1989 No. 29

CRIMINAL PROCEDURE, NORTHERN IRELAND

The Criminal Appeal (Reviews of Sentencing) (Northern Ireland) Rules 1989

Made . . . . . 3rd February 1989

Coming into operation . . . 1st March 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 paragraph 3 of Schedule 3 to 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 these powers and all other powers enabling us in that behalf as follows:—

Citation and commencement

1. These Rules may be cited as the Criminal Appeal (Reviews of Sentencing) (Northern Ireland) Rules 1989 and shall come into operation on 1st March 1989.

Interpretation

2.—(1) In these Rules—

"the Act" means the Criminal Justice Act 1988;

"the Attorney General" means the Attorney General for Northern Ireland;

"application" means an application by the Attorney General to the Court for leave to make a reference;

"the Court" means the Court of Appeal;

"reference" means a reference under section 36 of the Act by the Attorney General of a case to the Court to review the sentencing of a person (in these Rules called "the offender") in a proceeding in the Crown Court;

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

(2) The Interpretation Act 1978(**c**) applies to the interpretation of these rules as it applies to an Act of Parliament.

(**a**) 1978 c. 23
(**b**) 1988 c. 33
(**c**) 1978 c. 30

Applications

3.—(1) Every application shall be in writing and shall—

(*a*) specify:

(i) the name of the offender;

(ii) the date on which, and the offence of which, he was convicted;

(iii) the sentence passed on him in respect of that offence;

(iv) the date on which the sentence was passed (if later than the date mentioned in (ii) above); and

(v) the judge by whom, and the location of the Crown court at which, the sentence was passed;

(*b*) state the reason why it appears to the Attorney General that the sentencing of the offender was unduly lenient.

(2) An application shall be entitled "Reference under section 36 of the Criminal Justice Act 1988" together with the year and number of the application and the name of the offender.

Notice of application

4. The service of the application on the Master shall constitute the giving of notice of the application for the purpose of paragraph 1 of Schedule 3 to the Act (notice to be given within 28 days of passing of sentence).

Master's notice to offender

5.—(1) The Master shall, as soon as practicable after receiving the application, cause to be served on the offender a copy of the application together with a notice which—

(*a*) informs him that the result of any reference could be that the Court would quash the sentence passed on him in the proceeding and in place of it pass such sentence as was thought appropriate for the case and as the court below had power to pass when dealing with him, including a greater punishment,

(*b*) informs him of the effect of paragraphs 6 (entitlement of offender to be present at hearing of reference, although he may be in custody), 7 (offender in custody requires leave of Court to be present at hearing of application), 8 (power of Court to pass sentence on offender who is not present) and 11 (entitlement of offender to reasonable costs) of Schedule 3 to the Act;

(*c*) invites him, within such period as the Master may specify (being not less than 14 days from the date of service on him of the notice), to serve notice on the Master if he wishes—

(i) to apply to the Court for leave to be present under paragraph 7 of Schedule 3 to the Act;

(ii) to present any argument to the Court on the hearing of the application or, if leave is given, of the reference, and whether to present it in person or by counsel on his behalf;

(*d*) draws to his attention the effect of rule 9 below (supply of documentary and other exhibits); and