

Order 84C  
Procedure in Statutory Appeals

1. (1) In this Order, “enactment” has the same meaning as in the Interpretation Act 2005.

(2) Where any enactment provides for an appeal to be made to the High Court or to a judge of the High Court from a decision or determination made or direction given by a person or body, other than a court, which person or body is authorised by any enactment to make such decision or determination or give such direction (in this Order referred to as “the deciding body”), and provision for the procedure applicable is not made either by the enactment concerned or by another Order of these Rules, the procedure set out in the following rules of this Order shall apply, subject to any requirement of the relevant enactment.

2. (1) The appeal shall be commenced by way of originating notice of motion (in this Order hereinafter called “the notice of motion”). The notice of motion shall be entitled in the matter of the provision of the enactment pursuant to which the appeal is made. The notice of motion shall name the person making the appeal as appellant and any person who the relevant enactment provides shall be a respondent to the appeal shall be named as a respondent.

(2) The notice of motion shall contain the names and addresses of the appellant and of each respondent. The notice of motion shall specify the relief sought, and the particular provision or provisions of the relevant enactment authorising the granting of such relief.

(3) Where the relevant enactment provides only for appeal to the High Court on a point of law, the notice of motion shall state concisely the point of law on which the appeal is made.

(4) Where the relevant enactment provides that the Court may grant relief consequential upon or in addition to determining the appeal, the notice of motion shall state concisely the consequential or additional relief sought.

(5) Subject to any provision to the contrary in the relevant enactment, the notice of motion shall be issued—

- (a) not later than twenty-one days following the giving by the deciding body to the intending appellant of notice of the deciding body’s decision, or
- (b) within such further period as the Court, on application made to it by the intending appellant, may allow where the Court is satisfied that there is good and sufficient reason for extending that period and that the extension of the period

would not result in an injustice being done to any other person concerned in the matter.

(6) Subject to any provision to the contrary in the relevant enactment, an application to the Court referred to in paragraph (b) of sub-rule (5)—

- (a) shall, unless the Court otherwise permits, be made by motion on notice to any person who the relevant enactment provides shall be a respondent to the appeal and to any other person who the Court directs shall be given notice of such application, and
- (b) may be made after the period of twenty-one days referred to in paragraph (a) of that sub-rule.

3. (1) The notice of motion shall be grounded upon an affidavit sworn by or on behalf of the appellant which shall—

- (a) contain a description of the appellant, including particulars sufficient to explain the standing of the appellant to appeal under the relevant provision of the enactment, and, where the deponent is not the appellant, the authority of the deponent to make the affidavit on behalf of the appellant;
- (b) if the appellant is acting in any representative capacity, or relief is sought against any respondent in a representative capacity, state the capacity of the appellant or, as the case may be, the respondent;
- (c) state the authority of the deciding body to make the decision, determination or direction from which appeal is made;
- (d) state the interest of any respondent and of any other person given notice of the appeal in the decision, determination or direction from which appeal is made;
- (e) exhibit—
  - (i) a copy of any application made to the deciding body;
  - (ii) save where the appeal is on a point of law only, the evidence and any other material adduced to the deciding body, and copies of all relevant correspondence and documents passing between the appellant and the deciding body;
  - (iii) any official record and, if relevant, any other record of the proceedings before the deciding body;

(iv) a copy of the decision, determination or direction made or given (as the case may be) by the deciding body;

(f) save where the appeal is on a point of law only, set out the facts or circumstances relevant to the making of the decision, determination or direction from which appeal is made (including any act or omission of the principal respondent complained of) which it is alleged support the granting of the appeal in respect of the decision, determination or direction or of any consequential or additional relief sought, and

(g) set out the basis of the deponent's belief as to the existence of the facts or circumstances referred to in the preceding paragraph.

(2) Subject to any direction the Court may give, copies of documentation exhibited in the grounding affidavit shall be incorporated in a single exhibit, in which event they shall be indexed and numbered sequentially in chronological order.

4. (1) Save where otherwise provided by the relevant enactment, not less than twenty one days' notice of the appeal shall be given.

(2) Each respondent shall be served with the notice of motion and copies of the grounding affidavit and any exhibits thereto.

(3) Copies of the originating notice of motion, grounding affidavit and any exhibits thereto shall be delivered to the deciding body (where the relevant enactment does not provide that the deciding body shall be a respondent to the appeal).

5. (1) Any respondent intending to oppose the appeal shall file in the Central Office a statement setting out concisely the grounds for such opposition and, if any facts are relied on therein, an affidavit verifying such facts, in which event, a copy of such statement and such affidavit (if any) shall be served upon the appellant and upon every other respondent before the return date of the originating notice of motion.

(2) The appellant shall be at liberty to file a further affidavit replying to any matter verified in an affidavit of a respondent, in which event a copy of such affidavit shall be served upon each respondent within fourteen days of the service upon him of the respondent's statement of opposition and verifying affidavit.

(3) In any case where reference is made in an affidavit to a document exhibited previously in an affidavit of any party, the document concerned shall not be further exhibited, but shall be identified by the exhibit reference used in relation to that document in the previous affidavit.

6. An affidavit giving the names and addresses of, and the places and dates of service on, all persons who have been served with, or to whom have been delivered, the notice of motion, and copies of the grounding affidavit and exhibits (if any) shall be filed by the appellant before the motion is heard. If any person who ought under this Order to have been served has not been so served, the affidavit shall state that fact and the reason for it.

7. On the return date of any notice of motion pursuant to this Order concerning an appeal on a point of law only (or on any adjournment of such hearing), the Court shall give such directions and make such orders, including the fixing of time limits, for the conduct of the proceedings as appears convenient for the determination of the proceedings in a manner which is just, expeditious and likely to minimise the costs of those proceedings, which may include—

(a) directions as to the service of notice of the appeal on any other person including mode of service and the time allowed for such service (and may for that purpose adjourn the hearing of the notice of motion or further hearing of same to a date specified);

(b) directions as to the filing and delivery of any further affidavits by any party or parties;

(c) directions as to the furnishing by the parties to the Court and delivery of written submissions.

8. (1) On the return date of any notice of motion pursuant to this Order concerning an appeal other than an appeal on a point of law only (or on any adjournment of such hearing), the Court shall give directions and make orders for the conduct of the proceedings as appear convenient for the determination of the proceedings in a manner which is just, expeditious and likely to minimise the costs of those proceedings, which may include—

(a) directions as to the service of notice of the appeal on any other person including mode of service and the time allowed for such service (and may for that purpose adjourn the hearing of the notice of motion or further hearing of same to a date specified);

(b) directions as to the filing and delivery of any further affidavits by any party or parties;

(c) directions as to the furnishing by the parties to the Court and delivery of written submissions on any issue which arises as to the proper scope of the appeal or as to the matter which ought to be before the Court on the hearing of the appeal, and directions as to the hearing and determination of any such issue;

- (d) orders fixing time limits;
- (e) a direction that the appeal be determined by way of plenary hearing, where it appears to the Court that the subject matter of the appeal is likely to involve a substantial dispute of fact or it is otherwise necessary or desirable in the interests of justice (and the Court may for that purpose make such orders and give such directions in relation to the exchange of pleadings or points of appeal or reply between the parties);
- (f) directions as to discovery;
- (g) directions as to the furnishing by the parties to the Court and delivery of written submissions;
- (h) directions as to the exchange of memoranda between or among the parties for the purpose of the agreeing by the parties or the fixing by the Court of any issues of fact or law to be determined in the proceedings on the appeal, or orders fixing such issues;
- (i) an order for the hearing of the proceedings at the same time as or immediately following another cause or matter pending in the High Court.

(2) On the return date of any notice of motion pursuant to this Order (or on any adjournment from such date), the Court may, where it appears just and proper, make orders for relief of an interlocutory nature, whether in the nature of an injunction or otherwise.

9. Save where the Court otherwise directs, any evidence in proceedings to which this Order relates shall be given on affidavit.

10. Where the Court considers it appropriate having regard to the nature of the proceedings, it may adjourn the proceedings to enable one or more of the parties to make an application pursuant to rule 4(2) of Order 63A to the Judge of the Commercial List for an order entering the appeal as proceedings in the Commercial List.”

2. These rules shall come into operation on 13th February, 2007.

3. Nothing in these Rules shall affect the validity of any step taken or any other thing done in any proceedings on any relevant application or in any proceedings on any appeal referred to in Order 84C, rule 1(2) initiated before the commencement of these Rules. Any such proceedings shall, save where the court in those proceedings otherwise orders, be continued and completed as if these Rules had not been made.

4. These rules shall be construed together with the Rules of the Superior Courts 1986 to 2007 and may be cited as the Rules of the Superior Courts (Statutory Applications and Appeals) 2007.

5. The form following shall be inserted in the Rules of the Superior Courts immediately following Form No. 8 in Appendix A, Part II.