

## **Notes on Part F of Practice Direction 4.1 – Appeal Bundle**

- Please read Part F of Practice Direction - 4.1 carefully [*Appendix 1*] on how to prepare bundle of documents required for the hearing of an appeal. The following requirements are hereby emphasized:
  - Appeal is not an occasion for a retrial of all the issues raised in the case. Not all the documents placed before the trial court are relevant to the appeal. Only documents that are relevant to the issues to be determined in the appeal should be included in the appeal bundle. Any document which is not really relevant to the issues on appeal or which need not be referred to at the hearing of the appeal should not be included in the appeal bundle.
  - Documents contained in the appeal bundle shall be bound together in loose leaf lever-arch files or ring-binders; each file or binder should include no more than 250 pages.
  - If more than one file or binder is used, the files or binders shall be prominently and sequentially marked both on the front sides and on the spines, with the first one being ‘Bundle A’ to be followed by ‘Bundle B’ and so on.
  - The documents in the appeal bundle must be paginated consecutively with the page number placed at the bottom right hand corner of each page, starting with page 1 and working continuously through to the end. In case of more than one file or binder, for instance if the Bundle A ends with page 250, the pagination should continue with Bundle B starting with page 251.
  - (i) Transcripts of court proceedings relevant to the appeal, and (ii) new documentary evidence (which a party intends to apply to the Court of Appeal for leave to adduce in the appeal) shall be kept in separate bundles.
  - There must be one (1) index for the appeal bundle. Please refer to the sample [*Appendix 2*].
  - All the documents in the appeal bundle must be legible.
- In the Resource Centre for Unrepresented Litigants (address: Room LG105, lower ground floor 1, High Court Building, 38 Queensway, Hong Kong), a sample set of appeal bundles is available for reference.
- The appellant may also consult the office of the Home Affairs Bureau’s Legal Advice Scheme for Unrepresented Litigants on Civil Procedures (address: Room LG217, lower ground floor 2, High Court Building, 38 Queensway, Hong Kong) for assistance and arrangement for obtaining advice.

## **PRACTICE DIRECTION - 4.1**

### **(PART F)**

#### **F. Documentation and Application to Fix a Date for the Hearing of an Appeal**

38. Parties must ensure that **only documents necessary for determination of the issues before the Court are included in the appeal bundle.** Usually, the issues to be canvassed in the Court are narrower in scope than the issues in the court below, and many documents placed before the court below are no longer necessary to be placed before the Court. Appeal bundles put together by indiscriminate reproduction of trial or hearing bundles used in the court below will be returned with costs sanction on the responsible party or parties.

39. Where the appeal bundle consists of more than 5 bundles, a core bundle with the requisite number of copies shall be prepared and lodged with the Court as set out below.

40. **The core bundle** must include the judgment under appeal, the notice of appeal, the order appealed against, any other order (if relevant) made in the court below, the respondent's notice (if any) and also those documents put in evidence in the court below which are central to the appeal. Only documents and materials which are necessary to satisfy the above test should be included.

41. **All bundles must be paginated page by page individually and consecutively** starting with page 1 at the top of the bundle and working continuously through to the end. Other numbering systems are unacceptable. **Page number should be placed at the bottom right-hand corner of the page.** Page numbers used in previous hearings should be omitted unless it is necessary to refer to them in the appeal, eg where the judgment subject to appeal made reference to the page numbers of the hearing bundle below. In such a case, the page number of the previous hearing bundle shall be placed at the top right-hand corner of the page to avoid confusion.

42. Where the number of pages in the appeal bundle exceeds 250, the bundle shall be divided into bundles each of approximately 250 pages, with a letter assigned to each bundle, so that bundle A is followed by bundle B and so on. **The page numbering should continue consecutively from the end of one bundle to the next one** so that, for instance, if the page number of bundle A ends with page 250, bundle B shall start with page 251.

43. **There must be an index listing the documents** and giving the page reference for each one of them. For classes of documents such as letters or emails, if they are not of particular importance to the appeal, they can be shown in the index under a general description. However, if a letter or email is of particular importance to the case, it should be separately listed in the index.

44. Where the documents consist of more than one bundle, an index covering all of them should be placed at the beginning of the first bundle. There should not be a separate index for each bundle.

45. **The documents (except for transcripts) should be bound in lever-arch files or binders** and **each file or binder shall not include more than 250 pages.**

46. **Transcript should be put in a separate bundle.** Parties should include in the bundle only such extracts of the transcript which are relevant to the issues in the appeal.

47. Only documents, affidavits, exhibits or part of an exhibit, which were in evidence in the court below and are relevant to any issue in the appeal are to be included.

48. All documents must be legible. Care should be taken to ensure there is a complete legible copy of the document, with no edges cut off in the photocopying process or rendered illegible by the binding. If a document is handwritten and difficult to read, parties should include a typewritten version of the document in the bundle.

49. If there are more than 5 bundles in a case, each of the bundles should also be labelled on the top right-hand corner of the inside cover.

50. Unless there is already leave from the Court to adduce further evidence, new evidence shall not be included in the main hearing bundle for the appeal.

51. Where the Court has directed that an application **for leave to adduce further evidence** is to be listed for hearing at the same time as the substantive appeal, **separate bundles must be lodged** in respect of that application so that the further evidence can readily be distinguished from the evidence which was before the court below.

52. Where the party responsible for preparing bundles is a litigant in person, paragraphs 53 and 54 below shall not apply. He or she must comply with the specific directions of the Registrar CA in the preparation of the bundles. Persistent failure or omission to do so may result in an unless order being made, the further non-compliance of which could result in the dismissal of the appeal.

53. Unless the Court directs otherwise, in addition to a hard copy of the bundles, an electronic copy of the bundles should also be lodged in accordance with the format specified in Annex 1. In cases where there are core bundles as well as non-core bundles, subject to further directions from the Court, only 3 sets of core bundles and 1 set of non-core bundles shall be lodged together with the electronic version of the bundles.

54. Unless the Court directs otherwise, one set of the bundles shall be lodged before an application is made to fix a date for the hearing of the appeal. When the application for the fixing of a date is made, the parties shall jointly lodge a checklist in the form of Annex 2 within 7 days of the filing of the application, setting out the estimated length of the hearing and any unusual listing considerations of the appeal (including whether it should be heard by a bilingual division), and confirming that the bundles have been lodged and there will be no further interlocutory applications before the appeal is heard. Disagreement in respect of any item in the checklist should be explained in the joint checklist. Subject to paragraph 55 below, the listing officer shall give a listing appointment for fixing the hearing date after the filing of the joint checklist. If there is default in relation to the filing of the joint checklist or for any other reasons (e.g. a party indicates that there is an outstanding interlocutory application or that the other party fails to co-operate in the preparation of a joint checklist), the listing officer shall refer the matter to the Registrar CA for further directions.

55. Before a date is fixed for the hearing of the appeal, in cases with more than 5 bundles, the Registrar CA may review the bundles. If the Registrar CA is not satisfied that the bundles are prepared in accordance with these directions or his specific directions, he may return the bundles to the party preparing the bundles and give directions for the bundles to be prepared properly. Where appropriate, the Registrar CA may order the party or solicitor who prepared the returned bundles to bear the costs of such bundles. For these purposes, the Registrar CA may direct the parties to attend before him for directions.

56. In an appeal where a party (whether legally represented or otherwise) refuses or repeatedly fails to comply with directions of the Registrar CA in preparing the hearing bundle, the Registrar CA may direct the other party to prepare the bundle, potentially at the cost of the defaulting party. Alternatively, the case may be referred to a single judge of the Court for considering whether an unless order with the default consequence being dismissal of the appeal should be made.

Sample index to an appeal bundle

CACV XXX / 20X6

IN THE HIGH COURT OF  
HONG KONG SPECIAL ADMINISTRATIVE REGION  
COURT OF APPEAL  
Civil Appeal No. XXX of 20X6  
( On Appeal from HCA XXX of 20X5 )

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BETWEEN

AAA 1<sup>st</sup> Plaintiff  
BBB 2<sup>nd</sup> Plaintiff  
CCC 3<sup>rd</sup> Plaintiff

And

DDD 1<sup>st</sup> Defendant  
EEE 2<sup>nd</sup> Defendant  
FFF 3<sup>rd</sup> Defendant  
GGG 4<sup>th</sup> Defendant

APPEAL BUNDLE

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