

HOUSE OF LORDS

PRACTICE DIRECTIONS

AND

STANDING ORDERS

APPLICABLE TO

CRIMINAL APPEALS

2007 – 2008 edition

**Approved by the House of Lords on 8 October 2007
This edition replaces all previous editions**

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The practice directions of the House of Lords are continuously revised and improved. This edition includes many small drafting changes to which special attention does not need to be drawn. Such changes are intended to make the practice directions less minutely prescriptive as to the form of documents etc lodged in respect of appeals.

The following directions contain significant changes from the previous (December 2006) edition:

direction 15.4 (which requires parties to justify estimates of more than two days for hearings).

directions 26.2 – 26.3 (which clarify when communications with the Judicial Office may be made by fax and e-mail).

direction 34.4 (which imposes a time limit for applications to intervene in appeals).

Form 14A (form of cover for appendix) is new.

The direction numbers remain the same as in the previous edition.

JUDICIAL OFFICE, HOUSE OF LORDS, LONDON SW1A 0PW

Telephone: 020-7219 3111

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(n.b. use of fax for communicating with the Judicial Office is subject to direction 26.2)

www.parliament.uk

e-mail: holjudicialoffice@parliament.uk

Houses of Parliament (switchboard): 020-7219 3000

The Judicial Office is open from 10am-5pm on Mondays to Thursdays during the law terms and from 10am-4pm on Fridays and outside the law terms. It is closed from 1-2pm daily; and until 2pm on the day of the State Opening of Parliament.

During the law terms the Appellate Committee sits on Mondays from 11am-4pm and on Tuesdays to Thursdays from 10.30am-4pm, with an hour's adjournment daily from 1-2pm.

FEES AND TAXATION

Fee enquiries should be addressed to the Judicial Office.

Taxation enquiries (assessment of costs) should be addressed to the Judicial Taxing Clerk, telephone 020-7219 3105.

Drafts and cheques for fees, including taxing fees, should be made payable to 'House of Lords Account'. See Appendix C for the level of fees.

ADMISSION PASSES

No special admission passes are required for persons wishing to attend hearings of the Appellate Committee or judgments in the House. Prior notice of attendance is not required. Those wishing to attend should enter the Palace of Westminster via St Stephen's entrance.

Special admission passes to the Palace of Westminster are required by counsel and all those attending the Judicial Office. Application for special admission passes is made as follows:

To attend hearing: application should be made in advance by letter to the Judicial Office.

Each party to an appeal is entitled to passes for counsel and a maximum of two clerks and two solicitors. The application should give the names of those for whom passes are desired and state the number of days for which passes are required. Passes are available for collection from the Pass Office on the first day on which the pass is required.

To attend judgment: application should be made in advance by letter to the Judicial Office. Each party to an appeal is entitled to passes for counsel and one clerk only.

To attend Judicial Office: application should be made on the day in person to the Pass Office.

The Pass Office is located at Black Rod's Garden entrance, near the Victoria Tower.

Applications by telephone are not accepted. In no circumstances are passes sent in the post.

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HOUSE OF LORDS

PRACTICE DIRECTIONS APPLICABLE TO CRIMINAL APPEALS

PART I: DIRECTIONS ON PETITIONS FOR LEAVE TO APPEAL

1. LEAVE TO APPEAL

Introduction

1.1 The judicial procedures of the House of Lords are regulated by statute, by standing orders of the House and by practice directions¹. Copies of these and other documents may be obtained free of charge from the Judicial Office of the House of Lords or downloaded from www.parliament.uk

Terminology

1.2 The Appellate Jurisdiction Act 1876 is the basic Act governing the judicial function of the House of Lords. This booklet uses the terminology of that Act. The term “leave to appeal” means permission to appeal. A “petition for leave to appeal” is an application for permission to appeal.

Right of appeal

1.3 The right of appeal to the House of Lords is regulated by statute and subject to statutory restrictions. The principal statutes for criminal appeals are: the Administration of Justice Act 1960; the Criminal Appeal Act 1968; the Courts-Martial (Appeals) Act 1968; the Administration of Justice Act 1969; the Judicature (Northern Ireland) Act 1978; the Criminal Appeal (Northern Ireland) Act 1980; the Proceeds of Crime Act 2002; the Extradition Act 2003; the Criminal Justice Act 2003; the Serious Organised Crime and Police Act 2005. Every applicant for leave to appeal must comply with the statutory requirements before the application can be considered by the House. The Human Rights Act 1998 applies to the House in its judicial capacity. But that Act does not confer any general right of appeal to the House, or any right of appeal in addition to or superseding any right of appeal provided for in Acts passed before the coming into force of the Human Rights Act 1998.

Stay of execution

1.4 See direction 39.

England and Wales and Northern Ireland

1.5 An appeal to the House of Lords may only be brought with the leave of the court below or, if refused by that court, with the leave of the House of Lords. Subject to directions 2.2-2.4, in criminal matters such leave may not be granted unless the court below has issued the certificate referred to in direction 2.1.

1.6 Subject to directions 1.5 and 2, an application for leave to appeal to the House of Lords in a criminal matter may be made by either the defendant or the prosecutor, as follows:

- (a) from any decision of the Court of Appeal Criminal Division in England and Wales on an appeal to that court²;
- (b) from any decision of the Courts-Martial Appeal Court on an appeal to that court³;
- (c) from any decision of the Court of Appeal in Northern Ireland on an appeal to that court by a person convicted on indictment⁴;
- (d) from any decision of the Court of Appeal in Northern Ireland in a criminal cause or matter on a case stated by a county court or magistrates’ court⁵;

¹ The orders are made pursuant to the Appellate Jurisdiction Act 1876 s 11.

² Criminal Appeal Act 1968 s 33(1) (as amended); Criminal Justice Act 2003, Part 9.

³ Courts-Martial (Appeals) Act 1968 s 39(1).

⁴ Judicature (Northern Ireland) Act 1978 s 40(1)(b); Criminal Appeal (Northern Ireland) Act 1980 s 31(1) (as amended).

⁵ Judicature (Northern Ireland) Act 1978 s 41(1)(b).

- (e) from any decision of the High Court of Justice in England and Wales in a criminal cause or matter¹;
- (f) from any decision of the High Court of Justice in Northern Ireland in a criminal cause or matter².

Scotland

1.7 No appeal lies to the House of Lords from the High Court of Justiciary in Scotland.

Criminal contempt of court cases

1.8 In cases involving criminal contempt of court, an appeal lies to the House of Lords at the instance of the defendant only and, in respect of an application for committal or attachment, at the instance of the applicant from any decision of the Court of Appeal Criminal Division, the Courts-Martial Appeal Court or the High Court³.

2. CERTIFICATE OF POINT OF LAW

2.1 Subject to directions 2.2-2.4, leave to appeal to the House of Lords in a criminal matter may only be granted if it is certified by the court below that a point of law of general public importance is involved in the decision of that court, and it appears to that court or to the House that the point is one that ought to be considered by the House⁴. A petition for leave to appeal without the required certificate may not be lodged (direction 4.8), except as provided by directions 2.2-2.4.

2.2 A certificate is not required for an appeal from a decision of the High Court in England and Wales or of the High Court in Northern Ireland on a criminal application for habeas corpus⁵.

2.3 A certificate is not required for an appeal by a minister of the Crown or a person nominated by him, a member of the Scottish Executive, a Northern Ireland minister or a Northern Ireland department when they have been joined as a party to any criminal proceedings, other than in Scotland, by a notice given under the Human Rights Act 1998 ss 5(1) and 5(2) and they wish to appeal under s 5(4) of that Act against any declaration of incompatibility made in those proceedings.

2.4 A certificate is not required in contempt of court cases where the decision of the court below was not a decision on appeal⁶.

2.5 In cases where the court below has not certified a point of law of general public importance, the Judicial Office will at the request of an applicant provide a letter stating that no appeal is admissible to the House of Lords. The European Court of Human Rights accepts this letter as setting out the jurisdiction of the House of Lords in the litigation, for the purpose of determining whether the petitioner has satisfied the requirement, laid down by Article 35 of the European Convention on Human Rights, that all domestic remedies must be exhausted before an appeal can be made to the Strasbourg Court.

¹ Administration of Justice Act 1960 s 1(1)(a) (as amended); Extradition Act 2003 ss 32, 114.

² Judicature (Northern Ireland) Act 1978 s 41(1)(a); Extradition Act 2003 ss 32, 114.

³ Administration of Justice Act 1960 s 13; Judicature (Northern Ireland) Act 1978 s 44. Appeals under either section in cases involving civil contempt of court are subject to the *Practice directions applicable to Civil Appeals* (October 2007 ed).

⁴ Criminal Appeal Act 1968 s 33(2); Administration of Justice Act 1960 s 1(2); Courts-Martial (Appeals) Act 1968 s 39(2); Judicature (Northern Ireland) Act 1978 s 41(2); Criminal Appeal (Northern Ireland) Act 1980 s 31(2); Extradition Act 2003 ss 32, 114; Proceeds of Crime Act (Appeals under Part 4) Order 2003, SI 2003/458.

⁵ Administration of Justice Act 1960 s 15(3) (as amended); Judicature (Northern Ireland) Act 1978 s 45(3).

⁶ Administration of Justice Act 1960 s 13(4); Judicature (Northern Ireland) Act 1978 s 44(4).

Judicial review: criminal matters

2.6 There is no appeal to the Court of Appeal from a refusal by a Divisional Court to grant permission to apply for judicial review in a criminal case¹; and the House of Lords has no jurisdiction to hear an appeal against a refusal by a Divisional Court of permission to apply for judicial review in a criminal case². So, if a Divisional Court refuses permission to apply to it for judicial review in a criminal matter, there is no further remedy in the domestic courts. The only circumstances in which an application may be made to the House of Lords for permission to appeal from a Divisional Court in a criminal judicial review matter are when the Divisional Court certifies that a point of law of general public importance arises from its decision.

3. TIME LIMITS***Time within which to apply for leave to appeal***

3.1 Application for leave to appeal to the House of Lords in a criminal matter must first be made to the court below. If the court below refuses leave to appeal, application may then be made to the House of Lords.

3.2 Application to the House of Lords for leave to appeal is made by petition (direction 4). An application for leave to appeal to the House of Lords (a) from a decision of the Court of Appeal under s 33(1) of the Criminal Appeal Act 1968 or (b) from a decision of a Divisional Court of the Queen's Bench Division in a criminal cause or matter under s 1(1)(a) of the Administration of Justice Act 1960 must be made within 28 days beginning with the date on which the application for such leave was refused by the court below (and not the following day)³. This date is not necessarily that on which the point of law was certified. Where the time prescribed expires on a Saturday, Sunday, bank holiday or other day on which the Judicial Office is closed, the application is accepted as being in time if it is received on the next day on which the Judicial Office is open.

3.3 An application for leave to appeal must be made within 14 days if made under one of the following provisions: ss 32(5), 114(5) of the Extradition Act 2003; ss 33, 44 and 66 of the Proceeds of Crime Act 2002⁴; and, ss 183, 193 and 214 of the Proceeds of Crime Act 2002⁵. A 14 day time limit also applies to an application to refer a case pursuant to the Attorney General's Reference procedure under s 36(5) of the Criminal Justice Act 1988⁶.

Application for extension of time to lodge petition for leave

3.4 Subject to direction 3.5, the House of Lords or the court below may, on application made at any time by the defendant and in certain limited circumstances the prosecutor⁷, extend the time within which application for leave to appeal to the House may be made to the House or to that court⁸. Such an application to the House is incorporated in the petition for leave itself, and should set out briefly the reason(s) why the petition is being presented outside the statutory period. The reason(s) should not normally exceed a paragraph in length⁹.

3.5 No extension may be granted in respect of applications made under ss 32 and 114 of the Extradition Act 2003.

¹ Supreme Court Act 1981 s 18(1)(a).

² Administration of Justice Act 1960 s1(1) & (2) and the decisions of the House in *Re Poh, Eastaway and Burkett*.

³ Criminal Appeal Act 1968 s 34(1) (as amended); Administration of Justice Act 1960 s 2(1) (as amended).

⁴ Proceeds of Crime Act 2002 (appeals under Part 2) Order 2003 (SI 2003 No 82), Part 3, Article 12.

⁵ Proceeds of Crime Act 2002 (appeals under Part 4) Order 2003 (SI 2003 No 483), Part 3, Article 11.

⁶ Criminal Justice Act 1988 Sch 3, para 4.

⁷ Criminal Appeal Act 1968, ss 33(1B), 34(2); see also Appeal Committee, 13th Report (2000-01): *Regina v. Weir (Respondent)* (HL Paper 28).

⁸ Criminal Appeal Act 1968 s 34(2); Administration of Justice Act 1960 s 2(3); Courts-Martial (Appeals) Act 1968 s 40(2); Criminal Appeal (Northern Ireland) Act 1980 s 32(2); Judicature (Northern Ireland) Act 1978 Schedule 1, paragraph 1(2). Section 1A of the Geneva Conventions Act 1957 makes, in relation to protected prisoners, certain extensions to the time limits in the Administration of Justice Act 1960, the Criminal Appeal Act 1968, the Courts-Martial (Appeals) Act 1968 and the Criminal Appeal (Northern Ireland) Act 1968.

⁹ For form of petition, see Appendix A, Form 3.

Public funding and legal aid

3.6 See direction 37.

4. LODGMENT OF PETITION**Form of petition**

4.1 A petition for leave to appeal should be produced on A4 paper, securely bound on the left, using both sides of the paper. The petition should set out briefly the facts and points of law; and conclude with a summary of the reasons why leave should be granted¹. Petitions which are not legible or which are not produced in the required form are not accepted. A petition should not contain annexes or appendices. Parties may consult the Judicial Office at any stage of preparation of the petition, and may submit petitions in draft for approval.

4.2 In petitions where a prosecuting authority is petitioner, the prosecuting authority should be described in the preamble to the petition as follows: “Director of Public Prosecutions (*or other prosecuting authority*) (on behalf of Her Majesty)”.

4.3 Supporting documents other than those set out in direction 5.2 are not normally accepted.

4.4 Amendments to petitions and the lodging of supplementary petitions are allowed only in exceptional circumstances. The Head of the Judicial Office may allow amendments to petitions and the lodging of supplementary petitions if he is satisfied that this will assist the Appeal Committee and will not unfairly prejudice the respondents or cause undue delay. Any such amendments and supplementary petitions must be served on the respondents (see direction 4.14).

4.5 If a petition for leave to appeal

- (a) asks the House to depart from one of its own decisions;
- (b) raises issues relating to the Human Rights Act 1998; or
- (c) seeks a reference to the Court of Justice of the European Communities,

this point should be stated clearly in the petition.

4.6 A petition for leave to appeal must be signed by the petitioners or their agents.

4.7 On the back of the petition for leave, below the certificate of service, there should be inserted the neutral citation of the judgment petitioned against, the references of any law report in the courts below, and subject matter catchwords for indexing (whether or not the case has been reported).

4.8 Subject to directions 2.2-2.4, the Judicial Office cannot accept for lodgment any petition for leave to appeal that is not accompanied by the certificate from the court below required by statute, certifying a point of law of general public importance (see direction 2)².

Case title

4.9 Petitions for leave to appeal to the House of Lords carry the same title as in the court below, except that the parties are described as petitioner(s) and respondent(s). For reference purposes, the names of parties to the original action who are not parties to the appeal should nevertheless be included in the title: their names should be enclosed in square brackets. The names of all parties should be given in the same sequence as in the title used in the court below.

4.10 Petitions in which trustees, executors etc. are parties are titled in the short form, for example *Trustees of John Black’s Charity (Respondents) v. White (Petitioner)*.

4.11 In any petition concerning minors or where in the court below the title used has been such as to conceal the identity of one or more parties to the action, this fact should be clearly drawn to the attention of the Judicial Office at the time the petition is lodged, so that the title adopted in the House of Lords can take account of the need for anonymity. Petitions involving minors are normally given a title in the form *In re B* (see also direction 10.9).

4.12 In case titles involving the Crown, the abbreviation “R” meaning “Regina” is used. “R” is always given first. So case titles using this abbreviation take the form *R v Jones (Petitioner)* or *R v Jones (Respondent)* (as the case may be) or *R (on the application of Jones) (Petitioner) v Secretary of State for the Home Department (Respondent)*.

¹ For style see Appendix A, Forms 1, 2.

² See speech of Viscount Simonds in *Gelberg v. Miller* [1961] 1 All E.R. 618.

4.13 Apart from the above, Latin is not used in case titles.

Service

4.14 A copy of the petition must be served on the respondents or their agents, either by delivery in person or by first class post, before it is lodged at the Judicial Office. A certificate of such service (noting the full name and address of the respondents or their agents) must be endorsed on the back of the original petition and signed¹. In habeas corpus appeals and/or in appeals concerning extradition, the petition must be served on the government that is seeking extradition or on the Director of Public Prosecutions if he is acting for that government.

Lodgment

4.15 Two original copies of the petition must be lodged at the Judicial Office, together with a copy of the order appealed against and, if separate, a copy of the order of the court below refusing leave to appeal. If the substantive order appealed against is not immediately available, the petition should nevertheless be lodged within the required time limits, and the order lodged as soon as possible thereafter.

4.16 An agent who attends the Judicial Office to lodge a petition for leave to appeal or accompanying papers must be familiar with the subject matter of the petition.

Appearance for respondents

4.17 Respondents or their agents should enter appearance to a petition for leave as soon as they have received service. The respondents or their agents enter appearance by informing the Judicial Office by post of their name and address or that of their firm.

4.18 Respondents who do not intend to take part in the proceedings do not need to enter appearance, but the Judicial Office sends communications concerning a petition for leave to appeal only to those who have entered appearance.

4.19 An order for costs will not be made in favour of a respondent who has not entered appearance.

Communications by fax/e-mail

4.20 See direction 26.2.

5. APPEAL COMMITTEE

5.1 Petitions for leave to appeal to the House of Lords are considered by an Appeal Committee consisting of three Lords of Appeal. Petitions are generally decided on the papers alone, without a hearing.

Additional papers

5.2 The following additional papers for use by the Appeal Committee must be lodged within seven days of lodgment of the petition:

- (a) four copies of the petition;
- (b) four copies of the order appealed against;
- (c) if separate, four copies of the order of the court below refusing leave to appeal to the House of Lords;
- (d) four copies of the official transcript of the judgment of the court below²;
- (e) four copies of the orders of all other courts below;
- (f) four copies of the official transcript of the judgments of all other courts below³;
- (g) four copies of any unreported judgment cited in the petition or judgment of a court below.

¹ For style see Appendix A, Form 2.

² If the judgment has been published in a report which is ordinarily received in court, copies of the report may be lodged in lieu of transcripts. Transcripts of judgments marked “in draft” are not accepted without certification by the relevant court that the copy is the final version of the judgment.

³ Or, in the case of a County Court, of the Judge’s Notes.

No other papers are required, and documents other than those listed above are not normally accepted unless requested by the Appeal Committee.

5.3 Papers lodged in accordance with direction 5.2 should be lodged as individual documents, double-sided, single-stapled and not inserted into ring binders. Documents which are not clearly legible or which are not in the required style or form (see direction 4.1) are not accepted.

5.4 Where the required papers are not lodged within three months of presentation of the petition and no good reason is given for the delay, the petition may at the direction of the Head of the Judicial Office be referred to an Appeal Committee without the required accompanying papers.

Consideration on the papers

5.5 The Appeal Committee decides first whether a petition for leave to appeal is admissible. The rules on admissibility are set out in directions 1 and 2. If the Appeal Committee determines that a petition is inadmissible, it may refuse leave on that ground alone and not consider the content of the petition. The Appeal Committee gives a reason for its decision that the petition is inadmissible.

5.6 If the Appeal Committee decides that a petition is admissible, the Committee may then:

- (a) refuse leave (see direction 5.8);
- (b) give leave outright (see direction 5.9);
- (c) invite the respondents to lodge objections to the petition (see direction 5.10);
- (d) give leave on terms (see direction 5.15);
- (e) refer the petition for an oral hearing (see direction 5.16).

5.7 Leave to appeal is granted to petitions that, in the opinion of the Appeal Committee, raise an arguable point of law of general public importance which ought to be considered by the House at this time, bearing in mind that the matter will already have been the subject of judicial decision and may have already been reviewed on appeal. A petition which in the opinion of the Appeal Committee does not raise such a point of law is refused on that ground. The Appeal Committee gives brief reasons for refusing leave to appeal¹ but does not otherwise explain its decisions².

Leave refused

5.8 If the Appeal Committee is unanimous that a petition should be refused, the parties are notified that the petition is dismissed.

Leave given outright

5.9 If the Appeal Committee is unanimous that a petition should be allowed without further proceedings, the House grants leave outright (without inviting respondents' objections).

Respondents' objections

5.10 Respondents may submit written objections giving their reasons why leave to appeal should be refused. They may do this:

- (a) within 14 days of the date of service on them of the petition for leave to appeal; or
- (b) within 14 days of any invitation by the Appeal Committee to do so; or
- (c) within 14 days of a petition for leave to appeal being referred for an oral hearing.

5.11 Respondents' objections set out briefly the reasons why the petition should be refused or make submissions as to the terms upon which leave should be granted (for example, on costs). One master plus four copies of the respondents' written objections must be lodged at the Judicial Office. The objections must be produced on A4 paper, securely fastened, using both sides of the paper.

¹ See also directions 32.2 and 32.3 for practice where a point of European Community law is raised on a petition for leave to appeal.

² See Appeal Committee, 38th Report (2002-03): *Petitions for leave to appeal: reasons for the refusal of leave* (HL Paper 89).

5.12 A copy of the respondents' objections should be sent to the agents for the other parties. In certain circumstances the Appeal Committee may invite further submissions from the petitioners in the light of the respondents' objections, but petitioners do not have a right to comment on respondents' objections. Where the Appeal Committee does not require further submissions, and provided the Committee is unanimous in its decision to grant or refuse leave, it reports its decision to the House and the parties are informed. Where the Appeal Committee proposes terms for granting leave, direction 5.15 applies.

5.13 Respondents' objections are subject to any order for costs made by the Appeal Committee or, if leave to appeal is granted, become costs in the appeal (see direction 6).

5.14 Parties unable to meet the deadlines set out in direction 5.10 must write to the Head of the Judicial Office requesting an extension of time for lodging their written objections.

Leave given on terms

5.15 If the Appeal Committee decides that leave to appeal should be given on terms, the Committee proposes the terms. The parties have the right to make submissions on the proposed terms within 14 days of the date of that decision.

Petition referred for oral hearing

5.16 In all cases where the members of the Appeal Committee are not unanimous, or where further argument is required, a petition for leave to appeal is referred for an oral hearing.

5.17 If the respondents have not already lodged written objections, they may do so within 14 days of being informed that the petition has been referred for a hearing (direction 5.10(c)).

5.18 When a petition is referred for an oral hearing, the petitioners and all respondents who have entered appearance are notified of the date of the hearing before the Appeal Committee.

5.19 Parties may be heard before the Appeal Committee by counsel, by agent, or in person, but one only may be heard on each side.

5.20 If counsel is briefed, agents should ensure that the Judicial Office is notified of their name. Only a junior counsel's fee is allowed on taxation.

5.21 Authorities are not normally cited before the Appeal Committee or provided for the Committee's use at the hearing.

Lodgment of petition of appeal

5.22 If leave to appeal is given, the petition of appeal (direction 10) must be lodged with the prescribed fee within 14 days of the date of the Appeal Committee's decision. Failure to meet this deadline results in the petition of appeal being lodged out of time and referred to an Appeal Committee pursuant to direction 8.4.

Order of the House

5.23 Copies of the House of Lords Business¹ recording the report of the Appeal Committee and the order of the House are sent to all parties who have entered appearance.

5.24 A formal order of the Appeal Committee is not normally issued but will be issued on written request. A formal order is not required for taxation of costs arising from the application for leave to appeal.

Expedition

5.25 Once the required papers are lodged in the Judicial Office (direction 5.2), the procedure described above is normally completed within eight sitting weeks (excluding any oral hearing). In cases involving liberty of the subject, urgent medical intervention or the well-being of children, application for expedition may be made in writing to the Judicial Office.

¹ The record of the House's proceedings.

6. COSTS

6.1 Where a petition for leave to appeal is determined without an oral hearing, costs may be awarded as follows:

- (a) to a publicly funded or legally aided petitioner, reasonable costs incurred in preparing papers for the Appeal Committee¹;
- (b) to a publicly funded or legally aided respondent, only those costs necessarily incurred in attending the client, attending the petitioner's agents, perusing the petition, entering appearance and, where applicable, preparing respondent's objections to the petition²;
- (c) to an unassisted respondent where the petitioner is publicly funded or legally aided, payment out of the Community Legal Service Fund (pursuant to s 11 of the Access to Justice Act 1999³)⁴ of costs as specified at (b) above;
- (d) to a petitioner or respondent, payment out of central funds, pursuant to s 16 or s 17 of the Prosecution of Offences Act 1985, of costs incurred at (a) or (b) above, as the case may be;
- (e) to a respondent where neither party is publicly funded or legally aided, costs as specified at (b) above to be paid by the petitioner⁵.

Where costs are sought under (c), (d) or (e) above, application may be made by letter addressed to the Judicial Office or may be included in a bill of costs lodged in the Judicial Office conditional upon the application being granted.

6.2 Where a petition for leave to appeal is referred for an oral hearing and is dismissed, application for costs must be made by the respondent at the end of the hearing. No order for costs will be made unless requested at that time.

6.3 Where a petition for leave to appeal is allowed, the costs of the petition become costs in the appeal.

6.4 Bills of costs for taxation must be lodged within three months from the date of the decision of the Appeal Committee or the date on which a petition for leave is withdrawn in accordance with direction 42.1. If an extension of the three months period is desired, application must be made in writing to the Taxing Officer and copies of all such correspondence sent to all interested parties. In deciding whether to grant an application for an extension of time made after the expiry of the three month period the Taxing Officer takes into account the circumstances set out in the practice directions applicable to judicial taxations.

6.5 The practice directions relating to judicial taxations and forms of bills of costs are available on request from the Judicial Office and on the internet at www.parliament.uk. Fees are payable on taxation of a bill of costs.

7. FEES

7.1 No fee is payable at any stage of a petition for leave to appeal in a criminal matter. Fees are payable on the taxation of a bill of costs.

¹ See *Practice directions applicable to judicial taxations in the House of Lords and forms of bills of costs*, available from the Judicial Office and at www.parliament.uk.

² *Ibid.*

³ Also pursuant to r. 5(2) Community Legal Service (Cost Protection) Regulations 2000 and in accordance with the procedural requirements of rr. 9, 10 Community Legal Service (Costs) Regulations 2000 (as amended).

⁴ Or s 18 Legal Aid Act 1988; or, in Scotland, pursuant to s 19 Legal Aid (Scotland) Act 1986 or, in Northern Ireland, pursuant to Article 16 Legal Aid Advice and Assistance (N.I.) Order 1981.

⁵ See n¹ above.

PART II - DIRECTIONS APPLYING IN ALL CRIMINAL APPEALS

8. TIME LIMITS

8.1 Save for appeals under the Extradition Act 2003 (direction 8.3), a petition of appeal must be lodged in the Judicial Office within three months of the date on which the order appealed against was made¹.

8.2 However, this time limit may be varied (but not increased) by an order of the House when granting leave or by an order of the court below. The order appealed against is the substantive order complained of.

8.3 Appeals under the Extradition Act 2003 must be lodged within 28 days of the grant of leave, starting with the day on which leave is granted. The time for doing so may not be extended².

Out of time appeals

8.4 Where a petition of appeal is not lodged within the time allowed, a petition for leave to present the appeal out of time may be lodged³. This petition is referred to an Appeal Committee.

Fees

8.5 No fee is payable at any stage of a criminal appeal, except on taxation (assessment of costs).

9. LONDON AGENTS

9.1 Solicitors outside London may appoint London agents. Those who decide not to do so should note that any additional costs incurred as a result of that decision may be disallowed on taxation (assessment of costs).

10. LODGMENT OF APPEAL

Form of petition of appeal

10.1 Petitions of appeal must be produced on A4 paper, securely bound on the left, using both sides of the paper⁴.

10.2 Where leave to appeal has been obtained from the court below or from the House, it is enough for the petition of appeal to be signed by the appellants or their agents.

10.3 On the back page of the petition, below the certificate of service, there should be inserted the neutral citation of the judgment appealed against, the references of any law report of the case in the courts below and subject matter catchwords for indexing (whether or not the case has been reported).

Case title

10.4 Petitions of appeal to the House of Lords carry the same title as in the court below, except that the parties are described as appellant(s) and respondent(s). For reference purposes, the names of parties to the original action who are not parties to the appeal should nevertheless be included in the title: their names should be enclosed in square brackets. The names of all parties should be given in the same sequence as in the title used in the court below.

10.5 Petitions in which trustees, executors, etc. are parties are titled in the short form, for example *Trustees of John Black's Charity (Respondents) v. White (Appellant)*.

¹ Standing Order I. The court below may reduce but may not extend the three month period. For extensions of time in publicly funded/legal aid cases, see direction 37.

² Extradition Act 2003 ss 32, 114.

³ Adapt Appendix A, Form 4 using Form 3 as a model.

⁴ See Appendix A, Form 4 for style of petition and direction 24 for preparation of documents.

10.6 In any petition concerning minors or where in the court below the title used has been such as to conceal the identity of one or more parties to the action, this fact should be clearly drawn to the attention of the Judicial Office at the time the petition is lodged, so that the title adopted in the House of Lords can take account of the need for anonymity. Petitions involving minors are normally given a title in the form *In re B*.

10.7 In case titles involving the Crown, the abbreviation “R” meaning “Regina” is used. “R” is always given first. Case titles using this abbreviation take the form *R v Jones (Appellant)* or *R v Jones (Respondent)* (as the case may be) or *R (on the application of Jones) (Appellant) v Secretary of State for the Home Department (Respondent)*.

10.8 Apart from the above, Latin is not used in case titles.

Anonymity and reporting restrictions

10.9 In any appeal concerning children the parties should, in addition to considering the case title to be used, also consider whether it would be appropriate for the House to make an order under s 39 of the Children and Young Persons Act 1933. The parties should always inform the Judicial Office if such an order has been made by a court below. A request for such an order to be made by the House should be made in writing, preferably on behalf of all parties to the appeal, as soon as possible after the appeal has been presented and not later than 14 days before the start of the hearing.

10.10 Direction 10.9 also applies to a request for an order under s 4 of the Contempt of Court Act 1981.

Human Rights Act 1998

10.11 Appellants must notify the Judicial Office in writing when:

- (a) the House is to be asked to consider whether to make, uphold or reverse a declaration that a provision of primary or subordinate legislation is incompatible with a European Human Rights Convention right¹, or is to be asked to consider any issue which may lead the House to make such a declaration, or where such an issue is or may be raised in respect of a judicial act;
- (b) a party seeks to challenge an act of a public authority under the Human Rights Act 1998; or
- (c) a party relies in whole or in part on the provisions of the Human Rights Act 1998.

Appellants should indicate whether notification is made under (a), (b) or (c) above (see direction 31.1). They should set out briefly the arguments involved; and state whether the point was taken in the courts below. In appeals in which (a) above is an issue, the Crown has a right to be joined as a party to the appeal (direction 31.2).

Service

10.12 A copy of the petition of appeal must be served on the respondents or their agents, either by delivery in person or by first class post, before lodgment at the Judicial Office. A certificate of such service noting the full name and address of the respondents or their agents must be endorsed on the back of the original petition and signed by the appellants or their agents².

Lodgment

10.13 The original petition of appeal together with seven copies must be lodged at the Judicial Office. If leave to appeal was granted by the court below, a copy of the order appealed from must also be lodged and, if separate, a copy of the order granting leave to appeal to the House of Lords. If the order is not immediately available, the petition should be lodged in time and the order lodged as soon as possible thereafter.

10.14 Once the petition of appeal has been lodged, it is presented to the House and recorded in the House of Lords Business³ (the record of the House’s proceedings). A copy of the House of Lords Business is sent to all parties who have entered appearance (direction 10.15).

¹ Human Rights Act 1998, which gives further effect in domestic law to much of the *Convention for the Protection of Human Rights and Fundamental Freedoms agreed by the Council of Europe at Rome on 4 November 1950*.

² For style see Appendix A, Form 5.

³ The record of the Houses’s proceedings.

Appearance for respondents

10.15 Respondents or their agents should enter appearance to a petition for leave as soon as they have received service. The respondents or their agents enter appearance by informing the Judicial Office by post of their name and address or that of their firm. Respondents who do not intend to take part in the proceedings do not need to enter appearance, but the Judicial Office sends communications concerning the appeal only to those who have entered appearance. An order for costs will not be made in favour of a respondent who has not entered an appearance.

Children

10.16 In a case involving a child, where delay might affect the facts of the case or the interests of the child, parties should draw this to the attention of the Head of the Judicial Office not later than the day of presentation of the petition of appeal.

11. SECURITY FOR COSTS AND FEES

11.1 No security for costs is required to be lodged in criminal appeals to the House of Lords and no fee is payable, except on taxation.

12. STATEMENT OF FACTS AND ISSUES

12.1 The appellants must lodge a Statement of the facts and issues (with an Appendix (see direction 13)) within six weeks of the presentation of the appeal, or longer period approved by the House (direction 14.3). The Statement should be a succinct account of the main facts of the case, including an account of judicial proceedings up to that point and an account of the issues raised by the appeal. The appellants are responsible for drawing up the Statement in draft and they must submit it to the respondents for discussion and agreement. The Statement must be a single document agreed between the parties. In the event of disagreement, disputed material should be removed from the draft Statement and included instead in each party's case (direction 16). The Statement must be signed on behalf of each party by at least one counsel who appeared in the court below or who will appear at the hearing before the House.

12.2 In any appeal under the Criminal Appeal Act 1968, the Statement must state clearly whether any grounds of appeal have been left undetermined by the Court of Appeal¹ (see also direction 16.6).

Form of Statement of facts and issues

12.3 The Statement of facts and issues should be produced on A4 paper, securely bound on the left, and incorporate:

- (a) pages printed on both sides of the paper;
- (b) capital letters down the inside margins;
- (c) references on the outside margins to relevant pages of the Appendix;
- (d) on the front cover, the reference of every law report of the case in the courts below, together with the catchword summary of one of the reports;
- (e) on the front cover, a headnote summary, whether or not the case has been reported;
- (f) on the front cover, a statement of the time occupied in the courts below;
- (g) on the front cover, addresses of parties at foot of page; and
- (h) at the end, the signatures of counsel for both parties above their printed names.

13. APPENDIX

13.1 It is the appellants' responsibility, in consultation with the respondents, to prepare and lodge an Appendix of documents considered necessary for the appeal. These documents include all the documents used in evidence or recording proceedings in the courts below.

13.2 The appellants bear the cost of preparing the Appendix, although these costs are ultimately subject to the decision of the House as to the costs of the appeal.

¹ See penultimate paragraph of Lord Chancellor's speech in *R v Mandair* [1994] 2 All E.R. 715.

Contents of Appendix

13.3 The Appendix contains only documents or extracts from documents that are necessary to support and understand the argument when the appeal is heard by the Appellate Committee. No document which was not used in evidence or does not record proceedings relevant to the action in the courts below may be included. Transcripts of arguments in the courts below may not be included unless remarks by a judge are relied on by any party or the arguments refer to facts which are admitted by all parties and as to which no evidence was called.

13.4 The Appendix consists of one or more parts. Part 1 must contain:

- (a) formal originating documents;
- (b) case stated (if any);
- (c) judgments and orders relating to the decisions at first instance and on appeal;
- (d) relevant legislative provisions including delegated legislation; and
- (e) any relevant document on which the action is founded (such as a will, contract, map, plan etc.) or an extract from such document.

13.5 For judgments that have been published, unbound parts of the relevant Law Reports or the Weekly Law Reports should be used if available; otherwise the All England Reports, Tax Cases, Simons' Tax Cases, Reports of Patent Cases and Lloyd's List Reports may be used. In Scottish appeals, Session Cases should be used where available; otherwise, Scots Law Times and Scottish Civil Case Reports may be used. Where, at the time of preparation of the Appendix, a judgment of a court below has not been published, a transcript must be included, which may later be replaced by the published version. In such circumstances, 15 copies of the published version should be submitted to the Judicial Office. Judgments in draft are not accepted. If the printed Act or set of Regulations is conveniently small, it should be used; if the provisions are bulky or numerous, the relevant provisions should be copied. Halsbury's Statutes may be used.

13.6 Other documents should be included in Part 2 of the Appendix and, if the bulk of the documents makes it necessary, in Parts 3, 4 etc. The Appendix volume should only be numbered Part 1 if there is more than one Part.

Form of Appendix

13.7 The Appendix takes the following form:

- (a) it must be A4 size bound with a plastic comb binding and blue card covers (blue indicating a civil appeal);
- (b) documents must be printed on both sides of the paper;
- (c) documents must be numbered;
- (d) original documents smaller than A4 may be enlarged to A4 size with a broad outside margin;
- (e) the Appendix must contain an index; and if there is more than one Part, Part 1 of the Appendix must also contain an index to all the other Parts;
- (f) in addition to the requirement at (e) above, if the Appendix has more than one Part, each Part must contain a list of its own contents;
- (g) documents of an unsuitable size or form for binding (for example, booklets or charts) should be included in a pocket attached to the inside back cover of the appropriate Appendix volume;
- (h) no tabs should be included in the Appendix.

Examination of Appendix

13.8 The Appendix is for the use of all parties and the contents of the Appendix must be agreed by appellants and respondents. Disputed documents (see direction 13.9) should not be included in the Appendix. As soon as proofs of the Appendix are available they should be examined against the originals by all parties, if possible at one joint examination. As soon as practicable after the examination, a final proof of the Appendix should be provided to each party.

Documents in readiness at hearing

13.9 Disputed documents and any document not included in the Appendix which may be required at the hearing should be held in readiness and, subject to leave being given by the Appellate Committee, may be introduced at an appropriate moment. Fifteen copies are required. All such documents are subject to previous examination by the other parties. Where the appellants refuse to include in the Appendix any documents that the respondents consider necessary, the respondents must prepare and reproduce the documents at their own expense, subject to the final order on costs.

14. LODGMENT OF STATEMENT AND APPENDIX***Time limits***

14.1 The Statement and Appendix must be lodged by the appellants within six weeks of the presentation of the appeal, or within such longer period as may be allowed on petition (see direction 14.3)¹.

14.2 If this time limit expires during a parliamentary recess, it is automatically extended to the third next sitting day of the House of Lords²; and if any party has applied for public funding/legal aid, the time limit is automatically extended to one month after the notification of the result of the funding decision, provided that the Judicial Office has been informed of the application³.

Application for extension of time—first extension

14.3 Appellants who are unable to complete their preparation of the Statement and Appendix within the initial six weeks' period may apply before the end of that period for an extension of time. The application is made by letter to the Judicial Office and should explain briefly the reason(s) why an extension is needed. Application may be made for an extension of up to six weeks from the original expiry date, and the application must specify the date to which the extension is requested. If the date seems likely to fall in a parliamentary recess, the application may request extension until '[specify date] or the third sitting day of the next meeting of the House'⁴.

14.4 An application for an extension of time must be sent to those respondents who have entered appearance, for their information.

Application for extension of time—second and subsequent extensions

14.5 Up to three extensions of time are granted, provided that they do not prejudice the preparation for the hearing or its proposed date. An application for a fourth extension of time, and any subsequent applications, may, at the discretion of the Head of the Judicial Office, be referred to an Appeal Committee.

Respondents' consent

14.6 It is not the practice in criminal appeals to require the consent of the respondents to applications for extensions of time.

Lodgment

14.7 When the Statement and Appendix are ready, one master plus seven copies of the Statement, eight copies of Part 1 of the Appendix and 15 copies of Parts 2 etc. (if any) must be lodged in the Judicial Office. The appellants must at the same time apply to set down the appeal for hearing.

15. SETTING DOWN FOR HEARING

15.1 An appeal is set down for hearing at the same time as the appellants lodge the Statement and Appendix⁵.

¹ Standing Order VI(1). For extensions of time in publicly funded/legally aided cases, see direction 37.

² Standing Order VIII.

³ See direction 37.1-37.3.

⁴ As the "third sitting day" depends on future sittings of the House, the date of expiry is not fixed. The appellants should contact the Judicial Office from time to time to discover how sittings of the House affect this date.

⁵ For form of application for setting down, see Appendix A, Form 12.

15.2 Once an appeal has been set down for hearing, it may be called on at any time. Certain directions, for example directions 16.14-16.15, may be dispensed with to enable an appeal to be called on at short notice.

Estimates of length of time needed for hearing of appeal

15.3 Within seven days of the setting down of an appeal, each party must notify the Judicial Office of the number of hours that their counsel estimate to be necessary for each of them to address the Appellate Committee. Subject to any directions by the Appellate Committee before or at the hearing, counsel are expected to confine their submissions to the time indicated in their estimates. The Judicial Office should be informed at once of any alteration to the original estimate.

15.4 The average length of appeals before the Appellate Committee is two days, and appeals are listed for hearing on this basis. Estimates of more than two days must be explained in writing to the Head of the Judicial Office and may be referred to the Law Lords.

16. APPELLANTS' AND RESPONDENTS' CASES

16.1 The case is the statement of a party's argument in the appeal.

16.2 The case should be confined to the heads of argument that counsel propose to submit at the hearing and omit material contained in the Statement of facts and issues¹. The members of the Appeal Committee who gave leave to appeal may not be sitting on the Appellate Committee; and so it cannot be assumed that the members of the Appellate Committee will be familiar with the arguments set out in the petition for leave to appeal.

16.3 Page 1 of the case should set out the title of the party on whose behalf it is lodged.

16.4 If either party is abandoning any point taken in the courts below, this should be made plain in their case. If they intend to apply in the course of the hearing for leave to introduce a new point not taken below, this should also be indicated in their case and the Judicial Office informed. If such a point involves the introduction of fresh evidence, application for leave must be made either in the case or by lodging a petition for leave to adduce the fresh evidence.

16.5 If a party intends to invite the House to depart from one of its own decisions, this intention must be clearly stated in a separate paragraph of their case, to which special attention must be drawn. A respondent who wishes to contend that a decision of the court below should be affirmed on grounds other than those relied on by that court must set out the grounds for that contention in their case.

16.6 In any appeal under the Criminal Appeal Act 1968 in which grounds of appeal have been left undetermined by the Court of Appeal (see direction 12.2), each party should include in their case submissions on the merits of those grounds and on how they would seek to have them disposed of by the House.

16.7 Transcripts of unreported judgments should only be cited when they contain an authoritative statement of a relevant principle of law not to be found in a reported case or when are necessary for the understanding of some other authority.

16.8 All cases must conclude with a numbered summary of the reasons upon which the argument is founded, and must bear the signature of at least one counsel for each case to the appeal who has appeared in the court below or who will be briefed for the hearing before the House².

16.9 The lodgment of a case carries the right to be heard by two counsel, one of whom may be leading counsel. The fees of two counsel only for any party are allowed on taxation unless the Appellate Committee orders otherwise on application at the hearing.

¹ See Lord Diplock's speech in *M.V. Yorke Motors v. Edwards* [1982] 1 WLR 444, [1982] 1 All E.R. 1024.

² Standing Order VI(3).

Separate cases

16.10 All the appellants must join in one case. All the respondents must also join in one case, unless it can be shown that the interests of one or more of the respondents are distinct from those of the rest. If the respondents' interests are distinct, the agents who first lodge their case must certify in a letter to the Judicial Office as follows:

- (a) 'We, as agents for the respondent(s) [*name particular parties*], certify that opportunity has been offered by us for joining in one case to the respondent(s) [*name particular parties*] whose interests are, in our opinion, similar to those set out in the case lodged by us.'; or
- (b) 'We, as agents for the respondent(s) [*name particular parties*], certify that the interests represented in the case lodged by us are, in our opinion, distinct from those of the remaining respondent(s).'

16.11 When one of the foregoing certificates has been given, all remaining respondents wishing to lodge a case must respectively petition to do so in respect of each of their separate cases. Such petitions must be consented to by the appellants, and must set out the reasons for separate lodgment.

16.12 Parties whose interests in the appeal are passive (for example, stakeholders, trustees, executors, etc.) are not required to lodge a separate case but should ensure that their position is explained in one of the cases lodged.

Joint case

16.13 The lodgment of a joint case on behalf of both appellants and respondents may be permitted in certain circumstances.

Lodgment and exchange of cases

16.14 No later than five weeks before the proposed date of the hearing, the appellants must lodge at the Judicial Office one master plus seven copies of their case and serve it on the respondents.

16.15 No later than three weeks before the proposed date of the hearing, the respondents must lodge at the Judicial Office one master plus seven copies of their case in response, as must any other party lodging a case (for example, an intervener or advocate to the court).

16.16 The number of copies of cases exchanged should be enough to meet the requirements of counsel and agents and should not usually exceed eight. To enable the appellants to lodge the bound volumes, the respondents and any other party who has lodged a case must also provide the appellants with 15 further copies of their case.

16.17 Following the exchange of cases, further arguments by either side may not without leave be submitted in advance of the hearing.

Form of cases

16.18 Cases must be produced on A4 paper securely bound on the left, with:

- (a) numbered paragraphs;
- (b) capital letters down the inside margins;
- (c) references to Appendix on the outside margins; and
- (d) signatures of counsel at the end, above their printed names.

17. BOUND VOLUMES

17.1 As soon as all cases have been exchanged, and no later than 14 days before the proposed date of the hearing, the appellants must lodge (in addition to the documents already lodged on setting down) 15 bound volumes, each containing:

- (a) petition(s) of appeal;
- (b) petition(s) of cross-appeal (if any);
- (c) Statement of facts and issues;
- (d) appellants and respondents' cases, with cross-references on the outside margins to the Appendix and authorities volume(s);

- (e) case of the advocate to the court or intervener, if any;
- (f) Part 1 of the Appendix; and
- (g) index to the authorities volume(s).

Form of bound volumes

17.2 The bound volumes:

- (a) should be bound in the same manner as the Appendix, with plastic comb binding and red card covers;
- (b) must include cut-out tabs for each of the documents set out in direction 17.1, with the name of the document on the tab;
- (c) must show on the front cover a list of the contents and the names and addresses of the agents for all parties;
- (d) must indicate on a sticker attached to the plastic spine the volume number and the short title of the appeal; and
- (e) should include a few blank pages at either end.

Provision of documents

17.3 To enable the appellants to produce the bound volumes, the respondents must provide the appellants' agents with a further 15 copies of the respondents' case in addition to the cases already exchanged.

17.4 Respondents should arrange with the appellants' agents for the delivery to them of such bound volumes as the respondents' counsel and agents require.

17.5 In appeals to which direction 41 applies, it is not necessary for the appellants' agents to produce additional bound volumes for the use of victims attending the Appellate Committee. The Judicial Office provides the necessary documents from among the number produced for the use of the Committee.

18. AUTHORITIES

18.1 Ten copies of all authorities that may be needed during the hearing must be lodged at the same time as the bound volumes. The authorities should be collected together into one or more volumes. The appellants are responsible for producing the authorities volumes and lodging them at the Judicial Office. To enable the appellants to lodge the volumes, the respondents must provide the appellants with ten copies of any authorities which the respondents require but which the appellants do not, or arrange with the appellants for their photocopying. Respondents should arrange with the appellants for the delivery to them of such authorities volumes as the respondents' counsel and agents require.

Form and content of authorities volumes

18.2 The authorities volumes should:

- (a) be A4 size, comb bound with green card covers;
- (b) have flexible covers;
- (c) separate each authority in the volume by numbered dividers;
- (d) contain an index to that volume; the first volume must also contain an index to all the volumes;
- (e) be numbered consecutively on the cover and spine with numerals at least point 72 in size for swift identification of different volumes during the hearing;
- (f) have printed clearly on the front cover the title of the appeal and the names of the agents for all parties;
- (g) have affixed to the plastic spine a sticker indicating clearly the volume number and short title of the appeal;
- (h) include a few blank pages at either end;
- (i) not be more than 2½cm (1 inch) thick.

18.3 The first volume(s) should contain citations from the C and L series of the Official Journal of the European Union; the Law Reports; the All England Reports; the Weekly Law Reports; Session Cases; the Scots Law Times; and the current edition of Halsbury's Laws. Subsequent volumes should contain all other material. In appeals where there is a large number of authorities volumes, it is helpful to produce an index of indexes, separate from the index contained in the first authorities volume.

18.4 The authorities volumes should be lodged in the Judicial Office in separate containers from the bound volumes.

18.5 Where a case is not reported in the Law Reports or Session Cases, references to other recognised reports may be given (see direction 16.7). In Revenue appeals, Tax Cases may be cited but, wherever possible, references to the case in the Law Reports or Session Cases should also be given.

18.6 In order to produce the authorities volumes, parties may download text from electronic sources; but the authorities volumes may only be lodged in paper form.

18.7 In certain circumstances (for example, when during the hearing before the Appellate Committee it becomes apparent that a particular authority is needed but is not in the authorities volume), the House of Lords Library can arrange for copies of authorities to be made available at the hearing¹. Parties must themselves provide ten copies of any other authority or of unreported cases. They must similarly provide copies of any authority of which notice has not been given.

18.8 The cost of preparing the authorities volumes falls to the appellants, but is ultimately subject to the decision of the House as to the costs of the appeal.

19. NOTICE OF HEARING

19.1 Once an appeal has been set down, it may be called on at any time, possibly at short notice.

19.2 The Judicial Office lists appeals to meet the convenience of all the parties. Provisional dates are agreed with the parties well in advance of the hearing and every effort is made to keep to these dates. Counsel, agents and parties are however advised to hold themselves in readiness during the week before and the week following the provisional date given. Agents receive formal notification shortly before the hearing.

19.3 Parties should inform the Judicial Office as early as possible of the names of counsel they have briefed.

19.4 Appellate Committees usually hear appeals on Mondays from 11am-1pm and from 2-4 pm, and on Tuesdays to Thursdays from 10.30am-1pm and 2-4pm. Hearings take place in Committee Rooms 1 and 2 on the Committee Corridor of the Palace of Westminster.

20. COSTS

General

20.1 If counsel seek an order other than that costs should be awarded to the successful party, they may make written submissions within 14 days of the conclusion of the hearing. One master plus seven copies of the written submissions must be lodged at the Judicial Office. Copies should also be sent to the other parties to the appeal.

Submissions at judgment

20.2 If submissions on costs have not been made pursuant to direction 20.1, it may be appropriate for submissions on costs to be made in the light of the result of the appeal. In such cases the House postpones making an order for costs in order to allow the parties to make written submissions, usually within 14 days of the date on which judgment is given. One master plus seven copies of the submissions must be lodged at the Judicial Office, and copies sent to the other parties to the appeal.

20.3 The costs submissions are considered on the papers alone.

¹ See Appendix B for a list of authorities held by the House of Lords Library.

21. JUDGMENT

Place and time of judgment

21.1 Judgments are given in the Chamber of the House of Lords, usually on Wednesdays at 9.45am. Agents are notified of the date. One week's notice is usually given.

Attendance of counsel

21.2 One junior of counsel for each party or group of parties who have lodged a case is required to attend at the Bar of the House when judgment is delivered. Queen's Counsel may attend instead, but only a junior's fee is allowed on taxation. It is the convention that Queen's Counsel wear full-bottomed wigs when appearing at the Bar of the House. Counsel instructed to attend judgment must be familiar with the subject matter of the appeal and with the options for its disposal.

Conditions under which judgments are released in advance

21.3 The opinions of the Law Lords who sat on the Appellate Committee and the questions to be put to the House to dispose of the appeal are available to certain persons before judgment is given. When judgment is given on a Wednesday morning, these documents are made available to counsel from 10.30 am on the previous Friday morning. They may be collected from the Judicial Office. In releasing these documents, the House gives permission for their contents to be disclosed to counsel, agents (including solicitors outside London who have appointed London agents) and in-house legal advisers in a client Government department. The contents of the documents and the result of the appeal must not be disclosed to the client parties themselves until judgment is given in the House.

21.4 It is the duty of counsel to check that the questions to be put to the House dispose of the appeal in accordance with the opinions of the members of the Appellate Committee. In the case of apparent error or ambiguity in the opinions, counsel are requested to inform the Judicial Office as soon as possible. This can be done at any time by e-mail to lawlords@parliament.uk, and no later than 4pm on the Monday before judgment.

21.5 Accredited members of the media may also be given in advance of judgment the Appellate Committee's opinions and the questions to be put to the House to dispose of the appeal. The contents of these documents are subject to a strict embargo, and are not for publication, broadcast or use on club tapes before judgment has been delivered. The documents are issued in advance on the strict understanding that no approach is made to any person or organisation about their contents before judgment is given.

22. ORDER OF THE HOUSE

Draft order

22.1 After the House has given judgment, drafts of the order of the House are sent to all parties who lodged a case. The drafts must be returned to the Judicial Office within seven days of the date of receipt (unless otherwise directed), either approved or with suggested amendments. If amendments are proposed, they must be submitted to the agents for the other parties, who should indicate their approval or disagreement both to the agents submitting the proposals and to the Judicial Office. Where the amendments proposed are contrary to the questions put to and agreed by the House, a petition must be lodged.

Final order

22.2 The final order is sent free of charge to the agents for the successful parties.

22.3 Prints of the final order are sent free of charge to the agents for all parties who have entered appearance.

23. BILLS OF COSTS

23.1 Bills of costs for taxation (assessment of costs) must be lodged within three months from the date of judgment¹ or the date on which a petition of appeal is withdrawn (see direction 42). For an extension of the three month period, direction 6.4 applies.

¹ This period is not affected by suspended orders made under Legal Aid Advice and Assistance (N.I.) Order

23.2 The practice directions relating to judicial taxations and forms of bills of costs are available from the Judicial Office and at www.parliament.uk. Fees are payable on taxation of a bill of costs.

23.3 In conducting the taxation of bills of costs in criminal appeals the Taxing Officer follows the recommendations of the report of the Appeal Committee agreed to by the House on 14 October 1998¹.

24. PREPARATION OF DOCUMENTS

General

24.1 All formal documents to the House of Lords must be produced on A4 paper, securely bound on the left, using both sides of the paper.

24.2 Documents which are not legible or which are not produced in the authorised form or which are unsatisfactory for some other similar reason are not accepted.

24.3 Parties may consult the Judicial Office at all stages of preparation of documents and may submit proofs for approval where appropriate.

Number of documents required

24.4 The following table shows the numbers of documents usually required for the hearing of an appeal. The numbers shown are the minimum prescribed in the directions. Actual requirements must be subject to agreement and depend on the number of parties, counsel and agents concerned, and on the special circumstances of each appeal. Copies for the use of the party originating the documents are not included in the numbers indicated.

The appellants must provide:

Document	For Judicial Office	For other side
Petition of appeal	Original and seven on lodgement	Two on service
Statement of facts and issues	Original and seven on setting down	As arranged
Appendix Part 1	Eight on setting down	One in advance otherwise as arranged
Appendix Part 2 and any subsequent Parts	15 on setting down	One in advance otherwise as arranged
Case	Original and seven no later than five weeks before the hearing	As arranged on exchange
Bound volumes	15 no later than two weeks before the hearing	As arranged
Authorities volumes	Ten no later than two weeks before the hearing	As arranged
Documents held in readiness at hearing (if any)	15 held at the Bar	At least three

1981 Article 16.

¹ *Report on the Clerk of the Parliaments' reference regarding criminal legal aid taxation*, (1997-98), (HL Paper 145).

The respondents (and any interveners) must provide:

Document	For Judicial Office	For other side
Case	Original and seven no later than three weeks before the hearing	As arranged on exchange; 15 for bound volumes
Respondents' additional documents (if any)	15 held at the Bar	As arranged

Form of documents

- 24.5 Statement of facts and issues: see direction 12.3.
 24.6 Appendix: see direction 13.7.
 24.7 Cases: see direction 16.18.
 24.8 Bound volumes: see direction 17.2.
 24.9 Authorities volume: see direction 18.2.

25. DISPOSAL OF DOCUMENTS

25.1 All petitions and supporting documents lodged become the property of the House. No documents submitted in connection with an application for leave to appeal can be returned. Certain documents submitted in connection with an appeal may be returned, on application to the Judicial Office within 14 days of judgment in the appeal. Master documents are retained in the parliamentary archives.

25.2 Documents lodged for the use of the Appellate Committee may with the permission of the Committee be inspected by persons who are not a party to the appeal. Such persons must comply with any anonymity orders and data protection requirements.

26. LODGMENT

26.1 'Lodgment' and 'lodging' mean delivery to the Judicial Office or to a member of the Judicial Office staff by post or in person during opening hours. Where the time for lodging a document expires on a Saturday, Sunday, bank holiday, or any other day on which the Judicial Office is closed, the document will be received by the Judicial Office if it is lodged on the first day on which the Office is next open.

26.2 Communications with the Judicial Office may be transmitted by fax or e-mail only in urgent circumstances and by previous arrangement with the Office.

26.3 The Judicial Office will not receive by fax or email any document which is to be presented to the House or on which a fee is payable.

26.4 Any agent attending the Judicial Office to lodge papers must be familiar with the subject matter to be dealt with.

PART III – OTHER DIRECTIONS APPLICABLE TO CRIMINAL APPEALS

27. BAIL

27.1 The House of Lords does not grant bail. Applications for bail should be made to the court below. Where bail is granted to a party to an appeal to the House, the Judicial Office should be notified.

27.2 The attendance of a party to an appeal who is in custody is not normally required or permitted. Where the attendance of a party in custody is required, his agents will be informed by the Judicial Office in writing.

27.3 It should be noted that where a party was on bail pending the hearing of the appeal, surrender is usually required on the first day of the hearing.

28. CONSOLIDATION AND CONJOINDER

28.1 Where the issues in two or more appeals are similar, it may be appropriate for them to be consolidated or conjoined.

28.2 Consolidation results in the appeals being conducted as a single cause with one set of counsel and one case only on each side and with a single Appendix of documents.

28.3 Conjoinder is a looser linking of two or more appeals, and a number of variations is possible. Common forms of conjoinder are where: the appellants lodge separate cases with a separate junior for each appellant but a single leader; or the appellants lodge a single case with a single set of counsel but the respondents lodge separate cases and are separately represented.

28.4 The Judicial Office should be consulted on whether consolidation or some form of conjoinder is likely to be appropriate. A principal consideration should be to avoid wherever possible separate representation by counsel, or any duplication in the submissions made or in documents produced for the hearing.

28.5 Applications to consolidate or to conjoin appeals are made by petition¹. The petition must be signed by the agents for all petitioners and must be submitted to the agents for all the other parties who have entered appearance for the endorsement of their consent. If consent is refused, the petition must be endorsed with a certificate that it has been served on the agents in question.

28.6 If all parties consent to or join in the petition, one master and one copy of the petition should be lodged. The House then makes the appropriate order.

28.7 If any party refuses their consent, one master plus five copies of the petition should be lodged. The petition is then referred to an Appeal Committee and may be determined after a hearing.

29. DEATH OF A PARTY

29.1 If a party to an appeal dies before the hearing, the appeal abates from the date of death (Standing Order X). Immediate notice of the death must be given in writing to the Judicial Office and to the other parties. The addition of a new party to represent the deceased person's interest cannot proceed until a petition for reviving the appeal has been agreed to by the House.

29.2 The petition for revivor must be lodged within three months of the date of notice of death². It must be accompanied by an affidavit explaining the circumstances in which it is being lodged. It must be endorsed with a certificate of service on the respondents.

29.3 If abatement takes place after the case for the deceased person has been lodged but before the appeal has been heard, the appellants must lodge a supplemental case setting out the orders of the House on reviving the appeal and information about the newly-added parties.

¹ For style, see Appendix A, Form 7.

² Standing Order X. For style of petition, adapt Appendix A, Form 8.

30. DISPUTE BETWEEN PARTIES SETTLED

30.1 It is the duty of counsel and solicitors in any pending appeal, if an event occurs which arguably disposes of the dispute between the parties, either to ensure that the appeal is withdrawn by consent or, if there is no agreement on that course, to bring the facts promptly to the attention of the House and to seek directions.

31. EUROPEAN CONVENTION ON HUMAN RIGHTS

Appeals notified under direction 10.11(a), (b) or (c)

31.1 Where an appeal involves a point notified under direction 10.11, the petition of appeal must include the words ‘in accordance with the Human Rights Act 1998’ at the appropriate place in the prayer of the petition¹. Details of the Convention right which it is alleged has been infringed and of the infringement must be set out in the Statement of facts and issues and dealt with in a separate paragraph of the cases of all parties to the appeal².

Appeals notified under direction 10.11(a)

31.2 The Crown has the right to be joined as a party in any appeal where the House is considering whether to declare that a provision of primary or subordinate legislation is incompatible with a Convention right³. In any appeal where the House is considering, or is being asked to consider, whether to make, uphold or reverse such a declaration, whether or not the Crown⁴ is already a party to the appeal, the Head of the Judicial Office notifies the appropriate Law Officer(s)⁵.

31.3 Where such an issue is raised in respect of a judicial act⁶, the Head of the Judicial Office notifies the Crown through the Treasury Solicitor as agent for the Lord Chancellor⁷.

31.4 The person notified under direction 31.2 or 31.3 must within 21 days of receiving such notice, or such extended period as the Head of the Judicial Office may allow, serve on the parties and lodge in the Judicial Office a notice stating whether or not the Crown intends to intervene in the appeal; and the identity of the Minister or other person who is to be joined as a party to the appeal⁸.

31.5 If a Minister or other person has already been joined to proceedings in the court below in accordance with the provisions of s 5 of the Human Rights Act 1998, the leave of the House is not required for the continued intervention of the Crown.

31.6 Once joined to the appeal, the case for the Minister or other person must be lodged in accordance with direction 16.

31.7 The House may order the postponement or adjournment of the hearing of the appeal for the purpose of giving effect to the provisions of this direction or the requirements of the Act.

Appeals notified under direction 10.11(b) or (c)

31.8 Except as prescribed in direction 31.1, no special steps are required for appeals notified under direction 10.11(b) or 10.11(c).

¹ See Appendix A, Form 4.

² See Human Rights Act 1998, which gives further effect in domestic law to much of the *Convention for the Protection of Human Rights and Fundamental Freedoms agreed by the Council of Europe at Rome on 4 November 1950*.

³ Human Rights Act 1998 ss 4, 5.

⁴ Through a Minister, governmental body or other person defined in Human Rights Act 1998 s 5(2).

⁵ The Head of the Judicial Office notifies:

- (i) in appeals from England, the Attorney-General;
- (ii) in appeals from Scotland, the Advocate General for Scotland and the Lord Advocate;
- (iii) in appeals from Wales, if appropriate, the Counsel General of the National Assembly for Wales;
- (iv) in appeals from Northern Ireland, the Attorney General for Northern Ireland.

⁶ Human Rights Act 1998 ss 7, 9(3) and 9(4).

⁷ In appeals from Scotland, the Head of the Judicial Office notifies the Solicitor to the Scottish Executive; in appeals from Northern Ireland, he notifies the Crown Solicitor and the Departmental Solicitor.

⁸ Human Rights Act 1998 ss 5(2) and 9(5).

32. EUROPEAN COURT OF JUSTICE

32.1 Article 234 of the Treaty establishing the European Community provides:

1. The Court of Justice shall have jurisdiction to give preliminary rulings concerning:
 - (a) the interpretation of this Treaty;
 - (b) the validity and interpretation of acts of the institutions of the Community and of the European Central Bank;
 - (c) the interpretation of the statutes of bodies established by an act of the Council, where those statutes so provide.
2. Where such a question is raised before any court or tribunal of a Member State, that court or tribunal may, if it considers that a decision on the question is necessary to enable it to give judgment, request the Court of Justice to give a ruling thereon.
3. Where any such question is raised in a case pending before a court or tribunal of a Member State against whose decisions there is no judicial remedy under national law, that court or tribunal shall bring the matter before the Court of Justice.

32.2 When the House refuses leave to appeal to a petition which includes a contention that a question of Community law is involved, the House gives additional reasons for its decision not to grant leave to appeal (see direction 5.7). These reasons reflect the decision of the Court of Justice in *CILFIT v. Ministry of Health* (Case C-283/81) which laid down the categories of case where the Court of Justice considered that no reference should be made to it, namely: (a) where the question raised is irrelevant; (b) where the Community provision in question has already been interpreted by the Court of Justice; (c) where the question raised is materially identical with a question which has already been the subject of a preliminary ruling in a similar case; and (d) where the correct application of Community law is so obvious as to leave no scope for any reasonable doubt¹.

32.3 The House may order a reference to the Court of Justice before determining whether to grant leave to appeal. In such circumstances proceedings on the petition for leave to appeal are stayed until the answer is received. The directions below apply as appropriate².

32.4 When the House intends to make a reference, the hearing is adjourned and the parties are invited to submit an agreed draft of the question(s) to be referred. A further Statement of facts and issues, for the use of the Court of Justice, may also be appropriate. The House then makes the reference, with or without opinions. At this stage the appeal may also be disposed of in part.

32.5 Within one month of the judgment of the Court of Justice, the parties must make written submissions on whether a further hearing before the Appellate Committee is necessary or on how the appeal is to be disposed of.

32.6 If a further hearing is required, the parties may lodge supplemental cases (see Civil Direction 34.7-34.9).

32.7 The Court of Justice does not make orders for costs. The costs of the reference are included in the order of the House disposing of the appeal; and, if necessary, are taxed by the House's Taxing Officer.

33. EXHIBITS

33.1 Parties who require exhibits to be available for inspection at the hearing must apply to the Judicial Office for permission for the exhibits to be brought to the House before the hearing.

34. INTERVENERS

34.1 A person who is not a party to an appeal may petition the House for permission to intervene.

¹ Appeal Committee, 38th Report (2002-03): *Petitions for leave to appeal: reasons for the refusal of leave* (HL Paper 89).

² *Ibid.*

34.2 The petition to intervene may only be lodged after the petition of appeal has been presented to the House. One master plus seven copies of the petition for leave to intervene must be lodged. The petition must indicate whether leave is sought for both oral and written interventions or for written intervention only. The petition should be certified with the consent of the appellants and respondents in the appeal. If their consent is refused, the petition must be endorsed with a certificate of service on them. All petitions for leave to intervene, whether or not opposed by the parties, are referred to an Appeal Committee.

34.3 Persons who intervened in a court below are also required to petition, if they wish to intervene in an appeal to the House.

34.4 Petitions for permission to intervene orally or in writing or both must be lodged with the Judicial Office at least six weeks before the date of hearing of the appeal. If leave is given, written submissions must be lodged with the Judicial Office and also given to the appellants and respondents for incorporation into the bound volume at least three weeks before the hearing. Failure to meet these deadlines increases the burden on the parties in preparing their cases and the bound volumes, and may delay the hearing of the appeal.

34.5 All counsel instructed on behalf of an intervener with leave to address the House should attend the hearing unless specifically excused. But the House does not expect their continued attendance after such address has been made.

34.6 Subject to the discretion of the House, interveners bear their own costs.

34.7 Subject to the discretion of the House, any additional costs to the appellants and respondents resulting from an intervention are costs in the appeal.

34.8 If the Crown has been joined to proceedings in the court below in accordance with the provisions of s 5 of the Human Rights Act 1998, the leave of the House is not necessary for the continued intervention of the Crown.

35. NEW SUBMISSIONS

35.1 If, after the conclusion of the argument on an appeal, a party wishes to bring to the notice of the House new circumstances which have arisen and which might affect the decision or order of the House, application must be made without delay by letter to the Head of the Judicial Office for leave to make new submissions. The application should indicate the circumstances and the submissions it is desired to make, and a copy must be sent to the agents for the other parties to the appeal.

36. OPPOSED INCIDENTAL PETITIONS

36.1 Unless the Head of the Judicial Office directs otherwise, opposed incidental petitions (including any interlocutory petition which relates to any petition of appeal) are referred to an Appeal Committee and may be decided after an oral hearing.

36.2 One master plus seven copies of the petition must be lodged. The original petition must bear a certificate of service on the other parties and must clearly indicate whether the other parties consent or refuse to consent to the prayer.

36.3 If the Appeal Committee orders an oral hearing, the parties may apply at that time to hand in affidavits and such other documents as they may wish. Eight copies are required. Copies of such documents must be served on the other parties before the oral hearing. Authorities are not normally cited before the Appeal Committee.

37. PUBLIC FUNDING AND LEGAL AID

37.1 The House of Lords does not grant public funding or legal aid. In criminal proceedings, depending on the route of appeal, application should be made to the court appealed from or, in Northern Ireland, to the Legal Aid Committee.

37.2 Where an application for public funding/legal aid has been made but not determined within the statutory periods set out in direction 3 (for petitions for leave to appeal) or the three months stipulated by Standing Order I (for petitions of appeal), the Judicial Office and the respondents to the proposed petition should be notified of the application for funding. Notification of the application for funding must be given far enough before the expiry of the original time limits to allow the Judicial Office to take the necessary steps to keep the petition or the appeal (as the case may be) from being dismissed as being out of time. A copy of the order appealed from must be submitted by the applicant with the notification. The period within which the petition for leave to appeal or petition of appeal (as the case may be) must be lodged is then extended by the original statutory period¹ from the date of the final determination of the funding application. An extension may not be granted to a petitioner under the Extradition Act 2003².

37.3 Where public funding/legal aid has been applied for after the lodgment of a petition of appeal but not determined, the six weeks' period in which the Statement of facts and issues must be lodged is automatically extended to six weeks after the legal aid application has been determined, provided the Judicial Office has been informed of the application.

37.4 A party to whom a funding certificate is issued must as soon as possible thereafter lodge a copy in the Judicial Office. Any emergency certificate and subsequent amendments, and the authority for leading counsel, must also be lodged.

37.5 Where a funding certificate is granted, the date of issue of the certificate is the date of final determination for the purpose of time limits.

38. SPECIALIST ADVISERS

38.1 Any party to an appeal may apply in writing to the Head of the Judicial Office for Specialist Advisers to attend the hearing³. Such advisers provide assistance to the Appellate Committee and are strictly independent of the parties to the appeal.

39. STAY OF EXECUTION

39.1 Presentation of a petition of appeal or a petition for leave to appeal does not in itself place a stay of execution on any order appealed from. A party seeking such a stay must apply to the court appealed from, not to the House of Lords.

40. TRANSCRIPTION

40.1 Transcriptions are not made of hearings before the Appellate Committee. Any party may seek permission to arrange for its own transcription of a hearing, by writing to the Head of the Judicial Office. Permission is usually given. The service arranged must be silent. A single copy of the transcript should be lodged in the Judicial Office.

41. VICTIMS' CODE OF PRACTICE

41.1 The Victims' Code of Practice governs the services to be provided in England and Wales to victims of criminal conduct that has occurred in England and Wales. The Code is issued by the Home Secretary under s 32 of the Domestic Violence, Crime and Victims Act 2004. The House of Lords applies the Code to its judicial function.

41.2 Accordingly, all applications for permission to appeal and all appeals are examined to establish whether a victim can be identified and, if so, to determine what services are required to be provided to the victim by the Judicial Office.

41.3 In giving effect to direction 41.2 the Judicial Office may consult the Treasury Solicitor, the Court of Appeal Criminal Division and other relevant persons to obtain any necessary information.

¹ I.e. for appeals under the Criminal Appeal Act 1968 or the Administration of Justice Act 1960, the extension is 28 days; for appeals under the Proceeds of Crime Act 2002, the extension is 14 days.

² Extradition Act 2003 ss 32, 114.

³ See Standing Order XIV. For Nautical Assessors, see also Supreme Court of Judicature Act 1891 s 3.

41.4 The Judicial Office may either directly or through the joint police/CPS Witness Care Units contact victims to inform them that an application for permission to appeal or an appeal has been filed, to explain the appeals procedure, and to report progress on the application and/or appeal, including the date set for the hearing.

41.5 Victims may attend the hearing of an appeal or application for leave to appeal or the handing down of judgment. The Judicial Office arranges such attendance and provides the case papers.

41.6 If leave to appeal is granted by an Appeal Committee, the Judicial Office notifies the joint police/CPS Witness Care Units no later than one working day after the day on which leave to appeal has been granted.

41.7 The Judicial Office notifies the joint police/CPS Witness Care Units of the result of the appeal no later than one working day after the day of the result.

42. WITHDRAWAL OF PETITIONS

Petitions for leave to appeal

42.1 A petition for leave to appeal may be withdrawn by writing to the Head of the Judicial Office, stating that the parties to the petition have agreed how the costs should be settled. The respondents should notify the Judicial Office of their agreement.

Petitions of appeal

42.2 An appeal that has not been set down for hearing may be withdrawn by writing to the Head of the Judicial Office, stating that the parties to the appeal have agreed the costs of the appeal. The nature of the agreement should be indicated. Written notification must also be given to the respondents who must notify the Judicial Office of their agreement to the withdrawal of the appeal and who must confirm that the costs have been agreed.

42.3 An appeal that has been set down for hearing may only be withdrawn by order of the House on petition. Such a petition should include submissions on costs. The petition must be submitted for their consent to those respondents who have entered appearance¹.

¹ See Appendix A, Form 15.

STATEMENTS TO THE HOUSE

JUDICIAL PRECEDENT

26 July 1966—BY THE LORD CHANCELLOR (LORD GARDINER)

‘Before judgments are delivered today, I wish to make the following statement on behalf of myself and the Lords of Appeal in Ordinary:

“Their Lordships regard the use of precedent as an indispensable foundation upon which to decide what is the law and its application to individual cases. It provides at least some degree of certainty upon which individuals can rely in the conduct of their affairs, as well as a basis for orderly development of legal rules.

“Their Lordships nevertheless recognise that too rigid adherence to precedent may lead to injustice in a particular case and also unduly restrict the proper development of the law. They propose therefore to modify their present practice and, while treating former decisions of this House as normally binding, to depart from a previous decision when it appears right to do so.

“In this connection they will bear in mind the danger of disturbing retrospectively the basis on which contracts, settlements of property and fiscal arrangements have been entered into and also the especial need for certainty as to the criminal law.

“This announcement is not intended to affect the use of precedent elsewhere than in this House.”’

PRINCIPLES FOR PARTICIPATION

22 June 2000—BY THE SENIOR LORD OF APPEAL IN ORDINARY
(LORD BINGHAM OF CORNHILL)

‘My Lords, with the leave of the House, before the reports from the Appellate Committees are considered, I should like to make a statement on Recommendation 59 of the Royal Commission on the Reform of the House of Lords. That recommendation is that “The Lords of Appeal should set out in writing and publish a statement of the principles which they intend to observe when participating in debates and votes in the second chamber and when considering their eligibility to sit on related cases.”’

‘I should tell the House that my noble and learned friends have considered this recommendation and have agreed on the terms of a statement to give effect to it. I will now read the statement which has been agreed by all the Lords of Appeal in Ordinary:

General Principles

“As full members of the House of Lords the Lords of Appeal in Ordinary have a right to participate in the business of the House. However, mindful of their judicial role they consider themselves bound by two general principles when deciding whether to participate in a particular matter, or to vote: first, the Lords of Appeal in Ordinary do not think it appropriate to engage in matters where there is a strong element of party political controversy; and secondly the Lords of Appeal in Ordinary bear in mind that they may render themselves ineligible to sit judicially if they were to express an opinion on a matter which might later be relevant to an appeal to the House.

“The Lords of Appeal in Ordinary will continue to be guided by these broad principles. They stress that it is impossible to frame rules which cover every eventuality. In the end it must be for the judgment of each individual Lord of Appeal to decide how to conduct himself in any particular situation.

Eligibility

“In deciding who is eligible to sit on an appeal, the Lords of Appeal agree to be guided by the same principles as apply to all judges. These principles were restated by the Court of Appeal in the case of Locabail (UK) Ltd v. Bayfield Properties Ltd and others and four other actions [2000 1 All E.R. 65 (CA)].”

‘My Lords, that concludes the statement.’

STANDING ORDERS

STANDING ORDER NO. 17 OF THE HOUSE OF LORDS RELATING TO PUBLIC BUSINESS

(1) If, during any adjournment of the House, the Lord Chancellor is satisfied that the public interest requires that the House should meet at a time earlier than that appointed, he may signify that he is so satisfied and notice shall be given and thereupon the House shall meet at the time stated in the notice, as if it had been duly adjourned to that time.

Recall of the House.
20 May 1970.

(2) If the Lord Chancellor is unable to act for the purposes of this Standing Order, the Chairman of Committees, after consultation with Her Majesty's Government, may act in his stead.

(3) Notwithstanding any adjournment of the House, the House may meet for judicial business at a time earlier than that appointed if the Lord Chancellor or, in his absence, the senior Lord of Appeal in Ordinary, is satisfied that it should do so and has signified that he is so satisfied and has given notice to such Lords as he thinks fit.

STANDING ORDER NO. 87 OF THE HOUSE OF LORDS RELATING TO PUBLIC BUSINESS

(1) For the purposes of its appellate jurisdiction, the House shall have Appellate and Appeal Committees, of which all Lords qualified under the Appellate Jurisdiction Acts 1876 and 1887 shall be members.

Appellate and
Appeal Committees.
20 May 1970.
28 January 1984.

(2) These Committees shall be:

(a) two Appellate Committees, which shall hear any cause or matter referred to them and shall report thereon to the House;

(b) two Appeal Committees, which shall consider any petition or application for leave to appeal that may be referred to them and any matter relating thereto, or to causes depending, or formerly depending, in this House, and shall report thereon to the House.

(3) In any criminal matter, or in any matter concerning extradition, an Appeal Committee may take decisions and give directions on behalf of the House.

(4) In any Appellate or Appeal Committee the Chair shall be taken by the Lord Chancellor or, in his absence, by the senior Lord of Appeal in Ordinary present, such seniority being determined in accordance with the Commission for the time being appointing Speakers for the purpose of the hearing and determination of Appeals.

(5) For the purposes of section 8 of the Appellate Jurisdiction Act 1876, any Appellate Committee may sit and act while Parliament is prorogued.

STANDING ORDERS OF THE HOUSE OF LORDS REGULATING JUDICIAL BUSINESS, MADE IN PURSUANCE OF THE APPELLATE JURISDICTION ACT 1876 AND SUBSEQUENT ENACTMENTS.

The following Standing Orders regulating judicial business are not fully applied to criminal appeals because the right to bring such appeals is established and regulated by statute¹. Parties are instead bound by the provisions of the statute by whose authority they petition the House. However it is recommended that parties should follow the Standing Orders wherever possible.

The dates (round bracketed) are those of the original Standing Orders prior to 1876. The dates [square bracketed] are those of the original Standing Orders made in pursuance of the Appellate Jurisdiction Act 1876. The dates unbracketed are those of subsequent amendments.

(13 December 1661) [14 August 1876] 26 February 1959 25 March 1964	I. ORDERED, that no petition of Appeal be received by this House unless the same be lodged in the Parliament Office for presentation to the House within the period of three months from the date of the last Order or Interlocutor appealed from.	Time limit for presenting appeals
[24 October 1935] 3 March 1966 3 December 1969	II. ORDERED, that, in all Appeals from the Court of Appeal, the Court of Appeal in Northern Ireland or the Court of Session in Scotland in which the leave of the House is required under the provisions of any Act of Parliament, a Petition for leave to appeal be lodged in the Parliament Office within one month from the date of the last Order or Judgment appealed from, and that such Petition be referred to an Appeal Committee to consider whether such leave should be granted.	Leave to appeal from the Courts of Appeal
15 December 1969	III. ORDERED, that, in all cases where application is made for leave for an appeal to be brought direct to the House from the High Court of Justice in England and Wales or from the High Court of Justice in Northern Ireland— (a) a Petition for such leave, together with the certificate granted by the High Court under section 12 of the Administration of Justice Act 1969, be lodged in the Parliament Office within one month from the date of the grant of such certificate or within such extended time as in any particular case the House may allow; (b) any such Petition, and any application for extension of time or other incidental matter, be referred to an Appeal Committee for their consideration and report.	Leave to appeal from the High Court

¹ The right was first established by the Criminal Appeal Act 1907. The first criminal appeal to the House was heard and determined in 1910: Director of Public Prosecutions v. Ball.

(3 March 1697) [14 August 1876] 3 March 1966	IV. ORDERED, that, except in cases where leave to appeal has been granted under the provisions of any Act of Parliament, all Petitions of Appeal be signed, and the reasonableness thereof certified, by two counsel.	Appeals to be signed and certified by counsel
(20 November 1680) [14 August 1876] 7 August 1877 2 June 1959 12 April 1962 27 April 1976 9 March 1977 21 July 1988	V. (1) ORDERED, that in all Appeals the Appellants do give security for costs by paying into the House of Lords Security Fund Account within one week of the presentation of the Appeal such sum as shall be authorised from time to time by the House, to be subject to the Order of the House with regard to the costs of the Appeal. On default by the Appellants in complying with the above conditions, the Appeal to stand dismissed.	Security for costs
15 December 1960 17 December 1991 10 October 2000	(2) ORDERED, that this Standing Order shall not apply (a) to Appellants who have been granted public funding or legal aid, (b) to appellants in appeals under the Child Abduction and Custody Act 1985, or (c) to a Minister or Government department.	Exemptions
(12 July 1811) [14 August 1876] 26 February 1959 17 December 1991	VI.(1) ORDERED, that the Statement and the Appendix thereto be lodged in the Parliament Office within six weeks from the date of the presentation of the appeal to the House; and the appeal be set down for hearing on the first sitting day thereafter; on default by the Appellant, the appeal to stand dismissed.	Time for lodging statement
25 March 1964 17 December 1991	(2) ORDERED, that in all appeals from Scotland the Appellant in the Appendix shall lay before this House a copy of the record as authenticated by the Deputy Principal Clerk of Session or a Clerk of Session delegated by him; together with a supplement containing an account, without argument or statement of other facts, of the further steps which have been taken in the cause since the record was completed, and containing also copies of the interlocutors or parts of interlocutors complained of; and each party shall in his Case lay before the House a copy of the case presented by him to the Court of Session, if any such case was presented there, with a short summary of any additional reasons upon which he means to insist; and if there shall have been no case presented to the Court of Session then each party shall set forth in his Case the reasons upon which he founds his argument, as shortly and succinctly as possible.	Scottish appeals

(19 April 1698) 17 December 1991	(3) ORDERED, that the statement be signed by one or more counsel for each party, who shall have attended as counsel in the Court below, or shall propose attending as counsel at the hearing in this House.	Statement to be signed by counsel
(8 March 1763) [14 August 1876] 17 December 1991	VII. ORDERED, that all cross-appeals be presented to the House within the period allowed by Standing Order No. VI. for lodging the Statement in the original appeal.	Cross-appeals
[14 August 1876] 17 December 1991	VIII. ORDERED, with regard to appeals in which the periods under Standing Orders Nos. V., VI. and VII. expire during the recess of the House, that such periods be extended to the third sitting day of the next ensuing meeting of the House. Provided that if the House is recalled in pursuance of Public Business Standing Order No. 14 or Proclamation, any day on which the House sits pursuant to such recall is not a sitting day for the purposes of this Standing Order.	Expiry of time during recess
[15 December 1960] 3 March 1966 21 July 1988 19 May 1994 10 October 2000	IX. ORDERED, that where a party to an appeal has applied for public funding or legal aid, and the Clerk of the Parliaments has been informed of that application in writing before the expiration of the periods of time limited by Standing Orders Nos. I, II. or III., such periods of time shall be extended until one month after the date of the final determination of the application.	Public funding and legal aid
[14 August 1876] 12 August 1884 26 February 1959 17 December 1991	X. ORDERED, that in the event of abatement by death or defect through bankruptcy, an appeal shall not stand dismissed for default under Standing Orders Nos. V. or VI., provided that notice of such abatement or defect be given by a letter from the Appellant's Agent addressed to the Clerk of the Parliaments and lodged in the Judicial Office prior to the expiration of the period limited by the Standing Order under which the appeal would otherwise have stood dismissed.	Abatement or defect
	ORDERED, that all appeals marked on the Cause List of the House as abated or defective shall stand dismissed unless, within three months from the date of the notice to the Clerk of the Parliaments of abatement or defect, if the House be then sitting, or, if not, then not later than the third sitting day of the next ensuing sittings of the House, a petition shall be presented to the House for reviving the appeal or for rendering the same effective.	Revivor etc.

(20 March 1823)	<p>ORDERED, that when an appeal has abated or become defective after the Cases have been lodged, and it is subsequently revived or rendered effective, a Supplemental Case shall be lodged by the Appellant setting forth the Order or Orders made by the House reviving the appeal or rendering the same effective.</p> <p>The like rule shall be observed by the Appellant and Respondent respectively, where any person or persons shall, by leave of the House, upon petition or otherwise, be added as a party or parties to the said appeal after the Cases in such appeal shall have been lodged.</p>	Supplemental case
[14 August 1876]	<p>XI. ORDERED, that when any petition of appeal shall be presented to this House from any interlocutory judgment of either division of the Lords of Session in Scotland, the counsel who shall sign the said petition, or two of the counsel for the party or parties in the Court below, shall sign a certificate or declaration, stating either that leave was given by that division of the judges pronouncing such interlocutory judgment to the Appellant or Appellants to present such petition of appeal or that there was a difference of opinion amongst the judges of the said division pronouncing such interlocutory judgment.</p>	Certificate of leave or difference of opinion in Scottish appeals

(3 April 1835)
[14 August 1876]
7 August 1877
2 June 1959
9 March 1977
27 June 1984

XII. ORDERED, that the Clerk of Parliaments shall appoint such person as he may think fit as Taxing Officer, and in all cases in which this House shall make any order for payment of costs by any party or parties in any cause, the amount thereof to be certified by the Clerk of the Parliaments, the Taxing Officer shall tax the Bill of Costs so ordered to be paid, and ascertain the amount thereof, and report the same to the Clerk of the Parliaments or Clerk Assistant: And it is further Ordered, that the same fees shall be demanded from and paid by the party applying for such taxation for and in respect thereof as are now charged or shall be authorised from time to time by the House; and such fees shall be added at the foot of the said Bill of Costs as taxed. And the Clerk of the Parliaments or Clerk Assistant may give a certificate of such costs, expressing the amount so reported to him as aforesaid, and in his certificate, as well as in the Taxing Officer's report, regard shall be had to any sum that has been paid in to the Security Fund Account of the House, as directed by Standing Order No. V.; and the amount in money certified by him in such certificate shall be the sum to be demanded and paid under or by virtue of such order as aforesaid for payment of costs.

Taxation of
costs

[10 March 1902]	XIII. ORDERED, that fees be taken in this	Fees
26 March 1970	House on the documents specified in the	
27 April 1976	Schedule hereto, that the fees to be charged	
9 March 1977	shall be such as shall be authorised from time	
21 July 1988	to time by the House, and that none of the	
17 December 1991	said documents be issued from or received at	
19 May 1994	the Parliament Office unless it shall have been	
17 October 1995	endorsed with the date of lodgment and the	
10 October 2000	amount of fee paid.	

If the Clerk of the Parliaments is satisfied that a litigant who has been refused public funding or legal aid would suffer financial hardship by the payment of fees to this House, he shall report the circumstances to the Appeal Committee. The Appeal Committee shall have power to waive, modify or suspend such fees, either wholly or in part, and shall report thereon to the House.

SCHEDULE

Petition for leave to appeal.

Interlocutory Petitions referred to an Appeal Committee (including the Report thereon).

Petition of Appeal.

Notice of Appearance.

Waiver of Security for costs.

Petition not referred to Appeal Committee.

Application to set down for hearing.

Petition to withdraw Appeal after setting down.

23 November 1995

XIV. (1) ORDERED, that the Lord Chancellor or the Lord Speaker may direct that one or more Specialist Advisers shall attend the hearing of any appeal in which they consider the House would benefit from such attendance.

Specialist
advisers

(2) ORDERED, that the parties or either party to an appeal may apply by letter to the Clerk of the Parliaments requesting, upon grounds stated in the letter, the attendance of Specialist Advisers. Such an application shall be referred to and determined by the Lord Chancellor or Lord Speaker.

(3) ORDERED, that in any appeal concerning nautical matters in which the attendance of Specialist Advisers is required, Nautical Assessors may be appointed of whom one shall be an Officer, active or retired, of Her Majesty's Navy, and the other an Elder Brother of the Corporation of Trinity House.

(4) ORDERED, that the fees and expenses paid to each Specialist Adviser shall be such as shall have been agreed between the parties and the Advisers and approved by the Lord Chancellor or Lord Speaker, or, failing such agreement, such sum as shall be authorised by the Lord Chancellor or Lord Speaker.

(5) ORDERED, that unless the House otherwise directs, the fees referred to in paragraph (4) shall be paid by the party against whom the House awards costs.

APPENDIX A: Standard forms of key documents

FORM 1

PETITION for leave to appeal

(HL direction 4)

IN THE HOUSE OF LORDS

ON APPEAL FROM HER MAJESTY'S COURT OF APPEAL CRIMINAL DIVISION (ENGLAND) [*or* A DIVISIONAL COURT OF THE QUEEN'S BENCH DIVISION OF HER MAJESTY'S HIGH COURT OF JUSTICE *or* HER MAJESTY'S COURT OF APPEAL IN NORTHERN IRELAND (*or relevant court*)]

Court of Appeal Ref: (*for example*, 200406398 D5)

Neutral citation of judgment appealed against: (eg, [2004] EWCA Crim 3847)

BETWEEN

AB (Respondent)

and

CD (Petitioners)

[and]

[(2) EF]

[and]

[(3) GH]

PETITION FOR LEAVE TO APPEAL

TO THE RIGHT HONOURABLE THE HOUSE OF LORDS

THE HUMBLE PETITION OF (*set out full name(s) and address(es) of petitioners*)

PRAYING FOR LEAVE TO APPEAL IN ACCORDANCE WITH THE CRIMINAL APPEAL ACT 1968 *or* ADMINISTRATION OF JUSTICE ACT 1960 (*or relevant statute*) SHOWS -

1. That[*set out briefly in numbered paragraphs such facts and arguments as may be necessary to enable the Appeal Committee to decide whether leave to appeal should be given*].
2.
3.etc.

[*Note: it is usually appropriate for petitions for leave to appeal to deal with some or all of the following:*

1. Narrative of the facts;
2. Statutory framework (*if any*);
3. Chronology of proceedings;
4. Orders made in the courts below;
5. Issues before Court of Appeal Criminal Division (*or court appealed from*);
6. Treatment of the issues by Court of Appeal Criminal Division (*or court appealed from*);
7. Issues in the petition for leave to appeal.]

[At end of numbered paragraphs insert]

YOUR PETITIONER(S) HUMBL Y SUBMIT(S) that leave to appeal to Your Lordships' House should be granted for the following among other

REASONS

[list here numbered reasons summarising the arguments]

- (1)
- (2)
- (3)etc.

AND YOUR PETITIONER(S) WILL EVER PRAY

Signed

.....

Signature of petitioner or agent(s) for the petitioner

[Use Form 2 for certificate of service to be endorsed on back of last page of petition for leave to appeal]

FORM 2**BACK OF PETITION for leave to appeal showing certificate of service to be endorsed on back of last page of original petition**

[I or We], [(Messrs) (*name*), of (*address*), (agents for)] the petitioner(s) within-named, hereby certify that on (*date*) [I or we] served [(Messrs) (*name*) of (*address*) (agents for)] (*name(s) of respondent(s)*), the within-named respondent(s), with a correct copy of the petition for leave to appeal and with notice that the petition would be presented to the House of Lords on behalf of the petitioner(s) as soon as conveniently may be.

(*signature of petitioner(s) or their agents*)

IN THE HOUSE OF LORDS

ON APPEAL FROM (*name court*)

BETWEEN:

(*set out title of cause*)

PETITION FOR LEAVE TO APPEAL

(*neutral citation of judgment petitioned against*)
 (*references to law reports*)
 (*indexing catchwords*)
 (*head-note summary*)

(*set out full name, address, telephone number, and reference (if any) of petitioner(s) or their agents*)

FORM 3
PETITION for leave to appeal out of time

IN THE HOUSE OF LORDS

ON APPEAL FROM HER MAJESTY'S COURT OF APPEAL CRIMINAL DIVISION (ENGLAND) [*or* A DIVISIONAL COURT OF THE QUEEN'S BENCH DIVISION OF HER MAJESTY'S HIGH COURT OF JUSTICE *or* HER MAJESTY'S COURT OF APPEAL IN NORTHERN IRELAND (*or relevant court*)]

Court of Appeal Ref: (*for example*, 200406398 D5)

Neutral citation of judgment appealed against: (eg, [2004] EWCA Crim 3847)

BETWEEN
AB (Respondent)
and
CD (Petitioners)
[and]
[(2) EF]
[and]
[(3) GH]

PETITION FOR LEAVE TO APPEAL

TO THE RIGHT HONOURABLE THE HOUSE OF LORDS

THE HUMBLE PETITION OF (*set out full name(s) and address(es) of petitioners*)
PRAYING FOR AN EXTENSION OF TIME WITHIN WHICH THE PETITION MAY BE
LODGED AND PRAYING FOR LEAVE TO APPEAL IN ACCORDANCE WITH THE
CRIMINAL APPEAL ACT 1968 *or* ADMINISTRATION OF JUSTICE ACT 1960 (*or
relevant statute*) SHOWS –

1. That (*set out briefly the reason(s) why the petition was not lodged in time*).
2. That(*continue as in Form 1, setting out briefly in numbered paragraphs such facts and arguments as may be necessary to enable the Appeal Committee to decide whether to give leave to appeal out of time*).
3.
4.etc.

Note: it is usually appropriate for petitions for leave to appeal to deal with some or all of the following:

1. Narrative of the facts;
2. Statutory framework (*if any*);
3. Chronology of proceedings;
4. Orders made in the courts below;
5. Issues before Court of Appeal (*or court appealed from*);
6. Treatment of the issues by Court of Appeal (*or court appealed from*);
7. Issues in the petition for leave to appeal.

[At end of numbered paragraphs insert]

YOUR PETITIONER(S) HUMBLY SUBMIT(S) that leave to appeal to Your Lordships' House should be granted for the following among other

REASONS

[list here numbered reasons summarising the arguments]

- (4)
- (5)
- (6)etc.

AND YOUR PETITIONER(S) WILL EVER PRAY

Signed

.....
Signature of petitioner or agent(s) for the petitioner

[Use Form 2 for certificate of service to be endorsed on back of last page of petition for leave to appeal out of time]

FORM 4**PETITION OF APPEAL***(HL direction 10)*

IN THE HOUSE OF LORDS

ON APPEAL FROM HER MAJESTY'S COURT OF APPEAL CRIMINAL DIVISION (ENGLAND) [*or A DIVISIONAL COURT OF THE QUEEN'S BENCH DIVISION OF HER MAJESTY'S HIGH COURT OF JUSTICE or HER MAJESTY'S COURT OF APPEAL IN NORTHERN IRELAND (or relevant court)*]

BETWEEN

AB (Respondents)
and
CD (Appellants)
[and]
[(2) EF]
[and]
[(3) GH]

PETITION OF APPEAL

TO THE RIGHT HONOURABLE THE HOUSE OF LORDS

THE HUMBLE PETITION AND APPEAL OF [*set out full name(s) and address(es) of appellants*]

YOUR PETITIONER(S) has/have pursuant to [section 1 of the Administration of Justice Act 1960 *or* section 33 of the Criminal Appeal Act 1968 (*or other relevant statute*)] obtained the certificate of [*name court below*] set forth in the Schedule hereto that the decision of that court involves a point of law of general public importance.

YOUR PETITIONER(S) humbly pray(s) that the matter of the Order(s) set forth in the Schedule(s) hereto [*if Order is partly appealed against, insert the words: so far as therein stated to be appealed against*] may be reviewed before Her Majesty the Queen, in Her Court of Parliament, and that the said Order(s) [*if Order is partly appealed against, insert the words: so far as aforesaid*] may be reversed, varied or altered [*if appropriate, insert the words: in accordance with the Human Rights Act 1998, [if specific relief is asked for, it should be so stated, prefaced by the words: and that]* or that the petitioner(s) may have such other relief in the premises as to Her Majesty the Queen, in Her Court of Parliament, may seem meet.

[*signature(s) of appellant(s) or their agents, as appropriate*].

THE SCHEDULE REFERRED TO ABOVE

FROM HER MAJESTY'S COURT OF APPEAL CRIMINAL DIVISION (ENGLAND) (*or relevant court*)

FIRST SCHEDULE

In a certain criminal cause or matter wherein (*insert name(s)*) was/were the Prosecutor [*or other designation*] and (*insert name(s)*) was/were the defendant(s) [*or other designation*].

The Order(s) of [*state court*] of [*date*] appealed from is/are in the words following, the portion(s) complained of being underlined:

[Set out here the whole of the order(s), with those parts complained of (and only those parts) underlined. The recital, the certified point of law and any decision on an application for leave to appeal to the House of Lords should be included but not underlined.]

[Where a point of law was not certified originally but later by a subsequent order of the court, the words 'FIRST SCHEDULE' should appear where indicated above and the following added:

SECOND SCHEDULE

The Order of [*state court*] of [*date*], by which that court certified that a point of law of general public importance was involved in its decision and granted/refused leave to appeal, is in the words following:

[Set out here the whole of the order, including the recital]

[Then, at end add:

Either

By an order of (*date*) the (*name of court below*) gave your petitioner(s) leave to appeal to Your Lordships' House from the said decision.

or

The Appeal Committee of Your Lordships' House on (*date*) gave your petitioner(s) leave to appeal against the said decision.]

FORM 5

BACK OF PETITION OF APPEAL, showing certificate of service to be endorsed on original petition

[I or We], [(Messrs) (*name*), of (*address*), (agents for)] the appellant(s) within-named, hereby certify that on (*date*) [I or we] served [(Messrs) (*name*) of (*address*) (agents for)] (*name(s) of respondent(s)*), the within-named respondent(s), with a correct copy of the petition of appeal and with notice that the petition would be presented to the House of Lords on behalf of the petitioner(s) as soon as conveniently may be.

IN THE HOUSE OF LORDS
ON APPEAL FROM (*name court*)
BETWEEN:
(*set out title of cause*)

(*signature of petitioner(s) or their agents*)

PETITION OF APPEAL

(*neutral citation of judgment petitioned against*)
(*references to law reports*)
(*indexing catchwords*)
(*head-note summary*)

(*set out full name, address, telephone number, and reference (if any) of appellant(s) or their agents*)

FORM 6**PETITION FOR EXTENSION OF TIME to lodge Statement and Appendix***(HL direction 14)*

IN THE HOUSE OF LORDS

ON APPEAL FROM HER MAJESTY'S COURT OF APPEAL CRIMINAL DIVISION
(ENGLAND) *(or relevant court)*

BETWEEN:

(set out title of appeal)

TO THE RIGHT HONOURABLE THE HOUSE OF LORDS

THE HUMBLE PETITION OF *(set out full name(s) of appellant(s))* SHOWS –That your petitioner(s) presented a petition of appeal on *(date)* complaining of an Order of the *(state court)* dated *(date)*.That the time allowed by standing order VI for the appellant(s) to lodge the statement and appendix and to set down the cause for hearing [will expire *or* originally expired] on *(date)*.[That the House, pursuant to a petition from the appellant(s), granted an extension of time in which to lodge the statement and the appendix and set down the cause for hearing to *(date)*.][That the House, pursuant to a further petition from the appellant(s), granted a second extension of time until *(date)*.]

That the petitioner(s) will be unable to lodge the statement and appendix by the said date for the following reasons:

(set out brief reasons)

THEREFORE YOUR PETITIONER(S) HUMBLY PRAY(S)

That Your Lordships will be pleased to grant an extension of time until *(date)* to lodge the statement and appendix and set down the cause for hearing.

And your petitioner(s) will ever pray.

(signature of appellant(s) or their agents)[Agents for the] Appellant(s) *(set out here name and address of appellant(s) or their agents)*

[I or We] consent to the prayer of the above petition.

(signature of respondent(s) or their agents)[Agents for the] respondent(s) *(set out here name and address of respondent(s) or their agents)*

FORM 7**PETITION FOR CONSOLIDATION OR CONJOINDER**

(HL direction 28)

IN THE HOUSE OF LORDS

ON APPEAL FROM HER MAJESTY'S COURT OF APPEAL CRIMINAL DIVISION
(ENGLAND) *(or relevant court)*

(set out title of first appeal)

AND

(set out title of second appeal)

TO THE RIGHT HONOURABLE THE HOUSE OF LORDS

THE HUMBLE PETITION OF *(set out full name(s) of appellant(s))* SHOWS—

That your petitioner(s) presented [a] petition(s) of appeal on *(date)* complaining of (an) Order(s) of the *(name relevant court below)* dated *(date)*.

That your petitioner(s) *(name appellant(s) in other appeal(s), if different)* presented [a] petition(s) of appeal on *(date)* complaining of [an] Order(s) of the *(name relevant court below)* dated *(date)*.

That the same matters of law are raised in each of the appeals [and that the appeals of *(name relevant parties)* to *(name relevant court below)* were heard and argued together and one Judgment was delivered in respect of the [two] appeals].

That it is expedient that your petitioners' said appeals be [consolidated *or* conjoined].

YOUR PETITIONERS THEREFORE HUMBLY PRAY

[Consolidation:

That the said appeals may be consolidated and that they be allowed to lodge one statement, one case and one appendix and be jointly represented in respect of the *(insert relevant number)* appeals and that the respondents have leave to lodge one case in respect of the appeals.]

[Conjoinder:

That the said appeals may be conjoined and that they be allowed to lodge separate statements and cases and one appendix in respect of the *(insert relevant number)* appeals and that the respondents have leave to lodge separate cases in respect of the appeals and be separately represented or that such other Order may be made with a view to the convenient conduct of the said appeals as to your Lordships may seem meet *(or such variation as is required)*.]

And your petitioner(s) will ever pray.

(signature of appellant(s) to first appeal or their agents)

[Agents for the] Appellant(s) *(set out here name and address of appellant(s) or their agents)*

(signature of appellant(s) to other appeal(s) or their agents)

[Agents for the] Appellant(s)/co-petitioners *(set out here name and address of appellant(s)/co-petitioners or their agents)*

[I or We] consent to the prayer of the above petition.

(signature of respondent(s) to first appeal or their agents)

[Agents for the] Respondent(s) to first appeal *(set out here name and address of respondent(s) or their agents)*

(signature of respondent(s) to other appeal(s) or their agents)

[Agents for the] Respondent(s) to other appeal(s) *(set out here name and address of respondent(s) or their agents) etc*

FORM 8
PETITION FOR LEAVE TO INTERVENE

(HL direction 34)

IN THE HOUSE OF LORDS

ON APPEAL FROM HER MAJESTY'S COURT OF APPEAL CRIMINAL DIVISION
(ENGLAND) *(or relevant court)*

BETWEEN:

(set out title of appeal)

TO THE RIGHT HONOURABLE THE HOUSE OF LORDS
THE HUMBLE PETITION OF *(set out full name(s) of prospective intervener(s))*
PRAYING FOR LEAVE TO INTERVENE SHOWS—

1. That on *(date)* *(set out full name(s) of appellant(s))* presented a petition of appeal to your Lordships' House, complaining of an Order of the *(state court)* dated *(date)*.
2. That your petitioner(s) seek(s) your Lordships' leave to present written [*add, if appropriate, the words: and oral*] submissions in intervention in the said appeal.
3. That *(set out briefly in numbered paragraphs such facts and arguments as may be necessary to enable the Appeal Committee to report to the House whether leave to intervene should be granted)*.

YOUR PETITIONER(S) HUMBLY SUBMIT(S) that leave to intervene in the said appeal should be granted for the following among other

REASONS

(give numbered reasons summarising the arguments)

And your petitioner(s) will ever pray.

(signature of petitioner(s) or their agents)

[Agents for the] Petitioner(s) (set out here name and address of petitioner(s) or their agents)

[I or We] consent to the prayer of the above petition.

(signature of appellant(s) or their agents)

[Agents for the] Appellant(s) (set out here name and address of appellant(s) or their agents)

[I or We] consent to the prayer of the above petition.

(signature of respondent(s) or their agents)

[Agents for the] Respondent(s) (set out here name and address of respondent(s) or their agents)

FORM 9

BACK OF PETITION for leave to intervene, showing certificate of service to be endorsed on original petition

[I or We], [(Messrs) (*name*), of (*address*), (agents for)] the petitioner(s) within-named, hereby certify that on (*date*) [I or we] served [(Messrs) (*name*) of (*address*) (agents for)] (*name(s) of appellant(s)*), the within-named appellant(s), and [if different date, insert the words: on (*date*)] [(Messrs) (*name*) of (*address*) (agents for)] (*name(s) of respondent(s)*), the within-named respondent(s), with a correct copy of the petition for leave to intervene and with notice that the petition would be presented to the House of Lords on behalf of the petitioner(s) as soon as conveniently may be.

IN THE HOUSE OF LORDS
 ON APPEAL FROM (*name court*)
 BETWEEN:
 (*set out title of cause*)

 PETITION FOR LEAVE TO INTERVENE

(*signature of petitioner(s) or their agents*)

(*set out full name, address, telephone number, and reference (if any) of petitioner(s) or their agents*)

FORM 10**PETITION for restoration of appeal when time for lodging Statement has expired***(HL direction 14)*

IN THE HOUSE OF LORDS

ON APPEAL FROM HER MAJESTY'S COURT OF APPEAL CRIMINAL DIVISION
(ENGLAND) *(or relevant court)*

BETWEEN: AB (Appellant(s))
and
CD (Respondent(s))

TO THE RIGHT HONOURABLE THE HOUSE OF LORDS

THE HUMBLE PETITION OF AB SHOWS –

That your petitioner(s) presented a Petition of Appeal on *(date)* complaining of an Order of the [Court of Appeal Criminal Division *or relevant court*] dated *(date)*.

That the time allowed by Standing Order VI for the appellant(s) to lodge the Statement of facts and issues and the Appendix and to set down the cause for hearing expired on the *(date)*.

That your petitioner(s) has/have been unable to lodge their Statement and the Appendix by the said date for the following reasons:

(set out reasons).

YOUR PETITIONER(S) THEREFORE HUMBLY PRAY(S) that your Lordships will be pleased to order that their appeal be restored and to grant them an extension of time until *(date)* to lodge the Statement and the Appendix and to set down the cause for hearing.

And your petitioner(s) will ever pray.

(signature of appellant(s) or their agents)

[Agents for the] Appellant(s) *(set out here name and address of appellant(s) or their agents)*

[I or We] consent to the prayer of the above petition.

(signature of respondent(s) or their agents)

[Agents for the] respondent(s) *(set out here name and address of respondent(s) or their agents)*

FORM 11

RESPONDENTS' CONSENT to incidental petition

(HL direction 14.6)

(The consent is endorsed on the petition)

We consent to the prayer of the above petition.

(signature)

Respondent(s)/Agents for the respondent(s)

FORM 12

APPLICATION to set down cause for hearing

(HL direction 15)

IN THE HOUSE OF LORDS

ON APPEAL FROM HER MAJESTY'S COURT OF APPEAL CRIMINAL DIVISION
(ENGLAND) *(or relevant court)*

BETWEEN:

AB Appellant(s)

and

CD Respondent(s)

The appellant(s) having lodged a Statement of facts and issues and the Appendix thereto pursuant to order of the House,

My Lords,

Please to move, That this cause be set down for hearing after those causes already appointed.

(signature of appellant(s) or their agents)

Appellant/Agents for the appellant

*(set out name and address of
appellant(s) or their agent)*

FORM 13

FORM OF COVER for Bound Volume *(on red card)*

IN THE HOUSE OF LORDS

ON APPEAL FROM HER MAJESTY'S COURT OF APPEAL CRIMINAL DIVISION
(ENGLAND) *(or relevant court)*

BETWEEN:

(set out title of appeal)

BOUND VOLUME

1

*(The bound volume is only numbered if
there is more than one volume)*

PETITION OF APPEAL

[PETITION OF CROSS-APPEAL]

STATEMENT OF FACTS AND ISSUES

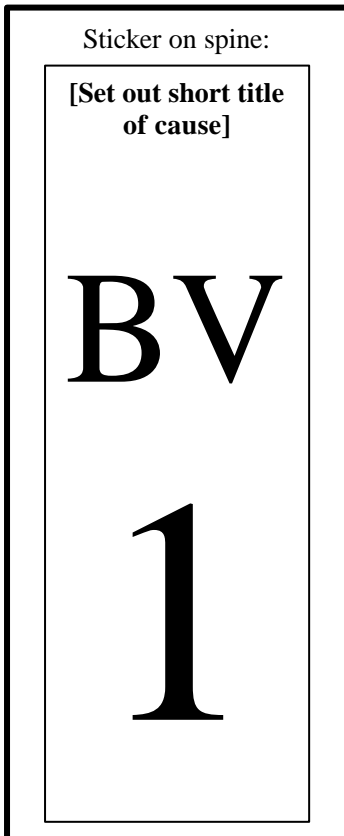
CASE FOR THE APPELLANTS

CASE FOR THE RESPONDENTS

APPENDIX - PART 1

LIST OF AUTHORITIES

(The above list is amended as appropriate)



*(Name and address of agents for
appellant(s))*

*(Name and address of agents
for respondent(s))*

FORM 13A

FORM OF COVER for Appendix *(on red card)*

IN THE HOUSE OF LORDS

ON APPEAL FROM HER MAJESTY'S COURT OF APPEAL CRIMINAL DIVISION
(ENGLAND) *(or relevant court)*

BETWEEN:

Sticker on spine:

[Set out short title
of cause]

APX

1

(set out title of appeal)

APPENDIX

PART 1

*(The appendix is only numbered if
there is more than one volume)*

*(Name and address of agents for
appellant(s))*

*(Name and address of agents for
respondent(s))*

FORM 14

FORM OF COVER for authorities volume *(on green card)*

IN THE HOUSE OF LORDS

ON APPEAL FROM HER MAJESTY'S COURT OF APPEAL CRIMINAL DIVISION
(ENGLAND) *(or relevant court)*

BETWEEN:

(set out title of appeal)

Sticker on spine:

[Set out short title
of cause]

A

1

AUTHORITIES VOLUME

1

*(The authorities' volume is only numbered if
there is more than one volume)*

*(Name and address of agents for
appellant(s))*

*(Name and address of agents
for respondent(s))*

FORM 15**PETITION for withdrawal of appeal***(HL direction 42)*

IN THE HOUSE OF LORDS

ON APPEAL FROM HER MAJESTY'S COURT OF APPEAL CRIMINAL DIVISION
(ENGLAND) *(or relevant court)*

BETWEEN: AB Appellant(s)
and
CD Respondent(s)

TO THE RIGHT HONOURABLE THE HOUSE OF LORDS

THE HUMBLE PETITION OF the Appellant(s) shows –

That your petitioner(s) presented a Petition of Appeal on *(date)* complaining of an Order of the Court of Appeal Criminal Division *(or relevant court)* dated *(date)*.That your petitioner'(s)(s') appeal was set down for hearing before your Lordships' House on *(date)*.

That your petitioner(s) and the respondent(s) have agreed to terms of settlement of all matters in dispute between them, as follows:

1. That your petitioner(s) and the respondent(s) should join in making an application to your Lordships' House for leave that your petitioner'(s)(s') appeal might be withdrawn; and
2. That *(set out terms of agreement)*.

YOUR PETITIONER(S) THEREFORE HUMBLY PRAY(S) that your Lordships will be pleased to order that:

- (1) your petitioner'(s)(s') appeal be withdrawn;
- (2) *(state costs order sought, to dispose of appeal)*

And your petitioner(s) will ever pray.

(signature)

Agents for the appellant(s)

APPENDIX B**LIST OF AUTHORITIES KEPT IN HOUSE OF LORDS LIBRARY***(see direction 18.7)*

The House of Lords Library keeps the following authorities:

All England Reports
 Anglo American Law Review
 British Yearbook of International Law
 Cambrian Law Review
 Cambridge Law Journal
 Canadian Rights Reporter
 Common Market Law Reports
 Common Market Law Review
 Cox's Criminal Law Cases (1843-49)
 Criminal Appeal Reports
 Criminal Appeal Reports (Sentencing)
 Criminal Law Forum
 Criminal Law Review
 Crown Office Digest
 English Reports
 Estates Gazette Law Reports (1985-)
 European Court Reports
 European Human Rights Reports
 European Law Digest
 European Law Review
 European Public Law
 Family Law Reports
 Financial Law Reports
 Fleet Street Reports
 Halsbury's Laws and Statutes
 Housing Law Reports
 Human Rights Law Journal
 Immigration Appeal Reports
 Industrial Cases Reports
 Industrial Law Journal
 Industrial Relations Law Reports
 Industrial Tribunal Reports (1971-78)
 International and Comparative Law Quarterly
 International Litigation Procedure
 Irish Jurist (1848-1866, 1935-1965)
 Irish Jurist Reports
 Irish Law Reports
 Journal of Legal History
 Journal of Legislative Studies
 Journal of Planning and Environment Law
 Journal of Social Welfare Law
 Jurist - Reports of Cases in Law and Equity (1837-1866)
 Justice of the Peace Reports
 Law Journal Reports
 Law Quarterly Review
 Law Reports (1866-)
 Law Times Reports
 Legislative Studies Quarterly
 Lloyd's Law Reports

Local Government Review Reports
Modern Law Review
New Law Journal
Northern Ireland Law Reports
Northern Ireland Legal Quarterly (Vol 34 (1983)–)
Northern Ireland Statutes
Oxford Journal of Legal Studies
Planning and Compensation Reports (1963-67)
Property and Compensation Reports (1968–)
Public Law (British Journal of Administrative Law)
Reports of Patent Cases
Road Traffic Reports
Rydes Rating Cases (1956-1979)
Scots Law Times
Scottish Civil Law Reports
Scottish Criminal Case Reports (1983–)
Scottish Jurist (1829-1873)
Scottish Law Reporter (1865-1924)
Scottish Planning Law and Practice
Session Cases
Simons Tax Cases (1981–)
Solicitors Journal
Statute Law Review
Statutes
Tax Cases
Times Law Reports
Weekly Law Reports
Weekly Notes (1866-1952)
Weekly Reporter (1852-1906)

APPENDIX C

FEES AND SECURITY MONEY

JUDICIAL FEES

(1) JUDICIAL FEES

No fee is payable in a criminal cause or matter.

(2) TAXING FEE

The fees payable upon the sums allowed by the Taxing Officer are as follows:

- (a) where the amount allowed does not exceed £500, a flat rate of £50;
- (b) where the amount allowed exceeds £500, for every £1 or fraction of £1, an amount of 5p.

(27 July 2000¹)

The fees payable on the withdrawal of a bill of costs (subject to written confirmation of the withdrawal from both parties to the taxation) are as follows:

- (a) in respect of bills withdrawn within 21 days of the date appointed for taxation, 1 per cent of the agreed sum or £50, whichever is the larger;
- (b) in respect of bills withdrawn within 7 days of the date appointed for taxation, 2 per cent of the agreed sum or £50, whichever is the larger.

(27 July 2000²)

Drafts and cheques for taxing fees are payable to 'House of Lords Account'.

(3) SECURITY MONEY

No security for costs is taken in criminal causes.

¹ Offices Committee, 6th Report (1999-2000), HL Paper 97.

² Offices Committee, 6th Report (1999-2000), HL Paper 97.

APPENDIX D

AMENDMENTS OF PREVIOUS EDITION OF PRACTICE DIRECTIONS

The practice directions of the House of Lords are continuously revised and improved. This edition includes many small drafting changes to which special attention does not need to be drawn. Such changes are intended to make the practice directions less minutely prescriptive as to the form of documents etc lodged in respect of appeals. The direction numbers remain the same.

The following directions contain significant changes from the previous edition (January 2006):

direction 2.6 (which deals with judicial review in criminal matters)

directions 5.10-5.12 (which clarify the procedures under which respondents may make written submissions to Appeal Committees)

direction 20 (which simplifies the procedures for making submissions on costs)

direction 21 (which sets out revised procedures and timetables whereby counsel obtain judgments in advance of their delivery in the House)