

STATUTORY INSTRUMENTS

**1998 No. 3132**

The Civil Procedure Rules 1998

[<sup>F1</sup>PART 52  
APPEALS

**Textual Amendments**

- F1** Pt. 52 substituted (3.10.2016) by [The Civil Procedure \(Amendment No. 3\) Rules 2016 \(S.I. 2016/788\)](#), rule 2, [Sch.](#) (with [rule 16](#))

**Modifications etc. (not altering text)**

- C1** Pt. 52 applied (6.4.2017) by [The Insolvency \(England and Wales\) Rules 2016 \(S.I. 2016/1024\)](#), rules 1, [12.58](#) (with [rule 3\(3\)](#), [Sch. 2](#))
- C2** Pt. 52 applied (5.7.2018) by [The Housing Administration \(England and Wales\) Rules 2018 \(S.I. 2018/719\)](#), rules 1.1, [4.40](#) (with [rule 1.2](#))
- C3** Pt. 52 applied (31.1.2019) by [The Education Administration Rules 2018 \(S.I. 2018/1135\)](#), rules 1, [4.37](#) (with [rule 1.2](#))
- C4** Pt. 52 applied (1.8.2020) by [The Smart Meter Communication Licensee Administration \(England and Wales\) Rules 2020 \(S.I. 2020/629\)](#), rules 1, [133\(3\)](#) (with [rule 4\(1\)](#))
- C5** Pt. 52 applied (with modifications) (12.11.2021) by [The Payment and Electronic Money Institution Insolvency \(England and Wales\) Rules 2021 \(S.I. 2021/1178\)](#), rules 2, [187](#), 236-239 (with [rule 5](#))
- C6** Pt. 52 applied (18.7.2023) by [The Relevant Licensee Nuclear Company Administration \(England and Wales\) Rules 2023 \(S.I. 2023/712\)](#), rules 1(2)(a), [129\(3\)](#) (with [rule 2](#))

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**Changes to legislation:** There are currently no known outstanding effects for the  
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### SECTION I

#### *Scope and interpretation*

#### **Scope and interpretation**

**52.1.**—<sup>F5</sup>(1) The rules in this Part apply to—

- (a) appeals to the civil division of the Court of Appeal;
- (b) appeals to the High Court;
- (c) appeals to the County Court;
- (d) applications made in the High Court or the Court of Appeal for permission to appeal to the Supreme Court in contempt proceedings; and
- (e) applications made in the Court of Appeal for permission to appeal to the Supreme Court in proceedings other than contempt proceedings.]

(2) This Part does not apply to an appeal in detailed assessment proceedings against a decision of an authorised court officer.

(3) In this Part—

- (a) “appeal” includes an appeal by way of case stated;
- (b) “appeal court” means the court to which an appeal is made <sup>F6</sup>but does not include the Supreme Court];
- (c) “lower court” means the court, tribunal or other person or body from whose decision an appeal is brought <sup>F7</sup>but does not include the Court of Appeal];
- (d) “appellant” means a person who brings or seeks to bring an appeal;
- (e) “respondent” means—
  - (i) a person other than the appellant who was a party to the proceedings in the lower court and who is affected by the appeal; and
  - (ii) a person who is permitted by the appeal court to be a party to the appeal; <sup>F8</sup>...

- (f) “appeal notice” means an appellant’s or respondent’s notice [F9]; and]
- [F10(g) reference to an appeal in contempt proceedings is reference to—
- (i) an appeal by a defendant in respect of any order or decision made by a court in the exercise of its jurisdiction to punish for contempt of court or under an enactment enabling the court to deal with an offence as if it were a contempt of court or under section 14, 92 or 118 of the County Courts Act 1984; and
  - (ii) an appeal by an applicant in respect of any order made on an application for committal or attachment.]
- (4) This Part is subject to any rule, enactment or practice direction which sets out special provisions with regard to any particular category of appeal.

#### Textual Amendments

- F5** Rule 52.1(1) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **24(2)(a)**
- F6** Words in rule 52.1(3)(b) inserted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **24(2)(b)(i)**
- F7** Words in rule 52.1(3)(c) inserted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **24(2)(b)(ii)**
- F8** Word in rule 52.1(3)(e)(ii) omitted (1.10.2023 immediately after S.I. 2023/572 comes into force) by virtue of [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **24(2)(b)(iii)**
- F9** Word in rule 52.1(3)(f) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **24(2)(b)(iv)**
- F10** Rule 52.1(3)(g) inserted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **24(2)(b)(v)**

#### Parties to comply with Practice Directions 52A to 52E

- 52.2.** All parties to an appeal must comply with Practice Directions 52A to 52E.

#### SECTION II

#### *Permission to appeal – General*

#### Permission to appeal

- 52.3.—(1)** An appellant or respondent requires permission to appeal—
- (a) where the appeal is from a decision of a judge in the County Court or the High Court, or to the Court of Appeal from a decision of a judge in the family court, except where the appeal is against—
    - (i) a committal order [F11] made in the County Court or by a single judge of the High Court not sitting on an appeal];
    - (ii) a refusal to grant habeas corpus; or
    - (iii) a secure accommodation order made under section 25 of the Children Act 1989 [F12] or section 119 of the Social Services and Well-being (Wales) Act 2014]; F13 ...
  - (b) as provided by Practice Directions 52A to 52E [F14; or]
  - [F15(c) where the appeal is from the decision of—
    - (i) a Divisional Court in contempt proceedings;

- (ii) a single judge of the High Court made on appeal in contempt proceedings;
- (iii) the Court of Appeal in contempt proceedings; or
- (iv) the Court of Appeal in proceedings other than contempt proceedings.]

(Other enactments may provide that permission is required for particular appeals.)

(2) <sup>F16</sup>Unless the appeal is within paragraph (1)(c), an] application for permission to appeal may be made—

- (a) to the lower court at the hearing at which the decision to be appealed was made <sup>F17</sup>or any adjournment of that hearing]; or
- (b) to the appeal court in an appeal notice.

(Rule 52.12 sets out the time limits for filing an appellant’s notice at the appeal court. Rule 52.13 sets out the time limits for filing a respondent’s notice at the appeal court. Any application for permission to appeal to the appeal court must be made in the appeal notice (see rules 52.12(1) and 52.13(3)).)

(3) <sup>F18</sup>Unless the appeal is within paragraph (1)(c), where] the lower court refuses an application for permission to appeal—

- (a) a further application for permission may be made to the appeal court; and
- (b) the order refusing permission must specify—
  - (i) the court to which any further application for permission should be made; and
  - (ii) the level of judge who should hear the application.

#### Textual Amendments

- F11** Words in rule 52.3(1)(a)(i) inserted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **24(3)(a)(i)**
- F12** Words in rule 52.3(1)(a)(iii) inserted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/889\)](#), rules 1(1), **6(a)**
- F13** Word in rule 52.3(1)(a)(iii) omitted (1.10.2023 immediately after S.I. 2023/572 comes into force) by virtue of [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **24(3)(a)(ii)**
- F14** Word in rule 52.3(1)(b) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **24(3)(a)(iii)**
- F15** Rule 52.3(1)(c) inserted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **24(3)(a)(iv)**
- F16** Words in rule 52.3(2) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **24(3)(b)**
- F17** Words in rule 52.3(2)(a) inserted (1.10.2021) by [The Civil Procedure \(Amendment No. 4\) Rules 2021 \(S.I. 2021/855\)](#), rules 1(1), **9(1)**
- F18** Words in rule 52.3(3) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **24(3)(c)**

#### <sup>F19</sup>Permission to appeal in certain contempt proceedings

**52.3A.**—(1) Where the appeal is one to which rule 52.3(1)(c)(i), (ii) or (iii) applies—

- (a) an application for permission to appeal must be made to the Divisional Court or the single judge of the High Court or the Court of Appeal (as the case may be); and
- (b) the application must be made within 28 days of the date on which that Court provides reasons for its decision.

(2) Where the appeal is one to which rule 52.3(1)(c)(iv) applies, an application for permission to appeal must be made to the Court of Appeal.]

#### Textual Amendments

**F19** Rule 52.3A inserted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **24(4)**

### Determination of applications for permission to appeal to the County Court and High Court

**52.4.—**(1) Where an application for permission to appeal is made to an appeal court other than the Court of Appeal, the appeal court will determine the application on paper without an oral hearing, [F20 unless the court otherwise directs, or] as provided for under paragraph (2).

(2) Subject to paragraph (3) and except where a rule or practice direction provides otherwise, where the appeal court, without a hearing, refuses permission to appeal, the person seeking permission may request the decision to be reconsidered at an oral hearing.

(3) Where in the appeal court a judge of the High Court, a Designated Civil Judge or a Specialist Circuit Judge refuses permission to appeal without an oral hearing and considers that the application is totally without merit, the judge may make an order that the person seeking permission may not request the decision to be reconsidered at an oral hearing.

(4) For the purposes of paragraph (3), “Specialist Circuit Judge” means any Circuit Judge in the County Court nominated to hear cases in the [F21 Circuit Commercial], Chancery or Technology and Construction Court lists.

(5) Rule 3.3(5) (party able to apply to set aside, etc., a decision made of court’s own initiative) does not apply to an order made under paragraph (3) that the person seeking permission may not request the decision to be reconsidered at an oral hearing.

(6) A request under paragraph (2) must be filed within 7 days after service of the notice that permission has been refused.

#### Textual Amendments

**F20** Words in [rule 52.4\(1\)](#) substituted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/889\)](#), rules 1(1), **6(b)(i)**

**F21** Words in [rule 52.4\(4\)](#) substituted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/889\)](#), rules 1(1), **6(b)(ii)**

### Determination of applications for permission to appeal to the Court of Appeal

**52.5.—**(1) Where an application for permission to appeal is made to the Court of Appeal, the Court of Appeal will determine the application on paper without an oral hearing, except as provided for under paragraph (2).

(2) The judge considering the application on paper may direct that the application be determined at an oral hearing, and must so direct if the judge is of the opinion that the application cannot be fairly determined on paper without an oral hearing.

(3) An oral hearing directed under paragraph (2) must be listed—

- (a) no later than 14 days from the date of the direction under that paragraph; and
- (b) before the judge who made that direction,

unless the court directs otherwise.

- (4) The Court of Appeal may, in any direction under paragraph (2)—
- (a) identify any issue or issues on which the party seeking permission should specifically focus its submissions at the oral hearing in order to assist the court to determine the application; and
  - (b) direct the respondent to serve and file written submissions and to attend the oral hearing.

#### **Permission to appeal test – first appeals**

**52.6.**—(1) Except where rule 52.7 [<sup>F22</sup>or rule 52.7A] applies, permission to appeal may be given only where—

- (a) the court considers that the appeal would have a real prospect of success; or
  - (b) there is some other compelling reason for the appeal to be heard.
- (2) An order giving permission under this rule or under rule 52.7 may—
- (a) limit the issues to be heard; and
  - (b) be made subject to conditions.

(Rule 3.1(3) also provides that the court may make an order subject to conditions.)

(Rule 25.15 provides for the court to order security for costs of an appeal.)

#### **Textual Amendments**

**F22** Words in rule 52.6(1) inserted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **24(5)**

#### **Permission to appeal test – second appeals**

**52.7.**—(1) Permission is required from the Court of Appeal for any appeal to that court from a decision of the County Court, the family court or the High Court which was itself made on appeal, or a decision of the Upper Tribunal which was made on appeal from a decision of the First-tier Tribunal on a point of law where the Upper Tribunal has refused permission to appeal to the Court of Appeal.

- (2) The Court of Appeal will not give permission unless it considers that—
- (a) the appeal would—
    - (i) have a real prospect of success; and
    - (ii) raise an important point of principle or practice; or
  - (b) there is some other compelling reason for the Court of Appeal to hear it.

#### **[<sup>F23</sup>Permission to appeal in contempt proceedings where the appeal lies to the Supreme Court**

**52.7A.**—(1) This rule applies where the appeal is—

- (a) one to which rule 52.3(1)(c)(ii) applies; or
  - (b) from a decision to which rule 52.3(1)(c)(i) or (iii) applies and which was itself made on appeal.
- (2) Where this rule applies the court from which the appeal lies may grant permission only if—
- (a) that court certifies that a point of general public importance is involved in the decision; and
  - (b) it appears to that court that the point is one which ought to be considered by the Supreme Court.]

### Textual Amendments

**F23** Rule 52.7A inserted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **24(6)**

## SECTION III

### *Permission to appeal – judicial review appeals, planning statutory review appeals and appeals from the Employment Appeal Tribunal*

#### **Judicial review appeals from the High Court**

**52.8.**—(1) Where permission to apply for judicial review has been refused at a hearing in the High Court, an application for permission to appeal may be made to the Court of Appeal [<sup>F24</sup>except where precluded by section 18(1)(a) of the Senior Courts Act 1981].

(2) Where permission to apply for judicial review of a decision of the Upper Tribunal has been refused by the High Court on the papers or where permission to apply for judicial review has been refused on the papers and recorded as being totally without merit in accordance with rule 23.12, an application for permission to appeal may be made to the Court of Appeal.

(3) An application under paragraph (1) must be made within 7 days of the decision of the High Court to refuse to give permission to apply for judicial review.

(4) An application under paragraph (2) must be made within 7 days of service of the order of the High Court refusing permission to apply for judicial review.

(5) On an application under paragraph (1) or (2), the Court of Appeal may, instead of giving permission to appeal, give permission to apply for judicial review.

(6) Where the Court of Appeal gives permission to apply for judicial review in accordance with paragraph (5), the case will proceed in the High Court unless the Court of Appeal orders otherwise.

### Textual Amendments

**F24** Words in rule 52.8(1) inserted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **24(7)**

#### **Judicial review appeals from the Upper Tribunal**

**52.9.**—(1) Where permission to bring judicial review proceedings has been refused by the Upper Tribunal at a hearing and permission to appeal has been refused by the Upper Tribunal, an application for permission to appeal may be made to the Court of Appeal.

(2) Where an application for permission to bring judicial review proceedings has been determined by the Upper Tribunal on the papers and recorded as being totally without merit and permission to appeal has been refused by the Upper Tribunal, an application for permission to appeal may be made to the Court of Appeal.

(3) An application under this rule to the Court of Appeal must be made within 7 days of—

- (a) the decision of the Upper Tribunal refusing permission to appeal to the Court of Appeal, where that decision was made at a hearing; or
- (b) service of the order of the Upper Tribunal refusing permission to appeal to the Court of Appeal, where the decision to refuse permission was made on the papers.



## Planning statutory review appeals

**52.10.**—(1) Where permission to apply for a planning statutory review has been refused at a hearing in the High Court, an application for permission to appeal may be made to the Court of Appeal.

(See Part 8 and [F25Practice Direction 54D].)

(2) Where permission to apply for a planning statutory review has been refused by the High Court on the papers and recorded as totally without merit in accordance with rule 23.12, an application for permission to appeal may be made to the Court of Appeal.

(3) An application under paragraph (1) must be made within 7 days of the decision of the High Court to refuse to give permission to apply for a planning statutory review.

(4) An application under paragraph (2) must be made within 7 days of service of the order of the High Court refusing permission to apply for a planning statutory review.

(5) On an application under paragraph (1) or (2) the Court of Appeal may, instead of giving permission to appeal, give permission to apply for a planning statutory review.

(6) Where the Court of Appeal gives permission to apply for a planning statutory review in accordance with paragraph (5), the case will proceed in the High Court unless the Court of Appeal orders otherwise.

### Textual Amendments

**F25** Words in [rule 52.10](#) substituted (6.4.2022) by [The Civil Procedure \(Amendment\) Rules 2022 \(S.I. 2022/101\)](#), [rules 1\(1\), 15](#)

## Appeals from the Employment Appeal Tribunal

**52.11.**—(1) Where on an appeal to the Employment Appeal Tribunal either—

- (a) the appellant or special advocate has been given notice under rule 3(7) of the Employment Appeal Tribunal Rules 1993 (“the 1993 Rules”) and an order has been made under rule 3(7ZA) of those Rules; or
- (b) a direction has been made under rule 3(10) of the 1993 Rules that no further action shall be taken on the notice of appeal,

the appellant may apply to the Court of Appeal for permission to appeal.

(2) An application under paragraph (1) must be made within 7 days of the date of—

- (a) service of the notice under rule 3(7) of the 1993 Rules; or
- (b) the direction made under rule 3(10) of those Rules,

as the case may be.

(3) The Court of Appeal may, instead of giving permission to appeal, direct that the notice under rule 3(7) of the 1993 Rules or (as the case may be) the direction under rule 3(10) of those Rules shall be of no effect so that the appeal shall proceed in the Employment Appeal Tribunal as if the notice or direction had not been given or made, but such a direction shall not be given unless the test for the grant of permission to appeal under rule 52.6(2) is met.

*SECTION IV*  
*Additional rules*

**Appellant’s notice**

**52.12.**—(1) Where the appellant seeks permission from the appeal court, it must be requested in the appellant’s notice.

(2) The appellant must file the appellant’s notice at the appeal court within—

- (a) such period as may be directed by the lower court [<sup>F26</sup>at the hearing at which the decision to be appealed was made or any adjournment of that hearing] (which may be longer or shorter than the period referred to in sub-paragraph (b)); or
- (b) where the court makes no such direction, and subject to the specific provision about time limits in rules 52.8 to 52.11 and Practice Direction 52D, 21 days after the date of the decision of the lower court which the appellant wishes to appeal.

(3) Subject to paragraph (4) and unless the appeal court orders otherwise, an appellant’s notice must be served on each respondent—

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

after it is filed.

(4) Where an appellant seeks permission to appeal against a decision to refuse to grant an interim injunction under section 41 of the Policing and Crime Act 2009, the appellant is not required to serve the appellant’s notice on the respondent.

**Textual Amendments**

**F26** Words in rule 52.12(2)(a) inserted (1.10.2021) by [The Civil Procedure \(Amendment No. 4\) Rules 2021 \(S.I. 2021/855\)](#), rules 1(1), **9(2)**

**Respondent’s notice**

**52.13.**—(1) A respondent may file and serve a respondent’s notice.

(2) A respondent who—

- (a) is seeking permission to appeal from the appeal court; or
- (b) wishes to ask the appeal court to uphold the decision of the lower court for reasons different from or additional to those given by the lower court,

must file a respondent’s notice.

(3) Where the respondent seeks permission from the appeal court it must be requested in the respondent’s notice.

(4) A respondent’s notice must be filed within—

- (a) such period as may be directed by the lower court [<sup>F27</sup>at the hearing at which the decision to be appealed was made or any adjournment of that hearing]; or
- (b) where the court makes no such direction, 14 days after the date in paragraph (5).

(5) The date referred to in paragraph (4) is—

- (a) the date the respondent is served with the appellant’s notice where—
  - (i) permission to appeal was given by the lower court; or

- (ii) permission to appeal is not required;
  - (b) the date the respondent is served with notification that the appeal court has given the appellant permission to appeal; or
  - (c) the date the respondent is served with notification that the application for permission to appeal and the appeal itself are to be heard together.
- (6) Unless the appeal court 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 later than 7 days,
- after it is filed.
- (7) This rule does not apply where rule 52.12(4) applies.

#### Textual Amendments

- F27** Words in rule 52.13(4)(a) inserted (1.10.2021) by [The Civil Procedure \(Amendment No. 4\) Rules 2021 \(S.I. 2021/855\)](#), rules 1(1), **9(3)**

#### Transcripts at public expense

**52.14.**—(1) Subject to paragraph (2), the lower court or the appeal court may direct, on the [<sup>F28</sup>request] of a party to the proceedings, that an official transcript of the judgment of the lower court, or of any part of the evidence or the proceedings in the lower court, be obtained at public expense for the purposes of an appeal.

- (2) Before making a direction under paragraph (1), the court must be satisfied that—
- (a) the [<sup>F29</sup>requesting party] qualifies for fee remission or is otherwise in such poor financial circumstances that the cost of obtaining a transcript would be an excessive burden; and
  - (b) it is necessary in the interests of justice for such a transcript to be obtained.

[<sup>F30</sup>(3) A request under paragraph (1) must be made on the approved form.]

#### Textual Amendments

- F28** Word in rule 52.14(1) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **20(a)**
- F29** Words in rule 52.14(2)(a) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **20(b)**
- F30** Rule 52.14(3) inserted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **20(c)**

#### Variation of time

**52.15.**—(1) An application to vary the time limit for filing an appeal notice must be made to the appeal court.

- (2) The parties may not agree to extend any date or time set by—
- (a) these Rules;
  - (b) Practice Directions 52A to 52E; or
  - (c) an order of the appeal court or the lower court.

(Rule 3.1(2)(a) provides that the court may extend or shorten the time for compliance with any rule, practice direction or court order (even if an application for extension is made after the time for compliance has expired).)

(Rule 3.1(2)(b) provides that the court may adjourn or bring forward a hearing.)

### **[<sup>F31</sup>Variation of time in certain contempt proceedings**

**52.15A.** A defendant in contempt proceedings may apply to extend the time set out at rule 52.3A(1)(a) and (b).]

#### **Textual Amendments**

**F31** Rule 52.15A inserted (1.10.2023 immediately after S.I. 2023/572 comes into force) by The Civil Procedure (Amendment No. 3) Rules 2023 (S.I. 2023/788), rules 1(1), **24(8)**

### **Stay<sup>(GL)</sup>**

**52.16.** Unless—

- (a) the appeal court or the lower court orders otherwise; or
- (b) the appeal is from the Immigration and Asylum Chamber of the Upper Tribunal,

an appeal shall not operate as a stay of any order or decision of the lower court.

### **Amendment of appeal notice**

**52.17.** An appeal notice may not be amended without the permission of the appeal court.

### **Striking out<sup>(GL)</sup> appeal notices and setting aside<sup>(GL)</sup> or imposing conditions on permission to appeal**

**52.18.—**(1) The appeal court may—

- (a) strike out the whole or part of an appeal notice;
- (b) set aside permission 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 permission was given, that party may not subsequently apply for an order that the court exercise its powers under sub-paragraphs (1)(b) or (1)(c).

### **Orders to limit the recoverable costs of an appeal [<sup>F32</sup>– general]**

**52.19.—**(1) [<sup>F33</sup>Subject to rule 52.19A, in] any proceedings in which costs recovery is normally limited or excluded at first instance, an appeal court may make an order that the recoverable costs of an appeal will be limited to the extent which the court specifies.

(2) In making such an order the court will have regard to—

- (a) the means of both parties;
- (b) all the circumstances of the case; and

(c) the need to facilitate access to justice.

(3) If the appeal raises an issue of principle or practice upon which substantial sums may turn, it may not be appropriate to make an order under paragraph (1).

(4) An application for such an order must be made as soon as practicable and will be determined without a hearing unless the court orders otherwise.

#### Textual Amendments

**F32** Word in rule 52.19 heading inserted (28.2.2017) by [The Civil Procedure \(Amendment\) Rules 2017 \(S.I. 2017/95\)](#), rules 2(a), **9(1)(a)** (with rule 13(3))

**F33** Words in rule 52.19(1) substituted (28.2.2017) by [The Civil Procedure \(Amendment\) Rules 2017 \(S.I. 2017/95\)](#), rules 2(a), **9(1)(b)** (with rule 13(3))

#### [<sup>F34</sup>Orders to limit the recoverable costs of an appeal – appeals in Aarhus Convention claims

**52.19A.**—(1) In this rule, “Aarhus Convention claim” and “prohibitively expensive” have the same meanings as in [<sup>F35</sup>Section IX of Part 46], and “claimant” means a claimant to whom rules [<sup>F36</sup>46.26 to 46.28] apply.

(2) In an appeal against a decision made in an Aarhus Convention claim to which rules [<sup>F37</sup>46.26 to 46.28] apply, the court must—

- (a) consider whether the costs of the proceedings will be prohibitively expensive for a party who was a claimant; and
- (b) if they will be, make an order limiting the recoverable costs to the extent necessary to prevent this.

(3) When the court considers the financial resources of a party for the purposes of this rule, it must have regard to any financial support which any person has provided or is likely to provide to that party.]

#### Textual Amendments

**F34** Rule 52.19A inserted (28.2.2017) by [The Civil Procedure \(Amendment\) Rules 2017 \(S.I. 2017/95\)](#), rules 2(a), **9(2)** (with rule 13(3))

**F35** Words in rule 52.19A(1) substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **17(a)(i)** (with rule 2)

**F36** Words in rule 52.19A(1) substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **17(a)(ii)** (with rule 2)

**F37** Words in rule 52.19A(2) substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **17(b)** (with rule 2)

#### Appeal court’s powers

**52.20.**—(1) In relation to an appeal the appeal court has all the powers of the lower court. (Rule 52.1(4) provides that this Part is subject to any enactment that sets out special provisions with regard to any particular category of appeal. Where such an enactment gives a statutory power to a tribunal, person or other body, it may be the case that the appeal court may not exercise that power on an appeal.)

(2) The appeal court has power to—

- (a) affirm, set aside or vary any order or judgment made or given by the lower court;

- (b) refer any claim or issue for determination by the lower court;
- (c) order a new trial or hearing;
- (d) make orders for the payment of interest;
- (e) make a costs order.

(3) In an appeal from a claim tried with a jury the Court of Appeal may, instead of ordering a new trial—

- (a) make an order for damages; or
- (b) vary an award of damages made by the jury.

(4) The appeal court may exercise its powers in relation to the whole or part of an order of the lower court.

(Part 3 contains general rules about the court's case management powers.)

(5) If the appeal court—

- (a) refuses an application for permission to appeal;
- (b) strikes out an appellant's notice; or
- (c) dismisses an appeal,

and it considers that the application, the appellant's notice or the appeal is totally without merit, the provisions of paragraph (6) must be complied with.

(6) Where paragraph (5) applies—

- (a) the court's order must record the fact that it considers the application, the appellant's notice or the appeal to be totally without merit; and
- (b) the court must at the same time consider whether it is appropriate to make a civil restraint order.

### **Hearing of appeals**

**52.21.**—(1) Every appeal will be limited to a review of the decision of the lower court unless—

- (a) a practice direction makes different provision for a particular category of appeal; or
- (b) the court considers that in the circumstances of an individual appeal it would be in the interests of justice to hold a re-hearing.

(2) Unless it orders otherwise, the appeal court will not receive—

- (a) oral evidence; or
- (b) evidence which was not before the lower court.

(3) The appeal court will allow an appeal where the decision of the lower court was—

- (a) wrong; or
- (b) unjust because of a serious procedural or other irregularity in the proceedings in the lower court.

(4) The appeal court may draw any inference of fact which it considers justified on the evidence.

(5) At the hearing of the appeal, a party may not rely on a matter not contained in that party's appeal notice unless the court gives permission.

### **Non-disclosure of Part 36 offers and payments**

**52.22.**—(1) [<sup>F38</sup>Unless the appeal court otherwise orders, the] fact that a Part 36 offer or payment into court has been made must not be disclosed to any judge of the appeal court who is to hear or determine—

- (a) an application for permission to appeal; or
- (b) an appeal,

until all questions (other than costs) have been determined.

(2) Paragraph (1) does not apply if the Part 36 offer or payment into court is relevant to the substance of the appeal.

(3) Paragraph (1) does not prevent disclosure in any application in the appeal proceedings if disclosure of the fact that a Part 36 offer or payment into court has been made is properly relevant to the matter to be decided.

(Rule 36.4 has the effect that a Part 36 offer made in proceedings at first instance will not have consequences in any appeal proceedings. Therefore, a fresh Part 36 offer needs to be made in appeal proceedings. However, this rule applies to a Part 36 offer whether made in the original proceedings or in the appeal.)

#### **Textual Amendments**

**F38** Words in rule 52.22(1) substituted (6.4.2020) by [The Civil Procedure \(Amendment\) Rules 2020 \(S.I. 2020/82\)](#), rules 1(1), **5(1)**

## *SECTION V*

### *Special provisions relating to the Court of Appeal*

#### **Assignment of appeals to the Court of Appeal**

**52.23.**—(1) Where the court from or to which an appeal is made or from which permission to appeal is sought (“the relevant court”) considers that—

- (a) an appeal which is to be heard by the County Court or the High Court 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,

the relevant court may order the appeal to be transferred to the Court of Appeal.

(The Master of the Rolls has the separate statutory power to direct that an appeal which would be heard by the County Court or the High Court should be heard instead by the Court of Appeal – see section 57 of the Access to Justice Act 1999.)

(2) The Master of the Rolls or the Court of Appeal may remit an appeal to the court in which the original appeal was or would have been brought.

#### **Who may exercise the powers of the Court of Appeal**

**52.24.**—(1) A court officer assigned to the Civil Appeals Office who is—

- (a) a barrister; <sup>F39</sup>...
- (b) a solicitor [<sup>F40</sup>, or]

[<sup>F41</sup>(c) a Fellow of the Chartered Institute of Legal Executives [<sup>F42</sup>or a CILEX lawyer].]

may exercise the jurisdiction of the Court of Appeal with regard to the matters set out in paragraph (2) with the consent of the Master of the Rolls.

- (2) The matters referred to in paragraph (1) are—
  - (a) any matter incidental to proceedings in the Court of Appeal;
  - (b) any other matter where there is no substantial dispute between the parties; and
  - (c) the dismissal of an appeal or application where a party has failed to comply with any order, rule or practice direction.
- (3) A court officer may not decide an application for—
  - (a) permission to appeal;
  - (b) bail pending an appeal;
  - (c) an injunction<sup>(GL)</sup>;
  - (d) a stay<sup>(GL)</sup> of execution of any order or decision of the lower court other than a temporary stay over a period when the Court of Appeal is not sitting or cannot conveniently be convened;
  - (e) a stay of proceedings in the lower court.
- (4) Decisions of a court officer will be made without an oral hearing, unless a court officer directs otherwise.
- (5) A party may request any decision of a court officer to be reviewed by a single judge, and—
  - (a) the review will be determined on paper without an oral hearing; except that
  - (b) the judge determining the review on paper may direct that the review be determined at an oral hearing, and must so direct if the judge is of the opinion that the review cannot be fairly determined on paper without an oral hearing.
- (6) A party may request a decision of a single judge made without a hearing (other than a decision made on a review under paragraph (5) and a decision determining an application for permission to appeal) to be reconsidered, and—
  - (a) the reconsideration will be determined by the same or another judge on paper without an oral hearing; except that
  - (b) the judge determining the reconsideration on paper may direct that the reconsideration be determined at an oral hearing, and must so direct if the judge is of the opinion that the reconsideration cannot be fairly determined on paper without an oral hearing.
- (7) A request under paragraph (5) or (6) must be filed within 7 days after the party is served with notice of the decision.
- (8) A single judge may refer any matter for a decision by a court consisting of two or more judges.

(Section 54(4) of the Access to Justice Act 1999 provides that there is no appeal from the decision of a single judge on an application for permission to appeal.)

(Section 58(2) of the Senior Courts Act 1981 provides that there is no appeal to the Supreme Court from decisions of the Court of Appeal that—

- (a) are taken by a single judge or any officer or member of staff of that court in proceedings incidental to any cause or matter pending before the civil division of that court; and
- (b) do not involve the determination of an appeal or of an application for permission to appeal,

and which may be called into question by rules of court. Paragraphs (5) and (6) of this rule provide the procedure for the calling into question of such decisions.)



#### **Textual Amendments**

- F39** Word in rule 52.24(1)(a) omitted (6.4.2020) by virtue of [The Civil Procedure \(Amendment\) Rules 2020 \(S.I. 2020/82\)](#), rules 1(1), **5(2)(a)**
- F40** Word in rule 52.24(1)(b) inserted (6.4.2020) by [The Civil Procedure \(Amendment\) Rules 2020 \(S.I. 2020/82\)](#), rules 1(1), **5(2)(b)**
- F41** Rule 52.24(1)(c) inserted (6.4.2020) by [The Civil Procedure \(Amendment\) Rules 2020 \(S.I. 2020/82\)](#), rules 1(1), **5(2)(c)**
- F42** Words in rule 52.24(1)(c) inserted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **26**

### *SECTION VI*

#### *Special provisions relating to statutory appeals*

#### **Statutory appeals – court’s power to hear any person**

- 52.25.**—(1) In a statutory appeal any person may apply for permission—
- (a) to file evidence; or
  - (b) to make representations at the appeal hearing.
- (2) An application under paragraph (1) must be made promptly.

#### **Appeals under the Law of Property Act 1922**

**52.26.** An appeal lies to the High Court against a decision of the Secretary of State under paragraph 16 of Schedule 15 to the Law of Property Act 1922.

#### **Appeals from certain tribunals**

**52.27.**—(1) A person who was a party to proceedings before a tribunal referred to in section 11(1) of the Tribunals and Inquiries Act 1992 and is dissatisfied in point of law with the decision of the tribunal may appeal to the High Court.

(2) The tribunal may, on its own initiative or at the request of a party to the proceedings before it, state, in the form of a special case for the decision of the High Court, a question of law arising in the course of the proceedings.

#### **Appeals under certain planning legislation**

**52.28.**—(1) Where the Secretary of State has given a decision in proceedings on an appeal under Part VII of the Town and Country Planning Act 1990 against an enforcement notice—

- (a) the appellant;
- (b) the local planning authority; or
- (c) another person having an interest in the land to which the notice relates,

may appeal to the High Court against the decision on a point of law.

(2) Where the Secretary of State has given a decision in proceedings on an appeal under Part VIII of that Act against a notice under section 207 of that Act—

- (a) the appellant;
- (b) the local planning authority; or

(c) another person (other than the appellant) on whom the notice was served,  
may appeal to the High Court against the decision on a point of law.

(3) Where the Secretary of State has given a decision in proceedings on an appeal under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a listed building enforcement notice—

- (a) the appellant;
- (b) the local planning authority; or
- (c) any other person having an interest in the land to which the notice relates,

may appeal to the High Court against the decision on a point of law.

### **Appeals under certain legislation relating to pensions**

**52.29.** Where an appeal lies to the High Court—

- (a) under section 151(4) of the Pension Schemes Act 1993 from a determination or direction of the Pensions Ombudsman; or
- (b) under section 217(1) of the Pensions Act 2004 from a determination or direction of the Pension Protection Fund Ombudsman,

the permission of the High Court is required for such an appeal to be brought.

## *SECTION VII*

### *Reopening final appeals*

#### **Reopening of final appeals**

**52.30.**—(1) The Court of Appeal or the High Court will not reopen a final determination of any appeal unless—

- (a) it is necessary to do so in order to avoid real injustice;
- (b) the circumstances are exceptional and make it appropriate to reopen the appeal; and
- (c) there is no alternative effective remedy.

(2) In paragraphs (1), (3), (4) and (6), “appeal” includes an application for permission to appeal.

(3) This rule does not apply to appeals to the County Court.

(4) Permission is needed to make an application under this rule to reopen a final determination of an appeal even in cases where under rule 52.3(1) permission was not needed for the original appeal.

(5) There is no right to an oral hearing of an application for permission unless, exceptionally, the judge so directs.

(6) The judge must not grant permission without directing the application to be served on the other party to the original appeal and giving that party an opportunity to make representations.

(7) There is no right of appeal or review from the decision of the judge on the application for permission, which is final.

(8) The procedure for making an application for permission is set out in Practice Direction 52A.]

**Changes to legislation:**

There are currently no known outstanding effects for the The Civil Procedure Rules 1998, PART 52.