STATUTORY RULES OF NORTHERN IRELAND

2003 No. 71

SUPREME COURT, NORTHERN IRELAND
CROWN COURT

The Crown Court (Amendment) Rules (Northern Ireland) 2003

Made - - - - 12th February 2003

To be laid before Parliament

Coming into operation 24th March 2003

We, the Crown Court Rules Committee, in exercise of the powers conferred upon us by section 52(1) of the Judicature (Northern Ireland) Act 1978(**1**), and sections 239, 351(2), 362(2), 369(2) and 375(1) of the Proceeds of Crime Act 2002(**2**), paragraph 5(1) of Schedule 6A to Terrorism Act 2000(**3**) and of all the other powers enabling us in that behalf, hereby with the concurrence of the Lord Chancellor, make the following Rules: –

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Crown Court (Amendment) Rules (Northern Ireland) 2003 and, subject to paragraph (2) shall come into operation on 24th March 2003.

(2) Rule 3(d) shall come into operation on the same day as section 156 of the Proceeds of Crime Act 2002 comes into force.

2. In these Rules, references to "the principal Rules" shall mean the Crown Court Rules (Northern Ireland) 1979(**4**) and a reference to a rule by number shall mean a rule so numbered in the principal Rules.

Amendment to the principal Rules

3.—(1) The principal Rules shall be amended as follows –

(a) by substituting in rule 34 for paragraph (v) the following new paragraph –

"(v) be served on the chief clerk and, subject to rule 36A, at the same time on the accused, together with any accompanying documents.";

(b) by substituting for rule 36 the following new rule –

(**1**) 1978 c. 28
(**2**) 2002 c. 29
(**3**) 2000 c. 11
(**4**) S.R. 1979 No. 90

"**36.**—(1) The accused may, within fourteen days of service of the application under rule 34, serve on the chief clerk –

(a) a written submission giving his reasons for opposing the application; or

(b) an application in writing for leave to make oral submissions, and shall at the same time, serve a copy on the opposite party to the proceedings.

(2) An application for leave under paragraph (1)(b) shall be determined by a judge who may direct a hearing and the chief clerk shall notify the parties of the time and place of any such hearing.

(3) The chief clerk shall notify all parties of the decision of the court on the application for leave to make oral submissions and, where leave is granted, the notification shall state the time and place at which the submissions will be made.

(4) Notwithstanding paragraph (1), the judge may, if he thinks fit before deciding the application –

(a) require written or oral submissions from the applicant or the accused;

(b) require the attendance of the applicant, the accused or any of the witnesses.

(5) Any application for leave to respond orally or in writing to written submissions made under paragraphs (1) or (4) shall be made in writing, specifying the grounds for the application, and served on the chief clerk within seven days of service of the written submission and at the same time, a copy thereof shall be served on the opposite party to the proceedings.

(6) An application for leave under paragraph (5) shall be determined by a judge who may direct a hearing and the chief clerk shall notify the parties of the time and place of any such hearing.

(7) The chief clerk shall notify all parties of the decision of the court on an application made under paragraph (5) and –

(a) where leave is granted for oral submissions to be made, the notification shall state the time and place at which the submissions will be made;

(b) where leave is granted for written submissions to be made, the notification shall state the period within which the written submission shall be lodged with the chief clerk and served on the opposite party.

(8) Where oral submissions are made under paragraphs (1) or (4)(a) or the applicant, accused or any of the witnesses attends under paragraph (4)(b) –

(a) the attendance before the judge shall not be in open court;

(b) unless the judge gives a direction to the contrary, the applicant or the accused may attend by a solicitor or by counsel.

(9) Where the application under rule 34 for leave to prefer an indictment is determined otherwise than at an oral hearing, the chief clerk shall forthwith notify the parties of the judge's decision.

(10) The period of 14 days in paragraph (1) or the period of seven days in paragraph (5) or the time period specified in a notice given under paragraph (7)(b) may be extended, either before or after it expires, on an application made in writing specifying the grounds for the application and served on the chief clerk and a copy of the application shall be served by the applicant on every other party to the proceedings.

(11) An application for extension of time under paragraph (10) shall be determined by a judge who may direct a hearing and the chief clerk shall notify the parties of the time and place of any such hearing.

(12) The chief clerk shall notify all the parties of the decision of the court on the application for extension of time.";

(c) by inserting, after rule 36, the following new rule –

"**36A.**—(1) An application to the judge for leave to dispense with service under rule 34 on the accused shall be made in writing and shall be served on the chief clerk.

(2) Any application made under paragraph (1) shall specify the grounds for the application.";

(d) by adding after Part X the new Part XI set out in the Schedule to these Rules.

R. D. Carswell
J. M. Nicholson
A. R. Hart
J. Wilson
Paul Copeland
Dated 5th February 2003. *Barra McGrory*

I concur

Dated 12th February 2003. *Irvine of Lairg,* C.

SCHEDULE Rule 3(d)

"PART XI

APPLICATIONS UNDER SCHEDULE 6A TO THE TERRORISM ACT 2000 AND THE PROCEEDS OF CRIME ACT 2002

Interpretation

74. In this Part of these Rules: –

"the Act" means the Proceeds of Crime Act 2002 and a reference to a section by number is a reference to the section so numbered in the Act;

expressions which are defined in the Act have the same meaning as in the Act;

unless the context otherwise requires "the chief clerk" means the chief clerk of the Court at the place where the defendant was –

(a) committed for trial; or

(b) committed to under section 218,

and includes such other member of the Court Service as may be authorised to act on his behalf for the purpose in question;

"county court division" means a county court division specified under Article 3(1) of the County Courts (Northern Ireland) Order 1980.

Agency staff: pseudonyms

75. Where a member of staff of the Assets Recovery Agency in relation to whom a direction under section 449 has effect gives written or oral evidence under the Act, a copy of the certificate issued under section 449(3) shall be lodged with the chief clerk.

Time for payment

76.—(1) Notice of an application under section 161 shall be made to the chief clerk in writing.

(2) On receiving a notice under paragraph (1) the chief clerk shall –

(a) forthwith send a copy to the prosecutor or, if the Director was appointed as the enforcement authority under section 184, the Director; and

(b) notify the parties of the date and time of the hearing.

Postponement

77.—(1) Notice of an application under section 164(7) shall be made to the chief clerk in writing and at the same time a copy served on the opposite party who shall within 28 days notify the applicant and the chief clerk, in writing, whether or not he proposes to oppose the application, giving the reason for any such opposition.

(2) After the expiry of the period referred to in paragraph (1), the Court shall determine whether the application is to be dealt with –

(a) without a hearing, or

(b) at a hearing at which the parties may be represented,

and the chief clerk shall inform the parties accordingly.

(3) Where the Court makes an order pursuant to an application under section 164(7), the chief clerk shall forthwith send a copy of the order to the applicant and to the opposite party.

Statements in connection with the making of confiscation orders

78.—(1) Where the prosecutor or the Director is required or proposes to give to the Court a statement under section 166 or section 168, he shall serve it within such time as the Court may direct on the chief clerk and at the same time serve a copy thereof on the defendant.

(2) Any statement given to the court by the prosecutor or the Director under section 166 or 168 shall include the following particulars –

(a) the name of the defendant and the Crown Court case number;

(b) the name of the person by whom the statement is given, and if different, the name of the person by whom it is made;

(c) the date on which the conviction for the offence occurred; and

(d) the matters relied on in support of any allegation made or matter indicated.

79. Where under section 167 the defendant is ordered to indicate the extent to which he accepts any allegation contained within a statement given by the prosecutor or the Director, unless the Court directs otherwise, he shall indicate so in writing to the chief clerk, and at the same time serve a copy on the opposite party.

80. Where under section 168 the defendant is ordered by the Court to provide information, unless the Court directs otherwise, the information shall be provided in writing to the chief clerk, and at the same time served on the opposite party.

Reconsideration of case or benefit

81.—(1) Notice of an application under section 169, section 170 or section 171 shall be made in writing to the chief clerk.

(2) The notice under paragraph (1) shall –

(a) state the name and address of the defendant and the Crown Court case number;

(b) give the date on which any relevant conviction occurred;

(c) give the date on which any relevant confiscation order was made, or as the case may be, varied;

(d) give full particulars of the matters relied upon in support of the application.

(3) On receiving a notice under paragraph (1) the chief clerk shall –

(a) forthwith send a copy to the defendant; and

(b) notify the parties of the date and place of the hearing.

(4) Where the Court makes an order pursuant to an application under section 169, section 170 or section 171, the chief clerk shall forthwith send a copy of the order to the applicant and to the defendant.

Reconsideration of available amount

82.—(1) Notice of an application under section 172 shall be made in writing to the chief clerk.

(2) The notice under paragraph (1) shall –

(a) state the name and address of the defendant and the Crown Court case number;

(b) give the date on which any relevant conviction occurred;