
# Consultation on the proposed revision of the Supreme Court Rules

This consultation begins on 2 April 2024

This consultation ends at 4pm on Friday 17 May 2024

**A consultation produced by the UK Supreme Court. It is also available at**
https://www.supremecourt.uk/docs/uksc-rules-consultation.pdf

**To:** **Statutory consultees**:

The Lord Chancellor;

The General Council of the Bar of England & Wales;

The Law Society of England and Wales;

The Faculty of Advocates;

The Law Society of Scotland;

The General Council of the Bar of Northern Ireland; and

The Law Society of Northern Ireland.

**Additional consultees:**

The Law Officers of England and Wales, Northern Ireland, Wales and Scotland;

The Scottish Government;

The Welsh Government;

The Northern Ireland Executive;

The Lady Chief Justice of England and Wales;

The Lady Chief Justice of Northern Ireland;

The Lord President of the Court of Session;

Treasury Solicitor, Government Legal Department;

General Counsel and Solicitor for HM Revenue & Customs;

Comptroller-General of the Intellectual Property Office;

Senior Costs Judge of England and Wales; and

UKSC Court User Group (which includes solicitors and barristers who regularly act in cases before the Court).

However, this list is not meant to be exhaustive or exclusive and responses are welcomed from anyone with an interest in or views on the subject covered by this paper.

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| **Duration:** | From 2 April 2024 to 17 May 2024 |
| **Enquiries (including requests for the paper in an alternative format) to:** | Laura Angus, Registrar UKSC and JCPC<br>Email: ukscrulesconsultation@supremecourt.uk |
| **How to respond:** | Please send your response by 4pm on Friday 17 May 2024 to:<br>ukscrulesconsultation@supremecourt.uk |
| **Response paper:** | A response to this consultation exercise is due to be published by mid-August at: https://www.supremecourt.uk/ |

# Contents

# Introduction

This paper sets out for consultation the proposed revision of the Supreme Court Rules.

The Supreme Court hears appeals on arguable points of law of general public importance, for the whole of the United Kingdom in civil cases, and for England, Wales and Northern Ireland in criminal cases. It also decides devolution and compatibility issues, that is issues about whether the devolved executive and legislative authorities in Scotland, Wales and Northern Ireland have acted or propose to act beyond their powers or have failed to comply with any other duty imposed on them. The Court has recently acquired a new jurisdiction to consider references from lower courts or by the law officers concerning issues relating to retained European Union law.

The Court has embarked on a three-year Change Programme which is intended to improve users' ability to learn about, interact and file cases with the UKSC and JCPC. The Programme includes the delivery of a new case management system, new websites, upskilling of staff and updating our processes and ways of working.

As part of the Change Programme, the Court has developed a case management system known as the portal, designed to deliver an end-to-end service to all Court users. The portal will make the submission and management of a case more intuitive, efficient and modern, enhancing access to justice for users. Accessible through newly designed UKSC and JCPC websites, the portal will take the form of a two-way online site, including features such as a case tracker, electronic service, correspondence and e-payment functionality. As of January 2024, the development of the first iteration of the case management system is complete. The portal is now subject to extensive user testing to help to refine and enhance its features. Further functionality to support users will continue to be designed, built and tested in the coming months until roll out, which is expected to be in October 2024.

All language used on the new website and portal and all digital forms has been written and designed to be accessible. The new website and portal meet the Government Digital Service standard and have been extensively tested by professional users and users who work with litigants in person. The portal has been designed to be easy to use. However, we recognise that there will be a range of ability in those accessing the portal.

It is our intention to ensure that litigants in person will be helped to engage with the Court where necessary. In the new system, litigants in person will be welcome to become 'portal parties' (as defined in the revised rules below) but it will not be a requirement, as it will be for professional users. Where they choose to become 'portal parties', our case management team members will offer extra support to fill in digital forms or help with understanding court processes. Where litigants in person are unable to access the internet, the process will be managed offline for them via the Registry. Wherever possible, if permission to appeal is granted to a litigant in person, we will assist in seeking pro bono representation.

The UKSC rules have remained the same since 2009, however the Court's ways of working have moved on considerably since then. The purpose of this consultation is to introduce new rules that reflect current ways of working, the introduction of the portal and implementing statutory requirements. New practice directions will also be introduced to supplement the rules.

Section 45 of the Constitutional Reform Act 2005 ("the Act") provides that the President of the Court may make rules governing the practice and procedure to be followed in the Court. It also provides that the rule-making power must be exercised with a view to securing that "(a) the court is accessible, fair and efficient, and (b) the rules are both simple and simply expressed." Certain bodies named in the Act must be consulted on the rules, and also such other bodies that represent persons likely to be affected by the rules as the President considers it appropriate to consult.

The purpose of this present consultation is therefore to give effect to the duty of the President of the Court to consult on the Rules. The consultation is being carried out by the Court with support from the Ministry of Justice, as the Lord Chancellor is responsible for laying the Statutory Instrument for the making of the rules.

A draft of the revised rules is set out below, and is followed by an explanation of the changes and questions for consultees.

The consultation paper is being sent to:

**Statutory consultees**:

The Lord Chancellor;

The General Council of the Bar of England & Wales;

The Law Society of England and Wales;

The Faculty of Advocates;

The Law Society of Scotland;

The General Council of the Bar of Northern Ireland; and

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UKSC Court User Group (which includes solicitors and barristers who regularly act in cases before the Court).

However, this list is not meant to be exhaustive or exclusive and responses are welcomed from anyone with an interest in or views on the subject covered by this paper.

# The draft rules

Set out below are the draft revised Supreme Court Rules (corresponding rule in the 2009 Rules in parentheses).

## THE SUPREME COURT RULES 2024

### PART 1
### Interpretation and scope

1. Citation and commencement (ex 1)
2. Scope and objective (ex 2)
3. Interpretation (ex 3)

### PART 2
### The portal, filing and service of documents

4. The portal and portal parties (new)
5. Forms (ex 4)
6. Time limits (ex 5)
7. Filing (ex 7)
8. Service (ex 6)
9. Communications with the Court (new)
10. Non-compliance with these Rules (ex 8)
11. Procedural decisions (ex 9)

### PART 3
### Application for permission to appeal

12. Making an application (ex 10)
13. Filing and issue of application (ex 11)
14. Service of application (ex 12)
15. Notice of objection by respondent (ex 13)
16. Interventions in applications (ex 15)
17. Consideration of the application (ex 16)
18. Oral hearing of application (ex 17)

### PART 4
### Commencement and preparation of appeal

19. Notice of intention to proceed where permission granted by the Court (ex 18)
20. Filing and issue of notice where permission not required (ex 19)
21. Service of notice of appeal (ex 20)
22. Acknowledgement by respondent (ex 21)
23. Cross Appeals (ex 25)
24. Intervention (ex 26)

**PART 5**
**Hearing and decision of appeal**



**PART 6**
**Further general provisions**



**PART 7**
**Particular appeals and references**



**PART 8**
**Fees and costs**

## PART 1

## Interpretation and scope

### Citation and commencement

**1.** These Rules may be cited as the Supreme Court Rules 2024 and will come into force on 1st October 2024.

### Scope and objective

**2**.—(1) These Rules apply to—

(a) civil and criminal appeals to the Court;

(b) appeals and references under the Court's devolution jurisdiction;

(c) references under sections 6A and 6B of the European Union (Withdrawal) Act 2018.

(2) The overriding objective of these Rules is to secure that the Court is accessible, fair and efficient.

(3) The Court must interpret and apply these Rules with a view to securing that the Court is accessible, fair and efficient and that unnecessary disputes over procedural matters are discouraged.

### Interpretation

**3**.—(1) In these Rules—

"the Act" means the Constitutional Reform Act 2005;

"the Court" means the Supreme Court of the United Kingdom;

"Justice" means a judge of the Court and includes its President and Deputy President;

"the Registrar" means the Registrar of the Court;

"the Registry" means the Registry of the Court.

(2) In these Rules except where the context otherwise requires—

“appellant” means a person who files an application for permission to appeal or who files a notice of appeal;

“business day” means any day other than a Saturday, Sunday, Christmas Day, Good Friday or a bank holiday under the Banking and Financial Dealings Act 1971, in England and Wales;

“certificate of service” means a certificate as described in rule 8;

“counsel” includes any person with the right to be heard as an advocate at a full hearing before the Court;

“court below” means the court from which an appeal (or application for permission to appeal) is made to the Court;

“court officer” means the Registrar or a member of the court staff;

“devolution jurisdiction” means the jurisdiction transferred to the Court by section 40 of, and Schedule 9 to, the Act and conferred on the Court under the provisions referred to in rule 44; ;

“electronic means” means email or other means of electronic communication of the contents of documents including via the portal;

“filing” means filing in the Registry in accordance with rule 7 and related expressions have corresponding meanings;

“form” and the “appropriate form” have the meanings given by rule 5;

“law officer” means, as appropriate to the proceedings—

(a) the Attorney General;

(b) the Counsel General to the Welsh Government;

(c) the Advocate General for Scotland and the Lord Advocate; and

(d) the Advocate General for Northern Ireland and the Attorney General for Northern Ireland;

“panel of Justices” means a panel of at least three Justices;

“party” means an appellant, a respondent and a person who has been given permission to intervene under rule 24;

“portal”, “portal party” and “non-portal party” have the meanings given by rule 4;

“respondent” includes a respondent to an application for permission to appeal and means—

(a) a person other than the appellant who was a party to the proceedings in the court below; and

(b) a person who is permitted by the Court to be a party to the appeal;

"service" and related expressions have the meanings given by rule 8;

"solicitor" includes any person authorised to provide legal services other than as counsel in connection with proceedings before the Court.

(3) References in these Rules to a practice direction means a practice direction issued by the President of the Court.

(4) References in these Rules or in any form to a party's signing, filing or serving any document or taking any other procedural step include the signature, filing or service of that document or the taking of such other procedural step by the party's solicitor.

(5) Where any of these Rules or any practice direction requires a document to be signed, that requirement is satisfied if the signature is printed by computer or other mechanical means.

(6) Where these Rules require or permit the Court to perform an act of a formal or administrative character, that act may be performed by a court officer.

## Part 2

## The portal, filing and service of documents

### The portal and portal parties

**4**.—(1) In these Rules—

(a) the "portal" means the portal for filing and managing cases at the Court electronically, and

(b) a "portal party" is a party who has signed up to the portal in relation to a particular appeal or a particular stage of an appeal and a "non-portal party" is a person who has not signed up to the portal in respect of an appeal or stage of an appeal.

(2) A person who wishes to participate in an appeal as a party and who is legally represented by a solicitor or counsel must be a portal party in respect of that appeal.

(3) A party who is not legally represented may be a portal party or a non-portal party.

(4) A party who is or becomes a portal party at any stage of an appeal must remain a portal party until that appeal is finally disposed of, unless permitted to become a non-portal party by the Registrar.

(5) A party who is a non-portal party at the start of an appeal but who becomes a portal party during the course of the appeal must notify the other parties to the appeal of that fact via the portal.

(6) Orders issued in the portal are sealed with an electronic seal.

**Forms**

**5.**—(1) In these Rules, a form means a form set out in a practice direction and a reference to the "appropriate form" means the form provided by the relevant practice direction for any particular case.

(2) The forms must be used in the cases to which they apply, and in the circumstances for which they are provided by the relevant practice direction, but a form may be varied by the Court or a party if the variation is required by the circumstances of a particular case.

**Time limits**

**6.**—(1) Unless to do so would be contrary to any enactment, the Court may extend or shorten any time limit set by these Rules or any relevant practice direction—

(a) of its own motion; or

(b) on the application of one or more parties,

and may do so after the time limit has expired.

(2) Where appropriate, the Registrar shall notify the parties when a time limit is varied under this rule.

(3) Where a party to a proposed appeal has applied for public funding and the Registrar is informed of the application, the Registrar may extend the time limits in rules 13 and 20 until after the final determination of the application for public funding, having regard in particular to the promptness with which the party has made and the manner in which the party has pursued that application.

(4) When the period specified—

(a) by these Rules or a practice direction, or

(b) by any judgment or court order,

for doing any act at the Registry ends on a day on which the Registry is closed, that act shall be in time if done on the next day on which the Registry is open.

**Filing**

**7.**—(1) Documents shall be filed in the Registry by portal and non-portal parties in accordance with this rule.

(2) Save where otherwise expressly provided for by these rules, a portal party must file all documents via the portal in accordance with the relevant practice direction.

(3) A non-portal party may file a document by any of the following methods—

(a) personal delivery;

(b) a service which provides for delivery on the next working day;

(c) by electronic means.

**Service**

**8.**—(1) "Portal service" means the service of a document which has been filed by a portal party by—

(a) a notification appearing in the portal containing a statement to the effect that that document has been filed; and

(b) the sending of an email alert from the portal to—

(i) the email address for service of the party to be served; and

(ii) the email address for service of the party who would, apart from this rule, be required to serve the document.

(2) If an email alert relating to a document is sent to a party in accordance with paragraph (1)(b)(i), the document is taken to be served on the party—

(a) on the day the email alert was sent if the email alert was sent during the office hours of the Registry; or

(b) on the next business day after the email alert was sent if the email alert was sent outside those hours.

(3) "Non-portal service" means service by any of the following methods—

(a) personal service;

(b) a service which provides for delivery on the next working day;

(c) (with the consent of the party to be served or at the direction of the Registrar) by electronic means in accordance with the relevant practice direction.

(4) Where the postal address of a non-portal party on whom a document is to be served is unknown, the Registrar may direct that service is effected by an alternative method of service.

(5) A certificate of service by a non-portal party is a certificate giving details of the persons served, and the method of service used, and must state the date on which the document was served personally, consigned for delivery or sent electronically, as the case may be.

(6) In these Rules, unless expressly otherwise provided, where a party is required to serve a document on another party—

(a) a portal party must serve other portal parties by way of portal service and must serve non-portal parties by way of non-portal service;

(b) a non-portal party must serve all parties by way of non-portal service.

**Communications with the Court**

**9**.—(1) This rule applies to a person who is a portal party and who has filed—

(a) an application for permission to appeal under rule 13,

(b) a notice of objection under rule 15,

(c) written submissions under rule 16,

(d) a notice of appeal under rule 20,

(e) a notice of intention to participate under rule 22,

(f) an application for permission to intervene under rule 24, or

(g) a notice of intention to join the appeal under rule 25.

(2) Save as provided for in paragraph (3), after the person has taken the step referred to in paragraph (1), all communications between that party and the Court must be made via the portal using the public channel which enables all other portal parties participating in the application or appeal to view the communication via the portal.

(3) Communications from persons who have taken the step referred to in paragraph (1)—

(a) relating to confidential matters including payment of fees, anonymisation of the party, redactions from written cases under rule 27(5), or redactions from material placed on the Court's website under 42(4),

(b) relating to matters which are purely routine, uncontentious and administrative,

(c) which are authorised by a rule or practice direction to be sent to the Court without at the same time being provided to the other party or parties or their representatives

must be made via the portal either using the public channel or by using the confidential channel to which the other portal parties do not have access.

(4) Any communication made via the portal using the confidential channel must state clearly why it is being sent via that channel.

**Non-compliance with these Rules**

**10.**—(1) Any failure by a party to comply with these Rules or any relevant practice direction does not have the effect of making the proceedings invalid.

(2) Where any provision in these Rules or any relevant practice direction is not complied with, the Court may give whatever directions appear appropriate, having regard to the seriousness of the non-compliance and generally to the circumstances of the case.

(3) In particular, the Registrar may refuse to accept any document which does not comply with any provision in these Rules or any relevant practice direction and may give whatever directions appear appropriate.

(4) Directions given under this rule may include the summary dismissal of an appeal or debarring a respondent from resisting an appeal.

**Procedural decisions**

**11.**—(1) Subject to paragraph (2), the powers of the Court under the following rules may be exercised by a single Justice or the Registrar without an oral hearing—

(a) rule 6 (time limits),

(b) rule 10 (non-compliance with Rules),

(c) rule 36 (change of interest),

(d) rule 37 (withdrawal of appeal),

(e) rule 38 (advocate to the Court and assessors),

(f) rule 39 (security for costs),

(g) rule 40 (stay of execution), and

(h) rule 44 (devolution jurisdiction).

(2) Any contested application—

(a) alleging contempt of the Court; or

(b) for a direction under rule 10 dismissing an appeal or debarring a respondent from resisting an appeal; or

(c) for security for costs,

shall be referred to a panel of Justices who shall, in a case of alleged contempt, and may, in any other case, hold an oral hearing.

(3) Where under these Rules any matter falls to be decided by a single Justice, that Justice may, where it appears appropriate, direct an oral hearing or may refer the matter to a panel of Justices to be decided with or without an oral hearing.

(4) Where under these Rules any matter falls to be decided by the Registrar, the Registrar may—

(a) direct an oral hearing;

(b) refer the matter to a single Justice (and paragraphs (1) and (3) shall then apply in relation to the Justice);

(c) refer the matter to a panel of Justices to be decided with or without an oral hearing.

(5) A party may apply for a decision of the Registrar to be reviewed by a single Justice (in which case paragraphs (1) and (3) apply in relation to the Justice) and any application under this rule must be made in the appropriate form and be filed within 14 days of the Registrar's decision.

(6) Subject to rule 30, oral hearings on procedural matters must be heard in open court or in a place to which the public are admitted.

(7) If any procedural question arises which is not dealt with by these Rules, the Court or the Registrar may adopt any procedure that is consistent with the overriding objective, the Act and these Rules.

## PART 3

## Application for permission to appeal

### Making an application

**12.**—(1) An application for permission to appeal must be made first to the court below, and an application may be made to the Court only after the court below has refused to grant permission to appeal.

(2) Every application to the Court for permission to appeal must be made—

(a) by a portal party by completing the relevant pages in the portal;

(b) by a non-portal party in the appropriate form.

### Filing and issue of application

**13**.—(1) Subject to any enactment which makes special provision with regard to any particular category of appeal, an application for permission to appeal must be filed within 28 days from the date of the order of the court below refusing permission to appeal.

(2) Where an application for permission to appeal is filed by a portal party in accordance with rule 7(2), that party must upload to the portal the documents listed in paragraph (4).

(3) Where an application for permission to appeal is filed by a non-portal party in accordance with rule 7(3) it must be accompanied by the documents listed in paragraph (4).

(4) The documents listed in this paragraph are—

(a) the order of the court below against which the appellant seeks permission to appeal,

(b) the judgment of the court below to which the order gives effect,

(c) the order of the court below refusing permission to appeal to the Court,

(d) the grounds of appeal for which the appellant seeks permission to appeal,

(e) a precis of the factual background of the case and a chronology of proceedings,

(f) the order of the first instance court (if different) which was challenged in the court below,

(g) the judgment of the first instance court (if different).

(5) The Registrar may refuse to issue any application on the ground that—

(a) the Court does not have jurisdiction under section 40 of the Act to issue it;

(b) it contains no reasonable grounds; or

(c) it is an abuse of process,

and may give whatever directions appear appropriate.

(6) Before refusing to issue an application, the Registrar may contact a proposed party to the appeal and request submissions on matters raised by paragraph (5). The Registrar must notify the appellant of any such request and provide the appellant with a copy of any submissions received.

(7) Subject to paragraph (5), the Court shall issue the application for permission and shall direct the appellant to serve the application.

**Service of application**

**14**.—(1) Once an application for permission to appeal has been issued by the Court and the Registrar has directed the appellant to serve the application, it must be served in accordance with this rule.

(2) All portal and non-portal parties must serve the application (but not the documents listed in rule 13(4)) by way of non-portal service (regardless of whether the person to be served is a portal party or a non-portal party) in accordance with rule 8(3) and (5).

(3) The persons to be served are—

(a) every respondent, and

(b) any person who was an intervener in the court below.

(4) After the application for permission has been served—

(a) a portal party must give a declaration of service via the portal giving the details required by the portal;

(b) a non-portal party must file a certificate of service in accordance with rule 8(5).

**Notice of objection by respondent**

**15.**—(1) Each respondent who wishes to object to the application must, within 14 days after being served with the application, file notice of objection setting out any submissions the respondent wishes to make including any submissions as to the jurisdiction of the Court to grant permission.

(2) The notice of objection shall be issued by the Registry either in the portal or by being approved by the Registry as the case may be.

(3) Within 7 days of notice of objection being issued under paragraph (2), each respondent who has filed such a notice must serve that notice on—

(a) the appellant,

(b) any other respondent, and

(c) any person who was an intervener in the court below.

(4) A respondent who does not file and serve a notice of objection under this rule will not be permitted to participate in the application and will not be given notice of its progress.

**Interventions in applications**

**16.**—(1) Any person and in particular—

(a) any official body or non-governmental organization seeking to make submissions in the public interest; or

(b) any person with an interest in proceedings by way of judicial review,

may file submissions asking the Court to grant or dismiss an application for permission to appeal which has been issued by the Court (including for lack of jurisdiction) and request that the Court takes them into account.

(2) Once the submissions are filed, they must be served by the person on—

(a) the appellant,

(b) every respondent, and

(c) any person who was an intervener in the court below

and a person who is not signed up to the portal must file a certificate of service.

(3) Any submissions which are filed and served shall be referred to the panel of Justices which considers the application for permission to appeal.

(4) If permission to appeal is granted—

(a) a person whose submissions were taken into account by the panel shall be notified of the grant; but, in order to become an intervener in that appeal, that person must make an application under rule 24;

(b) the appellant must notify any person who was an intervener in the court below of the grant, regardless of whether that person made submissions under this rule.

**Consideration of the application**

**17**.—(1) Every issued application for permission to appeal (together with any submissions made under rule 16 and any respondent's notice of objection) shall be considered without a hearing by a panel of Justices.

(2) The panel may—

(a) refuse permission on the ground that the Court lacks jurisdiction to hear the appeal;

(b) grant or refuse permission to advance all or any of the grounds of appeal;

(c) invite the parties to file written submissions within 14 days as to the grant of permission on terms (whether as to costs or otherwise); or

(d) direct an oral hearing.

(3) Where the panel has invited the parties' submissions as to terms, it shall reconsider the application without a hearing and may refuse permission or grant permission (either unconditionally or on terms) to advance all or any of the grounds of appeal.

(4) Where the panel grants permission to advance limited grounds of appeal it shall (unless it directs otherwise) be taken to have refused permission to advance the other grounds.

(5) An order of the Court shall be prepared and sealed by the Registrar to record any decision made under this rule. The order must be notified by the Registrar to portal parties via the portal and by appropriate means to non-portal parties.

**Oral hearing of application**

**18.**—(1) Where the panel has directed an oral hearing, the appellant and every respondent who has given notice under rule 15 shall be informed of the date of the oral hearing.

(2) An order of the Court shall be prepared by the Registrar to record any decision made under this rule. The order must be notified by the Registrar to portal parties via the portal and by appropriate means to non-portal parties.

## PART 4

## Commencement and preparation of appeal

### Notice of intention to proceed where permission granted by the Court

**19**.—(1) Where the Court grants permission to appeal, rules 20 and 21 do not apply and—

(a) the application for permission to appeal shall stand as the notice of appeal;

(b) the grounds of appeal shall be limited to those for which permission has been granted;

(c) the appellant must, within 14 days of the grant by the Court of permission to appeal, file notice under this rule of an intention to proceed with the appeal.

(2) An appellant who files a notice to proceed under paragraph (1)(c) must serve that notice on each respondent and on any person who was an intervener in the court below or who made submissions under rule 16.

(3) An appellant who is a non-portal party must file a certificate of service in accordance with rule 8(5).

### Filing and issue of notice where permission not required

**20.**—(1) This rule and rule 21 apply to appeals where permission to appeal has been granted by the court below or where there is an appeal as of right to the Court.

(2) The notice of appeal must be filed by the appellant within 42 days of the later of—

(a) the order or decision of the court below against which the appellant appeals, or

(b) the order or decision of the court below granting permission to appeal, where such an order or decision has been made.

(3) At the same time as filing the notice of appeal—

(a) a portal party must upload the documents listed in paragraph (4);

(b) a non-portal party must send the Registrar by email (and not by sending hard copies) the documents listed in paragraph (4).

(4) The documents to be uploaded or sent by email to the Registry in accordance with paragraph (3)—

(a) the order of the court below against which the appellant is appealing;

(b) the judgment of the court below to which the order gives effect;

(c) (where applicable) the order of the court below granting permission to appeal to the Court;

(d) the grounds of appeal;

(e) a precis of the factual background of the case and a chronology of proceedings;

(f) the order of the first instance court (if different) which was challenged in the court below;

(g) the judgment of the first instance court (if different).

(5) The Registry shall issue the notice of appeal and direct the appellant to serve the notice.

**Service of notice of appeal**

**21.**—(1) Once a notice of appeal has been issued by the Court and the Registry has directed the appellant to serve the notice, the notice of appeal must be served by the appellant in accordance with this rule.

(2) All portal and non-portal parties must serve the notice (but not the documents listed in rule 20(4)) by way of non-portal service, regardless of whether the person to be served is a portal party or a non-portal party, in accordance with rule 8(3) and (5).

(3) The persons to be served are—

(a) every respondent, and

(b) any person who was an intervener in the court below or whose submissions were taken into account under rule 16.

(4) After the notice of appeal has been served—

(a) a portal party must give a declaration of service via the portal giving the details required by the portal;

(b) a non-portal party must file a certificate of service in accordance with rule 8(5).

**Acknowledgement by respondent**

**22.**—(1) Each respondent who intends to participate in the appeal must, within 14 days after receipt of the notice of intention to proceed under rule 19(1)(c) or of the notice of appeal under rule 21(2), file notice of intention to participate in the appropriate form.

(2) A respondent who wishes to argue that the order appealed from should be upheld on grounds different from those relied on by the court below, must state that clearly in the notice of acknowledgment (but need not cross-appeal).

(3) Each respondent must within 7 days of filing the notice under paragraph (1) serve that notice on—

(a) the appellant,

(b) any other respondent,

(c) any person who was an intervener in the court below or whose submissions were taken into account under rule 16.

(4) A respondent who does not file and serve notice under this rule will not be permitted to participate in the appeal and will not be given notice of its progress.

**Cross Appeals**

**23.**—(1) Subject to paragraph (2) below, a respondent who wishes to argue that the order appealed from should be varied must obtain permission to cross-appeal from the Court and must pay the appropriate fee.

(2) Paragraph (1) does not apply where—

(a) leave is required from the Court of Session for an appeal from that court, or

(b) an appeal lies to the Court as of right.

(3) An application to the Court for permission to cross appeal must be filed by the respondent within 14 days of the respondent filing a notice of acknowledgment under rule 22(1).

(4) Part 3 of these Rules applies (with appropriate modifications) to an application to the Court for permission to cross-appeal and (if practicable) applications for permission to appeal and to cross-appeal shall be considered together by the same panel of Justices.

(5) Where there is a cross-appeal, this Part of these Rules applies with appropriate modifications and in particular—

(a) either the application for permission to cross-appeal to the Court shall stand as a notice of cross-appeal, or such a notice (in the appropriate form) must be filed and served within 42 days of the grant by the Court of permission to appeal or of the filing of the notice of appeal;

(b) there must be a single statement of facts and issues, a single key documents bundle (divided if necessary into parts) and a single written case for each party in respect of the appeal and the cross-appeal (and each case should state clearly that it is in respect of both the appeal and the cross-appeal); and

(c) the appellant must remain primarily responsible for the preparation of all the documents for the appeal and for notifying the Registrar under rule 26.

**Intervention**

**24**.—(1) After permission to appeal has been granted by the Court or a notice of appeal has been issued, any person and in particular—

(a) any official body or non-governmental organization seeking to make submissions in the public interest,

(b) any person with an interest in proceedings by way of judicial review,

(c) any person who was an intervener in the court below or whose submissions were taken into account under rule 16,

may apply to the Court for permission to intervene in the appeal.

(2) An application under this rule must be filed via the portal.

(3) An application to intervene shall be considered without a hearing by a panel of Justices who may refuse permission to intervene or may permit intervention—

(a) by written case only; or

(b) by written case and oral submissions,

and any written case may be limited to a specified number of pages and oral submissions may be limited to a specified duration.

(4) No permission is required—

(a) for an intervention by the Crown under section 5 of the Human Rights Act 1998 (as to which see rule 43), or

(b) for an intervention by a law officer in a case where the Court is exercising its devolution jurisdiction (as to which see rule 44).

(5) Every person who is granted permission to intervene under paragraph (3) or who wishes to intervene under paragraph (4) must apply as soon as reasonably practicable to the Registrar for directions to enable that person to participate in the appeal.

**Intervention on assimilated case law by law officers**

**25**.—(1) This rule applies where the Court is considering an appeal in which a party to the appeal is arguing that the Court should depart from assimilated case law.

(2) In an appeal to which this rule applies, the Registry must—

(a) give notice of the appeal to each of the law officers listed in section 6B(2) of the European Union (Withdrawal) Act 2018; and

(b) serve that notice on all other parties to the appeal.

(3) The notice in paragraph (2) must—

(a) state that the Court is considering an argument made by a party to the appeal that the Court should depart from assimilated case law;

(b) summarise the proceedings and the issue to which the assimilated case law relates;

(c) identify the assimilated case law from which the Court is being invited to depart;

(d) state that the hearing of the appeal will not take place before the expiry of 21 days from the date of the notice.

(4) The following persons shall be joined as a party to the proceedings on giving notice to the Court that they wish to be joined:

(a) each of the UK law officers;

(b) the Lord Advocate if the argument relates to the meaning or effect of relevant Scotland legislation;

(c) the Counsel General for Wales if the argument relates to the meaning or effect of relevant Wales legislation;

(d) the Attorney General for Northern Ireland if the argument relates to the meaning or effect of relevant Northern Ireland legislation

(5) Notice under paragraph (4) may be given at any time during the proceedings.

(6) Where the Court receives notice under paragraph (3), the Registrar shall serve that notice on the parties to the appeal and give directions as to the intervention.

(7) Expressions used in this rule have the same meaning as in section 6C of the European Union (Withdrawal) Act 2018.

**Listing of the appeal**

**26.**—(1) Once any applications to cross appeal under rule 23 or to intervene under rules 24 and 25 have been determined, every party must—

(a) notify the Court of the number of hours that their respective counsel estimate to be necessary for their oral submissions;

(b) state whether anyone attending the hearing on their behalf requires reasonable adjustments to be made.

(2) Once every party has notified the Court in accordance with paragraph (1), the Registrar shall inform the parties of the period within which the hearing will take place and the number of Justices who will be sitting on the panel to hear the case. The parties must then provide the Registrar with an agreed list of dates which are convenient for the parties.

**Documents for appeal hearing**

**27.**—(1) Within 112 days after the filing of the notice of intention to proceed under rule 19(1)(c) or the filing of the notice of appeal, the appellant must file—

(a) a statement of the relevant facts and issues;

(b) an index (prepared in accordance with the relevant practice direction) of the documents which will be included in the key documents bundle for the appeal (as to which see rule 28(2)).

(2) The documents referred to in paragraph (1) must—

(a) be agreed with every respondent before being filed;

(b) be served by the appellant on every intervener after being filed.

(3) The appellant and every respondent (and any intervener and advocate to the Court) must then sequentially file their respective written cases and serve them on the other parties.

(4) Where there is more than one respondent, any respondent claiming to have a separate interest may (at that respondent's own risk as to costs) file and serve a separate case.

(5) An intervener may not include in its written case any submissions on an issue which is not an issue raised in the appeal by either the appellant or the respondent.

(6) Each party, on filing a written case, must indicate whether there is any material in that case which should not be published on the Court's website and the Registrar shall make an appropriate direction as to the redactions, if any, from the written case before publication.

**The key documents bundle**

**28.**—(1) As soon as the parties' cases have been exchanged the appellant must prepare, in accordance with the practice direction, a key documents bundle in hard copy and electronic form, including an index for use at the hearing, taking into account any grouping of appeals pursuant to rule 35.

(2) The key documents bundle must contain at least the following documents—

(a) the agreed statement of facts and issues,

(b) the parties' written cases,

(c) the orders of the court below and the first instance court, and

(d) the judgments of the court below and the first instance court.

(3) Not later than 42 days before the date of the hearing, the appellant must—

(a) send enough hard copies of the key documents bundle to the Registry to provide one to each Justice sitting and an additional copy for the Registry, and

(b) upload to the portal a single electronic file containing the key documents bundle.

**The main hearing bundle**

**29**.—(1) As soon as the parties' cases have been exchanged the appellant must prepare, in accordance with the relevant practice direction, a single electronic file containing—

(a) the documents included in the key documents bundle,

(b) all other documents which any party participating in the appeal wishes to place before the panel hearing the appeal, including an index of those documents,

(c) the authorities that may be referred to during the hearing including an index of those authorities.

(2) Not later than 21 days before the date of the hearing, the appellant must upload to the portal a single electronic file containing the main hearing bundle.

## Part 5

## Hearing and decision of appeal

### Hearing in open court

**30.—**(1) Every contested appeal shall be heard in open court except where it is necessary in the interests of justice or in the public interest to sit in private for all or part of an appeal hearing.

(2) Where the Court considers it necessary for a party and that party's representative to be excluded from a hearing or part of a hearing in order to secure that information is not disclosed contrary to the public interest, the Court must conduct the hearing, or that part of it from which the party and the representative are excluded, in private but the Court may exclude a party and any representative only if a person who has been appointed as a special advocate to represent the interests of that party is present when the party and the representative are excluded.

(3) Where the Court decides it is necessary for the Court to sit in private, it shall announce its reasons for so doing publicly before the hearing begins.

(4) Hearings shall be conducted in accordance with—

(a) the relevant practice direction, and

(b) any directions given by the Court and directions given by the Court may limit oral submissions to a specified duration.

### Judgment

**31.** A judgment may be—

(a) delivered in open court; or

(b) if the Court so directs, promulgated by the Registrar.

**Orders**

**32.—**(1) In relation to an appeal or a reference, the Court has all the powers of the court below and may—

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

(b) remit any issue for determination by that court;

(c) order a new trial or hearing;

(d) make orders for the payment of interest;

(e) make a costs order.

(2) An order of the Court may be enforced in the same manner as an order of the court below or of the appropriate superior court.

(3) For the purposes of paragraph (2) "the appropriate superior court" means—

(a) in the case of an appeal or reference from a court in England and Wales, the High Court;

(b) in the case of an appeal or reference from a court in Scotland—

(i) where the appeal or reference is in civil proceedings, the Court of Session; and

(ii) where the appeal or reference is in criminal proceedings, the High Court of Justiciary;

(c) in the case of an appeal or reference from a court in Northern Ireland, the High Court in Northern Ireland.

(4) In the case of references other than those mentioned in paragraph (3) "the appropriate superior court" in paragraph (2) means—

(a) where the reference is under the Scotland Act 1998, the Court of Session;

(b) where the reference is under the Northern Ireland Act 1998, the High Court in Northern Ireland; and

(c) where the reference is under the Government of Wales Act 2006, the High Court.

(5) Every order of the Court must be prepared and sealed by the Registrar who may invite written submissions as to the form of the order.

## Part 6

## Further general provisions

**Procedural applications**

**33**.—(1) Every procedural application must be filed via the portal by a portal party or in the appropriate form for general procedural applications by a non-portal party unless a particular form is provided for a specific case.

(2) An application must—

(a) set out the reasons for making the application, and

(b) where necessary, be supported by written evidence.

(3) Once an application has been filed, it must be served on every other party.

(4) A party who wishes to oppose an application must, within 7 days after service, file notice of objection and must serve a copy of that notice on the applicant and any other parties.

(5) An application for permission to appeal, a notice of appeal or any other document filed under these Rules may be amended on application under this rule or with the permission of the Registrar on such terms as appear appropriate, and the Registrar may invite the parties' written submissions on any application to amend.

**Requests for expedition**

**34**.—(1) Any request for urgent consideration of an application for permission to appeal or for an expedited hearing must be made to the Registrar.

(2) Wherever possible the views of all parties should be obtained before such a request is made.

**Grouping appeals**

**35**. The Registrar may direct that appeals raising the same or similar issues will be heard either together or consecutively by the Court constituted by the same Justices and may give any consequential directions that appear appropriate.

**Change of interest**

**36.** The Court must be informed promptly of—

(a) the death or bankruptcy of any individual party;

(b) the winding up or dissolution of any corporate party;

(c) any compromise of the subject matter of an appeal;

(d) any event which does or may deprive an appeal of practical significance to the parties,

and the Court may give any consequential directions that appear appropriate.

**Withdrawal etc of application for permission to appeal or of appeal**

**37**.—(1) An application for permission to appeal or a notice of appeal may be withdrawn with the written consent of all parties or with the permission of the Court on such terms as appear appropriate.

(2) The Court may set aside or vary the order appealed from by consent and without an oral hearing if satisfied that it is appropriate so to do.

(3) In this rule "a notice of appeal" includes an application for permission to appeal or cross-appeal which (under rule 19 or rule 23) stands as a notice of appeal or cross-appeal.

**Advocate to the Court and assessors**

**38**.—(1) The Court may request a law officer to appoint, or may itself appoint, an advocate to the Court to assist the Court with legal submissions.

(2) In accordance with section 44 of the Act the Court may, at the request of the parties or of its own initiative, appoint one or more independent specially qualified advisers to assist the Court as assessors on any technical matter.

(3) The fees and expenses of any advocate to the Court or assessor will be costs in the appeal.

**Security for costs**

**39**.—(1) The Court may on the application of a respondent order an appellant to give security for the costs of the appeal and any order for security must determine—

(a) the amount of that security, and

(b) the manner in which, and the time within which, security must be given.

(2) An order made under this rule may require payment of the judgment debt (and costs) in the court below instead of, or in addition to, the amount ordered by way of security for costs.

**Stay of execution**

**40**. Any appellant who wishes to obtain a stay of execution of the order appealed from must seek it from the court below and only in wholly exceptional circumstances will the Court grant a stay.

**Change of solicitor and London agents**

**41**.—(1) If a party for whom a solicitor is acting wishes to change solicitors, that party or the new solicitor must give the Registrar and the former solicitor written notice of the change.

(2) Until such notices are given the former solicitor shall continue to be treated as the party's solicitor.

(3) Solicitors practising outside London may appoint London agents and additional costs incurred by not appointing London agents may be disallowed.

**Publication and disposal of documents**

**42.**—(1) All documents filed become the property of the Court.

(2) Hard copy documents may be destroyed following the disposal of the appeal unless the Registrar (on a written application made within 21 days of the end of the proceedings) directs otherwise.

(3) The following documents uploaded to the portal or filed electronically are made available to the public via the Court's website—

(a) the key documents bundle including the written cases,

(b) the main hearing bundle,

unless the Registrar determines that they should not be so published for reasons of commercial confidentiality, national security or in the public interest.

(4) The Registrar may accept for publication on the Court's website a document in which material has been redacted by the parties, where this is necessary in the interests of justice or in the public interest.

## Part 7

## Particular appeals and references

### Human Rights Act issues

**43**.—(1) Where an appeal raises a question of incompatibility under section 4 of the Human Rights Act 1998 and the Crown is not already a party to the appeal, the Registrar must give 21 days' notice of the question to the Crown.

(2) If notice is given that the Crown wishes to be joined, the appropriate Minister or other person shall be joined accordingly.

### Determination of devolution and compatibility issues

**44.**—(1) Appeals or references under the Court's devolution jurisdiction shall in general be dealt with in accordance with these Rules but the Court shall give special directions as and when necessary, and in particular as to—

(a) any question referred under sections 32A or 33 of the Scotland Act 1998, section 11 of the Northern Ireland Act 1998 or sections 99, 111B or 112 of the Government of Wales Act 2006,

(b) any reference of a devolution issue or compatibility issue,

(c) any direct references under paragraph 33 or 34 of Schedule 6 to the Scotland Act 1998, paragraph 33 or 34 of Schedule 10 to the Northern Ireland Act 1998 or paragraph 29 or 30 of Schedule 9 to the Government of Wales Act 2006.

(2) A reference made by the law officer in accordance with the provisions referred to in paragraph (1) is made by filing the reference and by serving any other law officer who is not already a party and who has a potential interest in the proceedings.

(3) A reference must state the question or issue to be decided by the Court.

(4) The Registrar must give notice of the question or issue to any appropriate law officer where that officer is not already a party to any proceedings.

**Court of Justice of the European Union**

**45**.—(1) Where it is contended on an application for permission to appeal that it raises a question of European Union law which should be the subject of a reference to the Court of Justice of the European Union under—

(a) articles 158 or 160 of the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community; or

(b) article 12 of the Protocol on Ireland/Northern Ireland,

and permission to appeal is refused, the panel of Justices shall give brief reasons for its decision.

(2) Where on an application for permission to appeal, a panel of Justices decides to make a reference to the Court of Justice of the European Union before determining the application, it shall give consequential directions as to the form of the reference and the staying of the application (but it may if it thinks fit dispose of other parts of the application at once).

(3) Where at or before the hearing of an appeal the Court decides to make a reference to the Court of Justice of the European Union it shall give consequential directions as to the form of the reference and the staying of the appeal (but it may if it thinks fit dispose of other parts of the appeal at once).

(4) An order of the Court must be prepared and sealed by the Registrar to record any decision made under this rule.

**References on assimilated case law by courts and tribunals**

**46.**—(1) A reference under section 6A of the European Union (Withdrawal) Act 2018 is made when a court or tribunal (other than a higher court) files the reference with the Court.

(2) A reference filed under paragraph (1) must—

(a) state the question to be determined on one or more points of law which arise on the assimilated case law of the Court;

(b) set out the referring court or tribunal's reasons for considering the point of law to be of general public importance; and

(c) describe the relevance of the point of law to the proceedings before the referring court or tribunal.

(3) Once the reference is filed with the Court, a court or tribunal making a reference under paragraph (1) must serve the reference on—

(a) all parties to the proceedings before the referring court or tribunal; and

(b) each of the persons listed in section 6B(2) of the European Union (Withdrawal) Act 2018.

(4) Any person referred to in paragraph (3) may make written submissions to the Court as to whether the Court should accept the reference.

(5) Any submissions made under paragraph (4) must be—

(a) filed with the Court within 21 days of service of the reference under paragraph (3); and

(b) served on each of the persons listed in section 6B(2) of the European Union (Withdrawal) Act 2018.

(6) Every reference made under paragraph (1), together with any submissions made under paragraph (4) or under rule 47, shall be considered without a hearing by a panel of Justices.

(7) The panel may—

(a) where the reference is of a single point of law, accept or refuse the reference;

(b) where two or more points of law are referred, accept or refuse the whole reference or accept the reference in respect of one or more points of law and refuse the remainder;

(c) invite the referring court or tribunal or any of the persons referred to in paragraph (3) to make further written submissions (including as to costs); or

(d) direct an oral hearing.

(8) The Registrar must prepare and seal an order of the Court to record any decision accepting or refusing a reference made under this rule.

(9) Expressions used in this rule have the same meaning as in the European Union (Withdrawal) Act 2018.

**Interventions concerning the acceptance or rejection of a reference under Rule 46**

**47.**—(1) Any person, and in particular any official body or non-governmental organisation seeking to make submissions in the public interest, may make written submissions to the Court as to whether the Court should accept a reference under section 6A of the European Union (Withdrawal) Act 2018 and request that the Court takes them into account.

(2) Any submissions made under paragraph (1) must be filed with the Court and served on the referring court or tribunal and each of the persons referred to in rule 46(3).

(3) Any submissions made under this rule shall be referred to the panel of Justices which considers the reference.

(4) If the Court accepts the reference, the Registrar must notify—

(a) each of the persons who made submissions under this rule; and

(b) any person intervening in the proceedings before the referring court or tribunal.

**References on assimilated case law by law officers**

**48.**—(1) A reference under section 6B of the European Union (Withdrawal) Act 2018 is made when a law officer files the reference with the Court.

(2) A reference filed under paragraph (1) must—

(a) state the question to be determined on the point of law which arose on assimilated case law of the Court in proceedings before a court or tribunal (other than a higher court) which have concluded;

(b) confirm that—

(i) the conditions in section 6B(1) of the European Union (Withdrawal) Act 2018 are met; and

(ii) that the reference is made within the period specified in section 6B(3) of that Act;

(c) describe the relevance of the point of law to the concluded proceedings; and

(d) if the reference is made by the Lord Advocate, the Counsel General for Wales or the Attorney General for Northern Ireland, confirm that the point of law relates to the meaning or effect of relevant Scotland legislation, relevant Wales legislation or relevant Northern Ireland legislation, as the case may be.

(3) Once the law officer has filed the reference with the Court, he or she must serve the reference on each of the other law officers.

(4) In this rule—

(a) "law officer" means a person listed in section 6B(2) of the European Union (Withdrawal) Act 2018; and

(b) expressions otherwise have the same meaning as in the European Union (Withdrawal) Act 2018.

**Hearing of references made under Rules 46 and 48**

**49.**— A reference accepted by the Court under rule 46(7) or made to the Court under rule 48 shall in general be dealt with in accordance with these Rules but the Registrar or the Court shall give special directions as and when necessary, and in particular as to—

(a) arrangements for any person, and in particular any official body or non-governmental organisation seeking to make submissions in the public interest, to make such submissions in writing, whether or not that person made submissions under rule 47;

(b) who will be parties to the reference;

(c) the preparation, filing and service of documents including (where appropriate) a precis of the factual background of the case, a chronology of proceedings and written cases;

(d) the preparation, filing and service of bundles for the hearing,

(e) the conduct of the hearing.

**Revocation of patents**

**50**.—(1) On any appeal under sections 12 and 13 of the Administration of Justice Act 1969 from an order for revocation of a patent, the appellant must serve notice of the appeal on the Comptroller-General, Intellectual Property Office ("the Comptroller") as well as on every respondent.

(2) A respondent who decides not to oppose the appeal must serve notice of that decision on the Comptroller together with the relevant statements of case.

(3) The Comptroller must within 14 days serve on the appellant and file a notice stating whether or not the Comptroller intends to appear on the appeal.

(4) Where notice is given under paragraph (3), the Comptroller may appear on the appeal.

**Criminal appeals**

**51**. The Court must apply in accordance with the relevant practice direction the code of practice for victims issued under section 32 of the Domestic Violence, Crime and Victims Act 2004.

## Part 8

## Fees and costs

**Fees**

**52.—**Where a fee is prescribed by any order made under section 52 of the Act, the Registrar may refuse to treat a document as filed or refuse to allow a party to take any step unless the relevant fee is paid.

**Order for costs**

**53**.—(1) The Court may make such orders as it considers just in respect of the costs of any appeal, application for permission to appeal, or other application to or proceeding before the Court.

(2) The Court's powers to make orders for costs may be exercised either at the final determination of an appeal or application for permission to appeal or in the course of the proceedings.

(3) Orders for costs will not normally be made either in favour of or against interveners but such orders may be made if the Court considers it just to do so (in particular if an intervener has in substance acted as the sole or principal appellant or respondent).

**Submissions as to costs**

**54.—**(1) A party who wishes to make submissions as to costs should notify the Court of this either before or after judgment.

(2) Following such a notification, the Court shall give such directions as appear appropriate and it may, in particular, give directions—

(a) for the simultaneous or sequential filing of written submissions as to costs within a specified period after judgment;

(b) for the hearing of oral submissions as to costs after judgment;

(c) for the hearing of oral submissions after the filing of written submissions.

**Claim for costs**

**55.—**Where the Court has made an order for costs, the claim for costs must be submitted to the Registrar within three months beginning with the date on which the costs order was made.

(2) The claim for costs must comply with the relevant practice direction and the receiving party must supply such further particulars, information and documents as the Registrar may direct.

(3) The receiving party must serve the claim for costs on the paying party.

(4) Within 21 days beginning with the day on which a claim for costs is served, the paying party may (or, in the circumstances specified in the relevant practice direction, must) file points of dispute and, if so, must serve them on the receiving party.

(5) Within 14 days beginning with the day on which points of dispute are served, the receiving party may file a response and, if so, must serve it on the paying party.

**Assessment of costs**

**56**.—(1) Every detailed assessment of costs shall be carried out by two costs officers appointed by the President and—

(a) one costs officer must be a Costs Judge (a Taxing Master of the Senior Courts), and

(b) the second may be the Registrar.

(2) A disputed assessment must be dealt with at an oral hearing.

(3) An assessment may provide for the costs of the assessment procedure.

(4) The Registrar must give the receiving party and the paying party written notice of the date of the assessment.

(5) Where one of the parties so requests or in the circumstances specified in the relevant practice direction, the Registrar may make a provisional assessment of costs without the attendance of the parties.

(6) The Registrar must inform the parties in writing of the outcome of a provisional assessment and, if a party is dissatisfied with the outcome, or if points of disagreement cannot be resolved in correspondence, the Registrar must appoint a date for an oral hearing.

(7) Any request for an oral hearing following a provisional assessment of costs must be made within 14 days of the receipt of the Registrar's decision on the assessment.

**Basis of assessment**

**57**.—(1) Where the Court assesses the amount of costs, it shall assess those costs—

(a) on the standard basis, or

(b) on the indemnity basis,

in the manner specified by rule 58 or (where appropriate) on the relevant bases that apply in Scotland or Northern Ireland.

(2) Where the Court makes an order about costs without indicating the basis on which the costs are to be assessed, the costs shall be assessed on the standard basis.

(3) This rule applies subject to any order or direction to the contrary.

**The standard basis and the indemnity basis**

**58**.—(1) Costs assessed on the standard basis are allowed only if they are proportionate to the matters in issue and are reasonably incurred and reasonable in amount.

(2) Any doubt as to whether costs assessed on the standard basis are reasonably incurred and are reasonable and proportionate in amount shall be resolved in favour of the paying party.

(3) Costs assessed on the indemnity basis are allowed only if they are reasonably incurred and reasonable in amount.

(4) Any doubt as to whether costs assessed on the indemnity basis are reasonably incurred and are reasonable in amount shall be resolved in favour of the receiving party.

**Amount of assessed costs to be specified**

**59**. The amount of any assessed costs must be inserted in the order made under rule 32 but, if that order is drawn up before the assessment has been completed, the amount assessed will be certified by the Registrar.

**Appeal from assessment**

**60**.—(1) A party who is dissatisfied with the assessment of costs made at an oral hearing may apply for that decision to be reviewed by a single Justice and any application under this rule must be made in the appropriate form and be filed within 14 days of the decision.

(2) The single Justice may (without an oral hearing) affirm the decision made on the assessment or may, where it appears appropriate, refer the matter to a panel of Justices to be decided with or without an oral hearing.

(3) An application may be made under this rule only on a question of principle and not in respect of the amount allowed on any item in the claim for costs.

**Payment out of security for costs**

**61**. Any security for costs lodged by an appellant shall be dealt with by the Registrar in accordance with the directions of the Court.

## Part 9

## Transitional arrangements

**Transitional arrangements**

**62**. Unless the Court or the Registrar directs otherwise, the Supreme Court Rules 2009 (the "2009 Rules") shall continue to apply to—

(a) appeals which were proceeding before the Court before these Rules came into effect,

(b) applications for permission to appeal and notices of appeal filed under rules 11 and 19 of the 2009 Rules before these Rules came into effect.

# The main changes proposed

1. In this section we highlight the main changes that have been made to the Supreme Court Rules 2009 ("the 2009 Rules").
2. The aim of the revisions made in the new Rules is four-fold:
    a. First the new Rules reflect the introduction later in 2024 of the case management portal through which parties to an appeal will interact with the Supreme Court Registry and with each other.
    b. Secondly, the new Rules reflect the current practice of the Supreme Court as set out in the Court's Practice Directions. In particular, they incorporate changes which were prompted by Covid-19 restrictions but which have led to permanent changes in the Court's practice. These include greater use of electronic documents rather than documents being produced and exchanged in hard copy.
    c. Thirdly, the new Rules address various other changes which are needed, partly to address issues that have arisen with the 2009 Rules over the years.
    d. Finally, the Rules set out the procedure for the assimilated EU case law references provided for in sections 6A, 6B and 6C of the European Union (Withdrawal) Act 2018.
3. In due course the Court's Practice Directions will be reissued. These will be available on the Court's website.

**PART 1 Interpretation and scope**

Part 1 of the Rules:

- Provides for the commencement, scope and objective of the Rules (rule 1 and 2).
- Defines the various terms that are used throughout the Rules (rule 3).

Rule 2 (**Scope and objective**) and Rule 3 (**Interpretation**)

Rules 2 and 3 are broadly the same as in the 2009 Rules. The amendments are mainly consequential on changes to the later rules (detailed below) subject to the following points:

The definition of "devolution jurisdiction" has been updated to reflect the additional provisions conferring jurisdiction on the Court.

The definition of “electronic means” has been amended to remove technology which is outdated and to include a reference to the portal.

The definition of “the relevant officer” has been replaced with a definition of “law officers”.

The definition of “respondent” has been changed so that it now applies to any person other than the appellant who was a party to the proceedings in the court below. The current requirement that a party be “affected by the appeal” has been omitted. If a respondent is served and does not consider that it is affected by the appeal, it can simply refrain from acknowledging service and will then play no further part in the appeal.

## PART 2 The portal, filing and service

Part 2 of the Rules:

- Introduces the concept of the portal and defines portal parties and non-portal parties (rule 4).
- Specifies the forms to be used, particularly for non-portal parties (rule 5).
- Provides for the Court to extend or shorten time limits prescribed by the Rules (rule 6).
- Describes how documents are filed with the Registry and served on the parties to the appeal and how portal parties communicate with the Court (rules 7, 8 and 9).
- Provides for the consequences of non-compliance with the Rules and for the review of the Registrar’s decisions on procedural matters (rules 10 and 11).

### Rule 4 (**The portal and portal parties**)

Rule 4 is a new rule which introduces the concept of a ‘portal party’, which refers to a party who is signed up to the portal in relation to a particular appeal or part of an appeal. A party who is legally represented must sign up to the portal in order to participate in an appeal. Litigants in person can choose whether to sign up to the portal or not but if they obtain legal representation they must become a portal party. Any litigant in person who signs up to the portal must then remain a portal party for the remainder of the appeal.

### Rule 5 (**Forms**)

Forms will no longer be relevant to those participating in the appeal as portal parties. However, this rule is retained (formerly rule 4 of the 2009 Rules) for non-portal parties.

The rule reflects the current practice of the Court which is that all the relevant forms are available for download from the Court's website. Parties may either use the form by completing an electronic copy of the form or by printing out the form, filling it in on the hard copy and then scanning the completed form to produce an electronic version which can then be emailed to the Registry or the other parties.

Rule 6 (**Time Limits**)

The Court will continue to have power to extend or shorten any time limit set by the Rules or by the relevant practice direction.

Rule 6(3) This paragraph has been amended to replace the current automatic extension of time where a party is seeking public funding. Instead, the Registrar has a discretion to extend time in those circumstances. In exercising her discretion whether to extend time and for how long, the Registrar will have regard in particular to how promptly the appellant has applied for public funding and how diligently the application has been pursued. The change is aimed at ensuring that the appellant is incentivised to avoid delay; the previous rule resulted in some instances in very long delays occurring before the appeal was lodged by the appellant.

Rule 7 (**Filing**)

In the 2009 Rules, rule 6 (service) came before rule 7 (filing). This was because, according to rule 12 of the 2009 Rules, a copy of the application was served on the respondent before it was filed. Under the new rules, the steps for commencing an appeal are taken in the following order:

- The application for permission to appeal is filed with the Registry (rule 13(1)).
- The Court considers whether it has jurisdiction to consider the application for permission (rule 13(5)).
- The Court issues the permission to appeal application and directs the appellant to serve the application (rule 13(7)).
- The appellant then serves the application on the other parties (rule 14).

If the Court considers it does not have jurisdiction and the matter is straightforward, it rejects the application without issuing it. In those circumstances the respondent will not be served with the application. However, sometimes jurisdiction questions are less clear cut. In those circumstances, the application will be issued and the question as to the Court's jurisdiction will be resolved at a later time. The issue of the application for permission by the Court does not therefore signify that the Court accepts that it has jurisdiction to consider the appeal.

Rule 7(2): Filing by portal parties will always be via the portal. A new Practice Direction will specify how parties can file documents via the portal.

Rule 7(3): For non-portal filing, the methods of filing in rule 7 of the 2009 Rules have been limited by the omission of filing by first class post, through the document exchange, or via electronic means other than those now included in the definition of "electronic means" in Rule 3. This reflects the decline of the use of those former methods of service.

The Court's website and the Practice Direction will make clear that a litigant who is not legally represented, who does not have access to electronic means of sending documents and is not able to deliver documents personally to the Court or to send them using a courier service can contact the Registry by telephone. The Registry will discuss with the litigant the best method of communication. The Court expects such occasions will be rare, bearing in mind that the litigant will already have been involved in the earlier stages of the proceedings.

The provision in existing rule 7(2) which deems filing to have taken place the day after posting will be deleted. This reflects the provision to the sender of tracking information by delivery services. This provides the sender with evidence as to when and to whom the document was delivered.

**Question 1: Do you foresee any practical difficulties with reducing the methods for filing of documents with the Registry as proposed?**

**Question 2: Do you foresee any practical difficulties with removing a deemed date of filing with the Registry for the remaining methods of filing?**

Rule 8 (**Service**)

This rule has been extensively revised from rule 6 of the 2009 Rules to accommodate the portal.

Rule 8(1): In addition to the filing of documents with the Registry, the portal will also be used for the service of documents on other portal parties. Notification that a document has been filed through the portal will be automatically emailed to all relevant parties. This rule specifies when service is deemed to have taken place for these purposes.

Rule 8(3): Non-portal service methods have been reduced in line with the non-portal filing methods. They are now limited to personal service, a next day delivery service and email if the party to be served has agreed to email. Again, a deemed date of service is no longer considered appropriate.

**Question 3: Do you foresee any practical difficulties with reducing the methods for service of documents on other parties as proposed?**

**Question 4: Do you foresee any practical difficulties with removing a deemed date of serving documents on other parties for the remaining methods of service?**

Rule 9 (**Communications with the court**)

This rule is new to the Supreme Court Rules but is based on the Civil Procedure Rules for the Court of Appeal of England & Wales r. 39.8.

The portal will have two channels by which parties can communicate with the Court. The public channel will give all the parties access to the correspondence sent by a party to the Registry and allow those parties to respond in a communication which all parties will be able to see, even if the communication was primarily aimed at the Court. A private channel can be used for confidential matters (some examples are listed in Rule 9(3)(a)), for purely administrative matters and for communications which are covered by a rule or Practice Direction which specifies that they are not to be sent to the other parties.

Rule 10 (**Non compliance with these Rules**) and Rule 11 (**Procedural decisions**) are carried forward from rules 8 and 9 of the 2009 Rules without revision.

**PART 3**

**Application for permission to appeal**

Part 3 of the Rules:

- Explains how an application for permission to appeal is made, filed with the Court, issued by the Court and served on the other parties (Rules 12, 13 and 14).
- Provides for the respondent to serve a notice objecting to the grant of permission and for other persons to make submissions to the Court as to whether permission should be granted (Rules 15 and 16).
- Explains how the application for permission will be considered by the Court and how a decision will be made and recorded (Rules 17 and 18).

Rule 12 (**Making an application**)

This rule specifies how an application for permission to appeal is made via the portal or by a non-portal party. When the application is made via the portal, there is no application form to complete; the application is made by completing the relevant pages on the portal and uploading the relevant documents. The portal, read together with the new Practice Direction, will guide the litigant through the process.

Where the appellant is a non-portal party, the appropriate form can be downloaded from the Court's website and completed in accordance with the current practice of the Court.

Rule 13 (**Filing and issue of application**)

Rule 13(1): This paragraph specifies the deadline for filing an application for permission to appeal. The proposed rule makes an important change to Rule 11 of the 2009 Rules regarding the date on which the 28 day time limit for appealing to the Supreme Court commences. The existing Rule 11(1) provides that, subject to any enactment providing to the contrary, an application for permission to appeal must be filed within 28 days from the date of the order or decision of the court below. Rule 10(2) of the 2009 Rules provides that an application for permission may be made to the Supreme Court only after the court below has refused to grant permission to appeal.

The current practice of the Court of Appeal of England and Wales, the Inner House of the Court of Session and the Northern Ireland Court of Appeal is to determine applications for permission to appeal to the Supreme Court following consideration of submissions made by the parties after the order or decision of that court has been handed down. The decision to refuse to grant permission to appeal may therefore be made some days after the decision or order from which the appellant wishes to appeal.

The new Rules propose therefore to change the commencement of the 28 day period to the date of the decision of the court below to refuse permission.

This will bring the Rules into line with the existing position in Scotland. Section 40(1) of the Court of Session Act 1988 provides that an appeal may be taken to the Supreme Court against a decision of the Inner House only with the permission of the Inner House or of the Supreme Court. Section 40A (inserted into the Court of Session Act 1988 in 2015 by the Courts Reform (Scotland) Act 2014) provides that an application to the Inner House for permission to take an appeal under section 40(1) must be made within 28 days of the decision against which the appeal is to be taken, or such longer period as the Inner House considers equitable having regard to all the circumstances. Further, the time limit for applications to the Supreme Court if the Inner House refuses permission is set in section 40A(2) as 28 days from the refusal of permission for the appeal by the Inner House, or such longer period as this court considers equitable.

The position as regards the Court of Appeal of England and Wales is that there is currently no time limit within which an application must be made to that court for permission to appeal to the Supreme Court.

In Northern Ireland there is no time limit set by section 42 of the Judicature (Northern Ireland) Act 1978 for applications to the Court of Appeal of Northern Ireland for

permission to appeal to the Supreme Court in a civil matter. However, applications for permission to appeal to the Supreme Court from the High Court in criminal matters (section 41(1)), from the Court of Appeal in criminal causes or matters (section 41(2)) and in certain other cases under the Criminal Appeal (Northern Ireland) Act 1980 are subject to a 28 day time limit for applications to be made, running for the date of the decision under appeal: see Schedule 1 to the 1978 Act and section 32 of the 1980 Act.

The Supreme Court is consulting with those courts as to how to take forward the proposed change to the deadline.

In the existing rules there are two passages in italics incorporated into rule 11(1) dealing with two exceptions to the deadline for filing. We propose deleting these. They will appear in the relevant Practice Direction and appellants can contact the Registry for guidance if they are unsure of the time limit.

**Question 5: Do you have any view on the proposal that the 28 day time limit for filing an application for permission to appeal should run from the date of refusal of permission by the court below instead of from the date of the decision or order appealed against?**

**Question 6: Do you foresee any practical difficulties with introducing a time limit for the application to the court below for permission to appeal to the Supreme Court where there is currently no time limit?**

Rule 13(2): When a party files a document via the portal, the process no longer involves a party sending a form with a number of documents attached (either physically or electronically). Instead, the party completes the relevant pages on the portal and can upload documents directly onto the portal. The aim is that each document (such as the judgment of the court below which the appellant wishes to challenge) will be uploaded into the portal once at the start of the proceedings. It will then remain available on the portal throughout those proceedings. Other portal parties, the Registry and the Justices will access the documents via the portal. There is no need for the portal party also to file an application form or any accompanying documents either by hard copy or by emailing them to the Registry.

Rule 13(3): Non-portal parties will need to send electronic versions of the documents required to accompany the completed application form.

Rule 13(5): This paragraph explains how the Court will consider issues of jurisdiction. There are many approaches to the Court each year which are rejected by the Registry. For example, many litigants seek to challenge the decision by the Court of Appeal of England and Wales to refuse permission to appeal to that court from a decision of the

High Court. The Supreme Court does not have jurisdiction to consider such a challenge: see section 54(4) of the Access to Justice Act 1999.

Under the new Rules the Registry will reject applications where it is clear that the Court does not have jurisdiction and will take this step before the putative respondent is served or otherwise notified about the appeal. However, in some cases the jurisdiction question is more complicated or comes to light only once the other party responds to the application. The fact that the Registry issues the application for permission is not, therefore, confirmation that the Court has jurisdiction over the appeal.

Rule 13(6): Given that under the new rules, the respondent will not be served with the application before it is issued, Rule 13(6) provides that the Registry may ask the respondent for submissions on the question of jurisdiction before the appeal is issued by the Registry and served on the respondent by the appellant. The Registry expects this power will only be used in exceptional cases.

Rule 14 (**Service of application**)

The initial application for permission to appeal must be served by way of non-portal service even if the appellant and the respondent are both portal parties. The portal will enable the appellant to download an electronic copy of the application. The appellant can then print that document and serve the physical copy on, or email a copy to the respondent together with the grounds of appeal if the respondent has agreed to accept email service.

However, the documents that were filed with the Registry (such as the judgments and orders of the courts below) when the application for permission is lodged do not need to be served on the other parties. Those accompanying documents (specified in the list in Rule 13(4)) will have been uploaded into the portal by the appellant if the appellant is a portal party or by the Registry if the appellant is a non-portal party. They will therefore be available to be consulted and downloaded by the parties.

In the event that both the appellant and the respondent are non-portal parties, the Registry will assist the parties by giving bespoke directions as to how the documents accompanying the application are to be served.

Rule 15 (**Notice of Objection by respondent**)

This Rule deals separately with filing and service of a notice of objection by the respondent asking the Court to refuse permission to appeal.

In line with the changes to the Rules, we are changing the order in which steps are taken and introducing an intermediate stage which is not included in rule 13 of the 2009

Rules. A notice will now first be filed with the Registry, then it will be issued by the Registry and then it will be served either via the portal or by non-portal service.

Rule 16 (**Interventions in applications**)

This Rule is broadly carried forward from rule 14 of the 2009 Rules. Rule 14 was limited to people intervening in support of the application for PTA. In practice, the Court receives and considers submissions from other persons opposing the grant of permission. The revised wording reflects this practice.

Rule 17 (**Consideration of the application**)

This Rule is broadly carried forward from rule 16 of the 2009 Rules except that the references to consideration "on paper" are no longer appropriate. The application for permission to appeal will be considered by the Justices without an oral hearing in most cases as is the current practice.

Rule 18 (**Oral hearing of application**)

This Rule remains the same as rule 17 of the 2009 Rules. The Court expects that, as currently, oral hearings for permission will be ordered only in exceptional circumstances.

**PART 4**

**Commencement and preparation of appeal**

Part 4 of the Rules:

- Provides for an appellant whose application for permission to appeal is granted to notify the Court and the other parties that it intends to pursue the appeal (rule 19).
- Sets out the procedure for the commencement of the appeal where the grant of permission from the Court is not required (rules 20 and 21).
- Provides for the respondents and interveners to establish the scope of their participation in the appeal (rules 22 to 25).
- Sets out the steps to be taken leading up to the hearing of the appeal (rules 26 to 29).

Rules 19, 20 and 21 describe the steps which the appellant must take to commence the appeal. They have been carried forward from rules 18, 19 and 20 of the 2009 Rules but adapted to reflect the changes that have been described in relation to the application for permission to appeal in Part 3.

Rules 22, 23, and 24 describe the steps to be taken by the respondents to the appeal and interveners. Rule 22(2) was formerly rule 25(1) of the 2009 Rules and aims to ensure that the Court and the other parties have early notice of the issues that the respondent wishes to raise in the appeal.

Rule 25 (**Interventions on assimilated case law by law officers**)

Rule 25 is a new rule included to implement section 6C of the European Union (Withdrawal) Act 2018, as inserted by section 6(8) of the Retained EU Law (Revocation and Reform) Act 2023. This provides for the Court to notify the law officers listed of an appeal in which a party is arguing that the Court should depart from "assimilated case law" as that term is defined in section 6(7) of the 2018 Act (as amended by para 8(6) of Schedule 2 to the 2023 Act).

Rules 26 to 29 describe the steps that are taken in preparation for the hearing. They reflect the following changes to the Court's practice:

- The discussions between the Registry and the parties about the listing of the date for the hearing of the appeal now start as soon as the scope of the appeal has become clear, and the number and identity of the parties is established.
- The bundles prepared for the hearing no longer comprise "core bundles" and "authorities" as provided for in rules 23 and 24 of the 2009 Rules but "key documents" and "main hearing bundle". The main hearing bundle is now a single electronic file including both the background documents and the authorities.
- The key documents bundle is provided by the appellant to the Registry in both electronic and hard copy form but to the other parties only in electronic form. The relevant Practice Direction provides guidance about the content and format of the main hearing bundle. Rule 28(3) brings forward the date for delivery of the key documents bundle to six weeks before the hearing (rather than the 14 days specified in existing rule 23 for the core volumes).
- The main hearing bundle is prepared and supplied by the appellant to the Court and to the other parties only in electronic form, not in hard copy. An updated version of Practice Direction 14 will give guidance about the content and format of electronic documents. Rule 29(2) also brings forward the date for delivery of the main hearing bundle to 21 days before the hearing rather than the current 14 days. Given that the main hearing bundle is only provided in electronic form, the Court considers it is reasonable to accelerate this date.
- The Court will publish the parties' written cases on its website. Rule 27(5) therefore provides for the parties to contact the Registry with any requests for redaction of material from those documents.

**Question 7: Do you foresee any practical difficulties with the proposed time limits for filing and serving bundles?**

**Parts 5** (**Hearing and decision of appeal**) **and 6** (**Further general provisions**)

Part 5 of the Rules deals with the hearing of the appeal in open court: (Rule 30); the handing down of judgment (Rule 31); and the making of orders (Rule 32). These have been carried forward from rules 27, 28 and 29 of the 2009 Rules.

Part 6 of the Rules:

- Explains how a procedural application is made by a party to the appeal (rule 33).
- Provides for a party to request that the appeal be expedited (rule 34).
- Provides for the Registrar to group appeals raising similar issues so that they can be heard at the same time or consecutively before the same panel (rule 35).
- Explains what happens when the status of a party changes, or when the parties agree a compromise of the appeal or when the appellant wishes to withdraw the application for permission or the appeal itself (rules 36 and 37).
- Provides for the court to appoint an advocate to the Court or a specially qualified advisor (rule 38).
- Provides for applications by a party relating to security for costs, a request for a stay of execution of the order made by the court below or an application to change solicitors acting for that party (rules 39, 40 and 41).
- Explains how the Court will deal with documents sent to it by the parties (rule 42).

These Rules largely bring forward the rules 27 – 39 of the 2009 Rules with little revision save as follows:

Rule 42 (**Publication and disposal of documents**)

It is now very rare that the Registry will be provided with original documents. Where a litigant provides hard copy versions of original or copy documents, the Registry will return them after copying or invite the litigant to collect them. Physical documents will no longer be kept as part of the Court's records nor provided to the National Archives at Kew. Electronic versions of some documents will be made available to the public on the Court's website and will be stored at the National Archives.

**Part 7**

**Particular appeals and references**

Part 7 of the Rules:

- Provides for the Crown to be notified when an appeal raises a question of incompatibility under section 4 of the Human Rights Act 1998 (rule 43).
- Provides for references to be made invoking the devolution jurisdiction of the Court (rule 44).
- Provides for the residual powers for the Court to make a preliminary reference to the Court of Justice of the European Union (rule 45).
- Provides for references to be made inviting the Court to depart from assimilated case law under the European Union (Withdrawal) Act 2018 sections 6A and 6B (rules 46, 47, 48 and 49).
- Provides for the Comptroller-General, Intellectual Property Office to be notified of an appeal seeking an order for the revocation of a patent (rule 50).
- Provides for the Court to comply with the code of practice for victims of domestic abuse (rule 51).

Rule 43 (**Human Rights Act issues**)

Rule 43 is brought forward from rule 40 of the 2009 Rules broadly unaltered. Existing rule 40(3) provided that a question as to the Court making an incompatibility declaration might arise for the first time during the course of the hearing, leading to the adjournment of the hearing so that the law officers could be informed. This has been deleted. The Court now places greater emphasis on early notice being given by the parties of the arguments on which they wish to rely. The parties (whether appellant or respondent) are expected to state clearly in the documents they file up to and including their written cases if they are inviting the Court to make such a declaration. If an adjournment becomes necessary, the Court always has power to adjourn its proceedings.

Rule 44 (**Determination of devolution and compatibility issues**)

This rule has been updated from rule 41 of the 2009 Rules to reflect the current statutory provisions under which appeals and references of devolution and compatibility issues can be determined.

Rule 45 (**Court of Justice of the European Union**)

Section 6(1)(b) of the European Union (Withdrawal) Act 2018, as amended by the European Union (Withdrawal Agreement) Act 2020, removes the power of the Court to make a reference to the CJEU. Rule 42 of the 2009 Rules has been revised to provide for the residual powers to refer under the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the

European Atomic Energy Community and under article 12 of the Protocol on Ireland/Northern Ireland.

Rules 46, 47, 48 and 49

These four new rules deal with the two new reference procedures introduced by sections 6A and 6B into the EU (Withdrawal) Act 2018 which were inserted by section 6(8) of the Retained EU Law (Revocation and Reform) Act 2023:

- Section 6A establishes a new reference procedure enabling a lower court or tribunal which is bound by assimilated case law under section 6 of 2018 Act to refer a point of law to a higher court (which is not so bound) to decide.
- Section 6B establishes a new procedure for a law officer of the UK Government or the devolved administrations to refer a point of assimilated case law to a higher court.

Rule 46 (**References on assimilated case law by courts and tribunals**)

This proposed new rule deals with references by a court under section 6A of the 2018 Act. It provides as follows:

Rule 46(1), (2), (6) and (7) sets out the rules which apply when a lower court files a reference with the Court, specifying what the reference must contain, stating that a panel of Justices will consider whether to accept the reference and that an order will be made either accepting or rejecting the reference in whole or in part. This implements section 6A(1), (2), (3), (4), (5) and (7) of the 2018 Act.

Rule 46(3), (4), (5) and (6) provides for the service of the proposed reference on the parties to the proceedings and on the Law Officers, for those persons to make submissions as to whether the reference should be accepted and for those submissions to be considered by the panel deciding whether to accept the reference.

Rule 47 (**Interventions concerning the acceptance or rejection of a reference under rule 46**)

Rule 47 provides for persons other than those covered by Rule 46 to be able to make submissions to the Court as to whether the reference should be accepted.

Rule 48 (**References on retained/assimilated case law by law officers**)

This rule implements section 6B of the 2018 Act. There is no permission stage for this kind of reference.

Rule 49 (**Hearing of references under rules 46 and 48**)

Rule 49 provides that the rules generally applicable to appeals will also apply to references with appropriate modifications.

Rule 50 (**Revocation of patents)** and Rule 51 (**Criminal appeals**) are carried forward from Rule 43 and 44 of the 2009 Rules respectively without substantive revision.

**PART 8**

**Fees and costs**

Part 8 of the Rules:

- Provides for the Registrar to refuse to progress the appeal until the appropriate fee has been paid (rule 52).
- Provides for the Court to determine applications for costs of proceedings (rules 53 to 61).

Rule 52 (**Fees**)

This rule is carried forward from rule 45 of the 2009 Rules substantially unamended. Following a consultation (Reforming Fees in the United Kingdom Supreme Court - GOV.UK (www.gov.uk)), the fees payable in the Supreme Court have recently been changed by the Supreme Court Order 2024, which came into force on 1 April 2024.

The remaining rules in this Part dealing with costs are brought forward from rules 46 to 54 of the 2009 Rules with only minor revision.

**Part 9**

**Transitional arrangements**

Rule 62 (**transitional arrangements**). Rule 55 of the 2009 Rules provided for the introduction of the 2009 Rules following the transfer of functions from the Appellate Committee of the House of Lords to the Supreme Court. The revised rule 62 provides that the new Rules apply to appeals commenced after the new Rules come into effect.

**Question 8: Do you foresee any practical issues in complying with the transitional provisions in Rule 62?**

**Question 9: Do you wish to add any other comments?**

# Questionnaire

We would welcome responses to any of the following questions set out in this consultation paper.

1. **Do you foresee any practical difficulties with reducing the methods for filing of documents with the Registry as proposed?**

2. **Do you foresee any practical difficulties with removing a deemed date of filing with the Registry for the remaining methods of filing?**

3. **Do you foresee any practical difficulties with reducing the methods for service of documents on other parties as proposed?**

4. **Do you foresee any practical difficulties with removing a deemed date of serving documents on other parties for the remaining methods of service?**

5. **Do you have any view on the proposal that the 28 day time limit for filing an application for permission to appeal should run from the date of refusal of permission by the court below instead of from the date of the decision or order appealed against?**

6. **Do you foresee any practical difficulties with introducing a time limit for the application to the court below for permission to appeal to the Supreme Court where there is currently no time limit?**

7. **Do you foresee any practical difficulties with the proposed time limits for filing and serving bundles?**

8. **Do you foresee any practical issues in complying with the transitional provisions in Rule 62?**

9. **Do you wish to add any other comments?**

# About you

Should you choose to respond to the consultation please include the following information.

| |
|---|
| **Full name** |
| **Job title** or capacity in which you are responding to this consultation exercise (e.g. member of the public etc.) |
| **Company name/organisation** (if applicable): |
| **If you are a representative of a group**, please tell us the name of the group and give a summary of the people or organisations that you represent |
| **The number of the question(s) you are responding to.** |

# Complaints or comments

If you have any complaints or comments about the consultation process you should contact the UK Supreme Court by emailing ukscrulesconsultation@supremecourt.uk or by writing to Registrar, UKSC Rules consultation, The Supreme Court, Parliament Square, London, SW1P 3BD.

# Extra copies

Further paper copies of this consultation can be obtained from the address above and it is also available at https://www.supremecourt.uk/

Alternative format versions of this publication can be requested from ukscrulesconsultation@supremecourt.uk

# Publication of response

A paper summarising the responses to this consultation is expected to be published by mid-August. The response paper will be available on-line at https://www.supremecourt.uk/

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA), the General Data Protection Regulation (GDPR) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the UK Supreme Court.

The UK Supreme Court will process your personal data in accordance with the DPA and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

**Thank you for participating in this consultation exercise.**