

SCHEDULE 1

RSC ORDER 59

APPEALS TO THE COURT OF APPEAL

Application of Order to appeals

Rule 1 This Order applies, subject to the provisions of these Rules with respect to particular appeals, to every appeal to the Court of Appeal (including so far as it is applicable thereto, any appeal to that Court from a judge of the Technology and Construction Court, Master or other officer of the Supreme Court or from any tribunal from which an appeal lies to that Court under or by virtue of any enactment) not being an appeal for which other provision is made by these Rules, and references to “the court below” apply to any court, tribunal or person from which such an appeal lies.

Classes of case where permission to appeal is required

Rule 1B.—(1) Permission is required for every appeal except an appeal against—

- (a) the making of a committal order;
- (b) a refusal to grant habeas corpus; or
- (c) an order made under Section 25 of the Children Act 1989⁽¹⁾ (secure accommodation orders).

(2) A respondent who wishes to serve a respondent’s notice to which rule 6(1)(a) applies must first obtain permission to cross—appeal unless the case is one to which sub-paragraphs (a), (b) or (c) of paragraph (1) applies.

(3) Permission to appeal or cross—appeal to the Court of Appeal may be given by the court below or by the Court of Appeal.

Application of Order to applications for new trial

Rule 2 This Order (except so much of rule 3 (1) as provides that an appeal shall be by way of rehearing and except rule 11 (1)) applies to an application to the Court of Appeal for a new trial or to set aside a verdict, finding or judgment after trial with or without a jury, as it applies to an appeal to that Court, and references in this Order to an appeal and to an appellant shall be construed accordingly.

Interpretation

Rule 2A In this Order “a single judge” means a single judge of the Court of Appeal and “the registrar” means the registrar of civil appeals.

General Provisions as to Appeals

Who may exercise the powers of the Court of Appeal

Rule 2B Subject to section 58(1) of the Act the functions of the Court of Appeal may be performed by—

- (a) that Court;

(1) 1989 c. 41.

- (b) a single judge; or
- (c) the registrar.

Variation of time

Rule 2C Any date set by the court or this Order for doing any act may not be varied by the parties. (CPR Rule 2.11 allows the parties to vary a date by written agreement except where these Rules provide otherwise or the court orders otherwise)

Notice of appeal

Rule 3.—(1) An appeal to the Court of Appeal shall be by way of rehearing and must be brought by notice of appeal.

(2) Notice of appeal may be given either in respect of the whole or in respect of any specified part of the judgment or order of the court below; and every such notice must specify the grounds of the appeal and the precise form of the order which the appellant proposes to ask the Court of Appeal to make.

(3) Except with the permission of the Court of Appeal, a single judge or the registrar, the appellant shall not be entitled on the hearing of an appeal to rely on any grounds of appeal, or to apply for any relief, not specified in the notice of appeal.

(4) Every notice of appeal must specify the list of appeals to which the appellant proposes that the appeal should be assigned.

(5) A notice of appeal must be served on all parties to the proceedings in the court below who are directly affected by the appeal; and, subject to rule 8, it shall not be necessary to serve the notice on parties not so affected.

(6) No notice of appeal shall be given by a respondent in a case to which rule 6 (1) relates.

Time for appealing

Rule 4.—(1) Except as otherwise provided by this Order, every notice of appeal must be served under rule 3 (5) not later than 4 weeks after the date on which the judgment or order of the court below was sealed or otherwise perfected.

(2) In the case of an appeal from a decision in respect of which a certificate has been granted under section 12 of the Administration of Justice Act 1969⁽²⁾ the period referred to in paragraph (1) shall be calculated from the end of the time during which, in accordance with section 13 (5) of that Act, no appeal lies to the Court of Appeal.

(3) Where permission to appeal is granted by the Court of Appeal or the court below upon an application made within the time limited for serving notice of appeal under paragraph (1), a notice of appeal may, instead of being served within that time, be served within 7 days after the date when permission is granted.

Setting down appeal

Rule 5.—(1) Within 7 days after the later of (i) the date on which service of the notice of appeal was effected, or (ii) the date on which the judgment or order of the court below was sealed or otherwise perfected, the appellant must set down his appeal by filing with the court—

- (a) a copy of the said judgment or order; and

(2) 1969 c. 58; section 12 was amended by the Supreme Court Act 1981 (c. 54), section 152(4), schedule 7 and by the Courts Act 1971 (c. 23), section 56(4), Schedule II, Part IV.

(b) two copies of the notice of appeal, one of which shall be indorsed with the amount of the fee paid, and the other indorsed with a certificate of the date of service of the notice.

(2) Upon the said documents being so filed, the court shall enter the appeal in the records of the Court and assign it to the appropriate list of appeals.

(3) The appropriate list of appeals for the purpose of paragraph (2) shall be decided by the registrar, without prejudice, however, to any decision of the Court of Appeal on the question whether the judgment or order appealed against is interlocutory or final.

(4) Within 4 days of receipt of notification from the office of the registrar that the appeal has been entered in the records of the Court, the appellant must give notice to that effect to all parties on whom the notice of appeal was served, specifying the Court of Appeal reference allocated to that appeal.

Respondent's notice

Rule 6.—(1) A respondent who, having been served with a notice of appeal, desires—

- (a) to contend on the appeal that the decision of the court below should be varied, either in any event or in the event of the appeal being allowed in whole or in part; or
- (b) to contend that the decision of the court below should be affirmed on grounds other than those relied upon by that court;

must give notice to that effect, specifying the grounds of his contention and, in a case to which paragraph (a) relates, the precise form of the order which he proposes to ask the Court to make.

(2) Except with the permission of the Court of Appeal or a single judge or the registrar, a respondent shall not be entitled on the hearing of the appeal to apply for any remedy not specified in a notice under paragraph (1) or to rely, in support of any contention, upon any ground which has not been specified in such a notice or relied upon by the court below.

(3) Any notice given by a respondent under this rule (in this Order referred to as a “respondent’s notice”) must be served on the appellant, and on all parties to the proceedings in the court below who are directly affected by the contentions of the respondent, and must be served within 21 days after the service of the notice of appeal on the respondent.

(4) A party by whom a respondent’s notice is given must, within 4 days after the later of (i) the date on which the service of the respondent’s notice was effected or (ii) the date on which he was notified under rule 5 (4) that the appeal had been entered in the records of the court, file with the court two copies of the respondent’s notice, one of which shall be indorsed with the amount of the fee paid, and the other indorsed with a certificate of the date of service of such respondent’s notice.

Amendment of notice of appeal and respondent’s notice

Rule 7.—(1) A notice of appeal or respondent’s notice may be amended—

- (a) with the permission of the Court of Appeal, a single judge or the registrar, at any time;
- (b) without such permission, by supplementary notice served, before the date on which the appeal first appears in the Document List referred to in r.9 (1) on each of the parties on whom the notice to be amended was served.

(2) A party by whom a supplementary notice is served under this rule must, within 2 days after service of the notice, file two copies of the notice at the Court.

Directions of the Court as to service

Rule 8.—(1) The Court of Appeal or a single judge or the registrar may in any case direct that a notice of appeal or respondent’s notice be served on any party to the proceedings in the court below on whom it has not been served, or on any person not party to those proceedings.

Status: This is the original version (as it was originally made).

(2) Where a direction is given under paragraph (1) the hearing of the appeal may be postponed or adjourned for such period and on such terms as may be just and such judgment may be given and such order made on the appeal as might have been given or made if the persons served in pursuance of the direction had originally been parties.

Documents to be filed by appellant

Rule 9 Not more than 14 days after an appeal or application first appears in a list to be called “the Document List” the appellant must file documents with the court in accordance with the relevant Practice Direction.

General powers of the Court

Rule 10.—(1) In relation to an appeal the Court of Appeal shall have all the powers and duties of the court below.

(2) The Court of Appeal shall have power to receive further evidence on questions of fact, either by oral examination in court, by witness statement or affidavit, or by deposition taken before an examiner, but, in the case of an appeal from a judgment after trial or hearing of any proceedings on the merits, no such further evidence (other than evidence as to matters which have occurred after the date of the trial or hearing) shall be admitted except on special grounds.

(3) The Court of Appeal shall have power to draw inferences of fact and to give any judgment and make any order which ought to have been given or made, and to make such further or other order as the case may require.

(4) The powers of the Court of Appeal under the foregoing provisions of this rule may be exercised notwithstanding that no notice of appeal or respondent’s notice has been given in respect of any particular part of the decision of the court below or by any particular party to the proceedings in that court, or that any ground for allowing the appeal or for affirming or varying the decision of that court is not specified in such a notice; and the Court of Appeal may make any order, on such terms as the Court thinks just, to ensure the determination on the merits of the real question in controversy between the parties.

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

(6) The powers of the Court of Appeal in respect of an appeal shall not be restricted by reason of any interlocutory order from which there has been no appeal.

(7) Documents impounded by order of the Court of Appeal shall not be delivered out of the custody of that Court except in compliance with an order of that Court:

Provided that where a Law Officer or the Director of Public Prosecutions makes a written request in that behalf, documents so impounded shall be delivered into his custody.

(8) Documents impounded by order of the Court of Appeal, while in the custody of that Court, shall not be inspected except by a person authorised to do so by an order of that Court.

(9) In any proceedings incidental to any cause or matter pending before the Court of Appeal, the powers conferred by this rule on the Court shall be exercisable in relation to—

- (a) the grant, variation, discharge or enforcement of an injunction, or an undertaking given in lieu of an injunction; and
- (b) the grant or lifting of a stay of execution or proceedings,

only by the Court or a single judge.

Powers of the Court as to new trials

Rule 11.—(1) On the hearing of any appeal the Court of Appeal may, if it thinks fit, make any such order as could be made in pursuance of an application for a new trial or to set aside a verdict, finding or judgment of the court below.

(2) The Court of Appeal shall not be bound to order a new trial on the ground of misdirection, or of the improper admission or rejection of evidence, or because the verdict of the jury was not taken upon a question which the judge at the trial was not asked to leave to them, unless in the opinion of the Court of Appeal some substantial wrong or miscarriage has been thereby occasioned.

(3) A new trial may be ordered on any question without interfering with the finding or decision on any other question; and if it appears to the Court of Appeal that any such wrong or miscarriage as is mentioned in paragraph (2) affects part only of the matter in controversy, or one or some only of the parties, the Court may order a new trial as to that part only, or as to that party or those parties only, and give final judgment as to the remainder.

(4) In any case where the Court of Appeal has power to order a new trial on the ground that damages awarded by a jury are excessive or inadequate, the Court may, instead of ordering a new trial, substitute for the sum awarded by the jury such sum as appears to the Court to be proper; but except as aforesaid the Court of Appeal shall not have power to reduce or increase the damages awarded by a jury.

Evidence on appeal

Rule 12 Where any question of fact is involved in an appeal, the evidence taken in the court below bearing on the question shall, subject to any direction of the Court of Appeal, or a single judge or the registrar, be brought before that Court as follows:—

- (a) in the case of evidence taken by affidavit or witness statement, by the production of a true copy of such affidavit or witness statement;
- (b) in the case of evidence given orally, by a copy of so much of the transcript of the official shorthand note as is relevant or by a copy of the judge's note, where he has intimated that in the event of an appeal his note will be sufficient, or by such other means as the Court of Appeal, or a single judge or the registrar, may direct.

Non—disclosure of payment into Court

Rule 12A.—(1) Where—

- (a) any question on an appeal in a claim for a debt, damages or salvage relates to liability for the debt, damages or salvage or to the amount thereof; and
- (b) money was paid into court under CPR Part 36 or CPR rule 37.3 in the proceedings in the court below before judgment,

neither the fact of the payment nor the amount thereof shall be stated in the notice of appeal or the respondent's notice or in any supplementary notice or be communicated to the Court of Appeal until all such questions have been decided.

This rule shall not apply in the case of an appeal as to costs only or an appeal in a claim to which a defence of tender before claim was made.

(2) To comply with this rule the appellant must cause to be omitted from the copies of the documents filed by him under rule 9 every part thereof which states that money was paid into court in the proceedings in that court before judgment.

Stay of execution, etc.

Rule 13.—(1) Except so far as the court below or the Court of Appeal or a single judge may otherwise direct—

- (a) an appeal shall not operate as a stay of execution or of proceedings under the decision of the court below;
- (b) no intermediate act or proceeding shall be invalidated by an appeal.

(2) On an appeal from the High Court, interest for such time as execution has been delayed by the appeal shall be allowed unless the Court of Appeal otherwise orders.

Applications to Court of Appeal

Rule 14.—(1) Unless otherwise directed, every application to the Court of Appeal, a single judge or the registrar must be made by application notice in accordance with CPR Part 23.

(2) An application to the Court of Appeal for permission to appeal shall—

- (a) include, where necessary, any application to extend the time for appealing; and
- (b) be made in writing without notice being served on any other party setting out the reasons why permission should be granted and, if the time for appealing has expired, the reasons why the application was not made within that time unless the court otherwise directs,

and the Court may grant or refuse the application or direct that the application be renewed in court sitting in public either with or without notice being served on any other party.

(2A) If an application under paragraph (2) is refused otherwise than after a hearing in public, the applicant shall be entitled, within 7 days after he has been given notice of the refusal, to renew his application; and such renewed application shall be heard without notice being served on any other party in public unless the court otherwise directs.

(2B) If an application under paragraph (2) is granted otherwise than after a hearing with notice, notice of the order shall be served on the party or parties affected by the appeal and any such party shall be entitled, within 7 days after service of the notice, to apply with notice to have the grant of permission reconsidered in public unless the court otherwise directs

(3) Where an application without notice being served on any other party has been refused by the Court below, an application for a similar purpose may be made to the Court of Appeal without notice being served on any other party within 7 days after the date of the refusal.

(4) Wherever under these rules an application may be made either to the court below or to the Court of Appeal, it shall not be made in the first instance to the Court of Appeal, except where there are special circumstances which make it impossible or impracticable to apply to the court below or unless the court otherwise directs.

(5) Where an application is made to the Court of Appeal with regard to arbitration proceedings before a judge—arbitrator or judge—umpire, which would, in the case of an ordinary arbitrator or umpire, be made to the High Court, the provisions of the Arbitration Practice Direction relating to such applications shall apply as appropriate.

(6) Where an application is made to the Court of Appeal under section 1 (5) of the Arbitration Act 1979(3) (including any application for permission) notice thereof must be served on the judge—arbitrator or judge—umpire and on any other party to the reference.

(7) An application, not being an application for permission to appeal, which may be heard by a single judge may be heard in private.

(8) An application which may under the provisions of this Order be heard by the registrar may be heard in private.

(3) 1979 c. 42.

(9) The registrar may refer to a single judge any matter which he thinks should properly be decided by a single judge, and, following such reference, the judge may either dispose of the matter or refer it back to the registrar with such direction as the single judge thinks fit.

(10) A single judge may refer to the Court of Appeal any matter which he thinks should properly be decided by that Court, and, following such reference, that Court may either dispose of the matter or refer it back to a single judge or the registrar, with such directions as that Court thinks fit.

(11) An appeal shall lie to a single judge from any determination made by the registrar and shall be brought by way of fresh application made within 10 days of the determination appealed against.

(12) An appeal shall lie to the Court of Appeal from any determination by a single judge, not being the determination of an application for permission to appeal, and shall be brought by way of fresh application made within 10 days of the determination appealed against.

Provided that an appeal shall not lie to the Court of Appeal without the permission of that Court in respect of a determination of the registrar which has been reviewed by a single judge.

Extension of time

Rule 15.—(1) The period for serving notice of appeal under rule 4 or for making application without notice being served on any other party under rule 14 (3) may be extended or abridged by the court below on application made before the expiration of that period.

Special Provisions as to Particular Appeals

Appeal against decree nisi

Rule 16.—(1) The following provisions of this rule shall apply to any appeal to the Court of Appeal in a matrimonial cause against a decree nisi of divorce or nullity of marriage.

(2) The period of 4 weeks specified in rule 4 shall be calculated from the date on which the decree was pronounced and rule 15 shall not apply in relation to that period.

(2A) The notice of appeal shall be served on the appropriate district judge as well as on the party or parties required to be served under rule 3.

(3) The appellant must, within the period mentioned in paragraph (2) and after service of the notice of appeal, file with the Court a copy of that decree and two copies of the notice of appeal (one of which shall be indorsed with the amount of the fee paid and the other indorsed with a certificate of the date of service of the notice); and the appeal shall not be competent unless this paragraph has been complied with.

(4) For the purposes of rule 5 the leaving of the said copies shall be sufficient for the setting down of the appeal and rule 5 (1) shall not apply.

(5) A party who intends to apply without notice being served on any other party to the Court of Appeal to extend the period referred to in paragraphs (2) and (3) must give notice of his intention to the appropriate district judge before the application is made; and where any order is made by the Court of Appeal extending the said period, it shall be the duty of the registrar of civil appeals forthwith to give notice of the making of the order and of the terms thereof to the appropriate district judge.

(6) In this rule “the appropriate district judge” means—

- (a) in relation to a cause pending in a county court, the district judge of that court,
- (b) in relation to a cause proceeding in the principal registry of the Family Division, the senior district judge of that Division, and
- (c) in relation to a cause proceeding in a district registry, the district judge of that registry.

Appeal against order for revocation of patent

Rule 17.—(1) The following provisions of this rule shall apply to any appeal to the Court of Appeal from an order for the revocation of a patent.

(2) The notice of appeal must be served on the Comptroller—General of Patents, Designs and Trade Marks (in this rule referred to as “the Comptroller”) as well as on the party or parties required to be served under rule 3.

(3) If, at any time before the appeal comes on for hearing, the respondent decides not to appear on the appeal or not to oppose it, he must forthwith serve notice of his decision on the Comptroller and the appellant, and any such notice served on the Comptroller must be accompanied by a copy of the petition or of the statements of case in the claim and the written evidence filed therein.

(4) The Comptroller must, within 14 days after receiving notice of the respondent’s decision, serve on the appellant a notice stating whether or not he intends to appear on the appeal.

(5) The Comptroller may appear and be heard in opposition to the appeal—

- (a) in any case where he has given notice under paragraph (4) of his intention to appear, and
- (b) in any other case (including, in particular, a case where the respondent withdraws his opposition to the appeal during the hearing) if the Court of Appeal so directs or allows.

(6) The Court of Appeal may make such orders for the postponement or adjournment of the hearing of the appeal as may appear to the Court necessary for the purpose of giving effect to the foregoing provisions of this rule.

Appeal from Patents Court on appeal from Comptroller

Rule 18 In the case of an appeal to the Court of Appeal from a decision of the Patents Court on an appeal from a decision of the Comptroller—General of Patents, Designs and Trade Marks the notice of appeal must be served on the Comptroller—General as well as on the party or parties required to be served under rule 3.

Appeal from county court

Rule 19.—(1) The following provisions of this rule shall apply to any appeal to the Court of Appeal from a county court other than an appeal against a decree nisi of divorce or nullity of marriage.

(2) The appellant must, within the time specified in rule 4, serve the notice of appeal on the district judge of the county court as well as on the party or parties required to be served under rule 3.

(3) In relation to the appeal rule 4 (1) and rule 5 (1) shall have effect as if for the words “the date on which the judgment or order of the court below was sealed or otherwise perfected” there were substituted the words “the date on which the court below gave its decision.”

(5) Rule 13 (1)(a) shall not apply, but the appeal shall not operate as a stay of execution or of proceedings in the county court unless the judge of that court or the Court of Appeal so orders or unless, within 10 days after the date of the judgment or order appealed against, the appellant deposits a sum fixed by the judge not exceeding the amount of the money or the value of the property affected by the judgment or order, or gives such security for the said sum as the judge may direct.

(6) In the case of an appeal to the Court of Appeal from the decision of a county court on the hearing of an appeal from a registration officer under section 56 of the Representation of the People Act, 1983(4), notice of the decision of the Court of Appeal shall be given by the registrar of civil appeals to the registration officer, specifying every alteration to be made in pursuance of the decision

(4) 1983 c. 2; section 56 was amended by the Representation of the People Act 1985 (c. 50.) sections 11, 24, 28(1), schedule 2, Part I, paragraph 1; schedule 4, paragraph 16 and schedule 5.

in the register or list concerned, and a copy of every such notice shall be sent to the district judge of the county court.

(7) In relation to any proceedings in the principal registry of the Family Division which by virtue of any statutory provision are treated as pending in a county court, paragraphs (1) to (5) shall have effect with the necessary modifications as if the principal registry were a county court.

Appeals in cases of contempt of court

Rule 20.—(1) In the case of an appeal to the Court of Appeal under section 13 of the Administration of Justice Act 1960(5), the notice of appeal must be served on the court from whose order or decision the appeal is brought as well as on the party or parties required to be served under rule 3. This paragraph shall not apply in relation to an appeal to which rule 19 applies.

(2) Where, in the case of an appeal under the said section 13 to the Court of Appeal or to the House of Lords from the Court of Appeal, the appellant is in custody, the Court of Appeal may order his release on his giving security (whether by recognisance, with or without sureties, or otherwise and for such reasonable sum as that Court may fix) for his appearance within 10 days after the judgment of the Court of Appeal or, as the case may be, of the House of Lords on the appeal shall have been given, before the court from whose order or decision the appeal is brought unless the order or decision is reversed by that judgment.

(3) An application for the release of a person under paragraph (2) pending an appeal to the Court of Appeal or House of Lords under the said section 13 must be made by in accordance with CPR Part 23, and the application notice must, at least 24 hours before the day named therein for the hearing, be served on the court from whose order or decision the appeal is brought and on all parties to the proceedings in that court who are directly affected by the appeal.

(4) Order 79, rule 9 (6), (6A), (6B) and (8) shall apply in relation to the grant of bail under this rule by the Court of Appeal in a case of criminal contempt of court as they apply in relation to the grant of bail in criminal proceedings by the High Court, but with the substitution for references to a judge sitting in private of references to the Court of Appeal and for references to the defendant of references to the appellant.

(5) When granting bail under this Rule in a case of civil contempt of court, the Court of Appeal may order that the recognisance or other security to be given by the appellant or the recognisance of any surety shall be given before any person authorised by virtue of section 119 (1) of the Magistrates' Courts Act 1980(6) to take a recognisance where a magistrates' court having power to take it has, instead of taking it, fixed the amount in which the principal and his sureties, if any, are to be bound. An order by the Court of Appeal granting bail as aforesaid must be in Form 98 in the relevant Practice Direction with the necessary adaptations.

(6) Where in pursuance of an order of the Court of Appeal under paragraph (5) of this rule a recognisance is entered into or other security given before any person, it shall be the duty of that person to cause the recognisance of the appellant or any surety or, as the case may be, a statement of the other security given, to be transmitted forthwith to the clerk of the court which committed the appellant; and a copy of such recognisance or statement shall at the same time be sent to the governor or keeper of the prison or other place of detention in which the appellant is detained, unless the recognisance or security was given before such governor or keeper.

(8) The powers conferred on the Court of Appeal by paragraphs (2), (4), (5) and (6) of this rule may be exercised by a single judge.

(5) 1960 c. 65; section 13 was amended by the Courts Act 1971 (c. 23), section 56, schedule 8, Part II, paragraph 40(1) and (2); schedule 11, Part II; by the County Courts Act 1984 (c. 28), section 148(1), schedule 2, Part V, paragraph 25; by the Magistrates' Courts Act 1980 (c. 43), section 154, schedule 7, paragraph 37; by the Criminal Appeal Act 1968 (c. 19), Part I; and by the Supreme Court Act 1981 (c. 54), section 152(4), schedule 7.

(6) 1980 c. 43.

Appeals from Social Security Commissioners

Rule 21.—(1) This rule shall apply to any appeal to the Court of Appeal under section 14 of the Social Security Act 1980 (appeal from the decision of a Commissioner on a question of law, with the permission of the Commissioner or of the Court of Appeal).

(2) The notice of appeal must be served within 6 weeks from the date on which notice of the Commissioner’s grant or refusal of permission was given in writing to the appellant and must be served on the Secretary of State and any person appointed by him to proceed with a claim as well as on the party or parties required to be served under rule 3.

(3) The provisions of rule 4 (3) apply to this rule, with the substitution for the reference in rule 4 (3) to paragraph (1) of a reference to paragraph (2).

Appeals from Value Added Tax Tribunals

Rule 22.—(1) An application to the Court of Appeal for permission to appeal from a value added tax tribunal direct to that Court under section 26 of the Finance Act 1985(7) shall be made within 28 days from the date on which the tribunal certifies that its decision involves a point of law relating wholly or mainly to the construction of an enactment or of a statutory instrument, or of any of the Community Treaties or any Community Instrument, which has been fully argued before it and fully considered by it.

(2) Such an application shall be made by the parties jointly by filing a copy of the decision, endorsed with the certificate of the tribunal and a statement of the grounds of the application, with the court, and shall be determined by a single judge of the Court of Appeal, who may do so without a hearing.

(3) In the case of all applications, the Court shall notify the parties of the determination of the single judge, and

- (a) where permission to appeal to the Court of Appeal is granted, the appellant shall within 14 days after such notification serve the notice of appeal on the chairman of the tribunal as well as on the party or parties required to be served by rule 3;
- (b) where permission to appeal to the Court of Appeal is refused, the period specified in Order 55, rule 4 (2) for appealing to the High Court shall be calculated from the date of notification of the refusal.

Dismissal of patient’s appeal by consent

Rule 23 Where the receiver or other person authorised under Part VII of the Mental Health Act 1983(8) to conduct legal proceedings in the name of the patient or on his behalf has also been authorised by the Court of Protection under its seal to consent to the dismissal of an appeal to the Court of Appeal by that patient, the appeal may be dismissed by consent without a hearing.

Appeals from Immigration Appeals Tribunal

Rule 24.—(1) This rule shall apply to any appeal to the Court of Appeal under section 9 of the Asylum and Immigration Appeals Act 1993(9) (appeal on a question of law from a final determination of an Immigration Appeals Tribunal, with the permission of the Immigration Appeals Tribunal or the Court of Appeal).

(7) 1985 c. 54,
(8) 1983 c. 20.
(9) 1993 c. 23.

(2) Rule 4 (1) shall have effect as if for the words “the date on which the judgment or order of the court below was sealed or otherwise perfected” there were substituted the words “the date of the tribunal’s written decision to grant or refuse permission to appeal”.

(3) The notice of appeal must be served on the other party or parties to the proceedings before the tribunal, and on the chairman.

(4) Rule 9 shall have effect as if—

(a) for paragraph (1)(e) there were substituted a reference to the following documents—

(i) any note recording the original decision or action of the immigration officer or of the Secretary of State, notes of interviews, any documents referred to in the original decision and any explanatory statement;

(ii) the notice of appeal to the Adjudicator or Special Adjudicator;

(iii) the written decision of the Adjudicator or Special Adjudicator; and

(iv) the notice of appeal to the tribunal;

(b) for paragraph (1)(f) there were substituted a reference to the written notice or decision and reasons for that decision given to the parties by the tribunal;

(c) for paragraph (1)(g) there were substituted a reference to any summary or record taken by the tribunal of the proceedings before it.

(5) Rule 13 shall not apply.

Appeals from Special Commissioners

Rule 25.—(1) An application to the Court of Appeal for permission to appeal from the Special Commissioners direct to that court under section 56A of the Taxes Management Act 1970⁽¹⁰⁾ shall be made within 28 days from the date on which the Special Commissioners certify that their decision involves a point of law relating wholly or mainly to the construction of an enactment which was fully argued before them and fully considered by them.

(2) Such an application shall be made by the parties jointly filing a copy of the decision, endorsed with the certificate of the Special Commissioners, and a statement of the grounds of the application with the court. The application shall be determined by a single judge of the Court of Appeal, who may make his determination without a hearing.

(3) The Court shall notify the parties of the determination of the single judge, and,

(a) where permission to appeal to the Court of Appeal is granted, the applicant shall within 14 days after such notification serve the notice of appeal on the Clerk to the Special Commissioners as well as on all parties directly affected by the proceedings before the Special Commissioners;

(b) where permission to appeal to the Court of Appeal is refused, the period specified in Order 55, rule 4 (2) for appealing to the High Court shall be calculated from the date of notification of the refusal.

⁽¹⁰⁾ 1970 c. 9.