

COURT OF APPEAL
Practice Direction No 2/2019
Form and Content of Skeleton Arguments

1. Introduction

- 1.1 This practice direction is made with the concurrence of the President and Judges of the Court of Appeal.
- 1.2 This practice direction, which is intended to supplement the provisions of the Court of Appeal Rules and Practice Note 1/2015, arises from the court's concern about the form and content, including the length, of skeleton arguments currently being filed in matters before the court or a judge.
- 1.3 This practice direction takes effect on 31 July 2019.
- 1.4 Subject to specific directions given in any particular case, this practice direction applies to skeleton arguments filed in support of or in opposition to all appeals and applications or motions filed in the Court of Appeal.

2. Content

- 2.1 Skeleton arguments should commence with a brief statement of the nature of the matter, a concise statement of the issues which arise in the matter and a brief statement of the facts material to the resolution of those issues. In keeping with rule 2.6(4) of the Court of Appeal Rules, skeleton arguments must:
 - 2.1.1 set out concisely the nature of the party's arguments on each ground;
 - 2.1.2 in the case of a point of law, state the point and cite the principal authorities in support with references to the particular page(s) where the principle concerned is set out; and
 - 2.1.3 in the case of questions of fact, state briefly the basis on which it is contended that the court can interfere with the finding of fact concerned with cross references to the passages in the transcript or notes of evidence which bear on the point.

- 2.2 The general rule is that no more than one principal authority need be cited in support of a particular point of law. If it is proposed to cite more than one supporting authority to make the same point of law, reference should be made to this authority in a footnote.
- 2.3 If it is thought necessary to cite more than one authority, other than in a footnote, in support of a particular point of law there must be a brief statement of the reasons for doing so. This statement must be sufficient to demonstrate the relevance of the authority to the point and that the citation of the authority is necessary for the proper presentation of the argument. However, this statement should not materially add to the length of the skeleton arguments.
- 2.4 The appellant's skeleton arguments, pursuant to rule 2.6(5) of the Court of Appeal Rules, must be accompanied by a written chronology of events relevant to the appeal and cross-referenced to the core bundle or record of appeal.

3. Format

3.1 Skeleton arguments should:

3.1.1 not normally exceed 10 pages in the case of an appeal on the law and 15 pages in a case of an appeal on the facts or mixed law and facts; and

3.1.2 be printed on letter-size paper, using a font size of 12 and line spacing of 1.5.

3.2 In relation to appeals and applications or motions before the court, four (4) copies of the skeleton arguments should be filed for the use of the court.

3.3 For applications scheduled for hearing in chambers, one (1) copy of the skeleton arguments should be filed for the use of the judge of appeal.

3.4 Electronic copies of the skeleton arguments are to be submitted in keeping with Practice Note 1/2015.

4. Written submissions

4.1 Unless otherwise ordered by the case management judge at the case management hearing under rule 2.9 of the Court of Appeal Rules, it is not necessary for a party to file written submissions in addition to skeleton arguments.

- 4.2 In the event that the case management judge does make an order that written submissions should be filed in addition to skeleton arguments, this will be taken into account in the allocation of time for oral argument and may result in a party being asked to stand on the written submissions only.

5. Consequence of non-compliance with this practice direction

- 5.1 Failure to comply with any part of this practice direction, in the absence of good and sufficient reason, may result in the defaulting party being penalised in costs.



C. Dennis Morrison, CD, OJ
President of the Court of Appeal
31 July 2019