Crown wishes to be joined the appropriate Minister or other person shall be joined accordingly.
- (3) If such a question arises for the first time during the course of an appeal hearing the Court will if necessary adjourn the proceedings to enable the Registrar to give notice under Rule 37(1) [see Practice Direction 12].

### *Devolution Issues*

38. Appeals or references raising issues as to the Court's devolution jurisdiction (as defined by section 40 of and Schedule 9 to the Act) shall in general be dealt with in accordance with these Rules but the Court shall as and when necessary give special directions as to any direct reference of a devolution issue made under paragraph 30 of Schedule 8 to the Government of Wales Act 1998, paragraph 34 of Schedule 6 to the Scotland Act 1998 or paragraph 34 of Schedule 10 to the Northern Ireland Act 1998 (in each case as amended by section 40 and Schedule 9, Part II of the Act). The Registrar shall give notice

of any devolution issue to the appropriate Law Officer (if not already a participant in the proceedings) [see Practice Direction 13].

#### *Court of Justice of the European Communities*

39. (1) Where on an application for permission to appeal it is contended that it raises a question of Community law which should be the subject of a reference under Article 234 of the Treaty and permission to appeal is refused the panel of Justices will give brief reasons for its decision.
- (2) Where on an application for permission to appeal a panel of Justices decides to make a reference under Article 234 prior to determining the application it will give consequential directions as to the form of the reference and the staying of the application (but it may if it thinks fit dispose of other parts of the application at once).
- (3) Where at the hearing of an appeal the Court decides to make a reference under Article 234 it will give consequential directions as to the form of the reference and the staying of the appeal (but it may if it thinks fit dispose of other parts of the appeal at once) [see Practice Direction 14].

#### *Revocation of Patents*

40. (1) On any appeal under sections 12 and 13 of the Administration of Justice Act 1969 from an order for revocation of a patent the appellant must serve notice of the appeal on the Comptroller-General of Patents (“the Comptroller”) as well as on every respondent.
- (2) If the respondent decides not to oppose the appeal he must serve notice of his decision on the Comptroller together with the pleadings in the action.
- (3) The Comptroller shall within 14 days (subject to Rule 3) serve on the appellant and lodge a notice stating whether or not he intends to appear on the appeal.
- (4) If the Comptroller gives such notice he may appear on the appeal as if he were a party.

#### *Criminal Appeals*

41. The Court will comply with Part 3 of the Domestic Violence, Crime and Victims Act 2004 in accordance with a practice direction [see Practice Direction 15].

## **VII Fees and Costs**

### *Fees*

42. Court fees are payable in accordance with any order made under section 52 of the Act.

### *Orders for costs*

43. (1) The Court may make such orders as it considers just in respect of the costs of any appeal, application for permission to appeal, or other application to or proceeding before the Court.
- (2) The Court's powers to make orders for costs may be exercised either at the final determination of an appeal or application for permission to appeal or in the course of the proceedings.
- (3) If a party wishes to defer making submissions as to costs until after judgment the Court should be informed of this at the close of the oral argument. If the Court accedes to the request it will direct whether to receive oral submissions as to costs immediately after judgment or written submissions as to costs within a specified period after judgment.
- (4) Orders for costs will not normally be made either in favour of or against interveners but such orders may be made if the Court considers it just to do so (in particular if an intervener has in substance acted as the sole or principal appellant or respondent).

### *Assessment of costs*

44. (1) Every assessment of costs shall be carried out by two taxing officers appointed by the President.
- (2) The taxing officers shall make every disputed assessment at an oral hearing.
- (3) An assessment may provide for the costs of the assessment procedure.
- (4) If any party objects to an assessment on a point of law or principle (but not quantum) rule 7(4) shall apply as if the assessment had been made by the Registrar.
- (5) Further guidance as to the assessment of costs may be given by practice directions [see Practice Direction 16].

## **VIII Amendment of Rules**

45. These Rules may be amended from time to time in accordance with the procedure set out in sections 45 and 46 of the Act.