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STATUTORY INSTRUMENTS

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**1998 No. 1713**

**The Faculty Jurisdiction (Appeals) Rules 1998**

**PART V**

**GENERAL PROVISIONS**

**Interlocutory applications**

**19.**—(1) This rule applies to—

- (a) applications made under these rules to a registrar; and
- (b) applications made under these rules, except under rules 10, 13 and 15, to an appellate court or Commission of Review otherwise than at the hearing of an appeal or petition.

(2) An application to which this rule applies shall be in writing in Form No. 9 in the Appendix to these Rules and shall be lodged with the registrar to whom it is made or the registrar of the court or Commission to which it is made, and a copy of the application shall be served on each other party.

(3) A registrar may grant any application made to him (other than an application for directions under rule 11) without a hearing, if there is lodged with the application a consent in writing signed by each of the other parties or his solicitor, or if the registrar is otherwise satisfied that none of the other parties opposes the application.

(4) In the case of any application lodged with a registrar under this rule (other than an application under paragraph (3)) the registrar shall fix a time and place for the hearing of the application and shall give not less than 7 days' notice in writing of that time and place to all the parties.

(5) An application under this rule may be granted or a direction may be made on an application under this rule on such terms as the person or body granting the application may think just.

(6) Any party may appeal from a decision of a registrar of an appellate court or Commission of Review to that appellate court or Commission.

(7) Any party wishing to appeal from a decision of a registrar under paragraph (6) of this rule shall lodge with the registrar not more than 7 days after the decision in question a notice of appeal in writing in Form No. 10 in the Appendix to these Rules, setting out the grounds of the appeal, and shall serve a copy of the notice of appeal on each other party, and the registrar shall fix the time and place of the hearing of the appeal and give not less than 7 days' notice in writing of that time and place to all the parties.

(8) Any application or appeal under this rule to the Arches Court of Canterbury or the Chancery Court of York may be heard and determined by the Dean.

(9) Any application or appeal under this rule to the Court of Ecclesiastical Causes Reserved may be heard and determined by such two of the judges of the Court of Ecclesiastical Causes Reserves as may be agreed between the judges of that court.

(10) Any application or appeal under these rules to a Commission of Review may be heard and determined by the presiding judge of the Commission of Review.

## Service of Document

20.—(1) Service of any document may be effected—

- (a) by leaving the document at the proper address of the person to be served; or
- (b) by sending it by post to that address; or
- (c) by leaving it at a document exchange as provided for in paragraph (3) of this rule; or
- (d) by FAX as provided for in paragraph (4) of this rule; or
- (e) only in such other manner as the registrar or the appellate court may direct.

(2) For the purpose of this rule and the Interpretation Act 1978 in its application to this rule, the proper address of any person on whom a document is to be served under this rule shall be—

- (a) his usual or last known address; or
- (b) the business address of the solicitor (if any) who is acting for him in the proceedings.

(3) Where—

- (a) the proper address for service includes a numbered box at a document exchange; or
- (b) there is inscribed on the writing paper of the party on whom the document is served (where such party acts in person) or on the writing paper of his solicitor (where such party acts by a solicitor) a document exchange box number, and such a party or his solicitor (as the case may be) has not indicated in writing to the party serving the document that he is unwilling to accept service through a document exchange,

service of the document may be effected by leaving the document addressed to that numbered box at that document exchange or at a document exchange which transmits documents every business day to that document exchange; and any document which is left at a document exchange in accordance with this paragraph shall, unless the contrary is proved, be deemed to have been served on the second business day following the day on which it is left.

(4) Service by FAX may be effected where

- (a) the party serving the document acts by a solicitor;
- (b) the party on whom the document is served acts by a solicitor and service is effected by transmission to the business address of such solicitor;
- (c) the solicitor acting for the party on whom the document is served has indicated in writing to the solicitor serving the document that he is willing to accept service by FAX at a specified FAX number and the document is transmitted to that number and for this purpose the inscription of a FAX number on the writing paper of a solicitor shall be deemed to indicate that such a solicitor is willing to accept service by FAX unless he has indicated in writing that he is not prepared to do so.

(5) Any document required by these Rules to be lodged with the registrar of the appellate court may be lodged by delivering the document at the address of the registrar or by sending it by post properly addressed to the registrar.

## General Provisions

21.—(1) Where anything is required by these rules to be done not more than a specified number of days or weeks after a specified act or event, the day on which the act or event occurred shall not be counted.

(2) The registrar of the appellate court, or the appellate court, may on an application made by the person or body concerned extend the time within which anything is required to be done by these rules, and the application may be made notwithstanding that the time has expired.

(3) The registrar or the appellate court may exercise the power under paragraph (2) on an ex parte application or may give directions for the giving of notice thereof and for a hearing.

(4) Any such application may be granted on such terms as the registrar or the appellate court thinks just.

#### **Non-compliance with rules**

**22.** Non-compliance with any of these Rules shall not render any proceeding void unless the appellate court or Commission so directs but the proceedings may be set aside either wholly or in part, as irregular, or may be amended or otherwise dealt with in such manner and upon such terms as the court or Commission thinks fit.

#### **Use of forms in Appendix**

**23.** Where any of these Rules require a document to be in a form set out in the Appendix to these rules, and that form is not in all respects appropriate, the rules shall be construed as requiring a form of the like character with such variations as circumstances may require to be used.

#### **Procedural Questions**

**24.** Where in the exercise of the appellate jurisdiction in faculty matters any procedural question or issue arises or it is expedient that any procedural direction shall be given in order that the proceedings may expeditiously and justly be disposed of, and where no provision of these rules appears to the appellate court or Commission to be applicable, the court or commission shall resolve such question or issue, or shall give such directions as shall appear to be just and convenient, and in doing so the appellate court or commission shall be guided, so far as practicable, by the Rules of the Supreme Court for the time being in force.