STATUTORY RULES OF NORTHERN IRELAND

2005 No. 157

SUPREME COURT, NORTHERN IRELAND

The Criminal Appeal (Amendment) (Northern Ireland) Rules 2005

Made - - - -	*21st March 2005*
To be laid before Parliament	
Coming into operation	*18th April 2005*

We, the Northern Ireland Supreme Court Rules Committee, being the authority having for the time being power under section 55 of the Judicature (Northern Ireland) Act 1978(**1**) to make, amend or revoke rules regulating the practice and procedure of the Supreme Court of Judicature of Northern Ireland, hereby with the concurrence of the Lord Chancellor, exercise those powers, the powers under Articles 16 and 35 of the Criminal Justice (Evidence) (Northern Ireland) Order 2004(**2**), and all other powers enabling us in that behalf as follows:

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Criminal Appeal (Amendment) (Northern Ireland) Rules 2005 and shall come into operation on 18th April 2005.

(2) In these Rules, "the principal Rules" shall mean the Criminal Appeal (Northern Ireland) Rules 1968(**3**), and a reference to a rule or a Form by number means the rule or Form so numbered in the principal Rules.

Amendment to the principal Rules

2.—(1) Rule 2(1) shall be amended by inserting after the definition of the "proper officer", the following definition –

""the 2004 Order" means the Criminal Justice (Evidence) (Northern Ireland) Order 2004;".

(2) Rule 7 shall be amended as follows –

(a) by inserting after paragraph (2), the following new paragraph –

(**1**) 1978 c. 23
(**2**) S.I. 2004/1501 (N.I. 10)
(**3**) S.R. & O. (N.I.) 1968 No. 218; to which the most recent relevant amendment was made by S.R. 2000 No. 387 and S.R. 2001 No. 250

"(2A) Form 7 need not be submitted in respect of any particular witness or evidence where the appellant has made an application under rule 7A or 7B in respect of that witness or evidence."; and

(b) in paragraph (4), by deleting the words "or is under the sentence of death".

(3) After rule 7, there shall be inserted the following new rules –

"**Procedure for the admission of evidence of bad character**

7A.—(1) A party who wants to adduce evidence of a non-appellant's bad character or to cross examine a witness with a view to eliciting such evidence, under Article 5 of the 2004 Order, shall give notice which shall be in Form 7A.

(2) Notice under paragraph (1) shall be served on the proper officer and every other party to the appeal within 28 days from the date on which –

(a) leave to appeal is given, where leave is required; or

(b) notice of appeal is given, in any other case.

(3) Any party who wishes to oppose the application under paragraph (1) shall, within 14 days of the date that notice of the application was served on him, notify the proper officer and every other party to the appeal, in writing, of his opposition, giving reasons for it.

(4) A party who wants to adduce evidence of an appellant's bad character or to cross examine a witness with a view to eliciting such evidence, under Article 6 of the 2004 Order, shall give notice which shall be in Form 7B.

(5) Notice under paragraph (4) shall be served on the proper officer and every other party to the appeal within 28 days from the date on which –

(a) leave to appeal is given, where leave is required; or

(b) notice of appeal is given, in any other case.

(6) An application by an appellant to exclude bad character evidence shall be in Form 7C and shall be served on the proper officer and on every other party to the appeal within 7 days from the date on which notice under paragraph (4) was served on him.

(7) An appellant who is entitled to have notice served on him under this rule may waive his entitlement by so informing the Court and the party who would have served the notice.

(8) The Court may, if it considers that it is in the interests of justice to do so, –

(a) allow a notice or application required under this rule to be given in a different form or orally; or

(b) abridge or extend the time for service of a notice or application required under this rule, either before or after that period expires.

Procedure for the admission of hearsay evidence

7B.—(1) This rule shall apply where a party wishes to adduce evidence on one or more of the grounds set out in Article 18(1)(a) to (d) of the 2004 Order and in this rule, such evidence is referred to as "hearsay evidence".

(2) An appellant who wishes to adduce hearsay evidence to support a ground of appeal contained in his notice of appeal under rule 5(2)(a) shall give notice in Form 7D.

(3) Notice under paragraph (2) shall be served on the proper officer at the same time as the appellant serves the notice of appeal or notice of application for leave to appeal under rule 5(1).

(4) The proper officer shall send a copy of any notice served on him under paragraph (3) to the Director of Public Prosecutions at the same time as he sends to him a copy of the notice received under rule 5.

(5) A party who wishes to adduce hearsay evidence in any other circumstances shall serve notice in Form 7D on the proper officer and every other party to the appeal within 28 days from the date on which –

(a) leave to appeal is given, where leave is required; or

(b) notice of appeal is given, in any other case.

(6) Any party who wishes to oppose the admission of hearsay evidence under paragraph (2) or (5) shall, within 14 days of the date notice was served on him, notify the proper officer and every other party to the appeal, in Form 7E, of his opposition.

(7) A party who is entitled to have notice served on him under this rule may waive his entitlement by so informing the Court and the party who would have served the notice.

(8) The Court may, if it considers that it is in the interests of justice to do so, –

(a) dispense with the requirement to give notice of intention to adduce hearsay evidence;

(b) allow a notice required under this rule to be given in a different form, or orally; or

(c) abridge or extend the time for service of a notice required under this rule, either before or after that period expires."

(4) Rule 24(2) shall be amended by deleting the words "or capital murder".

(5) Rule 32(1) shall be amended by substituting for the words "shall either be made orally" to the end, the following –

"shall either be made –

(i) orally immediately after the decision of the Court from which an appeal lies to the House of Lords or, immediately after the giving of reasons by such Court if later; or

(ii) by serving Form 19 on the proper officer within 28 days of the decision of the Court or, of the giving of reasons by such Court if later.".

(6) Rule 33 shall be revoked.

(7) The Schedule to the principal Rules shall be amended as follows –

(a) in Form 2, in Note 1, by deleting the words "except in the case of a conviction involving a sentence of death";

(b) in Form 6,

(i) in Note 1(d), by deleting the words "including a sentence of death on the appellant"; and

(ii) in Note 4, by deleting the words "involving sentence of death or";

(c) in Form 19, in Note 1,

(i) by substituting for the word "fourteen" the words "twenty eight";

(ii) by inserting after the words "Court of Criminal Appeal" the words "or, if later, of the date of the giving of reasons by the Court.".

(d) by inserting after Form 7, the new Forms 7A to 7E in the Schedule to these Rules.

Brian Kerr
J. M. Nicholson
Anthony Campbell
Paul Girvan
Patrick Coghlin
Mark Horner
Bernard McCloskey
Tony Caher
Dated 14th March 2005 *Caroline A. McGonagle*

Signed by authority of the Lord Chancellor
I concur,

Baroness Ashton of Upholland
Parliamentary Under-Secretary of State,
Dated 21st March 2005 Department for Constitutional Affairs

SCHEDULE Rule 2(7)

FORMS TO BE INSERTED IN THE CRIMINAL APPEAL (NORTHERN IRELAND) RULES 1968

FORM 7AAPPLICATION FOR LEAVE TO ADDUCE EVIDENCE OF NON-APPELLANT'S BAD CHARACTER(Article 5 of the Criminal Justice (Evidence) (Northern Ireland) Order 2004)

Rule 7A(1)

To the Master (Queen's Bench and Appeals) (the proper officer),
Appeals and Lists Office,
Royal Courts of Justice,
Belfast
BT1 3JF

Details required	*Notes*
Details of applicant	
Name:	
Address:	
Case details	
Name of Crown Court where tried:	
Name of appellant(s):	
Details of indictment:	Details of indictment should include the Bill number and the offences on the indictment which are the subject of the appeal.
Date leave to appeal was given, where leave is required, or notice of appeal is given in any other case:	
Details of the application	
Please provide the following details:	
• the particulars of the bad character evidence including how it is to be adduced or elicited at the appeal (including the names of the relevant non-appellant and other relevant witnesses); and	*Article 5 of the 2004 Order.*
• the grounds for the admission of evidence of a non-appellant's bad character under Article 5 of the 2004 Order.	*Please attach any relevant documentation.*