1989 No. 295

CRIMINAL PROCEDURE, NORTHERN IRELAND

The Criminal Appeal (Amendment) (Northern Ireland) Rules 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 for the time being having power under section 55 of the Judicature (Northern Ireland) Act 1978(**a**) and section 159(6) of the Criminal Justice Act 1988(**b**) to make, amend or revoke rules regulating the pleading, 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, commencement and interpretation

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

(2) In these Rules; "the Principal Rules" means the Criminal Appeal (Northern Ireland) Rules 1968(**c**).

Definition of "Master"

2. In Rule 2(1) of the Principal Rules, after the definition of "court" there shall be added; ""the Master" means the Master (Queen's Bench and Appeals);".

Appeals against order or decision of Crown Court under section 44, Judicature (Northern Ireland) Act 1978

3. In rule 5(1) of the Principal Rules, after the words "Notice of appeal" shall be added the words "(including notice of appeal under section 44 of the Judicature (Northern Ireland) Act 1978 from an order or decision of the Crown Court, as required by section 16A of the Act)".

Appeals under section 159, Criminal Justice Act 1988

4. After rule 22 of the Principal Rules there shall be inserted the following new rules:

(a) 1978 c.23
(b) 1988 c.33
(c) S.R. & O. (N.I.) 1968 No. 218

"*Appeals under section 159, Criminal Justice Act 1988*

22A.—(1) Except in a case to which Rule 22B applies an application for leave to appeal under section 159 of the Criminal Justice Act 1988 shall be made within 14 days after the date on which the order was made by serving on the Master a notice which shall be in Form 22.

(2) The applicant shall at the same time serve a copy of the notice of application under paragraph (1) on the appropriate officer of the Crown Court at which the order was made, on the prosecutor, on the defendant and on any other interested person.

(3) A prosecutor or a defendant or any other interested person may, not less than two days before the hearing of the application, notify the Master in writing that he wishes to be made a respondent to the appeal if leave is granted, and shall serve a copy of such notice on the applicant.

(4) The period of 14 days in paragraph (1) may be extended by the Court or a judge of the Court, before or after it expires, on an application which shall be made in writing, specifying the grounds of the application, and served on the Master, and a copy of the application shall be served by the applicant on every person who is to be served under paragraph (2).

(5) An application under paragraph (4) shall be determined without a hearing, unless the Court or a judge of the Court, as the case may be, directs otherwise.

(6) An application under paragraph (1) may be determined without a hearing.

(7) Where the Court grants leave to appeal—

(*a*) the notice of application for leave shall stand as the notice of appeal, unless the Court otherwise orders,

(*b*) without prejudice to the generality of its powers under section 159(3) of the Criminal Justice Act 1988, the Court shall direct that the person in whose favour the order was made is to be a respondent to the appeal and determine what, if any, other persons are to be respondents or may be respondents if they wish,

(*c*) the evidence of any witness shall be given on affidavit, unless the Court otherwise orders,

(*d*) rule 13 shall apply, with the necessary modifications, and

(*e*) the Master shall notify the parties of the time and place of the hearing of the appeal.

Appeals from orders under Rule 44A, Crown Court Rules

22B.—(1) This rule applies to proceedings in which a prosecutor or a defendant has served a notice under Rule 44A of the Crown Court Rules (Northern Ireland) 1979 of his intention to apply for an order that all or part of a trial be held in camera for reasons of national security or for the protection of a witness or any other person.

(2) Where a notice has been displayed under Rule 44A(2) of the Crown Court Rules (Northern Ireland) 1979, a person aggrieved may serve notice in writing on the Master that he intends to appeal against any order that may be made on the prosecutor's or defendant's application, and he shall serve a copy of such notice on the appropriate officer of the

Crown Court where the trial is to take place, on the prosecutor, on the defendant and on any other interested person.

(3) A notice shall be served on the Master under paragraph (2) either within 7 days of the display of the notice under Rule 44A(2) of the 1979 Rules or on the day on which an order is made on the application, and where such an order is made at the trial, the notice shall be treated as the application for leave to appeal against the order.

(4) Where an order is made at the trial, a person aggrieved who has not served a notice under paragraph (2) may apply for leave to appeal against the order by notice in writing served on the Master within 24 hours after the making of the order, and he shall forthwith serve a copy of such notice on each of the persons who are to be served under paragraph (2).

(5) Where an order has been made, and a person aggrieved has served a notice under paragraph (2) or (4), the appropriate officer of the Crown Court shall send to the Master a copy of any transcript or note of the application for the order and of any documents that were in evidence in the Crown Court.

(6) An application for leave to appeal shall be determined by a judge of the Court without a hearing.

(7) Where leave to appeal is granted, the appeal shall be determined by the Court of Appeal without a hearing.

(8) The Master shall, as soon as practicable, serve notice of the order of the court disposing of an appeal or application for leave to appeal on the person aggrieved and on each of the persons specified in paragraph (2).

(9) Section 159(4) of the Criminal Justice Act 1988 shall not apply to proceedings to which this rule applies."

Service of documents

5. After paragraph 3 of Rule 30 of the Principal Rules there shall be inserted the following paragraph:

"(4) In this rule, a reference to an appellant includes an appellant under section 44 of the Judicature (Northern Ireland) Act 1978 appealing against an order or decision of the Crown Court and a defendant in proceedings in the Crown Court in respect of which an application is made for leave to appeal under section 159 of the Criminal Justice Act 1988."

Forms

6. The Principal Rules shall be amended by inserting, after Form 21 in Schedule 1, the form set out in the Schedule to these Rules.

Dated 29th June 1989.

Brian Hutton
John MacDermott
J. P. Higgins
R. D. Carswell
Hugh P. Kennedy
Owen Catchpole