

1988 No. 1700 (L. 22)

SUPREME COURT OF ENGLAND AND WALES

**The Criminal Justice Act 1987
(Preparatory Hearings) (Interlocutory Appeals) Rules
1988**

<i>Made</i> - - - -	<i>3rd October 1988</i>
<i>Laid before Parliament</i>	<i>7th October 1988</i>
<i>Coming into force</i>	<i>31st October 1988</i>

We the Crown Court Rule Committee, in exercise of the powers conferred upon us by sections 84(1) and 86 of the Supreme Court Act 1981(a), hereby make the following Rules:

Citation and commencement

1. These Rules may be cited as the Criminal Justice Act 1987 (Preparatory Hearings) (Interlocutory Appeals) Rules 1988 and shall come into force on 31st October 1988.

Interpretation

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

“the Act of 1968” means the Criminal Appeal Act 1968(b) and

“the Act of 1987” means the Criminal Justice Act 1987(c);

“appellant” means an appellant under section 9(11) of the Act of 1987 including a person who has given notice of application for leave to appeal;

“judge of the court” means a judge of the High Court or the Court of Appeal;

“the principal Rules” means the Criminal Appeal Rules 1968(d);

“registrar” means the registrar of criminal appeals of the Court of Appeal; and

“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 days or less, would include a Saturday, Sunday or bank holiday, Christmas Day or Good Friday, that day shall be excluded.

In this paragraph “bank holiday” means a day which is, or is to be observed as, a bank holiday, or a holiday, under the Banking and Financial Dealings Act 1971(e), in England and Wales.

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

Notice of appeal

3.—(1) An application to the judge of the Crown Court for leave to appeal under section 9(11) of the Act of 1987 shall be made orally within two days of the making of the order or ruling to which it relates.

(2) Unless the application is made on the occasion of the order or ruling to which it relates, the appellant shall serve notice in writing thereof, specifying the grounds of the application, on the appropriate officer of the Crown Court and on all parties to the hearing directly affected by the order or ruling in question.

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

- (a) the registrar;
- (b) the appropriate officer of the Crown Court; and
- (c) all parties to the preparatory hearing directly affected by the said order or ruling.

(4) The time for giving notice under paragraph (3) above may be extended, before or after it expires, by the Court of Appeal.

(5) A notice of appeal or of an application for leave to appeal shall be in Form IA(1).

(6) If notice in writing of an application for leave to appeal was, under paragraph (2) above, 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 (3) above to be served on the registrar.

(7) 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 intended to be put to the Court of Appeal; and
- (c) specify any authorities intended to be cited.

(8) 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 is given.

(9) Notice of appeal or of 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 IA(2) on the registrar,—

- (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 appropriate officer 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 section 9(11) of the Act, 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 section 9(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 of Appeal 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 IA(3) on the registrar; or
 - (b) orally to the judge or the Court.

Supply of documentary and other exhibits

6. Rule 8 of the principal Rules (supply of documentary and other exhibits) shall apply in relation to an appellant and a respondent under section 9(11) of the Act of 1987 as it applies in relation to an appellant and a respondent under Part I of the Act of 1968.

Abandonment of proceedings

7. Rule 10 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 section 9(11) of the Act of 1987 as it applies to an appeal or application for leave under Part I of the Act of 1968, except that—

- (a) notice thereof shall be served on the registrar in Form IA(4); and
- (b) the requirement under paragraph (3) of the said rule 10 for the registrar to send a copy of a notice of abandonment of proceedings to the Secretary of State 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 section 9(11) of the Act of 1987;
- (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 IA(5) on the registrar within 7 days, or such longer period as a judge of the court may fix, from the date on which notice of the refusal was served on him by the registrar.

(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 registrar 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 registrar 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 registrar shall, as soon as practicable, serve notice of any determination by the Court of Appeal or by any judge of the court under rule 8 on—

- (a) the applicant; and
- (b) any other party to the appeal; and
- (c) any person given leave under rule 5(2) to be present at the hearing of the appeal.

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

Service of documents

11.—(1) Subject to paragraph (2) below, rule 21 of the principal Rules (service of documents) shall apply for the purposes of an appeal or an application for leave to appeal under section 9(11) of the Act of 1987 as it applies for the purposes of Part I of the Act of 1968.

(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 registrar

12.—(1) The registrar may require the Crown Court at the place of trial to furnish the Court of Appeal 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 registrar 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 section 9(11) of the Act of 1987 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.

Forms

13.—(1) Any reference in these Rules to a form, unless the context otherwise requires, is a reference to a form set out in the Schedule to these Rules.

(2) The forms set out in the Schedule to these Rules or forms substantially to the like effect may be used with such variations as the circumstances may require.

Dated 3rd October 1988

Mackay of Clashfern, C
Lane, CJ
M McKenzie
Stephen Brown, P
Anthony McCowan, J
Richard Lowry
Douglas Brown
David Jeffreys
L Naylor
S T Hammond

SCHEDULE

Rule 13

FORMS



The Court of Appeal Criminal Division

Form IA(1)

NOTICE and GROUNDS of appeal or application for leave to appeal
s.9 (11) Criminal Justice Act 1987 CAO No. / /
(Preparatory Hearing)

Please read the notes for guidance overleaf. Write in BLACK INK and USE BLOCK CAPITALS

The Appellant
give full name Surname Forenames
If in custody give Prison Index No. and address where detained Address
Post code Date of birth
Prison Index No.

Preparatory Hearing at Crown Court
Name of Judge
Dates of hearing Indictment Number

Ruling / Order in respect of which appeal or application for leave to appeal is made :

Application to the Crown Court (Please tick as appropriate)
State whether there was an application to the Judge of the Crown Court for leave to appeal No Yes
If yes, was the application granted No Yes

Ancillary Applications SEE NOTES 6 & 9
The appellant is applying for: Please tick as appropriate
Extension of time in which to give notice of appeal or application for leave to appeal (give reasons below)
Legal aid
Leave to be present at the application for leave to appeal
If you require an extension of time in which to give notice of appeal state reasons:

Notes for guidance on the completion of form IA(1)

1. Appeal lies to the Court of Appeal Criminal Division from an order or ruling of a judge at a preparatory hearing under s.9(3) (b) or (c) of the Criminal Justice Act 1987 with the leave of that judge or of the Court of Appeal. This form should be served on the Registrar of Criminal Appeals within 7 days from the making of the order or ruling. An application to the judge of the Crown Court for leave to appeal may be made orally within 2 days of the making of the order or ruling. Where such an application for leave has been made to the judge of the Crown Court, that fact must be stated in the notice.
2. This notice will be treated as a notice of appeal where leave to appeal is not required.
3. A copy of this notice, including these notes for guidance, must be served on the appropriate officer of the Crown Court and on all parties to the preparatory hearing who are directly affected by the order or ruling within 7 days of making the order.
4. In reckoning the period of time for notice of appeal etc., if the period includes Saturday, Sunday, Bank Holiday, Christmas Day or Good Friday, that day is excluded.
5. This notice must be accompanied by any documents or other items (or copies thereof) necessary for the proper determination of the appeal or application. If reasons were given for the order or ruling, Counsel's note thereof should be included in the documents and where the note has been approved by the judge in the Crown Court, that fact should be endorsed upon the copy provided to the Registrar.
6. Legal aid may be granted for the purposes of an application for leave to appeal or an appeal by the Crown Court or the Court of Appeal - s.28 (8A) of the Legal Aid Act 1974. If legal aid has been granted by the Crown Court, the appellant should so inform the Registrar.
7. Grounds of appeal settled by counsel must be signed by counsel.
8. A party in whose favour the order or ruling was made - the respondent - wishing to oppose the appeal must within 7 days of receipt of his copy of this notice serve on the Registrar, with copies to the appellant and all parties directly affected by the order or ruling, a notice stating the date on which the appellant's notice was received, summarising his response to the arguments of the appellant and specifying the authorities he intends to cite.
9. An accused person in custody who is not a party to the appeal may apply for leave to be present at the proceedings in the Court of Appeal using form IA(3).

Grounds of appeal (see note 7)

1. Specify the question of law in respect of which the appeal is brought (and where appropriate, such facts of the case as are necessary for the proper consideration of the question of law).

2. Summarise the arguments that you intend to put to the Court of Appeal, (specifying any authorities to be cited).

Grounds (Continued)

Signature	Details of any person signing on behalf of the appellant:	
	Signature of appellant _____	Name _____ Solicitor/Counsel * _____ * <i>Delete as appropriate</i>
Date _____	Address _____ _____	_____ <small>post code</small>
	Solicitor's Ref. _____	

For Prison Use
This notice was handed to me by the appellant today.

Signed _____ Prison Officer

Date _____

Appellant's Index No. _____

For Criminal Appeal Office Use

Received (date) _____

Acknowledged (date) _____



The Court of Appeal Criminal Division

Form **IA(2)**

NOTICE and GROUNDS of opposition to appeal
s.9 (11) Criminal Justice Act 1987 CAO No. / /
(Preparatory Hearing)

• Write in **BLACK INK** and **USE BLOCK CAPITALS**

The Respondent		Prison Index No.			
give full name	Surname	_____			
	Forenames	_____			
If in custody give Prison Index No. and address where detained	Address	_____			
	Post code	_____	Date of birth	_____	

Preparatory Hearing	at _____	Crown Court
	Name of Judge	_____
	Dates of hearing	_____ Indictment Number _____
	Date on which appellant's notice of appeal was received	_____

The Respondent is applying for *Please tick as appropriate*

Extension of time in which to give notice of opposition to appeal (give reasons below)

Legal aid

Leave to be present at the application for leave to appeal

If you require an extension of time in which to give notice of opposition to appeal state reasons:

Grounds Summarise the arguments you intend to put to the Court of Appeal, specifying any authorities to be cited

Grounds (Continued)

Large empty rectangular box for providing grounds.

Signature

Signature of respondent

Date _____

Details of any person signing *on behalf* of the respondent:

Name _____
Solicitor/Counsel * ** Delete as appropriate*

Address _____

_____ post code _____

Solicitor's Ref. _____

For Prison Use

This notice was handed to me by the respondent today.

Signed _____ Prison Officer

Date _____

Respondent's Index No. _____

For Criminal Appeal Office Use

Received (date) _____

Acknowledged (date) _____



The Court of Appeal Criminal Division

Form **IA(3)**

NOTICE of application for leave to be present at hearing of appeal or application for leave to appeal
s.9 (11) Criminal Justice Act 1987 CAO No. / /

• Write in BLACK INK and USE BLOCK CAPITALS

The Applicant		Prison Index No.							
give full name	Surname _____	<table border="1"><tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr></table>							
	Forenames _____								
If in custody give Prison Index No. and address where detained	Address _____								

	Post code _____	Date of birth _____							

Preparatory Hearing	at _____	Crown Court
Dates of hearing _____	Indictment Number _____	
Date on which the appellant's notice of appeal was received _____		

The applicant applies for leave to be present State the grounds for your application:

Signature	Details of any person signing <i>on behalf</i> of the applicant:
Signature of applicant _____	Name _____
	Solicitor/Counsel * _____ * Delete as appropriate
	Address _____

	_____ post code _____
Date _____	Solicitor's Ref. _____

For Prison Use
This notice was handed to me by the applicant today.
Signed _____ Prison Officer
Date _____
Applicant's Index No. _____

For Criminal Appeal Office Use
Received (date) _____
Acknowledged (date) _____



The Court of Appeal Criminal Division

Form IA(4)

NOTICE of Abandonment of Proceedings

s.9 (11) Criminal Justice Act 1987

CAO No.

/ /

• Write in BLACK INK and USE BLOCK CAPITALS

The Appellant Prison Index No.

give full name Surname _____

Forenames _____

If in custody give Prison Index No. and address where detained Address _____

Post code _____ Date of birth _____

Preparatory Hearing at _____ Crown Court

Name of Judge _____

Dates of hearing _____ Indictment Number _____

I abandon proceedings in the Court of Appeal

Signature of appellant _____

Date _____

Details of any person signing *on behalf* of the appellant:

Name _____

Solicitor/Counsel * _____ * Delete as appropriate

Address _____

post code _____

Solicitor's Ref. _____

For Criminal Appeal Office Use

Received (date) _____

Acknowledged (date) _____

Copies to : _____ Crown Court

The Governor _____

Form IA(4) Notice of abandonment of proceedings



The Court of Appeal Criminal Division

Form IA(5)

Determination by single judge
s.9 (11) Criminal Justice Act 1987

CAO No. / /

• Write in BLACK INK and USE BLOCK CAPITALS

The Appellant Prison Index No.

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give full name Surname _____

Forenames _____

Address where detained _____

Post code _____ Date of birth _____

Address if not detained _____

Post code _____

ORDER by the Hon. Mr. Justice _____

Applications considered

a. Extension of time c. Legal aid

b. Leave to appeal against order/ruling d. Leave to be present

Decision *(if legal aid is granted please indicate the number of Counsel and whether Solicitors are included)*

Note: If an application has been refused see overleaf

Observations to the Appellant *(if leave is refused)*

I have considered the papers in your case and your grounds of appeal

Signed _____ Dated _____

1. Date IA(5) sent to the appellant

(a) This form was sent by the Registrar
on (date) _____

(b) If the appellant is in custody.
This form was handed to the appellant
today (date) _____

(Signed) _____
(Prison Officer)

2. If an application is refused

Applications refused by a Judge may be renewed for consideration by the full court,
or may be abandoned (using form IA(4)).

3. Renewal notice to the Registrar. The following applications are renewed.

Signed _____ (Appellant)

Dated _____

4. Notes

1. Appellants must use section 3 of this part of the form for the renewal of applications.
2. An application not renewed in time will be treated as if refused by the full court, which will not extend the time unless the circumstances are wholly exceptional. The time limits are as follows:
 - If the appellant is not in custody, the form must be returned to the Registrar (Criminal Appeal Office) to reach him within 7 days of the date shown at 1(a).
 - If the appellant is in custody the form must be handed in to the Prison Authority (or other person having custody) within 7 days of the date shown at 1(b).
3. If you wish to obtain advice you should do so within the time allowed. The Court cannot give advice.
4. The appellant will receive two copies of Form IA(5) and should retain one.

For Prison Use

This form was handed to me by the appellant today.

Signed _____
Prison Officer

Date _____

Appellant's Index No. _____

For Criminal Appeal Office Use

Received (date) _____

Acknowledged (date) _____

Form IA(5)

2.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules make provision for regulating the practice and procedure of the criminal division of the Court of Appeal for the purposes of appeals against orders or rulings made at preparatory hearings in cases of fraud held under section 9 of the Criminal Justice Act 1987 (c.38).

Rules 3 and 4 provide for giving notice of appeal or of an application for leave to appeal and for the application for leave to appeal and for the respondent's notice in response thereto. Rule 5 makes provision enabling persons in custody to be present on appeals or applications for leave to appeal. Rule 6 provides for the supply of documentary and other exhibits by the registrar to the parties to an appeal. Rule 7 applies with modifications rule 10 of the Criminal Appeal Rules 1968 (S.I. 1968/1262) (abandonment of proceedings). Rule 8 gives a single judge power to determine certain applications, and rule 9 permits the applicant in case of refusal to apply to the Court of Appeal. Rules 10, 11, 12 and 13 make supplementary provision.

These Rules, by virtue of rule 1, come into force on 31st October 1988.