

Practice Direction of 24 March 2012

Citation of Authorities

Preamble

1 This Practice Direction is issued in order to clarify the practice and procedure governing the citation of authorities and applies throughout the Senior Courts of England and Wales, including the Crown Court, in county courts and in magistrates' courts.

Repeal

2 Practice Direction (Court of Appeal: Citation of Authority) [1995] 1 WLR 1096 of 22 June 1995, Practice Statement (Court of Appeal: Authorities) [1996] 1 WLR 854 of 15 May 1996, paragraph 8 of Practice Statement (Supreme Court: Judgments) [1998] 1 WLR 825 of 22 April 1998, paragraph 3 of Practice Direction (Judgments: Form and Citation) [2001] 1 WLR 194 of 11 January 2001, and, in so far as they remain in force, paragraphs 10.1 and 10.2 of Practice Direction ((Court of Appeal (Civil Division)) [1999] 1 WLR 1027 of 19 April 1999 are hereby revoked.

Variation

3 Practice Direction (Criminal Proceedings: Consolidation) [2002] 1 WLR 2870 of 8 July 2002 (as amended) is varied so that all references to paragraph 10.1 of Practice Direction (Court of Appeal (Civil Division)) [1999] 1 WLR 1027; [1999] 2 All ER 490 are to read as references to paragraphs 5–13 of this Practice Direction.

4 Practice Direction 52 supplementing CPR Pt 52 is varied so that paragraph 15.11(2) reads as follows:

“(2) The bundle of authorities should comply with the requirements of Practice Direction: Citation of Authorities (2012) and in general –

- (a) have the relevant passages of the authorities marked;
- (b) not include authorities for propositions not in dispute; and
- (c) not contain more than 10 authorities unless the scale of the appeal warrants more extensive citation.”

Citation of Authority

5 When authority is cited, whether in written or oral submissions, the following practice should be followed.

6 Where a judgment is reported in the Official Law Reports (AC, QB, Ch, Fam) published by the Incorporated Council of Law Reporting for England and Wales, that report must be cited. These are the most authoritative reports; they contain a summary of the argument. Other series of reports and official transcripts of judgment may only be used when a case is not reported in the Official Law Reports.

7 If a judgment is not (or not yet) reported in the Official Law Reports but it is reported in the Weekly Law Reports (WLR) or the All England Law Reports (All ER) that report should be cited. If the case is reported in both the WLR and the All ER either report may properly be cited.

8 If a judgment is not reported in the Official Law Reports, the WLR, or the All ER, but it is reported in any of the authoritative specialist series of reports which contain a headnote and are made by individuals holding a Senior Courts qualification (for the purposes of section 115 of the Courts and Legal Services Act 1990), the specialist report should be cited.

9 Where a judgment is not reported in any of the reports referred to in paragraphs [6] to [8] above, but is reported in other reports, they may be cited.

10 Where a judgment has not been reported, reference may be made to the official transcript if that is available, not the handed-down text of the judgment, as this may have been subject to late revision after the text was handed down. Official transcripts may be obtained from, for instance, BAILLI (<http://www.bailii.org/>). An unreported case should not usually be cited unless it contains a relevant statement of legal principle not found in reported authority.

11 Occasions arise when one report is fuller than another, or when there are discrepancies between reports. On such occasions, the practice outlined above need not be followed, but the court should be given a brief explanation why this course is being taken, and the alternative references should be given.

12 If a judgment under appeal has been reported before the hearing but after skeleton arguments have been filed with the court, and counsel wish to argue from the published report rather than from the official transcript, the court should be provided with photocopies of the report for the use of the court.

13 Judgments reported in any series of reports, including those of the Incorporated Council of Law Reporting, should be provided either by way of a photocopy of the published report or by way of a copy of a reproduction of the judgment in electronic form that has been authorised by the publisher of the relevant series, but in any event (1) the report must be presented to the court in an easily legible form (a 12-point font is preferred but a 10- or 11-point font is acceptable) and (2) the advocate presenting the report is satisfied that it has not been reproduced in a garbled form from the data source. In any case of doubt the court will rely on the printed text of the report (unless the editor of the report has certified that an electronic version is more accurate because it corrects an error contained in an earlier printed text of the report).

14 This Direction is made by the Lord Chief Justice with the agreement of the Master of the Rolls and the President of the Family Division. It is issued in accordance with the procedure laid down in Part 1 of Schedule 2 to the Constitutional Reform Act 2005.

The Right Honourable
The Lord Judge
The Lord Chief Justice of England and Wales