

SCHEDULE 1

RSC ORDER 55

APPEALS TO HIGH COURT FROM COURT, TRIBUNAL OR PERSON: GENERAL

Application

Rule 1.—(1) Subject to paragraphs (2), (3) and (4), this Order shall apply to every appeal which by or under any enactment lies to the High Court from any court, tribunal or person.

(2) This Order shall not apply to an appeal by case stated or to any appeal to which the Arbitration Practice Direction applies.

(3) The following rules of this Order shall not apply to an appeal from a county court to a single judge under section 375 of the Insolvency Act 1986⁽¹⁾, but subject to the Insolvency Rules 1986⁽²⁾, as amended, Order 59 shall, with the necessary modifications, apply to such an appeal as it applies to an appeal from a county court to the Court of Appeal.

(4) The following rules of this Order shall, in relation to an appeal to which this Order applies, have effect subject to any provision made in relation to that appeal by any other provision of these rules or by or under any enactment.

(5) In this Order references to a tribunal shall be construed as references to any tribunal constituted by or under any enactment other than any of the ordinary courts of law.

Court to hear appeal

Rule 2. Except where it is otherwise provided by these rules or by or under any enactment, an appeal to which this Order applies shall be assigned to the Queen's Bench Division and shall be heard and determined—

- (a) where the decision of the High Court on the appeal is final, by a Divisional Court, and
- (b) in any other case, by a single judge.

Bringing of appeal

Rule 3.—(1) An appeal to which this Order applies shall be by way of rehearing and must be brought by notice of appeal.

(2) Every notice by which such an appeal is brought must state the grounds of the appeal and, if the appeal is against a judgment, order or other decision of a court, must state whether the appeal is against the whole or a part of that decision and, if against a part only, must specify the part.

(3) The bringing of such an appeal shall not operate as a stay of proceedings on the judgment, determination or other decisions against which the appeal is brought unless the Court by which the appeal is to be heard or the court, tribunal or person by which or by whom the decision was given so orders.

Service of notice of appeal and entry of appeal

Rule 4.—(1) The persons to be served with notice of the motion by which an appeal to which this Order applies is brought are the following:—

(1) 1986 c. 45.
(2) S.I. 1986/1925.

- (a) if the appeal is against a judgment, order or other decision of a court, the registrar or clerk of the court and any party to the proceedings in which the decision was given who is directly affected by the appeal;
 - (b) if the appeal is against an order, determination, award or other decision of a tribunal, Minister of the Crown, government department or other person, the chairman of the tribunal, Minister, government department or person, as the case may be, and every party to the proceedings (other than the appellant) in which the decision appealed against was given.
- (2) The notice must be served, and the appeal entered, within 28 days after the date of the judgment, order, determination or other decision against which the appeal is brought.
- (3) In the case of an appeal against a judgment, order or decision of a court, the period specified in paragraph (2) shall be calculated from the date of the judgment or order or the date on which the decision was given.
- (4) In the case of an appeal against an order, determination, award or other decision of a tribunal, Minister, government department or other person, the period specified in paragraph (2) shall be calculated from the date on which notice of the decision, or, in a case where a statement of the reasons for a decision was given later than such notice, on which such a statement was given to the appellant by the person who made the decision or by a person authorised in that behalf to do so.

Date of hearing of appeal

Rule 5 Unless the Court having jurisdiction to determine the appeal otherwise directs, an appeal to which this Order applies shall not be heard sooner than 21 days after service of notice of the motion by which the appeal is brought.

Amendment of grounds of appeal, etc.

Rule 6.—(1) The notice by which an appeal to which this Order applies is brought may be amended by the appellant, without permission, by supplementary notice served not less than 7 days before the day appointed for the hearing of the appeal, on each of the persons on whom the notice to be amended was served.

(2) Within 2 days after service of a supplementary notice under paragraph (1) the appellant must file two copies of the notice in the office in which the appeal is entered.

(3) Except with the permission of the Court hearing any such appeal, no grounds other than those stated in the notice by which the appeal is brought or any supplementary notice under paragraph (1) may be relied upon by the appellant at the hearing; but that Court may amend the grounds so stated or make any other order, on such terms as it thinks just, to ensure the determination on the merits of the real question in controversy between the parties.

Interlocutory applications

Rule 6A.—(1) Unless the Court otherwise directs, any interlocutory application in proceedings to which this Order applies may be made to any Judge or a Master of the Queen's Bench Division or, as the case may be, any Judge or a District Judge of the Family Division, notwithstanding that the appeal is to be heard by a Divisional Court. In this paragraph "interlocutory application" includes an application for the extension of time for the service of the notice of appeal or the entry of the appeal or for the amendment of the notice of appeal.

(2) In relation to an order made by a Master or District Judge pursuant to paragraph (1), Order 58, rule 1 shall, where the appeal is to be heard by a Divisional Court, have effect as if a reference to that Court were substituted for the reference to a Judge sitting in private.

(3) This rule is without prejudice to any statutory provision or rule of law restricting the making of an order against the Crown.

Powers of Court hearing appeal

Rule 7.—(1) In addition to the power conferred by rule 6 (3) the Court hearing an appeal to which this Order applies shall have the powers conferred by the following provisions of this rule.

(2) The Court shall have power to receive further evidence on questions of fact, and the evidence may be given in such manner as the Court may direct either by oral examination in Court, by witness statement or affidavit, by deposition taken before an examiner or in some other manner.

(3) The Court shall have power to draw any inferences of fact which might have been drawn in the proceedings out of which the appeal arose.

(4) It shall be the duty of the appellant to apply to the Judge or other person presiding at the proceedings in which the decision appealed against was given for a signed copy of any note made by him of the proceedings and to furnish that copy for the use of the Court; and in default of production of such a note, or if such note is incomplete, in addition to such note, the Court may hear and determine the appeal on any other evidence or statement of what occurred in those proceedings as appears to the Court to be sufficient. Except where the Court otherwise directs, a witness statement or affidavit or note by a person present at the proceedings shall not be used in evidence under this paragraph unless it was previously submitted to the person presiding at the proceedings for his comments.

(5) The Court may give any judgment or decision or make any order which ought to have been given or made by the Court, tribunal or person and make such further or other order as the case may require or may remit the matter with the opinion of the Court for rehearing and determination by it or him.

(6) The Court may, in special circumstances, order that such security shall be given for the costs of the appeal as may be just.

(7) The Court shall not be bound to allow the appeal on the ground merely of misdirection, or of the improper admission or rejection of evidence, unless in the opinion of the Court substantial wrong or miscarriage has been thereby occasioned.

Right of Minister, etc., to appear and be heard

Rule 8 Where an appeal to which this Order applies is against an order, determination or other decision of a Minister of the Crown or government department, the Minister or department, as the case may be, shall be entitled to appear and be heard in the proceedings on the appeal.