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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.

(3) Any such recognizance may be entered into before the Registrar, a justice of the peace, a member of the police force either of or above the rank of District Inspector or, in case of an appellant who is in custody before the person having custody of him.

(4) Where the Registrar does not take the recognizances he shall issue a certificate in Form 12 showing the conditions of the recognizances and the amount in which the appellant and any sureties are to be bound: and a person authorised to take a recognizance under this rule shall not be required or entitled to take it without the production of such a certificate as aforesaid.

(5) A person authorised to take a recognizance from a surety under this rule shall not do so unless he is satisfied that the person entering into the recognizance is, in all the circumstances, a suitable person to do so.

(6) Where a recognizance is taken by a person other than the Registrar, that person shall send it to the Registrar.

(7) A person taking a recognizance under this rule shall give a copy to the person entering into the recognizance.

Release on bail

9.—(1) The person having custody of an appellant shall—

- (a) on receipt of a certificate in Form 13 signed by the Registrar stating that the recognizances of any sureties required by the Court have been taken or on being otherwise satisfied that all such recognizances have been taken, and
- (b) on being satisfied that the appellant has entered into his recognizance, release the appellant.

(2) Where the Court has granted bail pending retrial the Registrar on receipt of all the recognizances shall forward them to the Clerk of the Crown and Peace of the court by whom the appellant is to be retried.

Variation or revocation of bail

10.—(1) Where the Court grants the application of an appellant to be admitted to bail pending the determination of his appeal or pending his retrial, the Court may at any time reduce the amount in which it is proposed that he or any surety should be bound or dispense with any of the sureties or modify any condition specified by the Court.

- (2) (a) Where an appellant is released on bail pending the determination of his appeal or pending his retrial, the Court may at any time without prejudice to the power to order the forfeiture of his recognizance or that of any of his sureties, order his arrest and recommittal to custody.
- (b) Where an appellant is recommitted to custody the person having custody of him shall forthwith notify the Registrar of the fact.
- (c) Nothing in this rule shall be deemed to prevent a person who has been recommitted to custody again being admitted to bail under this rule.

Forfeiture of recognizance

11. Where an appellant is admitted to bail pending the determination of his appeal or pending his retrial and he fails to comply with a condition endorsed on his recognizance, the Court may order his recognizance and that of any of his sureties to be forfeited.

Custody of exhibits

12.—(1) On a conviction on indictment the Clerk of the Crown and Peace shall, subject to paragraphs (2) and (4) and to any directions by the judge of the court of trial, make arrangements for the exhibits at the trial to be kept in safe custody until the expiration of 42 days from the date of conviction.

(2) Where an appellant has given notice of appeal, or of an application for leave to appeal against conviction, the Registrar shall inform the Clerk of the Crown and Peace of the notice and give directions concerning the continued retention in safe custody of all exhibits produced at the trial.

(3) The Clerk of the Crown and Peace shall make a list of all the exhibits placed in safe custody and where any exhibit is not in the custody of the court the name and address of the person who has custody of the exhibit must be included in the list.

(4) Where the Court orders the appellant to be retried it shall make arrangements pending his retrial for the continued retention in safe custody of any exhibits.

(5) Arrangements made under this rule may include arrangements for the inspection of an exhibit by an interested party.

Supply of documentary and other exhibits

13.—(1) The Registrar may supply to the appellant or respondent documents, copies of documents or other things required for the appeal and in such case may make charges in accordance with the scales and charges fixed for the time being by the Treasury.

(2) This rule shall not apply to the supply of transcripts of any proceedings or part thereof.

Examination of witness by Court

14.—(1) An order of the Court to a person to attend for examination as a witness shall be in Form 14 and shall specify the time and place of attendance and the judge or other person before whom the examination shall be conducted.

(2) The evidence of a witness taken before an examiner shall be taken in like manner as depositions are taken by a Magistrate's Court.

(3) Every witness who attends for examination shall be paid a reasonable sum for travelling expenses and any sum so paid shall be certified by the Registrar and form part of the expenses of the prosecution.

Appointment of special commissioner

15. An order of reference appointing a special commissioner under section 30(1)(b) of the Act shall specify the question for inquiry and report and may contain such directions as the Court may consider to be appropriate.

Abandonment of proceedings

16.—(1) An appeal or an application for leave to appeal under Part II of the Act may be abandoned before the hearing of the appeal or application by serving on the Registrar notice thereof in Form 15.

(2) The notice shall be signed by the appellant, his counsel or solicitor or any other person authorised by the appellant.

(3) Where a notice is signed otherwise than by the appellant, his counsel or solicitor, the Court may treat the notice as not constituting a 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 notice on his behalf.

(4) The Registrar shall as soon as practicable after receiving a notice under this rule in respect of an appellant who is in custody, send a copy of it to the appellant, to the Chief or other Crown Solicitor and to the Clerk of the Crown and Peace of the court of trial.

(5) Where an appeal or an application for leave to appeal is abandoned, the appeal or application shall be treated as having been dismissed or refused by the Court.

Hearing by single Judge

17. A Judge of the Court shall, for the purpose of exercising any of the powers referred to in section 4(2) of the Act, sit in such place as he may appoint.

Determination by full Court

18.—(1) Where a Judge of the Court has refused an application on the part of an appellant to exercise in his favour any of the powers referred to in section 4(2) of the Act, the appellant may have the application determined by the Court by serving a notice in Form 16 on the Registrar within 14 days, or such longer period as the Judge of the Court may fix, from the date on which notice of the refusal was served on him by the Registrar.

(2) A notice under paragraph (1) of this rule shall be signed by the appellant, his counsel or solicitor, or by any other person authorised by the appellant.

(3) Where a notice is signed otherwise than by the appellant, his counsel or solicitor, the Court may treat the notice as not constituting a 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 notice on his behalf.

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

Enforcement of fines

19.—(1) Where the Court imposes a fine on an appellant the Court shall make an order fixing a term of imprisonment, not exceeding twelve months, which the appellant is to undergo if the fine is not duly paid or recovered.

(2) Such an order may—

(a) allow time for the payment of the fine,

(b) direct payment of the fine by instalments of such amount and on such dates respectively as may be specified in the order.

Dismissal of appeal against hospital order

20. If the Court dismisses an appeal or an application for leave to appeal by an appellant who is subject to a hospital order under the Mental Health Act (Northern Ireland) 1961(d) or the Court affirms the order and the appellant has been released on bail pending his appeal, the Court shall give such direction as it thinks fit for his conveyance to the hospital from which he was released on bail and for his detention, if necessary, in a place of safety as defined in section 105(6) of the said Act pending his admission to hospital.

Notice of final determination of Court

21.—(1) Subject to the provisions of paragraph (2), the Registrar shall,

(d) 1961. c. 15 (N.I.).

as soon as practicable, serve notice of any final determination by the Court on any appeal or application by the appellant on—

- (a) the appellant,
 - (b) the Minister,
 - (c) any person having custody of the appellant.
- (2) (a) In the case of an appellant who is subject to a guardianship order under the Mental Health Act (Northern Ireland) 1961, the Registrar instead of serving the notice on the Minister and any person having custody of the appellant shall serve notice on the authority or person in whose guardianship the appellant has been placed.
- (b) In the case of an appellant who is subject to a hospital order under the Mental Health Act (Northern Ireland) 1961, other than an order restricting discharge, the Registrar shall not serve notice on the Minister.

(3) The Registrar shall, as soon as practicable, serve notice on the Clerk of the Crown and Peace of the court of trial of the order of the Court disposing of an appeal or an application for leave to appeal.

Reference by Minister

22. Where the Minister refers a point to the Court under section 19(1)(b) of the Act, the Court may consider the point in private.

Sittings in vacation

23. The Lord Chief Justice or in his absence the next senior Judge of the Court who is available, shall make arrangements from time to time for any sittings of the Court or a Judge thereof that may be necessary during vacation.

Record of proceedings at trial

24.—(1) Except as provided by this rule, the whole of any proceedings in respect of which an appeal lies (with or without leave) to the Court shall be recorded by means of shorthand notes or by mechanical means or partly by one method and partly by the other.

(2) Where such proceedings are recorded by means of shorthand notes, except in cases of treason or capital murder, it shall not be necessary to record—

- (a) the opening or closing speeches for the prosecution or for the defence unless the trial judge otherwise directs, or
- (b) any other part of such proceedings which the trial judge directs need not be recorded.

(3) Where it is not practicable for such proceedings or any part thereof to be recorded by means of shorthand notes or by mechanical means, the trial judge shall direct how and to what extent the proceedings shall be recorded.

Appointment of shorthand writers

25.—(1) The Lord Chief Justice may from time to time appoint shorthand writers for the purposes of the Act.

(2) The appointment of a shorthand writer shall be for such period and subject to such conditions as the Lord Chief Justice may determine.

Certification of shorthand notes

26.—(1) A shorthand writer shall sign any shorthand notes taken by him

and certify such notes to be the complete and correct shorthand notes taken at the trial or proceedings to which they relate.

(2) A shorthand writer shall retain any shorthand notes taken by him until he forwards them to the Registrar when directed to do so or until he destroys them on a direction in writing from the Registrar.

(3) No direction for the destruction of any such shorthand notes shall be given unless the consent of the Minister has first been obtained.

Certification and control of mechanical recordings

27.—(1) Where any proceedings in respect of which an appeal lies to the Court are recorded in whole or in part by mechanical means the person who operated the recording machine shall deliver the recordings so made to the Clerk of the Crown and Peace after he has certified, by means of a certificate attached to each recording, that it is a complete recording or a continuous part of a complete recording taken at the trial or proceedings to which it relates.

(2) The Clerk of the Crown and Peace shall retain any recording delivered to him under this rule until he forwards it to the Registrar when directed to do so or until he destroys it on a direction in writing from the Registrar.

(3) No direction for the destruction of any such recording shall be given unless the consent of the Minister has first been obtained.

Preparation of transcript

28.—(1) The Registrar may direct a shorthand writer or other competent person to make, in such manner as he may specify, a transcript of the whole or any part of any shorthand notes or of any recording taken by mechanical means in accordance with rule 24.

(2) Where a transcript is made in accordance with paragraph (1) it shall be verified by the person making the same by a statutory declaration in Form 18.

Registrar to furnish copies of transcript

29.—(1) A transcript of the shorthand notes or of a recording taken by mechanical means of the whole or any part of any proceedings in respect of which an appeal lies to the Court, shall when required be furnished by the Registrar for—

- (a) the Court or a Judge of the Court,
- (b) a party interested in any such proceedings,
- (c) the Minister, and
- (d) a person entitled to have the transcript by leave of a Judge of the Court,

and for no other person.

(2) No transcript shall be furnished in accordance with paragraph 1(b) or (d) except on payment to the Registrar of the charges for furnishing the transcript on such scale as the Treasury may fix.

Service of documents

30.—(1) For the purposes of these rules service of a document may be effected—

- (a) in the case of a document to be served on the Registrar—
 - (i) where the appellant is in custody, by delivering it to the person having custody of him,

- (ii) by delivering it personally to the Registrar, or
 - (iii) by addressing it to the Registrar and leaving it at his office in the Royal Courts of Justice, Chichester Street, Belfast BT1 3JF, or
 - (iv) by sending it addressed to him at his said office by recorded delivery.
- (b) in the case of a document to be served on a body corporate by delivering it personally to the secretary or clerk of the body at its registered or principal office or sending it by recorded delivery addressed to the secretary or clerk at that office.
- (c) in the case of a document to be served on any other person—
- (i) by delivering it personally to the person to whom it is directed,
 - (ii) by leaving it for him with some person at his last known or usual place of abode,
 - (iii) by sending it by recorded delivery addressed to him at his last known or usual place of abode.

(2) A person having custody of an appellant to whom a document is delivered in pursuance of paragraph (1)(a)(i) of this rule shall endorse on it the date of delivery and send it forthwith to the Registrar.

(3) A document sent by recorded delivery shall be deemed to be served at the time when it is delivered.

The Registrar

31. The Registrar shall give as long notice in advance as may be practicable of the date on which the Court will hear any appeal or application by an appellant to—

- (i) the appellant,
- (ii) the Chief Crown Solicitor, and
- (iii) any person having custody of the appellant.

Appeal to the House of Lords

32.—(1) An application to the Court—

- (a) for leave to appeal to the House of Lords under Part III of the Act or section 13 of the Administration of Justice Act 1960(e),
 - (b) to extend the time within which an application may be made by the defendant to the House of Lords under section 37(1) of the Act or that subsection as applied by section 13(4) of the Administration of Justice Act 1960,
 - (c) by the defendant to be given leave to be present on the hearing of the appeal or of any proceedings preliminary or incidental thereto,
 - (d) by the defendant to be admitted to bail pending the appeal,
- shall either be made orally immediately after the decision of the Court from which an appeal lies to the House of Lords or by serving Form 19 on the Registrar within 14 days of the decision of such Court.

(2) Where the Court directs the admission of a defendant to bail pending his appeal, the Court shall determine the number of sureties, if any, the amount in which he or any sureties are to be bound and the conditions to be endorsed on the recognizances.

(3) The recognizance of a defendant shall be in Form 20 and that of a surety in Form 21.

(4) Paragraphs (3)-(7) of rule 8 and rules 10 and 11 shall apply with respect to a recognizance taken under this rule as they apply with respect to a recognizance taken under those rules with the necessary modifications.

(5) An application to the Court for leave to appeal to the House of Lords under Part III of the Act or section 13 of the Administration of Justice Act 1960 may be abandoned before the hearing of the application by serving on the Registrar notice to that effect.

(6) Rules 13(1) and 31 shall apply in relation to an appeal under Part III of the Act or section 13 of the Administration of Justice Act 1960 as they apply in relation to an appeal under Part II of the Act.

(7) In this rule any reference to a defendant includes an appellant under section 13 of the Administration of Justice Act 1960.

Capital cases

33.—(1) Where the Registrar receives a notice of appeal or an application for leave to appeal in relation to a conviction involving sentence of death, he shall send a copy of the notice to the Minister and on the determination of any such appeal shall forthwith notify—

- (a) the appellant,
- (b) the Minister,
- (c) the Clerk of the Crown and Peace,
- (d) the person having custody of the appellant, and
- (e) the under-sheriff charged with the execution of the said sentence.

(2) Where the Court affirms a conviction involving sentence of death the Court may appoint a day for the execution of the capital sentence other than that appointed by the judge at the trial.

Register of appeals

34. The Registrar shall keep a register in which shall be entered particulars of cases in which a notice of appeal or application for leave to appeal is received and the register shall be open to inspection at such time and place as the Registrar may appoint.

Assistance of police

35. The assistance of the Royal Ulster Constabulary shall be available as and when required—

- (a) by the Registrar for—
 - (i) the service of an order to a witness under rule 14(1),
 - (ii) the ascertainment of the means of persons seeking legal aid under section 23(2) or 42 of the Act, and
- (b) by the Registrar or any Clerk of the Crown and Peace for—
 - (i) the safe custody of exhibits,
 - (ii) the transport of exhibits which cannot conveniently be sent by post.

Presentation of appellant's case in writing

36.—(1) An appellant may on an appeal or on an application for leave to appeal present his case and argument in writing, instead of by oral argument, if he so desires.

(2) Any such presentation in writing must be served on the Registrar not less than 7 days before the date fixed for the hearing of the appeal or the application for leave to appeal, as the case may be.

Non-compliance

37. Non-compliance with these rules or with any rule of practice under the Act shall not prevent the further prosecution of the appeal or application for leave to appeal where the Court considers that such non-compliance may be waived or remedied by amendment or otherwise.

Repeal

38.—(1) The Criminal Appeal (Northern Ireland) Rules 1931(f) are hereby revoked.

(2) The revocation effected by paragraph (1) of this rule shall not affect the operation of the rules so revoked in relation to a person who before the coming into operation of these rules has given notice of appeal or of an application for leave to appeal.

Dated 27th September 1968.

Signed

MacDermott.

L. E. Curran.

Robert Lowry.

E. W. Jones.

A. McGonigal.

Basil Kelly.

Leonard I. G. Fox.

James J. Napier.

THE CRIMINAL APPEAL (NORTHERN IRELAND) ACT 1968

SCHEDULE

(Rule 3)

CRIMINAL APPEAL FORMS

The notes relating to these forms are for the guidance of appellants and their legal advisers. The notes do not purport to be part of the rules.

SCHEDULE

FORM 1

CRIMINAL APPEAL (NORTHERN IRELAND) ACT 1968

R.4

Judge's certificate

R. v.

Particulars of trial

Full name of person tried

Court of Trial

Offence or offences for which person tried

Decision of court—

convicted of

verdict of not guilty on the ground of insanity

Date of decision of court

I certify that this case is a fit case for appeal on the ground that:—

Signed

Judge of the Court of Trial,

Date

FORM 2

CRIMINAL APPEAL (NORTHERN IRELAND) ACT 1968

R.5

Notice of appeal or application for leave of Court

To the Registrar,
Court of Criminal Appeal,
Royal Courts of Justice (Ulster),
BELFAST BT1 3JF

Part 1

Particulars of appellant

Full names

Age on conviction

Address
(if detained in custody, give name and address where detained)
.....
.....
.....

Prison no. (if detained in prison)

Particulars of court of trial

Name of court of trial

Name of judge of the court of trial

Date of decision (if convicted and sentenced on
different days, give both dates)

Offences of which convicted	Sentences and orders
(1)
(2)
(3)
(4)
(5)

Total sentence

Did the Judge of the court of trial grant a certificate
that the case is fit for appeal?

Part 2

Particulars of application

The appellant is applying for—

- *Extension of time within which to give notice of appeal
or application for leave to appeal
- *Leave to appeal against conviction
- *Leave to appeal against sentence

***Bail**

- *Delete if inapplicable *Leave to be present at hearing
- *Leave to call witnesses or produce further evidence
- *Legal Aid
- *Other applications

Signed

Date

Notes

1. This form should be sent to the Registrar within 28 days from the date of conviction, sentence, verdict or finding appealed against. If the appellant is in custody the form should be handed to the prison authority (or other person having custody) for forwarding to the Registrar; and the date of handing in should be recorded on the form by the prison authority or other person having custody. The period of 28 days can with the leave of the court be extended except in the case of a conviction involving sentence of death.

2. The grounds of the appeal or application for leave must be given on Form 3 and must accompany this form.

3. The court of trial means the court from which the appeal lies. This always means a court of assize or county court and never means a magistrates' court.

4. In Part 1 of the form give particulars of all convictions and sentences against which the appellant has a right of appeal (with or without leave). A person may appeal against conviction and sentence only if he was convicted on indictment. A person may appeal against sentence only with leave. There is no appeal against sentence if the sentence is one fixed by law.

If the appeal is against a verdict of not guilty on the ground of insanity, Part 2 should be adapted accordingly.

5. Separate forms should be submitted for convictions or sentences which do not arise in the same proceedings.

6. If the form is not signed by the appellant, his counsel or solicitor, it may be treated as not constituting notice in accordance with the Criminal Appeal (Northern Ireland) Rules 1968 unless there is also a statement signed by the appellant that he has authorised the person in question to sign the form on his behalf.

7. This notice will be treated as a notice of appeal in the case of an appellant who does not require leave to appeal, e.g. because the trial judge has given a certificate or because leave has been given by the Court of Criminal Appeal.

8. An application for leave to be present, bail, or leave to call witnesses may be made subsequently.

FORM 3

CRIMINAL APPEAL (NORTHERN IRELAND) ACT 1968

R.5

Grounds of appeal or application for leave of Court

To the Registrar,
Court of Criminal Appeal,
Royal Courts of Justice (Ulster),
BELFAST BT1 3JF

Full names of appellant

*Grounds of application for extension of time

*Delete if inapplicable

*Grounds of appeal or application for leave to appeal against *conviction/sentence

*Any exhibit of which safe custody and production is required

Signed

Date

Notes

- 1. This form must accompany Form 2 and must be completed so far as is practicable at that time and whether the transcript has been received or not. Where one of the grounds of appeal is misdirection particulars of the alleged misdirection must be given. If further grounds need to be given to amend or amplify the grounds given on this form, they should be forwarded to the Registrar as an amendment to this form.
2. If this form relates to more than one application or to both an application and an appeal, they should be dealt with separately and in order.
3. An appellant who is applying for extension of time within which to give notice of appeal or application for leave to appeal, must give the reasons for the delay; he must also give details of the appeal or application for leave to appeal.
4. An appellant who is applying for leave to appeal against conviction, must set out each conviction against which he is applying for leave to appeal, and the grounds of the application. The grounds may be the same for each conviction.
5. If the appellant requires, for the purposes of his appeal against conviction, any exhibits produced at his trial, he should specify them in the form.
6. An appellant who is applying for leave to appeal against sentence, must set out each sentence against which he is applying for leave to appeal, and the grounds of the application. The grounds may be the same for each sentence.
7. An appellant who is applying for leave to appeal against conviction and sentence, must deal with each conviction and each sentence separately.
8. This notice will be treated as a notice of appeal in a case in which leave to appeal is not required.
9. If the appeal or application is against a verdict of not guilty on the ground of insanity references in this form to conviction should be construed as references to such a verdict.
10. An appellant who is applying for leave to appeal against sentence and wishes to call a witness to give evidence in mitigation, should give his name and address. But the Registrar is not responsible for arranging for the attendance of the witness.
11. Documents sent with this form should be specified at the end of the form.

FORM 4

CRIMINAL APPEAL (NORTHERN IRELAND) ACT, 1968

R.5(8)

Particulars of trial

R. v.

Appellant

1. Age and Occupation of Appellant (as given in the Calendar.)

2. Date when convicted. „ when sentenced.

Place and court of trial.

Before whom tried.

3. Offence (See note (a)).

4. Plea.

5. Verdict.

6. Sentence. (and any recommendation or order made by the Court.)

7. Previous Convictions.

No.	Date	Where tried	Offence.	Sentence.
1				
2				
3				

Notes.—(a) Set out a short abstract of the indictment or indictments upon which the appellant was convicted. If there were any indictments which were not proceeded with make a note to that effect and forward such indictments (with depositions, etc., relating thereto) with the other papers.

(b) Answer "Yes" or "No". If the answer is "Yes" a list of all such exhibits must be sent with this form. The list should contain the identifying number and a short description of each exhibit, and a statement as to whether it was put in by the prosecution or defence, and the name and address of the person in whose custody it is and the directions (if any) of the Court in relation to it. Any exhibits and any copies thereof which are in your custody and can be conveniently sent by post, should be sent to the Registrar with this form.

(c) If any such statement was read or handed in, it must be forwarded with the other papers.

(d) If such certificate was given and is in your custody, it should be sent to the Registrar with this form.

Page 2.

8. Name and address of the person who was responsible for, and carried on the prosecution in the court of trial.
9. Name of Counsel for the prosecution.
10. Name and address of solicitor for the prosecution.
11. Name of Counsel for the defence.
12. Name and address of solicitor for the defence.
13. Name and address of shorthand writer.
14. Were any exhibits put in before committal or at the trial?
(See note (b)).
15. Was any statement by appellant read and not marked as an exhibit?
(See note (c)).
16. Was a certificate given that it was a fit case for appeal?
(See note (d)).
17. Was appellant bailed before trial, if so, with how many sureties and in what amounts?

(Signed)

*Clerk of the Crown and Peace.**officer of the Court of Trial.*

Dated

of

FORM 5

CRIMINAL APPEAL (NORTHERN IRELAND) ACT 1968

R.7(a)

Application for bail

To the Registrar,
Court of Criminal Appeal,
Royal Courts of Justice (Ulster),
BELFAST BT1 3JF

Full names of appellant

Criminal appeal reference number (except where this form accompanies
Form 2)

Where detained

Prison no.

If bail was granted before trial or sentence, state—

The names of the sureties

Amounts of recognizances of appellant and sureties

What, if any, special conditions were imposed

Give the name, address and occupation of two persons who might act as sureties
if bail were granted, and the amount of the recognizances in which they and
the appellant might agree to be bound:

.....
.....
.....
.....
.....

The appellant applies for bail pending appeal/retrial on the following
grounds:—

Signed

Date

Notes

- 1. This form must accompany or follow Form 2. An application for bail may be made whether or not Form 2 contained an application for bail.
2. An application for bail will be considered in the light of the grounds of appeal or application for leave to appeal. Accordingly, it is usual for the application for bail to be submitted to the Court or Judge together with the other applications. Generally, strong grounds of appeal or application for leave to appeal have to be shown before bail is granted.
3. Do not repeat the grounds of appeal or application for leave to appeal as the grounds for bail. Mention any special grounds which the Judge or Court might consider, e.g. medical reasons.
4. Time spent on bail does not count towards sentence.

FORM 6

CRIMINAL APPEAL (NORTHERN IRELAND) ACT 1968

R.7(b)

Application for leave to be present

To the Registrar,
Court of Criminal Appeal,
Royal Courts of Justice (Ulster),
BELFAST BT1 3JF

Full names of appellant

Criminal appeal reference number (except where this form accompanies
Form 2)

Where detained

Prison no.

The appellant applies to be given leave by the Court of Appeal to be present at
proceedings for which leave is required.

Signed

Date

Notes

1. Subject to notes 2 and 3, an appellant who is in custody is entitled to be present—

- (a) at the hearing of an appeal, other than on a question of law alone, in respect of which the judge of the court of trial has granted a certificate that the case is fit for appeal,
- (b) at the hearing of an appeal, other than on a question of law alone, resulting from a reference by the Minister of Home Affairs under section 19(1)(a) of the Act,
- (c) at the hearing of an appeal, other than an appeal on a question of law alone, in respect of which the court has given leave to appeal,
- (d) at the hearing of any application in court relating to a conviction including a sentence of death on the appellant,
- (e) at the hearing of an appeal or any application in court where he is not represented.

2. An appellant detained in a mental hospital in consequence of a verdict of not guilty on the ground of insanity is not entitled to be present at the hearing of or any proceedings relating to his appeal unless leave to be present is given by the Court.

3. Proceedings before a single Judge are in private and leave to be present is not given.

4. Leave to be present is usually refused in appeals relating to questions of law alone and on application for leave to appeal, other than cases involving sentence of death or where the appellant is not legally represented.

5. An appellant who is not in custody has a right to be present at any court proceedings involving his case. (other than proceedings before a single Judge).

FORM 7

CRIMINAL APPEAL (NORTHERN IRELAND) ACT 1968

R.7(c) & (d)

Application for reception of evidence

To the Registrar,
Court of Criminal Appeal,
Royal Courts of Justice (Ulster),
BELFAST BT1 3JF

Full names of appellant
Criminal appeal reference number (except where this form accompanies Form 2)
Where detained
Prison no.
Name and address of witness

Do you want a witness order?
Was the witness called at the trial?
The witness can now give the following evidence (which he did not give at the trial)—

Do you wish to produce any document or other thing as additional evidence on the hearing of your appeal? If so state its nature

The witness was not called or the evidence was not given at the trial for the following reasons—

Signed

Date

Notes

- 1. Notice of the application may be given whether or not it was given on Form 2.
2. A separate form must be used for each witness or other evidence sought to be considered.
3. A witness cannot be called without the leave of the Court of Criminal Appeal. Before giving leave to call a witness, the court will consider, with other matters, whether the evidence if received would afford any ground for allowing the appeal, whether the evidence is likely to be credible or would have been admissible on the trial on an issue which is the subject of the appeal and whether there is a reasonable explanation for failure to adduce the evidence at the trial. Do not set out in the form the evidence which the witness gave at the trial.
4. Do not apply in respect of a witness in mitigation of sentence only.

FORM 8

CRIMINAL APPEAL (NORTHERN IRELAND) ACT 1968

R.8(2)

Recognizance of appellant

I, (hereinafter called "the appellant") acknowledge that I owe to our Sovereign Lady The Queen the sum of, payment thereof to be enforced against me by due process of law if I fail to comply with the condition[s] endorsed hereon.

Signed

Address at which

appellant proposes
to reside pending
appeal:

Taken before me the day of 19....
at

Signed

Office (1)

Condition[s] (2)

The condition[s] of this recognizance is/are as follows:—

(1) The recognizance may be taken by the Registrar of the Court of Criminal Appeal, a Justice of the Peace or a member of the police force of or above the rank of District Inspector or the person having custody of the appellant.

(2) Conditions appearing to the court to be likely to result in the appellant's appearance at the time and place required, or to be necessary in the interests of justice or for the prevention of crime will be inserted by the Court.

FORM 9

CRIMINAL APPEAL (NORTHERN IRELAND) ACT 1968

R.8(2)

Recognizance of appellant's surety

I, acknowledge that I owe to our Sovereign Lady The Queen the sum of payment thereof to be enforced against me by due process of law if detained in fails to comply with the condition endorsed hereon.

Signed

Address

.....

.....

.....

Taken before me the day of 19.... at

Signed

Office (1)

Condition

The condition of this recognizance is that if the said appears before the Court of Criminal Appeal, unless the Court otherwise orders, at each and every hearing of his appeal and at the final determination thereof, then this recognizance shall be void, but otherwise shall remain in full force.

(1) The recognizance may be taken by the Registrar of the Court of Criminal Appeal, a Justice of the Peace or a member of the police force of or above the rank of District Inspector or the person having custody of the appellant.

FORM 10

CRIMINAL APPEAL (NORTHERN IRELAND) ACT 1968

R.8(2)

Recognizance of appellant pending retrial

I, (hereinafter called "the appellant") acknowledge that I owe to our Sovereign Lady The Queen the sum of, payment thereof to be enforced against me by due process of law if I fail to comply with the conditions endorsed hereon.

Signed
Address at which
appellant proposes
to reside pending
retrial:

Taken before me the day of 19....
at

Signed
Office (1)

(Endorsement) Condition[s] (2)

The condition[s] of this recognizance is/are that—
(1) The recognizance may be taken by the Registrar of the Court of Criminal Appeal, a Justice of the Peace, a member of the police force of or above the rank of District Inspector or the person having custody of the appellant.
(2) Conditions appearing to the Court to be likely to result in the appellant's appearance at the time and place required, or to be necessary in the interests of justice or for the prevention of crime will be inserted by the Court.

FORM 11

CRIMINAL APPEAL (NORTHERN IRELAND) ACT 1968

R.8(2)

Recognizance of appellant's surety pending retrial

I, acknowledge that I owe to our Sovereign Lady The Queen the sum of, payment thereof to be enforced against me by due process of law if (insert name of principal) fails to comply with the condition endorsed hereon.

Signed

Address

.....
.....
.....

Taken before me the day of 19.... at

Signed

Office (1)

(Endorsement)

Condition

The condition of this recognizance is that if the said appears in person at and before the court of for the [county] of on such date and at such time and place as may be notified to him by the proper officer of the court and there surrenders himself into custody and takes his trial upon any indictment preferred against him, then this recognizance shall be void, but otherwise shall remain in full force.

(1) The recognizance may be taken by the Registrar of the Court of Criminal Appeal, a Justice of the Peace, a member of the police force of or above the rank of District Inspector or the person having custody of the appellant.

FORM 12

CRIMINAL APPEAL (NORTHERN IRELAND) ACT 1968

R.8(4)

Certificate by Registrar of conditions of bail

I hereby certify that the court has fixed the amount of the recognizance to be entered into by
 detained in at the sum of
 and surety/ies in [each] conditioned (1)
 for the appearance of the said before the Court
 of Criminal Appeal, unless the Court otherwise orders, at each and every hearing
 of his appeal or Court application relating to his appeal and at the final deter-
 mination thereof [*or* at and before the court of
 for the [county] of on such date and at such time
 and place as may be notified to him by the proper officer of the court to stand
 his trial upon any indictment preferred against him] and (2)*

Signed

Registrar of the Court of Criminal Appeal.

*Add, in the case of the appellant, any other conditions specified by the court.

FORM 13

CRIMINAL APPEAL (NORTHERN IRELAND) ACT 1968

R.9(1)

Certificate of Registrar that all recognizances taken

I hereby certify that the recognizances of the sureties of
..... detained in
have been taken.

Signed

Registrar of the Court of Criminal Appeal.

Date

FORM 14

CRIMINAL APPEAL (NORTHERN IRELAND) ACT 1968

R.14(1)

Witness Order

R. v. (Appellant)

To of

On the application of the appellant/prosecutor the Court of Criminal Appeal has ordered you to attend for examination as a witness upon the appeal of the appellant:

You are therefore ordered to attend at
on the day of 19.... at the hour
of to give evidence before
and to produce the following document[s]
or thing[s]:

Date

Signed

Registrar of the Court of Criminal Appeal.

FORM 15

CRIMINAL APPEAL (NORTHERN IRELAND) ACT 1968

R.16(1)

Notice of abandonment of proceedings

To the Registrar,
Court of Criminal Appeal,
Royal Courts of Justice (Ulster),
BELFAST BT1 3JF

Full names of appellant

Criminal appeal reference number

The appellant hereby abandons

*Delete
one or
other
alter-
native

*all proceedings in the Court of Criminal Appeal

*the following proceedings in the Court of Criminal Appeal,
namely:—

Signed

Date

[Where the appellant is in custody and signs this form his signature must be witnessed by the person having custody of him].

Notes

1. Where an appeal or application for leave to appeal is abandoned, the appeal or application is treated as having been dismissed or refused by the Court of Criminal Appeal.
2. If the appellant wishes to abandon several proceedings in the Court of Criminal Appeal for which there are more than one criminal appeal reference number, a separate notice of abandonment should be given in respect of each reference number.
3. The notice may be signed by the appellant, his counsel or solicitor, or by any other person authorised on behalf of the appellant. But if the notice is not signed by the appellant, his counsel or solicitor, the Court of Criminal Appeal may treat the form as not constituting notice of abandonment 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.

FORM 16

CRIMINAL APPEAL (NORTHERN IRELAND) ACT 1968

R.18(1)

Application for determination by Court of Criminal Appeal

To the Registrar,
Court of Criminal Appeal,
Royal Courts of Justice (Ulster),
BELFAST BT1 3JF (1)

Full names of appellant

Criminal appeal reference number

Whereas the appellant's application for (2)—

- (a) extension of the time within which notice of appeal/leave to appeal may be given;
(b) leave to appeal;
(c) bail;
(d) leave to be present in court at the hearing of—
(i) the application for leave to appeal;
(ii) the appeal;
(e) leave to call further witnesses or to produce any document or thing as additional evidence;

has been refused by a single Judge, the appellant applies to have such of the foregoing applications as are specified below (3) determined by the Court of Criminal Appeal (4)—

- (a) extension of the time within which notice of appeal/leave to appeal may be given;
(b) leave to appeal;
(c) bail;
(d) leave to be present in court at the hearing of—
(i) the application for leave to appeal;
(ii) the appeal;
(e) leave to call further witnesses or to produce any document or thing as additional evidence.

Signed (5)

Date

(1) This form must be sent to the Registrar within fourteen days from the date on which notice of the refusal of the application by the single judge was served on the appellant by the Registrar.
(2) Cross out all except the applications which have been refused.
(3) Cross out all except the application(s) which the appellant wishes to have determined by the Court of Criminal Appeal.
(4) If the appellant wishes to submit to the Court of Criminal Appeal any arguments not mentioned in the applications refused by the single judge, they should be set out overleaf.
(5) The notice must be signed by the appellant or by his counsel or solicitor or other person authorised to sign it.

[Page 2]

Additional reasons

FORM 17

CRIMINAL APPEAL (NORTHERN IRELAND) ACT 1968

R.20

Warrant directing conveyance of appellant to hospital

To the Governor and prison officers of and to the Hospital Management Committee of the hospital of

Whereas an appellant in the Court of Criminal Appeal who is subject to a hospital order has been admitted to bail pending his appeal:

And whereas the court has determined that the appeal be dismissed (or as the case may be):

You, the said prison officers, are hereby directed to convey the appellant to a place of safety pending his admission to the hospital of

And you, the Governor, Management Committee or other person having charge of the place of safety to which the appellant has been conveyed, to detain him pending his admission to the said hospital:

And you, the Management Committee of the said hospital and any person authorised in writing by you, to convey the appellant from the place of safety to the said hospital.

Signed

Date

FORM 18

CRIMINAL APPEAL (NORTHERN IRELAND) ACT 1968

R.28(2)

R. v. (Appellant)

Declaration verifying transcript

I, of

..... do solemnly and sincerely declare that having been directed by the Registrar of the Court of Criminal Appeal to make a transcript of the [shorthand notes] or [mechanical recording] relating to the above trial [or other proceedings] which [shorthand notes] or [mechanical recording] are/is now produced and shown to me marked, and purporting to have been [signed and] certified [by me] or [by of]

Delete words in [which are not applicable

I have made a correct and complete transcript thereof to the best of my skill and ability in pursuance of the said direction, which said transcript is shown to me marked "A" AND I make this solemn declaration, conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835.

Dated this day of 19.....

Taken and Declared etc.

.....

.....

FORM 19

CRIMINAL APPEAL (NORTHERN IRELAND) ACT 1968

R.32

Application for leave to appeal to the House of Lords

To the Registrar,
Court of Criminal Appeal,
Royal Courts of Justice (Ulster),
BELFAST BT1 3JF

Full names of the defendant

Criminal appeal reference number

Date of decision of the Court of Criminal Appeal

Name and address of place at which defendant detained or,
if not detained, defendant's address

The defendant/prosecutor applies to the Court of Criminal Appeal

*for leave to appeal to the House of Lords against the decision of the Court

*Delete if inapplicable *to extend the time within which an application to the Court or the House of Lords for leave to appeal to the House of Lords may be made

*to be given leave to be present at proceedings for which such leave is required

*to be admitted to bail pending the appeal.

Grounds of appeal or application.

Signed

Date

Notes

1. This form should be sent to the Registrar within fourteen days from the decision of the Court of Criminal Appeal. This period may, on the application of a defendant, be extended. In the case of such an application the reasons for the delay should be explained.

2. In the case of an application for leave to appeal state the point involved in the decision of the Court of Criminal Appeal which the appellant wishes the Court to certify as a point of law of general public importance,

FORM 20

CRIMINAL APPEAL (NORTHERN IRELAND) ACT 1968

R.32(3)

Recognizance of defendant on appeal to House of Lords

I, (hereinafter called "the defendant") acknowledge that I owe to our Sovereign Lady The Queen the sum of, payment thereof to be enforced against me by due process of law if I fail to comply with the condition[s] endorsed hereon.

Signed

Address at which defendant proposes to reside pending appeal:

Taken before me the day of 19.... at

Signed Office (1)

(Endorsement) Condition[s] (2)

The condition[s] of this recognizance is/are—

(1) The recognizance may be taken by the Registrar of the Court of Criminal Appeal, a Justice of the Peace, a member of the police force of or above the rank of District Inspector or the person having custody of the defendant. (2) Conditions appearing to the Court to be likely to result in the appellant's appearance at the time and place required, or to be necessary in the interests of justice or for the prevention of crime will be inserted by the Court.

FORM 21

CRIMINAL APPEAL (NORTHERN IRELAND) ACT 1968

R.32(3)

Recognizance of defendant's surety on appeal to House of Lords

I, acknowledge that I owe to our Sovereign Lady The Queen the sum of, payment thereof to be enforced against me by due process of law if (insert name of principal) fails to comply with the condition endorsed hereon.

Signed

Address

.....
.....
.....

Taken before me the day of 19.....
at

Signed

Office (1)

(Endorsement)

Condition

The condition of this recognizance is that if the said
....., unless the House of Lords otherwise directs, surrenders himself to such person and at such time and place as may be directed by the Court of Criminal Appeal, then this recognizance shall be void, but otherwise shall remain in full force.

(1) The recognizance may be taken by the Registrar of the Court of Criminal Appeal, a Justice of the Peace, a member of the police force of or above the rank of District Inspector or the person having custody of the defendant.

EXPLANATORY NOTE

(This note is not part of the rules, but is intended to indicate their general purport.)

These rules revoke the Criminal Appeal (Northern Ireland) Rules 1931. The rules make provision for appeals to the Court of Criminal Appeal and from the Court of Criminal Appeal to the House of Lords under the Criminal Appeal (Northern Ireland) Act 1968.

The rules do not apply to any notice of appeal or application for leave to appeal given before the rules came into force (rule 38(2)).