



The Court of Appeal for Bermuda

PRACTICE DIRECTION

ISSUED BY THE PRESIDENT OF THE COURT

A/50

12 October 2026

CIRCULAR NO. 25 OF 2026

TO ALL ATTORNEYS:

PRACTICE DIRECTION ON MODE OF DELIVERY OF COURT OF APPEAL RESERVED JUDGMENTS IN CIVIL AND CRIMINAL APPEALS

Aim

1. The aim of this Practice Direction is to clarify and modernise the practice in relation to the delivery of reserved Court of Appeal judgments in light of changes in international practice in the post-Covid19 digital era.
2. The legal principles which have been taken into account and a summary of the existing practice are set out in the Appendix hereto.

Civil Cases

3. Reserved judgments in civil appeals will generally be delivered remotely by circulation to the parties by email and posting on the Court's website. Delivery in Court will take place where required in the interests of justice, for example where ancillary applications need to be made and/or in cases of public interest.

Criminal Cases

4. Reserved judgments in criminal appeals will generally be delivered at a hearing in Court. Remote delivery will take place where the Court determines that a hand-down hearing is

not required (e.g. where reasons are being delivered after a decision has been delivered in Court or where the hearing itself has taken place remotely).

Dated the 12th day of October 2026



IAN RC KAWALEY
PRESIDENT OF THE COURT OF APPEAL

APPENDIX

The constitutional requirements of open justice and the present legal framework

1. Section 6 (9) of the Constitution provides:

“All proceedings instituted in any court for the determination of the existence or extent of any civil right or obligation, including the announcement of the decision of the court, shall be held in public.”

2. Section 6 (10) permits exceptions to public participation in hearings, but the public pronouncement requirement is expressed in unqualified terms. Section 6 (9) is derived from Article 6 (1) of the European Convention on Human Rights which requires judgments to be “*pronounced in public*”. It has long been recognised that the corresponding Article 6 requirement does not require judgments to be orally read out in court as long as judgments are made available to the public in ways which are appropriate for each case: see e.g. *Sutter-v- Switzerland*, (Application no. 8209/78), European Court of Human Rights, Judgment dated 22 February 1984 at [32]-[33].
3. The Court of Appeal Act 1964 is silent on mode of delivery of judgment in civil and criminal cases. A criminal appellant is entitled to be present for the hearing of their appeal (section 25 (1)), but not for the delivery of judgment (section 25 (2)). Order 2/26 (1) of the Rules of the Court of Appeal provides that the civil “*judgment of the Court shall be pronounced in open court*”, without making express reference to *in camera* hearings. Order 3/30 of the Rules regulates the circumstances in which criminal judgements should be “*pronounced*” by the President and other Justices of the Appeal in a formulaic manner which does not reflect the Court’s recent practice. Order 2/35 provides in relation to civil appeals that the practice of the Court of Appeal in England shall apply to matters “*not expressly provided for*”. The Court of Appeal Civil Division in England and Wales currently delivers reserved judgments remotely unless there is some reason for a delivery hearing under Guidance issued by the Master of the Rolls.
4. The Court of Appeal Criminal Division gives directions for the delivery of reserved judgments at the end of the hearing with the default position being oral delivery in court although publicly funded counsel will not be paid unless their attendance at a hand -down hearing is expressly requested by the Court (CPD 10.9).

Mode of delivery: recent practice

5. The recent practice of the Court in the absence of explicit rules governing mode of delivery of judgments has broadly been as follows:

- (a) all judgments which the Court can deliver at the end of the Session are usually delivered on the last day of the session;
- (b) reserved civil judgments are delivered in Court following in person hearings, but remotely following remote hearings;
- (c) reserved criminal judgments are generally delivered in Court.