

# PRACTICE DIRECTION 52 – APPEALS

## THIS PRACTICE DIRECTION SUPPLEMENTS PART 52

### CONTENTS OF THIS PRACTICE DIRECTION

- 1.1 This Practice Direction is divided into four sections:
- Section I – General provisions about appeals
  - Section II – General provisions about statutory appeals and appeals by way of case stated
  - Section III – Provisions about specific appeals
  - Section IV – Provisions about reopening appeals

### SECTION I – GENERAL PROVISIONS ABOUT APPEALS

- 2.1 This practice direction applies to all appeals to which Part 52 applies except where specific provision is made for appeals to the Court of Appeal.
- 2.2 For the purpose only of appeals to the Court of Appeal from cases in family proceedings this Practice Direction will apply with such modifications as may be required.

### ROUTES OF APPEAL

- 2A.1 Subject to paragraph 2A.2, the following table sets out to which court or judge an appeal is to be made (subject to obtaining any necessary permission):

Decision of:	Appeal made to:
District judge of a county court	Circuit judge
Master or district judge of the High Court	High Court judge
Circuit judge	High Court judge
High Court judge	Court of Appeal

- 2A.2 Where the decision to be appealed is a final decision –
- (1) in a Part 7 claim allocated to the multi-track; or
  - (2) made in specialist proceedings (under the Companies Acts 1985 or 1989 or to which Sections I, II or III of Part 57 or any of Parts 58 to 63 apply),
- the appeal is to be made to the Court of Appeal (subject to obtaining any necessary permission).
- 2A.3 A ‘final decision’ is a decision of a court that would finally determine (subject to any possible appeal or detailed assessment of costs) the entire proceedings whichever way the court decided the issues before it.

- 2A.4 A decision of a court is to be treated as a final decision for routes of appeal purposes where it:
- (1) is made at the conclusion of part of a hearing or trial which has been split into parts; and
  - (2) would, if it had been made at the conclusion of that hearing or trial, have been a final decision.
- 2A.5 An order made:
- (1) on a summary or detailed assessment of costs; or
  - (2) on an application to enforce a final decision,
- is not a 'final decision' and any appeal from such an order will follow the appeal routes set out in the table in paragraph 2A.1.
- (Section 16(1) of the Supreme Court Act 1981 (as amended); section 77(1) of the County Courts Act 1984 (as amended); and the Access to Justice Act 1999 (Destination of Appeals) Order 2000 set out the provisions governing routes of appeal)
- 2A.6
- (1) Where the decision to be appealed is a final decision in a Part 8 claim treated as allocated to the multi-track under rule 8.9(c), the court to which the permission application is made should, if permission is given, and unless the appeal would lie to the Court of Appeal in any event, consider whether to order the appeal to be transferred to the Court of Appeal under rule 52.14.
  - (2) An appeal against a final decision on a point of law in a case which did not involve any substantial dispute of fact would normally be a suitable appeal to be so transferred.
- (See also paragraph 10.1)

## **GROUNDS FOR APPEAL**

- 3.1 Rule 52.11(3) (a) and (b) sets out the circumstances in which the appeal court will allow an appeal.
- 3.2 The grounds of appeal should –
- (1) set out clearly the reasons why rule 52.11(3)(a) or (b) is said to apply; and
  - (2) specify, in respect of each ground, whether the ground raises an appeal on a point of law or is an appeal against a finding of fact.

## **PERMISSION TO APPEAL**

- 4.1 Rule 52.3 sets out the circumstances when permission to appeal is required.
- 4.2 The permission of –
- (1) the Court of Appeal; or

(2) where the lower court's rules allow, the lower court,

is required for all appeals to the Court of Appeal except as provided for by statute or rule 52.3.

(The requirement of permission to appeal may be imposed by a practice direction – see rule 52.3(b))

4.3 Where the lower court is not required to give permission to appeal, it may give an indication of its opinion as to whether permission should be given.

(Rule 52.1(3)(c) defines 'lower court')

### **Appeals from case management decisions**

4.4 Case management decisions include decisions made under rule 3.1(2) and decisions about:

- (1) disclosure
- (2) filing of witness statements or experts reports
- (3) directions about the timetable of the claim
- (4) adding a party to a claim
- (5) security for costs.

4.5 Where the application is for permission to appeal from a case management decision, the court dealing with the application may take into account whether:

- (1) the issue is of sufficient significance to justify the costs of an appeal;
- (2) the procedural consequences of an appeal (e.g. loss of trial date) outweigh the significance of the case management decision;
- (3) it would be more convenient to determine the issue at or after trial.

### **Court to which permission to appeal application should be made**

4.6 An application for permission should be made orally at the hearing at which the decision to be appealed against is made.

4.7 Where:

- (a) no application for permission to appeal is made at the hearing; or
- (b) the lower court refuses permission to appeal,

an application for permission to appeal may be made to the appeal court in accordance with rules 52.3(2) and (3).

4.8 There is no appeal from a decision of the appeal court to allow or refuse permission to appeal to that court (although where the appeal court, without a hearing, refuses permission to appeal, the person seeking permission may request that decision to be reconsidered at a hearing). See section 54(4) of the Access to Justice Act and rule 52.3(2), (3), (4) and (5).

## Second appeals

- 4.9 An application for permission to appeal from a decision of the High Court or a county court which was itself made on appeal must be made to the Court of Appeal.
- 4.10 If permission to appeal is granted the appeal will be heard by the Court of Appeal.

## Consideration of Permission without a hearing

- 4.11 Applications for permission to appeal may be considered by the appeal court without a hearing.
- 4.12 If permission is granted without a hearing the parties will be notified of that decision and the procedure in paragraphs 6.1 to 6.6 will then apply.
- 4.13 If permission is refused without a hearing the parties will be notified of that decision with the reasons for it. The decision is subject to the appellant's right to have it reconsidered at an oral hearing. This may be before the same judge.
- 4.14 A request for the decision to be reconsidered at an oral hearing must be filed at the appeal court within 7 days after service of the notice that permission has been refused. A copy of the request must be served by the appellant on the respondent at the same time.

## Permission hearing

- 4.14A (1) This paragraph applies where an appellant, who is represented, makes a request for a decision to be reconsidered at an oral hearing.
- (2) The appellant's advocate must, at least 4 days before the hearing, in a brief written statement –
- (a) inform the court and the respondent of the points which he proposes to raise at the hearing;
  - (b) set out his reasons why permission should be granted notwithstanding the reasons given for the refusal of permission; and
  - (c) confirm, where applicable, that the requirements of paragraph 4.17 have been complied with (appellant in receipt of services funded by the Legal Services Commission).
- 4.15 Notice of a permission hearing will be given to the respondent but he is not required to attend unless the court requests him to do so.
- 4.16 If the court requests the respondent's attendance at the permission hearing, the appellant must supply the respondent with a copy of the appeal bundle (see paragraph 5.6A) within 7 days of being notified of the request, or such other period as the court may direct. The costs of providing that bundle shall be borne by the appellant initially, but will form part of the costs of the permission application.

## **Appellants in receipt of services funded by the Legal Services Commission applying for permission to appeal**

- 4.17 Where the appellant is in receipt of services funded by the Legal Services Commission (or legally aided) and permission to appeal has been refused by the appeal court without a hearing, the appellant must send a copy of the reasons the appeal court gave for refusing permission to the relevant office of the Legal Services Commission as soon as it has been received from the court. The court will require confirmation that this has been done if a hearing is requested to re-consider the question of permission.

## **Limited permission**

- 4.18 Where a court under rule 52.3(7) gives permission to appeal on some issues only, it will –
- (1) refuse permission on any remaining issues; or
  - (2) reserve the question of permission to appeal on any remaining issues to the court hearing the appeal.
- 4.19 If the court reserves the question of permission under paragraph 4.18(2), the appellant must, within 14 days after service of the court's order, inform the appeal court and the respondent in writing whether he intends to pursue the reserved issues. If the appellant does intend to pursue the reserved issues, the parties must include in any time estimate for the appeal hearing, their time estimate for the reserved issues.
- 4.20 If the appeal court refuses permission to appeal on the remaining issues without a hearing and the applicant wishes to have that decision reconsidered at an oral hearing, the time limit in rule 52.3(5) shall apply. Any application for an extension of this time limit should be made promptly. The court hearing the appeal on the issues for which permission has been granted will not normally grant, at the appeal hearing, an application to extend the time limit in rule 52.3(5) for the remaining issues.
- 4.21 If the appeal court refuses permission to appeal on remaining issues at or after an oral hearing, the application for permission to appeal on those issues cannot be renewed at the appeal hearing. See section 54(4) of the Access to Justice Act 1999.

## **Respondents' costs of permission applications**

- 4.22 In most cases, applications for permission to appeal will be determined without the court requesting –
- (1) submissions from, or
  - (2) if there is an oral hearing, attendance by the respondent.

- 4.23 Where the court does not request submissions from or attendance by the respondent, costs will not normally be allowed to a respondent who volunteers submissions or attendance.
- 4.24 Where the court does request –
- (1) submissions from; or
  - (2) attendance by the respondent,
- the court will normally allow the respondent his costs if permission is refused.

## **APPELLANT'S NOTICE**

- 5.1 An appellant's notice must be filed and served in all cases. Where an application for permission to appeal is made to the appeal court it must be applied for in the appellant's notice.

## **Human Rights**

- 5.1A (1) This paragraph applies where the appellant seeks –
- (a) to rely on any issue under the Human Rights Act 1998; or
  - (b) a remedy available under that Act,
- for the first time in an appeal.
- (2) The appellant must include in his appeal notice the information required by paragraph 15.1 of the practice direction supplementing Part 16.
- (3) Paragraph 15.2 of the practice direction supplementing Part 16 applies as if references to a statement of case were to the appeal notice.
- 5.1B CPR rule 19.4A and the practice direction supplementing it shall apply as if references to the case management conference were to the application for permission to appeal.
- (The practice direction to Part 19 provides for notice to be given and parties joined in certain circumstances to which this paragraph applies)

## **Extension of time for filing appellant's notice**

- 5.2 If an appellant requires an extension of time for filing his notice the application must be made in the appellants notice. The notice should state the reason for the delay and the steps taken prior to the application being made.
- 5.3 Where the appellants notice includes an application for an extension of time and permission to appeal has been given or is not required the respondent has the right to be heard on that application. He must be served with a copy of the appeal bundle (see paragraph 5.6A). However, a respondent who unreasonably opposes an extension of time runs the risk of being ordered to pay the appellants costs of that application.

- 5.4 If an extension of time is given following such an application the procedure at paragraphs 6.1 to 6.6 applies.

## Applications

- 5.5 Notice of an application to be made to the appeal court for a remedy incidental to the appeal (e.g. an interim remedy under rule 25.1 or an order for security for costs) may be included in the appeal notice or in a Part 23 application notice.

(Rule 25.15 deals with security for costs of an appeal)

(Paragraph 11 of this practice direction contains other provisions relating to applications)

## Documents

- 5.6 (1) This paragraph applies to every case except where the appeal –
- (a) relates to a claim allocated to the small claims track; and
  - (b) is being heard in a county court or the High Court.
- (Paragraph 5.8 applies where this paragraph does not apply)
- (2) The appellant must file the following documents together with an appeal bundle (see paragraph 5.6A) with his appellant's notice –
- (a) two additional copies of the appellants notice for the appeal court; and
  - (b) one copy of the appellants notice for each of the respondents;
  - (c) one copy of his skeleton argument for each copy of the appellant's notice that is filed (see paragraph 5.9);
  - (d) a sealed copy of the order being appealed;
  - (e) a copy of any order giving or refusing permission to appeal, together with a copy of the judge's reasons for allowing or refusing permission to appeal;
  - (f) any witness statements or affidavits in support of any application included in the appellants notice.
- 5.6A (1) An appellant must include in his appeal bundle the following documents:
- (a) a sealed copy of the appellants notice;
  - (b) a sealed copy of the order being appealed;
  - (c) a copy of any order giving or refusing permission to appeal, together with a copy of the judges reasons for allowing or refusing permission to appeal;
  - (d) any affidavit or witness statement filed in support of any application included in the appellant's notice;
  - (e) a copy of his skeleton argument;

- (f) a transcript or note of judgment (see paragraph 5.12), and in cases where permission to appeal was given by the lower court or is not required those parts of any transcript of evidence which are directly relevant to any question at issue on the appeal;
  - (g) the claim form and statements of case (where relevant to the subject of the appeal);
  - (h) any application notice (or case management documentation) relevant to the subject of the appeal;
  - (i) in cases where the decision appealed was itself made on appeal (eg from district judge to circuit judge), the first order, the reasons given and the appellant's notice used to appeal from that order;
  - (j) in the case of judicial review or a statutory appeal, the original decision which was the subject of the application to the lower court;
  - (k) in cases where the appeal is from a Tribunal, a copy of the Tribunal's reasons for the decision, a copy of the decision reviewed by the Tribunal and the reasons for the original decision and any document filed with the Tribunal setting out the grounds of appeal from that decision;
  - (l) any other documents which the appellant reasonably considers necessary to enable the appeal court to reach its decision on the hearing of the application or appeal; and
  - (m) such other documents as the court may direct.
- (2) All documents that are extraneous to the issues to be considered on the application or the appeal must be excluded. The appeal bundle may include affidavits, witness statements, summaries, experts' reports and exhibits but only where these are directly relevant to the subject matter of the appeal.
- (3) Where the appellant is represented, the appeal bundle must contain a certificate signed by his solicitor, counsel or other representative to the effect that he has read and understood paragraph (2) above and that the composition of the appeal bundle complies with it.
- 5.7 Where it is not possible to file all the above documents, the appellant must indicate which documents have not yet been filed and the reasons why they are not currently available. The appellant must then provide a reasonable estimate of when the missing document or documents can be filed and file them as soon as reasonably practicable.

## Small claims

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- 5.8 (1) This paragraph applies where –
- (a) the appeal relates to a claim allocated to the small claims track; and
  - (b) the appeal is being heard in a county court or the High Court.
- (2) The appellant must file the following documents with his appellants notice –

- (a) a sealed copy of the order being appealed; and
  - (b) any order giving or refusing permission to appeal, together with a copy of the reasons for that decision.
- (3) The appellant may, if relevant to the issues to be determined on the appeal, file any other document listed in paragraph 5.6 or 5.6A in addition to the documents referred to in sub-paragraph (2).
  - (4) The appellant need not file a record of the reasons for judgment of the lower court with his appellant's notice unless sub-paragraph (5) applies.
  - (5) The court may order a suitable record of the reasons for judgment of the lower court (see paragraph 5.12) to be filed –
    - (a) to enable it to decide if permission should be granted; or
    - (b) if permission is granted to enable it to decide the appeal.

## **Skeleton arguments**

- 5.9 (1) The appellants notice must, subject to (2) and (3) below, be accompanied by a skeleton argument. Alternatively the skeleton argument may be included in the appellant's notice. Where the skeleton argument is so included it will not form part of the notice for the purposes of rule 52.8.
- (2) Where it is impracticable for the appellants skeleton argument to accompany the appellants notice it must be filed and served on all respondents within 14 days of filing the notice.
- (3) An appellant who is not represented need not file a skeleton argument but is encouraged to do so since this will be helpful to the court.

## *Content of skeleton arguments*

- 5.10 (1) A skeleton argument must contain a numbered list of the points which the party wishes to make. These should both define and confine the areas of controversy. Each point should be stated as concisely as the nature of the case allows.
- (2) A numbered point must be followed by a reference to any document on which the party wishes to rely.
- (3) A skeleton argument must state, in respect of each authority cited –
  - (a) the proposition of law that the authority demonstrates; and
  - (b) the parts of the authority (identified by page or paragraph references) that support the proposition.
- (4) If more than one authority is cited in support of a given proposition, the skeleton argument must briefly state the reason for taking that course.
- (5) The statement referred to in sub-paragraph (4) should not materially add to the length of the skeleton argument but should be sufficient to demonstrate, in the context of the argument –
  - (a) the relevance of the authority or authorities to that argument; and

- (b) that the citation is necessary for a proper presentation of that argument.
- (6) The cost of preparing a skeleton argument which –
  - (a) does not comply with the requirements set out in this paragraph; or
  - (b) was not filed within the time limits provided by this Practice Direction (or any further time granted by the court),
    - will not be allowed on assessment except to the extent that the court otherwise directs.

- 5.11 The appellant should consider what other information the appeal court will need. This may include a list of persons who feature in the case or glossaries of technical terms. A chronology of relevant events will be necessary in most appeals.

### **Suitable record of the judgment**

- 5.12 Where the judgment to be appealed has been officially recorded by the court, an approved transcript of that record should accompany the appellants notice. Photocopies will not be accepted for this purpose. However, where there is no officially recorded judgment, the following documents will be acceptable:

#### **Written judgments**

- (1) Where the judgment was made in writing a copy of that judgment endorsed with the judge's signature.

#### **Note of judgment**

- (2) When judgment was not officially recorded or made in writing a note of the judgment (agreed between the appellants and respondents advocates) should be submitted for approval to the judge whose decision is being appealed. If the parties cannot agree on a single note of the judgment, both versions should be provided to that judge with an explanatory letter. For the purpose of an application for permission to appeal the note need not be approved by the respondent or the lower court judge.

#### **Advocates' notes of judgments where the appellant is unrepresented**

- (3) When the appellant was unrepresented in the lower court it is the duty of any advocate for the respondent to make his/her note of judgment promptly available, free of charge to the appellant where there is no officially recorded judgment or if the court so directs. Where the appellant was represented in the lower court it is the duty of his/her own former advocate to make his/her note available in these circumstances. The appellant should submit the note of judgment to the appeal court.

#### **Reasons for Judgment in Tribunal cases**

- (4) A sealed copy of the Tribunals reasons for the decision.

- 5.13 An appellant may not be able to obtain an official transcript or other suitable record of the lower court's decision within the time within which the appellants notice must be filed. In such cases the appellant's notice must still be completed

to the best of the appellants ability on the basis of the documentation available. However it may be amended subsequently with the permission of the appeal court.

### **Advocates' notes of judgments**

- 5.14 Advocates brief (or, where appropriate, refresher) fee includes:
- (1) remuneration for taking a note of the judgment of the court;
  - (2) having the note transcribed accurately;
  - (3) attempting to agree the note with the other side if represented;
  - (4) submitting the note to the judge for approval where appropriate;
  - (5) revising it if so requested by the judge,
  - (6) providing any copies required for the appeal court, instructing solicitors and lay client; and
  - (7) providing a copy of his note to an unrepresented appellant.

### **Transcripts or Notes of Evidence**

- 5.15 When the evidence is relevant to the appeal an official transcript of the relevant evidence must be obtained. Transcripts or notes of evidence are generally not needed for the purpose of determining an application for permission to appeal.

### **Notes of evidence**

- 5.16 If evidence relevant to the appeal was not officially recorded, a typed version of the judge's notes of evidence must be obtained.

### **Transcripts at public expense**

- 5.17 Where the lower court or the appeal court is satisfied that an unrepresented appellant is in such poor financial circumstances that the cost of a transcript would be an excessive burden the court may certify that the cost of obtaining one official transcript should be borne at public expense.
- 5.18 In the case of a request for an official transcript of evidence or proceedings to be paid for at public expense, the court must also be satisfied that there are reasonable grounds for appeal. Whenever possible a request for a transcript at public expense should be made to the lower court when asking for permission to appeal.

## Filing and service of appellant's notice

- 5.19 Rule 52.4 sets out the procedure and time limits for filing and serving an appellant's notice. The appellant must file the appellant's notice at the appeal court within such period as may be directed by the lower court which should not normally exceed 28 days or, where the lower court directs no such period, within 14 days of the date of the decision that the appellant wishes to appeal.
- (Rule 52.15 sets out the time limit for filing an application for permission to appeal against the refusal of the High Court to grant permission to apply for judicial review)
- 5.20 Where the lower court judge announces his decision and reserves the reasons for his judgment or order until a later date, he should, in the exercise of powers under rule 52.4(2)(a), fix a period for filing the appellant's notice at the appeal court that takes this into account.
- 5.21 (1) Except where the appeal court orders otherwise a sealed copy of the appellants notice, including any skeleton arguments must be served on all respondents in accordance with the timetable prescribed by rule 52.4(3) except where this requirement is modified by paragraph 5.9(2) in which case the skeleton argument should be served as soon as it is filed.
- (2) The appellant must, as soon as practicable, file a certificate of service of the documents referred to in paragraph (1).
- 5.22 Unless the court otherwise directs a respondent need not take any action when served with an appellants notice until such time as notification is given to him that permission to appeal has been given.
- 5.23 The court may dispense with the requirement for service of the notice on a respondent. Any application notice seeking an order under rule 6.9 to dispense with service should set out the reasons relied on and be verified by a statement of truth.
- 5.24 (1) Where the appellant is applying for permission to appeal in his appellants notice, he must serve on the respondents his appellants notice and skeleton argument (but not the appeal bundle), unless the appeal court directs otherwise.
- (2) Where permission to appeal –
- (a) has been given by the lower court; or
- (b) is not required,
- the appellant must serve the appeal bundle on the respondents with the appellants notice.

## Amendment of Appeal Notice

- 5.25 An appeal notice may be amended with permission. Such an application to amend and any application in opposition will normally be dealt with at the hearing unless that course would cause unnecessary expense or delay in which case a request should be made for the application to amend to be heard in advance.

## **PROCEDURE AFTER PERMISSION IS OBTAINED**

- 6.1 This paragraph sets out the procedure where:
- (1) permission to appeal is given by the appeal court; or
  - (2) the appellants notice is filed in the appeal court and –
    - (a) permission was given by the lower court; or
    - (b) permission is not required.
- 6.2 If the appeal court gives permission to appeal, the appeal bundle must be served on each of the respondents within 7 days of receiving the order giving permission to appeal.  
(Part 6 (service of documents) provides rules on service)
- 6.3 The appeal court will send the parties –
- (1) notification of –
    - (a) the date of the hearing or the period of time (the ‘listing window’) during which the appeal is likely to be heard; and
    - (b) in the Court of Appeal, the date by which the appeal will be heard (the ‘hear by date’);
  - (2) where permission is granted by the appeal court a copy of the order giving permission to appeal; and
  - (3) any other directions given by the court.
- 6.3A (1) Where the appeal court grants permission to appeal, the appellant must add the following documents to the appeal bundle –
- (a) the respondents notice and skeleton argument (if any);
  - (b) those parts of the transcripts of evidence which are directly relevant to any question at issue on the appeal;
  - (c) the order granting permission to appeal and, where permission to appeal was granted at an oral hearing, the transcript (or note) of any judgment which was given; and
  - (d) any document which the appellant and respondent have agreed to add to the appeal bundle in accordance with paragraph 7.11.
- (2) Where permission to appeal has been refused on a particular issue, the appellant must remove from the appeal bundle all documents that are relevant only to that issue.

## **Appeal Questionnaire in the Court of Appeal**

- 6.4 The Court of Appeal will send an Appeal Questionnaire to the appellant when it notifies him of the matters referred to in paragraph 6.3.

- 6.5 The appellant must complete and file the Appeal Questionnaire within 14 days of the date of the letter of notification of the matters in paragraph 6.3. The Appeal Questionnaire must contain:
- (1) if the appellant is legally represented, the advocates time estimate for the hearing of the appeal;
  - (2) where a transcript of evidence is relevant to the appeal, confirmation as to what parts of a transcript of evidence have been ordered where this is not already in the bundle of documents;
  - (3) confirmation that copies of the appeal bundle are being prepared and will be held ready for the use of the Court of Appeal and an undertaking that they will be supplied to the court on request. For the purpose of these bundles photocopies of the transcripts will be accepted;
  - (4) confirmation that copies of the Appeal Questionnaire and the appeal bundle have been served on the respondents and the date of that service.

### *Time estimates*

- 6.6 The time estimate included in an Appeal Questionnaire must be that of the advocate who will argue the appeal. It should exclude the time required by the court to give judgment. If the respondent disagrees with the time estimate, the respondent must inform the court within 7 days of receipt of the Appeal Questionnaire. In the absence of such notification the respondent will be deemed to have accepted the estimate proposed on behalf of the appellant.

## **RESPONDENT**

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- 7.1 A respondent who wishes to ask the appeal court to vary the order of the lower court in any way must appeal and permission will be required on the same basis as for an appellant.
- (Paragraph 3.2 applies to grounds of appeal by a respondent.)
- 7.2 A respondent who wishes only to request that the appeal court upholds the judgment or order of the lower court whether for the reasons given in the lower court or otherwise does not make an appeal and does not therefore require permission to appeal in accordance with rule 52.3(1).
- (Paragraph 7.6 requires a respondent to file a skeleton argument where he wishes to address the appeal court)
- 7.3
- (1) A respondent who wishes to appeal or who wishes to ask the appeal court to uphold the order of the lower court for reasons different from or additional to those given by the lower court must file a respondents notice.
  - (2) If the respondent does not file a respondents notice, he will not be entitled, except with the permission of the court, to rely on any reason not relied on in the lower court.
- 7.3A Paragraphs 5.1A, 5.1B and 5.2 of this practice direction (Human Rights and extension for time for filing appellants notice) also apply to a respondent and a respondents notice.

## Time limits

- 7.4 The time limits for filing a respondents notice are set out in rule 52.5 (4) and (5).
- 7.5 Where an extension of time is required the extension must be requested in the respondent's notice and the reasons why the respondent failed to act within the specified time must be included.
- 7.6 Except where paragraph 7.7A applies, the respondent must file a skeleton argument for the court in all cases where he proposes to address arguments to the court. The respondents skeleton argument may be included within a respondents notice. Where a skeleton argument is included within a respondents notice it will not form part of the notice for the purposes of rule 52.8.
- 7.7 (1) A respondent who –
- (a) files a respondents notice; but
  - (b) does not include his skeleton argument within that notice, must file and serve his skeleton argument within 14 days of filing the notice.
- (2) A respondent who does not file a respondents notice but who files a skeleton argument must file and serve that skeleton argument at least 7 days before the appeal hearing.  
(Rule 52.5(4) sets out the period for filing and serving a respondents notice)
- 7.7A (1) Where the appeal relates to a claim allocated to the small claims track and is being heard in a county court or the High Court, the respondent may file a skeleton argument but is not required to do so.
- (2) A respondent who is not represented need not file a skeleton argument but is encouraged to do so in order to assist the court.
- 7.7B The respondent must –
- (1) serve his skeleton argument on –
    - (a) the appellant; and
    - (b) any other respondent,
 at the same time as he files it at the court; and
  - (2) file a certificate of service.

## Content of skeleton arguments

- 7.8 A respondent's skeleton argument must conform to the directions at paragraphs 5.10 and 5.11 with any necessary modifications. It should, where appropriate, answer the arguments set out in the appellant's skeleton argument.

## Applications within respondent's notices

- 7.9 A respondent may include an application within a respondent's notice in accordance with paragraph 5.5 above.

## Filing respondent's notices and skeleton arguments

- 7.10 (1) The respondent must file the following documents with his respondent's notice in every case:
- (a) two additional copies of the respondent's notice for the appeal court; and
  - (b) one copy each for the appellant and any other respondents.
- (2) The respondent may file a skeleton argument with his respondent's notice and –
- (a) where he does so he must file two copies; and
  - (b) where he does not do so he must comply with paragraph 7.7.
- 7.11 If the respondent wishes to rely on any documents which he reasonably considers necessary to enable the appeal court to reach its decision on the appeal in addition to those filed by the appellant, he must make every effort to agree amendments to the appeal bundle with the appellant.
- 7.12 (1) If the representatives for the parties are unable to reach agreement, the respondent may prepare a supplemental bundle.
- (2) If the respondent prepares a supplemental bundle he must file it, together with the requisite number of copies for the appeal court, at the appeal court –
- (a) with the respondent's notice; or
  - (b) if a respondent's notice is not filed, within 21 days after he is served with the appeal bundle.
- 7.13 The respondent must serve –
- (1) the respondent's notice;
  - (2) his skeleton argument (if any); and
  - (3) the supplemental bundle (if any),  
on –
- (a) the appellant; and
  - (b) any other respondent,  
at the same time as he files them at the court.

## APPEALS TO THE HIGH COURT

### Application

- 8.1 This paragraph applies where an appeal lies to a High Court judge from the decision of a county court or a district judge of the High Court.
- 8.2 The following table sets out the following venues for each circuit –
- (a) Appeal centres – court centres where appeals to which this paragraph applies may be filed, managed and heard. Paragraphs 8.6 to 8.8 provide for special arrangements in relation to the South Eastern Circuit.
  - (b) Hearing only centres – court centres where appeals to which this paragraph applies may be heard by order made at an appeal centre (see paragraph 8.10).

<b>Circuit</b>	<b>Appeal Centres</b>	<b>Hearing Only Centres</b>
<b>Midland Circuit</b>	Birmingham	Lincoln
	Nottingham	Leicester
		Northampton
		Stafford
<b>North Eastern Circuit</b>	Leeds	Teesside
	Newcastle	
	Sheffield	
<b>Northern Circuit</b>	Manchester	Carlisle
	Liverpool	
	Preston	
<b>Wales and Chester Circuit</b>	Cardiff	
	Swansea	
	Chester	
<b>Western Circuit</b>	Bristol	Truro
	Exeter	Plymouth
	Winchester	

<b>South Eastern Circuit</b>	Royal Courts of Justice
	Lewes
	Luton
	Norwich
	Reading
	Chelmsford
	St Albans
	Maidstone
	Oxford

### **Venue for appeals and filing of notices on circuits other than the South Eastern Circuit**

- 8.3 Paragraphs 8.4 and 8.5 apply where the lower court is situated on a circuit other than the South Eastern Circuit.
- 8.4 The appellant's notice must be filed at an appeal centre on the circuit in which the lower court is situated. The appeal will be managed and heard at that appeal centre unless the appeal court orders otherwise.
- 8.5 A respondent's notice must be filed at the appeal centre where the appellant's notice was filed unless the appeal has been transferred to another appeal centre, in which case it must be filed at that appeal centre.

### **Venue for appeals and filing of notices on the South Eastern Circuit**

- 8.6 Paragraphs 8.7 and 8.8 apply where the lower court is situated on the South Eastern Circuit.
- 8.7 The appellant's notice must be filed at an appeal centre on the South Eastern Circuit. The appeal will be managed and heard at the Royal Courts of Justice unless the appeal court orders otherwise. An order that an appeal is to be managed or heard at another appeal centre may not be made unless the consent of the Presiding Judge of the circuit in charge of civil matters has been obtained.
- 8.8 A respondent's notice must be filed at the Royal Courts of Justice unless the appeal has been transferred to another appeal centre, in which case it must be filed at that appeal centre.

### **General provisions**

- 8.9 The appeal court may transfer an appeal to another appeal centre (whether or not on the same circuit). In deciding whether to do so the court will have regard to the criteria in rule 30.3 (criteria for a transfer order). The appeal court may do so either on application by a party or of its own initiative. Where an appeal is

transferred under this paragraph, notice of transfer must be served on every person on whom the appellant's notice has been served. An appeal may not be transferred to an appeal centre on another circuit, either for management or hearing, unless the consent of the Presiding Judge of that circuit in charge of civil matters has been obtained.

- 8.10 Directions may be given for –
- (a) an appeal to be heard at a hearing only centre; or
  - (b) an application in an appeal to be heard at any other venue, instead of at the appeal centre managing the appeal.
- 8.11 Unless a direction has been made under 8.10, any application in the appeal must be made at the appeal centre where the appeal is being managed.
- 8.12 The appeal court may adopt all or any part of the procedure set out in paragraphs 6.4 to 6.6.
- 8.13 Where the lower court is a county court:
- (1) appeals and applications for permission to appeal will be heard by a High Court Judge or by a person authorised under paragraphs (1), (2) or (4) of the Table in section 9(1) of the Supreme Court Act 1981 to act as a judge of the High Court; and
  - (2) other applications in the appeal may be heard and directions in the appeal may be given either by a High Court Judge or by any person authorised under section 9 of the Supreme Court Act 1981 to act as a judge of the High Court.
- 8.14 In the case of appeals from Masters or district judges of the High Court, appeals, applications for permission and any other applications in the appeal may be heard and directions in the appeal may be given by a High Court Judge or by any person authorised under section 9 of the Supreme Court Act 1981 to act as a judge of the High Court.

### **Appeals to a judge of a county court from a district judge**

- 8A.1 The Designated Civil Judge in consultation with his Presiding Judges has responsibility for allocating appeals from decisions of district judges to circuit judges.

### **Re-hearings**

- 9.1 The hearing of an appeal will be a re-hearing (as opposed to a review of the decision of the lower court) if the appeal is from the decision of a minister, person or other body and the minister, person or other body –
- (1) did not hold a hearing to come to that decision; or
  - (2) held a hearing to come to that decision, but the procedure adopted did not provide for the consideration of evidence.

## **Appeals Transferred to the Court of Appeal**

- 10.1 Where an appeal is transferred to the Court of Appeal under rule 52.14 the Court of Appeal may give such additional directions as are considered appropriate.

## **Applications**

- 11.1 Where a party to an appeal makes an application whether in an appeal notice or by Part 23 application notice, the provisions of Part 23 will apply.
- 11.2 The applicant must file the following documents with the notice
- (1) one additional copy of the application notice for the appeal court and one copy for each of the respondents;
  - (2) where applicable a sealed copy of the order which is the subject of the main appeal;
  - (3) a bundle of documents in support which should include:
    - (a) the Part 23 application notice; and
    - (b) any witness statements and affidavits filed in support of the application notice.

## **DISPOSING OF APPLICATIONS OR APPEALS BY CONSENT**

### **Dismissal of applications or appeals by consent**

- 12.1 These paragraphs do not apply where any party to the proceedings is a child or patient.
- 12.2 Where an appellant does not wish to pursue an application or an appeal, he may request the appeal court for an order that his application or appeal be dismissed. Such a request must contain a statement that the appellant is not a child or patient. If such a request is granted it will usually be on the basis that the appellant pays the costs of the application or appeal.
- 12.3 If the appellant wishes to have the application or appeal dismissed without costs, his request must be accompanied by a consent signed by the respondent or his legal representative stating that the respondent is not a child or patient and consents to the dismissal of the application or appeal without costs.
- 12.4 Where a settlement has been reached disposing of the application or appeal, the parties may make a joint request to the court stating that none of them is a child or patient, and asking that the application or appeal be dismissed by consent. If the request is granted the application or appeal will be dismissed.

## Allowing unopposed appeals or applications on paper

- 13.1 The appeal court will not normally make an order allowing an appeal unless satisfied that the decision of the lower court was wrong, but the appeal court may set aside or vary the order of the lower court with consent and without determining the merits of the appeal, if it is satisfied that there are good and sufficient reasons for doing so. Where the appeal court is requested by all parties to allow an application or an appeal the court may consider the request on the papers. The request should state that none of the parties is a child or patient and set out the relevant history of the proceedings and the matters relied on as justifying the proposed order and be accompanied by a copy of the proposed order.

## Procedure for structured settlements and consent orders involving a child or patient

- 13.2 Settlements relating to appeals and applications where one of the parties is a child or a patient; and structured settlements which are agreed upon at the appeal stage require the court's approval.

### *Child*

- 13.3 In cases involving a child a copy of the proposed order signed by the parties' solicitors should be sent to the appeal court, together with an opinion from the advocate acting on behalf of the child.

### *Patient*

- 13.4 Where a party is a patient the same procedure will be adopted, but the documents filed should also include any relevant reports prepared for the Court of Protection and a document evidencing formal approval by that court where required.

### *Structured settlements*

- 13.5 Where a structured settlement has been negotiated in a case which is under appeal the documents filed should include those which would be required in the case of a structured settlement dealt with at first instance. Details can be found in the Practice Direction which supplements CPR Part 40.

## SUMMARY ASSESSMENT OF COSTS

- 14.1 Costs are likely to be assessed by way of summary assessment at the following hearings:
- (1) contested directions hearings;
  - (2) applications for permission to appeal at which the respondent is present;
  - (3) dismissal list hearings in the Court of Appeal at which the respondent is present;

- (4) appeals from case management decisions; and
  - (5) appeals listed for one day or less.
- 14.2 Parties attending any of the hearings referred to in paragraph 14.1 should be prepared to deal with the summary assessment.

## OTHER SPECIAL PROVISIONS REGARDING THE COURT OF APPEAL

### Filing of Documents

- 15.1 (1) The documents relevant to proceedings in the Court of Appeal, Civil Division must be filed in the Civil Appeals Office Registry, Room E307, Royal Courts of Justice, Strand, London, WC2A 2LL.
- (2) The Civil Appeals Office will not serve documents and where service is required by the CPR or this practice direction it must be effected by the parties.

### Core Bundles

- 15.2 In cases where the appeal bundle comprises more than 500 pages, exclusive of transcripts, the appellant's solicitors must, after consultation with the respondent's solicitors, also prepare and file with the court, in addition to copies of the appeal bundle (as amended in accordance with paragraph 7.11) the requisite number of copies of a core bundle.
- 15.3 (1) The core bundle must be filed within 28 days of receipt of the order giving permission to appeal or, where permission to appeal was granted by the lower court or is not required, within 28 days of the date of service of the appellant's notice on the respondent.
- (2) The core bundle –
- (a) must contain the documents which are central to the appeal; and
  - (b) must not exceed 150 pages.

### Preparation of bundles

- 15.4 The provisions of this paragraph apply to the preparation of appeal bundles, supplemental respondents' bundles where the parties are unable to agree amendments to the appeal bundle, and core bundles.
- (1) **Rejection of bundles.** Where documents are copied unnecessarily or bundled incompletely, costs may be disallowed. Where the provisions of this Practice Direction as to the preparation or delivery of bundles are not followed the bundle may be rejected by the court or be made the subject of a special costs order.
- (2) **Avoidance of duplication.** No more than one copy of any document should be included unless there is a good reason for doing otherwise (such as the use of a separate core bundle - see paragraph 15.2).

(3) **Pagination**

- (a) Bundles must be paginated, each page being numbered individually and consecutively. The pagination used at trial must also be indicated. Letters and other documents should normally be included in chronological order. (An exception to consecutive page numbering arises in the case of core bundles where it may be preferable to retain the original numbering).
- (b) Page numbers should be inserted in bold figures at the bottom of the page and in a form that can be clearly distinguished from any other pagination on the document.

(4) **Format and presentation**

- (a) Where possible the documents should be in A4 format. Where a document has to be read across rather than down the page, it should be so placed in the bundle as to ensure that the text starts nearest the spine.
- (b) Where any marking or writing in colour on a document is important, the document must be copied in colour or marked up correctly in colour.
- (c) Documents which are not easily legible should be transcribed and the transcription marked and placed adjacent to the document transcribed.
- (d) Documents in a foreign language should be translated and the translation marked and placed adjacent to the document translated. The translation should be agreed or, if it cannot be agreed, each party's proposed translation should be included.
- (e) The size of any bundle should be tailored to its contents. A large lever arch file should not be used for just a few pages nor should files of whatever size be overloaded.
- (f) Where it will assist the Court of Appeal, different sections of the file may be separated by cardboard or other tabbed dividers so long as these are clearly indexed. Where, for example, a document is awaited when the appeal bundle is filed, a single sheet of paper can be inserted after a divider, indicating the nature of the document awaited. For example, 'Transcript of evidence of Mr J Smith (to follow)'.

(5) **Binding**

- (a) All documents, with the exception of transcripts, must be bound together. This may be in a lever arch file, ring binder or plastic folder. Plastic sleeves containing loose documents must not be used. Binders and files must be strong enough to withstand heavy use.
- (b) Large documents such as plans should be placed in an easily accessible file. Large documents which will need to be opened up frequently should be inserted in a file larger than A4 size.

(6) **Indices and labels**

- (a) An index must be included at the front of the bundle listing all the documents and providing the page references for each. In the case of documents such as letters, invoices or bank statements, they may be given a general description.
- (b) Where the bundles consist of more than one file, an index to all the files should be included in the first file and an index included for each file. Indices should, if possible, be on a single sheet. The full name of the case should not be inserted on the index if this would waste space. Documents should be identified briefly but properly.

(7) **Identification**

- (a) Every bundle must be clearly identified, on the spine and on the front cover, with the name of the case and the Court of Appeal's reference. Where the bundle consists of more than one file, each file must be numbered on the spine, the front cover and the inside of the front cover.
- (b) Outer labels should use large lettering eg 'Appeal Bundle A' or 'Core Bundle'. The full title of the appeal and solicitors' names and addresses should be omitted. A label should be used on the front as well as on the spine.

(8) **Staples etc.** All staples, heavy metal clips etc, must be removed.

(9) **Statements of case**

- (a) Statements of case should be assembled in 'chapter' form – i.e claim followed by particulars of claim, followed by further information, irrespective of date.
- (b) Redundant documents, eg particulars of claim overtaken by amendments, requests for further information recited in the answers given, should generally be excluded.

(10) **New Documents**

- (a) Before a new document is introduced into bundles which have already been delivered to the court, steps should be taken to ensure that it carries an appropriate bundle/page number so that it can be added to the court documents. It should not be stapled and it should be prepared with punch holes for immediate inclusion in the binders in use.
- (b) If it is expected that a large number of miscellaneous new documents will from time to time be introduced, there should be a special tabbed empty loose-leaf file for that purpose. An index should be produced for this file, updated as necessary.

(11) **Inter-solicitor correspondence.** Since inter-solicitor correspondence is unlikely to be required for the purposes of an appeal, only those letters which will need to be referred to should be copied.

- (12) **Sanctions for non-compliance.** If the appellant fails to comply with the requirements as to the provision of bundles of documents, the application or appeal will be referred for consideration to be given as to why it should not be dismissed for failure to so comply.

### Master in the Court of Appeal, Civil Division

- 15.5 When the Head of the Civil Appeals Office acts in a judicial capacity pursuant to rule 52.16, he shall be known as Master. Other eligible officers may also be designated by the Master of the Rolls to exercise judicial authority under rule 52.16 and shall then be known as Deputy Masters.

### Respondent to notify Civil Appeals Office whether he intends to file respondent's notice

- 15.6 A respondent must, no later than 21 days after the date he is served with notification that –
- (1) permission to appeal has been granted; or
  - (2) the application for permission to appeal and the appeal are to be heard together,
- inform the Civil Appeals Office and the appellant in writing whether –
- (a) he proposes to file a respondent's notice appealing the order or seeking to uphold the order for reasons different from, or additional to, those given by the lower court; or
  - (b) he proposes to rely on the reasons given by the lower court for its decision.
- (Paragraph 15.11B requires all documents needed for an appeal hearing, including a respondent's skeleton argument, to be filed at least 7 days before the hearing)

### Listing and hear-by dates

- 15.7 The management of the list will be dealt with by the listing officer under the direction of the Master.
- 15.8 The Civil Appeals List of the Court of Appeal is divided as follows:
- *The applications list* – applications for permission to appeal and other applications.
  - *The appeals list* – appeals where permission to appeal has been given or where an appeal lies without permission being required where a hearing date is fixed in advance. (Appeals in this list which require special listing arrangements will be assigned to the special fixtures list)
  - *The expedited list* – appeals or applications where the Court of Appeal has directed an expedited hearing. The current practice of the Court of Appeal is summarised in *Unilever plc. v. Chefaro Proprietaries Ltd.* (Practice Note) [1995]1 W.L.R. 243.

- *The stand-out list* – Appeals or applications which, for good reason, are not at present ready to proceed and have been stood out by judicial direction.
- *The second fixtures list* – [see paragraph 15.9A(1) below].
- *The second fixtures list* – if an appeal is designated as a ‘second fixture’ it means that a hearing date is arranged in advance on the express basis that the list is fully booked for the period in question and therefore the case will be heard only if a suitable gap occurs in the list.
- *The short-warned list* – appeals which the court considers may be prepared for the hearing by an advocate other than the one originally instructed with a half day’s notice, or such other period as the court may direct.

### Special provisions relating to the short-warned list

- 15.9
- (1) Where an appeal is assigned to the short-warned list, the Civil Appeals Office will notify the parties’ solicitors in writing. The court may abridge the time for filing any outstanding bundles in an appeal assigned to this list.
  - (2) The solicitors for the parties must notify their advocate and their client as soon as the Civil Appeals Office notifies them that the appeal has been assigned to the short-warned list.
  - (3) The appellant may apply in writing for the appeal to be removed from the short-warned list within 14 days of notification of its assignment. The application will be decided by a Lord Justice, or the Master, and will only be granted for the most compelling reasons.
  - (4) The Civil Appeals Listing Officer may place an appeal from the short-warned list ‘on call’ from a given date and will inform the parties’ advocates accordingly.
  - (5) An appeal which is ‘on call’ may be listed for hearing on half a day’s notice or such longer period as the court may direct.
  - (6) Once an appeal is listed for hearing from the short warned list it becomes the immediate professional duty of the advocate instructed in the appeal, if he is unable to appear at the hearing, to take all practicable measures to ensure that his lay client is represented at the hearing by an advocate who is fully instructed and able to argue the appeal.

### Special provisions relating to the special fixtures list

- 15.9A
- (1) The special fixtures list is a sub-division of the appeals list and is used to deal with appeals that may require special listing arrangements, such as the need to list a number of cases before the same constitution, in a particular order, during a particular period or at a given location.
  - (2) The Civil Appeals Office will notify the parties’ representatives, or the parties if acting in person, of the particular arrangements that will apply. The notice –
    - (a) will give details of the specific period during which a case is scheduled to be heard; and

- (b) may give directions in relation to the filing of any outstanding documents.
- (3) The listing officer will notify the parties' representatives of the precise hearing date as soon as practicable. While every effort will be made to accommodate the availability of counsel, the requirements of the court will prevail.

### **Requests for directions**

- 15.10 To ensure that all requests for directions are centrally monitored and correctly allocated, all requests for directions or rulings (whether relating to listing or any other matters) should be made to the Civil Appeals Office. Those seeking directions or rulings must not approach the supervising Lord Justice either directly, or via his or her clerk.

### **Bundles of authorities**

- 15.11 (1) Once the parties have been notified of the date fixed for the hearing, the appellant's advocate must, after consultation with his opponent, file a bundle containing photocopies of the authorities upon which each side will rely at the hearing.
- (2) The bundle of authorities should, in general –
- (a) have the relevant passages of the authorities marked;
  - (b) not include authorities for propositions not in dispute; and
  - (c) not contain more than 10 authorities unless the scale of the appeal warrants more extensive citation.
- (3) The bundle of authorities must be filed –
- (a) at least 7 days before the hearing; or
  - (b) where the period of notice of the hearing is less than 7 days, immediately.
- (4) If, through some oversight, a party intends, during the hearing, to refer to other authorities the parties may agree a second agreed bundle. The appellant's advocate must file this bundle at least 48 hours before the hearing commences.
- (5) A bundle of authorities must bear a certification by the advocates responsible for arguing the case that the requirements of sub-paragraphs (3) to (5) of paragraph 5.10 have been complied with in respect of each authority included.

### **Supplementary skeleton arguments**

- 15.11A (1) A supplementary skeleton argument on which the appellant wishes to rely must be filed at least 14 days before the hearing.

- (2) A supplementary skeleton argument on which the respondent wishes to rely must be filed at least 7 days before the hearing.
- (3) All supplementary skeleton arguments must comply with the requirements set out in paragraph 5.10.
- (4) At the hearing the court may refuse to hear argument from a party not contained in a skeleton argument filed within the relevant time limit set out in this paragraph.

### Papers for the appeal hearing

- 15.11B
- (1) All the documents which are needed for the appeal hearing must be filed at least 7 days before the hearing. Where a document has not been filed 10 days before the hearing a reminder will be sent by the Civil Appeals Office.
  - (2) Any party who fails to comply with the provisions of paragraph (1) may be required to attend before the Presiding Lord Justice to seek permission to proceed with, or to oppose, the appeal.

### Disposal of bundles of documents

- 15.11C
- (1) Where the court has determined a case, the official transcriber will retain one set of papers. The Civil Appeals Office will destroy any remaining sets of papers not collected within 21 days of –
    - (a) where one or more parties attend the hearing, the date of the court's decision;
    - (b) where there is no attendance, the date of the notification of court's decision.
  - (2) The parties should ensure that bundles of papers supplied to the court do not contain original documents (other than transcripts). The parties must ensure that they –
    - (a) bring any necessary original documents to the hearing; and
    - (b) retrieve any original documents handed up to the court before leaving the court.
  - (3) The court will retain application bundles where permission to appeal has been granted. Where permission is refused the arrangements in sub-paragraph (1) will apply.
  - (4) Where a single Lord Justice has refused permission to appeal on paper, application bundles will not be destroyed until after the time limit for seeking a hearing has expired.

### Availability of Reserved judgments before hand down

- 15.12 This section applies where the presiding Lord Justice is satisfied that the result of the appeal will attract no special degree of confidentiality or sensitivity.
- 15.13 A copy of the written judgment will be made available to the parties' legal advisers by 4 p.m. on the second working day before judgment is due to be pronounced or such other period as the court may direct. This can be shown, in confidence, to the parties but only for the purpose of obtaining instructions and on the strict understanding that the judgment, or its effect, is not to be disclosed to any other person. A working day is any day on which the Civil Appeals Office is open for business.
- 15.14 The appeal will be listed for judgment in the cause list and the judgment handed down at the appropriate time.

### Attendance of advocates on the handing down of a reserved judgment

- 15.15 Where any consequential orders are agreed, the parties' advocates need not attend on the handing down of a reserved judgment. Where an advocate does attend the court may, if it considers such attendance unnecessary, disallow the costs of the attendance. If the parties do not indicate that they intend to attend, the judgment may be handed down by a single member of the court.

### Agreed orders following judgment

- 15.16 The parties must, in respect of any draft agreed orders –
- (a) fax a copy to the clerk to the presiding Lord Justice; and
  - (b) file four copies in the Civil Appeals Office,  
no later than 12 noon on the working day before the judgment is handed down.
- 15.17 A copy of a draft order must bear the Court of Appeal case reference, the date the judgment is to be handed down and the name of the presiding Lord Justice.

### Corrections to the draft judgment

- 15.18 Any proposed correction to the draft judgment should be sent to the clerk to the judge who prepared the draft with a copy to any other party.

### Application for leave to appeal

- 15.19 Where a party wishes to apply for leave to appeal to the House of Lords under section 1 of the Administration of Justice (Appeals) Act 1934 the court may deal with the application on the basis of written submissions.
- 15.20 A party must, in relation to his submission –

- (a) fax a copy to the clerk to the presiding Lord Justice; and
- (b) file four copies in the Civil Appeals Office,  
no later than 12 noon on the working day before the judgment is handed down.

15.21 A copy of a submission must bear the Court of Appeal case reference, the date the judgment is to be handed down and the name of the presiding Lord Justice.

## SECTION II – GENERAL PROVISIONS ABOUT STATUTORY APPEALS AND APPEALS BY WAY OF CASE STATED

- 16.1 This section of this practice direction contains general provisions about statutory appeals (paragraphs 17.1–17.6) and appeals by way of case stated (paragraphs 18.1–18.20).
- 16.2 Where any of the provisions in this section provide for documents to be filed at the appeal court, these documents are in addition to any documents required under Part 52 or section I of this practice direction.

### STATUTORY APPEALS

- 17.1 This part of this section –
  - (1) applies where under any enactment an appeal (other than by way of case stated) lies to the court from a Minister of State, government department, tribunal or other person ('statutory appeals'); and
  - (2) is subject to any provision about a specific category of appeal in any enactment or Section III of this practice direction.

### Part 52

- 17.2 Part 52 applies to statutory appeals with the following amendments:

#### *Filing of appellant's notice*

- 17.3 The appellant must file the appellant's notice at the appeal court within 28 days after the date of the decision of the lower court he wishes to appeal.
- 17.4 Where a statement of the reasons for a decision is given later than the notice of that decision, the period for filing the appellant's notice is calculated from the date on which the statement is received by the appellant.

#### *Service of appellant's notice*

- 17.5 In addition to the respondents to the appeal, the appellant must serve the appellant's notice in accordance with rule 52.4(3) on the chairman of the tribunal, Minister of State, government department or other person from whose decision the appeal is brought.

*Right of Minister etc. to be heard on the appeal*

- 17.6 Where the appeal is from an order or decision of a Minister of State or government department, the Minister or department, as the case may be, is entitled to attend the hearing and to make representations to the court.

**APPEALS BY WAY OF CASE STATED**

- 18.1 This part of this section –
- (1) applies where under any enactment –
    - (a) an appeal lies to the court by way of case stated; or
    - (b) a question of law may be referred to the court by way of case stated; and
  - (2) is subject to any provision about to a specific category of appeal in any enactment or Section III of this practice direction.

*Part 52*

- 18.2 Part 52 applies to appeals by way of case stated subject to the following amendments.

**Case stated by Crown Court or Magistrates' Court***Application to state a case*

- 18.3 The procedure for applying to the Crown Court or a Magistrates' Court to have a case stated for the opinion of the High Court is set out in the Crown Court Rules 1982 and the Magistrates' Courts Rules 1981 respectively.

*Filing of appellant's notice*

- 18.4 The appellant must file the appellant's notice at the appeal court within 10 days after he receives the stated case.

*Documents to be lodged*

- 18.5 The appellant must lodge the following documents with his appellant's notice:
- (1) the stated case;
  - (2) a copy of the judgment, order or decision in respect of which the case has been stated; and
  - (3) where the judgment, order or decision in respect of which the case has been stated was itself given or made on appeal, a copy of the judgment, order or decision appealed from.

### *Service of appellant's notice*

- 18.6 The appellant must serve the appellant's notice and accompanying documents on all respondents within 4 days after they are filed or lodged at the appeal court.

## **Case stated by Minister, government department, tribunal or other person**

### *Application to state a case*

- 18.7 The procedure for applying to a Minister, government department, tribunal or other person ('Minister or tribunal etc.') to have a case stated for the opinion of the court may be set out in –
- (1) the enactment which provides for the right of appeal; or
  - (2) any rules of procedure relating to the Minister or tribunal etc.

### *Signing of stated case by Minister or tribunal etc.*

- 18.8 A case stated by a tribunal must be signed by the chairman or president of the tribunal. A case stated by any other person must be signed by that person or by a person authorised to do so.

### *Service of stated case by Minister or tribunal etc.*

- 18.9 The Minister or tribunal etc. must serve the stated case on –
- (1) the party who requests the case to be stated; or
  - (2) the party as a result of whose application to the court, the case was stated.
- 18.10 Where an enactment provides that a Minister or tribunal etc. may state a case or refer a question of law to the court by way of case stated without a request being made, the Minister or tribunal etc. must –
- (1) serve the stated case on those parties that the Minister or tribunal etc. considers appropriate; and
  - (2) give notice to every other party to the proceedings that the stated case has been served on the party named and on the date specified in the notice.

### *Filing and service of appellant's notice*

- 18.11 The party on whom the stated case was served must file the appellant's notice and the stated case at the appeal court and serve copies of the notice and stated case on –
- (1) the Minister or tribunal etc. who stated the case; and
  - (2) every party to the proceedings to which the stated case relates,
- within 14 days after the stated case was served on him.

- 18.12 Where paragraph 18.10 applies the Minister or tribunal etc. must –
- (1) file an appellant's notice and the stated case at the appeal court; and
  - (2) serve copies of those documents on the persons served under paragraph 18.10
- within 14 days after stating the case.
- 18.13 Where –
- (1) a stated case has been served by the Minister or tribunal etc. in accordance with paragraph 18.9; and
  - (2) the party on whom the stated case was served does not file an appellant's notice in accordance with paragraph 18.11,
- any other party may file an appellant's notice with the stated case at the appeal court and serve a copy of the notice and the case on the persons listed in paragraph 18.11 within the period of time set out in paragraph 18.14.
- 18.14 The period of time referred to in paragraph 18.13 is 14 days from the last day on which the party on whom the stated case was served may file an appellant's notice in accordance with paragraph 18.11.

#### *Amendment of stated case*

- 18.15 The court may amend the stated case or order it to be returned to the Minister or tribunal etc. for amendment and may draw inferences of fact from the facts stated in the case.

#### *Right of Minister etc. to be heard on the appeal*

- 18.16 Where the case is stated by a Minister or government department, that Minister or department, as the case may be, is entitled to appear on the appeal and to make representations to the court.

#### *Application for order to state a case*

- 18.17 An application to the court for an order requiring a minister or tribunal etc. to state a case for the decision of the court, or to refer a question of law to the court by way of case stated must be made to the court which would be the appeal court if the case were stated.
- 18.18 An application to the court for an order directing a Minister or tribunal etc. to –
- (1) state a case for determination by the court; or
  - (2) refer a question of law to the court by way of case stated, must be made in accordance with CPR Part 23
- 18.19 The application notice must contain –
- (1) the grounds of the application;
  - (2) the question of law on which it is sought to have the case stated; and

- (3) any reasons given by the minister or tribunal etc. for his or its refusal to state a case.
- 18.20 The application notice must be filed at the appeal court and served on –
- (1) the minister, department, secretary of the tribunal or other person as the case may be; and
  - (2) every party to the proceedings to which the application relates,
- within 14 days after the appellant receives notice of the refusal of his request to state a case.

**SECTION III – PROVISIONS ABOUT SPECIFIC APPEALS**

- 20.1 This section of this Practice Direction provides special provisions about the appeals to which the following table refers. This Section is not exhaustive and does not create, amend or remove any right of appeal.
- 20.2 Part 52 applies to all appeals to which this section applies subject to any special provisions set out in this section.
- 20.3 Where any of the provisions in this section provide for documents to be filed at the appeal court, these documents are in addition to any documents required under Part 52 or sections I or II of this practice direction.

APPEALS TO THE COURT OF APPEAL	Paragraph
Articles 81 and 82 of the EC Treaty and Chapters I and II of Part I of the Competition Act 1998	21.10A
Competition Appeal Tribunal	21.10
Contempt of Court	21.4
Decree nisi of divorce	21.1
Immigration Appeal Tribunal	21.7
Lands Tribunal	21.9
Nullity of marriage	21.1
Patents Court on appeal from Comptroller	21.3
Revocation of patent	21.2
Social Security Commissioners	21.5
Special Commissioner (where the appeal is direct to the Court of Appeal)	21.8
Value Added Tax and Duties Tribunals (where the appeal is direct to the Court of Appeal)	21.6

APPEALS TO THE HIGH COURT	Paragraph
Agricultural Land Tribunal	22.7
Architects Act 1997, s. 22	22.3
Charities Act 1993	23.8A
Chiropractors Act 1994, s. 31	22.3
Clergy Pensions Measure 1961, s. 38(3)	23.2
Commons Registration Act 1965	23.9
Consumer Credit Act 1974	22.4
Dentists Act 1984, s. 20 or s. 44	22.3
Extradition Act 2003	22.6A
Friendly Societies Act 1974	23.7
Friendly Societies Act 1992	23.7
Industrial and Provident Societies Act 1965	23.2, 23.7
Industrial Assurance Act 1923	23.2, 23.7
Industrial Assurance Act 1923, s. 17	23.6
Inheritance Tax Act 1984, s. 222	23.3
Inheritance Tax Act 1984, s. 225	23.5
Inheritance Tax Act 1984, ss. 249(3) and 251	23.4
Land Registration Act 1925	23.2
Land Registration Act 2002	23.2, 23.8B
Law of Property Act 1922, para. 16 of Sched. 15	23.2
Medical Act 1983, s. 40	22.3
Medicines Act 1968, ss. 82(3) and 83	(2)22.3
Mental Health Review Tribunal	22.8
Merchant Shipping Act 1995	22.2
Nurses, Midwives and Health Visitors Act 1997, s. 12	22.3
Opticians Act 1989, s. 23	22.3
Osteopaths Act 1993, s. 31	22.3
Pensions Act 1995, s. 97	23.2
Pension Schemes Act 1993, ss. 151 and 173	23.2
Pensions Appeal Tribunal Act 1943	22.5
Pharmacy Act 1954	22.3

APPEALS TO THE HIGH COURT	Paragraph
Social Security Administration Act 1992	22.6
Stamp Duty Reserve Tax Regulations 1986, reg. 10	23.5
Taxes Management Act 1970, ss. 53 and 100C	(4)23.4
Taxes Management Act 1970, s. 56A	23.5
Value Added Tax and Duties Tribunal	23.8
Water Resources Act 1991, s. 205	(4)23.2

APPEALS TO THE COUNTY COURT	Paragraph
Local Government (Miscellaneous Provisions) Act 1976	24.1
Housing Act 1996, ss. 204 and 204A	24.2
Immigration and Asylum Act 1999, Part II	24.3

**APPEALS TO THE COURT OF APPEAL**

**Appeal against decree nisi of divorce or nullity of marriage**

- 21.1 (1) The appellant must file the appellant’s notice at the Court of Appeal within 28 days after the date on which the decree was pronounced.
- (2) The appellant must file the following documents with the appellant’s notice –
  - (a) the decree; and
  - (b) a certificate of service of the appellant’s notice.
- (3) The appellant’s notice must be served on the appropriate district judge (see sub-paragraph (6)) in addition to the persons to be served under rule 52.4(3) and in accordance with that rule.
- (4) The lower court may not alter the time limits for filing of the appeal notices.
- (5) Where an appellant intends to apply to the Court of Appeal for an extension of time for serving or filing the appellant’s notice he must give notice of that intention to the appropriate district judge (see sub-paragraph 6) before the application is made.
- (6) In this paragraph ‘the appropriate district judge’ means, where the lower court is –
  - (a) a county court, the district judge of that court;
  - (b) a district registry, the district judge of that registry;

- (c) the Principal Registry of the Family Division, the senior district judge of that division.

### **Appeal against order for revocation of patent**

- 21.2
- (1) This paragraph applies where an appeal lies to the Court of Appeal from an order for the revocation of a patent.
  - (2) The appellant must serve the appellant's notice on the Comptroller-General of Patents, Designs and Trade Marks (the 'Comptroller') in addition to the persons to be served under rule 52.4(3) and in accordance with that rule.
  - (3) Where, before the appeal hearing, the respondent decides not to oppose the appeal or not to attend the appeal hearing, he must immediately serve notice of that decision on –
    - (a) the Comptroller; and
    - (b) the appellant
  - (4) Where the respondent serves a notice in accordance with paragraph (3), he must also serve copies of the following documents on the Comptroller with that notice –
    - (a) the petition;
    - (b) any statements of claim;
    - (c) any written evidence filed in the claim.
  - (5) Within 14 days after receiving the notice in accordance with paragraph (3), the Comptroller must serve on the appellant a notice stating whether or not he intends to attend the appeal hearing.
  - (6) The Comptroller may attend the appeal hearing and oppose the appeal –
    - (a) in any case where he has given notice under paragraph (5) of his intention to attend; and
    - (b) in any other case (including, in particular, a case where the respondent withdraws his opposition to the appeal during the hearing) if the Court of Appeal so directs or permits.

### **Appeal from Patents Court on appeal from Comptroller**

- 21.3
- Where the appeal is from a decision of the Patents Court which was itself made on an appeal from a decision of the Comptroller-General of Patents, Designs and Trade Marks, the appellant must serve the appellant's notice on the Comptroller in addition to the persons to be served under rule 52.4(3) and in accordance with that rule.

## Appeals in cases of contempt of court

- 21.4 In an appeal under section 13 of the Administration of Justice Act 1960 (appeals in cases of contempt of court), the appellant must serve the appellant's notice on the court from whose order or decision the appeal is brought in addition to the persons to be served under rule 52.4(3) and in accordance with that rule.

## Appeals from Social Security or Child Support Commissioners

- 21.5 (1) This paragraph applies to appeals under section 25 of the Child Support Act 1991, section 24 of the Social Security Administration Act 1992 and section 15 of the Social Security Act 1998 (appeals from the decision of a Commissioner on a question of law).
- (2) The appellant must file the appellant's notice within 6 weeks after the date of the Commissioner's decision on permission to appeal to the Court of Appeal was given in writing to the appellant.
- (3) The appellant must serve the appellant's notice on –
- (a) the Secretary of State; and
  - (b) any person appointed by him to proceed with a claim
- in addition to the persons to be served under rule 52.4(3) and in accordance with that rule.

## Appeals from Value Added Tax and Duties Tribunals

- 21.6 (1) An application to the Court of Appeal for permission to appeal from a value added tax and duties tribunal direct to that court must be made within 28 days after the date on which the tribunal certifies that its decision involves a point of law relating wholly or mainly to the construction of –
- (a) an enactment or of a statutory instrument; or
  - (b) any of the Community Treaties or any Community Instrument, which has been fully argued before and fully considered by it.
- (2) The application must be made by the parties jointly filing at the Court of Appeal an appellant's notice that –
- (a) contains a statement of the grounds for the application; and
  - (b) is accompanied by a copy of the decision to be appealed, endorsed with the certificate of the tribunal.
- (3) The court will notify the appellant of its decision and –
- (a) where permission to appeal to the Court of Appeal is given, the appellant must serve the appellant's notice on the chairman of the tribunal in addition to the persons to be served under rule 52.4(3) within 14 days after that notification.
  - (b) where permission to appeal to the Court of Appeal is refused, the period for appealing to the High Court is to be calculated from the date of the notification of that refusal.

## Appeals from Immigration Appeal Tribunal

- 21.7 (1) This paragraph applies to appeals under section 103(1) of the Nationality, Immigration and Asylum Act 2002 (appeal on a point of law from a determination of the Immigration Appeal Tribunal).
- (2) The appellant's notice must be filed at the Court of Appeal within 14 days after the appellant is served in accordance with the Immigration and Asylum Appeals (Procedure) Rules 2003 with written notice of the Tribunal's decision to grant or refuse permission to appeal.
- (3) The appellant must serve the appellant's notice in accordance with rule 52.4(3) on –
- (a) the persons to be served under that rule; and
  - (b) the President of the Tribunal.

## Appeal from Special Commissioners

- 21.8 (1) An application to the Court of Appeal for permission to appeal from the Special Commissioners direct to that court under section 56A of the Taxes Management Act 1970 must be made within 28 days after the date on which the Special Commissioners certify that their decision involves a point of law relating wholly or mainly to the construction of an enactment which has been fully argued before and fully considered before them.
- (2) The application must be made by the parties jointly filing at the Court of Appeal an appellant's notice that –
- (a) contains a statement of the grounds for the application; and
  - (b) is accompanied by a copy of the decision to be appealed, endorsed with the certificate of the tribunal.
- (3) The court will notify the parties of its decision and –
- (a) where permission to appeal to the Court of Appeal is given, the appellant must serve the appellant's notice on the Clerk to the Special Commissioners in addition to the persons to be served under rule 52.4(3) within 14 days after that notification.
  - (b) where permission to appeal to the Court of Appeal is refused, the period for appealing to the High Court is to be calculated from the date of the notification of that refusal.

## Appeal from Lands Tribunal

- 21.9 The appellant must file the appellant's notice at the Court of Appeal within 28 days after the date of the decision of the tribunal.

## Appeal from Competition Appeal Tribunal

- 21.10 (1) Where the appellant applies for permission to appeal at the hearing at which the decision is delivered by the tribunal and –

- (a) permission is given; or
- (b) permission is refused and the appellant wishes to make an application to the Court of Appeal for permission to appeal,  
the appellant's notice must be filed at the Court of Appeal within 14 days after the date of that hearing.
- (2) Where the appellant applies in writing to the Registrar of the tribunal for permission to appeal and –
  - (a) permission is given; or
  - (b) permission is refused and the appellant wishes to make an application to the Court of Appeal for permission to appeal,  
the appellant's notice must be filed at the Court of Appeal within 14 days after the date of receipt of the tribunal's decision on permission.
- (3) Where the appellant does not make an application to the tribunal for permission to appeal, but wishes to make an application to the Court of Appeal for permission, the appellant's notice must be filed at the Court of Appeal within 14 days after the end of the period within which he may make a written application to the Registrar of the tribunal.

### **Appeals relating to the application of Articles 81 and 82 of the EC Treaty and Chapters I and II of Part I of the Competition Act 1998**

- 21.10A
- (1) This paragraph applies to any appeal to the Court of Appeal relating to the application of –
    - (a) Article 81 or Article 82 of the Treaty establishing the European Community; or
    - (b) Chapter I or Chapter II of Part I of the Competition Act 1998.
  - (2) In this paragraph –
    - (a) 'the Act' means the Competition Act 1998;
    - (b) 'the Commission' means the European Commission;
    - (c) 'the Competition Regulation' means Council Regulation (EC) No. 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty;
    - (d) 'national competition authority' means –
      - (i) the Office of Fair Trading; and
      - (ii) any other person or body designated pursuant to Article 35 of the Competition Regulation as a national competition authority of the United Kingdom;
    - (e) 'the Treaty' means the Treaty establishing the European Community.
  - (3) Any party whose appeal notice raises an issue relating to the application of Article 81 or 82 of the Treaty, or Chapter I or II of Part I of the Act, must –
    - (a) state that fact in his appeal notice; and

- (b) serve a copy of the appeal notice on the Office of Fair Trading at the same time as it is served on the other party to the appeal (addressed to the Director of Competition Policy Co-ordination, Office of Fair Trading, Fleetbank House, 2-6 Salisbury Square, London EC4Y 8JX).
- (4) Attention is drawn to the provisions of article 15.3 of the Competition Regulation, which entitles competition authorities and the Commission to submit written observations to national courts on issues relating to the application of Article 81 or 82 and, with the permission of the court in question, to submit oral observations to the court.
- (5) A national competition authority may also make written observations to the Court of Appeal, or apply for permission to make oral observations, on issues relating to the application of Chapter I or II.
- (6) If a national competition authority or the Commission intends to make written observations to the Court of Appeal, it must give notice of its intention to do so by letter to the Civil Appeals Office at the earliest opportunity.
- (7) An application by a national competition authority or the Commission for permission to make oral representations at the hearing of an appeal must be made by letter to the Civil Appeals Office at the earliest opportunity, identifying the appeal and indicating why the applicant wishes to make oral representations.
- (8) If a national competition authority or the Commission files a notice under sub-paragraph (6) or an application under sub-paragraph (7), it must at the same time serve a copy of the notice or application on every party to the appeal.
- (9) Any request by a national competition authority or the Commission for the court to send it any documents relating to an appeal should be made at the same time as filing a notice under sub-paragraph (6) or an application under sub-paragraph (7).
- (10) When the Court of Appeal receives a notice under sub-paragraph (6) it may give case management directions to the national competition authority or the Commission, including directions about the date by which any written observations are to be filed.
- (11) The Court of Appeal will serve on every party to the appeal a copy of any directions given or order made –
- (a) on an application under sub-paragraph (7); or
  - (b) under sub-paragraph (10).
- (12) Every party to an appeal which raises an issue relating to the application of Article 81 or 82, and any national competition authority which has been served with a copy of a party's appeal notice, is under a duty to notify the Court of Appeal at any stage of the appeal if they are aware that –
- (a) the Commission has adopted, or is contemplating adopting, a decision in relation to proceedings which it has initiated; and
  - (b) the decision referred to in (a) above has or would have legal effects in relation to the particular agreement, decision or practice in issue before the court.

- (13) Where the Court of Appeal is aware that the Commission is contemplating adopting a decision as mentioned in sub-paragraph (12)(a), it shall consider whether to stay the appeal pending the Commission's decision.
- (14) Where any judgment is given which decides on the application of Article 81 or 82, the court shall direct that a copy of the transcript of the judgment shall be sent to the Commission.

### Appeal from Proscribed Organisations Appeal Commission

- 21.11 (1) The appellant's notice must be filed at the Court of Appeal within 14 days after the date when the Proscribed Organisations Appeal Commission –
- (a) granted; or
  - (b) where section 6(2)(b) of the Terrorism Act 2000 applies, refused permission to appeal.

### APPEALS TO THE HIGH COURT – QUEEN'S BENCH DIVISION

- 22.1 The following appeals are to be heard in the Queen's Bench Division.

### Statutory Appeals

#### *Appeals under the Merchant Shipping Act 1995*

- 22.2 (1) This paragraph applies to appeals under the Merchant Shipping Act 1995 and for this purpose a re-hearing and an application under section 61 of the Merchant Shipping Act 1995 are treated as appeals.
- (2) The appellant must file any report to the Secretary of State containing the decision from which the appeal is brought with the appellant's notice.
  - (3) Where a re-hearing by the High Court is ordered under sections 64 or 269 of the Merchant Shipping Act 1995, the Secretary of State must give reasonable notice to the parties whom he considers to be affected by the re-hearing.

#### *Appeals against decisions affecting the registration of architects and health care professionals*

- 22.3 (1) This paragraph applies to an appeal to the High Court under –
- (a) section 22 of the Architects Act 1997;
  - (b) section 82(3) and 83(2) of the Medicines Act 1968;
  - (c) section 12 of the Nurses, Midwives and Health Visitors Act 1997;
  - (cc) article 38 of the Nursing and Midwifery Order 2001;
  - (d) section 10 of the Pharmacy Act 1954;

- (e) section 40 of the Medical Act 1983;
  - (f) section 29 or section 44 of the Dentists Act 1984;
  - (g) sections 23 of the Opticians Act 1989;
  - (h) section 31 of the Osteopaths Act 1993; and
  - (i) section 31 of the Chiropractors Act 1994.
- (2) Every appeal to which this paragraph applies must be supported by written evidence and, if the court so orders, oral evidence and will be by way of re-hearing.
  - (3) The appellant must file the appellant's notice within 28 days after the decision that the appellant wishes to appeal.
  - (4) In the case of an appeal under an enactment specified in column 1 of the following table, the persons to be made respondents are the persons specified in relation to that enactment in column 2 of the table and the person to be served with the appellant's notice is the person so specified in column 3.

<b>1</b>	<b>2</b>	<b>3</b>
<b>Enactment</b>	<b>Respondents</b>	<b>Person to be served</b>
Architects Act 1997, s. 22	The Architects' Registration Council of the United Kingdom	The registrar of the Council
Medicines Act 1968, s. 82(3) and s. 83(2)	The Pharmaceutical Society of Great Britain	The registrar of the Society
Nurses, Midwives and Health Visitors Act 1997, s. 12; Nursing and Midwifery Order 2001, art. 38	The Nursing and Midwifery Council	The Registrar of the Council
Pharmacy Act 1954, s. 10	The Royal Pharmaceutical Society of Great Britain	The registrar of the Society
Medical Act 1983, s. 40	The General Medical Council	The Registrar of the Council
Dentists Act 1984, s. 29 or s. 44	The General Dental Council	The Registrar of the Council
Opticians Act 1989, s. 23	The General Optical Council	The Registrar of the Council
Osteopaths Act 1993, s. 31	The General Osteopathic Council	The Registrar of the Council
Chiropractors Act 1994, s. 31	The General Chiropractic Council	The Registrar of the Council

### *Consumer Credit Act 1974: appeal from Secretary of State*

- 22.4 (1) A person dissatisfied in point of law with a decision of the Secretary of State on an appeal under section 41 of the Consumer Credit Act 1974 from a determination of the Director General of Fair Trading who had a right to appeal to the Secretary of State, whether or not he exercised that right, may appeal to the High Court.
- (2) The appellant must serve the appellant's notice on –
- (a) the Secretary of State;
  - (b) the original applicant, if any, where the appeal is by a licensee under a group licence against compulsory variation, suspension or revocation of that licence; and
  - (c) any other person as directed by the court.
- (3) The appeal court may remit the matter to the Secretary of State to the extent necessary to enable him to provide the court with such further information as the court may direct.
- (4) If the appeal court allows the appeal, it shall not set aside or vary the decision but shall remit the matter to the Secretary of State with the opinion of the court for hearing and determination by him.

### *The Pensions Appeal Tribunal Act 1943*

- 22.5 (1) In this paragraph 'the judge' means the judge nominated by the Lord Chancellor under section 6(2) of the Pensions Appeal Tribunals Act 1943 ('the Act').
- (2) An application to the judge for permission to appeal against a decision of a Pensions Appeal Tribunal –
- (a) may not be made unless an application was made to the tribunal and was refused; and
  - (b) must be made within 28 days after the date of the tribunal's refusal.
- (3) The appellant's notice seeking permission to appeal from the judge must contain –
- (a) the point of law as respects which the appellant alleges that the tribunal's decision was wrong; and
  - (b) the date of the tribunal's decision refusing permission to appeal.
- (4) The court officer shall request the chairman of the tribunal to give the judge a written statement of the reasons for the tribunal's decision to refuse permission to appeal, and within 7 days after receiving the request, the chairman must give the judge such a statement.
- (5) Where permission to appeal was given by –
- (a) the tribunal, the appellant must file and serve the appellant's notice;
  - (b) the judge, the appellant must serve the appellant's notice, within 28 days after permission to appeal was given.

- (6) Within 28 days after service of the notice of appeal on him, the chairman of the tribunal must –
  - (a) state a case setting out the facts on which the decision appealed against was based;
  - (b) file the case stated at the court; and
  - (c) serve a copy of the case stated on the appellant and the respondent.
- (7) A copy of the judge's order on the appeal must be sent by the court officer to the appellant, the respondent and the chairman of the tribunal.

### *The Social Security Administration Act 1992*

- 22.6 (1) Any person who by virtue of section 18 or 58(8) of the Social Security Administration Act 1992 ('the Act') is entitled and wishes to appeal against a decision of the Secretary of State on a question of law must, within the prescribed period, or within such further time as the Secretary of State may allow, serve on the Secretary of State a notice requiring him to state a case setting out –
- (a) his decision; and
  - (b) the facts on which his decision was based.
- (2) Unless paragraph (3) applies the prescribed period is 28 days after receipt of the notice of the decision.
- (3) Where, within 28 days after receipt of notice of the decision, a request is made to the Secretary of State in accordance with regulations made under the Act to furnish a statement of the grounds of the decision, the prescribed period is 28 days after receipt of that statement.
- (4) Where under section 18 or section 58(8) of the Act, the Secretary of State refers a question of law to the court, he must state that question together with the relevant facts in a case.
- (5) The appellant's notice and the case stated must be filed at the appeal court and a copy of the notice and the case stated served on –
- (a) the Secretary of State; and
  - (b) every person as between whom and the Secretary of State the question has arisen,
- within 28 days after the case stated was served on the party at whose request, or as a result of whose application to the court, the case was stated.
- (6) Unless the appeal court otherwise orders, the appeal or reference shall not be heard sooner than 28 days after service of the appellant's notice.
- (7) The appeal court may order the case stated by the Secretary of State to be returned to the Secretary of State for him to hear further evidence.

### *Appeals under the Extradition Act 2003*

- 22.6A (1) In this paragraph, 'the Act' means the Extradition Act 2003.

- (2) Appeals to the High Court under the Act must be brought in the Administrative Court of the Queen's Bench Division.
- (3) Where an appeal is brought under section 26 or 28 of the Act –
  - (a) the appellant's notice must be filed and served before the expiry of 7 days, starting with the day on which the order is made;
  - (b) the appellant must endorse the appellant's notice with the date of the person's arrest;
  - (c) the High Court must begin to hear the substantive appeal within 40 days of the person's arrest; and
  - (d) the appellant must serve a copy of the appellant's notice on the Crown Prosecution Service, if they are not a party to the appeal, in addition to the persons to be served under rule 52.4(3) and in accordance with that rule.
- (4) The High Court may extend the period of 40 days under paragraph (3)(c) if it believes it to be in the interests of justice to do so.
- (5) Where an appeal is brought under section 103 of the Act, the appellant's notice must be filed and served before the expiry of 14 days, starting with the day on which the Secretary of State informs the person under section 100(1) or (4) of the Act of the order he has made in respect of the person.
- (6) Where an appeal is brought under section 105 of the Act, the appellant's notice must be filed and served before the expiry of 14 days, starting with the day on which the order for discharge is made.
- (7) Where an appeal is brought under section 108 of the Act the appellant's notice must be filed and served before the expiry of 14 days, starting with the day on which the Secretary of State informs the person that he has ordered his extradition.
- (8) Where an appeal is brought under section 110 of the Act the appellant's notice must be filed and served before the expiry of 14 days, starting with the day on which the Secretary of State informs the person acting on behalf of a category 2 territory, as defined in section 69 of the Act, of the order for discharge.  
(Section 69 of the Act provides that a category 2 territory is that designated for the purposes of Part 2 of the Act).
- (9) Subject to paragraph (10), where an appeal is brought under section 103, 105, 108 or 110 of the Act, the High Court must begin to hear the substantive appeal within 76 days of the appellant's notice being filed.
- (10) Where an appeal is brought under section 103 of the Act before the Secretary of State has decided whether the person is to be extradited –
  - (a) the period of 76 days does not start until the day on which the Secretary of State informs the person of his decision; and
  - (b) the Secretary of State must, as soon as practicable after he informs the person of his decision, inform the High Court –
    - (i) of his decision; and
    - (ii) of the date on which he informs the person of his decision.

- (11) The High Court may extend the period of 76 days if it believes it to be in the interests of justice to do so.
- (12) Where an appeal is brought under section 103, 105, 108 or 110 of the Act, the appellant must serve a copy of the appellant's notice on –
  - (a) the Crown Prosecution Service; and
  - (b) the Home Office,
 if they are not a party to the appeal, in addition to the persons to be served under rule 52.4(3) and in accordance with that rule.

## Appeals by way of case stated

### *Reference of question of law by Agriculture Land Tribunal*

- 22.7
- (1) A question of law referred to the High Court by an Agricultural Land Tribunal under section 6 of the Agriculture (Miscellaneous Provisions) Act 1954 shall be referred by way of case stated by the Tribunal.
  - (2) Where the proceedings before the tribunal arose on an application under section 11 of the Agricultural Holdings Act 1986, an –
    - (a) application notice for an order under section 6 that the tribunal refers a question of law to the court; and
    - (b) appellant's notice by which an appellant seeks the court's determination on a question of law,
 must be served on the authority having power to enforce the statutory requirement specified in the notice in addition to every other party to those proceedings and on the secretary of the tribunal.
  - (3) Where, in accordance with paragraph (2), a notice is served on the authority mentioned in that paragraph, that authority may attend the appeal hearing and make representations to the court.

### *Case stated by Mental Health Review Tribunal*

- 22.8
- (1) In this paragraph 'the Act' means the Mental Health Act 1983 and 'party to proceedings' means –
    - (a) the person who initiated the proceedings; and
    - (b) any person to whom, in accordance with rules made under section 78 of the Act, the tribunal sent notice of the application or reference or a request instead notice of reference.
  - (2) A party to proceedings shall not be entitled to apply to the High Court for an order under section 78(8) of the Act directing the tribunal to state a case for determination by court unless –
    - (a) within 21 days after the decision of the tribunal was communicated to him in accordance with rules made under section 78 of the Act he made a written request to the tribunal to state a case; and
    - (b) either the tribunal

- (i) failed to comply with that request within 21 days after it was made; or
  - (ii) refused to comply with it.
- (3) The period for filing the application notice for an order under section 78(8) of the Act is –
- (a) where the tribunal failed to comply with the applicant’s request to state a case within the period mentioned in paragraph 2(b)(i), 14 days after the expiration of that period;
  - (b) where the tribunal refused that request, 14 days after receipt by the applicant of notice of the refusal of his request.
- (4) A Mental Health Review Tribunal by whom a case is stated shall be entitled to attend the proceedings for the determination of the case and make representations to the court.
- (5) If the court allows the appeal, it may give any direction which the tribunal ought to have given under Part V of the Act.

## **APPEALS TO THE HIGH COURT – CHANCERY DIVISION**

23.1 The following appeals are to be heard in the Chancery Division.

### *Determination of appeal or case stated under various Acts*

- 23.2 Any appeal to the High Court, and any case stated or question referred for the opinion of that court under any of the following enactments shall be heard in the Chancery Division –
- (1) paragraph 16 of Schedule 15 to the Law of Property Act 1922;
  - (2) the Industrial Assurance Act 1923;
  - (3) the Land Registration Act 1925;
  - (4) section 205(4) of the Water Resources Act 1991;
  - (5) section 38(3) of the Clergy Pensions Measure 1961;
  - (6) the Industrial and Provident Societies Act 1965;
  - (7) section 151 of the Pension Schemes Act 1993;
  - (8) section 173 of the Pension Schemes Act 1993;
  - (9) section 97 of the Pensions Act 1995;
  - (10) The Charities Act 1993.
  - (11) section 13 and 13B of the Stamp Act 1891;
  - (12) section 705A of the Income and Corporation Taxes Act 1988;
  - (13) regulation 22 of the General Commissioners (Jurisdiction and Procedure) Regulations 1994;

- (14) section 53, 56A or 100C(4) of the Taxes Management Act 1970;
- (15) section 222(3), 225, 249(3) or 251 of the Inheritance Tax Act 1984;
- (16) regulation 8(3) or 10 of the Stamp Duty Reserve Tax Regulations 1986;
- (17) the Land Registration Act 2002.

(This list is not exhaustive)

## Statutory Appeals

### *Appeal under section 222 of the Inheritance Tax Act 1984*

- 23.3
- (1) This paragraph applies to appeals to the High Court under section 222(3) of the Inheritance Tax Act 1984 (the '1984 Act') and regulation 8(3) of the Stamp Duty Reserve Tax Regulations 1986 (the '1986 Regulations').
  - (2) The appellant's notice must –
    - (a) state the date on which the Commissioners of Inland Revenue (the 'Board') gave notice to the appellant under section 221 of the 1984 Act or regulation 6 of the 1986 Regulations of the determination that is the subject of the appeal;
    - (b) state the date on which the appellant gave to the Board notice of appeal under section 222(1) of the 1984 Act or regulation 8(1) of the 1986 Regulations and, if notice was not given within the time permitted, whether the Board or the Special Commissioners have given their consent to the appeal being brought out of time, and, if they have, the date they gave their consent; and
    - (c) either state that the appellant and the Board have agreed that the appeal may be to the High Court or contain an application for permission to appeal to the High Court.
  - (3) The appellant must file the following documents with the appellant's notice –
    - (a) 2 copies of the notice referred to in paragraph 2(a);
    - (b) 2 copies of the notice of appeal (under section 222(1) of the 1984 Act or regulation 8(1) of the 1986 Regulations) referred to in paragraph 2(b); and
    - (c) where the appellant's notice contains an application for permission to appeal, written evidence setting out the grounds on which it is alleged that the matters to be decided on the appeal are likely to be substantially confined to questions of law.
  - (4) The appellant must –
    - (a) file the appellant's notice at the court; and
    - (b) serve the appellant's notice on the Board,

within 30 days of the date on which the appellant gave to the Board notice of appeal under section 222(1) of the 1984 Act or regulation 8(1) of the 1986 Regulations or, if the Board or the Special Commissioners have given consent to the appeal being brought out of time, within 30 days of the date on which such consent was given.

- (5) The court will set a date for the hearing of not less than 40 days from the date that the appellant's notice was filed.
- (6) Where the appellant's notice contains an application for permission to appeal –
  - (a) a copy of the written evidence filed in accordance with paragraph (3)(c) must be served on the Board with the appellant's notice; and
  - (b) the Board –
    - (i) may file written evidence; and
    - (ii) if it does so, must serve a copy of that evidence on the appellant, within 30 days after service of the written evidence under paragraph (6)(a).
- (7) The appellant may not rely on any grounds of appeal not specified in the notice referred to in paragraph (2)(b) on the hearing of the appeal without the permission of the court.

*Appeals under section 53 and 100C(4) of the Taxes Management Act 1970 and section 249(3) or 251 of the Inheritance Tax Act 1984*

- 23.4 (1) The appellant must serve the appellant's notice on –
- (a) the General or Special Commissioners against whose decision, award or determination the appeal is brought; and
  - (b) (i) in the case of an appeal brought under section 100C(4) of the Taxes Management Act 1970 or section 249(3) of the Inheritance Tax Act 1984 by any party other than the defendant in the proceedings before the Commissioners, that defendant; or
    - (ii) in any other case, the Commissioners of Inland Revenue.
- (2) The appellant must file the appellant's notice at the court within 30 days after the date of the decision, award or determination against which the appeal is brought.
  - (3) Within 30 days of the service on them of the appellant's notice, the General or Special Commissioners, as the case may be, must –
    - (a) file 2 copies of a note of their findings and of the reasons for their decision, award or determination at the court; and
    - (b) serve a copy of the note on every other party to the appeal.
  - (4) Any document to be served on the General or Special Commissioners may be served by delivering or sending it to their clerk.

*Appeals under section 56A of the Taxes Management Act 1970, section 225 of the Inheritance Tax Act 1984 and regulation 10 of the Stamp Duty Reserve Tax Regulations 1986*

- 23.5 (1) The appellant must file the appellant's notice –
- (a) where the appeal is made following the refusal of the Special Commissioners to issue a certificate under section 56A(2)(b) of the Taxes Management Act 1970, within 28 days from the date of the release of the decision of the Special Commissioners containing the refusal;
  - (b) where the appeal is made following the refusal of permission to appeal to the Court of Appeal under section 56A(2)(c) of that Act, within 28 days from the date when permission is refused; or
  - (c) in all other cases within 56 days after the date of the decision or determination that the appellant wishes to appeal.

*Appeal under section 17 of the Industrial Assurance Act 1923*

- 23.6 The appellant must file the appellant's notice within 21 days after the date of the Commissioner's refusal or direction under section 17(3) of the Industrial Assurance Act 1923.

*Appeals affecting industrial and provident societies etc.*

- 23.7 (1) This paragraph applies to all appeals under –
- (a) the Friendly Societies Act 1974;
  - (b) the Friendly Societies Act 1992;
  - (c) the Industrial Assurance Act 1923; and
  - (d) the Industrial and Provident Societies Act 1965
- (2) At any stage on an appeal, the court may –
- (a) direct that the appellant's notice be served on any person;
  - (b) direct that notice be given by advertisement or otherwise of –
    - (i) the bringing of the appeal;
    - (ii) the nature of the appeal; and
    - (iii) the time when the appeal will or is likely to be heard; or
  - (c) give such other directions as it thinks proper to enable any person interested in –
    - (i) the society, trade union, alleged trade union or industrial assurance company; or
    - (ii) the subject matter of the appeal, to appear and be heard at the appeal hearing.

### *Appeal from Value Added Tax and Duties Tribunal*

- 23.8 (1) A party to proceedings before a Value Added Tax and Duties Tribunal who is dissatisfied in point of law with a decision of the tribunal may appeal under section 11(1) of the Tribunals and Inquiries Act 1992 to the High Court.
- (2) The appellant must file the appellant's notice –
- (a) where the appeal is made following the refusal of the Value Added Tax and Duties Tribunal to grant a certificate under article 2(b) of the Value Added Tax and Duties Tribunal Appeals Order 1986, within 28 days from the date of the release of the decision containing the refusal;
  - (b) in all other cases within 56 days after the date of the decision or determination that the appellant wishes to appeal.

### *Appeal against an order or decision of the Charity Commissioners*

- 23.8A (1) In this paragraph –
- ‘the Act’ means the Charities Act 1993; and
- ‘the Commissioners’ means the Charity Commissioners for England and Wales.
- (2) The Attorney-General, unless he is the appellant, must be made a respondent to the appeal.
  - (3) The appellant's notice must state the grounds of the appeal, and the appellant may not rely on any other grounds without the permission of the court.
  - (4) Sub-paragraphs (5) and (6) apply, in addition to the above provisions, where the appeal is made under section 16(12) of the Act.
  - (5) If the Commissioners have granted a certificate that it is a proper case for an appeal, a copy of the certificate must be filed with the appellant's notice.
  - (6) If the appellant applies in the appellant's notice for permission to appeal under section 16(13) of the Act –
    - (a) the appellant's notice must state –
      - (i) that the appellant has requested the Commissioners to grant a certificate that it is a proper case for an appeal, and they have refused to do so;
      - (ii) the date of such refusal;
      - (iii) the grounds on which the appellant alleges that it is a proper case for an appeal; and
      - (iv) if the application for permission to appeal is made with the consent of any other party to the proposed appeal, that fact;
    - (b) if the Commissioners have given reasons for refusing a certificate, a copy of the reasons must be attached to the appellant's notice;

- (c) the court may, before determining the application, direct the Commissioners to file a written statement of their reasons for refusing a certificate;
- (d) the court will serve on the appellant a copy of any statement filed under sub-paragraph (c).

### *Appeal against a decision of the adjudicator under section 111 of the Land Registration Act 2002*

- 23.8B
- (1) A person who is aggrieved by a decision of the adjudicator and who wishes to appeal that decision must obtain permission to appeal.
  - (2) The appellant must serve on the adjudicator a copy of the appeal court's decision on a request for permission to appeal as soon as reasonably practicable and in any event within 14 days of receipt by the appellant of the decision on permission.
  - (3) The appellant must serve on the adjudicator and the Chief Land Registrar a copy of any order by the appeal court to stay a decision of the adjudicator pending the outcome of the appeal as soon as reasonably practicable and in any event within 14 days of receipt by the appellant of the appeal court's order to stay.
  - (4) The appellant must serve on the adjudicator and the Chief Land Registrar a copy of the appeal court's decision on the appeal as soon as reasonably practicable and in any event within 14 days of receipt by the appellant of the appeal court's decision.

### Appeals by way of case stated

#### *Proceedings under the Commons Registration Act 1965*

- 23.9 A person aggrieved by the decision of a Commons Commissioner who requires the Commissioner to state a case for the opinion of the High Court under section 18 of the Commons Registration Act 1965 must file the appellant's notice within 42 days from the date on which notice of the decision was sent to the aggrieved person.

### APPEALS TO A COUNTY COURT

#### Local Government (Miscellaneous Provisions) Act 1976

- 24.1 Where one of the grounds upon which an appeal against a notice under sections 21, 23 or 35 of the Local Government (Miscellaneous Provisions) Act 1976 is brought is that –
- (a) it would have been fairer to serve the notice on another person; or

- (b) that it would be reasonable for the whole or part of the expenses to which the appeal relates to be paid by some other person,

that person must be made a respondent to the appeal, unless the court, on application of the appellant made without notice, otherwise directs.

### **Appeals under sections 204 and 204A of the Housing Act 1996**

- 24.2 (1) An appellant should include appeals under section 204 and section 204A of the Housing Act 1996 in one appellant's notice.
- (2) If it is not possible to do so (for example because an urgent application under section 204A is required) the appeals may be included in separate appellant's notices.
- (3) An appeal under section 204A may include an application for an order under section 204A(4)(a) requiring the authority to secure that accommodation is available for the applicant's occupation.
- (4) If, exceptionally, the court makes an order under section 204A(4)(a) without notice, the appellant's notice must be served on the authority together with the order. Such an order will normally require the authority to secure that accommodation is available until a hearing date when the authority can make representations as to whether the order under section 204A(4)(a) should be continued.

### **Appeal under Part II of the Immigration and Asylum Act 1999 (carriers' liability)**

- 24.3 (1) A person appealing to a county court under section 35A or section 40B of the Immigration and Asylum Act 1999 ("the Act") against a decision by the Secretary of State to impose a penalty under section 32 or a charge under section 40 of the Act must, subject to paragraph (2), file the appellant's notice within 28 days after receiving the penalty notice or charge notice.
- (2) Where the appellant has given notice of objection to the Secretary of State under section 35(4) or section 40A(3) of the Act within the time prescribed for doing so, he must file the appellant's notice within 28 days after receiving notice of the Secretary of State's decision in response to the notice of objection.
- (3) Sections 35A and 40B of the Act provide that any appeal under those sections shall be a re-hearing of the Secretary of State's decision to impose a penalty or charge, and therefore rule 52.11(1) does not apply.

## **SECTION IV – PROVISIONS ABOUT REOPENING APPEALS**

### **REOPENING OF FINAL APPEALS**

- 25.1 This paragraph applies to applications under rule 52.17 for permission to reopen a final determination of an appeal.
- 25.2 In this paragraph, "appeal" includes an application for permission to appeal.

- 25.3 Permission must be sought from the court whose decision the applicant wishes to reopen.
- 25.4 The application for permission must be made by application notice and supported by written evidence, verified by a statement of truth.
- 25.5 A copy of the application for permission must not be served on any other party to the original appeal unless the court so directs.
- 25.6 Where the court directs that the application for permission is to be served on another party, that party may within 14 days of the service on him of the copy of the application file and serve a written statement either supporting or opposing the application.
- 25.7 The application for permission, and any written statements supporting or opposing it, will be considered on paper by a single judge, and will be allowed to proceed only if the judge so directs.

