

Dispute Resolution Department

Ireland's New Court of Appeal – a dramatic reduction of backlog for appeals

Ireland's New Court of Appeal – A Dramatic Reduction of Backlog for Appeals

The ability of Ireland's new Court of Appeal to deal with urgent matters as the need arises, has been vividly illustrated by the recent appeal by solicitor Mr Brian O'Donnell regarding a High Court order to vacate a residential property in County Dublin.

In this case, which has attracted much media attention, a High Court order requiring the O'Donnell's to vacate a property was granted leave to appeal by the Court of Appeal the following day. The case illustrates the flexibility of the new Court to respond on an expedited basis to matters brought before it.

Reduction in Backlog

The new Court of Appeal has radically reduced the backlog of appeals which had accumulated before the Supreme Court in recent times. Its establishment was motivated by the Irish Courts' obligation, both under the terms of the Constitution and European legislation, to ensure that litigants have appropriate and timely access to the Courts.

Prior to the creation of the Court the large backlog of cases before the Supreme Court had become unsustainable. The sheer volume of appeals before the Supreme Court resulted in some appeals taking over four years to be listed for hearing.

In stark contrast to the length of time it took for appeals from the High Court to the Supreme Court to be heard, it is now possible to have an appeal set down for hearing within approximately three or four months from the date of the Notice of Appeal.

Appeals to the Court of Appeal

The Court first sat on 5 November 2014 and at that time; approximately 268 civil appeals alone (certified as ready to be heard) were transferred to it by the Supreme Court, in addition to a large number of criminal appeals and uncertified civil appeals. The Court of Appeal has been very active since its first sitting and has disposed of a significant number of the 'historic' appeals during this time.

Case Management and Expedited Appeals

To further assist the Court in hearing appeals in a timely and cost effective manner, case management has been introduced for all appeals.

Further, appeals are now divided into two types – expedited appeals and ordinary appeals.

There are currently ten categories of appeals which fall into the expedited category, for example an appeal against the making or refusal of any interlocutory order or an appeal against the making or refusal of any order granting summary judgment.

It is important to note that for those appeals which fall into the expedited appeal category, the process is compulsory and necessitates adhering to quite tight time frames for each stage of the appeal process.

All other appeals are ordinary appeals. Whilst both the expedited appeals and ordinary appeals procedures largely follow the same process, the ordinary appeals procedure provides for an extended time frame.

Continued Role for Supreme Court

The alleviation of the backlog will allow the Supreme Court to focus on matters of general public importance and substantial points of law. One tangible benefit is that the Supreme Court intends to sit at locations around the country and will not be solely confined to the Four Courts in Dublin. For example, on 3 March 2015, it sat in Cork to hear two separate cases concerning the Residential Institutions Redress Board and the Child and Family Agency, the first time the Court has done so since its establishment.

In exceptional circumstances, it may be possible to bypass the Court of Appeal and appeal a ruling of the High Court directly to the Supreme Court.

All decisions of the Court of Appeal in the ordinary course will be final but it is possible to seek permission for a further appeal in respect of the Court of Appeal's decision to the Supreme Court.

In order to appeal directly to the Supreme Court or appeal a decision of the Court of Appeal, permission must first be obtained from the Supreme Court and it will only be granted in circumstances where the High Court decision involves a matter of general public importance and/or the interests of justice require that the Appeal be heard by the Supreme Court.

Implications for Litigants

The Court of Appeal has drastically reduced the length of time it takes for an appeal of a High Court decision to be heard; from the previous timeframe of approximately four years to a matter of months. Depending on one's view point, this can be an extremely positive development or for those litigants who wish to delay the inevitable, it can be a disadvantage.

In any event, given the introduction of case management and a compulsory expedited appeals process, litigants must be mindful of the strict timelines and new appeals process in place.

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