

Statutory Document No. 2023/0228

*High Court Act 1991*

## RULES OF THE HIGH COURT OF JUSTICE (AMENDMENT) 2023

*Laid before Tynwald:**Coming into Operation:**1 August 2023*

The Deemsters make the following Rules under sections 19A and 25 of the High Court Act 1991.

### 1 Title

These Rules are the Rules of the High Court of Justice (Amendment) 2023.

### 2 Commencement

These Rules come into operation on 1 August 2023<sup>1</sup>.

### 3 Interpretation

In these Rules, “**the principal Rules**” mean the Rules of the High Court of Justice 2009<sup>2</sup>.

### 4 Amendment of the principal Rules

(1) The principal Rules are amended as follows.

(2) After rule 14.3 (division to which appeal lies) insert —

#### **14.3A Permission to appeal (52.3)**

(1) An appellant or respondent requires permission to appeal —

(a) where the appeal is a first appeal to the Appeal Division from a decision of the Civil Division, except where the appeal is against —

<sup>1</sup> By virtue of section 25(4) of the High Court Act 1991, these Rules must be laid before Tynwald as soon as practicable after they are made, and if Tynwald at the sitting at which the rules are laid or at the next following sitting resolves that they shall be annulled, they shall cease to have effect.

<sup>2</sup> SD 352/09 (as amended)

- (i) a committal order under Chapter 9 of Part 12;
  - (ii) a refusal to order release of a detainee under rule 13.79; or
  - (iii) a secure accommodation order made under section 27 Children and Young Persons Act 2001; or
- (b) as provided by any statute, rule or relevant practice direction.
- (2) An application for permission to appeal may be made –
- (a) to the Civil Division at the hearing at which the decision to be appealed was made; or
  - (b) to the Appeal Division in an appeal notice.
- (3) Where the Civil Division refuses an application for permission to appeal, a further application for permission to appeal may be made to the Appeal Division.

#### **14.3B Determination of applications for permission to appeal under rule 14.3A to the Appeal Division (52.4-5)**

- (1) Where an application for permission to appeal is made to the Appeal Division, the Appeal Division will determine the application on paper without an oral hearing, except –
- (a) if the Appeal Division otherwise directs; or
  - (b) as provided for under paragraph (3).
- (2) An application for permission to appeal made to the Appeal Division will be determined by the Judge of Appeal or by a Deemster.
- (3) Subject to paragraph (4) and except where a rule or practice direction provides otherwise, where the Appeal Division, without a hearing, refuses permission to appeal, the person seeking permission may request the decision to be reconsidered at an oral hearing.
- (4) Where in the Appeal Division, the Judge of Appeal or a Deemster refuses permission to appeal without an oral hearing and considers that the application is totally without merit, the Judge of Appeal or the Deemster (as the case may be) may make an order that the person seeking permission may not request the decision to be reconsidered at an oral hearing.
- (5) Rule 2.4(5) (party able to apply to set aside, etc., a decision made of court's own initiative) does not apply to an order made under paragraph (4) that the person seeking permission may not request the decision to be reconsidered at an oral hearing.

- (6) A request under paragraph (3) must be filed within 7 days after service of the decision that permission has been refused and the Judge of Appeal or the Deemster (as the case may be) may direct an oral hearing.
- (7) The Judge of Appeal or the Deemster (as the case may be) considering the application for permission to appeal on paper under paragraph (1) may direct that the application be determined at an oral hearing, and must so direct if the Judge of Appeal or the Deemster (as the case may be) is of the opinion that the application cannot be fairly determined on paper without an oral hearing.
- (8) An oral hearing directed under paragraph (6) or (7) must be listed –
  - (a) no later than 14 days from the date of the direction under that paragraph; and
  - (b) before the Deemster or Judge of Appeal (as the case may be) who made that direction,
 unless the Appeal Division directs otherwise.
- (9) The Appeal Division may, in any direction under paragraph (6) or (7) –
  - (a) identify any issue or issues on which the party seeking permission should specifically focus its submissions at the oral hearing in order to assist the Appeal Division to determine the application; and
  - (b) direct the respondent to file and serve written submissions and to attend the oral hearing.

### 14.3C Permission to appeal test – first appeals (52.6)

- (1) Except where rule 14.4 applies, permission to appeal may be given only where –
  - (a) the court considers that the appeal would have a real prospect of success; or
  - (b) there is some other compelling reason for the appeal to be heard.
- (2) An order giving permission under this rule or under rule 14.4 may –
  - (a) limit the issues to be heard; and
  - (b) be made subject to conditions. **22**.
- (3) In Rule 14.4 (second appeals to the court) for paragraph (2)(a), substitute –
  - 23**(a) the appeal would –
    - (i) have a real prospect of success; and

- (ii) raise an important point of principle or practice;  
or **22**.

## 5 Transitional provisions

The amendments made by these Rules do not apply to any appeal notice filed with the Appeal Division immediately prior to the commencement of these Rules.

**MADE 31 JULY 2023**

**A T K CORLETT**

*His Majesty's First Deemster and Clerk of the Rolls*

**J A NEEDHAM**

*His Majesty's Second Deemster*

*EXPLANATORY NOTE*

*(This note is not part of the Rules)*

These Rules introduce the requirement for permission where a party seeks to appeal any decision of the Civil Division of the High Court to the Appeal Division. The Rules outline the test to be applied for the grant of permission and the procedure to be adopted.

Rule 4(3) updates the test to be applied when considering permission for second appeals under rule 14.4.