

FORM 202

CIVIL
APPEALS

**How to
Appeal
to
The Court of Appeal**

Issued by the Court of Appeal
Civil Division
Civil Appeals Office

Things to consider before appealing

- 1.1 **In most cases you will need a judge's permission to appeal** – permission to appeal will only be given if your appeal has a real prospect of succeeding.
- 1.2 **If you decide you want to appeal you must act quickly** – the time within which you must issue your appeal is limited.
- 1.3 **You must have proper grounds (*reasons*) for appeal** – a belief that you are right and that the judge "got it wrong" is not on its own a sufficient reason for an appeal. Your grounds must show that the decision of the lower court was wrong or unjust because of a serious procedural or other irregularity in the court whose decision you are appealing. If you are in any doubt about whether you have proper grounds for appeal, you should seek advice from a solicitor, a law centre or an advice agency immediately.
- 1.4 **You will usually have to pay a fee when you appeal** – there are circumstances in which you may not have to pay a fee, or part of it, for example, if you are receiving certain State benefits. The section headed "*Filing of Appeal Notice*" on page 3 explains what you should do.
- 1.5 **If you lose your appeal, you may be ordered to pay the other party's costs**, including the costs of their solicitor, if they have one and such costs may be a considerable sum. It may therefore be wise to seek legal advice about the chances of succeeding on an appeal to the Court of Appeal before you proceed with your proposed appeal.
- 1.6 **You will not normally be able to appeal a second time.** Only exceptionally will second appeals be allowed, and only then if the Court of Appeal gives permission. Permission to appeal will only be given if the appeal raises an important point of principle or practice or if there is some other compelling reason for the Court of Appeal to hear it. You may have to pay further substantial, fees and costs. Consider carefully whether you wish your application to proceed. The court fee cannot be refunded if you are unsuccessful. You will want to be sure that you will be able to satisfy the tough test which the Court has to apply.

When do I need Permission to Appeal?

- 2.1 In all civil cases and in family cases in the Court of Appeal permission to appeal is required for all appeals except:

Appeals against

- a committal order
- a refusal of habeas corpus
- a secure accommodation order under s.25 Children Act 1989

- 2.2 If permission to appeal was granted by the lower court, or is not required, an appeal must be made in an appellant's notice.

- 2.3 Where permission to appeal is required and permission was refused, or not applied for, at the end of the hearing in the lower court, any application for permission to appeal should be made to the appeal court. An application for permission must be included in an appellant's notice.

Time Limit

- 3.1 The appellant's notice must be filed at the appeal court

- within the time limit directed by the lower court, or
- if no direction has been given, within 14 days of the date of the decision.

- 3.2 When you file your appellant's notice you must at the same time also file a separate bundle of documents for the court to use which includes a suitable record of the judgment. The Leaflet called "*How to Prepare a Bundle of Documents for the Court of Appeal*" explains what you need to do.

Completion of Appeal Notice

4. Complete the appellant's notice following the notes in the separate Leaflet.

Bundle of documents

5. You will need to start preparing your bundle and ordering any transcripts immediately. The Leaflet called "*How to Prepare a Bundle of Documents for the Court of Appeal*" will tell you how to do this.

Filing of Appeal Notice

- 6.1 Make sure you file your appellant's notice at the correct appeal court. The Leaflet called "*Routes of Appeal*" will tell you where to file your appellant's notice. The receipt of your documents by the Civil Appeals Office does not necessarily mean that (a) the court accepts jurisdiction or (b) that they are in order. **It remains your responsibility, and not that of the Civil Appeals Office, to ensure that you file your appellant's notice at the correct appeal court.**
- 6.2 When completed, the appellant's notice and all the documents listed below must be filed within the time limits.
 - a) One additional copy of the appellant's notice.
 - b) One copy of the appellant's notice for each of the respondents.
 - c) One copy of any skeleton argument.
 - d) A sealed copy of the order being appealed.
 - e) Any order giving or refusing permission to appeal, together with a copy of the reasons for that decision.
 - f) Any witness statements or affidavits in support of any application included in the appellant's notice.
 - g) A bundle of documents in support as described in the separate Leaflet called "*How to Prepare a Bundle of Documents for the Court of Appeal*".

- 6.3 If the appeal court is the Court of Appeal, you may file your appellant's notice by bringing it with all the documents listed above to the Civil Appeals Office Registry, or by sending it with all the documents listed above.

The address for filing documents with the Civil Appeals Office is:

Civil Appeals Office Registry
Room E307
3rd Floor East Block
Royal Courts of Justice
Strand
London
WC2A 2LL

The Office is open Monday to Friday, 10.00am to 4.30pm.

- 6.4 The relevant fee must be paid at the time the appellant's notice is presented for filing.
- 6.5 If you file your appellant's notice by post the fee must be in the form of crossed Postal Order(s). Personal cheques will not be accepted. You are advised not to send cash by post.
- 6.6 If you come personally to the Royal Courts of Justice to file your appellant's notice payment should be made in cash but you may be able to pay your fee by personal cheque provided you have with you a current cheque guarantee card which covers the amount you need to pay.
- 6.7 You should come first to the Civil Appeals Office Registry (Room E307) where the staff will check your documents. If they are in order they will direct you to the Fees Room, where you should pay the fee and hand one copy of your appellant's notice to the cashier for the amount you have paid to be "stamped" on the document. Afterwards you must return with all your documents (including the "stamped" document) to complete the process of filing your appellant's notice.
- 6.8 Postal Orders and/or cheques, as appropriate above, must be made payable to "H.M. Paymaster General" and be crossed "Account Payee".

- 6.9 If you are in receipt of Income Support and **are not** legally aided, or you can demonstrate severe financial hardship, you may be entitled to exemption or remission of the court fees. If you believe that you may be entitled to exemption or remission of the court fees please contact the appeal court office and you will be sent an application form.

What will happen when I file my appellant's notice?

- 7.1 The staff in the Civil Appeals Office will check that you are filing your appellant's notice in the correct appeal court. Provided that the appeal court appears to be the Court of Appeal you will be given a reference number and a receipt for the documents you have filed. The additional copies of the appellant's notice for the respondents will be sealed and returned for you to serve on them. See the section headed "*Service*" below.
- 7.2 The fact that your notice is accepted does not necessarily signify that (a) the court accepts jurisdiction or (b) that it is in order. **It remains your responsibility, and not that of the Civil Appeals Office, to ensure that any documents comply with the Court's requirements.**
- 7.3 A few days later you will receive a letter asking for details of all the parties' names and addresses together with their representatives' details where appropriate. You will also have to sign a certificate of service and provide any other information the court may require.

Service

8. Unless the court directs otherwise:
- a) You must serve a sealed copy of your appellant's notice on all respondents to the appeal as soon as possible and no later than 7 days after filing the appellant's notice.
 - b) If you have already been given permission to appeal or permission is not required, you must also serve a copy of the bundle of documents on all respondents with your appellant's notice.

- c) If your appellant's notice includes an application for permission to appeal you should not send copies of your bundle to the respondent.
- d) The respondent need not take any action when served with your appellant's notice until notification is given to him that permission to appeal has been given.

Dealing with any application for Permission to Appeal
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- 9.1 If your appellant's notice contains an application for permission to appeal, the papers will be passed to a judge. The judge may consider your application without you having to attend a hearing. You will be sent an order setting out the judge's decision, or the court may decide to hear your application in court in which case you will be given notice of any hearing.
- 9.2 If your application is heard in court you will usually only be allowed 20 minutes to explain to the court why you think permission to appeal should be given.
- 9.3 You should note that a judge may sometimes only give permission to appeal on some issues. You will be told what these are. You cannot raise any issue at the appeal hearing for which permission was expressly refused, without the appeal court's permission. If you wish to ask for the appeal court's permission, you must do so as soon as possible after notification of its decision to give only limited permission. You must, at the same time, let the respondent know what you intend to do. Your application will normally be dealt with at the outset of the appeal hearing unless the court tells you otherwise.

Permission refused

- 9.4 If the judge refuses to grant you permission to appeal without a hearing, you can ask for that decision to be reconsidered at an oral hearing. The hearing may be before the same judge. Your request for an oral hearing must be made to the appeal court within 7 days after the date on which you receive notice of the refusal. You must, at the same time, send a copy of your request to any respondents. If you do not request an oral hearing, the order refusing permission will become a final order after the time limit for asking for an oral hearing has expired.

- 9.5 If you do request an oral hearing, the court will send you notice of the date of the hearing. If, at that hearing, permission is again refused, you cannot take the matter any further. There is no appeal against the decision of an appeal court, made at an oral hearing, to refuse permission to appeal.
- 9.6 If the judge refuses to grant you permission to appeal at an oral hearing there is no further appeal from that decision to any court.

Permission granted or not required

- 9.7 If you have been granted permission to appeal, or permission is not needed, the court will send you notice:
- a) of the date for the hearing of your appeal or the time period (the "listing window") during which the appeal is likely to be heard, and
 - b) a note of any things it wants you to do to prepare for the appeal hearing (called "directions").

Dealing with any other applications you have made

- 9.8 If you made other applications with your appellant's notice, for example for an order preventing the other party enforcing the order of the lower court, the court may either deal with these at the same time as your application for permission to appeal, or at another, separate, hearing before the hearing of your appeal. You will be told the time, date and place of any hearings.

What can the respondent do?

- 10.1 The respondent need not do anything until he is notified that permission to appeal has been given or is not required.
- 10.2 A respondent who wishes to ask the appeal court to vary the order of the lower court in any way must appeal, and will require permission to appeal in the same way as an appellant. The respondent does this by filing a **respondent's notice** (Form N162). A respondent's notice is also required where a respondent wishes the appeal court to uphold (confirm) the decision of the lower court, but for reasons which are different, or additional, to those given by the lower court.

- 10.3 The respondent's notice is almost identical in content to the appellant's notice; similar sorts of documents are required to support the notice. If a respondent's notice is filed, you will be served with a copy of it and any supporting documents. They must be served on you within 7 days of their being filed.
- 10.4 The court will normally deal with the respondent's appeal and any other applications at the same time as it considers any you have made.

Transcripts at public expense

- 11.1 Where the lower court or the appeal court is satisfied that an unrepresented appellant is in such poor financial circumstances that the cost of a transcript would be an excessive burden, the court may certify that the cost of obtaining one official transcript should be borne at public expense.
- 11.2 In the case of a request for an official transcript of evidence or proceedings to be paid for at public expense, the court must also be satisfied that there are reasonable grounds for appeal. Whenever possible a request for a transcript at public expense should be made to the lower court when asking for permission to appeal. Transcripts of evidence are not generally needed for an application for permission to appeal.
- 11.3 If you wish to ask the court for transcripts at public expense and you did not ask the lower court or your request was refused you should contact the appeal court immediately.

Civil Appeals Office
16 October 2000

THE COURT SERVICE
CIVIL APPEALS OFFICE REGISTRY
Room E307, Royal Courts of Justice, Strand, London WC2A 2LL
DX 44450 : Strand Fax 020-7947-6740 Telephone 020-7947-7882
Office Hours : Monday to Friday, 10.00am to 4.30pm
<http://www.civilappeals.gov.uk>