

**PART X: APPEALS AND HEARINGS BEFORE COURT OF 3 JUDGES**

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**PART X**

**APPEALS AND HEARINGS BEFORE COURT OF 3 JUDGES**

**70. Application of this Part**

The directions in this Part apply to appeals before the High Court, hearings before the Court of Appeal and disciplinary proceedings (or appeals therefrom) brought under any statute, including the Legal Profession Act (Cap. 161, 2001 Rev Ed) and the Medical Registration Act (Cap. 174, 2004 Rev Ed) which are heard by a Court of 3 Judges.

**71. Requests for further arguments before the Judge or Registrar**

- (1) All requests for further arguments shall be by way of letter and should:
  - (a) state the party making the request;
  - (b) identify the Judge or Registrar who heard the matter in question;
  - (c) specify when the order concerned was made;
  - (d) state the provision of law under which the request is made;
  - (e) set out the proposed further arguments briefly, together with any authorities; and
  - (f) include a copy of each of the authorities cited.
- (2) Where the application raises no new issue or argument but is solely for the purpose of complying with section 34(1)(c) of the Supreme Court of Judicature Act (Cap. 322, 1999 Rev Ed), the applicant must state that this is so. In such a case, sub-paragraphs (1)(e) and (f) above need not be complied with.
- (3) A copy of the request should be furnished to all parties concerned.
- (4) All requests should be addressed to the Registrar.

**72. Civil appeals before the High Court from the Subordinate Courts**

*Appeals under Order 55D of the Rules of Court*

- (1) In appeals under Order 55D of the Rules of Court, the appellant and the respondent are to tender one hard copy of the record of appeal and the written Cases, as well as any bundle of authorities to be relied upon to the Legal Registry of the Supreme Court not less than 5 working days before the hearing of the appeal, to assist the Judge of the High Court. The documents contained in the record of appeal must coincide with the documents listed in the form of the record of appeal.

*Appeals from the Family Court*

- (2) Directions for appeals from the Family Court on ancillary matters in divorce proceedings, custody matters or proceedings pursuant to s 17A(2) of the Supreme Court of Judicature Act are set out at paragraph 139.

**73. Civil appeals before the High Court from tribunal or person under Order 55 of the Rules of Court**

- (1) Order 55, Rule 6(4) of the Rules of Court states that it is the appellant's duty to apply to the Judge or other person presiding at the proceedings in which the decision appealed against was given, for the signed copy of any note made by him of the proceedings and to furnish that copy for the use of the Court. For the avoidance of doubt, the onus is on the appellant to file the signed copy of the notes of proceedings, and any further grounds of decision, in the High Court.
- (2) The appellant and the respondent are to tender one hard copy of the notes of proceedings, grounds of decision and any skeletal arguments or bundles of authorities to be relied upon to the Legal Registry of the Supreme Court not less than 5 working days before the hearing of the appeal, to assist the Judge of the High Court.

**74. Whether an appeal to the Court of Appeal is to be heard by a Court of 2 or 3 Judges**

- (1) The time for an appellant to file the record of appeal, the Case and the core bundle of documents for hearing before a Court of Appeal is 2 months from the service of the notice referred to in Order 57, Rule 5(2) of the Rules of Court where the appeal is to be heard by a 3 judge Court, and one month where the appeal is to be heard by a 2 judge Court.
- (2) To resolve any confusion or uncertainty as to whether an appeal is to be heard by a Court of 2 or 3 Judges of Appeal, this issue will be determined by the Judge who heard the matter at first instance.
- (3) The Judge at first instance will inform the Legal Registry of the Supreme Court of his decision on the above matter, and the Legal Registry will inform the appellant in the notice prescribed under Order 57, Rule 5(2) of the time for filing of the record of appeal, the Appellant's Case and the core bundle of documents, in accordance with whether the matter will be heard by a Court of 2 or 3 Judges of Appeal.
- (4) If the Judge at first instance does not determine the issue of whether the appeal should be heard before a Court of 2 or 3 Judges of Appeal, or if the appellant should dispute the determination of the Judge of first instance, the matter will be referred to a Judge of Appeal whose determination is final. An appellant who wishes to dispute the determination of the Judge of first instance must, within 7 days of the service of the notice prescribed under Order 57, Rule 5(2) inform the Legal Registry by writing of such dispute, stating the grounds thereof.

**75. Quantum of security to be provided under Order 57, Rule 3(3) of the Rules of Court**

(1) Order 57, Rule 3(3) of the Rules of Court provides:

(3) The appellant must at the time of filing the notice of appeal provide security for the respondent's costs of the appeal in the sum of \$10,000 or such other sum as may be fixed from time to time by the Chief Justice by —

(a) depositing the sum in the Registry or with the Accountant-General and obtaining a certificate in Form 115; or

(b) procuring an undertaking in Form 116 from his solicitor and filing a certificate in Form 117.

(2) The Honourable the Chief Justice has, in exercise of the powers conferred on him by Order 57, Rule 3(3), fixed the sum to be deposited by the appellant by way of security for the respondent's costs of an appeal to the Court of Appeal at \$10,000.

**76. Filing of records of appeal, core bundles and written Cases for civil appeals under Order 57, Rules 9 and 9A of the Rules of Court**

- (1) Under Order 57, Rule 9(1) of the Rules of Court, the appellant is required to file the record of appeal, the Appellant’s Case and the core bundle. Under Order 57, Rule 9A(2), the respondent has to file the Respondent’s Case and the supplemental core bundle (if any). The record of appeal, core bundle and supplemental core bundle are collectively referred to in this paragraph as “appeal bundles”.
- (2) For the purpose of complying with Order 57, Rules 9 and 9A, the parties are required to file the following documents using the Electronic Filing Service (EFS) in accordance with the specified time frames in Order 57, Rules 9(1) and 9A(2).
  - (a) The appellant is required to file one copy of the following:
    - (i) Form of the record of appeal in lieu of the record of appeal;
    - (ii) Form of the core bundle in lieu of the core bundle; and
    - (iii) Appellant’s Case.
  - (b) The respondent is required to file one copy of the following:
    - (i) Respondent’s Case; and
    - (ii) Form of the supplemental core bundle (if any) in lieu of the supplemental core bundle.
- (3) The form of the record of appeal, form of core bundle and form of supplemental core bundle (collectively referred to in this paragraph as “forms of appeal bundles”) filed pursuant to sub-paragraph (2) must be in accordance with Forms 14, 15 and 16 of Appendix A of these Practice Directions. For the avoidance of doubt, the documents contained in the

hard copies of the appeal bundles must coincide with the documents listed in the form of the appeal bundles.

- (4) A document which a party intends to list in the forms of appeal bundles, either in whole or in part, need not be filed again if the document already exists in the electronic case file. Such documents are deemed to be filed. However, a party is required to provide the following information:
  - (a) document control number (DCN) of the document;
  - (b) filing date of the document (unless such a filing date is unavailable in the electronic case file);
  - (c) description of the document; and
  - (d) where only a portion of the document is referred to, the specific pages of the document.
- (5) If the document to be listed has been tendered pursuant to paragraph 60(3), the party need not furnish the DCN of that document if it is not available. It will suffice if a suitable description of the document is provided.
- (6) The attention of parties is also drawn to the Court fees payable under Order 90B of the Rules of Court, and the importance of brevity and restraint in the compilation of core bundles. It will be permissible for parties to indicate, in the last column of Form 15, the specific pages of a document lacking a DCN which are intended for inclusion in the core bundle as stated in sub-paragraph (4)(d).
- (7) If a party wishes to rely on a document which does not exist in the electronic case file, he must file the document *together* with the respective forms of appeal bundles. Further, a table of contents must be included for these documents. These documents must be paginated consecutively at the

centre top of the page and the solicitor must ensure that the pagination takes into account the pages comprising the respective forms of appeal bundles and the table of contents for these additional documents. For example, if the form of the core bundle is 5 pages and the table of contents for the additional documents is 2 pages, the first page of the first document should be paginated as page 8.

- (8) The fees payable for the filing of the written Cases are found in items 63, 63A, 71D(1)(c) and 71D(2)(c) of Appendix B to the Rules of Court. The fees payable for the filing of the form of record of appeal, form of core bundle and form of supplemental core bundle are found in items 70A, 71D(1)(c) and 71D(2)(c). When the core bundles and supplemental core bundles are tendered at the Legal Registry of the Supreme Court pursuant to paragraph 77(1), the Legal Registry staff will state on the top right hand corner of the bundle the exact amount of Court fees payable under Order 90B. The parties should then pay the Court fees as indicated.

**77. Hard copies for hearing of civil appeals before the Court of Appeal under Order 57 of the Rules of Court**

- (1) In order to assist the Judges of the Court of Appeal, the appellant and the respondent are required to tender hard copies of the record of appeal, the Appellant's and Respondent's Cases, core bundle(s) of documents and bundles of authorities to the Legal Registry of the Supreme Court at the same time when filing them within the prescribed time under Order 57, Rule 9A of the Rules of Court. The following directions must be complied with:
  - (a) Where the appeal is to be heard by a 3-judge Court, one copy of the record of appeal, 4 copies of the Cases, 4 copies of the core bundle(s) and 4 copies of the bundles of authorities shall be tendered.
  - (b) Where the appeal is to be heard by a 2-judge Court, one copy of the record of appeal, 3 copies of the Cases, 3 copies of the core bundle(s) and 3 copies of the bundles of authorities shall to be tendered.
- (2) The directions set out in paragraph 78 apply in relation to the preparation of the appeal bundles in hard copy.

**78. Preparation of appeal records in civil appeals to the Court of Appeal**

*Arrangement*

- (1) This sub-paragraph sets out the manner of arranging appeal records.
  - (a) To facilitate cross-referencing, appeal records shall be arranged in the following separate volumes:
    - (i) **Volume I** – Judgment or grounds of decision and the engrossed order of Court of judgment appealed from.
    - (ii) **Volume II** – Notice of appeal, certificate of security for costs and pleadings (to include all originating processes).
    - (iii) **Volume III** – Affidavits (in chronological order), and transcripts or notes of evidence and arguments.
    - (iv) **Volume IV** – All such exhibits and documents as they were tendered in the Court below, but which did not form an exhibit to any affidavit.
    - (v) **Volume V** – The Agreed Bundle (if any) in its original physical form as it was tendered in the Court below.
  - (b) Where there are no exhibits or documents referred to in sub-paragraph (1)(a)(iv) above, Volume IV need not be produced, and Volume V shall be renumbered as Volume IV.
  - (c) If any volume should exceed 300 pages, then that volume shall be sub-divided, at a convenient page, into sub-volumes designated as part thereof, for example, Volume III Part A, Volume III Part B and so on. Conversely, if any of the volumes (with the exception of Volumes I and II which shall remain as separate volumes) should be less than 100 pages each, these may be amalgamated into may be amalgamated into combined volumes, each not exceeding 300 pages, and renumbered accordingly.
  - (d) The following additional directions shall apply to the form of the record of appeal:
    - (i) The documents in Volumes I, II, and III shall be arranged strictly in the order stated in sub-paragraph (1)(a) above.

- (ii) The documentary exhibits in Volume IV shall be arranged in the most convenient way for the use of the Court, as the circumstances of the case require. The documents shall, as far as suitable, be arranged in chronological order, mixing plaintiff's and defendant's documents together when necessary (for example, in a series of correspondence). If proceedings in a suit other than the one under appeal appear as exhibits, then these shall be kept together. However, the documents from each suit shall be arranged in the chronological order of the suits.
- (iii) Each document in Volume IV shall show its exhibit mark and whether it is the plaintiff's or the defendant's document, unless this is clear from the mark.

*Binding and pagination*

- (2) This sub-paragraph sets out the manner of binding and paginating appeal records.
  - (a) Subject to sub-paragraph (1)(c) above, each volume of the records shall be separately bound. Loose and unbound documents are unacceptable.
  - (b) The records shall be securely bound with plastic ring binding or plastic spine thermal binding, front cover being a transparent plastic sheet and back cover being of soft cardboard substance.
  - (c) The first page of each volume beneath the transparent cover shall state the title and the Civil Appeal number of the appeal, the names of the parties, the volume number, a short description of its contents, the names and addresses of the appellants and respondents, and the date of filing.
  - (d) The records shall be paginated consecutively throughout in one series, notwithstanding that the records are arranged in separate volumes. Pagination shall be effected by stamping the

appropriate number distinctly at the top right hand corner of each page.

- (e) A boldly printed rectangular label showing sufficient information to identify the volume (for example, CA 1/92 Volume III Part A) shall be affixed to the plastic spine of every volume of the appeal records by transparent broad adhesive tape.

*Table of contents*

- (3) This sub-paragraph sets out the format of the table of contents for appeal records.
  - (a) The table of contents of all volumes of the records shall be placed at the beginning of Volume I, immediately after the first title page in the manner and form set out in Form 17 of Appendix A of these Practice Directions.
  - (b) Each volume and, if any, parts thereof, shall also contain its own index of the contents.
  - (c) Items in the table of contents shall be numbered serially, and listed in the order in which they are bound in the records.
  - (d) The items relating to the transcripts or notes of the evidence of witnesses shall have a sub-table of contents of the evidence of each witness, and the number and name of each witness shall be shown in such sub-table.
  - (e) If an exhibit consists of a bundle of documents, then the documents in the bundle shall be listed in a sub-table of contents under the item relating to such bundle.

*Photocopying process*

- (4) All documents for inclusion in the records shall be photocopied in all instances.
  - (a) The size of the photocopying paper shall be A4-ISO paper.

- (b) Exhibits which are larger than A4-ISO paper shall be neatly folded to fit into the records.
- (c) All documents shall be legible. In particular, care must be taken to ensure that the parts or edges of pages are not eliminated in the process of photocopying. If it proves impossible for any reason (for example, fine and small print in bills of lading or telex messages) to reproduce a clear copy of any document, a typewritten or magnified copy of the relevant document should be produced and inserted immediately following the document.

*Paper, print and spacing*

- (5) This sub-paragraph sets out the type of paper, print and spacing of appeal records.
  - (a) The photocopying paper shall be of durable quality which is clean and unblemished, and white in colour.
  - (b) The print used shall be of a quality which produces a clear, clean and legible impression.
  - (c) The print on every page of the records of which the original is typed-written (for example, notice of appeal) shall be double-spaced.

*Flagging*

- (6) This sub-paragraph sets out the manner of flagging of appeal records.
  - (a) The first page of the transcripts or notes of evidence in respect of each witness in the Courts below shall be flagged by means of a small plastic tab which is marked or typewritten with an appropriate indicium (such as PW1, DW1).
  - (b) Flagging of the other documents should be generally used to mark out documents to which repeated references will be made in the course of the hearing. Such flags of documents shall bear the

appropriate indicium by which the document is indicated in the table of contents.

- (c) The flags shall be spaced out evenly along the right side of the bound volume so that as far as possible they do not overlap one another. No flags are to be placed on the top or bottom edge of the bundle. Flags are to be secured to the pages firmly.

*Margins and head notes*

- (7) This sub-paragraph sets out the format of the margins and headnotes of appeal records.
  - (a) Every page of the records shall have a margin on all 4 edges, each of at least 35 mm in width.
  - (b) Each document shall have a head note at the top right hand corner consisting of the serial number of the document (as it appears in the table of contents) or its exhibit mark, as the case may be, and the description of the document in the table of contents. The head note shall be repeated on the top right hand corner of each page over which the document extends, for example, “2 Notice of Appeal”.
  - (c) The transcripts and notes of evidence shall bear at the upper right-hand corner, the name and number of the witness, and the name of the counsel examining or cross-examining him, for example, “PW1: ABC cross-examined by Mr XYZ”.

*Alphabetical lettering in the margin*

- (8) The following document shall bear alphabetical lettering in the left-hand margin at every fifth line, the first letter “A” being placed against the first line on each page:
  - (a) the judgment or grounds of decision;
  - (b) the notice of appeal;
  - (c) the pleadings;

- (d) the affidavits;
- (e) the notes of evidence and arguments.

In binding the records, care must be taken to ensure that the alphabetical lettering in the margin of each page is not obscured by the binding

*Core bundles – Order 57, Rule 9(2A)*

- (9) The documents to be included in the core bundle are stipulated in Order 57, Rule 9(2A). The contents of the core bundle shall be arranged in the following separate volumes:
  - (a) **Volume I** – a copy of the grounds of the judgment or order, the judgment or order appealed from and an index of the documents included therein.
  - (b) **Volume II** – all other documents referred to in Order 57, Rule 9(2A), and an index of the documents included therein.

The volumes of the core bundle should not be confused with the volumes for the appeal records set out in sub-paragraph (1)(a) above.

*Responsibility for good order and completeness of appeal records*

- (10) The solicitor having the conduct of the appeal may delegate the preparation of the appeal records to an assistant or a suitably experienced law clerk or secretary, provided always that the solicitor shall personally satisfy himself as to the good order and completeness of every copy of the appeal records lodged in Court in accordance with the above directions, and shall personally bear responsibility for any errors or deficiencies.

*Superfluous and irrelevant documents*

- (11) With regard to the inclusion of documents, the solicitor's attention is drawn to the provisions of Order 57, Rules 9(2), (2A) and (3). Only documents which are relevant to the subject matter of the appeal, or, in the case of core bundles, will be referred to in the Cases, shall be included in

the appeal records. The Court of Appeal will have no hesitation in making a special order for costs in cases in which it is of the opinion that costs have been wasted by the inclusion of superfluous or irrelevant documents. Documents shall not appear more than once in the records, even if exhibited to different affidavits.

**79. Skeletal arguments for appeals before the High Court, Court of Appeal and Court of 3 Judges**

- (1) For the avoidance of doubt, this paragraph applies to:
  - (a) civil and criminal appeals in the High Court, excluding appeals from the Registrar to a Judge in Chambers;
  - (b) civil appeals and any other civil matters, including interlocutory applications, before the Court of Appeal; and
  - (c) criminal appeals and other criminal matters before the Court of Appeal.
  
- (2) The term “skeletal arguments” includes “skeletal submissions”, “written submissions”, “written arguments” and all other variant terms by which such documents are known.
  
- (3) Counsel should submit skeletal arguments for the hearing of the appeal or matter and give a copy to counsel for the other parties.
  
- (4) Skeletal arguments are abbreviated notes of the arguments that will be presented. Skeletal arguments are not formal documents and do not bind parties. They are a valuable tool to the Judges and are meant to expedite the hearing of the appeal. These notes should comply with the following requirements:
  - (a) they should contain a numbered list of the points proposed to be argued, stated in no more than one or 2 sentences;
  - (b) each listed point should be accompanied by a full reference to the material to which counsel will be referring, i.e., the relevant pages or passages in authorities, the record of appeal, the bundles of documents, affidavits, transcripts and the judgment under appeal;
  - (c) all pages should be paginated, with the first page (not including any cover page) numbered as “Page 1”;

- (d) the minimum font size to be used is Times New Roman 12 or its equivalent;
- (e) the print of every page shall be double-spaced; and
- (f) every page shall have a margin on all 4 sides, each of at least 35mm in width.

*Skeletal arguments for civil matters before the Court of Appeal*

- (5) The need for parties to avoid prolixity in their “skeletal arguments” is emphasised. All skeletal arguments in civil matters before the Court of Appeal shall not exceed 20 single-sided pages. Any skeletal arguments in breach of this requirement will be rejected. The cover page and backing page shall be excluded from any computation of the number of pages.
- (6) Where the appeal or matter is before the Court of Appeal, the skeletal arguments must be filed by 4 p.m. on the Thursday immediately preceding the week of the Court of Appeal sitting. The skeletal arguments should be filed by tendering 4 hard copies to the Legal Registry of the Supreme Court and filing one soft copy through the Electronic Filing Service. Skeletal arguments filed in breach of this timeline will be rejected. For the avoidance of doubt, this timeline applies regardless of the actual day on which the particular appeal is scheduled for hearing before the Court of Appeal.
- (7) Parties whose skeletal arguments have been rejected for filing may re-file their skeletal arguments, provided they comply with sub-paragraphs (4) to (6) above.

*Timelines for submission of skeletal arguments for appeal before the High Court*

- (8) Where the appeal is a civil appeal before the High Court, the skeletal arguments should be sent to the Legal Registry at least 2 working days before the hearing of the appeal.

- (9) Where the appeal is a criminal appeal before the High Court, the skeletal arguments should be sent to the Legal Registry at least 10 days before the hearing of the appeal. Skeletal arguments filed in breach of this timeline will be stamped “Late Submission”.

*Application of this paragraph to Court of 3 Judges*

- (10) Sub-paragraphs (1) to (7) also apply to disciplinary proceedings, or appeals therefrom, brought under any statute, including the Legal Profession Act (Cap. 161, 2001 Rev Ed) and the Medical Registration Act (Cap. 174, 2004 Rev Ed) which are heard by a Court of 3 Judges.

**80. Further arguments before the Court of Appeal**

- (1) From time to time, requests are received for further arguments to be presented before the Court of Appeal after the conclusion of the hearing of the appeal. Such requests should not be made as all relevant arguments should have been presented at the hearing proper.
- (2) The Honourable the Chief Justice has therefore directed that as a general rule, unless asked for by the Court of Appeal itself, the Court of Appeal will not receive further arguments after the conclusion of the hearing of the appeal.
- (3) The general rule will be relaxed in only very exceptional circumstances, e.g., if an authority not available at the hearing would be decisive. Counsel seeking to submit further arguments should therefore satisfy themselves that very exceptional circumstances exist. If they are of the view that such circumstances do exist, they must also seek the consent of the other parties to their request.
- (4) All requests for further arguments shall be by way of letter and should:
  - (a) state the party making the requests;
  - (b) identify the Judges constituting the Court of Appeal who heard the matter in question;
  - (c) specify when the order concerned was made;
  - (d) state the very exceptional reasons which justify the request;
  - (e) state whether the other parties consent to the request;
  - (f) set out the proposed further arguments briefly, together with any authorities; and
  - (g) include a copy of each of the authorities cited.

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- (5) Any request for further arguments must be received by the Registrar within one week after the conclusion of the hearing of the appeal, failing which it cannot be considered and will be rejected.
- (6) A copy of the request should be furnished to all parties concerned.
- (7) All requests should be addressed to the Registrar.