STATUTORY RULES OF NORTHERN IRELAND

2006 No. 487

SUPREME COURT, NORTHERN IRELAND

The Criminal Appeal (Trial without jury where danger of jury tampering and Trial by jury of sample counts only) Rules (Northern Ireland) 2006

Made - - - - 30th November 2006

To be laid before Parliament

Coming into operation 8th January 2007

The Northern Ireland Supreme Court Rules Committee makes the following Rules in exercise of the powers conferred by sections 55 and 55A of the Judicature (Northern Ireland) Act 1978(**1**), section 49 of the Criminal Justice Act 2003(**2**) and section 20 of the Domestic Violence Crime and Victims Act 2004(**3**).

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Criminal Appeal (Trial without jury where danger of jury tampering and Trial by jury of sample counts only) Rules (Northern Ireland) 2006 and shall come into operation on 8th January 2007.

(2) In these Rules—

"Court" means the Court of Appeal of Northern Ireland;

"the 2003 Act" means the Criminal Justice Act 2003;

"the 2004 Act" means the Domestic Violence, Crime and Victims Act 2004;

"appeal" means—

(a) an appeal under section 47 of the 2003 Act from—

(i) the refusal by a judge at a hearing mentioned in section 45(2)(b) of an application to which section 45 applies or from an order of a judge at such a hearing under section 44 which is made on the determination of such an application, or

(ii) an order under section 46(3) or (5) of the 2003 Act; or

(**1**) 1978 c. 23 to which the most recent relevant amendments were made by the Constitutional Reform Act 2005 (c. 4)
(**2**) 2003 c. 44
(**3**) 2004 c. 28

(b) an appeal under section 18A of the 2004 Act from the refusal by a judge at a hearing mentioned in section 18(1)(b) of an application under section 17 or from an order of a judge at such a hearing under section 17(2) which is made on the determination of such an application,

and "application for leave to appeal" shall be construed accordingly;

"chief clerk" means the chief clerk of the Crown Court which made the order or ruling which is the subject of the appeal;

"judge of the Crown Court" means the judge of the Crown Court who has conduct of the proceedings;

"proper officer" means the Master (Queen's Bench and Appeals) and includes any other officer of the Supreme Court directed by the Lord Chief Justice to exercise the powers and duties of the Master (Queen's Bench and Appeals).

Forms

2. Any reference in these Rules to a form means a reference to a form set out in the Schedule or a form to the same effect.

Notice of appeal or application for leave to appeal

3.—(1) A notice of appeal (where the judge of the Crown Court has granted leave) or of an application for leave to appeal to the Court shall be given by completing Form 1 and serving it on—

(a) the proper officer;

(b) the chief clerk;

(c) every other party to the proceedings directly affected by the order or ruling which is the subject of the appeal.

(2) The notice of appeal or application for leave to appeal shall be served within 7 days of the date of the order or ruling which is the subject of the appeal.

(3) The Court may, on application of the appellant, extend the time within which notice of appeal or of an application for leave to appeal shall be given either before or after that period expires.

(4) The notice of appeal or application for leave to appeal shall be accompanied by any documents necessary for the proper determination of the appeal or application for leave to appeal including—

(a) a transcript of the ruling or a copy of the order which is the subject of the appeal; and

(b) any skeleton arguments or submissions provided to the judge of the Crown Court by the parties in respect of the issue which gave rise to the ruling or order.

(5) The notice of appeal or application for leave to appeal shall be accompanied by Form 2 for a respondent to complete if he wishes to oppose the appeal or the application for leave to appeal.

Respondent's notice

4.—(1) A respondent may oppose the appeal or application for leave to appeal by serving a response in Form 2 on—

(a) the proper officer;

(b) the chief clerk; and

(c) the appellant and any other party to the proceedings directly affected by the order or ruling.

(2) Subject to paragraph (3), the respondent shall serve the response within 7 days of the date on which the notice of appeal or application for leave to appeal was served on him.

(3) The Court may, on application of the respondent, extend the time within which the response shall be served either before or after that period expires.

Persons in custody

5.—(1) A person in custody is not entitled to be present in person at the hearing of an appeal or application for leave to appeal, unless the Court so directs.

(2) A person in custody will be entitled to participate in such a hearing, without a direction of the Court, by live television link.

(3) In directing whether a person in custody shall be present in person under paragraph (1) the Court shall take into account—

(a) any representations made to it by the parties to the proceedings;

(b) the availability and reliability of live television link facilities; and

(c) any practical difficulties with the physical attendance of the person.

(4) In this rule, "live television link" means an arrangement whereby a person, while absent from the courtroom, is able to see and hear the Court and to be seen and heard by it.

Supply of documentary and other exhibits

6.—(1) The proper officer shall, on request, supply to any party to the proceedings copies of documents or other exhibits required for the appeal or application for leave to appeal and in such case may make charges in accordance with scales and charges fixed for the time being by the Treasury.

(2) The proper officer shall, on request, make arrangements for any party to the proceedings to inspect any document or other exhibit required for the appeal.

(3) This rule shall not apply to the supply of transcripts of any proceedings or part thereof.

Abandonment of proceedings

7. An appeal or an application for leave to appeal (including an application for leave to appeal the House of Lords) may be abandoned before the hearing of the appeal or application by serving on the proper officer notice thereof in Form 3.

Applications which may be determined by the proper officer

8.—(1) The following applications may be determined by the proper officer, namely—

(a) an application to extend the time for service of the notice of appeal or of an application for leave to appeal under rule 3(3); and

(b) an application to extend the time for service of the respondent's notice under rule 4(3).

(2) As soon as practicable after the proper officer determines an application set out in paragraph (1), he shall serve notice of his decision in Form 4 on—

(a) the appellant;

(b) the respondent

(c) any other party to the proceedings directly affected by the order or ruling; and

(d) the chief clerk.

(3) Where the proper officer has refused an application referred to in paragraph (1), the party making the application may have the application determined by a single judge of the Court by serving notice of renewal in Form 4 on the proper officer within 7 days, or such longer period as the single judge of the Court may fix, from the date on which notice of the refusal was served on him.

Applications which may be determined by a single judge

9.—(1) The following applications may be determined by a single judge of the Court—

(a) an application for leave to appeal;

(b) an application to extend the time for service of the notice of appeal or of an application for leave to appeal under rule 3(3);

(c) an application to extend the time for service of the respondent's notice under rule 4(3);

(d) an application for a direction that a person in custody be present in person at the hearing of the appeal or application for leave to appeal under rule 5(1).

(2) Where a single judge of the Court determines an application referred to in paragraph (1), the proper officer shall, as soon as practicable, serve notice of the Judge's decision in Form 4 on—

(a) the appellant;

(b) the respondent;

(c) any other party to the proceedings directly affected by the order or ruling; and

(d) the chief clerk.

Determination by full Court

10.—(1) Where a single judge of the Court has refused an application referred to in rule 9, the party making the application may have the application determined by the Court by serving a notice of renewal in Form 4 on the proper officer within seven days from the date on which notice of the refusal was served on him, or such longer period as the single judge of the Court may fix.

(2) If an application under paragraph (1) is not served within the prescribed period, or such extended period as the single judge of the Court has allowed, the application shall be treated as having been refused by the Court.

Assistance from the Crown Court

11. The proper officer may require the chief clerk to furnish the Court with any assistance or information which it may require for the purposes of exercising its jurisdiction under Part 7 of the 2003 Act, sections 17 to 18B of the 2004 Act, or these Rules.

Notice of hearing and determination of the Court

12.—(1) The proper officer shall, as far in advance as reasonably practicable, give notice of the date fixed for the hearing by the Court of an appeal or application to—

(a) the appellant;

(b) the respondent;

(c) any other party to the proceedings directly affected by the order or ruling; and

(d) the chief clerk

(2) As soon as reasonably practicable after the determination of an appeal or application for leave to appeal, the proper officer shall serve notice of the decision of the Court on those parties listed in paragraph (1).

Appeal to the House of Lords

13. An application to the Court for leave to appeal to the House of Lords shall either be made—

(a) orally, immediately after the decision of the Court from which an appeal lies to the House of Lords; or

(b) by serving notice in writing which shall include the grounds of the application on the proper officer within 7 days of the decision of the Court.

Service

14. Any notice or other document which is required by these Rules to be given to any person shall be served in accordance with Rule 30 of the Criminal Appeal (Northern Ireland) Rules 1968(**4**).

Brian Kerr
Paul Girvan
Patrick Coghlin
Mark Horner
Bernard McCloskey
Tony Caher
Dated 8th November 2006 *Caroline McGonagle*

Signed by the authority of the Lord Chancellor
In exercise of the powers conferred by section 55A (3) of the Judicature (Northern Ireland) Act 1978, I allow these Rules.

Bridget Prentice
Parliamentary Under Secretary of State
Dated 30th November 2006 Department for Constitutional Affairs

(**4**) S.R. 1968 No. 218