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1968. No. 218 **[NC]**

CRIMINAL PROCEDURE, NORTHERN IRELAND

The Criminal Appeal (Northern Ireland) Rules 1968

We, the Northern Ireland Supreme Court Rules Committee, being the authority having for the time being power under section 7 of the Northern Ireland Act 1962(a) and section 49 of the Criminal Appeal (Northern Ireland) Act 1968(b) to make, amend or revoke rules regulating the practice and procedure of the Court of Criminal Appeal in Northern Ireland, hereby exercise those 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 (Northern Ireland) Rules 1968 and shall come into force on 2nd December 1968.

Interpretation

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

"Act" means the Criminal Appeal (Northern Ireland) Act 1968;

"appellant" means an appellant under Part II of the Act, including a person who has given notice of application for leave to appeal;

"Court" means the Court of Criminal Appeal in Northern Ireland;

"the Minister" means the Minister of Home Affairs for Northern Ireland;

"a party interested" means the prosecutor, or the Chief or other Crown Solicitor, or the person convicted or any other person named in or immediately affected by any order made by the judge of the court of trial or a solicitor authorised to act on behalf of a party interested, as defined by this rule;

"the Registrar" means the Registrar of the Court of Criminal Appeal and includes any other officer of the Supreme Court directed by the Lord Chief Justice to exercise the powers and perform the duties of the Registrar under the Act;

"recorded delivery" means delivery by the postal recorded delivery service;

"shorthand" means any method of recording by means of symbols, other than longhand, where the recording is made by a person either by hand or by the use of a machine and shall include palantyping, stenotyping and speedwriting;

"shorthand writer" means a person appointed by the Lord Chief Justice to take shorthand notes of criminal proceedings in a court of trial.

(2) The Interpretation Act 1889(c) shall apply to the interpretation of these rules as it applies to the interpretation of an Act of Parliament and as if these rules and the rules revoked by these rules were Acts of Parliament.

Forms

3.—(1) The forms in the Schedule shall be used where applicable with such variations as the circumstances of the particular case require.

(2) Any reference in these rules to a form means a reference to a form set out in the Schedule to these rules.

(a) 10 & 11 Eliz. 2. c. 30.
(b) 1968. c. 21.
(c) 52 & 53 Vict. c. 63.

Certificate of trial judge

4.—(1) The judge of the court of trial may grant a certificate in Form 1 under section 8(1) or 17(1) of the Act, either of his own motion or at the request of a person convicted on indictment or found not guilty on the ground of insanity, as the case may be.

(2) An application for the grant of a certificate may be made to the court of trial or lodged with the Registrar.

(3) The Registrar shall forward a copy of any certificate granted by the judge of the court of trial to the person to whom it relates or to his solicitor.

Notice of appeal and application for extension of time

5.—(1) Notice of appeal or of an application for leave to appeal to the Court shall be given by completing Part 1 of Form 2 and so much of Part 2 thereof as relates to the notice and serving it on the Registrar.

(2) (*a*) A notice of appeal or an application for leave to appeal shall be accompanied by a notice in Form 3 containing the grounds of appeal or application, whether or not the transcript of the proceedings has been received by the appellant.

(*b*) If the appellant has been convicted of more than one offence, the notice in Form 2 shall specify the convictions or sentences against which the appellant is appealing or applying for leave to appeal.

(*c*) The grounds of appeal or application set out in Form 3 may, with the consent of the Court, be varied or amplified within such time as the Court may allow.

(3) (*a*) Notice of application to extend the time within which notice of appeal or of an application for leave to appeal may be given shall be given by completing so much of Part 2 of Form 2 as relates to the application and by giving at the same time notice of appeal or of an application for leave to appeal in accordance with the foregoing provisions of this rule.

(*b*) Notice of an application to extend the time within which notice of appeal or of an application for leave to appeal may be given must specify the grounds of the application.

(4) An appellant who is appealing or applying for leave to appeal against conviction may specify in Form 3 any exhibit produced at the trial which he wishes to be kept in safe custody for the purposes of his appeal.

(5) Forms 2 and 3 shall be signed by the appellant, his counsel or solicitor, or by any other person authorised by the appellant and where a form is signed otherwise than by the appellant, his counsel or solicitor, the Court may treat such form as not constituting notice for the purposes of this rule unless it is supported by a statement signed by the appellant that he has authorised the person in question to sign the form on his behalf.

(6) If Form 2 or Form 3 is not signed by the appellant and the appellant is in custody, the Registrar shall, as soon as practicable after receiving the form, send a copy of it to the appellant.

(7) In the case of an appellant who does not require leave to appeal or who is given leave to appeal, a notice of application for leave to appeal shall be treated as notice of appeal, and in the case of an appellant who requires leave to appeal but who serves on the Registrar notice of appeal, the notice of appeal shall be treated also as an application for leave to appeal.

(8) The Registrar shall send a copy of every notice received under this rule to the Chief or other Crown Solicitor and to the Clerk of the Crown and Peace of the court of trial who shall thereupon complete Form 4 and send it to the Registrar.

Notes and report of trial judge

6.—(1) In the case of an appeal or an application for leave to appeal, the Registrar may request the trial judge to furnish to him a certified copy of his notes of the trial together with a report in writing giving his opinion upon the case or any point arising in it.

(2) The Registrar shall send a copy of every notice given under rule 5 to the trial judge and shall also send him a copy of any documents referred to in such notice and any other document or information which the trial judge may require and which is in the possession of or under the control of the Registrar or which he is in a position to obtain.

(3) This rule shall apply in the case of a reference by the Minister under section 19 of the Act as it applies in the case of an appeal or an application for leave under Part II of the Act.

Application for bail, leave to be present or reception of evidence

7.—(1) Except where made to the Court orally, an application by the appellant—

(*a*) to be admitted to bail pending the determination of his appeal or pending his retrial shall be in Form 5 and, unless notice of appeal or of an application for leave to appeal has previously been given, shall be accompanied by such a notice,

(*b*) subject to paragraph (4), to be given leave by the Court to be present at the proceedings for which such leave is required shall be in Form 6,

(*c*) that a witness who would have been a compellable witness at the trial be ordered to attend for examination by the Court shall be in Form 7,

(*d*) that the evidence of a witness or any other evidence be received by the Court shall be in Form 7.

(2) Forms 5 and 7 must be submitted where any application to which these forms relate is made, but Form 6 need not be submitted where the notice of appeal or application for leave to appeal contains an application to be present.

(3) The form in every application to which this rule relates must be served on the Registrar.

(4) Where an appellant is unrepresented or is under sentence of death he may be present at the hearing of his appeal or at any application relating to his appeal, other than an application before a single judge of the Court, without making an application for leave to be present under this rule.

Bail

8.—(1) Where the Court directs the admission of an appellant to bail pending the determination of his appeal or pending his retrial, the Court shall determine the number of sureties, if any, the amount in which he and any sureties are to be bound and the conditions to be endorsed on the recognizances.

(2) The recognizance of an appellant shall be in Form 8, and that of a surety in Form 9, except that in relation to an appellant admitted to bail pending his retrial his recognizance shall be in Form 10 and that of a surety in Form 11.