

1973 No. 1114 (L.15)

CRIMINAL PROCEDURE, ENGLAND AND WALES

The Criminal Appeal (Reference of Points of Law) Rules 1973

<i>Made</i>	- - -	22nd June 1973
<i>Laid before Parliament</i>		3rd July 1973
<i>Coming into Operation</i>		1st October 1973

We, the Crown Court rule committee, in exercise of the powers conferred upon us by section 99 of the Supreme Court of Judicature (Consolidation) Act 1925(a) and section 46 of the Criminal Appeal Act 1968(b) as amended by section 56(1) of and paragraph 57(2) of Schedule 8 to the Courts Act 1971(c), hereby make the following Rules:—

1. These Rules may be cited as the Criminal Appeal (Reference of Points of Law) Rules 1973 and shall come into operation on 1st October 1973.

2.—(1) In these Rules—

“court” means the Criminal Division of the Court of Appeal;

“reference” means a reference of a point of law to the court in pursuance of section 36 of the Criminal Justice Act 1972(d);

“the registrar” means the registrar of criminal appeals;

“respondent”, in relation to any reference, means the acquitted person in whose case the point of law referred arose.

(2) The Interpretation Act 1889(e) shall apply for the interpretation of these Rules as it applies for the interpretation of an Act of Parliament.

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

(a) specify the point of law referred and, where appropriate, such facts of the case as are necessary for the proper consideration of the point of law;

(b) summarise the arguments intended to be put to the court; and

(c) specify the authorities intended to be cited:

Provided that no mention shall be made in the reference of the proper name of any person or place which is likely to lead to the identification of the respondent.

(2) A reference shall be entitled “Reference under section 36 of the Criminal Justice Act 1972” together with the year and number of the reference.

(a) 1925 c. 49.
(c) 1971 c. 23.
(e) 1889 c. 63.

(b) 1968 c. 19.
(d) 1972 c. 71.

4.—(1) The registrar shall cause to be served on the respondent notice of the reference which shall also—

- (a) inform the respondent that the reference will not affect the trial in relation to which it is made or any acquittal in that trial;
- (b) invite the respondent, within such period as may be specified in the notice (being not less than twenty-eight days from the date of service of the notice), to inform the registrar if he wishes to present any argument to the court and, if so, whether he wishes to present such argument in person or by counsel on his behalf.

(2) The court shall not hear argument by or on behalf of the Attorney-General until the period specified in the notice has expired unless the respondent agrees or has indicated that he does not wish to present any argument to the court.

5. The Attorney-General may withdraw or amend the reference at any time before the court have begun the hearing, or, after that, and until the court have given their opinion, may withdraw or amend the reference by leave of the court, and notice of such withdrawal or amendment shall be served on the respondent on behalf of the Attorney-General.

6. The court shall ensure that the identity of the respondent is not disclosed during the proceedings on a reference except where the respondent has given his consent to the use of his name in the proceedings.

7. An application under section 36(3) of the Criminal Justice Act 1972 (reference to the House of Lords) may be made orally immediately after the court give their opinion or by notice served on the registrar within the fourteen days next following.

8.—(1) For the purpose of these Rules service of a document on the respondent may be effected—

- (a) in the case of a document to be served on a body corporate by delivering it to the secretary or clerk of the body at its registered or principal office or sending it by post addressed to the secretary or clerk of that body at that office;
- (b) in the case of a document to be served on any other person by—
 - (i) delivering it to the person to whom it is directed, or
 - (ii) leaving it for him with some person at his last known or usual place of abode, or
 - (iii) sending it by post addressed to him at his last known or usual place of abode.

(2) For the purpose of these Rules, service of a document on the registrar may be effected by—

- (a) delivering it to the registrar;
- (b) addressing it to him and leaving it at his office in the Royal Courts of Justice, London, W.C.2; or

(c) sending it by post addressed to him at the said office.

Dated 22nd June 1973.

Hailsham of St. Marylebone, C.
Widgery, C. J.
Frederick Lawton, L. J.
George Bean, J.
C. D. Aarvold.
Alan S. Trapnell.
D. R. Thompson.
J. B. Edwards.
Basil Wigoder.
David Calcutt.
A. Crawford Caffin.
G. G. A. Whitehead.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules provide safeguards in respect of disclosure of the identity of an acquitted person where a point of law, arising out of the trial in which that person was acquitted, is referred to the Court of Appeal under section 36 of the Criminal Justice Act 1972; section 66 of that Act requires such rules of court to be made before the commencement of section 36.

The Rules also provide for the form of the reference, for notice to be given to the acquitted person and for certain other procedural matters.

SI 1973/1114
ISBN 0-11-031114-0

