

1989 No. 1102 (L.12)

SUPREME COURT OF ENGLAND AND WALES

The Criminal Appeal (Amendment) Rules 1989

<i>Made</i> - - - -	<i>29th June 1989</i>
<i>Laid before Parliament</i>	<i>4th July 1989</i>
<i>Coming into force</i>	<i>31st July 1989</i>

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(a) and section 159(6) of the Criminal Justice Act 1988(b), hereby make the following Rules:-

**Citation, commencement and interpretation**

1.—(1) These Rules may be cited as the Criminal Appeal (Amendment) Rules 1989 and shall come into force on 31st July 1989.

(2) In these Rules, “the principal Rules” means the Criminal Appeal Rules 1968(c).

**Appeals against order or decision on contempt of court**

2. In rule 2(1) of the principal Rules, after the words “the Act” there shall be inserted the words

“or notice of appeal under section 13 of the Administration of Justice Act 1960(d) (as required by section 18A of the Act(e)) against an order or decision of the Crown Court”.

**Applications in relation to order for retrial**

3. After rule 2 of the principal Rules there shall be inserted the following rule:

**“Notice of application after order for retrial**

2A. Notice of an application under section 8(1)(f) of the Act for leave to arraign, and notice of an application under section 8(1A)(f) thereof to set aside an order for retrial shall be in Form 3A and shall be served on the prosecutor or the person ordered to be retried as the case may be, and on the Registrar.”.

**Applications for leave to appeal against orders restricting or preventing reports of, or restricting public access to, Crown Court proceedings**

4. After rule 16 of the principal Rules, there shall be inserted the following rule:

**“Appeals under section 159, Criminal Justice Act 1988 against orders made in the Crown Court restricting or preventing reports of proceedings.**

16A.—(1) An application for leave to appeal under section 159(1)(a) or (c) of the Criminal Justice Act 1988 shall be made within 14 days after the date on which

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(a) 1981 c.54.

(b) 1988 c.33.

(c) S.I. 1968/1262, amended by S.I. 1978/1118, 1987/1977, and to which there are other amendments not relevant to these Rules.

(d) 1960 c.65, amended by the Criminal Appeal Act 1968 (c.19), section 52(1) and Schedule 5, the Courts Act 1971 (c.23), Schedule 11, Part III and Schedule 8, the Magistrates' Courts Act 1980 (c.43), Schedule 7, the Supreme Court Act 1981 (c.54), Schedule 7, and the County Courts Act 1984 (c.28), Schedule 2.

(e) Section 18A was inserted by the Criminal Justice Act 1988 (c.33), section 170(1) and Schedule 15.

(f) Section 8(1) was amended, and section 8(1A) was inserted, by the Criminal Justice Act 1988, section 43.

the order was made by serving on the Registrar a notice which shall be in Form 20.

(2) The applicant shall at the same time serve a copy of the application under paragraph (1) on the appropriate officer of the Crown Court at which the order was made, on the prosecutor and the defendant and on any other interested person.

(3) A prosecutor or a defendant or any interested person may, not later than 3 days after service of the application, notify the Registrar in writing that he wishes to be made a respondent to the appeal if leave is granted, and shall serve a copy of such notice on the applicant.

(4) The period of 14 days in paragraph (1) may be extended by the Court or a judge of the Court, before or after it expires, on an application which shall be made in writing, specifying the grounds of the application, and served on the Registrar, and a copy of the application shall be served by the applicant on every person who is to be served under paragraph (2).

(5) An application under paragraph (4) shall be determined without a hearing, unless the Court or a judge of the Court, as the case may be, directs otherwise.

(6) An application under paragraph (1) may be determined without a hearing.

(7) Where the Court grants leave to appeal—

- (a) the notice of application for leave shall stand as the notice of appeal, unless the Court otherwise orders,
- (b) without prejudice to the generality of its powers under section 159(3) of the Criminal Justice Act 1988, the Court shall direct that the person in whose favour the order was made is to be a respondent to the appeal and determine what, if any, other persons are to be respondents or may be respondents if they wish,
- (c) the evidence of any witness shall be given in writing, unless the Court otherwise orders,
- (d) rule 8 shall apply, with the necessary modifications, and
- (e) the Registrar shall notify the parties of the time and place of the hearing of the appeal.

**Appeals under section 159, Criminal Justice Act 1988 against orders made in the Crown Court restricting public access to proceedings.**

**16B.**—(1) This rule applies to proceedings in which a prosecutor or a defendant has served a notice under rule 24A(1) of the Crown Court Rules 1982(a) of his intention to apply for an order that all or part of a trial be held in camera for reasons of national security or for the protection of a witness or any other person.

(2) Where a notice has been displayed under rule 24A(2) of the Crown Court Rules 1982, a person aggrieved may serve notice in writing on the Registrar as prescribed in Form 20 that he intends to appeal against any order that may be made on the prosecutor's or defendant's application, and he shall serve a copy of such notice on the appropriate officer of the Crown Court where the trial is to take place, on the prosecutor and the defendant and on any other interested person.

(3) Subject to paragraph (4) a notice shall be served on the Registrar under paragraph (2) within 7 days of the display of the notice under rule 24A(2) of the 1982 Rules and where such an order is made at the trial, the notice shall be treated as the application for leave to appeal against the order.

(4) Where an order is made at the trial, a person aggrieved who has not served a notice under paragraph (2) may apply for leave to appeal against the order by notice in writing as prescribed in Form 20 served on the Registrar within 24 hours after the making of the order, and he shall forthwith serve a copy of such notice on each of the persons who are to be served under paragraph (2).

(5) Where an order has been made, and a person aggrieved has served a notice under paragraph (2) or (4), the appropriate officer of the Crown Court shall forthwith upon the making of the order notify the Registrar of its making, and the

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(a) S.I. 1982/1109.

applicant for the order shall, as soon as practicable, send the Registrar a copy of any transcript or note of the application for the order and of any documents that were in evidence in the Crown Court.

(6) An application for leave to appeal shall be determined by a judge of the Court, or the Court as the case may be, without a hearing.

(7) Where leave to appeal is granted, the appeal shall be determined without a hearing.

(8) The Registrar shall, as soon as practicable, serve notice of the order of the court disposing of an appeal or application for leave to appeal on the person aggrieved and on each of the persons specified in paragraph (2).

(9) Section 159(4) of the Criminal Justice Act 1988 shall not apply to proceedings to which this rule applies.”.

#### **Service of documents**

5. After paragraph (2) of rule 21 of the principal Rules there shall be inserted the following paragraph:

“(3) In this rule, a reference to an appellant includes an appellant under section 13 of the Administration of Justice Act 1960, a defendant in proceedings in the Crown Court in respect of which an application is made for leave to appeal under section 159 of the Criminal Justice Act 1988 and, in the case of an application under section 8(1) or 8(1A) of the Act, a person who has been ordered to be retried.”.

#### **Forms**

6. In Schedule 1 to the principal Rules, after Form NG (Forms 2 and 3) there shall be inserted the form numbered 3A in the Schedule to these Rules, and after Form 19 there shall be inserted the form numbered 20 in the said Schedule.

*Mackay of Clashfern, C,  
Lane, CJ,  
Stephen Brown, P,  
R. Lowry,  
M. McKenzie,  
M. J. Langton,  
D. A. Jeffreys,  
M. D. L. Kalisher,  
Miss L. Naylor*

29th June 1989

**SCHEDULE**

**Rule 6**

**FORM 3A**

**CRIMINAL APPEAL ACT 1968, s.8**

**Notice of application for leave to arraign/to set aside order for re-trial\***  
(\*delete as appropriate)

To the Registrar  
Criminal Appeal Office  
Royal Courts of Justice  
Strand  
London WC2A 2LL  
FAX No: 01-936-6900

[Criminal Appeal Office  
Reference Number]

Name of applicant:

Name of person ordered to be retried:

Date on which the Court of Appeal ordered re-trial:

Grounds of application:

(Where leave to arraign is sought, reasons must be given for the failure to arraign within two months of the date of the order for re-trial)

Signed:

Address:

For use in the Criminal Appeal Office:

Date received:

NOTE: A copy of this notice must be served by the applicant on the person ordered to be re-tried or upon the prosecutor as the case may be.

CRIMINAL JUSTICE ACT 1988

Notice of application for leave to appeal under section 159

To the Registrar  
Criminal Appeal Office  
Royal Courts of Justice  
Strand  
London WC2A 2LL  
FAX No.: 01-936 6900

[Criminal Appeal Office  
Reference number]

Name and address of applicant

Name, address, telephone and reference number of applicant's solicitors

Name of Crown Court

Name of defendant in Crown Court proceedings

Crown Court Reference No.:

Particulars of order

Names and addresses of interested persons (other than the prosecutor and defendant)

Grounds of application [and of appeal]

Particulars of witnesses and documents intended to be called and used at appeal. Copies of documents, witness statements and affidavits should accompany this notice.

Date

.....  
Applicant/Solicitor for the Applicant

## EXPLANATORY NOTE

*(This note is not a part of the Rules)*

These Rules amend the Criminal Appeal Rules 1968, to provide for the form of a notice of an appeal against an order or decision of the Crown Court in the exercise of its jurisdiction to punish for contempt of court, and to provide that notice be given of an application in respect of an order for retrial made by the Court of Appeal. These changes supplement amendments to the Criminal Appeal Act 1968 made by section 43 of, and Schedule 15 to, the Criminal Justice Act 1988.

The Rules also amend the Criminal Appeal Rules 1968 so as to provide for applications under section 159 of the Criminal Justice Act 1988 (applications for leave to appeal in Crown Court proceedings against orders restricting or preventing reports of, or restricting public access to, those proceedings).

The relevant provisions of the Criminal Justice Act 1988 come into force on 31st July 1989 (S.I. 1989/1085).

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