

# **HOUSE OF LORDS**

**PRACTICE DIRECTIONS**

**AND**

**STANDING ORDERS**

**APPLICABLE TO**

**CIVIL APPEALS**

**2007 – 2008 edition**

**Approved by the House of Lords on 8 October 2007  
This edition replaces all previous editions**

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	Amendments of previous edition of practice directions	

The practice directions of the House of Lords are continuously revised and improved. This edition includes various small changes to which special attention does not need to be drawn. Such changes are intended to reduce the burden on litigants with regard to the number and form of documents etc required to be lodged in the Judicial Office.

The following directions contain significant changes from the previous edition (December 2006):

directions 1.14 – 1.17 (which establish simplified procedures for dealing with applications for permission to appeal that are excluded from the House’s jurisdiction by section 54 of the Access to Justice Act 1999, and make clear that section 54 of that Act does not extend to Northern Ireland).

direction 2.1 (which clarifies the rules on times limits for applications for leave to appeal).

direction 14.4 (which requires parties to justify estimates of more than two days for hearings).

directions 26.2 – 26.3 (which clarify when communications with the Judicial Office may be made by fax and e-mail).

direction 30 (which establishes a simplified procedure for cross-appeals by removing the requirement to seek permission first from the Court of Appeal for leave to cross-appeal.).

direction 37.4 (which imposes a time limit for applications to intervene in appeals).

Form 14A (form of cover for Appendix) is new.

The direction numbers remain the same as in the previous edition.



**JUDICIAL OFFICE, HOUSE OF LORDS, LONDON SW1A 0PW**

Telephone: 020-7219 3111

Fax: 020-7219 2476

*(n.b. use of fax for communicating with the Judicial Office is subject to direction 26.2)*

www.parliament.uk

e-mail: holjudicialoffice@parliament.uk

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Houses of Parliament (switchboard): 020-7219 3000

The Judicial Office is open from 10am-5pm on Mondays to Thursdays during the law terms and from 10am-4pm on Fridays and outside the law terms. It is closed from 1- 2pm daily; and until 2pm on the day of the State Opening of Parliament.

During the law terms the Appellate Committee sits on Mondays from 11am-4pm and on Tuesdays to Thursdays from 10.30am-4pm, with an hour's adjournment daily from 1-2pm.

**FEES AND TAXATION**

**Fee** enquiries should be addressed to the Judicial Office.

**Taxation** enquiries (assessment of costs) should be addressed to the Judicial Taxing Clerk, telephone 020-7219 3105.

Drafts and cheques for fees, including taxing fees, should be made payable to 'House of Lords Account'. See Appendix C for the level of fees.

Drafts and cheques for security money only should be made payable to 'House of Lords Security Fund Account'.

**ADMISSION PASSES**

No special admission passes are required for persons wishing to attend hearings of the Appellate Committee or judgments in the House. Prior notice of attendance is not required. Those wishing to attend should enter the Palace of Westminster via St Stephen's entrance.

Special admission passes to the Palace of Westminster are required by counsel and all those attending the Judicial Office. Application for special admission passes is made as follows:

**To attend hearing:** application should be made in advance by letter to the Judicial Office.

Each party to an appeal is entitled to passes for counsel and a maximum of two clerks and two solicitors. The application should give the names of those for whom passes are desired and state the number of days for which passes are required. Passes are available for collection from the Pass Office on the first day on which the pass is required.

**To attend judgment:** application should be made in advance by letter to the Judicial Office. Each party to an appeal is entitled to passes for counsel and one clerk only.

**To attend Judicial Office:** application should be made on the day in person to the Pass Office.

The Pass Office is located at Black Rod's Garden entrance, near the Victoria Tower.

Applications by telephone are not accepted. In no circumstances are passes sent in the post.

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# HOUSE OF LORDS

## PRACTICE DIRECTIONS APPLICABLE TO CIVIL APPEALS

### PART I – DIRECTIONS ON PETITIONS FOR LEAVE TO APPEAL

#### 1. PERMISSION TO APPEAL

##### *Introduction*

1.1 Subject to certain conditions, appeals in civil matters may be brought to the House of Lords from the Court of Appeal in England and Wales and in Northern Ireland, from the High Court in England and Wales and in Northern Ireland under the “leapfrog” procedure, and from the Court of Session in Scotland<sup>1</sup>. The judicial procedures of the House are regulated by statute, by standing orders of the House and by practice directions<sup>2</sup>. Copies of these and other documents may be obtained free of charge from the Judicial Office of the House of Lords or downloaded from [www.parliament.uk](http://www.parliament.uk).

##### *Terminology*

1.2 The Appellate Jurisdiction Act 1876 is the basic Act governing the judicial function of the House of Lords. This booklet uses the terminology of that Act. The term “leave to appeal” means permission to appeal. A “petition for leave to appeal” is an application for permission to appeal.

##### *Right of appeal*

1.3 The right of appeal to the House of Lords is regulated by statute and subject to statutory restrictions. The relevant statutes for civil appeals are: the Administration of Justice (Appeals) Act 1934; the Administration of Justice Act 1960; the Administration of Justice Act 1969; the Judicature (Northern Ireland) Act 1978; the Court of Session Act 1988; and the Access to Justice Act 1999. Every applicant for leave to appeal must comply with the statutory requirements before the application can be considered by the House. The Human Rights Act 1998 applies to the House in its judicial capacity. But that Act does not confer any general right of appeal to the House, or any right of appeal in addition to or superseding any right of appeal provided for in Acts passed before the coming into force of the Human Rights Act 1998.

##### *Stay of execution*

1.4 See direction 43.

##### *Appeals from (i) the Court of Appeal in England & Wales; and (ii) the Court of Appeal in Northern Ireland*

1.5 An appeal to the House of Lords from any order or judgment of the Court of Appeal in England and Wales or in Northern Ireland may only be brought with the leave of the Court of Appeal or of the House of Lords<sup>3</sup>.

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<sup>1</sup> For appeals “in a criminal cause or matter”, see the Red Book of *Practice directions applicable to Criminal Appeals* (October 2007 ed) available from the Judicial Office and on [www.parliament.uk](http://www.parliament.uk).

<sup>2</sup> The orders are made pursuant to the Appellate Jurisdiction Act 1876 s 11.

<sup>3</sup> Administration of Justice (Appeals) Act 1934 s 1(1); Judicature (Northern Ireland) Act 1978 s 42.

1.6 An application for leave to appeal must be made first to the Court of Appeal and only after that Court refuses leave may application be made to the House of Lords<sup>1</sup> itself. Application is made by presenting a petition for leave to appeal<sup>2</sup>.

#### *Appeals from the Court of Session in Scotland*

1.7 Leave to appeal is not required in appeals to which directions 1.8 and 1.9 apply. Leave to appeal is required for appeals to which directions 1.10 and 1.11 apply.

1.8 As a general rule, leave to appeal is not required from an interlocutor of the Inner House of the Court of Session on the whole merits of the cause<sup>3</sup>. Standing Orders I and IV govern such appeals. The petition of appeal must be lodged within 3 months of the date of the interlocutor appealed from; and the petition of appeal must be signed by two Scottish counsel who must also certify that the appeal is reasonable<sup>4</sup>.

1.9 As a general rule, leave to appeal is not required from an interlocutory judgment of the Court of Session where there is a difference of opinion among the judges or where the interlocutory judgment is one sustaining a dilatory defence and dismissing the action<sup>5</sup>. Standing Orders I and IV apply: the petition of appeal must be lodged within 3 months of the date of the interlocutor appealed from; and the petition of appeal must be signed by two Scottish counsel who must also certify that the appeal is reasonable.

1.10 Leave to appeal is required for an appeal to the House of Lords against any interlocutory judgment of the Court of Session that does not fall within direction 1.9, and only the Inner House of the Court of Session may grant such leave to appeal<sup>6</sup>. In all such cases a refusal of the Court of Session to grant leave to appeal is final and no petition for leave to appeal may then be presented to the House of Lords.

1.11 Leave to appeal from the Court of Session is also required for an appeal to the House of Lords under the provisions of certain Acts of Parliament, and such leave may be granted either by the Court of Session or, if refused by the Court of Session, by the House of Lords<sup>7</sup>. When leave to appeal is granted pursuant to direction 1.10 or this direction, it is not necessary for two Scottish counsel to certify that the appeal is reasonable<sup>8</sup>.

#### *Appeals from (i) High Court of Justice in England & Wales; and (ii) High Court of Justice in Northern Ireland*

1.12 In certain cases, and subject to certain conditions, an appeal lies direct from the High Court in England and Wales or in Northern Ireland to the House of Lords. A certificate of the High Court must first be obtained and the leave of the House of Lords then sought and given before the appeal may proceed (see direction 6)<sup>9</sup>. No application may be made to the House of Lords without the certificate of the High Court.

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<sup>1</sup> This does not apply to applications for leave to cross-appeal where an Appeal Committee has given leave to appeal in the original appeal: direction 30.1.

<sup>2</sup> For form of petition, see Appendix A, Form 1.

<sup>3</sup> Court of Session Act 1988 s 40(1)(a). The right of appeal may however be restricted or excluded by statute e.g. Transport Act 1985 s 117, Sch 4, para 14(1).

<sup>4</sup> For the purposes of Standing Order IV the word "counsel" includes any enrolled solicitor having a right of audience in the House of Lords.

<sup>5</sup> Court of Session Act 1988 s 40(1)(a).

<sup>6</sup> Court of Session Act 1988 s 40(1)(b).

<sup>7</sup> e.g. Aircraft and Shipbuilding Act 1977 s 9; Tribunals and Inquiries Act 1992 s 11.

<sup>8</sup> Standing Order IV.

<sup>9</sup> Administration of Justice Act 1969 ss 12-15.

### *Civil contempt of court cases*

1.13 In cases involving civil contempt of court, an appeal may be brought under s 13 of the Administration of Justice Act 1960<sup>1</sup>. Leave to appeal is required and an application for such leave must first be made to the court below. If that application is refused, a petition for leave to appeal may then be presented to the House of Lords. Where the decision of the court below is a decision on appeal under the same section of the same Act, leave to appeal to the House of Lords is only granted if the court below certifies that a point of law of general public importance is involved in that decision and if it appears to that court or to the House, as the case may be, that the point is one that ought to be considered by the House. Where the court below refuses to grant the certificate required, a petition for leave to appeal is not accepted for presentation to the House.

### *Admissibility of petitions*

1.14 Leave to appeal to the House of Lords is subject to statutory restrictions. The following types of petition are excluded by statute from the House's jurisdiction:

- (a) petitions for leave to appeal from a refusal by the Court of Appeal to grant leave to appeal to that court from a judgment or order of a lower court, or from any other preliminary decision of the Court of Appeal in respect of a case in which leave to appeal to the Court of Appeal was not granted<sup>2</sup>;
- (b) petitions for leave to appeal brought by a petitioner in respect of whom the High Court has made an order under s 42 of the Supreme Court Act 1981 (restriction of vexatious legal proceedings), except a petition for leave to appeal against the s 42 order itself;
- (c) petitions for leave to appeal from a decision of the Court of Appeal on any appeal from a county court in any probate proceedings<sup>3</sup>;
- (d) petitions for leave to appeal from a decision of the Court of Appeal on an appeal from a decision of the High Court on a question of law under Part III of the Representation of the People Act 1983 (legal proceedings)<sup>4</sup>.

1.15 The Judicial Office will not accept for lodgement any petition for leave to appeal that:

- (a) falls under direction 1.14(a); and
- (b) seeks leave to appeal against an order of the Court of Appeal which that Court has certified by virtue of section 54(4) of the Access to Justice Act 1999 may not be appealed to the House of Lords.

1.16 No petition for leave to appeal will be considered by an Appeal Committee unless:

- (a) the petition is properly served on the respondents (see direction 3.12);
- (b) all the required documents are supplied to the Judicial Office (see directions 3.13 and 4.2); and
- (c) the prescribed fee is paid or a form of waiver lodged (see directions 3.16-3.17).

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<sup>1</sup> Or, in Northern Ireland, under Judicature (Northern Ireland) Act 1978 s 44. Appeals involving criminal contempt of court are subject to the *Practice directions applicable to Criminal Appeals* (October 2007 ed).

<sup>2</sup> See the decisions of the House in *Lane v. Esdaile* [1891] AC 10; and *R v. Secretary of State for Trade and Industry ex parte Eastaway* [2000] 1WLR 2222; Access to Justice Act 1999 s 54 and Part 52 Civil Procedure Rules (as amended). Section 54 of the Access to Justice Act 1999 does not extend to Northern Ireland and the Civil Procedure Rules do not apply there, but otherwise direction 1.14(a) and the rule in *Lane v Esdaile* apply to Northern Ireland. No appeal lies to the House from incidental decisions of the Court of Appeal which may be called into question by rules of court: Supreme Court Act 1981 s 58 (as amended by Access to Justice Act 1999 s 60).

<sup>3</sup> County Courts Act 1934 s 82.

<sup>4</sup> Representation of the People Act 1983 s 157(1).

1.17 When a petition for leave to appeal falls within directions 1.14(a) and 1.15, the Judicial Office informs the petitioner in writing that the House of Lords has no jurisdiction in the matter. The European Court of Human Rights accepts this letter as setting out the jurisdiction of the House of Lords in the litigation, for the purpose of determining whether the petitioner has satisfied the requirement, laid down by Article 35 of the European Convention on Human Rights, that all domestic remedies must be exhausted before an appeal can be made to the Strasbourg Court.

1.18 Under the rule in *Taylor v Lawrence*<sup>1</sup> the Court of Appeal can in exceptional circumstances reopen an appeal or application for permission to appeal after it has given a final judgment. If the Court of Appeal refuses an application to reopen a previously concluded appeal or application for permission to appeal, no application may be made to the House of Lords for permission to appeal against that refusal<sup>2</sup>.

### ***Judicial review: civil matters***

1.19 An application for permission to apply for judicial review is made to the Administrative Court (part of the Queen's Bench Division of the High Court). If the judge of the Administrative Court refuses the application without a hearing, an application can be made for the decision to be reconsidered at a hearing.

Where permission to apply for judicial review has been refused by the Administrative Court after consideration of the papers and after reconsideration at an oral hearing, the applicant may appeal against the refusal of permission. Such an appeal must be lodged in the Court of Appeal within 7 days. For such an appeal to be successful, the applicant needs to be granted both i) permission to appeal against the Administrative Court's determination; and ii) permission to apply for judicial review.

1.20 If the Court of Appeal refuses permission to appeal to it against the decision of the Administrative Court refusing permission to apply for judicial review, there is no appeal to the House of Lords. The House of Lords has no jurisdiction to receive such an appeal<sup>3</sup>. However, if the Court of Appeal (a) grants permission to appeal to it against the Administrative Court's refusal of permission to apply for judicial review, but then (b) itself refuses permission to apply for judicial review, the House of Lords does have jurisdiction to hear an appeal against that refusal<sup>4</sup>.

### ***Cross-appeals***

1.21 See direction 30.

### ***Public funding/legal aid***

1.22 See direction 41.

### ***Counsel***

1.23 Petitioners and respondents to a petition for leave to appeal may instruct leading or junior counsel, but on taxation (assessment of costs) the House allows only junior counsel's fees for any stage of a petition for leave to appeal, even if a public funding or legal aid certificate provides for leading counsel. The only exception to this practice is where leading counsel who conducted the case in the court below are instructed by the Legal Services Commission or legal aid authorities to advise on the merits of an appeal.

## **2. TIME LIMITS**

2.1 Time limits apply as follows:

- (a) Except for applications under direction 2.4, a petition for leave to appeal to the House of Lords should be lodged at the Judicial Office within one month from the date of the order appealed from. The one month period runs from the date of the substantive order appealed from, not from the date on which the order is sealed or the date of any subsequent procedural order (e.g. an order refusing permission to appeal).

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<sup>1</sup> [2002] EWCA Civ 90.

<sup>2</sup> Civil Procedure Rules, r 52.17.

<sup>3</sup> The House's decision in *R v Secretary of State for Trade and Industry, ex parte Eastaway* [2000] 1 WLR 2222 applying the principle in *Lane v Esdaile* [1891] AC 10.

<sup>4</sup> The House's decision in *R v Hammersmith and Fulham LBC, ex parte Burkett* [2002] 1WLR 1593.

- (b) If a petitioner has applied for public funding, the above period is extended to one month after the decision whether funding should be granted, including any appeals. The Judicial Office must be informed in writing within the original one month period that public funding has been applied for (direction 41).
- (c) Petitions for leave to appeal out of time are admissible.

### ***Petitions out of time***

2.2 A petition for leave to appeal lodged outside the one month period is accepted by the Judicial Office for presentation to the House provided that:

- (a) it has been drafted in the style required for such petitions and seeks leave to appeal out of time<sup>1</sup>; and
- (b) it sets out in the first paragraph the reason(s) why it was not lodged within the time limit; and
- (c) it is in order in all other respects.

The reason(s) should not normally exceed one paragraph in length.

2.3 In considering a petition for leave to appeal out of time, the Appeal Committee may reject it solely on the ground that it is out of time; but the Appeal Committee may grant an extension of time and decide the application for leave on the merits.

### ***Contempt of court***

2.4 A petition for leave to appeal in a case involving civil contempt of court must be lodged in the Judicial Office within 14 days (not one month), beginning with the date of the refusal of leave by the court below (not the following day)<sup>2</sup>.

## **3. LODGMENT OF PETITION**

### ***Form of petition***

3.1 A petition for leave to appeal should be produced on A4 paper, securely bound on the left, using both sides of the paper. The petition should set out briefly the facts and points of law; and conclude with a summary of the reasons why leave should be granted<sup>3</sup>. Petitions which are not legible or which are not produced in the required form are not accepted. A petition should not contain annexes or appendices. Parties may consult the Judicial Office at any stage of preparation of the petition, and may submit petitions in draft for approval.

3.2 Supporting documents other than those set out in direction 4.2 are not normally accepted.

3.3 Amendments to petitions and the lodging of supplementary petitions are allowed only in exceptional circumstances. The Head of the Judicial Office may allow amendments to petitions and the lodging of supplementary petitions if he is satisfied that this will assist the Appeal Committee and will not unfairly prejudice the respondents or cause undue delay. Any such amendments and supplementary petitions must be served on the respondents (see direction 3.12).

3.4 If a petition for leave to appeal

- (a) asks the House to depart from one of its own decisions;
- (b) raises issues relating to the Human Rights Act 1998; or
- (c) seeks a reference to the Court of Justice of the European Communities,

the point should be stated clearly in the petition.

3.5 A petition for leave to appeal must be signed by the petitioners or their agents.

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<sup>1</sup> For style see Appendix A, Form 3.

<sup>2</sup> Administration of Justice Act 1960 s 13 (as amended).

<sup>3</sup> For style see Appendix A, Forms 1, 2.

3.6 On the back of the petition for leave, below the certificate of service, there should be inserted the neutral citation of the judgment petitioned against, the references of any law report in the courts below, and subject matter catchwords for indexing (whether or not the case has been reported).

#### ***Case title***

3.7 Petitions for leave to appeal to the House of Lords carry the same title as in the court below, except that the parties are described as petitioner(s) and respondent(s). For reference purposes, the names of parties to the original action who are not parties to the appeal should nevertheless be included in the title: their names should be enclosed in square brackets. The names of all parties should be given in the same sequence as in the title used in the court below.

3.8 Petitions in which trustees, executors etc. are parties are titled in the short form, for example *Trustees of John Black's Charity (Respondents) v. White (Petitioner)*.

3.9 In any petition concerning minors or where in the court below the title used has been such as to conceal the identity of one or more parties to the action, this fact should be clearly drawn to the attention of the Judicial Office at the time the petition is lodged, so that the title adopted in the House of Lords can take account of the need for anonymity. Petitions involving minors are normally given a title in the form *In re B* (see also direction 9.9).

3.10 In case titles involving the Crown, the abbreviation "R" meaning "Regina" is used. "R" is always given first. So case titles using this abbreviation take the form *R v Jones (Petitioner)* or *R v Jones (Respondent)* (as the case may be) or *R (on the application of Jones) (Petitioner) v Secretary of State for the Home Department (Respondent)*.

3.11 Apart from the above, Latin is not used in case titles.

#### ***Service***

3.12 A copy of the petition must be served on the respondents or their agents, either by delivery in person or by first class post, before it is lodged at the Judicial Office. A certificate of such service (noting the full name and address of the respondents or their agents) must be endorsed on the back of the original petition and signed<sup>1</sup>.

#### ***Lodgment***

3.13 Two original copies of the petition must be lodged at the Judicial Office, together with a copy of the order appealed against and, if separate, a copy of the order of the court below refusing leave to appeal. If the substantive order appealed against is not immediately available, the petition should nevertheless be lodged within the required time limits, and the order lodged as soon as possible thereafter.

3.14 An agent who attends the Judicial Office to lodge a petition for leave to appeal or accompanying papers must be familiar with the subject matter of the petition.

3.15 A petition for leave to appeal is presented to the House and recorded in the House of Lords Business on the day it is lodged or on the next sitting day of the House.

#### ***Waiver of fees***

3.16 Standing Order XIII provides that a fee is payable when a petition for leave to appeal is lodged. For the present level of fees, see Appendix C.

3.17 In circumstances where a petitioner would suffer financial hardship by the payment of fees to the House, the requirement to pay fees may be waived. Application should be made to the Judicial Office. In order to provide an objective test, and to keep in step with the courts below, the Judicial Office applies the provisions of the Civil Proceedings Fees Order 2004<sup>2</sup> to determine financial hardship for the purposes of Standing Order XIII. Waivers of fees are also granted to petitioners who have been granted a remission of fees in the court below.

The fee paid by a petitioner on a petition for leave to appeal is not refunded, even if the Appeal Committee dismiss the petition as inadmissible.

#### ***Appearance for respondents***

3.18 Respondents or their agents should enter appearance to a petition for leave as soon as they have received service. The respondents or their agents enter appearance by informing the Judicial Office by post of their name and address or that of their firm and paying the prescribed fee. The fee is refunded if the petition is dismissed as inadmissible.

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<sup>1</sup> For style see Appendix A, Form 2.

<sup>2</sup> SI 2004 No 3121.



3.19 Respondents who do not intend to take part in the proceedings do not need to enter appearance, but the Judicial Office sends communications concerning a petition for leave to appeal only to those who have entered appearance.

3.20 An order for costs will not be made in favour of a respondent who has not entered appearance.

#### ***Interventions in petitions for leave to appeal***

3.21 Save in exceptional circumstances, no application may be made to intervene in support of a petition for leave to appeal<sup>1</sup>.

#### ***Communications by fax/e-mail***

3.22 See direction 26.2.

### **4. APPEAL COMMITTEE**

4.1 Petitions for leave to appeal to the House of Lords are considered by an Appeal Committee consisting of three Lords of Appeal. Petitions are generally decided on the papers alone, without a hearing.

#### ***Additional papers***

4.2 The following additional papers for use by the Appeal Committee must be lodged within seven days of lodgment of the petition:

- (a) four copies of the petition;
- (b) four copies of the order appealed against;
- (c) if separate from the order at (b) above, four copies of the order of the court below refusing leave to appeal to the House of Lords;
- (d) four copies of the official transcript of the judgment of the court below<sup>2</sup>;
- (e) four copies of the final order(s) of all other courts below;
- (f) four copies of the official transcript of the final judgment(s) of all other courts below<sup>3</sup>;
- (g) four copies of any unreported judgment(s) cited in the petition or judgment of a court below.

No other papers are required, and documents other than those listed above are not accepted unless requested by the Appeal Committee.

4.3 Papers lodged in accordance with direction 4.2 should be lodged as individual documents, double-sided, single-stapled and not inserted into ring binders. Documents which are not clearly legible or which are not in the required style or form (see direction 3.1) are not accepted.

4.4 Where the required papers are not lodged within three months of presentation of the petition and no good reason is given for the delay, the petition may at the direction of the Head of the Judicial Office be referred to an Appeal Committee without the required accompanying papers.

#### ***Consideration on the papers***

4.5 The Appeal Committee decides first whether a petition for leave to appeal is admissible. The rules on admissibility are set out in direction 1.14. If the Appeal Committee determines that a petition is inadmissible, it may refuse leave on that ground alone and not consider the content of the petition. The Appeal Committee gives a reason for deciding that the petition is inadmissible.

4.6 If the Appeal Committee decides that a petition is admissible, the Committee may then:

- (a) refuse leave (see direction 4.8);
- (b) give leave outright (see direction 4.9);
- (c) invite the respondents to lodge objections to the petition (see directions 4.10-4.14);
- (d) give leave on terms (see direction 4.15);

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<sup>1</sup> For interventions in appeals, see direction 37.

<sup>2</sup> If the judgment has been published in a report which is ordinarily received in court, copies of the report may be lodged in lieu of transcripts. Transcripts of judgments marked “in draft” are not accepted without certification by the relevant court that the copy is the final version of the judgment.

<sup>3</sup> Or, in the case of a County Court, of the Judge’s Notes.

(e) refer the petition for an oral hearing (see directions 4.16-4.21).

4.7 Leave to appeal is granted to petitions that, in the opinion of the Appeal Committee, raise an arguable point of law of general public importance which ought to be considered by the House at this time, bearing in mind that the matter will already have been the subject of judicial decision and may have already been reviewed on appeal. A petition which in the opinion of the Appeal Committee does not raise such a point of law is refused on that ground. The Appeal Committee gives brief reasons for refusing leave to appeal<sup>1</sup> but does not otherwise explain its decisions<sup>2</sup>.

#### ***Leave refused***

4.8 If the Appeal Committee is unanimous that a petition should be refused, the parties are notified that the petition is dismissed.

#### ***Leave given outright***

4.9 If the Appeal Committee is unanimous that a petition should be allowed without further proceedings, the House grants leave outright (without inviting respondents' objections).

#### ***Respondents' objections***

4.10 Respondents may submit written objections giving their reasons why leave to appeal should be refused. They may do this:

- (a) within 14 days of the date of service on them of the petition for leave to appeal; or
- (b) within 14 days of any invitation by the Appeal Committee to do so; or
- (c) within 14 days of a petition for leave to appeal being referred for an oral hearing.

4.11 Respondents' objections set out briefly the reasons why the petition should be refused or make submissions as to the terms upon which leave should be granted (for example, on costs). One master plus four copies of the respondents' written objections must be lodged at the Judicial Office. The objections must be produced on A4 paper, securely fastened, using both sides of the paper.

4.12 A copy of the respondents' objections should be sent to the agents for the other parties. In certain circumstances the Appeal Committee may invite further submissions from the petitioners in the light of the respondents' objections, but petitioners do not have a right to comment on respondents' objections. Where the Appeal Committee does not require further submissions, and provided the Committee is unanimous in its decision to grant or refuse leave, it reports its decision to the House and the parties are informed. Where the Appeal Committee proposes terms for granting leave, direction 4.15 applies.

4.13 Respondents' objections are subject to any order for costs made by the Appeal Committee or, if leave to appeal is granted, become costs in the appeal (see direction 5).

4.14 Respondents unable to meet the deadlines set out in direction 4.10 must write to the Head of the Judicial Office requesting an extension of time for lodging their written objections.

#### ***Leave given on terms***

4.15 If the Appeal Committee decides that leave to appeal should be given on terms:

- (a) the Committee proposes the terms and the parties have the right to make submissions on the proposed terms within 14 days of the date of the Committee's decision to give leave to appeal;
- (b) prospective appellants who are granted leave to appeal subject to terms that they are unwilling to accept may decline to pursue the appeal;
- (c) in an application for leave to appeal under the "leapfrog" procedure (see direction 6), prospective appellants who decline to proceed on the basis of the terms proposed by the Appeal Committee may instead pursue an appeal to the Court of Appeal in the usual way<sup>3</sup>.

#### ***Petition referred for oral hearing***

<sup>1</sup> See also directions 34.2 and 34.3 for practice where a point of European Community law is raised on a petition for leave to appeal.

<sup>2</sup> See Appeal Committee, 38th Report (2002-03): *Petitions for leave to appeal: reasons for the refusal of leave* (HL Paper 89).

<sup>3</sup> *Ceredigion County Council v Jones and others* [2007] UKHL 24.

- 4.16 In all cases where the members of the Appeal Committee are not unanimous, or where further argument is required, a petition for leave to appeal is referred for an oral hearing.
- 4.17 If the respondents have not already lodged written objections, they may do so within 14 days of being informed that the petition has been referred for a hearing (direction 4.10(c)).
- 4.18 When a petition is referred for an oral hearing, the petitioners and all respondents who have entered appearance are notified of the date of the hearing before the Appeal Committee.
- 4.19 Parties may be heard before the Appeal Committee by counsel, by agent, or in person, but one only may be heard on each side.
- 4.20 If counsel is briefed, agents should ensure that the Judicial Office is notified of their name. Only a junior counsel's fee is allowed on taxation (direction 1.23).
- 4.21 Authorities are not normally cited before the Appeal Committee or provided for the Committee's use at the hearing.

#### ***Lodgment of petition of appeal***

- 4.22 If leave to appeal is given, the petition of appeal (direction 9) must be lodged with the prescribed fee within 14 days of the date of the Appeal Committee's decision. Failure to meet this deadline results in the petition of appeal being lodged out of time and referred to an Appeal Committee pursuant to direction 7.3.

#### ***Order of the House***

- 4.23 Copies of the House of Lords Business<sup>1</sup> recording the report of the Appeal Committee and the order of the House are sent to all parties who have entered appearance.
- 4.24 A formal order of the Appeal Committee is not normally issued but will be issued on written request and on payment of a fee. A formal order is not required for taxation of costs arising from the application for leave to appeal.

#### ***Expedition***

- 4.25 Once the required papers are lodged at the Judicial Office (direction 4.2), the procedure described above is normally completed within eight sitting weeks (excluding any oral hearing). In cases involving liberty of the subject, urgent medical intervention or the well-being of children (see direction 4.26), application for expedition may be made in writing to the Judicial Office.

#### ***Expeditious hearing of proceedings under the Hague Convention etc***

- 4.26 The *Convention on the Civil Aspects of International Child Abduction* (the Hague Convention) deals with the wrongful removal and retention of children from their habitual country of residence. The Revised Brussels II Regulation also deals with these matters<sup>2</sup>. In the House of Lords an expedited timetable applies. The parties must therefore inform the Judicial Office that the proceedings fall under the Convention or Regulation. The House normally gives judgment within six weeks of the commencement of proceedings in the House. This can only be achieved with the fullest co-operation of the parties.

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<sup>1</sup> I.e the record of the Houses's proceedings.

<sup>2</sup> Council Regulation (EC) No 2201/2003.

4.27 The following timetable may be taken as a general guideline:

- (a) an application for leave to appeal is decided by an Appeal Committee within 7 days of being lodged;
- (b) an appeal is heard within 21 days of a decision to give leave to appeal;
- (c) the result of the appeal is given immediately after the end of the hearing with reasons given later or, if judgment is reserved, the result of the appeal and the reasons are given within 2 weeks of the end of the hearing.

4.28 In order to achieve the timetable in direction 4.27 the House makes dispensing orders to set aside or vary the practice directions that normally apply to applications and appeals to the House.

4.29 Abridged procedures and special rules for the production of documents are applied to meet the circumstances of each application and appeal. The following timetable for the production of documents is therefore indicative only:

- (a) the Statement of facts and issues is lodged within seven days of the decision to give leave to appeal;
- (b) the appellant's case is lodged within 10 days of the decision to give leave to appeal (or, if the relevant day falls on a Saturday or Sunday, the following Monday);
- (c) the respondent's case is lodged within 14 days of the decision to give leave to appeal;
- (d) the Bound Volumes (if required) and the authorities' volumes are lodged within 17 days of the decision to give leave to appeal (or, if the relevant day falls on a Saturday or Sunday, the following Monday).

## 5. COSTS

5.1 Where a petition for leave to appeal is determined without an oral hearing, costs may be awarded as follows:

- (a) to a publicly funded or legally aided petitioner, reasonable costs incurred in preparing papers for the Appeal Committee<sup>1</sup>;
- (b) to a publicly funded or legally aided respondent, only those costs necessarily incurred in attending the client, attending the petitioner's agents, perusing the petition, entering appearance and, where applicable, preparing respondent's objections to the petition<sup>2</sup>;
- (c) to an unassisted respondent where the petitioner is publicly funded or legally aided, payment out of the Community Legal Service Fund (pursuant to s 11 of the Access to Justice Act 1999<sup>3</sup>) of costs as specified at (b) above;
- (d) to a respondent where neither party is publicly funded or legally aided, costs as specified at (b) above.

Where costs are sought under (c) or (d) above, the application may be made by letter addressed to the Judicial Office or may be included in a bill of costs lodged in the Judicial Office conditional upon the application being granted.

5.2 Where a petition for leave to appeal is referred for an oral hearing and is dismissed, application for costs must be made by the respondent at the end of the hearing. No order for costs is made unless requested at that time.

5.3 Where a petition for leave to appeal is allowed, costs of the petition become costs in the appeal.

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<sup>1</sup> See *Practice directions applicable to judicial taxations in the House of Lords and forms of bills of costs*, available from the Judicial Office and at [www.parliament.uk](http://www.parliament.uk).

<sup>2</sup> *Ibid.*

<sup>3</sup> Also pursuant to r 5(2) Community Legal Service (Cost Protection) Regulations 2000 and in accordance with the procedural requirements of rr 9, 10 Community Legal Service (Costs) Regulations 2000 (as amended); or Legal Aid Act 1988 s 18; or in Scotland pursuant to Legal Aid (Scotland) Act 1986 s 19; or in Northern Ireland pursuant to Legal Aid Advice and Assistance (N.I.) Order 1981 Article 16.

5.4 Bills of costs for taxation must be lodged within three months from the date of the decision of the Appeal Committee or the date on which a petition for leave is withdrawn in accordance with direction 45.1. If an extension of the three month period is desired, application must be made in writing to the Taxing Officer and copies of all such correspondence sent to all interested parties. In deciding whether to grant an application for an extension of time made after the expiry of the three month period, the Taxing Officer takes into account the circumstances set out in the practice directions applicable to judicial taxations.

5.5 The practice directions relating to judicial taxations and forms of bills of costs are available from the Judicial Office and on the internet at [www.parliament.uk](http://www.parliament.uk). Fees are payable on taxation of a bill of costs.

***Withdrawal of petitions for leave to appeal***

5.6 See direction 45.1.

## **6. PETITIONS BROUGHT DIRECT FROM THE HIGH COURT**

6.1 In certain cases an appeal lies direct from the High Court in England and Wales or in Northern Ireland to the House of Lords. A certificate of the High Court must first be obtained and the leave of the House of Lords then given before the appeal may proceed<sup>1</sup>. Such appeals are known as “leapfrog” appeals.

***Judge’s certificate***

6.2 An application for a certificate may be made by any of the parties to any civil proceedings in the High Court before a single judge or before a Divisional Court. The application should be made immediately after the trial judge gives judgment in the proceedings or, if no such application is made, within 14 days from the date on which judgment was given.

6.3 The judge may grant a certificate under s 12 of the Administration of Justice Act 1969 if he is satisfied (a) that the relevant conditions are fulfilled; (b) that a sufficient case has been made to justify taking to the House of Lords an application for leave; and (c) that all the parties to the proceedings consent to the grant of a certificate.

6.4 The relevant conditions are that a point of law of general public importance is involved in the judge’s decision, and that that point of law either (a) relates wholly or mainly to the construction of an enactment or of a statutory instrument and has been fully argued in the proceedings and fully considered in the judgment of the judge in the proceedings<sup>2</sup>, or (b) is one in respect of which the judge is bound by a decision of the Court of Appeal or House of Lords in previous proceedings and was fully considered in the judgments of the Court of Appeal or House of Lords in those previous proceedings<sup>3</sup>.

6.5 The judge may not grant a certificate in cases where no appeal would lie (with or without leave) from the judge’s decision to the Court of Appeal, apart from the provisions of the Administration of Justice Act 1969. Similarly, a certificate may not be granted where no appeal would lie (with or without leave) from the Court of Appeal on an appeal from the judge’s decision. Where no appeal would lie from the judge’s decision to the Court of Appeal except with the leave of the judge or the Court of Appeal, no certificate may be granted unless it appears to the judge that it would be a proper case for granting such leave.

6.6 No certificate may be given where the judge’s decision concerns punishment for contempt of court.

6.7 No appeal lies against the grant or refusal of a certificate, but if a certificate is refused the applicant may appeal to the Court of Appeal from the High Court’s decision in the normal way, once the time for applying for a certificate has expired.

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<sup>1</sup> Administration of Justice Act 1969 ss 12-15.

<sup>2</sup> Administration of Justice Act 1969 s 12(3)(a).

<sup>3</sup> Administration of Justice Act 1969 s 12(3)(b).

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***Petition for leave to appeal direct from High Court***

6.8 At any time within one month from the date on which the judge grants the certificate, or such extended time as the House of Lords may allow<sup>1</sup>, any of the parties may apply to the House of Lords for leave to appeal<sup>2</sup>. Application is made by petition. If any party to the action in the High Court is not a party to the petition, the petition must be endorsed with a certificate of service on that party.

6.9 One copy of the judge's certificate must be lodged with the petition. The petition should indicate whether the judge's certificate was granted under s 12(3)(a) or s 12(3)(b) of the Administration of Justice Act 1969.

6.10 The following additional papers for use by the Appeal Committee must be lodged within seven days of the lodgment of the petition:

- (a) four additional copies of the petition;
- (b) four copies of order of High Court;
- (c) four additional copies of the High Court's certificate, if not contained in the order; and
- (d) four copies of the transcript of the judgment of the High Court<sup>3</sup>.

No other papers are required, and documents other than those listed above are not normally received.

6.11 Petitions for leave are determined by an Appeal Committee without a hearing.

6.12 In petitions where the certificate has been granted by the judge under s 12(3)(a) of the 1969 Act, the House only grants leave to appeal where:

- (a) there is an urgent need to obtain an authoritative interpretation by the House of Lords;
- (b) the case is one in which leave to appeal to the House of Lords would have been granted if it had not been brought direct to the House and the judgment had been that of the Court of Appeal; and
- (c) it does not appear likely that any additional assistance could be derived from a judgment of the Court of Appeal.

Similarly, where the certificate has been granted under s 12(3)(b) of the 1969 Act, the House only grants leave where:

- (i) the case is not distinguishable from the case that was the subject of the previous decision;
- (ii) the previous case was fully considered in a previous judgment after argument that appears to have been adequate; and
- (iii) the case is one in which leave to appeal to the House of Lords would have been granted if it had not been brought direct to the House and the judgment had been that of the Court of Appeal.

6.13 The Judicial Office notifies the parties of the Appeal Committee's decision.

***Extensions of time***

6.14 If an applicant cannot lodge the petition within one month from the date on which the judge's certificate was granted, the applicant must within the one month period lodge in the Judicial Office:

- (i) a request for an extension of time, giving reasons why an extension is needed; and
- (ii) three copies of the transcript of the High Court's judgment.

The request is referred to an Appeal Committee and determined without a hearing. The Judicial Office notifies the applicant of the Appeal Committee's decision.

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<sup>1</sup> For applications to extend time see direction 6.14.

<sup>2</sup> Administration of Justice Act 1969 s 13(1).

<sup>3</sup> If the judgment has been published in a report which is ordinarily received in court, copies of the report may be lodged in lieu of transcripts. Transcripts of judgments marked as in draft are not acceptable without certification by the relevant court that the copy is the final version of the judgment.

***Proceedings after leave to appeal is granted or refused***

6.15 If the House grants leave to appeal without terms, no appeal from the decision of the judge lies to the Court of Appeal but only to the House of Lords. The appeal is brought by petition and the usual requirements apply. However, an appeal does lie to the Court of Appeal from the judge's decision (i) where no application is made to the House of Lords within the one month period after the judge has granted the certificate; or (ii) where leave to appeal direct to the House has been refused by the House of Lords.

Prospective appellants who decline to proceed on the basis of the terms proposed by the Appeal Committee may instead pursue an appeal to the Court of Appeal in the usual way (see direction 4.15)<sup>1</sup>.

***Habeas corpus***

6.16 Proceedings for a writ of habeas corpus are subject to the procedures governing criminal appeals to the House of Lords. These are set out in the Red Book of criminal practice directions<sup>2</sup>. In proceedings for a writ of habeas corpus, an appeal lies from the Queen's Bench Divisional Court to the House of Lords at the instance of the defendant or prosecutor with the leave either of the Divisional Court or the House of Lords. No certificate stating a point of law of general public importance is required<sup>3</sup>.

6.17 Such a petition is considered by an Appeal Committee without an oral hearing. Parties are notified of the Committee's decision.

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<sup>1</sup> *Ceredigion County Council v Jones and others* [2007] UKHL 24.

<sup>2</sup> See n 1 on p 7 above.

<sup>3</sup> Administration of Justice Act 1969 ss 1, 15(3); Judicature (Northern Ireland) Act 1978, s 45(3).

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**PART II – DIRECTIONS APPLYING IN ALL CIVIL APPEALS**

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**7. TIME LIMITS**

7.1 A petition of appeal must be lodged at the Judicial Office within three months of the date on which the order appealed against was made<sup>1</sup>.

7.2 However, this time limit may be varied by an order of the House when granting leave or by an order of the court below. The order appealed against is the substantive order complained of.

***Out of time appeals***

7.3 Where a petition of appeal is not lodged within the time allowed, a petition for leave to present the appeal out of time may be lodged<sup>2</sup>. This petition is referred to an Appeal Committee.

***Fees***

7.4 A fee is payable on a petition of appeal and on a petition for leave to present a petition of appeal out of time (see Appendix C).

**8. LONDON AGENTS**

8.1 Solicitors outside London may appoint London agents. Those who decide not to do so should note that any additional costs incurred as a result of that decision may be disallowed on taxation (assessment of costs).

**9. LODGMENT OF APPEAL*****Form of petition of appeal***

9.1 Petitions of appeal must be produced on A4 paper, securely bound on the left, using both sides of the paper<sup>3</sup>.

9.2 Where leave to appeal has been obtained, it is enough for the petition of appeal to be signed by the appellants or their agents. In appeals where leave to appeal is not required (for example, in most Scottish appeals) the petition of appeal must be certified as reasonable by two counsel from the relevant jurisdiction and signed by them<sup>4</sup>. In Scottish appeals a certificate of difference of opinion must also be included where appropriate<sup>5</sup>.

9.3 On the back page of the petition, below the certificate of service, there should be inserted the neutral citation of the judgment appealed against, the references of any law report of the case in the courts below and subject matter catchwords for indexing (whether or not the case has been reported).

***Case title***

9.4 Petitions of appeal to the House of Lords carry the same title as in the court below, except that the parties are described as appellant(s) and respondent(s). For reference purposes, the names of parties to the original action who are not parties to the appeal should nevertheless be included in the title: their names should be enclosed in square brackets. The names of all parties should be given in the same sequence as in the title used in the court below.

9.5 Petitions in which trustees, executors, etc. are parties are titled in the short form, for example *Trustees of John Black's Charity (Respondents) v. White (Appellant)*.

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<sup>1</sup> Standing Order I. The court below may reduce but may not extend the three month period. For extensions of time in publicly funded/legal aid cases, see directions 41.3-41.4.

<sup>2</sup> Adapt Appendix A, Form 4 using Form 3 as a model, and stating that the time limited by Standing Order I has expired.

<sup>3</sup> See Appendix A, Form 4 for style of petition, and direction 24 for preparation of documents.

<sup>4</sup> Standing Order IV. In such cases, counsel's signatures are required even if the appellants propose to conduct the appeal in person. For the purposes of the Standing Order, "counsel" includes any solicitor who has obtained a Higher Courts Qualification in respect of civil proceedings.

<sup>5</sup> See Standing Order XI.

9.6 In any petition concerning minors or where in the court below the title used has been such as to conceal the identity of one or more parties to the action, this fact should be clearly drawn to the attention of the Judicial Office at the time the petition is lodged, so that the title adopted in the House of Lords can take account of the need for anonymity. Petitions involving minors are normally given a title in the form *In re B* (see also direction 9.9).

9.7 In case titles involving the Crown, the abbreviation “R” meaning “Regina” is used. “R” is always given first. Case titles using this abbreviation take the form *R v Jones (Appellant)* or *R v Jones (Respondent)* (as the case may be) or *R (on the application of Jones) (Appellant) v Secretary of State for the Home Department (Respondent)*.

9.8 Apart from the above, Latin is not used in case titles.

#### ***Anonymity and reporting restrictions***

9.9 In any appeal concerning children, the parties, in addition to considering the case title to be used, should also consider whether it would be appropriate for the House to make an order under s 39 of the Children and Young Persons Act 1933. The parties should always inform the Judicial Office if such an order has been made by a court below. A request for such an order to be made by the House should be made in writing, preferably on behalf of all parties to the appeal, as soon as possible after the appeal has been presented and not later than 14 days before the start of the hearing.

9.10 Direction 9.9 also applies to a request for an order under s 4 of the Contempt of Court Act 1981.

#### ***Human Rights Act 1998***

9.11 Appellants must notify the Judicial Office in writing when:

- (a) the House is to be asked to consider whether to make, uphold or reverse a declaration that a provision of primary or subordinate legislation is incompatible with a European Human Rights Convention right<sup>1</sup>, or is to be asked to consider any issue which may lead the House to make such a declaration, or where such an issue is or may be raised in respect of a judicial act;
- (b) a party seeks to challenge an act of a public authority under the Human Rights Act 1998; or
- (c) a party relies in whole or in part on the provisions of the Human Rights Act 1998.

Appellants should indicate whether notification is made under (a), (b) or (c) above (see direction 33.1). They should set out briefly the arguments involved; and state whether the point was taken in the courts below. In appeals in which (a) above is an issue, the Crown has a right to be joined as a party to the appeal (see direction 33.2).

#### ***Service***

9.12 A copy of the petition of appeal must be served on the respondents or their agents, either by delivery in person or by first class post, before lodgment at the Judicial Office. A certificate of such service noting the full name and address of the respondents or their agents must be endorsed on the back of the original petition and signed by the appellants or their agents<sup>2</sup>.

#### ***Lodgment***

9.13 The original petition of appeal together with seven copies must be lodged at the Judicial Office with the prescribed fee. If leave to appeal was granted by the court below, a copy of the order appealed against must also be lodged and, if separate, a copy of the order granting leave to appeal to the House of Lords. If the order is not immediately available, the petition should be lodged in time and the order lodged as soon as possible thereafter.

9.14 Once the petition of appeal has been lodged, it is presented to the House and recorded in the House of Lords Business<sup>3</sup>. A copy of the House of Lords Business is sent to all parties who have entered appearance (direction 9.15).

#### ***Appearance for respondents***

9.15 Respondents or their agents should enter appearance to an appeal as soon as they have received service of the petition of appeal, by informing the Judicial Office by post of their name and address or that of their firm and paying the prescribed fee.

<sup>1</sup> Human Rights Act 1998, which gives further effect in domestic law to much of the *Convention for the Protection of Human Rights and Fundamental Freedoms agreed by the Council of Europe at Rome on 4 November 1950*.

<sup>2</sup> For style see Appendix A, Form 5.

<sup>3</sup> The record of the Houses’s proceedings.

9.16 Respondents who do not intend to take part in the proceedings do not need to enter appearance, but the Judicial Office sends communications concerning the appeal only to those who have entered appearance. An order for costs will not be made in favour of a respondent who has not entered appearance.

## 10. SECURITY FOR COSTS

10.1 Within seven days of the presentation of an appeal, appellants must give security for costs by paying into the House of Lords Security Fund Account the sum fixed by the House<sup>1</sup>. Failure to do so results in the appeal being dismissed by default (unless public funding or legal aid has been applied for: see direction 41.3).

10.2 Payment is made by banker's draft or cheque made payable to 'House of Lords Security Fund Account'. If an appellant wishes to pay in cash, the Judicial Office may only accept cash up to £10,000, in order to comply with money laundering regulations. No interest is payable on security money.

### *Waiver of security*

10.3 Provided that all the respondents agree that security for costs should be waived, the appellants may lodge a consent form asking the House to release the appellants from the obligation to pay security for costs. The consent must be signed by all the respondents and lodged with the prescribed fee within seven days of the presentation of the appeal. An order is then made absolving the appellants from giving security. A copy of the form of consent is available from the Judicial Office.

10.4 The following are not required to give security for costs and no waiver is necessary:

- (a) an appellant who has been granted a certificate of public funding/legal aid;
- (b) an appellant in an appeal under the Child Abduction and Custody Act 1985;
- (c) a Minister or Government department<sup>2</sup>.

10.5 No security for costs or waiver is required in cross-appeals.

10.6 The House has the power to vary or dispense with the requirement to give security for costs when the respondents do not agree to a waiver, but uses this power rarely, and only after an Appeal Committee has recommended that the requirement for security should be waived<sup>3</sup>. The Appeal Committee normally takes this decision on the papers alone, without an oral hearing.

## 11. STATEMENT OF FACTS AND ISSUES

11.1 It is the appellants' responsibility to lodge a Statement of the facts and issues (with an Appendix (see direction 12)). The Statement should be a succinct account of the main facts of the case, including an account of judicial proceedings up to that point and an account of the issues raised by the appeal. The appellants are responsible for drawing up the Statement in draft and they must submit it to the respondents for discussion and agreement. The Statement must be a single document agreed between the parties. In the event of disagreement, disputed material should be removed from the draft Statement and included instead in each party's case (see direction 15). The Statement must be signed on behalf of each party by at least one counsel who appeared in the court below or who will appear at the hearing before the House.

### *Form of Statement of facts and issues*

11.2 The Statement of facts and issues should be produced on A4 paper, securely bound on the left, and incorporate:

- (a) pages printed on both sides of the paper;
- (b) capital letters down the inside margins;
- (c) references on the outside margins to relevant pages of the Appendix;
- (d) on the front cover, the reference of every law report of the case in the courts below, together with the catchword summary of one of the reports;
- (e) on the front cover, a headnote summary, whether or not the case has been reported;

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<sup>1</sup> Standing Order V(1). The sum fixed is stated in Appendix C.

<sup>2</sup> Standing Order V(2).

<sup>3</sup> See speech of the Lord Chancellor, the Lord Irvine of Lairg, HL Deb 26 July 1999, col 1292.

- (f) on the front cover, a statement of the time occupied in the courts below;
- (g) on the front cover, addresses of parties at foot of page; and
- (h) at the end, the signatures of counsel for both parties above their printed names.

## 12. APPENDIX

12.1 It is the appellants' responsibility, in consultation with the respondents, to prepare and lodge an Appendix of documents considered necessary for the appeal. These documents include all the documents used in evidence or recording proceedings in the courts below.

12.2 The appellants bear the cost of preparing the Appendix, although these costs are ultimately subject to the decision of the House as to the costs of the appeal.

### *Contents of Appendix*

12.3 The Appendix contains only documents or extracts from documents that are necessary to support and understand the argument when the appeal is heard by the Appellate Committee. No document which was not used in evidence or does not record proceedings relevant to the action in the courts below may be included. Transcripts of arguments in the courts below may not be included unless remarks by a judge are relied on by any party or the arguments refer to facts which are admitted by all parties and as to which no evidence was called.

12.4 The Appendix consists of one or more parts. Part 1 must contain:

- (a) formal originating documents;
- (b) case stated (if any);
- (c) judgments and orders relating to the decisions at first instance and on appeal;
- (d) relevant legislative provisions including delegated legislation; and
- (e) any relevant document on which the action is founded (such as a will, contract, map, plan etc.) or an extract from such document.

12.5 For judgments that have been published, unbound parts of the relevant Law Reports or the Weekly Law Reports should be used if available; otherwise the All England Reports, Tax Cases, Simons' Tax Cases, Reports of Patent Cases and Lloyd's List Reports may be used. In Scottish appeals, Session Cases should be used where available; otherwise, Scots Law Times and Scottish Civil Case Reports may be used. Where, at the time of preparation of the Appendix, a judgment of a court below has not been published, a transcript must be included, which may later be replaced by the published version. In such circumstances, 15 copies of the published version should be submitted to the Judicial Office. Judgments in draft are not accepted. If the printed Act or set of Regulations is conveniently small, it should be used; if the provisions are bulky or numerous, the relevant provisions should be copied. Halsbury's Statutes may be used.

12.6 Other documents should be included in Part 2 of the Appendix and, if the bulk of the documents makes it necessary, in Parts 3, 4 etc. The Appendix volume should only be numbered Part 1 if there is more than one Part.

***Form of Appendix***

12.7 The Appendix takes the following form:

- (a) it must be A4 size bound with a plastic comb binding and blue card covers (blue indicating a civil appeal);
- (b) documents must be printed on both sides of the paper;
- (c) documents must be numbered;
- (d) original documents smaller than A4 may be enlarged to A4 size with a broad outside margin;
- (e) the Appendix must contain an index; and if there is more than one Part, Part 1 of the Appendix must also contain an index to all the other Parts;
- (f) in addition to the requirement at (e) above, if the Appendix has more than one Part, each Part must contain a list of its own contents;
- (g) documents of an unsuitable size or form for binding (for example, booklets or charts) should be included in a pocket attached to the inside back cover of the appropriate Appendix volume;
- (h) no tabs should be included in the Appendix.

***Examination of Appendix***

12.8 The Appendix is for the use of all parties and the contents of the Appendix must be agreed by appellants and respondents. Disputed documents (see direction 12.9) should not be included in the Appendix. As soon as proofs of the Appendix are available they should be examined against the originals by all parties, if possible at one joint examination. As soon as practicable after the examination, a final proof of the Appendix should be provided to each party.

***Documents in readiness at hearing***

12.9 Disputed documents and any document not included in the Appendix which may be required at the hearing should be held in readiness and, subject to leave being given by the Appellate Committee, may be introduced at an appropriate moment. Fifteen copies are required. All such documents are subject to previous examination by the other parties. Where the appellants refuse to include in the Appendix any documents that the respondents consider necessary, the respondents must prepare and reproduce the documents at their own expense, subject to the final order on costs.

***Scottish Record***

12.10 In all Scottish appeals, appellants are required to include in Part 1 of the Appendix:

- (a) a copy of the Record as authenticated by the Deputy Principal Clerk of Session or a Clerk of Session delegated by him;
- (b) a supplement containing an account, without argument or statement of other facts, of the further steps which have been taken in the appeal since the Record was completed; and
- (c) copies of the interlocutors (or parts of interlocutors) complained of<sup>1</sup>.

**13. LODGMENT OF STATEMENT AND APPENDIX*****Time limits***

13.1 The Statement and Appendix must be lodged by the appellants within six weeks of the presentation of the appeal, or within such longer period as may be allowed on petition (see direction 13.3)<sup>2</sup>.

13.2 If this time limit expires during a parliamentary recess, it is automatically extended to the third next sitting day of the House of Lords<sup>3</sup>; and if any party has applied for public funding/legal aid, the time limit is automatically extended to one month after the notification of the result of the funding decision, provided that the Judicial Office has been informed of the application<sup>4</sup>.

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<sup>1</sup> Standing Order VI(2).

<sup>2</sup> Standing Order VI(1). For extensions of time in publicly funded/legally aided cases, see direction 41.

<sup>3</sup> Standing Order VIII.

<sup>4</sup> See direction 41.3-41.4.

***Petitions for extension of time—first extension***

13.3 Appellants who are unable to complete preparation of the Statement and Appendix within the initial six weeks' period may apply by petition for an extension of that time<sup>1</sup>. The petition takes the form common to all formal documents of the House. It should explain briefly the reason(s) why an extension is needed. Application may be made for an extension of up to six weeks from the original expiry date, and the petition must specify the date to which the extension is requested. If that date seems likely to fall in a parliamentary recess, the petition may request extension until '[specify date] or the third sitting day of the next ensuing meeting of the House'<sup>2</sup>.

13.4 A petition for extension of time must be signed by the appellants. It must be submitted to those respondents who have entered appearance for the endorsement of their consent, and it must bear their signature. One master of the petition plus one copy and the prescribed fee must be lodged before the expiry of the six weeks initially allowed for lodging the Statement and Appendix.

***Petitions for extension of time—second and subsequent extensions***

13.5 Up to three extensions of time are granted, provided that they do not prejudice the preparation for the hearing or its proposed date. A petition for a fourth extension of time, and any subsequent petitions, may, at the discretion of the Head of the Judicial Office, be referred to an Appeal Committee.

***Respondents' consent***

13.6 Respondents are expected not to withhold unreasonably their consent to a petition for extension of time. If consent is refused, the petition must be endorsed with a certificate that it has been served on the respondents. The petition is then referred to an Appeal Committee. In that event, eight copies of the petition must be lodged, together with the prescribed fee.

***Lodgment***

13.7 When the Statement and Appendix are ready, one master plus seven copies of the Statement, eight copies of Part 1 of the Appendix and 15 copies of Parts 2 etc. (if any) must be lodged at the Judicial Office with the prescribed fee. The appellants must at the same time apply to set down the appeal for hearing.

**14. SETTING DOWN FOR HEARING**

14.1 An appeal is set down for hearing at the same time as the appellants lodge the Statement and Appendix<sup>3</sup>.

14.2 Once an appeal has been set down for hearing, it may be called on at any time. Certain directions, for example directions 15.13-15.14, may be dispensed with to enable an appeal to be called on at short notice.

***Estimates of length of time needed for hearing of appeal***

14.3 Within seven days of the setting down of an appeal, each party must notify the Judicial Office of the number of hours that their counsel estimate to be necessary for each of them to address the Appellate Committee. Subject to any directions by the Appellate Committee before or at the hearing, counsel are expected to confine their submissions to the time indicated in their estimates. The Judicial Office should be informed at once of any alteration to the original estimate.

14.4 The average length of appeals before the Appellate Committee is two days, and appeals are listed for hearing on this basis. Estimates of more than two days must be explained in writing to the Head of the Judicial Office and may be referred to the Law Lords.

**15. APPELLANTS' AND RESPONDENTS' CASES**

15.1 The case is the statement of a party's argument in the appeal.

<sup>1</sup> For style see Appendix A, Form 6.

<sup>2</sup> As the "third sitting day" depends on future sittings of the House, the date of expiry is not fixed. The appellants should contact the Judicial Office from time to time to discover how sittings of the House affect this date.

<sup>3</sup> For form of application for setting down, see Appendix A, Form 13.

15.2 The case should be confined to the heads of argument that counsel propose to submit at the hearing and omit material contained in the Statement of facts and issues<sup>1</sup>. The members of the Appeal Committee who gave leave to appeal may not be sitting on the Appellate Committee; and so it cannot be assumed that the members of the Appellate Committee will be familiar with the arguments set out in the petition for leave to appeal.

15.3 Page 1 of the case should set out the title of the party on whose behalf it is lodged.

15.4 If either party is abandoning any point taken in the courts below, this should be made plain in their case. If they intend to apply in the course of the hearing for leave to introduce a new point not taken below, this should also be indicated in their case and the Judicial Office informed. If such a point involves the introduction of fresh evidence, application for leave must be made either in the case or by lodging a petition for leave to adduce the fresh evidence.

15.5 If a party intends to invite the House to depart from one of its own decisions, this intention must be clearly stated in a separate paragraph of their case, to which special attention must be drawn. A respondent who wishes to contend that a decision of the court below should be affirmed on grounds other than those relied on by that court must set out the grounds for that contention in their case.

15.6 Transcripts of unreported judgments should only be cited when they contain an authoritative statement of a relevant principle of law not to be found in a reported case or when they are necessary for the understanding of some other authority.

15.7 All cases must conclude with a numbered summary of the reasons upon which the argument is founded, and must bear the signature of at least one counsel for each case to the appeal who has appeared in the court below or who will be briefed for the hearing before the House.

15.8 The lodgment of a case carries the right to be heard by two counsel, one of whom may be leading counsel. The fees of two counsel only for any party are allowed on taxation unless the Appellate Committee orders otherwise on application at the hearing.

#### ***Separate cases***

15.9 All the appellants must join in one case. All the respondents must also join in one case, unless it can be shown that the interests of one or more of the respondents are distinct from those of the rest. If the respondents' interests are distinct, the agents who first lodge their case must certify in a letter to the Judicial Office as follows:

- (a) 'We, as agents for the respondent(s) [*name particular parties*], certify that opportunity has been offered by us for joining in one case to the respondent(s) [*name particular parties*] whose interests are, in our opinion, similar to those set out in the case lodged by us.'; or
- (b) 'We, as agents for the respondent(s) [*name particular parties*], certify that the interests represented in the case lodged by us are, in our opinion, distinct from those of the remaining respondent(s).'

15.10 When one of the foregoing certificates has been given, all remaining respondents wishing to lodge a case must respectively petition to do so in respect of each of their separate cases. Such petitions (which must be lodged with the prescribed fee) must be consented to by the appellants, and must set out the reasons for separate lodgment.

15.11 Parties whose interests in the appeal are passive (for example, stakeholders, trustees, executors, etc.) are not required to lodge a separate case but should ensure that their position is explained in one of the cases lodged.

#### ***Joint case***

15.12 The lodgment of a joint case on behalf of both appellants and respondents may be permitted in certain circumstances.

#### ***Lodgment and exchange of cases***

15.13 No later than five weeks before the proposed date of the hearing, the appellants must lodge at the Judicial Office one master plus seven copies of their case and serve it on the respondents.

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<sup>1</sup> See Lord Diplock's speech in *M.V. Yorke Motors v. Edwards*, [1982] 1 WLR 444 [1982] 1 All ER 1024.

15.14 No later than three weeks before the proposed date of the hearing, the respondents must serve on the appellants a copy of their case in response and lodge at the Judicial Office one master plus seven copies of their case, as must any other party lodging a case (for example, an intervener or advocate to the court).

15.15 The number of copies of cases exchanged should be enough to meet the requirements of counsel and agents and should not usually exceed eight. To enable the appellants to lodge the bound volumes, the respondents and any other party who has lodged a case must also provide the appellants with 15 further copies of their case.

15.16 Following the exchange of cases, further arguments by either side may not without leave be submitted in advance of the hearing.

#### ***Form of cases***

15.17 Cases must be produced on A4 paper, securely bound on the left, with:

- (a) numbered paragraphs;
- (b) capital letters down the inside margins;
- (c) references to Appendix and authorities on the outside margins; and
- (d) signatures of counsel at the end, above their printed names.

#### ***Scottish cases***

15.18 Each party must include in their case to the House a copy of the case presented by them to the Court of Session, with a short summary of any additional reasons on which they propose to insist. If no case was presented to the Court of Session, each party must set forth in their case as shortly and succinctly as possible the reasons upon which they found their argument<sup>1</sup>.

## **16. BOUND VOLUMES**

16.1 As soon as all cases have been exchanged, and no later than 14 days before the proposed date of the hearing, the appellants must lodge (in addition to the documents already lodged on setting down) 15 bound volumes, each containing:

- (a) petition(s) of appeal;
- (b) petition(s) of cross-appeal (if any);
- (c) Statement of facts and issues;
- (d) appellants' and respondents' cases, with cross-references on the outside margins to the Appendix and authorities volume(s);
- (e) case of the advocate to the court or intervener, if any;
- (f) Part 1 of the Appendix; and
- (g) index to the authorities volume(s).

#### ***Form of bound volumes***

16.2 The bound volumes:

- (a) should be bound in the same manner as the Appendix, with plastic comb binding and blue card covers;
- (b) must include cut-out tabs for each of the documents set out in direction 16.1, with the name of the document on the tab;
- (c) must show on the front cover a list of the contents and the names and addresses of the agents for all parties;
- (d) must indicate on a sticker attached to the plastic spine the volume number and the short title of the appeal; and
- (e) should include a few blank pages at either end.

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<sup>1</sup> Standing Order VI(2).



***Provision of documents***

16.3 To enable the appellants to produce the bound volumes, the respondents must provide the appellants' agents with a further 15 copies of the respondents' case in addition to the cases already exchanged.

16.4 Respondents should arrange with the appellants' agents for the delivery to them of such bound volumes as the respondents' counsel and agents require.

**17. AUTHORITIES**

17.1 Ten copies of all authorities that may be needed during the hearing must be lodged at the same time as the bound volumes. The authorities should be collected together into one or more volumes. The appellants are responsible for producing the authorities volumes and lodging them at the Judicial Office. To enable the appellants to lodge the volumes, the respondents must provide the appellants with ten copies of any authorities which the respondents require but which the appellants do not, or arrange with the appellants for their photocopying. Respondents should arrange with the appellants for the delivery to them of such authorities volumes as the respondents' counsel and agents require.

***Form and content of authorities volumes***

17.2 The authorities volumes should:

- (a) be A4 size, comb bound with green card covers;
- (b) have flexible covers;
- (c) separate each authority in the volume by numbered dividers;
- (d) contain an index to that volume; the first volume must also contain an index to all the volumes;
- (e) be numbered consecutively on the cover and spine with numerals at least point 72 in size for swift identification of different volumes during the hearing;
- (f) have printed clearly on the front cover the title of the appeal and the names of the agents for all parties;
- (g) have affixed to the plastic spine a sticker indicating clearly the volume number and short title of the appeal;
- (h) include a few blank pages at either end;
- (i) not be more than 2½cm (1 inch) thick.

17.3 The first volume(s) should contain citations from the C and L series of the Official Journal of the European Union; the Law Reports; the All England Reports; the Weekly Law Reports; Session Cases; the Scots Law Times; and the current edition of Halsbury's Laws. Subsequent volumes should contain all other material. In an appeal where there is a large number of authorities volumes, it is helpful to produce an index of indexes, separate from the index contained in the first authorities volume.

17.4 The authorities volumes should be lodged in the Judicial Office in separate containers from the bound volumes.

17.5 Where a case is not reported in the Law Reports or Session Cases, references to other recognised reports may be given (see direction 15.6). In Revenue appeals, Tax Cases may be cited but, wherever possible, references to the case in the Law Reports or Session Cases should also be given.

17.6 In order to produce the authorities volumes, parties may download text from electronic sources; but the authorities volumes may only be lodged in paper form.

17.7 In certain circumstances (for example, when during the hearing before the Appellate Committee it becomes apparent that a particular authority is needed but is not in the authorities volume), the House of Lords Library can arrange for copies of authorities to be made available at the hearing<sup>1</sup>. Parties must themselves provide ten copies of any other authority or of unreported cases. They must similarly provide copies of any authority of which notice has not been given.

17.8 The cost of preparing the authorities volumes falls to the appellants, but is ultimately subject to the decision of the House as to the costs of the appeal.

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<sup>1</sup> See Appendix B for a list of authorities held by the House of Lords Library.

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## 18. NOTICE OF HEARING

18.1 Once an appeal has been set down, it may be called on at any time, possibly at short notice.

18.2 The Judicial Office lists appeals to meet the convenience of all the parties. Provisional dates are agreed with the parties well in advance of the hearing and every effort is made to keep to these dates. Counsel, agents and parties are however advised to hold themselves in readiness during the week before and the week following the provisional date given. Agents receive formal notification shortly before the hearing.

18.3 Parties should inform the Judicial Office as early as possible of the names of counsel they have briefed.

18.4 Appellate Committees usually hear appeals on Mondays from 11am-1pm and from 2-4pm, and on Tuesdays to Thursdays from 10.30am-1pm and 2-4pm. Hearings take place in Committee Rooms 1 and 2 on the Committee Corridor of the Palace of Westminster.

## 19. COSTS

19.1 If counsel seek an order other than that costs should be awarded to the successful party, they may make written submissions within 14 days of the conclusion of the hearing. One master plus seven copies of the written submissions must be lodged at the Judicial Office. Copies should also be sent to the other parties to the appeal.

### *Conditional fee agreements*

19.2 Conditional fee agreements may properly be made by parties to appeals before the House of Lords<sup>1</sup>. It is open to the Taxing Officer to reduce the percentage uplift recoverable under a conditional fee agreement if he considers it to be excessive. The Taxing Officer decides questions of percentage uplift in accordance with the principles set out in *Designers Guild Limited v. Russell Williams (Textiles) Limited (trading as Washington DC)* [2003] 2 Costs LR 204. If a party appearing before the House seeks a ruling that the percentage uplift provided for in a conditional fee agreement should be wholly disallowed on legal grounds, such a ruling should (unless otherwise ordered) be expressly sought from the House before the end of the hearing<sup>2</sup>.

### *Submissions at judgment*

19.3 If submissions on costs have not been made pursuant to direction 19.1, it may be appropriate for submissions on costs to be made in the light of the result of the appeal. In such cases the House postpones making an order for costs in order to allow the parties to make written submissions, usually within 14 days of the date on which judgment is given. One master plus seven copies of the submissions must be lodged at the Judicial Office, and copies sent to the other parties to the appeal.

19.4 The costs submissions are considered on the papers alone.

## 20. JUDGMENT

### *Place and time of judgment*

20.1 Judgments are given in the Chamber of the House of Lords, usually on Wednesdays at 9.45am. Agents are notified of the date. One week's notice is normally given.

### *Attendance of counsel*

20.2 One junior of counsel for each party or group of parties who have lodged a case is required to attend at the Bar of the House when judgment is delivered. Queen's Counsel may attend instead, but only a junior's fee is allowed on taxation. It is the convention that Queen's Counsel wear full-bottomed wigs when appearing at the Bar of the House. Counsel instructed to attend judgment must be familiar with the subject matter of the appeal and with the options for its disposal.

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<sup>1</sup> Conditional fee agreements are sanctioned by the Courts and Legal Services Act 1990, as amended by the Access to Justice Act 1999.

<sup>2</sup> See Appeal Committee, 58th Report (2001-02): *Conditional Fee Agreements* (HL Paper 78).

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***Conditions under which judgments are released in advance***

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20.3 The opinions of the Law Lords who sat on the Appellate Committee and the questions to be put to the House to dispose of the appeal are available to certain persons before judgment is given. When judgment is given on a Wednesday morning, these documents are made available to counsel from 10.30 am on the previous Friday morning. They may be collected from the Judicial Office. In releasing these documents, the House gives permission for their contents to be disclosed to counsel, agents (including solicitors outside London who have appointed London agents) and in-house legal advisers in a client Government department. The contents of the documents and the result of the appeal must not be disclosed to the client parties themselves until judgment is given in the House.

20.4 It is the duty of counsel to check that the questions to be put to the House dispose of the appeal in accordance with the opinions of the members of the Appellate Committee. In the case of apparent error or ambiguity in the opinions, counsel are requested to inform the Judicial Office as soon as possible. This can be done at any time by e-mail to [lawlords@parliament.uk](mailto:lawlords@parliament.uk), and no later than 4pm on the Monday before judgment.

20.5 Accredited members of the media may also be given in advance of judgment the Appellate Committee's opinions and the questions to be put to the House to dispose of the appeal. The contents of these documents are subject to a strict embargo, and are not for publication, broadcast or use on club tapes before judgment has been delivered. The documents are issued in advance on the strict understanding that no approach is made to any person or organisation about their contents before judgment is given.

## **21. ORDER OF THE HOUSE**

### ***Draft order***

21.1 After the House has given judgment, drafts of the order of the House are sent to all parties who lodged a case. The drafts must be returned to the Judicial Office within seven days of the date of receipt (unless otherwise directed), either approved or with suggested amendments. If amendments are proposed, they must be submitted to the agents for the other parties, who should indicate their approval or disagreement both to the agents submitting the proposals and to the Judicial Office. Where the amendments proposed are contrary to the questions put to and agreed by the House, a petition must be lodged.

### ***Final order***

21.2 The final order is sent free of charge to the agents for the successful parties.

21.3 Prints of the final order are sent free of charge to the agents for all parties who have entered appearance.

## **22. BILLS OF COSTS**

22.1 Bills of costs for taxation (assessment of costs) should be lodged within three months from the date of judgment<sup>1</sup> or the date on which a petition of appeal is withdrawn (see direction 45).

22.2 The practice directions relating to judicial taxations and forms of bills of costs are available from the Judicial Office and at [www.parliament.uk](http://www.parliament.uk). Fees are payable on taxation of a bill of costs.

## **23. DISPOSAL OF SECURITY MONEY**

23.1 When the appellants are ordered to pay the costs of the appeal, the respondents' costs are met in whole or in part by direct payment to the respondents of the money deposited in the Security Fund (see direction 10), unless the parties have come to some other arrangement.

23.2 If the total amount of the respondents' costs can be met from the money paid into the Security Fund, any balance is repaid to the party who paid it in.

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<sup>1</sup> This period is not affected by suspended orders made under Legal Aid (Scotland) Act 1986 s 19 or Legal Aid Advice and Assistance (N.I.) Order 1981 Article 16.

23.3 If the respondents' costs are only partly met by such payment, any certificate of taxation which is forwarded to the respondents takes account of the amount so paid.

23.4 In appeals where more than one bill of respondents' costs is to be paid by the appellants, and the money deposited as security is not enough to meet all the bills, the money is divided between the bills in proportion to their amounts as allowed on taxation or in proportion to the amounts agreed by the respondents.

23.5 If the appellants are not ordered to pay the costs of the appeal, money paid into the Security Fund is returned to them when the final judgment order has been issued.

23.6 If an appeal is withdrawn before setting down or is dismissed for want of prosecution, or if the respondent fails to lodge a bill of costs or an application for extension of time within three months of the date of judgment (see direction 22), the appellants may apply in writing to the Judicial Office for the return to them of the money deposited in the Security Fund. The application must be accompanied by the written consent of all the respondents who have entered appearance. If any respondent refuses consent, the appellants may send them a written demand to lodge a bill of costs within four weeks from the date of notice. If the Clerk of the Parliaments is satisfied that such a demand was duly sent and if the respondent fails to lodge a bill of costs within the time specified, the money in the Security Fund is returned to the appellants.

## **24. PREPARATION OF DOCUMENTS**

### ***General***

24.1 All formal documents to the House of Lords must be produced on A4 paper, securely bound on the left, using both sides of the paper.

24.2 Documents which are not legible or which are not produced in the authorised form or which are unsatisfactory for some other similar reason are not accepted.

24.3 Parties may consult the Judicial Office at all stages of preparation of documents and may submit proofs for approval where appropriate.

### ***Number of documents required***

24.4 The following table shows the numbers of documents usually required for the hearing of an appeal. The numbers shown are the minimum prescribed in the directions. Actual requirements must be subject to agreement and depend on the number of parties, counsel and agents concerned, and on the special circumstances of each appeal. Copies for the use of the party originating the documents are not included in the numbers indicated.

The appellants must provide:

<b>Document</b>	<b>For Judicial Office</b>	<b>For other side</b>
Petition of appeal	Original and seven copies on lodgment	Two on service
Statement of facts and issues	Original and seven copies on setting down	As arranged
Appendix Part 1	Eight on setting down	One in advance otherwise as arranged
Appendix Part 2 and any subsequent Parts	15 on setting down	One in advance otherwise as arranged
Case	Original and seven copies no later than five weeks before the hearing	As arranged on exchange
Bound volumes	15 no later than two weeks before the hearing	As arranged
Authorities volumes	Ten no later than two weeks before the hearing	As arranged
Documents held in readiness at hearing (if any)	15 held at the Bar	At least three

The respondents (and any interveners) must provide:

<b>Document</b>	<b>For Judicial Office</b>	<b>For other side</b>
Case	Original and seven copies no later than three weeks before the hearing	As arranged on exchange; 15 for bound volumes
Respondents' additional documents (if any)	15 held at the Bar	As arranged

### ***Form of documents***

24.5 Statement of facts and issues: see direction 11.2.

24.6 Appendix: see direction 12.7.

24.7 Cases: see direction 15.18.

24.8 Bound volumes: see direction 16.2.

24.9 Authorities volumes: see direction 17.2.

## **25. DISPOSAL OF DOCUMENTS**

25.1 All petitions and supporting documents lodged become the property of the House. No documents submitted in connection with an application for leave to appeal can be returned. Certain documents submitted in connection with an appeal may be returned, on application to the Judicial Office within 14 days of judgment in the appeal. Master documents are retained in the parliamentary archives.

25.2 Documents lodged for the use of the Appellate Committee may with the permission of the Committee be inspected by persons who are not a party to the appeal. Such persons must comply with any anonymity orders and data protection requirements.

## **26. LODGMENT**

26.1 'Lodgment' and 'lodging' mean delivery to the Judicial Office or to a member of the Judicial Office staff by post or in person during opening hours. Where the time for lodging a document expires on a Saturday, Sunday, bank holiday, or any other day on which the Judicial Office is closed, the document will be received by the Judicial Office if it is lodged on the first day on which the Office is next open.

26.2 Communications with the Judicial Office may be transmitted by fax or e-mail only in urgent circumstances and by previous arrangement with the Office.

26.3 The Judicial Office will not receive by fax or e-mail any document which is to be presented to the House or on which a fee is payable.

26.4 Any agent attending the Judicial Office to lodge papers must be familiar with the subject matter to be dealt with.

## **27. WAIVER OF FEES**

27.1 In circumstances where a party to an appeal would suffer financial hardship by the payment of fees to the House, the requirement to pay the fee may be waived. Direction 3.17 applies.

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## **PART III – OTHER DIRECTIONS APPLICABLE TO CIVIL APPEALS**

### **28. BANKRUPTCY**

28.1 If a party to an appeal is adjudicated bankrupt, their agent must give immediate notice in writing to the other parties and to the Judicial Office, who must also be provided with a certified copy of the bankruptcy order (Standing Order X). The bankrupt party must lodge a petition to render the appeal effective and the appeal cannot proceed until the petition has been agreed to by the House.

28.2 A petition to render the appeal effective must be lodged within three months of the date of the notice.

28.3 The form of petition and the procedure for any supplemental case follows that for abatement by death<sup>1</sup>.

### **29. CONSOLIDATION AND CONJOINDER**

29.1 Where the issues in two or more appeals are similar, it may be appropriate for them to be consolidated or conjoined.

29.2 Consolidation results in the appeals being conducted as a single cause with one set of counsel and one case only on each side and with a single Appendix of documents.

29.3 Conjoinder is a looser linking of two or more appeals, and a number of variations is possible. Common forms of conjoinder are where: the appellants lodge separate cases with a separate junior for each appellant but a single leader; or the appellants lodge a single case with a single set of counsel but the respondents lodge separate cases and are separately represented.

29.4 The Judicial Office should be consulted on whether consolidation or some form of conjoinder is likely to be appropriate. A principal consideration should be to avoid wherever possible separate representation by counsel, or any duplication in the submissions made or in documents produced for the hearing.

29.5 Applications to consolidate or to conjoin appeals are made by petition<sup>2</sup>. The petition must be signed by the agents for all petitioners and must be submitted to the agents for all the other parties who have entered appearance for the endorsement of their consent. If consent is refused, the petition must be endorsed with a certificate that it has been served on the agents in question.

29.6 If all parties consent to or join in the petition, one master plus one copy of the petition should be lodged, together with the prescribed fee.

29.7 If any party refuses their consent, one master plus five copies of the petition should be lodged, together with the prescribed fee. The petition is then referred to an Appeal Committee and may be determined after a hearing.

### **30. CROSS-APPEALS**

30.1 The presentation of an appeal does not entitle a respondent to an appeal to present a cross-appeal. Leave to appeal is required. If leave to appeal has been given to the appellants by an Appeal Committee of the House, application for leave to cross-appeal may be made by the respondents directly to the Appeal Committee. If leave to appeal has been given by the Court of Appeal, then the respondents must first apply to the Court of Appeal for leave to cross-appeal and, if leave is refused, then to apply to the House.

30.2 A petition for leave to cross-appeal may only be lodged after leave to appeal has been granted to the original petitioner for leave to appeal. One master plus five copies of the petition for leave to cross-appeal must be lodged.

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<sup>1</sup> Standing Order X; direction 31. For style of petition, adapt Appendix A, Form 8.

<sup>2</sup> For style, see Appendix A, Form 7.

If leave to cross-appeal is granted, the petition of cross-appeal must be lodged with the prescribed fee within six weeks of the presentation of the original appeal<sup>1</sup>. One master plus seven copies of the petition of cross-appeal must be lodged. In a petition of cross-appeal, the original appellant in the House of Lords is designated as original-appellant/cross-respondent and the original respondent is designated as original-respondent/cross-appellant.

A cross-appeal may be presented out of time in accordance with direction 7.3.

30.3 No security for costs is required in cross-appeals (direction 10.5).

30.4 Argument in respect of a cross-appeal must be included by each party in their case in the original appeal. Such an inclusive case must clearly state that it is lodged in respect of both the original and cross-appeals.

30.5 In a cross-appeal, the cases on the original appeal must be lodged in accordance with direction 15.13, i.e. five weeks before the hearing. The cross-appellants' case for the cross-appeal must be lodged in accordance with direction 15.14, i.e. three weeks before the hearing as part of their reply to the original appellants' case. The original appellants/cross-respondents may reply to the case for the cross-appeal in their case lodged in the bound volumes.

30.6 There is only one Appendix for the original appeal and cross-appeal, and documents in respect of the appeal and cross-appeal must be included in the same Appendix. The original-appellants/cross-respondents are responsible for lodging the Statement and Appendix and setting the appeal and cross-appeal down for hearing (including payment of the fee).

### 31. DEATH OF A PARTY

31.1 If a party to an appeal dies before the hearing, the appeal abates from the date of death (Standing Order X). Immediate notice of the death must be given in writing to the Judicial Office and to the other parties. The addition of a new party to represent the deceased person's interest cannot proceed until a petition for reviving the appeal has been agreed to by the House.

31.2 The petition for revivor must be lodged with the prescribed fee within three months of the date of notice of death<sup>2</sup>. It must be accompanied by an affidavit explaining the circumstances in which it is being lodged. It must be endorsed with a certificate of service on the respondents.

31.3 If abatement takes place after the case for the deceased person has been lodged but before the appeal has been heard, the appellants must lodge a supplemental case setting out the orders of the House on reviving the appeal and information about the newly-added parties.

### 32. DISPUTE BETWEEN PARTIES SETTLED

32.1 It is the duty of counsel and solicitors in any pending appeal, if an event occurs which arguably disposes of the dispute between the parties, either to ensure that the appeal is withdrawn by consent or, if there is no agreement on that course, to bring the facts promptly to the attention of the House and to seek directions.

### 33. EUROPEAN CONVENTION ON HUMAN RIGHTS

#### *Appeals notified under direction 9.11(a), (b) or (c)*

33.1 Where an appeal involves a point notified under direction 9.11, the petition of appeal must include the words 'in accordance with the Human Rights Act 1998' at the appropriate place in the prayer of the petition<sup>3</sup>. Details of the Convention right<sup>4</sup> which it is alleged has been infringed and of the infringement must be set out in the Statement of facts and issues and dealt with in a separate paragraph of the cases of all parties to the appeal.

<sup>1</sup> Standing Order VII. For style of petition, see Appendix A, Form 4.

<sup>2</sup> Standing Order X. For style of petition, adapt Appendix A, Form 8.

<sup>3</sup> See Appendix A, Form 4.

<sup>4</sup> See Human Rights Act 1998, which gives further effect in domestic law to much of the *Convention for the Protection of Human Rights and Fundamental Freedoms agreed by the Council of Europe at Rome on 4 November 1950*.



***Appeals notified under direction 9.11(a)***

33.2 The Crown has the right to be joined as a party in any appeal where the House is considering whether to declare that a provision of primary or subordinate legislation is incompatible with a Convention right<sup>1</sup>. In any appeal where the House is considering, or is being asked to consider, whether to make, uphold or reverse such a declaration, whether or not the Crown<sup>2</sup> is already a party to the appeal, the Head of the Judicial Office notifies the appropriate Law Officer(s)<sup>3</sup>.

33.3 Where such an issue is raised in respect of a judicial act<sup>4</sup>, the Head of the Judicial Office notifies the Crown through the Treasury Solicitor as agent for the Lord Chancellor<sup>5</sup>.

33.4 The person notified under direction 33.2 or 33.3 must within 21 days of receiving such notice, or such extended period as the Head of the Judicial Office may allow, serve on the parties and lodge at the Judicial Office a notice stating whether or not the Crown intends to intervene in the appeal; and the identity of the Minister or other person who is to be joined as a party to the appeal<sup>6</sup>.

33.5 If a Minister or other person has already been joined to proceedings in the court below in accordance with the provisions of s 5 of the Human Rights Act 1998, the leave of the House is not required for the continued intervention of the Crown.

33.6 Once joined to the appeal, the case for the Minister or other person must be lodged in accordance with direction 15.

33.7 The House may order the postponement or adjournment of the hearing of the appeal for the purpose of giving effect to the provisions of this direction or the requirements of the Act.

***Appeals notified under direction 9.11(b) or (c)***

33.8 Except as prescribed in direction 33.1, no special steps are required for appeals notified under direction 9.11(b) or 9.11(c).

**34. EUROPEAN COURT OF JUSTICE**

34.1 Article 234 of the Treaty establishing the European Community provides:

1. The Court of Justice shall have jurisdiction to give preliminary rulings concerning:
  - (a) the interpretation of this Treaty;
  - (b) the validity and interpretation of acts of the institutions of the Community and of the European Central Bank;
  - (c) the interpretation of the statutes of bodies established by an act of the Council, where those statutes so provide.
2. Where such a question is raised before any court or tribunal of a Member State, that court or tribunal may, if it considers that a decision on the question is necessary to enable it to give judgment, request the Court of Justice to give a ruling thereon.
3. Where any such question is raised in a case pending before a court or tribunal of a Member State against whose decisions there is no judicial remedy under national law, that court or tribunal shall bring the matter before the Court of Justice.

34.2 When the House refuses leave to appeal to a petition which includes a contention that a question of Community law is involved, the House gives additional reasons for its decision not to grant leave to appeal (see direction 4.7). These reasons reflect the decision of the Court of Justice in *CILFIT v. Ministry of Health* (Case C-283/81) which laid down the categories of case where the Court of Justice considered that no reference should be made to it, namely:

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<sup>1</sup> Human Rights Act 1998 ss 4, 5.

<sup>2</sup> Through a Minister, governmental body or other person defined in Human Rights Act 1998 s 5(2).

<sup>3</sup> The Head of the Judicial Office notifies:

- (i) in appeals from England, the Attorney-General;
- (ii) in appeals from Scotland, the Advocate General for Scotland and the Lord Advocate;
- (iii) in appeals from Wales, if appropriate, the Counsel General of the National Assembly for Wales;
- (iv) in appeals from Northern Ireland, the Attorney General for Northern Ireland.

<sup>4</sup> Human Rights Act 1998 ss 7, 9(3) and 9(4).

<sup>5</sup> In appeals from Scotland, the Head of the Judicial Office notifies the Solicitor to the Scottish Executive; in appeals from Northern Ireland, he notifies the Crown Solicitor and the Departmental Solicitor.

<sup>6</sup> Human Rights Act 1998 ss 5(2) and 9(5).

- (a) where the question raised is irrelevant;
- (b) where the Community provision in question has already been interpreted by the Court of Justice;
- (c) where the question raised is materially identical with a question which has already been the subject of a preliminary ruling in a similar case; and
- (d) where the correct application of Community law is so obvious as to leave no scope for any reasonable doubt<sup>1</sup>.

34.3 The House may order a reference to the Court of Justice before determining whether to grant leave to appeal. In such circumstances proceedings on the petition for leave to appeal are stayed until the answer is received. The directions below apply as appropriate<sup>2</sup>.

34.4 When the House intends to make a reference, the hearing is adjourned and the parties are invited to submit an agreed draft of the question(s) to be referred. A further Statement of facts and issues, for the use of the Court of Justice, may also be appropriate. The House then makes the reference, with or without opinions. At this stage the appeal may also be disposed of in part.

34.5 Within one month of the judgment of the Court of Justice, the parties must make written submissions to the Judicial Office on whether a further hearing before the Appellate Committee is necessary or on how the appeal is to be disposed of.

#### ***Further proceedings in the House of Lords***

34.6 If a further hearing is required before the Appellate Committee, the parties may lodge supplemental cases.

34.7 If supplemental cases are lodged, then:

- (a) no later than five weeks before the expected date of the further hearing, the appellants must lodge in the Judicial Office one master and seven copies of their supplemental case and also serve it on the respondents;
- (b) no later than three weeks before the expected date of the further hearing, the respondents must lodge in the Judicial Office one master and seven copies of their supplemental case and also serve it on the appellants;
- (c) no later than three weeks before the expected date of the further hearing, any other party lodging a case (e.g. an intervener or advocate to the court) must lodge in the Judicial Office one master and seven copies of their supplemental case, and also provide copies to the appellants and respondents.

34.8 As soon as all the supplemental cases have been exchanged, and no later than two weeks before the date of the expected hearing, the appellants must lodge 15 additional sets of bound volumes<sup>3</sup> containing:

- (a) appellants' and respondents' cases;
- (b) cases of interveners etc, if any;
- (c) judgment of the European Court of Justice;
- (d) any additional authorities relied on that are not included in the original authorities volumes.

34.9 The Judicial Office supplies the Appellate Committee with the original bound volumes, appendices and authorities volumes.

#### ***Costs***

34.10 The Court of Justice does not make orders for costs. The costs of the reference are included in the order of the House disposing of the appeal; and, if necessary, are taxed by the House's Taxing Officer.<sup>4</sup>

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<sup>1</sup> Appeal Committee, 38th Report (2002-03): *Petitions for leave to appeal: reasons for the refusal of leave* (HL Paper 89).

<sup>2</sup> *Ibid.*

<sup>3</sup> See direction 16.2.

### 35. EXHIBITS

35.1 Parties who require exhibits to be available for inspection at the hearing must apply to the Judicial Office for permission for the exhibits to be brought to the House before the hearing.

### 36. FEES AND SECURITY FOR COSTS

36.1 Payments of fees and deposits of security money may be made in cash or by banker's draft or cheque. If an appellant wishes to pay in cash, the Judicial Office may only accept cash up to £10,000, in order to comply with money laundering regulations. Drafts and cheques for fees must be made payable to 'House of Lords Account'. Drafts and cheques for security money must be made payable to 'House of Lords Security Fund Account'.

### 37. INTERVENERS

37.1 A person who is not a party to an appeal may petition the House for permission to intervene<sup>1</sup>.

37.2 The petition for leave to intervene<sup>2</sup>, with the prescribed fee, may only be lodged after the petition of appeal has been presented to the House. One master plus seven copies of the petition for leave to intervene must be lodged. The petition must indicate whether leave is sought for both oral and written interventions or for written intervention only. The petition should be certified with the consent of the appellants and respondents in the appeal. If their consent is refused, the petition must be endorsed with a certificate of service on them, with a brief explanation of the reasons for the refusal. All petitions for leave to intervene, whether or not opposed by the parties in the appeal, are referred to an Appeal Committee.

37.3 Persons who intervened in a court below are also required to petition, if they wish to intervene in an appeal to the House.

37.4 Petitions for permission to intervene orally or in writing or both must be lodged with the Judicial Office at least six weeks before the date of hearing of the appeal. If leave is given, written submissions must be lodged with the Judicial Office and also given to the appellants and respondents for incorporation into the bound volume at least three weeks before the hearing. Failure to meet these deadlines increases the burden on the parties in preparing their cases and the bound volumes, and may delay the hearing of the appeal.

37.5 All counsel instructed on behalf of an intervener with leave to address the House should attend the hearing unless specifically excused. But the House does not expect their continued attendance after such address has been made.

37.6 Subject to the discretion of the House, interveners bear their own costs.

37.7 Subject to the discretion of the House, any additional costs to the appellants and respondents resulting from an intervention are costs in the appeal.

37.8 If the Crown has been joined to proceedings in the court below in accordance with the provisions of s 5 of the Human Rights Act 1998, the leave of the House is not necessary for the continued intervention of the Crown (direction 33.5).

37.9 For intervention in petitions for leave to appeal, see direction 3.21.

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<sup>1</sup> Article 15 of Council Regulation (EC) No 1/2003 of 16 December 2002 empowers the competition authorities in EU member states, acting on their own initiative, to submit written observations to the national courts of their member state on issues relating to the application of Articles 81 or 82 of the Treaty. With the permission of the court in question, they may also submit oral observations to the national courts of their member states.

<sup>2</sup> See Appendix A, Form 8.

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**38. NEW SUBMISSIONS**

38.1 If, after the conclusion of the argument on an appeal, a party wishes to bring to the notice of the House new circumstances which have arisen and which might affect the decision or order of the House, application must be made without delay by letter to the Head of the Judicial Office for leave to make new submissions. The application should indicate the circumstances and the submissions it is desired to make, and a copy must be sent to the agents for the other parties to the appeal.

**39. OPPOSED INCIDENTAL PETITIONS**

39.1 Unless the Head of the Judicial Office directs otherwise, opposed incidental petitions (including any interlocutory petition which relates to any petition of appeal) are referred to an Appeal Committee and may be decided after an oral hearing.

39.2 One master plus seven copies of the petition must be lodged, with the prescribed fee. The original petition must bear a certificate of service on the other parties and must clearly indicate whether the other parties consent or refuse to consent to the prayer of the petition.

39.3 If the Appeal Committee orders an oral hearing, the parties may apply at that time to hand in affidavits and such other documents as they may wish. Eight copies are required. Copies of such documents must be served on the other parties before the oral hearing. Authorities are not normally cited before the Appeal Committee.

**40. PATENTS**

40.1 This direction applies to any appeal direct from the High Court under ss 12 and 13 of the Administration of Justice Act 1969, from an order for the revocation of a patent made under s 32 or s 61 of the Patents Act 1949 or under s 72 of the Patents Act 1977.

40.2 Notice of intention to present an appeal, with a copy of the petition of appeal, must be served on the Comptroller-General of Patents, Designs and Trade Marks, as well as on the respondents.

40.3 If at any time before the hearing of the appeal the respondents decide not to enter appearance on the appeal or to oppose it, they must without delay serve notice of their decision on the Comptroller and on the appellants. Any such notice served on the Comptroller must be accompanied by a copy of the petition under s 32 of the 1949 Act or of the pleadings in the action and the affidavits filed therein.

40.4 The Comptroller must, within 14 days of receiving notice of the respondents' decision, serve on the appellant and lodge at the Judicial Office a notice stating whether or not he intends to enter appearance.

40.5 The Comptroller may appear and be heard in opposition to the appeal:

- (a) in any case where he has given notice of his intention to appear, and
- (b) in any other case (including in particular a case where the respondents withdraw opposition to the appeal during the hearing) if the House so directs or allows.

40.6 The House makes such orders for the postponement or adjournment of the hearing of the appeal as may appear necessary for the purpose of giving effect to the provisions of this direction.

**41. PUBLIC FUNDING AND LEGAL AID**

41.1 The House of Lords does not provide public funding or legal aid. Application for public funding must be made in England and Wales to the Legal Services Commission, in Scotland to the Scottish Legal Aid Board, and in Northern Ireland to the Legal Aid Committee.

41.2 A party to whom a public funding or legal aid certificate has been issued must as soon as possible thereafter lodge a copy at the Judicial Office. Any emergency certificate and subsequent amendments and the authority for leading counsel must also be lodged.

***Effect of application by appellant for public funding/legal aid***

41.3 Provided the Judicial Office and the other parties have been notified in writing, an application by a petitioner or appellant for public funding or legal aid suspends proceedings in the House of Lords. Previously applicable time limits are set aside (including that for the deposit of security for costs).

41.4 Notification must be given far enough before the expiry of the original time limits to allow the Judicial Office to take the necessary steps to keep the petition or the appeal (as the case may be) from being dismissed as being out of time. A copy of the order appealed from must be submitted by the applicant with the notification. The original time limits are automatically extended to a date one month after the final decision is taken on the funding application (including any appeals against a refusal of funding)<sup>1</sup>.

***Effect of application by respondent for public funding/legal aid***

41.5 Where a respondent to an appeal has applied for public funding or legal aid, the Judicial Office should be informed within the original time limit for lodging the Statement and Appendix<sup>2</sup>. The period for lodging the Statement and Appendix is then extended to six weeks from the final determination of the funding or legal aid application (including any appeals against a refusal of funding).

***Issuing of public funding/legal aid certificate***

41.6 Where a public funding or legal aid certificate is granted, the relevant date for the purpose of calculation of time limits under directions 41.4 and 41.5 is the date of issue of the certificate.

**42. SPECIALIST ADVISERS**

42.1 Any party to an appeal may apply in writing to the Judicial Office for Specialist Advisers to attend the hearing<sup>3</sup>. Such advisers provide assistance to the Appellate Committee and are strictly independent of the parties to the appeal.

**43. STAY OF EXECUTION**

43.1 Presentation of a petition of appeal or a petition for leave to appeal does not in itself place a stay of execution on any order appealed from. A party seeking such a stay must apply to the court appealed from, not to the House of Lords. The House cannot stay an interlocutor of the Court of Session<sup>4</sup>.

**44. TRANSCRIPTION**

44.1 Transcriptions are not made of hearings before the Appellate Committee. Any party may seek permission to arrange for its own transcription of a hearing, by writing to the Head of the Judicial Office. Permission is usually given. The service arranged must be silent. The electronic text of the transcript should be lodged by e-mail at the Judicial Office.

**45. WITHDRAWAL OF PETITIONS*****Petitions for leave to appeal***

45.1 A petition for leave to appeal may be withdrawn by writing to the Head of the Judicial Office, stating that the parties to the petition have agreed how the costs should be settled. The respondents should notify the Judicial Office of their agreement.

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<sup>1</sup> Standing Order IX.

<sup>2</sup> See direction 13.

<sup>3</sup> Standing Order XIV. For Nautical Assessors, see also Supreme Court of Judicature Act 1891 s 3.

<sup>4</sup> Court of Session Act 1988 s 41(2).

***Petitions of appeal***

45.2 An appeal that has not been set down for hearing may be withdrawn by writing to the Head of the Judicial Office, stating that the parties to the appeal have agreed the costs of the appeal. The nature of the agreement should be indicated. Where appropriate, the letter should also indicate how the money paid into the security fund (if any) should be disposed of. Written notification must also be given to the respondents who must notify the Judicial Office of their agreement to the withdrawal of the appeal and who must confirm that the costs have been agreed.

45.3 An appeal that has been set down for hearing may only be withdrawn by order of the House on petition<sup>1</sup>. Such a petition should include submissions on costs and, where appropriate, indicate how the security money should be disposed of. The petition must be submitted for their consent to those respondents who have entered appearance. The petition should be lodged with the prescribed fee.

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<sup>1</sup> For style of petition, adapt Appendix A, Form 16.

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## STATEMENTS TO THE HOUSE

### JUDICIAL PRECEDENT

26 July 1966—BY THE LORD CHANCELLOR (LORD GARDINER)

‘Before judgments are delivered today, I wish to make the following statement on behalf of myself and the Lords of Appeal in Ordinary:

“Their Lordships regard the use of precedent as an indispensable foundation upon which to decide what is the law and its application to individual cases. It provides at least some degree of certainty upon which individuals can rely in the conduct of their affairs, as well as a basis for orderly development of legal rules.

“Their Lordships nevertheless recognise that too rigid adherence to precedent may lead to injustice in a particular case and also unduly restrict the proper development of the law. They propose therefore to modify their present practice and, while treating former decisions of this House as normally binding, to depart from a previous decision when it appears right to do so.

“In this connection they will bear in mind the danger of disturbing retrospectively the basis on which contracts, settlements of property and fiscal arrangements have been entered into and also the especial need for certainty as to the criminal law.

“This announcement is not intended to affect the use of precedent elsewhere than in this House.”

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### PRINCIPLES FOR PARTICIPATION

22 June 2000—BY THE SENIOR LORD OF APPEAL IN ORDINARY  
(LORD BINGHAM OF CORNHILL)

‘My Lords, with the leave of the House, before the reports from the Appellate Committees are considered, I should like to make a statement on Recommendation 59 of the Royal Commission on the Reform of the House of Lords. That recommendation is that “The Lords of Appeal should set out in writing and publish a statement of the principles which they intend to observe when participating in debates and votes in the second chamber and when considering their eligibility to sit on related cases.”

‘I should tell the House that my noble and learned friends have considered this recommendation and have agreed on the terms of a statement to give effect to it. I will now read the statement which has been agreed by all the Lords of Appeal in Ordinary:

#### *General Principles*

“As full members of the House of Lords the Lords of Appeal in Ordinary have a right to participate in the business of the House. However, mindful of their judicial role they consider themselves bound by two general principles when deciding whether to participate in a particular matter, or to vote: first, the Lords of Appeal in Ordinary do not think it appropriate to engage in matters where there is a strong element of party political controversy; and secondly the Lords of Appeal in Ordinary bear in mind that they may render themselves ineligible to sit judicially if they were to express an opinion on a matter which might later be relevant to an appeal to the House.

“The Lords of Appeal in Ordinary will continue to be guided by these broad principles. They stress that it is impossible to frame rules which cover every eventuality. In the end it must be for the judgment of each individual Lord of Appeal to decide how to conduct himself in any particular situation.

#### *Eligibility*

“In deciding who is eligible to sit on an appeal, the Lords of Appeal agree to be guided by the same principles as apply to all judges. These principles were restated by the Court of Appeal in the case of *Locabail (UK) Ltd v. Bayfield Properties Ltd and others and four other actions* [2000 1 All E.R. 65 (CA)].”

‘My Lords, that concludes the statement.’

## 46. STANDING ORDERS

### STANDING ORDER NO. 17 OF THE HOUSE OF LORDS RELATING TO PUBLIC BUSINESS

(1) If, during any adjournment of the House, the Lord Chancellor is satisfied that the public interest requires that the House should meet at a time earlier than that appointed, he may signify that he is so satisfied and notice shall be given and thereupon the House shall meet at the time stated in the notice, as if it had been duly adjourned to that time.

Recall of the House.  
20 May 1970.

(2) If the Lord Chancellor is unable to act for the purposes of this Standing Order, the Chairman of Committees, after consultation with Her Majesty's Government, may act in his stead.

(3) Notwithstanding any adjournment of the House, the House may meet for judicial business at a time earlier than that appointed if the Lord Chancellor or, in his absence, the senior Lord of Appeal in Ordinary, is satisfied that it should do so and has signified that he is so satisfied and has given notice to such Lords as he thinks fit.

## STANDING ORDER NO. 87 OF THE HOUSE OF LORDS RELATING TO PUBLIC BUSINESS

(1) For the purposes of its appellate jurisdiction, the House shall have Appellate and Appeal Committees, of which all Lords qualified under the Appellate Jurisdiction Acts 1876 and 1887 shall be members.

Appellate and  
Appeal Committees.  
20 May 1970.  
28 January 1984.

(2) These Committees shall be:

(a) two Appellate Committees, which shall hear any cause or matter referred to them and shall report thereon to the House;

(b) two Appeal Committees, which shall consider any Petition or application for leave to appeal that may be referred to them and any matter relating thereto, or to causes depending, or formerly depending, in this House, and shall report thereon to the House.

(3) In any criminal matter, or in any matter concerning extradition, an Appeal Committee may take decisions and give directions on behalf of the House.

(4) In any Appellate or Appeal Committee the Chair shall be taken by the Lord Chancellor or, in his absence, by the senior Lord of Appeal in Ordinary present, such seniority being determined in accordance with the Commission for the time being appointing Speakers for the purpose of the hearing and determination of Appeals.

(5) For the purposes of section 8 of the Appellate Jurisdiction Act 1876, any Appellate Committee may sit and act while Parliament is prorogued.

STANDING ORDERS OF THE HOUSE OF LORDS REGULATING JUDICIAL BUSINESS, MADE IN PURSUANCE OF THE APPELLATE JURISDICTION ACT 1876 AND SUBSEQUENT ENACTMENTS.

The dates (round bracketed) are those of the original standing orders prior to 1876. The dates [square bracketed] are those of the original standing orders made in pursuance of the Appellate Jurisdiction Act 1876. The dates without brackets are those of subsequent amendments.

(13 December 1661) [14 August 1876] 26 February 1959 25 March 1964	I. ORDERED, that no Petition of Appeal be received by this House unless the same be lodged in the Parliament Office for presentation to the House within the period of three months from the date of the last Order or Interlocutor appealed from.	Time limit for presenting Appeals
[24 October 1935] 3 March 1966 3 December 1969	II. ORDERED, that, in all Appeals from the Court of Appeal, the Court of Appeal in Northern Ireland or the Court of Session in Scotland in which the leave of the House is required under the provisions of any Act of Parliament, a Petition for Leave to Appeal be lodged in the Parliament Office within one month from the date of the last Order or Judgment appealed from, and that such Petition be referred to an Appeal Committee to consider whether such leave should be granted.	Leave to Appeal from the Courts of Appeal
15 December 1969	III. ORDERED, that, in all cases where application is made for leave for an Appeal to be brought direct to the House from the High Court of Justice in England and Wales or from the High Court of Justice in Northern Ireland—  (a) a Petition for such leave, together with the certificate granted by the High Court under section 12 of the Administration of Justice Act 1969, be lodged in the Parliament Office within one month from the date of the grant of such certificate or within such extended time as in any particular case the House may allow;  (b) any such Petition, and any application for extension of time or other incidental matter, be referred to an Appeal Committee for their consideration and report.	Leave to Appeal from the High Court
(3 March 1697) [14 August 1876] 3 March 1966	IV. ORDERED, that, except in cases where leave to appeal has been granted under the provisions of any Act of Parliament, all Petitions of Appeal be signed, and the reasonableness thereof certified, by two counsel.	Appeals to be signed and certified by counsel

<p>(20 November 1680) [14 August 1876] 7 August 1877 2 June 1959 12 April 1962 27 April 1976 9 March 1977 21 July 1988 26 July 1999</p>	<p>V. (1) ORDERED, that, unless otherwise ordered by the House, in all Appeals the Appellants do give security for costs by paying into the House of Lords Security Fund Account within one week of the presentation of the Appeal such sum as shall be authorised from time to time by the House, to be subject to the Order of the House with regard to the costs of the Appeal.</p>	<p>Security for costs</p>
	<p>On default by the Appellants in complying with the above conditions, the Appeal to stand dismissed.</p>	
<p>15 December 1960 17 December 1991 10 October 2000</p>	<p>(2) ORDERED, that this Standing Order shall not apply (a) to Appellants who have been granted public funding or legal aid, (b) to appellants in Appeals under the Child Abduction and Custody Act 1985, or (c) to a Minister or Government department.</p>	<p>Exemptions</p>
<p>(12 July 1811) [14 August 1876] 26 February 1959 17 December 1991</p>	<p>VI.(1) ORDERED, that the Statement and the Appendix thereto be lodged in the Parliament Office within six weeks from the date of the presentation of the Appeal to the House; and the Appeal be set down for hearing on the first sitting day thereafter; on default by the Appellant, the Appeal to stand dismissed.</p>	<p>Time for lodging Statement</p>
<p>25 March 1964 17 December 1991</p>	<p>(2) ORDERED, that in all Appeals from Scotland the Appellant in the Appendix shall lay before this House a copy of the record as authenticated by the Deputy Principal Clerk of Session or a Clerk of Session delegated by him; together with a supplement containing an account, without argument or statement of other facts, of the further steps which have been taken in the cause since the record was completed, and containing also copies of the Interlocutors or parts of Interlocutors complained of; and each party shall in his Case lay before the House a copy of the case presented by him to the Court of Session, if any such case was presented there, with a short summary of any additional reasons upon which he means to insist; and if there shall have been no case presented to the Court of Session then each party shall set forth in his Case the reasons upon which he founds his argument, as shortly and succinctly as possible.</p>	<p>Scottish appeals</p>
<p>(19 April 1698) 17 December 1991</p>	<p>(3) ORDERED, that the Statement be signed by one or more counsel for each party, who shall have attended as counsel in the Court below, or shall propose attending as counsel at the hearing in this House.</p>	<p>Statement to be signed by counsel</p>

(8 March 1763) [14 August 1876] 17 December 1991	VII. ORDERED, that all Cross-appeals be presented to the House within the period allowed by Standing Order No. VI for lodging the Statement in the original Appeal.	Cross-appeals
[14 August 1876] 17 December 1991	VIII. ORDERED, with regard to Appeals in which the periods under Standing Orders Nos V, VI and VII expire during the parliamentary recess of the House, that such periods be extended to the third sitting day of the next ensuing meeting of the House.  Provided that if the House is recalled in pursuance of Public Business Standing Order No. 16 or Proclamation, any day on which the House sits pursuant to such recall is not a sitting day for the purposes of this Standing Order.	Expiry of time during parliamentary recess
[15 December 1960] 3 March 1966 21 July 1988 19 May 1994 10 October 2000	IX. ORDERED, that where a party to an Appeal has applied for public funding or legal aid, and the Clerk of the Parliaments has been informed of that application in writing before the expiration of the periods of time limited by Standing Orders Nos I, II or III, such periods of time shall be extended until one month after the date of the final determination of the application.	Public funding and legal aid
[14 August 1876] 12 August 1884 26 February 1959 17 December 1991	X. ORDERED, that in the event of abatement by death or defect through bankruptcy, an Appeal shall not stand dismissed for default under Standing Orders Nos V or VI, provided that notice of such abatement or defect be given by a letter from the Appellant's Agent addressed to the Clerk of the Parliaments and lodged in the Judicial Office prior to the expiration of the period limited by the Standing Order under which the Appeal would otherwise have stood dismissed.  ORDERED, that all Appeals marked on the Cause List of the House as abated or defective shall stand dismissed unless, within three months from the date of the notice to the Clerk of the Parliaments of abatement or defect, if the House be then sitting, or, if not, then not later than the third sitting day of the next ensuing sittings of the House, a Petition shall be presented to the House for reviving the Appeal or for rendering the same effective.	Abatement or defect  Revivor etc.

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(20 March 1823)	ORDERED, that when an Appeal has abated or become defective after the Cases have been lodged, and it is subsequently revived or rendered effective, a Supplemental Case shall be lodged by the Appellant setting forth the Order or Orders made by the House reviving the Appeal or rendering the same effective.	Supplemental case
	The like rule shall be observed by the Appellant and Respondent respectively, where any person or persons shall, by leave of the House, upon Petition or otherwise, be added as a party or parties to the said Appeal after the Cases in such Appeal shall have been lodged.	
[14 August 1876]	XI. ORDERED, that when any Petition of Appeal shall be presented to this House from any interlocutory Judgment of either division of the Lords of Session in Scotland, the counsel who shall sign the said Petition, or two of the counsel for the party or parties in the Court below, shall sign a certificate or declaration, stating either that leave was given by that division of the judges pronouncing such interlocutory Judgment to the Appellant or Appellants to present such Petition of Appeal or that there was a difference of opinion amongst the judges of the said division pronouncing such interlocutory Judgment.	Certificate of leave or difference of opinion in Scottish appeals

(3 April 1835)  
[14 August 1876]  
7 August 1877  
2 June 1959  
9 March 1977  
27 June 1984

XII. ORDERED, that the Clerk of Parliaments shall appoint such person as he may think fit as Taxing Officer, and in all cases in which this House shall make any order for payment of costs by any party or parties in any cause, the amount thereof to be certified by the Clerk of the Parliaments, the Taxing Officer shall tax the Bill of Costs so ordered to be paid, and ascertain the amount thereof, and report the same to the Clerk of the Parliaments or Clerk Assistant: And it is further Ordered, that the same fees shall be demanded from and paid by the party applying for such taxation for and in respect thereof as are now charged or shall be authorised from time to time by the House; and such fees shall be added at the foot of the said Bill of Costs as taxed. And the Clerk of the Parliaments or Clerk Assistant may give a certificate of such costs, expressing the amount so reported to him as aforesaid, and in his certificate, as well as in the Taxing Officer's report, regard shall be had to any sum that has been paid in to the Security Fund Account of the House, as directed by Standing Order No. V; and the amount in money certified by him in such certificate shall be the sum to be demanded and paid under or by virtue of such order as aforesaid for payment of costs.

Taxation of  
costs



[10 March 1902]	XIII. ORDERED, that fees be taken in this	Fees
26 March 1970	House on the documents specified in the	
27 April 1976	Schedule hereto, that the fees to be charged	
9 March 1977	shall be such as shall be authorised from time	
21 July 1988	to time by the House, and that none of the	
17 December 1991	said documents be issued from or received at	
19 May 1994	the Parliament Office unless it shall have been	
17 October 1995	endorsed with the date of lodgment and the	
10 October 2000	amount of fee paid.	

If the Clerk of the Parliaments is satisfied that a litigant who has been refused public funding or legal aid would suffer financial hardship by the payment of fees to this House, he shall report the circumstances to the Appeal Committee. The Appeal Committee shall have power to waive, modify or suspend such fees, either wholly or in part, and shall report thereon to the House.

#### SCHEDULE

Petition for Leave to Appeal.

Interlocutory Petitions referred to an Appeal Committee (including the Report thereon).

Petition of Appeal.

Notice of Appearance.

Waiver of Security for costs.

Petition not referred to Appeal Committee.

Application to set down for hearing.

Petition to withdraw Appeal after setting down.

23 November 1995

XIV. (1) ORDERED, that the Lord Chancellor or the Lord Speaker may direct that one or more Specialist Advisers shall attend the hearing of any Appeal in which they consider the House would benefit from such attendance.

Specialist  
advisers

(2) ORDERED, that the parties or either party to an Appeal may apply by letter to the Clerk of the Parliaments requesting, upon grounds stated in the letter, the attendance of Specialist Advisers. Such an application shall be referred to and determined by the Lord Chancellor or Lord Speaker.

(3) ORDERED, that in any Appeal concerning nautical matters in which the attendance of Specialist Advisers is required, Nautical Assessors may be appointed of whom one shall be an Officer, active or retired, of Her Majesty's Navy, and the other an Elder Brother of the Corporation of Trinity House.

(4) ORDERED, that the fees and expenses paid to each Specialist Adviser shall be such as shall have been agreed between the parties and the Advisers and approved by the Lord Chancellor or Lord Speaker, or, failing such agreement, such sum as shall be authorised by the Lord Chancellor or Lord Speaker.

(5) ORDERED, that unless the House otherwise directs, the fees referred to in paragraph (4) shall be paid by the party against whom the House awards costs.

*[Intentionally blank]*

## APPENDIX A: standard forms of key documents

### FORM 1

#### PETITION for leave to appeal

(*HL direction 3*)

IN THE HOUSE OF LORDS

ON APPEAL FROM HER MAJESTY'S COURT OF APPEAL (CIVIL DIVISION) (ENGLAND) (*or relevant court*)

Court of Appeal Ref: (eg, B3/2003/0038)

Neutral citation of judgment appealed against: (eg, [2003] EWCA Civ 1575)

BETWEEN

AB (Respondent)  
and  
CD (Petitioners)  
[and]  
[(2) EF]  
[and]  
[(3) GH]

PETITION FOR LEAVE TO APPEAL

TO THE RIGHT HONOURABLE THE HOUSE OF LORDS

THE HUMBLE PETITION OF (*set out full name(s) and address(es) of petitioners*)  
PRAYING FOR LEAVE TO APPEAL SHOWS—

1. That .....[*set out briefly in numbered paragraphs such facts and arguments as may be necessary to enable the Appeal Committee to decide whether leave to appeal should be given*].
2. ....
3. ....etc.

[*Note: it is usually appropriate for petitions for leave to appeal to deal with some or all of the following:*

1. Narrative of the facts;
2. Statutory framework (*if any*);
3. Chronology of proceedings;
4. Orders made in the courts below;
5. Issues before Court of Appeal (*or court appealed from*);
6. Treatment of the issues by Court of Appeal (*or court appealed from*);
7. Issues in the petition for leave to appeal.]

*[At end of numbered paragraphs insert]*

YOUR PETITIONER(S) HUMBL Y SUBMIT(S) that leave to appeal to Your Lordships' House should be granted for the following among other

REASONS

*[list here numbered reasons summarising the arguments]*

- (1) .....
- (2) .....
- (3) .....etc.

AND YOUR PETITIONER(S) WILL EVER PRAY

Signed

.....

*Signature of petitioner(s) or agent(s) for the petitioner(s)*

*[Note: for leapfrog petitions (direction 6) the prayer of the petition uses the words:*

THE HUMBLE PETITION OF *[set out full name(s) and address(es) of petitioners]* PRAYING FOR LEAVE FOR AN APPEAL TO BE BROUGHT DIRECT FROM THE HIGH COURT OF JUSTICE IN ACCORDANCE WITH PART II OF THE ADMINISTRATION OF JUSTICE ACT 1969 SHOWS—]

*[Use Form 2 for certificate of service to be endorsed on back of last page of petition for leave to appeal]*

## FORM 2

**BACK OF PETITION for leave to appeal showing certificate of service to be  
endorsed on back of last page of original petition**

<p>[I or We], [(Messrs) (<i>name</i>), of (<i>address</i>), (agents for)] the petitioner(s) within-named, hereby certify that on (<i>date</i>) [I or we] served [(Messrs) (<i>name</i>) of (<i>address</i>) (agents for)] (<i>name(s) of respondent(s)</i>), the within-named respondent(s), with a correct copy of the petition for leave to appeal and with notice that the petition would be presented to the House of Lords on behalf of the petitioner(s) as soon as conveniently may be.</p> <p>(<i>signature of petitioner(s) or their agents</i>)</p> <p>(<i>neutral citation of judgment petitioned against</i>) (<i>references to law reports</i>) (<i>indexing catchwords</i>) (<i>head-note summary</i>)</p>	<p>IN THE HOUSE OF LORDS</p> <p>ON APPEAL FROM (<i>name court</i>)</p> <p>BETWEEN:</p> <p>(<i>set out title of cause</i>)</p> <hr/> <p>PETITION FOR LEAVE TO APPEAL</p> <hr/> <p>(<i>set out full name, address, telephone number, and reference (if any) of petitioner(s) or their agents</i>)</p>
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**FORM 3**  
**PETITION for leave to appeal out of time**  
*(HL directions 2 and 3)*

IN THE HOUSE OF LORDS

ON APPEAL FROM HER MAJESTY'S COURT OF APPEAL CIVIL DIVISION (ENGLAND) (*or relevant court*)]

Court of Appeal Ref: (eg, B3/2004/0039)

Neutral citation of judgment appealed against: (eg, [2004] EWCA Civ 3847)

BETWEEN  
 AB (Respondent)  
 and  
 CD (Petitioners)  
 [and]  
 [(2) EF]  
 [and]  
 [(3) GH]

PETITION FOR LEAVE TO APPEAL

TO THE RIGHT HONOURABLE THE HOUSE OF LORDS

THE HUMBLE PETITION OF (*set out full name(s) and address(es) of petitioners*)

PRAYING FOR LEAVE TO APPEAL NOTWITHSTANDING THAT THE TIME LIMITED BY STANDING ORDER NUMBER II HAS EXPIRED SHOWS -

1. That (*set out briefly the reason(s) why the petition was not lodged in time*).
2. That .....(*continue as in Form 1, setting out briefly in numbered paragraphs such facts and arguments as may be necessary to enable the Appeal Committee to decide whether to give leave to appeal out of time*).
3. ....
4. ....etc.

*Note: it is usually appropriate for petitions for leave to appeal to deal with some or all of the following:*

1. Narrative of the facts;
2. Statutory framework (*if any*);
3. Chronology of proceedings;
4. Orders made in the courts below;
5. Issues before Court of Appeal (*or court appealed from*);
6. Treatment of the issues by Court of Appeal (*or court appealed from*);
7. Issues in the petition for leave to appeal.

*[At end of numbered paragraphs insert]*

YOUR PETITIONER(S) HUMBL Y SUBMIT(S) that leave to appeal out of time to Your Lordships' House should be granted for the following among other

REASONS

*[list here numbered reasons summarising the arguments]*

- (4) .....
- (5) .....
- (6) .....etc.

AND YOUR PETITIONER(S) WILL EVER PRAY

Signed

.....

*Signature of petitioner or agent(s) for the petitioner*

*[Use Form 2 for certificate of service to be endorsed on back of last page of petition for leave to appeal out of time]*



**FORM 4****PETITION of appeal [or cross-appeal]**

*(HL direction 9)*

IN THE HOUSE OF LORDS

ON APPEAL FROM HER MAJESTY'S COURT OF APPEAL (ENGLAND) *(or relevant court)*

BETWEEN:

AB (Respondents)  
and  
CD (Appellants)  
[and]  
[(2) EF]  
[and]  
[(3) GH]

*(in a petition of cross appeal the original respondent lodging the cross appeal is designated as cross-appellant/original respondent and the original appellant is designated as original appellant/cross-respondent)*

PETITION OF APPEAL

TO THE RIGHT HONOURABLE THE HOUSE OF LORDS

THE HUMBLE PETITION AND [CROSS-] APPEAL OF *(set out the full name(s) and address(es) of the appellant(s)).*

YOUR PETITIONER(S) humbly pray(s) that the matter of the Order(s)/Interlocutor(s) set forth in the Schedule hereto *[if Order is partly appealed against, insert the words: so far as therein stated to be appealed against]* may be reviewed before Her Majesty the Queen, in Her Court of Parliament, and that the said Order(s)/Interlocutor(s) *[if Order is partly appealed against, insert the words: so far as aforesaid]* may be reversed, varied or altered *[if appropriate, insert the words: in accordance with the Human Rights Act 1998]*, *[if specific relief is asked for, it should be so stated, prefaced by the words: and that]* or that the petitioner(s) may have such other relief in the premises as to Her Majesty the Queen, in Her Court of Parliament, may seem meet.

*[signature(s) of appellant(s) or their agents or counsel, as appropriate].*

THE SCHEDULE REFERRED TO ABOVE  
FROM HER MAJESTY'S COURT OF APPEAL (CIVIL DIVISION) (ENGLAND) (*or relevant court*)

In a certain cause [*or other matter*] wherein (*insert name(s)*) was/were claimant(s) [*or other designation*] and (*insert name(s)*) was/were defendant(s) [*or other designation*]. (*The names of all parties to the action, whether originally in the cause or added by subsequent order, must be given.*)

The Order(s)/Interlocutor(s) of (*state court*) of (*date*) appealed from is/are in the words following, [*add, if appropriate, the words: the portion(s) complained of being underlined*]: (*The whole of each Order/Interlocutor, including the recital, must be set out. All and only those parts of the Order/Interlocutor appealed from must be underlined. The recital should not be underlined. Where an Order/Interlocutor includes leave to appeal to the House of Lords, that part should not be underlined. Where leave to appeal has been granted by a subsequent Order of the court, that Order must also be set out but should not be underlined.*)

[*Where leave to appeal has been granted by order of the House, the following words are added:*

And your Lordships gave leave to appeal to your Lordships' House on (*date*)]

[*Where leave to appeal is not required under the provisions of any Act of Parliament (see direction 9.2), the following must be added and signed as indicated:*

We humbly conceive this to be a proper case to be heard before your Lordships by way of appeal.]

(*signatures and names of two counsel*)]

[*The special certificate required by HL Standing Order XI in certain Scottish appeals is added here if necessary*]

## FORM 5

**BACK OF PETITION OF [CROSS-] APPEAL, showing certificate of service to be endorsed on original petition**

<p>[I or We], [(Messrs) (name), of (address), (agents for)] the [cross-] appellant(s) within-named, hereby certify that on (date) [I or we] served [(Messrs) (name) of (address) (agents for)] (name(s) of [cross-] respondent(s)), the within-named [cross-] respondent(s), with a correct copy of the petition of [cross-] appeal and with notice that the petition would be presented to the House of Lords on behalf of the petitioner(s) as soon as conveniently may be.</p> <p>(signature of petitioner(s) or their agents)</p> <p>(neutral citation of judgment petitioned against) (references to law reports) (indexing catchwords) (head-note summary)</p>	<p>IN THE HOUSE OF LORDS</p> <p>ON APPEAL FROM (name court)</p> <p>BETWEEN:</p> <p>(set out title of cause)</p> <p>_____</p> <p>PETITION OF [CROSS-] APPEAL</p> <p>_____</p> <p>(set out full name, address, telephone number, and reference (if any) of [cross-] appellant(s) or their agents)</p>
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**FORM 6****PETITION for extension of time to lodge Statement and Appendix***(HL direction 13)*

IN THE HOUSE OF LORDS

ON APPEAL FROM HER MAJESTY'S COURT OF APPEAL (ENGLAND) *(or relevant court)*

BETWEEN:

*(set out title of appeal)*

TO THE RIGHT HONOURABLE THE HOUSE OF LORDS

THE HUMBLE PETITION OF *(set out full name(s) of appellant(s))* shows -

That your petitioner(s) presented a petition of appeal on *(date)* complaining of an Order of the *(state court)* dated *(date)*.

That the time allowed by Standing Order VI for the appellant(s) to lodge the statement and appendix and to set down the cause for hearing [will expire *or* originally expired] on *(date)*.

[That the House, pursuant to a petition from the appellant(s), granted an extension of time in which to lodge the statement and the appendix and set down the cause for hearing to *(date)*.]

[That the House, pursuant to a further petition from the appellant(s), granted a second extension of time until *(date)*.]

That the petitioner(s) will be unable to lodge the statement and appendix by the said date for the following reasons:

*(set out brief reasons)*

THEREFORE YOUR PETITIONER(S) HUMBLY PRAY(S)

That Your Lordships will be pleased to grant an extension of time until *(date)* to lodge the statement and appendix and set down the cause for hearing.

And your petitioner(s) will ever pray.

*(signature of appellant(s) or their agents)*

[Agents for the] Appellant(s) *(set out here name and address of appellant(s) or their agents)*

[I or We] consent to the prayer of the above petition.

*(signature of respondent(s) or their agents)*  
[Agents for the] respondent(s) *(set out here name and address of respondent(s) or their agents)*

**FORM 7****PETITION for Consolidation or Conjoinder**

*(HL direction 29)*

IN THE HOUSE OF LORDS

ON APPEAL FROM HER MAJESTY'S COURT OF APPEAL (ENGLAND)

*(set out title of first appeal)*

AND

*(set out title of second, third etc appeals)*

TO THE RIGHT HONOURABLE THE HOUSE OF LORDS

THE HUMBLE PETITION OF *(set out full name(s) of appellant(s))* SHOWS—

That your petitioner(s) presented [a] petition(s) of appeal on *(date)* complaining of (an) Order(s) of the *(name relevant court below)* dated *(date)*.

That your petitioner(s) *(name appellant(s) in other appeal(s), if different)* presented [a] petition(s) of appeal on *(date)* complaining of [an] Order(s) of the *(name relevant court below)* dated *(date)*.

That the same matters of law are raised in each of the appeals [and that the appeals of *(name relevant parties)* to *(name relevant court below)* were heard and argued together and one Judgment was delivered in respect of the [two] appeals].

That it is expedient that your petitioners' said appeals be [consolidated or conjoined].

YOUR PETITIONERS THEREFORE HUMBLY PRAY

[Consolidation:

That the said appeals may be consolidated and that they be allowed to lodge one statement, one case and one appendix and be jointly represented in respect of the *(insert relevant number)* appeals and that the respondents have leave to lodge one case in respect of the appeals.]

[Conjoinder:

That the said appeals may be conjoined and that they be allowed to lodge separate statements and cases and one appendix in respect of the *(insert relevant number)* appeals and that the respondents have leave to lodge separate cases in respect of the appeals and be separately represented or that such other Order may be made with a view to the convenient conduct of the said appeals as to your Lordships may seem meet *(or such variation as is required)*.]

And your petitioner(s) will ever pray.

*(signature of appellant(s) to first appeal or their agents)*

**[Agents for the]** Appellant(s) *(set out here name and address of appellant(s) or their agents)*

*(signature of appellant(s) to other appeal(s) or their agents)*

**[Agents for the]** Appellant(s)/co-petitioners *(set out here name and address of appellant(s)/co-petitioners or their agents)*

**[I or We]** consent to the prayer of the above petition.

*(signature of respondent(s) to first appeal or their agents)*

**[Agents for the]** Respondent(s) *to first appeal (set out here name and address of respondent(s) or their agents)*

*(signature of respondent(s) to other appeal(s) or their agents)*

**[Agents for the]** Respondent(s) *to other appeal(s) (set out here name and address of respondent(s) or their agents)*  
etc

**FORM 8****PETITION for leave to intervene***(HL direction 37)*

IN THE HOUSE OF LORDS

ON APPEAL FROM HER MAJESTY'S COURT OF APPEAL (ENGLAND) *(or relevant court)*

BETWEEN:

*(set out title of appeal)*

TO THE RIGHT HONOURABLE THE HOUSE OF LORDS

THE HUMBLE PETITION OF *(set out full name(s) of prospective intervener(s))* PRAYING FOR LEAVE TO INTERVENE SHOWS—

1. That on *(date)* *(set out full name(s) of appellant(s))* presented a petition of appeal to your Lordships' House, complaining of an Order of the *(state court)* dated *(date)*.
2. That your petitioner(s) seek(s) your Lordships' leave to present written **[add, if appropriate, the words: and oral]** submissions in intervention in the said appeal.
3. That *(set out briefly in numbered paragraphs such facts and arguments as may be necessary to enable the Appeal Committee to report to the House whether leave to intervene should be granted)*.

YOUR PETITIONER(S) HUMBL Y SUBMIT(S) that leave to intervene in the said appeal should be granted for the following among other

**REASONS***(give numbered reasons summarising the arguments)*

And your petitioner(s) will ever pray.

*(signature of petitioner(s) or their agents)***[Agents for the]** Petitioner(s) *(set out here name and address of petitioner(s) or their agents)***[I or We]** consent to the prayer of the above petition.*(signature of appellant(s) or their agents)***[Agents for the]** Appellant(s) *(set out here name and address of appellant(s) or their agents)***[I or We]** consent to the prayer of the above petition.*(signature of respondent(s) or their agents)***[Agents for the]** Respondent(s) *(set out here name and address of respondent(s) or their agents)*

## FORM 9

**BACK OF PETITION for leave to intervene, showing certificate of service to be endorsed on original petition**

<p>[I or We], [(Messrs) (name), of (address),(agents for)] the petitioner(s) within-named, hereby certify that on (date) [I or we] served [(Messrs) (name) of (address) (agents for)] (name(s) of appellant(s)), the within-named appellant(s),and [if different date, insert the words: on (date)] [(Messrs) (name) of (address) (agents for)] (name(s) of respondent(s)), the within-named respondent(s),with a correct copy of the petition for leave to intervene and with notice that the petition would be presented to the House of Lords on behalf of the petitioner(s) as soon as conveniently may be.</p> <p>(signature of petitioner(s) or their agents)</p>	<p>IN THE HOUSE OF LORDS</p> <p>ON APPEAL FROM (name court)</p> <p>BETWEEN:</p> <p>(set out title of cause)</p> <hr/> <p>PETITION FOR LEAVE TO INTERVENE</p> <hr/> <p>(set out full name, address, telephone number, and reference (if any) of petitioner(s) or their agents)</p>
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**FORM 10****PETITION for restoration of appeal when time for lodging Statement has expired***(HL direction 13)*

IN THE HOUSE OF LORDS

ON APPEAL FROM HER MAJESTY'S COURT OF APPEAL (ENGLAND)

BETWEEN: AB (Appellant(s))  
and  
CD (Respondent(s))

TO THE RIGHT HONOURABLE THE HOUSE OF LORDS

THE HUMBLE PETITION OF AB SHOWS –

That your petitioner(s) presented a Petition of Appeal on (*date*) complaining of an Order of the [Court of Appeal or relevant court] dated (*date*).

That the time allowed by Standing Order VI for the appellant(s) to lodge the Statement of facts and issues and the Appendix and to set down the cause for hearing expired on the (*date*).

That your petitioner(s) has/have been unable to lodge their Statement and the Appendix by the said date for the following reasons:

*(set out reasons).*

YOUR PETITIONER(S) THEREFORE HUMBLY PRAY(S) that your Lordships will be pleased to order that their appeal be restored and to grant them an extension of time until (*date*) to lodge the Statement and the Appendix and to set down the cause for hearing.

And your petitioner(s) will ever pray.

*(signature of appellant(s) or their agents)*

[Agents for the] Appellant(s) *(set out here name and address of appellant(s) or their agents)*

[I or We] consent to the prayer of the above petition.

*(signature of respondent(s) or their agents)*  
[Agents for the] respondent(s) *(set out here name and address of respondent(s) or their agents)*

**FORM 11****RESPONDENTS' CONSENT to incidental petition**

*(HL direction 13.6)*

*(The consent is endorsed on the petition)*

We consent to the prayer of the above petition.

*(signature)*

Respondent(s)/Agents for the respondent(s)

**FORM 12****CONSENT to waiver of security for costs**

*(HL direction 10.3)*

*(Letter to be sent by respondent(s) or their agent(s) to the Judicial Office)*

(date)

Dear Sirs,

AB v CD

[I or We], [as agents for] the Respondent(s) in the above appeal, consent to the appellant(s) being allowed to prosecute the appeal without giving the security for costs required by Standing Order V(1) regulating judicial business.

*(signature)*

Respondent(s)/Agents for the  
respondent(s)

**FORM 13****APPLICATION to set down cause for hearing***(HL direction 14)*

IN THE HOUSE OF LORDS

ON APPEAL FROM HER MAJESTY'S COURT OF APPEAL (ENGLAND) *(or relevant court)*

BETWEEN: AB Appellant(s)  
and  
CD Respondent(s)

The appellant(s) having lodged a Statement of facts and issues and the Appendix thereto pursuant to order of the House,

My Lords,

Please to move, That this cause be set down for hearing after those causes already appointed.

*(signature of appellant(s) or their agents)*

Appellant/Agents for the appellant

*(set out name and address of appellant(s) or their agent)*

**FORM 14****FORM OF COVER for Bound Volume** *(on blue card)*

IN THE HOUSE OF LORDS

ON APPEAL FROM HER MAJESTY'S COURT OF APPEAL (ENGLAND) *(or relevant court)*

BETWEEN:

*(set out title of appeal)***BOUND VOLUME****1***(The bound volume is only numbered if there is more than one volume)*

PETITION OF APPEAL

[PETITION OF CROSS-APPEAL]

STATEMENT OF FACTS AND ISSUES

CASE FOR THE APPELLANTS

CASE FOR THE RESPONDENTS

APPENDIX - PART 1

LIST OF AUTHORITIES

*(The above list is amended as appropriate)*

Sticker on spine:

[Set out short title of cause]

**BV**

**1**

*(Name and address of agents for appellant(s))**(Name and address of agents for respondent(s))*

**FORM 14A****FORM OF COVER for Appendix** *(on blue card)*

IN THE HOUSE OF LORDS

ON APPEAL FROM HER MAJESTY'S COURT OF APPEAL (ENGLAND) *(or relevant court)*

BETWEEN:

*(set out title of appeal)*

Sticker on spine:

**[Set out short  
title of cause]****APX****1****APPENDIX****PART 1***(The appendix is only numbered if  
there is more than one volume)**(Name and address of agents for  
appellant(s))**(Name and address of agents for  
respondent(s))*

**FORM 15****FORM OF COVER for authorities volume** *(on green card)*

IN THE HOUSE OF LORDS

ON APPEAL FROM HER MAJESTY'S COURT OF APPEAL (ENGLAND) *(or relevant court)*

BETWEEN:

*(set out title of appeal)*

Sticker on spine:

[Set out short title of cause]

**A**

**1**

**AUTHORITIES VOLUME****1***(The authorities volume is only numbered if there is more than one volume)**(Name and address of agents for appellant(s))**(Name and address of agents for respondent(s))*

**FORM 16****PETITION for withdrawal of appeal**

*(HL direction 45.2 - 45.3)*

IN THE HOUSE OF LORDS

ON APPEAL FROM HER MAJESTY'S COURT OF APPEAL (ENGLAND)

BETWEEN: AB Appellant(s)

and

CD Respondent(s)

TO THE RIGHT HONOURABLE THE HOUSE OF LORDS

THE HUMBLE PETITION OF the Appellant(s) shows –

That your petitioner(s) presented a Petition of Appeal on *(date)* complaining of an Order of the Court of Appeal *(or relevant court)* dated *(date)*.

That as security for the costs of their appeal your petitioner(s) paid [£25,000] into the Security Fund Account.

That your petitioner'(s)(s') appeal was set down for hearing before your Lordships' House on *(date)*.

That your petitioner(s) and the respondent(s) have agreed to terms of settlement of all matters in dispute between them, as follows:

1. That your petitioner(s) and the respondent(s) should join in making an application to your Lordships' House for leave that your petitioner'(s)(s') appeal might be withdrawn; and
2. That *(set out terms of agreement)*.

YOUR PETITIONER(S) THEREFORE HUMBLY PRAY(S) that your Lordships will be pleased to order that:

(1) your petitioner'(s)(s') appeal be withdrawn;

(2) *(state costs order sought, to dispose of appeal)*

And your petitioner(s) will ever pray.

(signature)

Agents for the appellant(s)



## APPENDIX B

### LIST OF AUTHORITIES KEPT IN HOUSE OF LORDS LIBRARY

(see direction 17.7)

The House of Lords Library keeps the following authorities:

All England Reports  
Anglo American Law Review  
British Yearbook of International Law  
Cambrian Law Review  
Cambridge Law Journal  
Canadian Rights Reporter  
Common Market Law Reports  
Common Market Law Review  
Cox's Criminal Law Cases (1843-49)  
Criminal Appeal Reports  
Criminal Appeal Reports (Sentencing)  
Criminal Law Forum  
Criminal Law Review  
Crown Office Digest  
English Reports  
Estates Gazette Law Reports (1985- )  
European Court Reports  
European Human Rights Reports  
European Law Digest  
European Law Review  
European Public Law  
Family Law Reports  
Financial Law Reports  
Fleet Street Reports  
Halsbury's Laws and Statutes  
Housing Law Reports  
Human Rights Law Journal  
Immigration Appeal Reports  
Industrial Cases Reports  
Industrial Law Journal  
Industrial Relations Law Reports  
Industrial Tribunal Reports (1971-78)  
International and Comparative Law Quarterly  
International Litigation Procedure  
Irish Jurist (1848-1866, 1935-1965)  
Irish Jurist Reports  
Irish Law Reports  
Journal of Legal History  
Journal of Legislative Studies  
Journal of Planning and Environment Law  
Journal of Social Welfare Law  
Jurist - Reports of Cases in Law and Equity (1837-1866)  
Justice of the Peace Reports  
Law Journal Reports  
Law Quarterly Review  
Law Reports (1866- )  
Law Times Reports  
Legislative Studies Quarterly  
Lloyd's Law Reports  
Local Government Review Reports

Modern Law Review  
New Law Journal  
Northern Ireland Law Reports  
Northern Ireland Legal Quarterly (Vol 34 (1983)– )  
Northern Ireland Statutes  
Oxford Journal of Legal Studies  
Planning and Compensation Reports (1963-67)  
Property and Compensation Reports (1968– )  
Public Law (British Journal of Administrative Law)  
Reports of Patent Cases  
Road Traffic Reports  
Rydes Rating Cases (1956-1979)  
Scots Law Times  
Scottish Civil Law Reports  
Scottish Criminal Case Reports (1983– )  
Scottish Jurist (1829-1873)  
Scottish Law Reporter (1865-1924)  
Scottish Planning Law and Practice  
Session Cases  
Simons Tax Cases (1981– )  
Solicitors Journal  
Statute Law Review  
Statutes  
Tax Cases  
Times Law Reports  
Weekly Law Reports  
Weekly Notes (1866-1952)  
Weekly Reporter (1852-1906)

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## APPENDIX C

### FEES AND SECURITY MONEY

#### JUDICIAL FEES

The following fees are payable at the time of lodgment or collection of documents:

<i>Petitions for leave to appeal - mandatory fees</i>	
Presentation	£570
Entering appearance	£115
<i>Petitions of appeal - mandatory fees</i>	
Presentation (following successful petition for leave to appeal)	£570
Presentation (not following petition for leave)	£1,140
Entering appearance	£230
Lodging Statement and Appendix and setting down	£3,420
<i>Petitions of appeal - occasional fees</i>	
Waiver of security	£115
First petition for extension of time	£230
Second petition for extension	£340
Third petition for extension	£570
Fourth or subsequent petition for extension	£1,000
Petition for leave to intervene	£570
Other interlocutory petition, if agreed	£230
Any interlocutory petition, if opposed	£570
Appeal Committee Order or other certified document (except Judgment Order, for which there is no fee)	£12

In respect of a joint petition, only one fee is payable. Fees for presenting petitions in respect of a cross-appeal are the same as fees for petitions in respect of an appeal.

(27th July 2000<sup>1</sup>)

Drafts and cheques for judicial fees are payable to 'House of Lords Account'.

#### TAXING FEES

The fees payable upon the sums allowed by the Taxing Officer are as follows:

- (a) where the amount allowed does not exceed £500, a flat rate of £50;
- (b) where the amount allowed exceeds £500, for every £1 or fraction of £1, an amount of 5p.

The fees payable on the withdrawal of a bill of costs (subject to written confirmation of the withdrawal from both parties to the taxation) are as follows:

- (a) in respect of bills withdrawn within 21 days of the date appointed for taxation, 1 per cent. of the agreed sum or £50, whichever is the larger;
- (b) in respect of bills withdrawn within 7 days of the date appointed for taxation, 2 per cent. of the agreed sum or £50, whichever is the larger.

(27th July 2000<sup>2</sup>)

Drafts and cheques for taxing fees are payable to 'House of Lords Account'.

#### SECURITY MONEY

Security for costs, to be paid by the appellant(s)	£25,000
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(27th July 2000<sup>3</sup>)

Drafts and cheques for security money are payable to  
'House of Lords Security Fund Account'.

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<sup>1</sup> House of Lords Offices Committee, 6th Report (1999-2000), HL Paper 97.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

**APPENDIX D****AMENDMENTS OF PREVIOUS EDITION OF PRACTICE DIRECTIONS**

The practice directions of the House of Lords are continuously revised and improved. This edition includes many small changes to which special attention does not need to be drawn. Such changes are intended to make the practice directions less minutely prescriptive as to the form of documents etc lodged in respect of appeals. The direction numbers remain the same, except that:

directions 1.18 – 1.20 are new, and old directions 1.18-1.20 are renumbered 1.21 – 1.23

old direction 2.4 (which dealt with applications for permission to appeal out of time) is omitted and old direction 2.5 is renumbered 2.4

direction 37 has been revised, with consequential internal renumbering

The following directions contain significant changes from the previous edition (January 2006):

directions 1.7 – 1.11 (which clarify the procedures for appeals from Scotland and set out more clearly when leave to appeal is and is not required. Direction 1.9 makes it clear that it must be Scottish counsel who certify the reasonableness of any appeal from Scotland.)

directions 1.14 – 1.16 (which establish simplified procedures for dealing with applications for permission to appeal)

direction 1.18 (which is new and deals with applications for permission to appeal to the House after a refusal by the Court of Appeal to reopen an appeal or application to it under *Taylor v Lawrence*)

directions 1.19 – 1.20 (which are new and deal with applications for permission to appeal to the House when permission to apply for judicial review is refused by a court below)

directions 3.16 – 3.17 (which simplify the procedures for seeking waivers of fees. The requirement that a petitioner must first seek public funding before applying for a waiver is dropped.)

direction 3.21 (which acknowledges the right of the competition authorities in EU member states to intervene in applications by other persons for permission to appeal)

direction 4.7 (which clarifies the criteria used by the Appeal Committee in deciding applications for leave to appeal)

directions 4.10 and 4.14 (which clarify the procedures under which respondents may make written submissions to Appeal Committees)

directions 4.25 – 4.28 (which are new and establish procedures for dealing with applications for leave to appeal, and any subsequent appeal, in proceedings arising out of the Hague Convention and the revised Brussels II regulation)

direction 19.1 and 19.4 – 19.5 (which simplify the procedures for making submissions on costs)

directions 20 (which set out revised procedures and timetables whereby counsel obtain judgments in advance of their delivery in the House)

direction 37.1 (which acknowledges the right of the competition authorities in EU member states to intervene in appeals)

direction 41 (which simplifies the procedures governing time limits in publicly funded appeals)