



# Senior Courts Act 1981

## 1981 CHAPTER 54

### PART III

#### PRACTICE AND PROCEDURE

##### THE COURT OF APPEAL

##### *Distribution of business*

#### **53 Distribution of business between civil and criminal divisions.**

- (1) Rules of court may provide for the distribution of business in the Court of Appeal between the civil and criminal divisions, but subject to any such rules business shall be distributed in accordance with the following provisions of this section.
- (2) The criminal division of the Court of Appeal shall exercise—
  - (a) all jurisdiction of the Court of Appeal under Parts I and II of the <sup>M1</sup>Criminal Appeal Act 1968;
  - (b) the jurisdiction of the Court of Appeal under section 13 of the <sup>M2</sup>Administration of Justice Act 1960 (appeals in cases of contempt of court) in relation to appeals from orders and decisions of the Crown Court;
  - (c) all other jurisdiction expressly conferred on that division by this or any other Act; and
  - (d) the jurisdiction to order the issue of writs of venire de novo.
- (3) The civil division of the Court of Appeal shall exercise the whole of the jurisdiction of that court not exercisable by the criminal division.
- (4) Where any class of proceedings in the Court of Appeal is by any statutory provision assigned to the criminal division of that court, rules of court may provide for any enactment relating to—

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- (a) appeals to the Court of Appeal under Part I of the Criminal Appeal Act 1968;  
or
- (b) any matter connected with or arising out of such appeals,  
to apply in relation to proceedings of that class or, as the case may be, to any corresponding matter connected with or arising out of such proceedings, as it applies in relation to such appeals or, as the case may be, to the relevant matter within paragraph (b), with or without prescribed modifications in either case.

#### Marginal Citations

**M1** 1968 c. 19.

**M2** 1960 c. 65.

### *Composition of court*

#### **54 Court of civil division.**

- (1) This section relates to the civil division of the Court of Appeal; and in this section “court”, except where the context otherwise requires, means a court of that division.
- [<sup>F1</sup>(2) Subject as follows, a court shall be duly constituted for the purpose of exercising any of its jurisdiction if it consists of one or more judges.
- (3) The Master of the Rolls may, with the concurrence of the Lord Chancellor, give (or vary or revoke) directions about the minimum number of judges of which a court must consist if it is to be duly constituted for the purpose of any description of proceedings.
- (4) The Master of the Rolls, or any Lord Justice of Appeal designated by him, may (subject to any directions under subsection (3)) determine the number of judges of which a court is to consist for the purpose of any particular proceedings.
- (4A) The Master of the Rolls may give directions as to what is to happen in any particular case where one or more members of a court which has partly heard proceedings are unable to continue.]
- (5) Where—
  - (a) an appeal has been heard by a court consisting of an even number of judges;  
and
  - (b) the members of the court are equally divided,
 the case shall, on the application of any part to the appeal, be re-argued before and determined by an uneven number of judges not less than three, before any appeal to the [<sup>F2</sup>Supreme Court].
- <sup>F3</sup>(6) .....
- <sup>F3</sup>(7) .....
- (8) Subsections (1) and (2) of section 70 (assessors in the High Court shall apply in relation to causes and matters before the civil division of the Court of Appeal as they apply in relation to causes and matters before the High Court.
- (9) Subsections (3) and (4) of section 70 (scientific advisers to assist the Patents Court in proceedings under the <sup>M3</sup>Patents Act 1949 and the <sup>M4</sup>Patents Act 1977) shall apply in

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relation to the civil division of the Court of Appeal and proceedings on appeal from any decision of the Patents Court in proceedings under those Acts as they apply in relation to the Patents Court and proceedings under those Acts.

<sup>F3</sup>(10) . . . . .

#### Textual Amendments

- F1** S. 54(2)-(4A) substituted for s. 54(2)-(4) (27.9.1999) by 1999 c. 22, ss. 59, 108(3)(b) (with Sch. 14 para. 7(2))
- F2** Words in s. 54(5) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148(1), Sch. 9 para. 36(5); S.I. 2009/1604, art. 2(d)
- F3** S. 54(6)(7)(10) repealed (27.9.1999) by 1999 c. 22, ss. 106, 108(3)(f), Sch. 15 Pt. III (with Sch. 14 paras. 7(2), 36(9))

#### Marginal Citations

- M3** 1949 c. 87.
- M4** 1977 c. 37.

## 55 Court of criminal division.

- (1) This section relates to the criminal division of the Court of Appeal; and in this section “court” means a court of that division.
- (2) [<sup>F4</sup>Subject to subsection (6),] a court shall be duly constituted for the purpose of exercising any of its jurisdiction if it consists of an uneven number of judges not less than three.
- (3) Where—
- part of any proceedings before a court has been heard by an uneven number of judges greater than three; and
  - one or more members of the court are unable to continue,
- the court shall remain duly constituted for the purpose of those proceedings so long as the number of members (whether even or uneven) is not reduced to less than three.
- (4) [<sup>F4</sup>Subject to subsection (6),] a court shall, if it consists of two judges, be duly constituted for every purpose except—
- determining an appeal against—
    - conviction; or
    - a verdict of not guilty by reason of insanity; or
    - a finding <sup>F5</sup>... under section 4 of the <sup>M5</sup>Criminal Procedure (Insanity) Act 1964 (unfitness to plead) that a person is under a disability;
  - [<sup>F6</sup>(aa) reviewing sentencing under Part IV of the Criminal Justice Act 1988;]
  - determining an application for leave to appeal to the [<sup>F7</sup>Supreme Court]; and
  - refusing an application for leave to appeal to the criminal division against conviction or any such verdict or finding as is mentioned in paragraph (a)(i) or (iii), other than an application which has been refused by a single judge.
- (5) Where an appeal has been heard by a court consisting of an even number of judges and the members of the court are equally divided, the case shall be re-argued before and determined by an uneven number of judges not less than three.

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[<sup>F8</sup>(6) A court shall not be duly constituted if it includes more than one Circuit judge acting as a judge of the court under section 9.]

#### Textual Amendments

- F4** Words in s. 55(2)(4) inserted (11.1.1995) by 1994 c. 33, s. 52(7)(a); S.I. 1994/3258, art.2
- F5** Words in s. 55(4)(a)(iii) repealed (31.3.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 58(1)(2), 60, Sch. 10 para. 14, Sch. 11; S.I. 2005/579, art. 3(i)(v)
- F6** S. 55(4)(aa) added by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 123(6), 170(1), Sch. 8 para. 16, Sch. 15 para. 80
- F7** Words in s. 55(4)(b) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148(1), Sch. 9 para. 36(5); S.I. 2009/1604, art. 2(d)
- F8** S. 55(6) inserted (11.1.1995) by 1994 c. 33, s. 52(7)(b); S.I. 1994/3258, art.2

#### Marginal Citations

- M5** 1964 c. 84.

### 56 Judges not to sit on appeal from their own judgments, etc.

- (1) No judge shall sit as a member of the civil division of the Court of Appeal on the hearing of, or shall determine any application in proceedings incidental or preliminary to, an appeal from a judgment or order made in any case by himself or by any court of which he was a member.
- (2) No judge shall sit as a member of the criminal division of the Court of Appeal on the hearing of, or shall determine any application in proceedings incidental or preliminary to, an appeal against—
  - (a) a conviction before himself or a court of which he was a member; or
  - (b) a sentence passed by himself or such a court.

### 56A Circuit judges not to sit on certain appeals.

<sup>F9</sup> .....

#### Textual Amendments

- F9** S. 56A repealed (26.1.2004) by Courts Act 2003 (c. 39), ss. 67, 109(3), Sch. 10; S.I. 2003/3345, art. 2(a)(v)(c)(iii)

### [<sup>F10</sup>56B Allocation of cases in criminal division.

- (1) The appeals or classes of appeals suitable for allocation to a court of the criminal division of the Court of Appeal in which a Circuit judge is acting under section 9 shall be determined in accordance with directions given by or on behalf of the Lord Chief Justice [<sup>F11</sup>after consulting the Lord Chancellor].
- (2) In subsection (1) “appeal” includes the hearing of, or any application in proceedings incidental or preliminary to, an appeal.]

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#### Textual Amendments

**F10** S. 56B inserted (11.1.1995) by 1994 c. 33, s. 52(9); S.I. 1994/3258, art. 2

**F11** Words in s. 56B(1) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 5), ss. 15, 148, Sch. 4 para. 127; S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(p)

### *Sittings and vacations*

#### **57 Sittings and vacations.**

- (1) Sittings of the Court of Appeal may be held, and any other business of the Court of Appeal may be conducted, at any place in England or Wales.
- (2) Subject to rules of court—
  - (a) the places at which the Court of Appeal sits outside the Royal Courts of Justice; and
  - (b) the days and times at which the Court of Appeal sits at any place outside the Royal Courts of Justice,shall be determined in accordance with directions given by the Lord Chancellor [<sup>F12</sup>after consulting the Lord Chief Justice].
- (3) Rules of court may make provision for regulating the vacations to be observed by the Court of Appeal and in the offices of that court.
- (4) Rules of court—
  - (a) may provide for securing such sittings of the civil division of the Court of Appeal during vacation as the Master of the Rolls may with the concurrence of the Lord Chancellor determine;
  - (b) without prejudice to paragraph (a), shall provide for the transaction during vacation by judges of the Court of Appeal of all such business in the civil division of that court as may require to be immediately or promptly transacted; and
  - (c) shall provide for securing sittings of the criminal division of that court during vacation if necessary.
- [<sup>F13</sup>(5) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.]

#### Textual Amendments

**F12** Words in s. 57(2) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, Sch. 4 para. 128(2); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(p)

**F13** S. 57(5) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, Sch. 4 para. 128(3); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(p)

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### *Other provisions*

#### **[<sup>F14</sup>58 Calling into question of incidental decisions in civil division.**

- (1) Rules of court may provide that decisions of the Court of Appeal which—
  - (a) are taken by a single judge or any officer or member of staff of that court in proceedings incidental to any cause or matter pending before the civil division of that court; and
  - (b) do not involve the determination of an appeal or of an application for permission to appeal,
 may be called into question in such manner as may be prescribed.
- (2) No appeal shall lie to the [<sup>F15</sup>Supreme Court] from a decision which may be called into question pursuant to rules under subsection (1).]

#### **Textual Amendments**

- F14** S. 58 substituted (27.9.1999) by 1999 c. 22, ss. 60, 108(3)(b) (with Sch. 14 para. 7(2))
- F15** Words in s. 58(2) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148(1), Sch. 9 para. 36(6); S.I. 2009/1604, art. 2(d)

#### **59 Form of judgment of court of criminal division.**

Any judgment of a court of the criminal division of the Court of Appeal on any question shall, except where the judge presiding over the court states that in his opinion the question is one of law on which it is convenient that separate judgments should be pronounced by members of the court, be pronounced by the judge presiding over the court or by such other member of the court as he directs and, except as aforesaid, no judgment shall be separately pronounced on any question by any member of the court.

#### **60 Rules of court, and decisions of Court of Appeal, as to whether judgment or order is final or interlocutory.**

- (1) Rules of court may provide for orders or judgments of any prescribed description to be treated for any prescribed purpose connected with appeals to the Court of Appeal as final or as interlocutory.
- (2) No appeal shall lie from a decision of the Court of Appeal as to whether a judgment or order is, for any purpose connected with an appeal to that court, final or interlocutory.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 31(3)(a) word inserted by [2015 c. 2 s. 85\(1\)\(a\)](#)
- s. 31(3)(a) word inserted by [2015 c. 2 s. 85\(1\)\(a\)](#)
- s. 31(3)(b) and word inserted by [2015 c. 2 s. 85\(1\)\(b\)](#)
- s. 31(3)(b) and word inserted by [2015 c. 2 s. 85\(1\)\(b\)](#)
- s. 31(3A)(3B) inserted by [2015 c. 2 s. 85\(2\)](#)
- s. 31(3A)(3B) inserted by [2015 c. 2 s. 85\(2\)](#)