

UKSC PD 6:

Intervention

6.9.1 A person who is not a party to an appeal may apply in accordance with rule 26 for permission to intervene in the appeal. An intervener under rule 15 who wishes to intervene in the appeal must make a formal application under rule 26.

6.9.2 An application should be made in the general form of application, Form 2, (see paragraph 7.1 of Practice Direction 7 for applications) and should state whether permission is sought for both oral and written interventions or for written intervention only. The application should be filed with the prescribed fee and confirmation of the consent of the appellants and respondents in the appeal. If their consent is refused, the application must be endorsed with a certificate of service on them, with a brief explanation of the reasons for the refusal.

6.9.3 The application should explain the intervener's interest in the proceedings, and any prejudice which the intervener would suffer if the application were refused. It should summarise the submissions to be advanced if permission is given, and explain why those submissions will be useful to the court and different from those of the parties. If permission is sought for an oral intervention, the application should explain why oral intervention is necessary in addition to written intervention. If an intervener wishes to support the submissions to the Court with a witness statement and exhibits, permission to do so must be sought from the Court.

6.9.4 Applications for permission to intervene should be filed at least 10 weeks before the date of hearing of the appeal. Failure to meet this deadline may increase the burden on the parties in preparing their cases and the core volumes, and may delay the hearing of the appeal. The Court will wish to consider all the applications to intervene at one time and the Registrar will group applications together and refer them to members of the Court as a group. Strict adherence to the time limit for filing is therefore necessary (39).

6.9.5 Permission is not given as a matter of course, even if no party objects. The fact that a person was allowed to intervene in the court below does not entitle a person to intervene in this Court. Permission will be given only for interventions which will provide the Court with significant assistance over and above the assistance it can expect to receive from the parties, and only where any cost to the parties or any delay consequent on the intervention is not disproportionate to the assistance that is expected.

6.9.6 Interventions will be allowed in writing only, unless compelling reasons are shown for the allowance of oral intervention. If oral intervention is allowed, the time allocated to an intervener will normally come out of the time allowed to the party with whose case the intervener's submissions are aligned. In considering applications to intervene, the Court will be mindful of the need to maintain a balance between the arguments before it, and the importance of the appearance, as well as the reality, of an equality of arms. It will also have regard to the matters mentioned in paragraphs 6.9.5 above and 6.9.8 below.

6.9.74 If permission is given, written submissions must be filed and also given to the appellants and respondents for incorporation into the core volumes at least 6 weeks (40) before the hearing. ~~They should avoid repeating material that is in the parties' written cases. They should concentrate on the particular points that the intervener wishes to raise and They~~ should normally not exceed 20 pages of A4 size, inclusive of any supplementary documents, other than authorities. Permission should be sought if that limit is to be exceeded.

6.9.8 Interveners' submissions, whether written or oral, should focus on advancing the intervener's argument on a legal issue before the court. They should avoid repeating material that is in the parties' written cases. They should not challenge findings of fact. They should not ordinarily seek to introduce new evidence, especially where that would cause procedural unfairness to a party or undermine the basis on which the legal issues were considered by the courts below. They should not introduce new legal issues or seek to expand the case.

6.9.95 All counsel instructed on behalf of an intervener with permission to address the Court should attend the hearing unless specifically excused.

6.9.106 Subject to the discretion of the Court, interveners bear their own costs and any additional costs to the appellants and respondents resulting from an intervention are costs in the appeal. Orders for costs "will not normally be made either in favour of or against interveners but such orders may be made if the Court considers it just to do so (in particular if an intervener has in substance acted as the sole or principal appellant or respondent)": rule 46(3).

6.9.11 In relation to interventions by devolved legislatures in devolution references, attention is drawn to the observations by Lord Hope in *Attorney General v National Assembly for Wales Commission* [2012] UKSC 53; [2013] 1 AC 792, paras 99-100.

Interventions

6.8.1 A person who is not a party to an appeal may apply in accordance with rule 27 for permission to intervene.

6.8.2 An application should be made in the general form of application, Form 2, (see paragraph 7.1 of Practice Direction 7) and should state whether permission is sought for both oral and written interventions or for written intervention only. The application should be filed with the prescribed fee and confirmation of the consent of the appellants and respondents in the appeal. If their consent is refused, the application must be endorsed with a certificate of service on them, with a brief explanation of the reasons for the refusal.

6.8.3 The application should explain the intervener's interest in the proceedings, and any prejudice which the intervener would suffer if the application were refused. It should summarise the submissions to be advanced if permission is given, and explain why those submissions will be useful to the court and different from those of the parties. If permission is sought for an oral intervention, the application should explain why oral intervention is necessary in addition to written intervention. If an intervener wishes to support the submissions to the Court with a witness statement and exhibits, permission to do so must be sought from the Court.

6.8.4 Applications for permission to intervene should be filed at least 10(31) weeks before the date of hearing of the appeal. Failure to meet this deadline may increase the burden on the parties in preparing their cases, and may delay the hearing of the appeal. If permission is given, written submissions must be filed and also given to the appellants and respondents. They should avoid repeating material that is in the parties' written cases. They should concentrate on the particular points that the intervener wishes to raise and should normally not exceed 20 pages of A4 size.

6.8.5 Permission is not given as a matter of course, even if no party objects. The fact that a person was allowed to intervene in the court below does not entitle a person to intervene in this Court. Permission will be given only for interventions which will provide the Court with significant assistance over and above the assistance it can expect to receive from the parties, and only where any cost to the parties or any delay consequent on the intervention is not disproportionate to the assistance that is expected.

6.8.6 Interventions will be allowed in writing only, unless compelling reasons are shown for the allowance of oral intervention. If oral intervention is allowed, the time allocated to an intervener will normally come out of the time allowed to the party with whose case the intervener's submissions are aligned. In considering applications to intervene, the Court will be mindful of the need to maintain a balance between the arguments before it, and the importance of the appearance, as well as the reality, of an equality of arms. It will also have regard to the matters mentioned in paragraphs 6.8.5 above and 6.8.8 below.

6.8.7 If permission is given, written submissions must be filed and also given to the appellants and respondents for incorporation into the core volumes at least 6 weeks (40) before the hearing. They should normally not exceed 20 pages of A4 size, inclusive of any supplementary documents, other than authorities. Permission should be sought if that limit is to be exceeded.

6.8.8 Interveners' submissions, whether written or oral, should focus on advancing the intervener's argument on a legal issue before the court. They should avoid repeating material that is in the parties' written cases. They should not challenge findings of fact. They should not ordinarily seek to introduce new evidence, especially where that would cause procedural unfairness to a party or undermine the basis on which the legal issues were considered by the courts below. They should not introduce new legal issues or seek to expand the case.

6.8.9 All counsel instructed on behalf of an intervener with permission to address the Court should attend the hearing unless specifically excused.

6.8.104 Subject to the discretion of the Judicial Committee, interveners bear their own costs and any additional costs to the appellants and respondents resulting from an intervention are costs in the appeal.

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