

SCHEDULE 1

Commencement Information

II Sch. 1 in force at 26.4.1999, see [Signature](#)

RSC ORDER 56

APPEALS, ETC., TO HIGH COURT BY CASE STATED: GENERAL

Appeals from the Crown Court by case stated

Rule 1.—(1) Except where they relate to affiliation proceedings or to care proceedings under the Children and Young Persons Act 1969⁽¹⁾ all appeals from the Crown Court by case stated shall be heard and determined—

- (a) in any criminal proceedings, by a Divisional Court of the Queen’s Bench Division;
- (b) in any other proceedings, by a single judge^{F1} ..., or if the Court so directs, by a Divisional Court of the Queen’s Bench Division.

(3) An appeal from the Crown Court by case stated shall not be entered for hearing unless and until the case and a copy of the judgment, order or decision in respect of which the case has been stated and, if that judgment, order or decision was given or made on an appeal to the Crown Court, a copy of the judgment, order or decision appealed from, have been filed in the Crown Office.

(4) No such appeal shall be entered after the expiration of 10 days from the receipt by the appellant of the case unless the delay is accounted for to the satisfaction of the Divisional Court. Notice of intention to apply for an extension of time for entry of the appeal must be served on the respondent at least 2 clear days before the day named in the notice for the hearing of the application.

(5) Where any such appeal has not been entered by reason of a default in complying with the provisions of this rule, the Crown Court may proceed as if no case had been stated.

Textual Amendments

F1 Words in Sch. 1 RSC Order 56 rule 1(1) omitted (26.4.1999) by virtue of [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **63(b)**

Notice of entry of appeal

Rule 4 Within 4 days after an appeal from the Crown Court by case stated is entered for hearing, the appellant must serve notice of the entry of the appeal on the respondent.

Appeals relating to affiliation proceedings and care proceedings

Rule 4A Appeals from the Crown Court by case stated which relate to affiliation proceedings or to care proceedings under the Children and Young Persons Act 1969 shall be heard and determined by a single Judge, or if the Court so directs, a Divisional Court of the Family Division, and the foregoing provisions of this Order shall accordingly apply to such appeals with the substitution of

(1) 1969 c. 54.

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Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998, RSC ORDER 56. (See end of Document for details)

references to the principal registry of the Family Division for references to the Crown Office and such other modifications as may be appropriate.

Appeal from Magistrates' Court by case stated

Rule 5.—(1) Except as provided by paragraph (2) all appeals from a Magistrates' Court by case stated shall be heard and determined—

- (a) in any criminal proceedings, by a Divisional Court of the Queen's Bench Division;
- (b) in any other proceedings, by a single Judge^{F2}... or, if the Court so directs, by a Divisional Court of the Queen's Bench Division.

(2) An appeal by way of case stated against an order or determination of a Magistrates' Court shall be heard and determined by a single Judge or, if the Court so directs, a Divisional Court of the Family Division if the order or determination appealed against was made or given in family proceedings.

Textual Amendments

F2 Words in [Sch. 1 RSC Order 56 rule 5\(1\)](#) omitted (26.4.1999) by virtue of [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, [63\(c\)](#)

Case stated by Magistrates' Court: filing case, etc.

Rule 6.—(1) Where a case has been stated by a Magistrates' Court the appellant must—

- (a) within 10 days after receiving the case, file it in the Crown Office or, if the appeal falls to be heard by a Divisional Court of the Family Division, the principal registry of the Family Division; and
- (b) within 4 days after filing the case as aforesaid serve on the respondent a notice of the entry of appeal together with a copy of the case.

(2) Unless the Court having jurisdiction to determine the appeal otherwise directs, the appeal shall not be heard sooner than 8 clear days after service of notice of the entry of the appeal.

Case stated by Ministers, tribunal, etc.

Rule 7.—(1) The jurisdiction of the High Court under any enactment to hear and determine a case stated by a Minister of the Crown, government department, tribunal or other person, or a question of law referred to that Court by such a Minister or department or a tribunal or other person by way of case stated, shall be exercised by a single Judge of the Queen's Bench Division, except where it is otherwise provided by these rules or by or under any enactment.

(2) The jurisdiction of the High Court under any enactment to hear and determine an application for an order directing such a Minister or department or a tribunal or other person to state a case for determination by the High Court, or to refer a question of law to that Court by way of case stated, shall be exercised by the Court or Judge having jurisdiction to hear and determine that case or question except where by some other provision of these rules or by or under any enactment it is otherwise provided.

(3) This rule and rules 8 to 12 of this Order shall apply to proceedings for the determination of such a case, question or application and, in relation to any such proceedings, shall have effect subject to any provision made in relation to those proceedings by any other provision of these rules or by or under any enactment.

(4) In this Order references to a tribunal shall be construed as references to any tribunal constituted by or under any enactment other than any of the ordinary Courts of law.

(5) In the following rules references to a Minister shall be construed as including references to a government department, and in those rules and this rule “case” includes a special case.

Application for order to state a case

Rule 8.—(1) An application to the Court for an order directing a Minister, tribunal or other person to state a case for determination by the Court or to refer a question of law to the Court by way of case stated must be made by claim form; and the persons to be served with the claim form are the Minister, secretary of the tribunal or other person, as the case may be, and every party (other than the applicant) to the proceedings to which the application relates.

(2) The claim form must state the grounds of the application, the question of law on which it is sought to have the case stated and any reasons given by the Minister, tribunal or other person for his or its refusal to state a case.

(3) The claim must be entered for hearing, and the claim form served, within 14 days after receipt by the applicant of notice of the refusal of his request to state a case.

Signing and service of case

Rule 9.—(1) A case stated by a tribunal must be signed by the chairman or president of the tribunal, and a case stated by any other person must be signed by him or by a person authorised in that behalf to do so.

(2) The case must be served on the party at whose request, or as a result of whose application to the Court, the case was stated; and if a Minister, tribunal, arbitrator or other person is entitled by virtue of any enactment to state a case, or to refer a question of law by way of case stated, for determination by the High Court without request being made by any party to the proceedings before that person, the case must be served on such party to those proceedings as the Minister, tribunal, arbitrator or other person, as the case may be, thinks appropriate.

(3) When a case is served on any party under paragraph (2) notice must be given to every other party to the proceedings in question that the case has been served on the party named, and on the date specified, in the notice.

Proceedings for determination of case

Rule 10.—(1) Proceedings for the determination by the High Court of a case stated, or a question of law referred by way of case stated, by a Minister, tribunal, arbitrator or other person must be begun by claim form by the person on whom the case was served in accordance with rule 9 (2) or, where the case is stated without a request being made, by the Minister, secretary of the tribunal, arbitrator or other person by whom the case is stated.

(2) The applicant shall serve the claim form under paragraph (1), together with a copy of the case, on—

- (a) the Minister, secretary of the tribunal, arbitrator or other person by whom the case was stated, unless that Minister, tribunal, arbitrator or other person is the applicant,
- (b) every party (other than the applicant) to the proceedings in which the question of law to which the case relates arose, and
- (c) any other person (other than the applicant) served with the case under rule 9 (2).

(3) The claim form must set out the applicant’s contentions on the question of law to which the case stated relates.

(4) The claim must be entered for hearing, and the claim form served, within 14 days after the case stated was served on the applicant.

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(5) If the applicant fails to enter the claim within the period specified in paragraph (4) then, after obtaining a copy of the case from the Minister, tribunal, arbitrator or other person by whom the case was stated, any other party to the proceedings in which the question of law to which the case relates arose may, within 14 days after the expiration of the period so specified, begin proceedings for the determination of the case, and paragraphs (1) to (4) shall have effect accordingly with the necessary modifications. The references in this paragraph to the period specified in paragraph (4) shall be construed as including references to that period as extended by any order of the Court.

(6) The documents required to be filed in accordance with Order 57, rule 2, before entry of the claim include a copy of the case stated.

(7) Unless the Court having jurisdiction to determine the case otherwise directs, the claim shall not be heard sooner than 7 days after service of the claim form.

Amendment of case

Rule 11 The Court hearing a case stated by a Minister, tribunal, arbitrator or other person may amend the case or order it to be returned to that person for amendment, and may draw inferences of fact from the facts stated in the case.

Right of Minister to appear and be heard

Rule 12 In proceedings for the determination of a case stated, or of a question of law referred by way of case stated, the Minister, chairman or president of the tribunal, arbitrator or other person by whom the case was stated shall be entitled to appear and be heard.

Extradition

Rule 12A.—(1) Rules 5 and 6 of this Order shall apply to appeals by case stated under—

- (a) section 7 of the Criminal Justice Act 1988⁽²⁾; and
- (b) section 7A of the Fugitive Offenders Act 1967⁽³⁾, as they apply to appeals by case stated from a Magistrates' Court and references in those rules to appellant and respondent shall be construed as references to the requesting state and the person whose surrender is sought respectively.

(2) An application for an order under either of the sections mentioned in paragraph (1) or under Section 2A of the Backing of Warrants (Republic of Ireland) Act 1965⁽⁴⁾ requiring a Court to state a case shall be made in accordance with rule 8 of this Order the references in that rule to a tribunal and the secretary of a tribunal being construed for this purpose as references to the Court and the Clerk of the Court respectively.

Interlocutory applications

Rule 13.—(1) Unless the Court otherwise directs, any interlocutory application in proceedings to which this Order applies may be made to any Judge or a Master of the Queen's Bench Division or, as the case may be, any Judge or a District Judge of the Family Division, notwithstanding that the appeal has been brought by case stated and is to be heard by a Divisional Court.

In this paragraph “interlocutory application” includes an application for an order extending the time for entry of the appeal or for service of notice of entry of the appeal.

(2) 1988 c. 33.

(3) 1967 c. 68.

(4) 1965 c. 45. Section 2A was inserted by the Criminal Justice Act 1988 (c. 33) section 1(9), schedule 1, Part II, paragraph 5 and continues to have effect notwithstanding repeal of that section by virtue of the Extradition Act 1989 (c. 33), section 37(5).

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(2) In relation to an order made by a Master or District Judge pursuant to paragraph (1), Order 58, rule 1 shall, where the application is to be heard by a Divisional Court, have effect as if a reference to that Court were substituted for the reference to a Judge^{F3}

(3) This rule is without prejudice to any statutory provision or rule of law restricting the making of an order against the Crown.

Textual Amendments

F3 Words in Sch. 1 RSC Order 56 rule 13(2) omitted (26.4.1999) by virtue of The Civil Procedure (Amendment) Rules 1999 (S.I. 1999/1008), rules 1, 62(e)

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