
STATUTORY INSTRUMENTS

1987 No. 1977 (L. 9)

SUPREME COURT OF ENGLAND AND WALES

The Criminal Appeal (Amendment) Rules 1987

Made - - - - *19th November 1987*

Laid before Parliament *7th December 1987*

Coming into force - - *1st January 1988*

We, the Crown Court Rule Committee, in exercise of the powers conferred upon us by sections 84(1) and (2), 86 and 87(4) of the Supreme Court Act 1981⁽¹⁾, hereby make the following Rules:

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Criminal Appeal (Amendment) Rules 1987 and shall come into force on 1st January 1988.

(2) In these Rules any reference to the principal Rules is a reference to the Criminal Appeal Rules 1968⁽²⁾ as amended by the Criminal Appeal (Amendment) Rules 1978⁽³⁾.

Notice of appeal

2. In rule 2 of the principal Rules—

(a) in paragraph (1), for the words “serving it on the Registrar” there shall be substituted the words “serving it on the appropriate officer of the Crown Court”;

(b) for paragraphs (6) and (7) there shall be substituted the following paragraphs—

“(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 from the Crown Court, send a copy of it to the appellant.

(7) Where an appellant does not require leave to appeal, a notice of application for leave to appeal shall be treated as a notice of appeal; and where an appellant requires leave to appeal but serves only a notice of appeal, the notice of appeal shall be treated as an application for leave to appeal.”.

(1) 1981 c. 54.
(2) S.I.1968/1262.
(3) S.I. 1978/1118.

Applications relating to bail, leave to be present or reception of evidence

3. At the end of rule 3(1) of the principal Rules a semi-colon shall be substituted for the full stop, and the following words shall be added—

“save that where a notice of an application under sub-paragraph (a), (b), (c) or (d) is given together with a notice of appeal or notice of application for leave to appeal, it shall be served on the appropriate officer of the Crown Court.”.

Service of documents

4.—(1) Rule 21 of the principal Rules shall be amended as follows.

(2) After paragraph (1)(a) there shall be inserted the following sub-paragraph—

“(aa) in the case of a document to be served on the appropriate officer of the Crown Court—

(i) in the case of an appellant who is in custody, by delivering it to the person having custody of him, or

(ii) by delivering it to, or sending it by post addressed to, the appropriate officer at the Crown Court centre at which the conviction, verdict, finding or sentence appealed against was given or passed;”.

(3) The following shall be substituted for paragraph (2)—

“(2) A person having custody of an appellant to whom a document is delivered in pursuance of paragraph (1)(a)(i) or (1)(aa)(i) of this Rule shall endorse on it the date of delivery and cause it to be forwarded forthwith to the Registrar or to the appropriate officer of the Crown Court, as the case may be.”.

Forms

5. The forms contained in the Schedule to these Rules shall replace the corresponding form or forms in Schedule 1 to the Criminal Appeal Rules 1968.

6. Where, consequent on the amendments made by these Rules to the principal Rules, a document substantially in the form of Forms 2 & 3, 4 or 6 is required to be served on the appropriate officer of the Crown Court, the form shall be addressed to that officer, who shall endorse on it the date of its receipt in the Crown Court.

Dated 19th November 1987

Mackay of Clashfern, C.

*Stephen Brown, L.J.
Anthony McCowan, J.
Douglas Brown
Richard Lowry
M. J. Langton
N. R. Purnell
L. J. J. Morgan
L. Naylor*

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SCHEDULE



The Court of Appeal Criminal Division

Form NG
(Forms 2 & 3)

NOTICE and GROUNDS of appeal or application for leave to appeal
(Criminal Appeal Act 1968)

CAO No. / /

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

ON COMPLETION PLEASE SEND THIS FORM TO THE CROWN COURT WHERE TRIED OR SENTENCED

The appellant Prison Index No.

give full name Surname _____

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Forenames _____

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

Post code _____ Date of birth _____

The court where tried or sentenced

Give details if the case was transferred from another court The Crown Court at _____

Name of Judge _____

Underline the dates of conviction and sentence Dates of appearance in the Crown Court _____

Total period of remand in custody prior to sentence _____

The conviction(s) and sentence(s)

The full Crown Court case number(s) must be given, and particulars of ALL counts, offences and sentences included.

Crown Court case number(s)	Count or charge no.	Offence	Sentence
Number of offences taken into consideration		Total sentence	

Applications SEE NOTE 5

The appellant is applying for: *Please tick as appropriate*

<input type="checkbox"/> Extension of time in which to apply for leave to appeal against conviction and/or sentence	<input type="checkbox"/> Legal aid
<input type="checkbox"/> leave to appeal against conviction	<input type="checkbox"/> Bail
<input type="checkbox"/> Leave to appeal against sentence	<input type="checkbox"/> Leave to call a witness

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Notes for guidance on the completion of this form

1. Everyone who is convicted or sentenced in the Crown Court in circumstances where an appeal would lie to the Court of Appeal Criminal Division should have advice or assistance on appeal. Provision for this is included in a trial legal aid order (section 30(7) Legal Aid Act 1974).
2. Solicitors and counsel are expected to be familiar with 'A Guide to Proceedings in the Court of Appeal Criminal Division' (available from any Crown Court Centre and reproduced at volume 77(1983) Criminal Appeal Reports 138).
3. Separate forms should be submitted for convictions or sentences which do not arise in the same proceedings.
4. This notice will be treated as a notice of appeal where leave to appeal is not required.
5. **Applications**
 - **Extension of time** This form should be sent to the appropriate officer of the Crown Court within 28 days of the 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 Crown Court, and the date of handing in should be recorded on the form.
The period of 28 days cannot be extended except by leave of the Court of Appeal Criminal Division and the reasons for the delay will be required.
Note that the time for applying for leave to appeal against conviction runs from the date of conviction even where sentence is passed on a later date.
 - Leave to appeal against conviction
 - Leave to appeal against sentence
 - Legal aid A legal aid order made in the Crown Court does not provide for oral argument before the Court of Appeal. If legal aid is sought for this purpose it should be applied for.
 - Bail Where bail is applied for Form B must also be completed. If Form B accompanies Form NG it should be submitted to the Crown Court but if submitted later should be sent to :- The Registrar, Criminal Appeal Office, Royal Courts of Justice, Strand, London WC2A 2LL.
 - Leave to call a witness (Conviction applications only) Application is made on Form W which should be included only where leave is sought to call a witness in support of an application for leave to appeal against conviction. A separate form is required for each witness. If Form W accompanies Form NG it should be submitted to the Crown Court but if submitted later should be sent to:- The Registrar, Criminal Appeal Office, Royal Courts of Justice, Strand, London WC2A 2LL.
6. **Grounds of appeal**
Where grounds have been settled by counsel they must be signed by counsel and attached to this form. There is no obligation to include a copy of counsel's advice although in some cases it may be helpful to do so. Grounds must be settled with sufficient detail to enable matters relied upon to be clearly identified. Wording such as "the conviction is unsafe and unsatisfactory" or "the sentence is in all the circumstances too severe" will be ineffective as grounds and an extension of time may have to be applied for (see note 5).
7. Where a certificate that the case is fit for appeal has been granted by the trial judge this should be stated and see generally paragraph 17 of 'A Guide to Proceedings in the Court of Appeal Criminal Division'.
8. Where an appellant has been granted leave to appeal he is entitled to be present on the hearing of his appeal. It will be assumed that an appellant in custody is applying for leave to be present at any hearing for which leave to be present is required unless he indicates to the contrary.

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I understand that if I am in custody, and the single judge and/or the court is of the opinion that the appeal is plainly without merit, an order may be made that time spent in custody as an appellant shall not count towards sentence.
I also understand that whether or not I am in custody the court may make an order for payment of costs against me, including the cost of any transcript obtained.

This form should be signed by the appellant but may be signed by his/her legal representative *provided* the WARNING set out above has been explained to him, and he is sent a copy of this form.

Signature of appellant _____

Date _____

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

Name _____
Solicitor/Counsel * _____

Address _____

post
code _____

* Delete as appropriate

FOR PRISON USE

This notice was handed to me by the appellant today.

Signed _____
Date _____ Prison Officer

Appellant's Index No. _____
EDR. _____
PED. _____

<p>FOR CROWN COURT USE</p> <p>Notice received :</p> <p>Signed _____ Date _____</p> <p>Sent to CAO :</p> <p>Signed _____ Date _____</p> <p>This Notice must be sent to the Registrar of Criminal Appeals together with trial documents forthwith</p>	<p>FOR CRIMINAL APPEAL OFFICE USE</p> <p>Received :</p> <p>Acknowledged (date)</p>
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FOR CROWN COURT USE

Immediately upon receipt of Form NG the Crown Court must complete and send tear off slips 1 - 4 overleaf as applicable and record the action taken below :

tick appropriate boxes

<p>Date sent _____</p> <p>Signed _____</p>	<p>Slip 1 (Acknowledgement)</p> <p><input type="checkbox"/> sent to _____</p> <p>Slip 3 (Monetary penalty/order)</p> <p><input type="checkbox"/> _____ Mags. Ct</p>	<p>Slip 2 (Sentencing remarks)</p> <p><input type="checkbox"/> Messrs _____</p> <p>Slip 4 (Statements)</p> <p><input type="checkbox"/> CPS _____</p>
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Slip 4 Request for witness statements from prosecution
(to be sent in all cases involving committals for sentence)

To : **Crown Prosecution Service** From : Crown Court at _____
Dear Sir, Date _____
R v _____ Crown Court Ref. _____

Would you please forward forthwith witness statements / statement of facts in the above case, enclosing this slip for reference purposes, to :

The Registrar , Criminal Appeal Office (telephone 01 - 936 - 6011 / 6014 Yours faithfully,
Royal Courts of Justice, DX : RCJ 44450 Strand
Strand , London WC2A 2LL FAX : 01 - 936 - 6900)

Slip 3 Notification to Magistrates of appeal in cases involving monetary penalty or order
(to be sent in all cases involving monetary penalty or order)

To : Clerk to the Justices From : Chief Clerk
_____ Magistrates Crown Court at _____
Dear Sir, Date _____
R v _____ Crown Court Ref. _____

I write to inform you that in this case in which you are responsible for enforcing the monetary penalty or order the above - named has lodged notice of appeal to the Court of Appeal Criminal Division.

Yours faithfully,

Slip 2 Request for transcript of sentencing observations
(to be sent if application / appeal is against sentence only)

To Messrs _____ (Shorthand - Writers) From : Chief Clerk
Dear Sir, Crown Court at _____
Date _____
R v _____ Crown Court Ref. _____
Date of sentence _____ Note taker _____

Would you please supply transcript (top and one carbon) of **Judges observations on passing sentence** (including any co-accused) , enclosing this slip for reference purposes, to:

The Transcript Section, Criminal Appeal Office (telephone 01 - 936 - 6817 Yours faithfully,
Royal Courts of Justice, DX : RCJ 44450 Strand
Strand , London WC2A 2LL FAX : 01 - 936 - 6900)

Slip 1 Acknowledgment of form NG
(to be sent in all cases to sender of form NG)

To : _____ From : Chief Clerk
_____ Your ref _____ Crown Court at _____
_____ Crown Court Ref. _____
_____ Date _____
R v _____

Dear Sir,
I acknowledge receipt of forms NG (B* W*) which have been forwarded to the Registrar of Criminal Appeals for attention.
All further communications should be addressed to :

The Registrar , Criminal Appeal Office Yours faithfully,
Royal Courts of Justice, Strand , London WC2A 2LL
(Tel 01 - 936 - 6011 / 6014 ; DX : RCJ 44450 Strand ; FAX : 01 936 6900)

* Delete as appropriate

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Notes

1. 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 and the transcript of the proceedings at the trial. This imposes some delay. Generally strong grounds of appeal or application for leave to appeal have to be shown before bail is granted.
2. Do not repeat the grounds of appeal or application for leave to appeal as the grounds for bail. Mention any other special grounds which the Judge or court might consider, e.g. medical grounds.
3. Time spent on bail does not count towards sentence.
4. Notice in writing of intention to make an application relating to bail must be served on the prosecutor at least 24 hours before the application is made, unless the court or a Judge otherwise directs.

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Court of Appeal Criminal Division
NOTICE OF APPLICATION FOR WITNESS
ORDER and/or LEAVE TO CALL A WITNESS
 Criminal Appeal Act 1968

If possible this form should be lodged at the Crown Court at the same time as form N.G. If this application is made at a later stage it should be sent directly to the Registrar of Criminal Appeals, Royal Courts of Justice, Strand, London WC2A 2LL, quoting the Criminal Appeal Office reference No:

Telephone 01-936-6011/6014, DX:RCJ 44450 - Strand, Fax No. 01-936-6900

Please read the notes for guidance below. Write in **BLACK INK** and use **BLOCK CAPITALS**

1. Particulars of Appellant

Forenames _____ Surname _____

Address (Give address where detained)

INDEX NUMBER

Address if granted bail

2. Particulars of witness

Forenames _____ Surname _____

Address

Do you want a witness order? Yes / No*
 (a witness order is not required if the witness would attend the Court of Appeal voluntarily).

Was the witness called at the trial? Yes / No*

* Delete as appropriate

The witness can now give the following evidence (which was not given at the trial):-

The evidence was not given at the trial for the following reasons:

Signed	Date	Address and status of person signing on appellant's behalf
Appellant /Legal rep (Delete as appropriate)		

Notes: 1. A witness cannot be called without the leave of the Court of Appeal. Before giving leave to call a witness, the court will consider, with other matters, whether the evidence, if received, would afford any grounds for allowing the appeal, whether the evidence is likely to be credible, and whether there is 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.

- A separate form must be used for each witness.
- Do not apply in respect of a witness in mitigation of sentence only.

FOR CROWN COURT USE
 NOTICE RECEIVED

Form **W**
 (Form 6)

Signed

Date

SENT TO C.A.O.

Signed

Date

FOR USE IN CRIMINAL APPEAL OFFICE

Ref No. / /

Date received:

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Criminal Appeal Rules 1968 (as amended), with effect from 1st January 1988, to provide that notice of appeal and of application for leave to appeal from conviction and/or sentence to the Court of Appeal Criminal Division should be served on the Crown Court at the centre at which the proceedings took place, rather than on the Registrar of the Court of Appeal Criminal Division. The Schedule to the Rules sets out amended forms of notice and grounds of appeal (which have been amalgamated), of application relating to bail and of application for witness orders.