1989 No. 301

CRIMINAL PROCEDURE, NORTHERN IRELAND

The Criminal Appeal (Serious Fraud) Rules (Northern Ireland) 1989

Made . . . . . *25th July 1989*

Coming into operation . . *1st September 1989*

To be laid before Parliament

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(**a**) 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 and all other powers enabling us in that behalf as follows:

Citation and commencement

1.—(1) These Rules may be cited as the Criminal Appeal (Serious Fraud) Rules (Northern Ireland) 1989 and shall come into operation on 1st September 1989.

Interpretation

2.—(1) In these Rules, unless the context otherwise requires—

"the Act of 1980" means the Criminal Appeal (Northern Ireland) Act 1980(**b**);

"the 1988 Order" means the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988(**c**);

"appellant" means an appellant under Article 8(11) of the 1988 Order including a person who has given notice of application for leave to appeal;

"the Court" means the Court of Appeal;

"the principal Rules" means the Criminal Appeal (Northern Ireland) Rules 1968(**d**);

"Master" means the Master (Queen's Bench and Appeals);

"respondent" means a party in whose favour is made the order or ruling, or part thereof, appealed against by the appellant.

(2) In reckoning any period of time for the purposes of these Rules, where, apart from this paragraph, the period in question, being a period of 7

(**a**) 1978 c. 23
(**b**) 1980 c. 47
(**c**) S.I.1988/1846 (N.I. 16)
(**d**) S.R.1968 No. 218

days or less, would include a Saturday, Sunday or any public holiday, that day shall be excluded.

(3) In these Rules, any reference to a Form by number is a reference to the Form so numbered in the Schedule to these Rules.

(4) The Interpretation Act (Northern Ireland) 1954(**a**) shall apply to these Rules as it applies to a Measure of the Northern Ireland Assembly.

(5) Any reference in these Rules to a rule is a reference to a rule contained in these Rules.

Notice of appeal and of application for leave to appeal

3.—(1) An appellant shall within seven days from the order or ruling complained of serve notice of appeal therefrom or, as the case may be, of an application to the Court for leave to appeal on—

(*a*) the Master;

(*b*) the chief clerk of the Crown Court; and

(*c*) all parties to the preparatory hearing directly affected by the said order or ruling.

(2) The time for giving notice under paragraph (1) above may be extended, before or after it expires, by the Court.

(3) A notice of appeal or of an application for leave to appeal shall be in Form I.

(4) If notice in writing of an application for leave to appeal was served on the Crown Court, a copy thereof shall accompany the notice of appeal or, as the case may be, of an application for leave to appeal required under paragraph (1) above to be served on the Master.

(5) Notice of appeal or of an application for leave to appeal may be given either in respect of the whole or any part of the order to which it relates and shall—

(*a*) specify any question of law in respect of which the appeal is brought and, where appropriate, such facts of the case as are necessary for its proper consideration;

(*b*) summarise the arguments intented to be put to the Court; and

(*c*) specify any authorities intended to be cited.

(6) Where the judge of the Crown Court has given leave to appeal the notice of appeal shall state that fact and specify the grounds on which leave was given.

(7) Notice of appeal or an application for leave to appeal shall be accompanied by any documents or other things (or copies thereof) necessary for the proper determination of the appeal or application.

Respondent's notice

4.—(1) Upon receiving notice of appeal or of an application for leave to appeal, the respondent, if he desires to oppose the appeal, shall, within seven days of receipt of the notice, serve a notice in Form 2 on the Master,—

(**a**) 1954 c. 33 (N.I.)

(*a*) stating the date on which the appellant's notice was received by the respondent;

(*b*) summarising his response to the arguments of the appellant; and

(*c*) specifying the authorities which he intends to cite,

and shall at the same time serve a copy thereof on the appellant and any other party to the proceedings directly affected by the order or ruling and on the chief clerk of the Crown Court.

(2) The time for giving notice under this rule may be extended, either before or after it expires, by the Court of Appeal.

Persons in custody

5.—(1) A person in custody shall be entitled to be present on the hearing of an appeal, or an application for leave to appeal, under Article 8(11) of the 1988 Order, to which he is a party.

(2) Except as provided by paragraph (1) above, a person in custody shall not be entitled to be present on the hearing of an appeal, or an application for leave to appeal, under the said Article 8(11), except—

(*a*) on an application to the Crown Court for leave to appeal, with the leave of the judge; or

(*b*) on an appeal, or an application to the Court for leave to appeal, with the leave of the Court.

(3) An application for leave to be present under paragraph (2) above may be made—

(*a*) by serving notice in Form 3 on the Master; or

(*b*) orally to the judge or the Court.

Supply of documentary and other exhibits

6. Rule 13 of the principal Rules (supply of documentary and other exhibits) shall apply in relation to an appellant and a respondent under Article 8(11) of the 1988 Order as it applies in relation to an appellant and a respondent under Part I of the Act of 1980.

Abandonment of proceedings

7. Rule 16 of the principal Rules (abandonment of proceedings) shall apply for the purposes of an appeal or an application for leave to appeal by an appellant under Article 8(11) of the 1988 Order as it applies to an appeal or application for leave under Part II of the Act of 1980, except that—

(*a*) notice thereof shall be served on the Master in Form 4; and

(*b*) the requirement under paragraph (4) of the said rule 16 for the Master to send a copy of a notice of abandonment of proceedings to the Crown Solicitor shall be omitted.

Powers exercisable by single judge

8.—(1) The following powers may be exercised by a judge of the Court in the same manner as they may be exercised by the Court and subject to the same provisions, namely—

(*a*) to give leave to appeal under Article 8(11) of the 1988 Order;

(*b*) to extend, under rule 3, the time within which notice of appeal or of an application for leave to appeal must be given;

(*c*) to extend the time within which a notice under rule 4 of opposition to an appeal or application for leave to appeal must be given by the respondent; and

(*d*) to give leave, in pursuance of rule 5, for a person in custody to be present at any proceedings.

(2) A judge of the Court shall, for the purpose of exercising any of the powers specified above, sit in such place as he appoints, and may sit otherwise than in open court.

Determination by full Court

9.—(1) Where a judge of the Court has refused an application on the part of an applicant to exercise in his favour any of the powers referred to in rule 8, the applicant may have the application determined by the court by serving a notice in Form 5 on the Master within 7 days, or such longer period as a judge of the Court may fix, from the date on which the Judge's certificate in Form 6 indicating notice of the refusal was served on him by the Master.

(2) The notice shall be signed by, or on behalf of, the applicant.

(3) If the notice is not signed by the applicant and the applicant is in custody, the Master shall, as soon as practicable after receiving the notice, send a copy of it to the applicant.

(4) If such a notice is not served on the Master within the said 7 days or such longer period as a judge of the court may fix, the application shall be treated as having been refused by the Court.

Notice of determination of court

10.—(1) The Master shall, as soon as practicable, serve notice of any determination by the Court or by any judge of the Court under rule 8 on—

(*a*) the applicant; and

(*b*) any other party to the appeal;

(*c*) any person given leave under rule 5(2) to be present at the hearing of the appeal.

(2) The Master shall, as soon as practicable, serve notice on the chief clerk of the Crown Court at the place of trial of the order of the Court disposing of an appeal or application for leave to appeal.

Service of documents

11.—(1) Subject to paragraph (2) below, rule 30 of the principal Rules (service of documents) shall apply for the purposes of an appeal or an application for leave to appeal under Article 8(11) of the 1988 Order as it applies for the purposes of the principal Rules.

(2) Where any document is required under any of these Rules to be served on any party to the proceedings, service may be effected by serving it on his solicitor if he has one.

The Master

12.—(1) The Master may required the Crown Court at the place of trial to furnish the Court with any assistance or information which it may require for the purpose of exercising its jurisdiction.

(2) Subject to paragraphs (3) and (4) below the Master shall give as long notice in advance as reasonably possible of the date of hearing of any appeal or application—

(*a*) to the appellant; and

(*b*) to the respondent and any other party directly affected by the order or ruling to which the appeal or application under Article 8(11) of the 1988 Order relates.

(3) Paragraph (2) above shall not apply to proceedings before a judge of the Court under rule 8.

(4) Where a party to whom notice is required to be given by this rule is at the material time in custody, notice shall instead be given to the person having custody of him.

Dated 21st June 1989.

Brian Hutton
Donald Murray
J. P. Higgins
Brian Kerr

I concur, *Mackay of Clashfern*, C.

Dated 25th July 1989.