

SCHEDULE 1

RSC ORDER 61

APPEALS FROM TRIBUNALS TO COURT OF APPEAL BY CASE STATED

Statement of case by Lands Tribunal

Rule 1.—(1) The time within which a person aggrieved by a decision of the Lands Tribunal as being erroneous in point of law may under section 3 (4) of the Lands Tribunal Act 1949(1), or any other enactment require the Tribunal to state a case for the decision of the Court of Appeal shall be 4 weeks from the date of the decision, and the application for the statement of the case must be made to the registrar of the Tribunal in writing.

(2) A case stated by the Tribunal must state the facts on which the decision was based and the decision of the Tribunal and must be signed by the member or members of the Tribunal by whom it was given.

(3) The case must be stated as soon as may be after the application therefor is made and must be sent by post to the applicant.

(4) Where the decision of the Lands Tribunal in respect of which a case is stated states all the relevant facts found by the Tribunal and indicates the questions of law on which the decision of the Court of Appeal is sought, a copy of the decision signed by the person who presided at the hearing shall be annexed to the case, and the facts so found and the questions of law to be decided shall be sufficiently stated in the case by referring to the statement thereof in the decision.

Statement of case by other tribunals

Rule 2.—(1) Where any tribunal is empowered or may be required to state a case on a question of law for determination by the Court of Appeal, any party to the proceedings who is aggrieved by the tribunal's refusal to state a case may apply to the Court of Appeal or a single judge of that Court for an order requiring the tribunal to state a case.

(2) An application under this rule must be made in accordance with CPR Part 23 and the application notice, stating in general terms the grounds of the application, together with the question of law on which it is desired that a case shall be stated and any reasons given by the tribunal for its refusal, must within 28 days after the refusal, be served on the clerk or registrar of the tribunal and on every other party to the proceedings before the tribunal.

(3) Within 7 days after service of the application notice, the applicant must file two copies of the application notice with the Court of Appeal.

(4) Where a tribunal is ordered under this rule to state a case, the tribunal must, within such period as may be specified in the order, state a case, stating the facts on which the decision of the tribunal was based and the decision, sign it and cause it to be sent by post to the applicant.

(5) Rule 1 (4) shall apply in relation to a case stated by a tribunal other than the Lands Tribunal as it applies in relation to a case stated by that Tribunal.

(6) In this rule, references to a tribunal other than the Lands Tribunal include references to a judge of the Commercial Court acting as an arbitrator or umpire under section 4 of the Administration of Justice Act 1970(2).

(1) 1949 c. 42; section 3 was amended by the Land Compensation Act 1961 (c. 33), section 40(3), schedule 5; and by the Local Government, Planning and Land Act 1980 (c. 65), section 193, schedule 33, paragraph 3.

(2) 1970 c. 31.

Proceedings on case stated

Rule 3.—(A1) An application for permission to appeal to the Court of Appeal from any tribunal to which this Order applies may be combined with an application to the tribunal to state a case.

(A2) An application for permission to appeal may not be made to the Court of Appeal until the tribunal has stated a case.

(1) The party at whose instance a case has been stated by any tribunal to which this Order applies must, within 21 days after the date on which permission to appeal to the Court of Appeal was granted—

- (a) serve on every other party to the proceedings before the tribunal a copy of the case, together with a notice of appeal setting out his contentions on the question of law; and
- (b) serve a copy of the notice on the clerk or registrar of the tribunal.

(2) Within 7 days after service of the notice of appeal, the said party must file the case, and two copies of the notice with the Court of Appeal and Order 59, rule 5 shall apply subject to any necessary modifications.

(3) Where any enactment under which the case is stated provides that a Minister or government department shall have a right to be heard in the proceedings on the case, a copy of the case and of the notice of appeal served under paragraph (1) must be served on that Minister or department.

(4) On the hearing of the case, the Court of Appeal may amend the case or order it to be sent back to the tribunal for amendment.

(5) Order 59 shall, so far as applicable, apply, in relation to a case stated by a tribunal to which this Order applies.

(6) The office of the Court of Appeal shall notify the clerk or registrar of the tribunal of the decision of the Court of Appeal on the case and of any directions given by that Court thereon.