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STATUTORY INSTRUMENTS

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**2008 No. 1730**

**The Network Access Appeal Rules 2008**

**PART 5**

**Appeals from the adjudicator**

**Permission to appeal to the High Court**

**33.—**(1) A request to the adjudicator for permission to appeal to the High Court may be made by a party—

- (a) orally at the hearing immediately following the announcement of a decision by the adjudicator; or
- (b) by way of a request filed not later than 14 days after the date on which the notification of a decision is received by the party making the application whether or not the decision was announced orally at a hearing.

(2) When a request is made under paragraph (1)(b), it must be signed by the party seeking permission and must—

- (a) state the name and address of the party seeking permission and of any representative of that party;
- (b) identify the decision of the adjudicator to which the request relates; and
- (c) state the grounds on which the party seeking permission intends to rely before the High Court.

**Decision as to permission to appeal to the High Court**

**34.—**(1) A request to the adjudicator for permission to appeal to the High Court must be decided without a hearing unless—

- (a) the decision is made immediately following an oral request under rule 33(1)(a); or
- (b) the adjudicator considers that special circumstances make it appropriate to hold a hearing.

(2) The decision of the adjudicator following a request for permission to appeal to the High Court, together with the reasons for the adjudicator's decision, must be recorded in writing and sent to the parties.

(3) If the adjudicator refuses the request, the notification under paragraph (2) must include notification of the time within which a request may be made to the High Court for permission to appeal to that court.

**Stay of decision pending appeal**

**35.—**(1) A party who wishes to make a request under paragraph (2) must make such a request, and set out the grounds for making it, at the same time as making an application to the adjudicator for permission to appeal.

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(2) Where the adjudicator grants a party permission to appeal to the High Court, the adjudicator may, on the adjudicator's own initiative or at the request of the party granted permission, stay the implementation of the whole or part of the adjudicator's decision pending the outcome of the appeal to the High Court.

(3) Before reaching a decision under paragraph (2), the adjudicator must invite and consider representations from each other party against the staying of a decision under that paragraph.

(4) The adjudicator must serve notification of any decision made under this rule, and the reasons for that decision, on the parties.

### **Appeal remitted by the High Court for rehearing**

**36.** Where the High Court remits a case to the adjudicator—

- (a) these Rules, so far as relevant, apply to the case as they did to the original appeal; and
- (b) the adjudicator must, as soon as is reasonably practicable after the remittal, give directions in relation to the case.