
SCHEDULE 1 RSC ORDER 109

THE ADMINISTRATION OF JUSTICE ACT

1960¹

Rule 1 Applications under Act

- (1) Any of the following applications, that is to say –
 - (a) an application under section 2 of the Administration of Justice Act 1960, or under that section as applied by section 13 of that Act, to extend the time within which an application may be made to a Divisional Court for permission to appeal to the Supreme Court under section 1 of that Act, or section 13 thereof, from an order or decision of that court; and
 - (b) an application by a defendant under section 9(3) of that Act to a Divisional Court for permission to be present on the hearing of any proceedings preliminary or incidental to an appeal to the Supreme Court under section 1 of that Act from a decision of that court must be made to a Divisional Court except in vacation when it may be made to a judge.
- (2) Any such application to a Divisional Court, if not made in the proceedings before the Divisional Court from whose order or decision the appeal in question is brought, must be made by the issue of a claim form.
- (3) Any such application to a judge must, in the case of such an application as is referred to in paragraph (1)(a) be made by the issue of a claim form and, in the case of such an application as is referred to in paragraph (1)(b) need not be served on any other person unless, in the latter case, the judge otherwise directs.
- (4) No application notice or copy of the claim form (as the case may be) by which such an application as is referred to in paragraph (1)(b) is made, need be given to any party affected thereby unless the Divisional Court otherwise directs.
- (5) Where any application to which this rule applies is made in vacation to a single judge and the judge refuses the application, the applicant shall be entitled to have the application determined by a Divisional Court.

Rule 2 Appeals under section 13 of Act

- (1) An appeal to a Divisional Court of the High Court under section 13 of the Administration of Justice Act 1960, shall be heard and determined by a Divisional Court of the Queen's Bench Division.
- (4) Unless the court gives permission, there shall be not more than 4 clear days between the date on which the order or decision appealed against was made and the day named in the notice of appeal for the hearing of the appeal.
- (5) The notice must be served, and the appeal entered, not less than one clear day before the day named in the notice for the hearing of the appeal.

¹ 1960 c.65.

Rule 3 Release of appellant on bail

- (1) Where, in the case of an appeal under section 13 of the Administration of Justice Act 1960, to a Divisional Court or to the Supreme Court from a Divisional Court, the appellant is in custody, the High Court may order his release on his giving security (whether by recognizance, with or without sureties, or otherwise and for such reasonable sum as the court may fix) for his appearance, within 10 days after the judgment of the Divisional Court or, as the case may be, of the Supreme Court, on the appeal before the court from whose order or decision the appeal is brought unless the order or decision is reversed by that judgment.
- (2) Order 79, rule 9(1) to (6) and (8) shall apply in relation to an application to the High Court for bail pending an appeal under the said section 13 to which this rule applies, and to the admission of a person to bail in pursuance of an order made on the application, as they apply in relation to an application to that court for bail in criminal proceedings, and to the admission of a person to bail in pursuance of an order made on the application, but with the substitution, for references to the defendant, of references to the appellant, and, for references to the prosecutor, of references to the court officer of the court from whose order or decision the appeal is brought and to the parties to the proceedings in that court who are directly affected by the appeal.

Rule 4 Release of appellant on bail by the Court of Appeal

- (1) Where, in the case of an appeal under section 13 of the Administration of Justice Act 1960¹, to the Court of Appeal or to the Supreme Court from the Court of Appeal, the appellant is in custody, the Court of Appeal may order his release on his giving security (whether by recognizance, with or without sureties, or otherwise and for such reasonable sum as that court may fix) for his appearance within 10 days after the judgment of the Court of Appeal or, as the case may be, of the Supreme Court on the appeal shall have been given, before the court from whose order or decision the appeal is brought unless the order or decision is reversed by that judgment.
- (2) An application for the release of a person under paragraph (1) pending an appeal to the Court of Appeal or the Supreme Court under the said section 13 must be made in accordance with CPR Part 23, and the application notice must, at least 24 hours before the day named therein for the hearing, be served on the court from whose order or decision the appeal is brought and on all parties to the proceedings in that court who are directly affected by the appeal.
- (3) Order 79, rules 9 (6), (6A) and (8) shall apply in relation to the grant of bail under this rule by the Court of Appeal in a case of criminal contempt of court as they apply in relation to the grant of bail in criminal proceedings by the High Court, but with the substitution for references to a judge of references to the Court of Appeal and for references to the defendant of references to the appellant.
- (4) When granting bail under this rule in a case of civil contempt of court, the Court of Appeal may order that the recognisance or other security to be given by the appellant or the recognisance of any surety shall be given before any person authorised by virtue of section 119 (1) of the Magistrates' Courts Act 1980² to take a recognisance where a magistrates' court having power to take it has, instead of taking it, fixed the amount in which the principal and

¹ 1960 c.65; section 13 was amended by the Courts Act 1971 (c.23), Schedule 8, paragraph 40, and Schedule 11, Part II; by the County Courts Act 1984 (c.28), Schedule 2, paragraph 25; by the Magistrates' Courts Act 1980 (c.43), section 154, Schedule 7, paragraph 37; by the Criminal Appeal Act 1968 (c.19), Schedule 5; and by the Supreme Court Act 1981 (c.54), Schedule 7.

² 1980 c.43.

his sureties, if any, are to be bound. An order by the Court of Appeal granting bail is aforesaid must be in Form 98 in Practice Direction 4 with the necessary adaptations.

- (5) Where in pursuance of an order of the Court of Appeal under paragraph (4) of this rule a recognisance is entered into or other security given before any person, it shall be the duty of that person to cause the recognisance of the appellant or any surety or, as the case may be, a statement of the other security given, to be transmitted forthwith to the justices' chief executive for the court which committed the appellant; and a copy of such recognisance or statement shall at the same time be sent to the governor or keeper of the prison or other place of detention in which the appellant is detained, unless the recognisance or security was given before such governor or keeper.
- (6) The powers conferred on the Court of Appeal by paragraphs (1), (3) and (4) of this rule may be exercised by a single judge.

