

SCHEDULE

Rule 3(f)

“PART III

APPEALS

A. APPEAL TO THE HIGH COURT IN RESPECT OF DESIGNATIONS

Application and Modification of Order 55

12.—(1) Order 55 Part II applies to an appeal to the High Court under section 26 of the 2010 Act (appeals to the court in relation to designations) in relation to designations and variations, revocation and renewal of those designations, subject to—

- (a) rule 2;
- (b) the rules in Part IV of this Order; and
- (c) the modification set out in paragraph (2).

(2) Order 55, rules 16 to 20 do not apply to appeals to the High Court under section 26 of the 2010 Act.

Notice of Motion

13.—(1) The notice of motion must set out the details of—

- (a) the interim or final designation;
- (b) how the appellant is affected by the interim or final designation; and
- (c) the grounds of the appeal.

(2) The appellant must file and serve the following documents with the notice of motion—

- (a) a copy of the written notice of the interim or final designation; and
- (b) any evidence, including witness statements in support of the application.

(3) The notice of motion may not be amended without the leave of the High Court.

(4) The High Court may strike out the whole or part of a notice of motion where there is a compelling reason to do so.

B. APPEAL TO THE COURT OF APPEAL

Application and Modification of Order 59

14.—(1) Order 59 applies to appeals to the Court of Appeal against orders of the High Court in financial restrictions proceedings, and to appeals to the Court of Appeal in relation to designations under the 2010 Act, subject to—

- (a) rule 2 of this Order;
- (b) the rules in Part IV of this Order; and
- (c) the modification set out in paragraph (2).

(2) Order 59, rules 3(1), (4) and (5), 4, 5, 6(3) and (4), 11, 14 and 16 to 18 do not apply to appeals to the Court of Appeal against orders of the High Court in financial restrictions proceedings, and to appeals to the Court of Appeal in relation to designations under the 2010 Act.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Leave to appeal

15.—(1) A party who wishes to appeal against an order of the High Court in financial restrictions proceedings requires leave to appeal to the Court of Appeal.

(2) An application for leave to appeal may be made—

- (a) to the High Court at the hearing at which the decision to be appealed was made; or
- (b) to the Court of Appeal in the notice of appeal.

(3) Where the High Court refuses an application for leave to appeal, a further application may be made to the Court of Appeal.

(4) Where the Court of Appeal, without a hearing, refuses leave to appeal, the person seeking leave may request the decision to be reconsidered at a hearing.

(5) A request under paragraph (4) must be lodged within 7 days after service of the notice that leave has been refused.

(6) Leave to appeal will only be given where—

- (a) the Court considers that the appeal would have a real prospect of success; or
- (b) there is some other compelling reason why the appeal should be heard.

(7) An order giving leave may—

- (a) limit the issues to be heard; and
- (b) be made subject to conditions.

16.—(1) A party who wishes to appeal against an order of the High Court in respect of a designation under the 2010 Act requires leave to appeal to the Court of Appeal from that court.

(2) Leave to appeal will only be given where—

- (a) the Court of Appeal considers that the appeal would raise an important point of principle or practice; or
- (b) there is some other compelling reason for the Court of Appeal to hear it.

Notice of appeal

17.—(1) An appeal to the Court of Appeal under this Order shall be brought by motion, and the notice of motion in this Order shall be referred to as a notice of appeal.

(2) The provisions of Order 8 shall apply to a notice of appeal under this Order as they apply to a notice of motion.

Time limit for appealing

18.—(1) The appellant in an appeal to the Court of Appeal under this Order must lodge the notice of appeal within—

- (a) such period as may be directed by the High Court; or
- (b) where the High Court makes no such direction, 21 days after the date of the decision of the High Court that the appellant wishes to appeal.

(2) Unless the Court of Appeal orders otherwise, a notice of appeal must be served on each respondent—

- (a) as soon as practicable; and
- (b) in any event not later than 7 days, after it is lodged.

Service of notice of appeal on special advocate

19. The appellant must serve a copy of the notice of appeal on any special advocate (if one has been appointed).

Time limit for lodging the respondent's notice

19A.—(1) A respondent's notice must be lodged within—

- (a) such period as may be directed by the High Court; or
- (b) where the Court makes no such direction, 14 days after the date in paragraph (2).

(2) The date referred to paragraph (1) is—

- (a) the date the respondent is served with the notice of appeal where leave to appeal was given by the High Court;
- (b) the date the respondent is served with notification that the Court of Appeal has given the appellant leave to appeal; or
- (c) the date the respondent is served with notification that the application for leave to appeal and the appeal itself are to be heard together.

(3) Unless the Court of Appeal orders otherwise a respondent's notice must be served on the appellant and any other respondent—

- (a) as soon as practicable; and
- (b) in any event not less than 7 days,

after it is lodged.

Striking out notices of appeal and setting aside or imposing conditions on leave to appeal

19B.—(1) The Court of Appeal may—

- (a) strike out the whole or part of a notice of appeal;
- (b) set aside leave to appeal in whole or in part;
- (c) impose or vary conditions upon which an appeal may be brought.

(2) The Court will only exercise its powers under paragraph (1) where there is a compelling reason for doing so.

(3) Where a party was present at the hearing at which leave was given, he may not subsequently apply for an order that the Court exercise its powers under paragraph (1) (b) or (c).

(4) If the Court of Appeal—

- (a) refuses an application for leave to appeal;
- (b) strikes out a notice of appeal; or
- (c) dismisses an appeal,

and it considers that the application, the notice of appeal or the appeal is without merit, the Court's order must record this fact.

Hearing of appeals

19C.—(1) The provisions of this rule apply without prejudice to the generality of the provisions in Order 59, rule 10.

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- (2) Every appeal to the Court of Appeal under this Order will be limited to a review of the decision of the High Court unless the Court of Appeal considers that, in the circumstances of an individual appeal, it would be in the interests of justice to hold a re-hearing.
- (3) Unless it orders otherwise, the Court of Appeal will not receive—
 - (a) oral evidence; or
 - (b) evidence which was not before the High Court.
- (4) The Court of Appeal will allow an appeal where the decision of the High Court was—
 - (a) wrong; or
 - (b) unjust because of a serious procedural or other irregularity in the proceedings in the High Court.
- (5) The Court of Appeal may exercise its powers in relation to the whole or part or an order of the High Court.”