**THE NEW CIVIL APPEALS REGIME IN THE IRISH COURTS**

**Eoin Martin B.L.**

**Introduction**

On 28 October 2014, the Court of Appeal came into being. This was the first time since 1937 that a new court, expressly provided for in the constitution, was established in Ireland. On the same day, radical changes to the jurisdiction of the Supreme Court came into effect. Together, these two developments represent a profound alteration in the appellate structure of the Irish superior courts. The changes affect the civil, criminal and military law spheres. This paper focuses on the new civil appeals regime.

**Background**

Following the report of a working group in 2009, the government decided to seek a constitutional amendment to establish an intermediate appellate court. Furthermore, the Supreme Court would be made more like its common law world peers with a function to ensure the consistency and coherence of the legal system by providing guidance to lower courts in cases involving issues of public interest or concern. The overall aim was to eliminate the backlog and improve efficiency in the appeals list.

The 33rd Amendment to the Constitution, passed by referendum on 4 October 2013, amended Article 34 to provide that the courts would now include a Court of Appeal.[[1]](#footnote-1) The general right of appeal to the Supreme Court is gone and is replaced with a general right of appeal to the Court of Appeal. There are now two types of appeals to the Supreme Court - appeals from the Court of Appeal, and “leapfrog” appeals directly from the High Court. In both cases, the leave of the Supreme Court is required. Save where the Supreme Court grants leave for a further appeal, the decision of the Court of Appeal shall be final and conclusive.[[2]](#footnote-2)

It is worth noting in passing that the rule previously contained in Article 34.5 providing that the decision of the Supreme Court on a question as to the validity of a law having regard to the provisions of the Constitution should be pronounced by one judge without any dissenting opinions being disclosed, was deleted by the 33rd Amendment.

**Case Management**

New rules were required for both the new Court of Appeal and for the Supreme Court in its altered guise. The judiciary and the government recognised that simply establishing a new court would not be sufficient to ensure further backlogs did not develop in the superior courts appeals lists. Consequently, case management has been introduced across the board for all appeals. This draws on experience gained through the establishment of the Commercial Court in 2004.

The rules of both the Court of Appeal and the Supreme Court now require that appeals be prepared, heard and determined in a manner which is just, expeditious and likely to minimise costs.[[3]](#footnote-3) As Dowling has noted, these imperatives are achieved by a reduction of party autonomy in favour of increased court control. In other words, there is now a broader conception of procedural justice whereby the rights of parties to have their cases heard and determined on the merits must be balanced with the additional objectives of expedition and economy.[[4]](#footnote-4)

**The Court of Appeal**

Civil procedure in the Court of Appeal is governed by a newly substituted Order 86A of the Rules of the Superior Courts. Two types of appeal are envisaged - expedited appeals and ordinary appeals. Part IV of Order 86A lists the following categories of cases which attract expedited appeals:

(i) an appeal against the grant or refusal of relief under Article 40.4.2° of the Constitution;

(ii) an appeal against the making or refusal of any interlocutory order;

(iii) an appeal against the making or refusal of any order granting summary judgment;

(iv) an appeal against the making or refusal of:

(a) a winding up order;

(b) an order appointing a provisional liquidator;

(c) an order appointing a receiver;

(d) an order in the course of examinership proceedings;

(v) an appeal against the making or refusal of:

(a) an adjudication in bankruptcy;

(b) an order under Chapter 3 (Debt Settlement Arrangements) or Chapter 4 (Personal Insolvency Arrangements) of Part 3 of the Personal Insolvency Act 2012;

(vi) an appeal against the making or refusal of any order in any proceedings to which Order 133 (Child Abduction and Enforcement of Custody Orders) applies;

(vii) an appeal against the making or refusal of any order making a determination as to the capacity of a person (including an order making or refusing to make a person a ward of court);

(viii) an appeal against the making or refusal of an order in proceedings under the European Arrest Warrant Acts 2003 and 2012 or in extradition proceedings;

(ix) an appeal from the making or refusal of an order of prohibition in criminal proceedings.

(x) an appeal against the refusal of an ex parte order;

(xi) any other appeal designated in a statutory practice direction as an appeal to which this Part applies.

Appeals that are not expedited appeals are ordinary appeals.[[5]](#footnote-5) The expedited appeals procedure is not optional and where applicable, must be brought within a much shorter timeframe than an ordinary appeal.[[6]](#footnote-6)

COMMENCING AN APPEAL

The expedited appeals procedure comprises the following stages. A notice of expedited appeal[[7]](#footnote-7) must be lodged in the Court of Appeal Office within 10 days of the perfection of the order appealed against. This must set out the particulars of the decision that it is sought to appeal, the category of expedited appeal in rule 7(1) to which the appeal relates, the grounds of the appeal, the orders sought from the Court of Appeal, a list of the documents intended to be relied on by the appellant in the appeal, and particulars of the appellant and of the respondent.

The appellant must also lodge an attested copy of the written judgment of the court below if there is a written judgment, or if there is no written judgment, a transcript of the oral judgment given by the court below or any relevant oral ruling. The Court of Appeal Office will then give a return date for a directions hearing in the appeal (probably within two to three weeks).

For *inter partes* appeals, the appellant must then serve the notice of expedited appeal within four days after the issue of the notice by the Court of Appeal Office on parties affected by the appeal and must then lodge appropriate affidavits of service in the Court of Appeal Office. Under the old Order 58 for Supreme Court appeals, an appellant used to serve the other parties with a notice of appeal first and then, within seven days of service, enter the papers in the Supreme Court Office. Now those steps are effectively reversed.

On receipt of a notice of expedited appeal, a respondent has seven days to lodge a respondent’s notice[[8]](#footnote-8). This must state if the respondent opposes the appeal, in whole or in part and, if so, on what grounds. It must also state whether the respondent intends, on the hearing of the appeal, to contend that the judgment or order appealed from should be affirmed on grounds other than those set out in the judgment or order of the court below, and if so, set out a concise statement of the additional grounds on which it is alleged the judgment or order appealed from should be affirmed.

If the respondent intends, on the hearing of the appeal, to contend that the judgment or order appealed from should be varied, the respondent’s notice must include a separate section entitled "notice of cross-appeal", which sets out a concise statement of the grounds on which it is alleged the judgment or order appealed from should be varied. The respondent must set out the orders sought from the Court of Appeal, and include a list of any additional documents not identified in the notice of appeal on which that respondent intends to rely at the hearing of the appeal.

The ordinary appeals procedure is set out in Part V of Order 86A and follows the same format as the expedited appeals procedure albeit with a more generous timeframe. A notice of appeal[[9]](#footnote-9) must be lodged in the Court of Appeal Office within 28 days of the perfection of the order appealed against. The contents of the notice of appeal and the respondent’s notice are largely similar to those used for expedited appeals.

The Court of Appeal Office will issue a return date for a directions hearing (probably within five to six weeks from the date of lodgement of the notice of appeal). Within seven days of the issuing of a return date by the Court of Appeal Office, the appellant must serve the notice of appeal on all parties affected by the appeal and must then lodge appropriate affidavits of service in the Court of Appeal Office.

A respondent served with a notice of appeal has 21 days to file a respondent’s notice[[10]](#footnote-10) in the Court of Appeal Office.

DIRECTIONS HEARINGS

Directions hearings are normally heard by one judge, on a Thursday (for expedited appeals) or Friday (for ordinary appeals) at 10am. Not less than four days before the directions hearing, the appellant must lodge an indexed and paginated “directions booklet” with the Court of Appeal Office containing:

(a) the judgment and/or order appealed from;

(b) the notice of expedited appeal, or notice of appeal, as the case may be;

(c) every respondent’s notice delivered, and

(d) any other document in the appeal to which any party proposes to refer at the directions hearing.[[11]](#footnote-11)

Judges of the Court of Appeal presiding over directions hearings have on several occasions in court expressed their displeasure at parties failing to file a directions booklet in advance. While allowances were made during the initial bedding down stage, more recently, appeals or motions have been struck out on the basis that the proper papers are not filed in advance of directions hearings. This prevents the presiding judge from reading the papers in advance and can make it difficult for meaningful directions to be given.

The strike out of appeals will have cost consequences for parties and moreover, if solicitors are to blame for a failure to lodge papers, they risk being made personally liable for the costs of the appeal. This strict approach reflects the new imperatives that proceedings be progressed in a manner which is just, expeditious and likely to minimise costs and the Court will not offer endless indulgence to litigants in default.

Solicitors, and counsel (where instructed) must attend the directions hearing. Lay litigants must attend in person. In the case of corporate litigants, the Court may ask officers of the corporate body to attend notwithstanding that the company will be legally represented. Lawyers must be familiar with the proceedings and have full authority to deal with any matters likely to arise.

At the directions hearing, the Court may make orders fixing any issues to be determined in the appeal, consolidating the appeal with another appeal, defining the issues between the parties, allowing any party to alter or amend his notice, or allowing amendment of a statement of issues, requiring the filing of lists of documents, either generally or with respect to specific matters, providing for the exchange of documents or information between the parties, or for the transmission by the parties to the Registrar of documents or information, providing for the documents to be included in the appeal booklet to be filed in accordance with rule 17, and fixing the times at which written submissions must be delivered and filed.[[12]](#footnote-12) Where grounds of appeal appear very numerous or repetitious, the Court may require an effort to be made to narrow the grounds truly in dispute so as to minimise the amount of time required for the appeal hearing.

In an ordinary appeal, the Court may fix a date and time for the hearing of the appeal. In an expedited appeal, the Court *shall* fix a date and time for the hearing of the appeal unless it considers that there are special reasons whereby it is not possible to do so. The Court will ask for an estimate of how long the appeal hearing is likely to take and assign a date and time accordingly. At substantive hearings, the court is increasingly pressuring practitioners not to exceed the estimated duration of the appeal, as this has knock-on effects on the next matter in the list and risks creating a new backlog.

MOTIONS

Motions in appeals transferred from the Supreme Court pursuant to Article 64 of the Constitution are heard on Mondays at 11am. Motions in new expedited appeals (i.e. appeals lodged since the inception of the Court of Appeal) should be made returnable for 10:30am on a Thursday, preferably on the same date as the directions hearing in the same matter. Motions in new ordinary appeals should be made returnable for 10:30am on a Friday, preferably on the same date as the directions hearing in the same matter.[[13]](#footnote-13) Although motions may be made returnable for directions hearings, they may be heard on a different day if they require a three-judge court. This is usually the case where the outcome of the motion will decide the appeal as a whole - e.g. a motion to enlarge the time for lodging an appeal.

Save where the urgency otherwise requires, *ex parte* applications should similarly be brought on a Monday, Thursday or Friday depending on whether the matter is an Article 64, expedited or ordinary appeal.

Order 86, rule 10 RSC provides that the Court of Appeal “*may under special circumstances direct that a deposit or other security in the amount fixed by the Court of Appeal be made or given for the costs to be occasioned by any appeal*.” Although this sentence structure is slightly different from the one that previously appeared in Order 58, rule 17, it does not materially change the test applicable for applications for security for costs so it is likely that existing jurisprudence on that subject will continue to apply.[[14]](#footnote-14)

APPEAL HEARINGS

Appeal hearings in the Court of Appeal are generally heard by divisions of three judges. Not later than 14 days before the hearing of an appeal, the appellant must lodge three copies of an “appeal booklet” with the Registrar and serve it on the respondent(s). It should contain:

(a) a copy of the notice of expedited appeal or notice of appeal, as the case may be;

(b) a copy of the respondent’s notice;

(c) where the appeal is in proceedings commenced by plenary summons, copies of the summons, any statement of claim, and defence and any requests for and replies to particulars, in chronological sequence;

(d) where the appeal is in any other proceedings, copies of the originating document and any document in the nature of a defence or statement of opposition;

(e) copies of each affidavit (including all exhibits) relied on or opened in the court below at the hearing at or following which the decision appealed from was made, set out in chronological sequence;

(f) an attested copy of the order of the court below from which the appeal is made and attested copies of any further or other order of the court below relevant to the appeal;

(g) where a written judgment was given in the court below containing the decision appealed from, an attested copy of the written judgment approved by the court below;

(h) where a written judgment has not been given in the court below, a transcript of any oral judgment of the court below concerning the matter appealed from, certified as accurate by the person responsible for preparing the transcript and authenticated by the Judge of the court below;

(i) where, and then only to the extent, necessary for the proper determination of the appeal, a transcript of

(i) any ruling or direction of the Judge in the court below concerning the matter appealed from and

(ii) the extracts from the record of the proceedings in the court below containing any oral evidence received in the court below relevant to the appeal, certified as accurate by the transcript writer;

(j) the written submissions, identifying and addressing the issues arising in the appeal, of each party, and

(k) copies of the documents relied on by each party as specified in the notice of appeal and the respondent’s notice respectively, provided that where an extract only of any document, including any transcript is relied on, it shall be sufficient to include only such extract.

Where appeals are settled, parties are obliged to notify the Registrar in writing. If no order as to costs is sought, the appeal shall be deemed to be determined without further order. If further orders are necessary, the Registrar shall list the matter before the Court.[[15]](#footnote-15)

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**The Supreme Court**

Order 58 of the Rules of the Superior Courts, which provides for practice and procedure in the Supreme Court, has been substituted in its entirety to reflect the refashioned role of that court. Order 58 is supplemented by a detailed new statutory practice direction - SC16.[[16]](#footnote-16) The most radical innovation is the obligation to seek the leave of the Supreme Court itself in order to bring any appeal before that court.[[17]](#footnote-17)

APPLICATION FOR LEAVE

Prospective appellants have 28 days from the perfection of the order appealed against to lodge a notice of appeal in the Supreme Court Office. This must specify the grounds on which leave to appeal is sought under Article 34.5.3° or, as the case may be, Article 34.5.4° of the Constitution, and the grounds of appeal which will be relied upon in the event that leave to appeal is granted. Within seven days of lodging the notice of appeal, the prospective appellant must serve the notice of appeal on all parties affected by the appeal.[[18]](#footnote-18)

Within 14 days of being served with a Notice of Appeal, the Respondent must lodge a “respondent’s notice” in the Supreme Court Office. This must specify:

* whether or not that respondent opposes the application for leave to appeal;
* if that respondent opposes the application for leave to appeal, a concise statement of the grounds on which leave to appeal is opposed;
* a concise statement of the grounds on which the appeal will be opposed if leave to appeal is given; and
* where the respondent intends, on the hearing of any appeal, to contend that the judgment or order appealed from should be affirmed on grounds other than those set out in the judgment or order of the court below, a concise statement of the additional grounds on which it is alleged the judgment or order appealed from should be affirmed.

If a respondent wishes to issue a cross-appeal seeking to vary the order (as opposed to merely the grounds for the order) made by the court below, he or she must issue a notice of appeal in the format of Form No. 1 seeking leave to cross-appeal.[[19]](#footnote-19) A motion to vary whereby the respondent seeks to vary the grounds on which the order of the court below is affirmed does not require the leave of the Supreme Court.

Within seven days of lodging the notice of appeal, the applicant for leave must also lodge with the Supreme Court Office four copies of the application (and the respondent’s notice, if filed), four copies of the order appealed against and four approved copies of the judgment of the court below, four copies of the final orders of any other court below and any other judgments of the courts below, and four copies of the certificate of service of the Notice of Appeal on the Respondent(s).[[20]](#footnote-20)

It is anticipated that leave applications will be determined in writing without an oral hearing although the Court may direct an oral hearing if it considers it appropriate. Leave applications will however be determined by at least three judges.[[21]](#footnote-21)

In appeals from the Court of Appeal (anticipated to be the most common type), for leave to be granted the Supreme Court must be satisfied that the appeal involves a matter of general public importance and that in the interests of justice, it is necessary that there be an appeal to the Supreme Court.[[22]](#footnote-22)

Until the Supreme Court starts to establish some jurisprudence on the type of cases for which it will grant leave, we cannot be certain how the very broad words of this test will be applied. What is likely however is that appeals need not concern only constitutional issues. Examples of appeals to the Supreme Court in recent years which have clarified important areas of common law include ***Analog Devices BV v. Zurich Insurance Company***[[23]](#footnote-23) concerning contractual interpretation, and ***Okunade v. Minister for Justice***[[24]](#footnote-24) concerning mandatory interlocutory injunctions.

Leapfrog appeals directly from the High Court must also satisfy the requirements that the case involve a matter of public importance and that it be in the interests of justice for there to be an appeal to the Supreme Court. However, there is a further requirement that exceptional circumstances warrant a direct appeal from the High Court skipping the Court of Appeal. Again, we will have to wait and see how this test is applied in practice but it is not unreasonable to expect that cases heard in the last few years such as ***Fleming v. Ireland***[[25]](#footnote-25) concerning the right to assisted suicide, and ***Pringle v. Government of Ireland***[[26]](#footnote-26) concerning the ratification of the ESM Treaty might have been of the type eligible for leapfrog appeals. Both could be characterised as very urgent and very important given the unusual circumstances and the profound implications at issue in those appeals.

At the time of writing, the Supreme Court has not published any determination in a leapfrog leave application. It has however published determinations in Article 64 applications together with written submissions made by the parties in support of those applications. Article 64 of the Constitution was a transitional provision allowing the Supreme Court to transfer some of its caseload to the newly established Court of Appeal. Some 258 cases were so transferred while the Supreme Court retained 327. In ***Fox v. Judge Mahon***,[[27]](#footnote-27) the Supreme Court pointed out that even where an appeal concerns a question of public importance, it would benefit from a hearing in the Court of Appeal as this may refine or dispose of the issues, which would otherwise fall to be heard by the Supreme Court.

The application for leave, the respondent’s notice and the decision of the Court will all be published online to comply with the requirement that justice be done in public. Where for example, the proceedings concern a child or for any other reason reporting restrictions applied in the Court below, the parties may apply to have the title of the proceedings shown only in abbreviated form and for publication of details of the case to be restricted. While the submissions to the Court will be in unredacted form, practitioners should prepare redacted copies of their submissions suitable for publication.[[28]](#footnote-28)

WHERE LEAVE IS GRANTED

The Supreme Court may grant leave to appeal on some or all of the grounds applied for. Where leave is granted on only some grounds, the appeal will be confined to those issues. Where the application for leave is granted in whole or in part, the costs of the leave application will become “costs in the appeal” by reason of the fact that the leave application is a mandatory step.

Within 28 days of the grant of leave, the appellant must lodge either a notice of intention to proceed or else a notice of intention to withdraw or abandon the appeal. If the appellant does not indicate their intention to either proceed with or abandon the appeal, the appeal will be deemed to have been abandoned unless the Supreme Court orders otherwise. In those circumstances, the respondent may apply to the Court for their costs of the appeal.

Where an appeal is settled, the parties must notify the Registrar in writing and if no order for costs is sought, the appeal is deemed to be determined without further order of the Court.

After the lodgement of the notice of intention to proceed, the appellant has two weeks to file written submissions and the respondent then has a further two weeks to file written submissions. All submissions must be strictly in the format specified in paragraph 20 of practice direction SC16.

One week after receiving the Respondent’s written submissions, the Appellant must lodge a core book of appeal[[29]](#footnote-29) containing:

(i) the order appealed against;

(ii) the judgment under appeal;

(iii) the notice of appeal, and any notice of appeal to the court by any respondent arising from the same judgment or order to which the appeal relates;

(iv) the application for leave;

(v) the respondent’s notice (if filed);

(vi) the order granting leave;

(vii) the notice of intention to proceed;

(viii) submissions of the appellant /moving parties;

(ix) submissions of the respondent.

The Registrar of the Supreme Court will list the appeal for a directions hearing, normally six weeks after the lodgement of the notice of intention to proceed. Within 12 weeks of the lodgement of the notice of appeal, the appellant must lodge appeal books[[30]](#footnote-30) containing:

(i) the core book of appeal prepared in accordance with paragraph 19 of SC16 as described above;

(ii) the book of pleadings prepared in accordance with paragraph 26 of SC16;

(iii) a book or books of affidavits prepared in accordance with paragraph 26 of SC16;

(iv) a book or books of authorities prepared in accordance with paragraphs 22 and 23 of SC16;

(v) a book of transcripts, prepared in accordance with paragraph 24 of SC16;

(vi) a book or books of documents prepared in accordance with paragraph 25 of SC16;

The Supreme Court has indicated that it intends to set time limits for oral submissions. These will be set well in advance at the directions hearing and counsel, solicitors or lay litigants preparing for hearings will be expected to plan their submissions so as not to exceed the time limits. However, where this is done, it is likely that the lawyer or litigant addressing the court will be given a short period at the start of their submissions where they will not be interrupted by judges so that they can lay out their core arguments clearly.

WHERE LEAVE IS NOT GRANTED

If a party seeks leave to appeal a decision of the Court of Appeal to the Supreme Court and is refused such leave, then that is the end of the road and the decision of the Court of Appeal is final. However, a different situation arises if a party seeks to bring a leapfrog appeal from a decision of the High Court but is refused leave to do so by the Supreme Court. In that circumstance, it ought to still be open to the would-be appellant to bring an appeal to the Court of Appeal instead. The difficulty is that by the time the Supreme Court notifies a party that their application for leave has been refused, the time for issuing a notice of appeal or notice of expedited appeal is likely to have expired. Consequently it may be necessary for an appellant in those circumstances to apply to the Court of Appeal for an order pursuant to Order 86, rule 3(3) RSC for an extension of time within which to issue a notice of appeal or notice of expedited appeal. (It is possible that specific provisions for this scenario may be made in a future practice direction).

The other issue, which may arise in the case of an application for leave to bring a leapfrog appeal, is that the Supreme Court may grant leave to bring such an appeal on some but not all of the grounds of appeal relied upon. In such circumstances, the appellant may feel that it would be preferable to abandon the leapfrog appeal[[31]](#footnote-31) and proceed instead with an appeal to the Court of Appeal where the grounds of appeal would not be limited to those for which leave is granted. This scenario is permitted by para. 12(d) of Practice Direction SC16.

Such a course was permitted in ***R (Jones) v. Ceredigion County Council***[[32]](#footnote-32). In that case, the appellant sought to bring a leapfrog appeal from the High Court of England and Wales to the House of Lords pursuant to the UK’s Administration of Justice Act 1969. The House of Lords granted leave to appeal on one of the two grounds of appeal advanced but refused leave on the other ground. The appellant therefore decided not to proceed with the leapfrog appeal and to appeal instead to the Court of Appeal. The House of Lords held that an appellant could not be deprived of a right to bring an unrestricted appeal to the Court of Appeal. However, it was important to avoid a situation where simultaneous appeals were brought to the Court of Appeal and House of Lords / UK Supreme Court.

It is submitted that the English approach accords with common sense, i.e. if an applicant for a leapfrog appeal is refused leave on some or all of their grounds of appeal, they should be entitled to pursue an appeal in the Court of Appeal instead. However, they should only be entitled to do so if they abandon the leapfrog entirely so as not to have the same appeal proceeding on different grounds in parallel in two different courts.

**Conclusion**

The new appeal structure will mean that the majority of appeals from the High Court will be finally determined by the Court of Appeal without going to the Supreme Court. Leave applications are likely to considerably reduce the number of appeals going to the Supreme Court, although it may take some time to clear the existing backlog.

Directions hearings create a compulsion to progress appeals promptly. This may deter some appeals of the type brought over the last few years, which are lodged primarily for tactical reasons to cause delay. By the same token, parties who previously would have declined to bring an appeal because of the anticipated delays may now be incentivised to do so if they can obtain a quick determination in the Court of Appeal, especially through the expedited appeal procedure.

A major implication of the new rules for practitioners is the need to organise the manner in which an appeal will be run, both in terms of the grounds of appeal and the paperwork required, at a very early stage of proceedings. There is a much greater “front-loading” of the burden of preparing appeals than previously applied in appeals to the Supreme Court.

As was the experience in the Commercial Court, the combination of directions hearings and practice directions means that party autonomy is significantly reduced. The progression of appeals will now be subject to considerable scrutiny from the bench. This is designed to reduce the scope for unjustified delays and to maintain the pressure to get appeals to hearing in a prompt and organised fashion.

Eoin Martin B.L.

The Law Library

The Four Courts

Inns Quay

Dublin 7

DX 810103

+353 87 980 7549

[eoinmartinbl@gmail.com](mailto:eoinmartinbl@gmail.com)

1. Article 34.4. [↑](#footnote-ref-1)
2. Article 34.4.3° [↑](#footnote-ref-2)
3. This language now appears in O. 58, r. 2(1) in respect of the Supreme Court and O. 86, r.2(1) in respect of the Court of Appeal, echoing O. 63A which governs the Commercial Court and O. 63B in respect of the Competition List. [↑](#footnote-ref-3)
4. See generally Chapter 2 of Stephen Dowling, *The Commercial Court* (2nd Edition, Round Hall, Dublin 2012). [↑](#footnote-ref-4)
5. O. 86A, r. 7(2) RSC. [↑](#footnote-ref-5)
6. The jurisprudence which previously governed applications to enlarge the time to lodge an appeal to the Supreme Court under the old Order 58 RSC is equally applicable to the new Court of Appeal. See Delany & McGrath *Civil Procedure in the Superior Courts* (3rd Edition, Round Hall, Dublin 2012) paras. 22.32 - 22.43. [↑](#footnote-ref-6)
7. Appendix U, Form No. 4, RSC. [↑](#footnote-ref-7)
8. Appendix U, Form No. 5, RSC. [↑](#footnote-ref-8)
9. Appendix U, Form 6, RSC. [↑](#footnote-ref-9)
10. Appendix U, Form 7, RSC. [↑](#footnote-ref-10)
11. O. 86A, r. 16(1) RSC. [↑](#footnote-ref-11)
12. It is envisaged that written submissions will be filed electronically by emailing same to the Registrar. [↑](#footnote-ref-12)
13. See Practice Direction CA04 dated 5 December 2014. [↑](#footnote-ref-13)
14. The old Order 58, rule 17 provided that “*Such deposit or other security for the costs to be occasioned by any appeal shall be made or given as may be directed under special circumstances by the Supreme Court*.” [↑](#footnote-ref-14)
15. O. 86A, Pt. VIII. [↑](#footnote-ref-15)
16. Section 7(7) of the Courts (Supplemental Provisions) Act 1961, as inserted by s. 44 of the Court of Appeal Act 2014, places on a statutory footing the power of the Chief Justice to issue practice directions for the Supreme Court. Section 7C of the 1961 Act, as inserted by s. 10 of the 2014 Act, provides the President of the Court of Appeal with a similar power in respect of the Court of Appeal. [↑](#footnote-ref-16)
17. Article 34.5 of the Constitution as amended by the 33rd Amendment. [↑](#footnote-ref-17)
18. The applicant must also email a copy of the notice of appeal to supremecourtapps@courts.ie. [↑](#footnote-ref-18)
19. O. 58, r. 18(3) RSC. [↑](#footnote-ref-19)
20. Paragraph 8, Practice Direction SC16 [↑](#footnote-ref-20)
21. Paragraph 3(1)(a), Practice Direction SC16 [↑](#footnote-ref-21)
22. Similar tests are used in Australia, Canada, New Zealand and the UK. [↑](#footnote-ref-22)
23. [2005] 1 IR 274 (SC) [↑](#footnote-ref-23)
24. [2012] 3 IR 152 (SC) [↑](#footnote-ref-24)
25. [2013] 2 ILRM 73 (SC) [↑](#footnote-ref-25)
26. [2012] IESC 47 [↑](#footnote-ref-26)
27. [2015] IESCDET 2 at para. 16. [↑](#footnote-ref-27)
28. This should be emailed to supremecourtapps@courts.ie. [↑](#footnote-ref-28)
29. See para. 19, practice direction SC16 [↑](#footnote-ref-29)
30. See para. 27, practice direction SC16 [↑](#footnote-ref-30)
31. By lodging in the Office and serving the respondents with a written notice of intention to withdraw the appeal pursuant to O. 58, r. 21(c)(ii). [↑](#footnote-ref-31)
32. [2007] 1 WLR 1400 (HL) [↑](#footnote-ref-32)