STATUTORY RULES OF NORTHERN IRELAND

1997 No. 265

SUPREME COURT, NORTHERN IRELAND PROCEDURE

The Rules of the Supreme Court (Northern Ireland) (Amendment No. 2) 1997

Made - - - -	*2nd June 1997*
To be laid before Parliament	
Coming into operation	*30th June 1997*

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 as follows:—

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Rules of the Supreme Court (Northern Ireland) (Amendment No. 2) 1997 and shall come into operation on 30th June 1997.

(2) In these Rules—

"the principal rules" means the Rules of the Supreme Court (Northern Ireland) 1980(**2**) and an Order referred to by number or an Appendix referred to by letter means the Order so numbered and the Appendix so lettered in the principal rules.

Arrangement of Orders

2. The Arrangement of Orders at the beginning of the principal rules shall be amended by adding at the end—

"**118.** The Criminal Procedure and Investigations Act 1996(**3**)

Business of the Supreme Court

3. Order 1 rule 11 shall be amended by adding after paragraph (*h*), the following new paragraph—

(**1**) 1978 c. 23
(**2**) S.R. 1980 No. 346; to which the most recent relevant amendments were made by S.R. 1992 No. 2 and S.R. 1996 No. 282
(**3**) 1996 c. 25; as modified in its application to Northern Ireland by Schedule 4 to the Act.

"(i) applications under section 54(3) of the Criminal Procedure and Investigations Act 1996.".

Contents of affidavit

4. Order 41 rule 5(1) shall be amended by inserting after sub-paragraph (*g*), the following new sub-paragraph—

"(h) Order 118 rule 5(2), rule 7, rule 8(1) and rule 9;".

Amendment of the principal rules

5.—(1) After Order 117 there shall be inserted the Order set out in Schedule 1 to these Rules.

(2) For Form No. 38 in Appendix A there shall be substituted the Form set out in Schedule 2 to these Rules.

R. D. Carswell
John MacDermott
Anthony Campbell
Brian Kerr
Hugh P. Kennedy
R. E. Weatherup
Tony Caher

Dated 15th May 1997.

I concur

Dated 2nd June 1997. *Irvine of Lairg,* C.

SCHEDULE 1 Rule 5(1)

Order 118

THE CRIMINAL PROCEDURE AND INVESTIGATIONS ACT 1996

Application

1. This Order shall apply in relation to acquittals in respect of offences alleged to be committed on or after 30th June 1997.

Interpretation

2. In this Order—

"the Act" means the Criminal Procedure and Investigations Act 1996(**4**);

"acquitted person" means a person whose acquittal of an offence is the subject of a certification under section 54(2) of the Act and "acquittal" means the acquittal of that person of that offence;

"conviction" means the conviction which occasioned a certification under section 54(2) of the Act;

"deponent" means a deponent to an affidavit filed under rule 5, 7, 8 or 9;

"magistrates' court" has the same meaning as in Article 2 of the Magistrates' Courts (Northern Ireland) Order 1981(**5**);

"prosecution" means the individual or body which acted as the prosecution in the proceedings which led to the acquittal;

"record of court proceedings" means a transcript of the evidence in the proceedings which led to the conviction for the administration of justice offence referred to in section 54(1)(*b*) of the Act or, as the case may be, the proceedings which led to the acquittal.

Exercise of jurisdiction

3. The jurisdiction of the High Court under section 54(3) of the Act shall be exercised, subject to rule 10(11), by a judge in chambers.

Time limit for making application

4. An application under section 54(3) of the Act shall be made not later than 28 days after—

(a) the expiry of the period allowed for appealing (whether by case stated or otherwise), or making an application for leave to appeal, against the conviction referred to in section 54(1)(*b*) of the Act; or

(b) where notice of appeal or application for leave to appeal against the conviction is given, the determination of the appeal or application for leave to appeal and, for this purpose, "determination" includes abandonment (within the meaning of rule 16 of the Criminal Appeal Rules (Northern Ireland) 1968(**6**) or, as the case may be, Article 150 of the Magistrates' Courts (Northern Ireland) Order 1981(**7**)).

(**4**) 1996 c. 25; as modified in its application to Northern Ireland by Schedule 4 to the Act
(**5**) S.I.1981/1675 (N.I. 26)
(**6**) S.R. 1968 No. 218; to which there are amendments not relevant to these Rules
(**7**) S.I. 1981/1675 (N.I. 26)

Application

5.—(1) An application by the prosecution under section 54(3) of the Act shall be commenced by originating motion.

(2) The application shall be supported by an affidavit which deals with the conditions in section 55(1), (2) and (4) of the Act and which exhibits—

(a) any relevant documents (which may include a copy of any record of court proceedings); and

(b) a copy of the certification under section 54(2).

Notice to the acquitted person

6.—(1) The prosecution shall serve the notice of motion along with any supporting affidavit on the acquitted person within 4 days of issue of the application and at the same time shall also serve a notice—

(a) specifying the date on which the notice of motion was issued; and

(b) informing the acquitted person that—

(i) the result of the application may be the making of an order by the High Court quashing the acquittal, and

(ii) if he wishes to respond to the application he must within 28 days of the date of service on him of the notice, file in the Central Office any affidavit on which he intends to rely.

(2) Order 10 rule 1(3) shall not apply in relation to any notice of motion served in accordance with paragraph (1).

Affidavit of service on an acquitted person

7. The prosecution shall, as soon as practicable after serving the documents referred to in rule 6, file in the Central Office an affidavit of service which exhibits both a copy of the notice of motion and a copy of the accompanying notice required to be served with the notice of motion.

Response of acquitted person

8.—(1) If the acquitted person wishes to respond to the application, he shall, within 28 days of service on him under rule 6, file in the Central Office an affidavit which—

(a) deals with the conditions in section 55(1), (2) and (4) of the Act; and

(b) exhibits any relevant documents (which may include a copy of any record of court proceedings).

(2) The acquitted person shall, within 4 days of the filing of the documents mentioned in paragraph (1), serve a copy of them on the prosecution.

Evidence

9.—(1) An affidavit filed under rule 5, 7, 8 or this rule may contain statements of information or belief with the sources and grounds thereof.

(2) The prosecution may, not later than 10 days after expiry of the period allowed under rule 8(1), apply ex parte for an order granting leave to file further affidavit evidence.

(3) If the Court grants leave, the order shall specify a period within which further affidavit evidence or records are to be filed, and the Central Office shall serve a copy of the order on the prosecution and on the acquitted person.