

**2009 No. 1603 (L. 17)**

**SUPREME COURT OF THE UNITED KINGDOM**

**The Supreme Court Rules 2009**

*Made* - - - - *26th June 2009*

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*Coming into force* - - *1st October 2009*

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## PART 8 Transitional arrangements

55. Transitional arrangements

The senior Lord of Appeal in Ordinary makes the following Rules in exercise of the power conferred by section 45 of the Constitutional Reform Act 2005<sup>(a)</sup>.

In accordance with section 45(4) and (5) of that Act the senior Lord of Appeal in Ordinary has consulted the Lord Chancellor, the General Council of the Bar of England and Wales, the Law Society of England and Wales, the Faculty of Advocates of Scotland, the Law Society of Scotland, the General Council of the Bar of Northern Ireland, the Law Society of Northern Ireland and with such other bodies representing persons likely to be affected by the Rules as the senior Lord of Appeal in Ordinary considered appropriate.

## PART 1 Interpretation and scope

### Citation and commencement

1. These Rules may be cited as the Supreme Court Rules 2009 and shall come into force on 1st October 2009.

### Scope and objective

2.—(1) These Rules apply to civil and criminal appeals to the Court and to appeals and references under the Court’s devolution jurisdiction.

(2) The overriding objective of these Rules is to secure that the Court is accessible, fair and efficient.

(3) The Court must interpret and apply these Rules with a view to securing that the Court is accessible, fair and efficient and that unnecessary disputes over procedural matters are discouraged.

### Interpretation

3.—(1) In these Rules—

“the Act” means the Constitutional Reform Act 2005;

“the Court” means the Supreme Court of the United Kingdom;

“Justice” means a judge of the Court and includes its President and Deputy President;

“the Registrar” means the Registrar of the Court;

“the Registry” means the Registry of the Court.

(2) In these Rules except where the context otherwise requires —

“appellant” means a person who files an application for permission to appeal or who files a notice of appeal;

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(a) 2005 c. 4. Section 45 is modified by the Constitutional Reform Act 2005 (Temporary Modifications) Order 2006 (S.I. 2006/227) so that, until the coming into force of s 23 of the 2005 Act, any reference to the “President of the Supreme Court” is a reference to the “senior Lord of Appeal in Ordinary”.

“business day” means any day other than a Saturday, Sunday, Christmas Day, Good Friday or a bank holiday under the Banking and Financial Dealings Act 1971(a), in England and Wales;

“certificate of service” means a certificate given under rule 6;

“counsel” includes any person with the right to be heard as an advocate at a full hearing before the Court;

“court below” means the court from which an appeal (or application for permission to appeal) is made to the Court;

“court officer” means the Registrar or a member of the court staff;

“devolution jurisdiction” means the jurisdiction transferred to the Court by section 40 of, and Schedule 9 to, the Act;

“electronic means” means CD ROMs, memory sticks, email, fax or other means of electronic communication of the contents of documents;

“filing” means filing in the Registry in accordance with rule 7 and related expressions have corresponding meanings;

“form” and the “appropriate form” have the meanings given by rule 4;

“panel of Justices” means a panel of at least three Justices;

“party” means an appellant, a respondent and a person who has been given permission to intervene under rule 26;

“the relevant officer” means—

- (a) in relation to proceedings in England and Wales, the Attorney General and, in relation to proceedings that particularly affect Wales, the Counsel General to the Welsh Assembly Government,
- (b) in relation to proceedings in Scotland, the Advocate General for Scotland and the Lord Advocate; and
- (c) in relation to proceedings in Northern Ireland, the Advocate General for Northern Ireland and (when section 22 of the Justice (Northern Ireland) Act 2002 comes into force (b)) the Attorney General for Northern Ireland;

“requisite number of copies” means the number of copies which are to be provided under the relevant practice direction or as directed by the Court;

“respondent” includes a respondent to an application for permission to appeal and means—

- (a) a person other than the appellant who was a party to the proceedings in the court below and who is affected by the appeal; and
- (b) a person who is permitted by the Court to be a party to the appeal;

“service” and related expressions have the meanings given by rule 6;

“solicitor” includes any person authorised to provide legal services other than as counsel in connection with proceedings before the Court.

(3) References in these Rules to a practice direction means a practice direction issued by the President of the Court.

(4) References in these Rules or in any 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.

(5) Where any of these Rules or any practice direction requires a document to be signed, that requirement shall be satisfied if the signature is printed by computer or other mechanical means.

(6) Where these Rules require or permit the Court to perform an act of a formal or administrative character, that act may be performed by a court officer.

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(a) 1971 c. 80.  
(b) 2002 c. 26.

## Forms

4.—(1) In these Rules, a form means a form set out in a practice direction and a reference to the “appropriate form” means the form provided by the relevant practice direction for any particular case.

(2) The forms shall be used in the cases to which they apply, and in the circumstances for which they are provided by the relevant practice direction, but a form may be varied by the Court or a party if the variation is required by the circumstances of a particular case.

## Time limits

5.—(1) The Court may extend or shorten any time limit set by these Rules or any relevant practice direction (unless to do so would be contrary to any enactment).

(2) The Court may exercise these powers either on an application by one or more parties or without an application being made.

(3) The Registrar must notify the parties when a time limit is varied under this rule.

(4) An application for an extension of time may be granted after the time limit has expired.

(5) 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 11 and 19 shall be extended until 28 days after the final determination of the application for public funding.

(6) When the period specified—

(a) by these Rules or a practice direction, or

(b) by any judgment or court order,

for doing any act at the Registry ends on a day on which the Registry is closed, that act shall be in time if done on the next day on which the Registry is open.

## Service

6.—(1) A document may be served by any of the following methods—

(a) personal service;

(b) first class post (or an alternative service which provides for delivery on the next working day);

(c) (with the consent of the party to be served) through a document exchange;

(d) (with the consent of the party to be served or at the direction of the Registrar) by electronic means in accordance with the relevant practice direction.

(2) Where the address of the person on whom a document is to be served is unknown, the Registrar may direct that service is effected by an alternative method of service.

(3) A document served by first-class post or through a document exchange will be taken to have been served on the second day after it was posted or left at the document exchange, as the case may be (not including days which are not business days).

(4) A certificate of service must give details of the persons served, the method of service used and must state the date on which the document was served personally, posted, delivered to the document exchange or sent electronically, as the case may be.

## Filing

7.—(1) A document may be filed by any of the following methods—

(a) personal delivery;

(b) first class post (or an alternative service which provides for delivery on the next working day);

(c) through a document exchange;

(d) (with the consent of the Registrar) by electronic means in accordance with the relevant practice direction.

(2) A document filed by first-class post or through a document exchange will be taken to have been filed on the second day after it was posted or left at the document exchange, as the case may be (not including days which are not business days).

(3) Except with the consent of the Registrar, the contents of documents—

- (a) filed in hard copy must also be provided to the Registry by electronic means, and
- (b) filed by electronic means must also be provided to the Registry in hard copy,

in accordance with the relevant practice direction.

(4) A court officer must seal the following documents when they are filed—

- (a) an application for permission to appeal,
- (b) a notice of objection or acknowledgement by the respondent,
- (c) a notice of appeal,
- (d) an application form,

and may place the seal on the document by hand or by printing a facsimile of the seal on the document whether electronically or otherwise.

(5) A document purporting to bear the Court's seal shall be admissible in evidence without further proof.

#### **Non-compliance with these Rules**

**8.**—(1) Any failure by a party to comply with these Rules or any relevant practice direction shall not have the effect of making the proceedings invalid.

(2) Where any provision in these Rules or any relevant practice direction is not complied with, the Court may give whatever directions appear appropriate, having regard to the seriousness of the non-compliance and generally to the circumstances of the case.

(3) In particular, the Registrar may refuse to accept any document which does not comply with any provision in these Rules or any relevant practice direction and may give whatever directions appear appropriate.

(4) Directions given under this rule may include the summary dismissal of an appeal or debarring a respondent from resisting an appeal.

#### **Procedural decisions**

**9.**—(1) Subject to paragraph (2), the powers of the Court under the following rules may be exercised by a single Justice or the Registrar without an oral hearing—

- (a) rule 5 (time limits),
- (b) rule 8 (non-compliance with Rules),
- (c) rule 33 (change of interest),
- (d) rule 34 (withdrawal of appeal),
- (e) rule 35 (advocate to the Court and assessors),
- (f) rule 36 (security for costs),
- (g) rule 37 (stay of execution) and
- (h) rule 41 (devolution jurisdiction).

(2) Any contested application—

- (a) alleging contempt of the Court; or
- (b) for a direction under rule 8 dismissing an appeal or debarring a respondent from resisting an appeal; or

(c) for security for costs,  
shall be referred to a panel of 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 falls to be decided by a single Justice, that Justice may, where it appears appropriate, direct an oral hearing or may refer the matter to a panel of Justices to be decided with or without an oral hearing.

(4) Where under these Rules any matter falls to be decided by the Registrar, the Registrar may—

- (a) direct an oral hearing;
- (b) refer the matter to a single Justice (and paragraphs (1) and (3) shall then apply);
- (c) refer the matter to a panel of Justices to be decided with or without an oral hearing.

(5) A party may apply for a decision of the Registrar to be reviewed by a single Justice (in which case paragraphs (1) and (3) shall apply) and any application under this rule must be made in the appropriate form and be filed within 14 days of the Registrar's decision.

(6) Subject to rule 27, oral hearings on procedural matters must be heard in open court or in a place to which the public are admitted.

(7) If any procedural question arises which is not dealt with by these Rules, the Court or the Registrar may adopt any procedure that is consistent with the overriding objective, the Act and these Rules.

## PART 2

### Application for permission to appeal

#### Form of application

**10.**—(1) Every application to the Court for permission to appeal shall be made in the appropriate form.

(2) An application for permission to appeal must be made first to the court below, and an application may be made to the Supreme Court only after the court below has refused to grant permission to appeal.

#### Filing of application

**11.**—(1) Subject to any enactment which makes special provision with regard to any particular category of appeal, an application for permission to appeal must be filed within 28 days from the date of the order or decision of the court below.

(2) The Registrar may refuse to accept any application on the ground that—

- (a) the Court does not have jurisdiction under section 40 of the Act to issue it;
- (b) it contains no reasonable grounds; or
- (c) it is an abuse of process,

and may give whatever directions appear appropriate.

*(Section 2 of the Administration of Justice Act 1960 provides that an application for permission to appeal to the Supreme Court in a case involving civil contempt of court must be filed within 14 days, beginning with the date on which the application for permission is refused by the court below.)*

*(Section 13 of the Administration of Justice Act 1969 provides that an application for permission to appeal to the Supreme Court in a "leapfrog appeal" from the High Court must be filed within one month from the date on which the High Court judge grants a certificate under section 12.)*

### **Service of application**

12. Before the application is filed, a copy must be served—

- (a) on every respondent, and
- (b) on any person who was an intervener in the court below,

and, when the application is filed, the appellant must file a certificate of service.

### **Notice of objection by respondent**

13.—(1) Each respondent who wishes to object to the application must, within 14 days after service, file notice of objection in the appropriate form together with a certificate of service.

(2) Before the notice is filed, a copy must be served on—

- (a) the appellant,
- (b) any other respondent, and
- (c) any person who was an intervener in the court below.

(3) A respondent who does not file notice under this rule will not be permitted to participate in the application and will not be given notice of its progress.

### **Documents in support of application**

14.—(1) The requisite number of copies of the application must be filed together with—

- (a) a copy of the order appealed from, and
- (b) (if separate) a copy of any order refusing permission to appeal

and, if the order appealed from is not immediately available, the application should be filed without delay and the order filed as soon as it is available.

(2) The appellant must file the further documents required for the use of the Court within 7 days after filing the application.

### **Interventions in applications**

15.—(1) Any person and in particular—

- (a) any official body or non-governmental organization seeking to make submissions in the public interest or
- (b) any person with an interest in proceedings by way of judicial review,

may make written submissions to the Court in support of an application for permission to appeal and request that the Court takes them into account.

(2) Before the submissions are filed, a copy must be served on—

- (a) the appellant,
- (b) every respondent, and
- (c) any person who was an intervener in the court below

and the requisite number of copies of the submissions must be filed together with a certificate of service.

(3) Any submissions which are made shall be referred to the panel of Justices which considers the application for permission to appeal.

(4) If permission to appeal is granted—

- (a) a person whose submissions were taken into account by the panel will be notified but, if that person wishes to intervene in the appeal, an application must be made under rule 26;
- (b) the appellant must notify any person who was an intervener in the court below whether or not that person made submissions under this rule.



### **Consideration on paper**

**16.**—(1) Every admissible application for permission to appeal (together with any submissions made under rule 15 and any respondent’s notice of objection) shall be considered on paper without a hearing by a panel of Justices.

(2) The panel may—

- (a) grant or refuse permission to advance all or any of the grounds of appeal;
- (b) invite the parties to file written submissions within 14 days as to the grant of permission on terms (whether as to costs or otherwise); or
- (c) direct an oral hearing.

(3) Where the panel has invited the parties’ submissions as to terms, it shall reconsider the application on paper without a hearing and may refuse permission or grant permission (either unconditionally or on terms) to advance all or any of the grounds of appeal.

(4) Where the panel grants permission to advance limited grounds of appeal it shall (unless it directs otherwise) be taken to have refused permission to advance the other grounds.

(5) An order of the Court shall be prepared and sealed by the Registrar to record any decision made under this rule.

### **Oral hearing of application**

**17.**—(1) Where the panel has directed an oral hearing, the appellant and every respondent who has given notice under rule 13 will be informed of the date of the oral hearing.

(2) An order of the Court shall be prepared and sealed by the Registrar to record any decision made under this rule.

## **PART 3**

### **Commencement and preparation of appeal**

#### **Form and filing of notice where permission granted by the Court**

**18.**—(1) Where the Court grants permission to appeal, rules 19 and 20 shall not apply and

- (a) the application for permission to appeal shall stand as the notice of appeal;
- (b) the grounds of appeal shall be limited to those on which permission has been granted;
- (c) the appellant must, within 14 days of the grant by the Court of permission to appeal, file notice under this rule of an intention to proceed with the appeal.

(2) When notice is filed under rule 18(1)(c), the application for permission to appeal will be re-sealed and the appellant must then—

- (a) serve a copy on each respondent and on any person who was an intervener in the court below or whose submissions were taken into account under rule 15; and
- (b) file the requisite number of copies and a certificate of service.

(3) In any other case an appellant must file a notice of appeal under rule 19.

#### **Form and filing of notice where permission not required**

**19.**—(1) Every notice of appeal shall be made in the appropriate form.

(2) The notice of appeal together with the requisite number of copies must be filed within 42 days of the date of the order or decision of the court below.

(3) The appellant must also file—

- (a) a copy of the order appealed from and

(b) (if separate) a copy of the order granting permission to appeal and, if the order appealed from is not immediately available, the notice of appeal must be filed without delay and the order filed as soon as it is available.

### **Service of notice**

**20.**—(1) Before the notice of appeal is filed, a copy must be served on each respondent and on any person who was an intervener in the court below.

(2) When the notice of appeal is filed, the appellant must file a certificate of service.

### **Acknowledgement by respondent**

**21.**—(1) Each respondent who intends to participate in the appeal must, within 14 days after service under rule 18(2)(a) or 20, file notice in the appropriate form together with a certificate of service.

(2) Before the notice is filed, a copy must be served on—

- (a) the appellant,
- (b) any other respondent, and
- (c) any person who was an intervener in the court below or whose submissions were taken into account under rule 15.

(3) A respondent who does not file notice under this rule will not be permitted to participate in the appeal and will not be given notice of its progress.

### **Documents for appeal hearing**

**22.**—(1) Within 112 days after the filing of the notice under rule 18(1)(c) or the filing of the notice of appeal, the appellant must file—

- (a) a statement of the relevant facts and issues; and
- (b) an appendix (prepared in accordance with the relevant practice direction) of the essential documents which were in evidence before, or which record the proceedings in, the courts below.

(2) Both the statement and the appendix must be submitted to, and agreed with, every respondent before being filed.

(3) Within 7 days after the filing of the statement and the appendix, every party must—

- (a) notify the Registrar that the appeal is ready for listing, and
- (b) specify the number of hours that their respective counsel estimate to be necessary for their oral submissions

and the Registrar will subsequently inform the parties of the date fixed for the hearing.

(4) The appellant and every respondent (and any intervener and advocate to the Court) must then sequentially exchange their respective written cases and file them, and every respondent (and any intervener and advocate to the Court) must for the purposes of rule 23 provide copies of their respective written cases, in compliance with the relevant practice direction.

### **The core volumes**

**23.** 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 must file the requisite number of core volumes and, if necessary, additional volumes containing further parts of the appendix, in compliance with the relevant practice direction.

## **Authorities**

24. The volumes of authorities that may be referred to during the hearing must be prepared in accordance with the relevant practice direction and the requisite number of copies of the volumes of authorities must be filed by the appellant at the same time as the core volumes.

## **Cross-appeals**

25.—(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, must state that clearly in the respondent's written case (but need not cross-appeal).

(2) Except where—

- (a) leave is required from the Court of Session for an appeal from that court, or
- (b) an appeal lies to the Court as of right,

a respondent who wishes to argue that the order appealed from should be varied must obtain permission to cross-appeal from the Court.

(3) Part 2 of these Rules shall apply (with appropriate modifications) to an application to the Court for permission to cross-appeal and (if practicable) 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, this Part of these Rules shall apply with appropriate modifications and in particular—

- (a) either the application for permission to cross-appeal to the Court shall stand as a notice of cross-appeal, or such a notice (in the appropriate form) shall be filed and served within 42 days of the grant by the Court of permission to appeal or of the filing 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); and
- (c) the appellant shall remain primarily responsible for the preparation of all the papers for the appeal and for notifying the Registrar under rule 22(3).

## **Intervention**

26.—(1) After permission to appeal has been granted by the Court or a notice of appeal has been filed, any person and in particular—

- (a) any official body or non-governmental organization seeking to make submissions in the public interest,
- (b) any person with an interest in proceedings by way of judicial review,
- (c) any person who was an intervener in the court below or whose submissions were taken into account under rule 15,

may apply to the Court for permission to intervene in the appeal.

(2) An application under this rule must be made in the appropriate form and shall be considered on paper by a panel of Justices who may refuse permission to intervene or may permit intervention—

- (a) by written submissions only; or
- (b) by written submissions and oral submissions

and any oral submissions may be limited to a specified duration.

(3) No permission is required—

- (a) for an intervention by the Crown under section 5 of the Human Rights Act 1998, or

- (b) for an intervention by the relevant officer in a case where the Court is exercising its devolution jurisdiction.

*(For rules relating to Human Rights Act issues and the Court's devolution jurisdiction see rules 40 and 41.)*

## PART 4

### Hearing and decision of appeal

#### Hearing in open court

**27.**—(1) Every contested appeal shall be heard in open court except where it is necessary in the interests of justice or in the public interest to sit in private for part of an appeal hearing.

(2) Where the Court considers it necessary for a party and that party's representative to be excluded from a hearing or part of a hearing in order to secure that information is not disclosed contrary to the public interest, the Court must conduct the hearing, or that part of it from which the party and the representative are excluded, in private but the Court may exclude a party and any representative only if a person who has been appointed as a special advocate to represent the interests of that party is present when the party and the representative are excluded.

(3) Where the Court decides it is necessary for the Court to sit in private, it shall announce its reasons for so doing publicly before the hearing begins.

(4) Hearings shall be conducted in accordance with—

- (a) the relevant practice direction, and
- (b) any directions given by the Court

and directions given by the Court may limit oral submissions to a specified duration.

#### Judgment

**28.** A judgment may be—

- (a) delivered in open court; or
- (b) if the Court so directs, promulgated by the Registrar.

#### Orders

**29.**—(1) In relation to an appeal or a reference, the Supreme Court has all the powers of the court below and may—

- (a) affirm, set aside or vary any order or judgment made or given by that court;
- (b) remit any issue for determination by that court;
- (c) order a new trial or hearing;
- (d) make orders for the payment of interest;
- (e) make a costs order.

(2) An order of the Supreme Court may be enforced in the same manner as an order of the court below or of the appropriate superior court.

(3) For the purposes of paragraph (2) “the appropriate superior court” means—

- (a) in the case of an appeal or reference from a court in England and Wales, the High Court;
- (b) in the case of an appeal or reference from a court in Scotland—
  - (i) where the appeal or reference is in civil proceedings, the Court of Session; and
  - (ii) where the appeal or reference is in criminal proceedings, the High Court of Justiciary;

- (c) in the case of an appeal or reference from a court in Northern Ireland, the High Court in Northern Ireland.
- (4) In the case of references other than those mentioned in paragraph (3) “the appropriate superior court” in paragraph (2) means—
  - (a) where the reference is under the Scotland Act 1998, the Court of Session;
  - (b) where the reference is under the Northern Ireland Act 1998, the High Court in Northern Ireland; and
  - (c) where the reference is under the Government of Wales Act 2006, the High Court.
- (5) Every order of the Court shall be prepared and sealed by the Registrar who may invite written submissions as to the form of the order.

## PART 5

### Further general provisions

#### **Procedural applications**

- 30.**—(1) Every procedural application to the Court must be made in the appropriate form for general procedural applications unless a particular form is provided for a specific case.
- (2) An application must be made in the appropriate form and must—
    - (a) set out the reasons for making the application, and
    - (b) where necessary, be supported by written evidence.
  - (3) A copy of the application must be served on every other party before it is filed and, when the application is filed, the applicant must file a certificate of service.
  - (4) A party who wishes to oppose an application must, within 7 days after service, file notice of objection in the appropriate form and must (before filing) serve a copy on the applicant and any other parties.
  - (5) An application for permission to appeal, a notice of appeal or any other document filed under these Rules may be amended on application under this rule or with the permission of the Registrar on such terms as appear appropriate, and the Registrar may invite the parties’ written submissions on any application to amend.

#### **Requests for expedition**

- 31.**—(1) Any request for urgent consideration of an application for permission to appeal or for an expedited hearing must be made to the Registrar.
- (2) Wherever possible the views of all parties should be obtained before such a request is made.

#### **Grouping appeals**

**32.** 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 that appear appropriate.

#### **Change of interest**

- 33.** The Court 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 Court may give any consequential directions that appear appropriate.

### **Withdrawal etc of application for permission to appeal or of appeal**

**34.**—(1) An application for permission to appeal or a notice of appeal may be withdrawn with the written consent of all parties or with the permission of the Court on such terms as appear appropriate.

(2) The Court may set aside or vary the order appealed from by consent and without an oral hearing if satisfied that it is appropriate so to do.

(3) In this rule “a notice of appeal” includes an application for permission to appeal or cross-appeal which (under rule 18 or rule 25) stands as a notice of appeal or cross-appeal.

### **Advocate to the Court and assessors**

**35.**—(1) The Court may request the relevant officer 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, at the request of the parties or of its own initiative, appoint one or more independent specially qualified advisers to assist the Court as assessors on any technical matter.

(3) The fees and expenses of any advocate to the Court or assessor shall be costs in the appeal.

### **Security for costs**

**36.**—(1) The Court may on the application of a respondent order an appellant to give security for the costs of the appeal and any order for security shall determine—

(a) the amount of that security, and

(b) the manner in which, and the time within which, security must be given.

(2) An order made under this rule may require payment of the judgment debt (and costs) in the court below instead of, or in addition to, the amount ordered by way of security for costs.

### **Stay of execution**

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

### **Change of solicitor and London agents**

**38.**—(1) If a party for whom a solicitor is acting wishes to change solicitors, that party or the new solicitor must give the Registrar and the former solicitor written notice of the change.

(2) Until such notices are given the former solicitor shall continue to be treated as the party’s solicitor.

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

### **Disposal of documents**

**39.**—(1) All documents filed become the property of the Court and original documents must be retained in the records of the Registry.

(2) Other documents shall be destroyed unless the Registrar (on a written application made within 21 days of the end of the proceedings) directs otherwise.

(3) All documents held by the Court may be inspected by the press or members of the public on application to the Registrar but the Registrar may refuse an application for reasons of commercial confidentiality, national security or in the public interest.

(4) Before allowing an application for inspection under this rule, the Registrar may impose terms or conditions such as the redaction of certain material where such a condition is necessary in the interests of justice or in the public interest.

## PART 6

### Particular appeals and references

#### Human Rights Act issues

**40.**—(1) Where an appeal raises a question of incompatibility under section 4 of the Human Rights Act 1998(a) and the Crown is not already a party to the appeal, the Registrar shall give 21 days' notice of the question to the Crown.

(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 paragraph (1).

#### Devolution jurisdiction

**41.**—(1) Appeals or references under the Court's devolution jurisdiction shall in general be dealt with in accordance with these Rules but the Court shall give special directions as and when necessary, and in particular as to—

- (a) any question referred under section 33 of the Scotland Act 1998(b), section 11 of the Northern Ireland Act 1998(c) or section 96, 99 or 112 of the Government of Wales Act 2006(d),
- (b) any reference of a devolution issue(e),
- (c) any direct references under paragraph 33 or 34 of Schedule 6 to the Scotland Act 1998, paragraph 33 or 34 of Schedule 10 to the Northern Ireland Act 1998 or paragraph 29 or 30 of Schedule 9 to the Government of Wales Act 2006.

(2) A reference made by the relevant officer is made by filing the reference and by serving a copy on any other relevant officer who is not already a party and who has a potential interest in the proceedings.

(3) A reference must state the question or issue to be decided by the Court.

(4) The Registrar shall give notice of the question or issue to the appropriate relevant officer where that officer is not already a party to any proceedings.

#### Court of Justice of the European Communities

**42.**—(1) Where it is contended on an application for permission to appeal that it raises a question of Community law which should be the subject of a reference under Article 234 of the Treaty establishing the European Community 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 before determining the application, it will give consequential

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(a) 1998 c. 42.

(b) 1998 c. 46; section 33 provides for the scrutiny of proposed Acts of the Scottish Parliament by the Supreme Court.

(c) 1998 c. 47; section 11 provides for the scrutiny of proposed Acts of the Northern Ireland Assembly by the Supreme Court.

(d) 2006 c. 32; sections 96, 99 and 112 provide for the scrutiny of proposed Orders in Council, proposed Assembly Measures and proposed Acts of the National Assembly for Wales by the Supreme Court.

(e) A devolution issue is defined in Schedule 6 to the Scotland Act 1998, Schedule 10 to the Northern Ireland Act 1998 and Schedule 9 to the Government of Wales Act 2006.

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).

(4) An order of the Court shall be prepared and sealed by the Registrar to record any decision made under this rule.

### **Revocation of patents**

**43.**—(1) On any appeal under sections 12 and 13 of the Administration of Justice Act 1969<sup>(a)</sup> 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) A respondent who decides not to oppose the appeal must serve notice of that decision on the Comptroller together with the relevant statements of case.

(3) The Comptroller shall within 14 days serve on the appellant and file a notice stating whether or not the Comptroller intends to appear on the appeal.

(4) Where notice is given under paragraph (3), the Comptroller may appear on the appeal.

### **Criminal appeals**

**44.** The Court must apply in accordance with the relevant practice direction the code of practice for victims issued under section 32 of the Domestic Violence, Crime and Victims Act 2004<sup>(b)</sup>.

## **PART 7**

### **Fees and costs**

#### **Fees**

**45.** Where a fee is prescribed by any order made under section 52 of the Act, the Registrar may refuse to accept a document or refuse to allow a party to take any step unless the relevant fee is paid.

#### **Orders for costs**

**46.**—(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) 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).

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(a) 1969 c. 58; section 12 has been amended by the Courts Act 1971 (c.23), Schedule 11 Part IV, Judicature (Northern Ireland) Act 1978 (c.23) section 122(1)(2), Schedule 6 paragraph 13, Schedule 7 Part I and the Supreme Court Act 1981 (c.54), section 152(4), Schedule 7 .

(b) 2004 c. 28.



### **Submissions as to costs**

47.—(1) If a party wishes to defer making submissions as to costs until after judgment, the Court must be informed of this not later than at the close of the oral argument.

(2) If the Court accedes to the request it will give such directions as appear appropriate and it may, in particular, give directions—

- (a) for the hearing of oral submissions as to costs immediately after judgment;
- (b) for the simultaneous or sequential filing of written submissions as to costs within a specified period after judgment;
- (c) for the hearing of oral submissions after the filing of written submissions.

### **Claim for costs**

48.—(1) Where the Court has made an order for costs, the claim for costs must be submitted to the Registrar within three months beginning with the date on which the costs order was made.

(2) The form and contents of a claim for costs must comply with the relevant practice direction and the receiving party must supply such further particulars, information and documents as the Registrar may direct.

(3) The receiving party must serve a copy of a claim for costs on the paying party.

(4) Within 21 days beginning with the day on which a claim for costs is served, the paying party may (or, in the circumstances specified in the relevant practice direction, must) file points of dispute and, if so, must serve a copy on the receiving party.

(5) Within 14 days beginning with the day on which points of dispute are served, the receiving party may file a response and, if so, must serve a copy on the paying party.

### **Assessment of costs**

49.—(1) Every detailed assessment of costs shall be carried out by two costs officers appointed by the President and—

- (a) one costs officer must be a Costs Judge (a Taxing Master of the Senior Courts), and
- (b) the second may be the Registrar.

(2) A disputed assessment shall be dealt with at an oral hearing.

(3) An assessment may provide for the costs of the assessment procedure.

(4) The Registrar will give the receiving party and the paying party written notice of the date of the assessment.

(5) Where one of the parties so requests or in the circumstances specified in the relevant practice direction, the Registrar may make a provisional assessment of costs without the attendance of the parties.

(6) The Registrar must inform the parties in writing of the outcome of a provisional assessment and, if a party is dissatisfied with the outcome, or if points of disagreement cannot be resolved in correspondence, the Registrar shall appoint a date for an oral hearing.

(7) Any request for an oral hearing following a provisional assessment of costs must be made within 14 days of the receipt of the Registrar's decision on the assessment.

### **Basis of assessment**

50.—(1) Where the Court is to assess the amount of costs it will assess those costs—

- (a) on the standard basis, or
- (b) on the indemnity basis,

in the manner specified by rule 51 or (where appropriate) on the relevant bases that apply in Scotland or Northern Ireland.

(2) Where—

- (a) the Court makes an order about costs without indicating the basis on which the costs are to be assessed, or
- (b) the Court makes an order for costs to be assessed on a basis other than one specified in paragraph (1),

the costs will be assessed on the standard basis.

(3) This rule applies subject to any order or direction to the contrary.

#### **The standard basis and the indemnity basis**

**51.**—(1) Costs assessed on the standard basis are allowed only if they are proportionate to the matters in issue and are reasonably incurred and reasonable in amount.

(2) Any doubt as to whether costs assessed on the standard basis are reasonably incurred and are reasonable and proportionate in amount will be resolved in favour of the paying party.

(3) Costs assessed on the indemnity basis are allowed only if they are reasonably incurred and reasonable in amount.

(4) Any doubt as to whether costs assessed on the indemnity basis are reasonably incurred and are reasonable in amount will be resolved in favour of the receiving party.

#### **Amount of assessed costs to be specified**

**52.** The amount of any assessed costs will be inserted in the order made under rule 29 but, if that order is drawn up before the assessment has been completed, the amount assessed will be certified by the Registrar.

#### **Appeal from assessment**

**53.**—(1) A party who is dissatisfied with the assessment of costs made at an oral hearing may apply for that decision to be reviewed by a single Justice and any application under this rule must be made in the appropriate form and be filed within 14 days of the decision.

(2) The single Justice may (without an oral hearing) affirm the decision made on the assessment or may, where it appears appropriate, refer the matter to a panel of Justices to be decided with or without an oral hearing.

(3) An application may be made under this rule only on a question of principle and not in respect of the amount allowed on any item in the claim for costs.

#### **Payment out of security for costs**

**54.** Any security for costs lodged by an appellant will be dealt with by the Registrar in accordance with the directions of the Court.

## **PART 8**

### **Transitional arrangements**

#### **Transitional arrangements**

**55.**—(1) Unless the Court or the Registrar directs otherwise, these Rules shall apply, with any necessary modifications, to appeals which were proceeding, and petitions for leave which were lodged, in the House of Lords before 1st October 2009.

(2) The Court or the Registrar may give special directions, as and when necessary, in relation to appeals which were proceeding, and petitions for leave which were lodged, in the House of Lords

before 1st October 2009 notwithstanding anything that was done in accordance with the Practice Directions and Standing Orders of the House of Lords.

21st May 2009

*The Lord Phillips of Worth Matravers*  
Senior Lord of Appeal in Ordinary

I direct that these Rules shall come into force on 1st October 2009

26th June 2009

*Jack Straw*  
Lord Chancellor

## EXPLANATORY NOTE

*(This note is not part of these Rules)*

These Rules govern the practice and procedure to be followed in the Supreme Court of the United Kingdom.

### Part 1

- (1) contains interpretation provisions (rule 3);
- (2) makes provision for forms (rule 4);
- (3) contains rules about the service and filing of documents (rules 6, 7);
- (4) sets out what the Court may do in the event that the rules are not complied with (rule 8);
- (5) sets out how and by whom procedural decisions will be made (rule 9).

Part 2 contains the rules governing applications for permission to appeal and provides for the documents that are to be filed and the relevant time limits. Part 3 contains the rules about commencement of, and preparation for, an appeal, providing for the documents that are to be filed and the relevant time limits.

Part 4 contains rules about the hearing of appeals by the Court and Part 5 contains miscellaneous rules such as for the making of a procedural application, the hearing or withdrawal of appeals, the amendment of documents and orders for security for costs. Part 6 contains rules about particular types of appeals including those that raise human rights or devolution issues.

Part 7 contains provisions in relation to fees, claims for, and the assessment of, costs and for the payment out of security money. Part 8 contains transitional provisions.

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