

The Judicial Committee of the Privy Council

Practice Direction 5

Papers for the Appeal Hearing

General note

- 5.1.1 All documents placed before the Judicial Committee must be
- a. reproduced or printed (both as to font size and otherwise) so as to be easily legible - preferably font size 12 and one and a half spacing;
 - b. reproduced on paper of A4 size, printed on both sides;
 - c. (unless this causes great difficulty) presented in bound form, properly labelled and indexed.

Documents must be presented in a form which is robust, manageable and not excessively heavy. Duplication of material must be avoided particularly where two or more appeals are heard together.

See Practice Direction 6 for cases and volumes of authorities.

5.1.2 **Size of volumes.** All volumes of papers for use in hearings should be not more than approximately one inch (2.5 cm) thick and comb-bound. This applies both to reproduced Records and to volumes of authorities. The spines and front covers of all volumes should be clearly marked to indicate their contents.

5.1.3 **Records.** Rule 20 governs the provision of the Record and this practice direction applies to Records reproduced overseas as well to as those reproduced in England. All agents should draw it to the attention of their professional clients overseas as necessary. There is a distinction between the **certified** record i.e. that which is **certified** by the registrar overseas and the **reproduced** record which is produced from the certified record for the purposes of the proceedings before the Judicial Committee. Not all the documents in the certified record will be needed for the proceedings before the Board. It is helpful if the reproduced record accords with the form of the electronic bundle provided by Practice Direction 9¹. Except in cases where the Record is small (100 pages or less), reproduced Records should be “double-sided”, i.e. printed on both sides of the page. Witness statements and affidavits may be included in the record. **The original and 10 copies of the Record** must be filed.

5.1.4 Reproduced Records and volumes of authorities which do not comply with paragraphs 5.1.2 and 5.1.3 will not be accepted. Paragraphs 5.1.2 and 5.1.3 do not apply to certified Records.

5.1.5 Directions should be sought from the Registrar in those cases in which the parties consider that the Judicial Committee will not be assisted by the record and that they are able to provide an agreed bundle of the documents which will be necessary for

¹ April 2015

the determination of the appeal. Any request for directions should provide a detailed explanation of the reasons for the request and be signed by Counsel for the parties. Similarly where the record is extensive and the provision of 102 copies will entail considerable expense, a request for directions should be made to the Registrar. In all cases it is helpful for the Board to have a separate core bundle of the judgments given, and the orders made, below.³

5.1.6 Electronic documents. For electronic documents see Practice Direction 9.

5.1.7 The statement of facts and issues The statement of facts and issues must be a single document, drafted initially by the appellant but submitted to, and agreed by, every respondent before filing (see rule 21). The statement must set out “*the relevant facts and the issues*” and, if the parties cannot agree as to any matter, the statement should make clear what items are disputed. It is usually helpful for it to contain a chronology with a⁴ list of the key dates. This should be set out in an annex and include cross-references to the page numbers of any relevant documents in the record. The statement should contain references to every law report of the proceedings below, and should state the duration of the proceedings below. It should be signed by counsel for both parties. The statement of facts and issues is a neutral document and is not to be used to argue a party’s case. It is the professional duty of the parties’ legal representatives to co-operate to produce the statement⁵.

5.1.8 The précis The statement of facts and issues must be accompanied by a précis of the case. This must be on no more than 1 side of A4 paper (in **Arial point 12**), and should be drafted initially by the appellant but submitted to, and agreed by, every respondent before filing. The précis should be filed with the statement of facts and issues and an electronic copy of the précis should be e-mailed to the Registry.

5.1.9 Translations All documents which are not in English must be accompanied by a translation into English. Every translation must be accompanied by a statement by the person making it that it is a correct translation, and that statement must include

- a. the name of the person making the translation;
- b. his address, and
- c. his qualifications for making a translation.

Time limits

5.2.1 The statement of facts and issues must be filed by the appellant “**within 42 days after the receipt by the Registrar of the record**”⁶: rule 21(1). If the appellant is unable to comply with the relevant time limit, an application for an extension of time must be made. (See rule 5 and paragraph 5.2.2.)

Extensions of time for filing the statement of facts and issues

2 Amended Jan 2012
3 Amended Jan 2012
4 Amended April 2013
5 Amended Oct 2016
6 Amended April 2013

5.2.2 Appellants who are unable to complete preparation of the statement within the time limit may apply to the Registrar for an extension of that time under rule 5. Any application must be made in the general form of application, Form 2, (see Annex 1 to Practice Direction 7) and should explain the reason(s) why an extension is needed.

5.2.3 The Registrar may grant an application for an extension of time, provided that it does not prejudice the preparation for the hearing or its proposed date. The time limits provided by the Rules are, however, generous and applicants for an extension of time must set out in some detail why they are unable to comply with any relevant time limit.

Respondents' consent

5.2.4 Respondents are expected not to withhold unreasonably their consent to an application for an extension of time. Appellants are advised to communicate the views of respondents to the Registry since, if they raise no objection, the application may be dealt with on paper without a hearing.

Filing the Statement

5.2.5 When the statement is ready, **the original and 10 copies of the statement**, must be filed at the Registry.

5.2.6 Within 14 days after filing the statement, the parties must comply with rule 22(1) by notifying the Registrar that the appeal is ready to list and providing a time estimate (see paragraph 6.2.1 of Practice Direction 6).