
STATUTORY INSTRUMENTS

2015 No. 1568

The Faculty Jurisdiction Rules 2015

PART 27

General provisions relating to appeals

Stay

27.1.—(1) Unless the appeal court or the lower court orders otherwise, the taking of any of the steps mentioned in paragraph (2) has the effect of staying the judgment, order or decree of the consistory court and any other lower court, except in the case of an order for an injunction.

(2) The steps referred to in paragraph (1) are—

- (a) the making of an application to the chancellor in accordance with rule 23.1;
- (b) the making of an application to the Dean in accordance with rule 23.3;
- (c) the filing of a petition addressed to Her Majesty in accordance with rule 26.1.

(a) (3) (a) A stay provided for by paragraph (1) ceases to have effect in accordance with the following provisions of this paragraph.

(b) Where an application was made to the chancellor under rule 23.1, the stay ceases to have effect—

(i) 15 days after the date on which the appellant receives a determination from the chancellor under rule 23.2 refusing permission to appeal (but this does not prevent a further stay arising if the appellant makes an application to the Dean under rule 23.3) or,

(ii) if permission to appeal is granted, or if the chancellor's determination under rule 23.2 states that permission to appeal is not needed, 30 days after the date on which judgment in the appeal is given by the provincial court or the Court of Ecclesiastical Causes Reserved (as the case may be);

(c) Where an application was made to the Dean under rule 23.3, the stay ceases to have effect—

(i) when the appellant receives a determination from the Dean under rule 23.4 refusing permission to appeal or,

(ii) if permission to appeal is granted, 30 days after the date on which judgment in the appeal is given by the provincial court;

(d) Where a petition is filed under rule 26.1, the stay ceases to have effect when the petition has been determined by the Commission of Review.

(4) A stay provided for by paragraph (1) also ceases to have effect if the application or appeal in consequence of which it has arisen is wholly set aside, withdrawn or struck out.

(5) The appeal court or the lower court may make an order staying the judgment, order or decree of the consistory court and any other lower court where a stay does not automatically arise under paragraph (1) or has ceased to have effect by virtue of paragraph (3) or (4).

Court files

27.2.—(1) Paragraph (2) applies where the diocesan registrar receives—

- (a) copy of a notice of appeal against a decision of the consistory court in accordance with rule 24.1 or 25.2; or
- (b) a determination of the Dean granting permission to appeal from the consistory court in accordance with rule 24.2.

(2) Within 14 days of receiving the copy of the notice of appeal or the determination of the Dean, the diocesan registrar must send the file relating to the proceedings in the consistory court to the registrar of the appeal court.

(3) Paragraph (4) applies where the registrar of the Court of Ecclesiastical Causes Reserved, in accordance with rule 26.3, receives a copy of a petition seeking a review of a finding of the Court of Ecclesiastical Causes Reserved by a Commission of Review.

(4) Within 14 days of receiving the copy of the petition, the registrar of the Court of Ecclesiastical Causes Reserved must send the file relating to the proceedings in the consistory court and the file relating to the proceedings in the Court of Ecclesiastical Causes Reserved to the registrar of the Commission of Review.

(5) Any party may, on reasonable notice to the registrar of the appeal court, inspect the file relating to proceedings in a lower court and have copies of documents contained in the file made at the expense of that party.

(6) For the purposes of this rule—

- (a) the file relating to the proceedings in the consistory court includes all material in the diocesan registry generated by the petition, whether or not kept in separate files;
- (b) the file relating to the proceedings in the Court of Ecclesiastical Causes Reserved includes all material in the possession of the registrar of that Court generated by the appeal to that Court, whether or not kept in separate files.

Amendment of appeal notice

27.3.—(1) An appeal notice may not be amended without the permission of the appeal court.

(2) If the appeal court gives permission for an appeal notice to be amended, permission may be given on such terms as the court thinks just (which may include terms relating to costs).

Withdrawal of appeal

27.4.—(1) An appeal may not be withdrawn without the permission of the appeal court.

(2) Permission to withdraw an appeal may be given on such terms as the appeal court thinks just (which may include terms relating to costs).

Striking out grounds of appeal etc.

27.5.—(1) The appeal court may—

- (a) strike out the whole or part of an appeal notice;
- (b) set aside permission to appeal in whole or in part;
- (c) impose or vary conditions on which an appeal may be brought.

(2) The appeal court may only exercise its powers under paragraph (1) where there is a compelling reason for doing so.

(3) Where a party was present at a hearing at which permission was given, that party may not subsequently apply for an order that the appeal court exercise its powers under paragraph (1)(b) or (c).

Addition of parties

27.6.—(1) A person who was not a party to the proceedings in the lower court may become a party to an appeal if the appeal court gives permission.

(2) The appeal court may only exercise its power if the person seeking to become a party could have been a party to the proceedings in the consistory court.

(3) An application for permission under paragraph (1) must be accompanied by a notice setting out—

- (a) the basis on which it is said the person making the application could have been a party to the proceedings in the consistory court; and
- (b) the matters which that person proposes to argue in the appeal.

Interveners

27.7.—(1) The appeal court may give permission to any of the following to intervene in an appeal—

- (a) the Church Buildings Council,
- (b) Historic England,
- (c) a national amenity society,
- (d) any other body seeking to make submissions in the public interest, or
- (e) any other person the appeal court considers has a sufficient interest in the subject matter of the appeal.

(2) If the appeal court gives permission to intervene it may—

- (a) limit the matters on which the person or body given permission to intervene may make submissions,
- (b) give permission on terms relating to costs, and
- (c) give permission on such other terms as it thinks just (including by limiting permission to the making of written submissions only or by limiting the duration of oral submissions).

(3) An application for permission to intervene must be accompanied by a notice setting out the matters on which the person or body making the application wishes to make submissions.

Appeal court's powers

27.8.—(1) In relation to an appeal, the appeal court has all the powers of the lower court.

(2) The appeal court also has power to—

- (a) affirm, set aside or vary any judgment, order or decree of the lower court,
- (b) refer any issue for determination by the lower court,
- (c) order a new hearing;
- (d) make an order for costs.

(3) The appeal court may exercise its powers in relation to the whole or part of a judgment, order or decree of the lower court.

Interim orders in the provincial courts

27.9. Any interim order (including a direction under rule 11.6) may be made in proceedings in a provincial court either by the Dean sitting alone or by the court.

Registrar's power to refer to court

27.10. Where a step is to be taken by the registrar of the appeal court—

- (a) the registrar may consult the court (or in the case of a provincial court, the Dean) before taking that step;
- (b) the step may be taken by the court (or in the case of a provincial court, the Dean) instead of the registrar.

Hearing and determination of appeals

27.11.—(1) Unless it orders otherwise, the appeal court will not receive—

- (a) oral evidence;
- (b) evidence which was not before the lower court.

(2) The appeal court will allow an appeal where the decision of the lower court was—

- (a) wrong; or
- (b) unjust because of a serious procedural or other irregularity in the proceedings in the lower court.

(3) The appeal court may draw any inference of fact which it considers justified on the evidence.

(4) At the hearing of an appeal a party may not rely on a matter not contained in the party's appeal notice unless the appeal court gives permission.