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Senior Courts Act 1981

1981 CHAPTER 54

PART III

PRACTICE AND PROCEDURE

THE COURT OF APPEAL

Distribution of business

53 Distribution of business between civil and criminal divisions.

- (1) Rules of court may provide for the distribution of business in the Court of Appeal between the civil and criminal divisions, but subject to any such rules business shall be distributed in accordance with the following provisions of this section.
- (2) The criminal division of the Court of Appeal shall exercise—
 - (a) all jurisdiction of the Court of Appeal under Parts I and II of the ^{M1}Criminal Appeal Act 1968;
 - (b) the jurisdiction of the Court of Appeal under section 13 of the ^{M2}Administration of Justice Act 1960 (appeals in cases of contempt of court) in relation to appeals from orders and decisions of the Crown Court;
 - (c) all other jurisdiction expressly conferred on that division by this or any other Act; and
 - (d) the jurisdiction to order the issue of writs of venire de novo.
- (3) The civil division of the Court of Appeal shall exercise the whole of the jurisdiction of that court not exercisable by the criminal division.
- (4) Where any class of proceedings in the Court of Appeal is by any statutory provision assigned to the criminal division of that court, rules of court may provide for any enactment relating to—

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- (a) appeals to the Court of Appeal under Part I of the Criminal Appeal Act 1968; or
- (b) any matter connected with or arising out of such appeals, to apply in relation to proceedings of that class or, as the case may be, to any corresponding matter connected with or arising out of such proceedings, as it applies in relation to such appeals or, as the case may be, to the relevant matter within paragraph (b), with or without prescribed modifications in either case.

Marginal Citations

- M1** 1968 c. 19.
M2 1960 c. 65.

Composition of court

54 Court of civil division.

- (1) This section relates to the civil division of the Court of Appeal; and in this section “court”, except where the context otherwise requires, means a court of that division.
- (2) A court shall be duly constituted for the purpose of exercising any of its jurisdiction if it consists of an uneven number of judges not less than three.
- (3) Where—
 - (a) part of any proceedings before a court has been heard by an uneven number of judges greater than three; and
 - (b) one or more members of the court are unable to continue,

the court shall remain duly constituted for the purpose of those proceedings so long as the number of members (whether even or uneven) is not reduced to less than three.
- (4) A court shall, if it consists of two judges, be duly constituted for the purpose of—
 - (a) hearing and determining any appeal against an interlocutory order or interlocutory judgment;
 - [^{F1}(aa) hearing and determining any application for leave to appeal;]
 - (b) hearing and determining any appeal against a decision of a single judge acting by virtue of section 58(1);
 - (c) hearing and determining any appeal where all the parties have before the hearing filed a consent to the appeal being heard and determined by two judges;
 - (d) hearing the remainder of, and determining, any appeal where part of it has been heard by three or more judges of whom one or more are unable to continue and all the parties have consented to the remainder of the appeal being heard, and the appeal being determined, by two remaining judges; or
 - (e) hearing and determining an appeal of any such description or in any such circumstances not covered by paragraphs (a) to (d) as may be prescribed for the purposes of this subsection by an order made by the Lord Chancellor with the concurrence of the Master of the Rolls.
- (5) Where—

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- (a) an appeal has been heard by a court consisting of an even number of judges;
and
 - (b) the members of the court are equally divided,
- the case shall, on the application of any part to the appeal, be re-argued before and determined by an uneven number of judges not less than three, before any appeal to the House of Lords.
- (6) An application to the civil division of the Court of Appeal for leave to appeal to that court may be determined by a single judge of that court, and no appeal shall lie from a decision of a single judge acting under this subsection.
 - (7) In any cause or matter pending before the civil division of the Court of Appeal a single judge of that court may at any time during vacation make an interim order to prevent prejudice to the claims of any parties pending an appeal.
 - (8) Subsections (1) and (2) of section 70 (assessors in the High Court shall apply in relation to causes and matters before the civil division of the Court of Appeal as they apply in relation to causes and matters before the High Court.
 - (9) Subsections (3) and (4) of section 70 (scientific advisers to assist the Patents Court in proceedings under the ^{M3}Patents Act 1949 and the ^{M4}Patents Act 1977) shall apply in relation to the civil division of the Court of Appeal and proceedings on appeal from any decision of the Patents Court in proceedings under those Acts as they apply in relation to the Patents Court and proceedings under those Acts.
 - (10) Any order under subsection (4) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F1 S. 54(4)(aa) inserted (23.7.1993) by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 7(4); S.I. 1993/2132, art.2

Marginal Citations

M3 1949 c. 87.

M4 1977 c. 37.

55 Court of criminal division.

- (1) This section relates to the criminal division of the Court of Appeal; and in this section “court” means a court of that division.
- (2) A court shall be duly constituted for the purpose of exercising any of its jurisdiction if it consists of an uneven number of judges not less than three.
- (3) Where—
 - (a) part of any proceedings before a court has been heard by an uneven number of judges greater than three; and
 - (b) one or more members of the court are unable to continue,the court shall remain duly constituted for the purpose of those proceedings so long as the number of members (whether even or uneven) is not reduced to less than three.

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- (4) A court shall, if it consists of two judges, be duly constituted for every purpose except—
- (a) determining an appeal against—
 - (i) conviction; or
 - (ii) a verdict of not guilty by reason of insanity; or
 - (iii) a finding of a jury under section 4 of the ^{M5}Criminal Procedure (Insanity) Act 1964 (unfitness to plead) that a person is under a disability;
 - [^{F2}(aa) reviewing sentencing under Part IV of the Criminal Justice Act 1988;]
 - (b) determining an application for leave to appeal to the House of Lords; and
 - (c) refusing an application for leave to appeal to the criminal division against conviction or any such verdict or finding as is mentioned in paragraph (a)(ii) or (iii), other than an application which has been refused by a single judge.
- (5) Where an appeal has been heard by a court consisting of an even number of judges and the members of the court are equally divided, the case shall be re-argued before and determined by an uneven number of judges not less than three.

Textual Amendments

F2 S. 55(4)(aa) added by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), ss. 123(6), 170(1), Sch. 8 para. 16, [Sch. 15 para. 80](#)

Marginal Citations

M5 1964 c. 84.

56 Judges not to sit on appeal from their own judgments, etc.

- (1) No judge shall sit as a member of the civil division of the Court of Appeal on the hearing of, or shall determine any application in proceedings incidental or preliminary to, an appeal from a judgment or order made in any case by himself or by any court of which he was a member.
- (2) No judge shall sit as a member of the criminal division of the Court of Appeal on the hearing of, or shall determine any application in proceedings incidental or preliminary to, an appeal against—
 - (a) a conviction before himself or a court of which he was a member; or
 - (b) a sentence passed by himself or such a court.

VALID FROM 11/01/1995

[^{F3}56A Circuit judges not to sit on certain appeals.

No Circuit judge shall act in the criminal division of the Court of Appeal as a judge of that court under section 9 on the hearing of, or shall determine any application in proceedings incidental or preliminary to, an appeal against—

- (a) a conviction before a judge of the High Court; or
- (b) a sentence passed by a judge of the High Court.]

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Textual Amendments

F3 S. 56A inserted (11.1.1995) by 1994 c. 33, s. 52(8); S.I. 1994/3258, art.2

VALID FROM 11/01/1995

[^{F4}56B Allocation of cases in criminal division.

- (1) The appeals or classes of appeals suitable for allocation to a court of the criminal division of the Court of Appeal in which a Circuit judge is acting under section 9 shall be determined in accordance with directions given by or on behalf of the Lord Chief Justice with the concurrence of the Lord Chancellor.
- (2) In subsection (1) “appeal” includes the hearing of, or any application in proceedings incidental or preliminary to, an appeal.]

Textual Amendments

F4 S. 56B inserted (11.1.1995) by 1994 c. 33, s. 52(9); S.I. 1994/3258, art. 2

Sittings and vacations

57 Sittings and vacations.

- (1) Sittings of the Court of Appeal may be held, and any other business of the Court of Appeal may be conducted, at any place in England or Wales.
- (2) Subject to rules of court—
 - (a) the places at which the Court of Appeal sits outside the Royal Courts of Justice; and
 - (b) the days and times at which the Court of Appeal sits at any place outside the Royal Courts of Justice,shall be determined in accordance with directions given by the Lord Chancellor.
- (3) Rules of court may make provision for regulating the vacations to be observed by the Court of Appeal and in the offices of that court.
- (4) Rules of court—
 - (a) may provide for securing such sittings of the civil division of the Court of Appeal during vacation as the Master of the Rolls may with the concurrence of the Lord Chancellor determine;
 - (b) without prejudice to paragraph (a), shall provide for the transaction during vacation by judges of the Court of Appeal of all such business in the civil division of that court as may require to be immediately or promptly transacted; and
 - (c) shall provide for securing sittings of the criminal division of that court during vacation if necessary.

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Other provisions

58 Exercise of incidental jurisdiction in civil division.

- (1) Any jurisdiction exercisable in any proceedings incidental to any cause or matter pending before the civil division of the Court of Appeal and not involving the determination of an appeal may, if and so far as rules of court so provide, be exercised (with or without a hearing) by a single judge of that court, whether in court or in chambers, or by the registrar of civil appeals.
- (2) Rules of court may provide for decisions of a single judge or the registrar of civil appeals acting by virtue of subsection (1) to be called in question in such manner as may be prescribed; but, except as may be provided by rules of court, no appeal shall lie from a decision of a single judge or that registrar so acting.
- (3) For the purposes of subsection (1) the making of an interlocutory order having the effect of preventing an appeal from reaching the stage of being heard and determined shall not be treated as a determination of the appeal.

59 Form of judgment of court of criminal division.

Any judgment of a court of the criminal division of the Court of Appeal on any question shall, except where the judge presiding over the court states that in his opinion the question is one of law on which it is convenient that separate judgments should be pronounced by members of the court, be pronounced by the judge presiding over the court or by such other member of the court as he directs and, except as aforesaid, no judgment shall be separately pronounced on any question by any member of the court.

60 Rules of court, and decisions of Court of Appeal, as to whether judgment or order is final or interlocutory.

- (1) Rules of court may provide for orders or judgments of any prescribed description to be treated for any prescribed purpose connected with appeals to the Court of Appeal as final or as interlocutory.
- (2) No appeal shall lie from a decision of the Court of Appeal as to whether a judgment or order is, for any purpose connected with an appeal to that court, final or interlocutory.

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