



Practice Direction: No. 1 of 2019

Applications for leave to appeal

1. This Practice Direction applies to those cases where an application for leave to appeal is required (Section 94AA of the *Family Law Act 1975* Cth (“the Act”) and sections 102 and 102A of the *Child Support (Assessment) Act 1989*). The facts relied on in support of the application for leave to appeal and which establish an error of principle and/or substantial injustice must be set out in the Notice of Appeal when it is filed (Part C).
2. This Practice Direction will apply to applications for leave to appeal filed after 2 April 2019.
3. After the Draft Appeal Index has been filed a determination will be made by the Court as to whether an application for leave to appeal should be heard at the same time as the appeal itself or whether it should be heard separately from the appeal (Rule 22.12(b)). The Appeals Registrar may seek the parties’ views as to the course to be followed.

Where the application is heard concurrently with the appeal

4. In the event that the application for leave is to be heard in conjunction with the appeal the Rules and Practice Direction applicable to the hearing of appeals will apply. The Summaries of Argument should deal with the issue of leave which has been addressed in Part C of the Notice of Appeal.

Where the application is heard separately

5. If the application for leave is to be heard separately it will not be necessary for appeal books to be filed unless and until leave is granted.

6. In addition to the Notice of Appeal the applicant is to file and serve a Summary of Argument dealing with the issue of leave.
7. The respondent is to file a Summary of Argument in reply.
8. The Summaries of Argument are not to exceed 5 pages without the prior leave of the court.
9. Orders for the filing of the Summary of Argument will be made at the time the parties are advised of the date for the hearing of the leave application.
10. Where appropriate, orders will also be made for the preparation of an Application Book containing any other documents necessary for the disposition of the application.
11. Orders may also be made that the application be deal with by the court without an oral hearing (Section 94AAB of the Act and Rule 22.12(c)).
12. The application will be listed before a Full Court (which may consist of a single judge where the application is in relation to a decision of the Federal Circuit Court of Australia and a direction has been made pursuant to s 94AAA (3)).
13. Absent any direction to the contrary, any oral argument is not to exceed 20 minutes per party.

[Signed in hard copy]

**THE HONOURABLE JUSTICE WILLIAM ALSTERGREN
CHIEF JUSTICE
FAMILY COURT OF AUSTRALIA**

DATE: 3 April 2019