STATUTORY RULES OF NORTHERN IRELAND

1999 No. 492

CRIMINAL PROCEDURE, NORTHERN IRELAND

The Criminal Appeal (Devolution Issues) Rules (Northern Ireland) 1999

To be laid before Parliament

Made - - - -	*10th December 1999*
Coming into operation	*17th January 2000*

We, the Northern Ireland Supreme Court Rules Committee, in exercise of the powers conferred on us by 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 as follows:

Citation and commencement

1. These Rules may be cited as the Criminal Appeal (Devolution Issues) Rules (Northern Ireland) 1999 and shall come into operation on 17th January 2000.

Interpretation

2.—(1) In these Rules—

"the appropriate Minister or department" means

(a) the First Minister and the deputy First Minister acting jointly; or

(b) where they, acting jointly, determine under paragraph 36 of Schedule 10 that any power conferred on them by that Schedule in relation to any specified proceedings may be exercised by a specified Minister or Northern Ireland department, the Minister or department; and for this purpose "specified" means specified in a determination under that paragraph;

"devolution issue" has the same meaning as in Schedule 10;

"the Judicial Committee" means the Judicial Committee of the Privy Council;

"Schedule 10" means Schedule 10 to the Northern Ireland Act 1998.

(**1**) 1978 c. 23

a reference to an appeal includes a reference to an application for leave to appeal, and references to an appellant and to a notice of appeal shall be construed accordingly; and

a reference to a form by number is a reference to the form of that number in the Schedule to these Rules.

Raising of devolution issues on appeal

3.—(1) Where a party to an appeal proposes to raise a devolution issue, he shall raise it either—

(a) in the notice of appeal; or

(b) in a notice in Form 1 which shall be filed in the Central Office and served on each of the other parties to the appeal,

setting out the facts and circumstances and points of law on the basis of which it is alleged that the devolution issue arises in sufficient detail to enable the Court to determine whether a devolution issue arises in the proceedings.

(2) Where a devolution issue has been raised on an appeal in accordance with paragraph (1) the proper officer shall as soon as practicable cause the matter to be drawn to the attention of the court for the making of an order under paragraph 5 of Schedule 10 requiring notice of the devolution issue to be given to the Attorney General, the Attorney General for Northern Ireland and the appropriate Minister or department.

(3) If the Attorney General, the Attorney General for Northern Ireland or the appropriate Minister or department wishes to become a party to the proceedings so far as relates to the devolution issue he or it shall, within 7 days after receipt of the notice, or such longer period as the Court may direct, give notice in Form 2 to the Master (Queen's Bench and Appeals); and a copy of such notice shall be sent to each of the other parties.

Reference of devolution issue to Judicial Committee

4.—(1) Where the Court—

(a) decides in accordance with paragraph 9 of Schedule 10 to refer a devolution issue to the Judicial Committee; or

(b) is required in accordance with paragraph 33 of Schedule 10 by the Attorney General, the Attorney General for Northern Ireland or the appropriate Minister or department to refer a devolution issue to the Judicial Committee,

it shall make an order referring the issue to the Judicial Committee.

(2) The Court may give directions to the parties as to the manner and form in which the schedule to the order is to be drafted.

(3) When the reference has been settled by the Court, the Master (Queen's Bench and Appeals) shall send it to the Registrar of the Judicial Committee.

Adjournment of proceedings pending reference of devolution issue

5.—(1) The proceedings in which an order is made under rule 3 referring the devolution issue to the Judicial Committee shall, unless the Court otherwise orders, be adjourned until the Judicial Committee has determined the issue referred to it.

(2) Nothing in paragraph (1) shall be taken as preventing the Court from deciding any preliminary or incidental question which may arise in the proceedings after an order referring the devolution issue is made and before the Court has received the determination of the Judicial Committee.