

SCHEDULE 4

Rule 10(c)

“SECTION 2

APPLICATION TO QUASH AN ACQUITTAL

Scope and interpretation

77.6.—(1) This Section contains rules about applications to quash an acquittal under section 54(3) of the Criminal Procedure and Investigations Act 1996⁽¹⁾ and applies in relation to acquittals in respect of offences alleged to have been committed on or after 15th April 1997.

(2) An application made under this Section may be made only by the individual or body which acted as prosecutor in the proceedings which led to the acquittal.

(3) In this Section—

- (a) “the 1996 Act” means the Criminal Procedure and Investigations Act 1996;
- (b) “acquitted person” means a person whose acquittal of an offence is the subject of a certification under section 54(2) of the 1996 Act, and “acquittal” means the acquittal of that person of that offence;
- (c) “magistrates’ court” has the same meaning as in section 148 of the Magistrates’ Courts Act 1980⁽²⁾; and
- (d) “record of court proceedings” means—
 - (i) where the proceedings took place in the Crown Court, a transcript of the evidence; or
 - (ii) where the proceedings took place in a magistrates’ court, a transcript of the evidence if there is one and if not a note of the evidence made by the justices’ clerk,

in the proceedings which led to the conviction for the administration of justice offence referred to in section 54(1)(b) of the 1996 Act or, as the case may be, the proceedings which led to the acquittal.

Time limit for making the application

77.7.—(1) An application for an order quashing an acquittal under section 54(3) of the 1996 Act shall not be made later than 28 days after—

- (a) the expiry of the period allowed for—
 - (i) appealing (whether by case stated or otherwise); or
 - (ii) making an application for permission to appeal,against the conviction referred to in section 54(1)(b) of the 1996 Act; or
- (b) where an appeal notice is filed or an application for permission to appeal against that conviction is made, the determination of the appeal or application for permission to appeal.

(2) For the purpose of sub-paragraph (1)(b), “determination” includes abandonment within the meaning of rules 63.8 and 65.13 of the Criminal Procedure Rules 2010⁽³⁾ or, as the case may be, rule 11 of the Crown Court Rules 1982⁽⁴⁾.

(1) 1996 c. 25.
(2) 1980 c. 43.
(3) S.I. 2010/60.
(4) S.I. 1982/1109.

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Where to make the application

77.8.—(1) The jurisdiction of the High Court under section 54(3) of the 1996 Act may be exercised by a Divisional Court or a single judge of the High Court.

(2) The application must be made to the Administrative Court which will direct whether the application should be dealt with by a Divisional Court or a single judge of the High Court.

How to make the application

77.9.—(1) The application must be made by filing a claim form pursuant to Part 8.

(2) The claimant must file with the claim form—

- (a) a witness statement which deals with the conditions in section 55(1), (2) and (4) of the 1996 Act and which exhibits any relevant documents (which may include a copy of any record of court proceedings); and
- (b) a copy of the certification under section 54(2) of the 1996 Act.

Notice to defendant (acquitted person)

77.10.—(1) Within 7 days of the claim form being issued by the court, the claimant must serve on the defendant (the acquitted person) a copy of the claim form and the documents which accompanied it.

(2) The documents referred to in paragraph (1) must be accompanied by a notice informing the defendant that—

- (a) the result of the application may be the making of an order by the High Court quashing the acquittal; and
- (b) the defendant must, if wishing to respond to the application, file—
 - (i) within 14 days of service of the claim form an acknowledgment of service; and
 - (ii) within 28 days of service of the claim form any witness statement on which the defendant wishes to rely.

(3) The claimant must file as soon as practicable after service of the notice on the defendant a certificate of service together with a copy of the notice.

Response to the application

77.11.—(1) The defendant must, if wishing to respond to the application, file—

- (a) an acknowledgment of service within 14 days of service of the claim form under rule 77.10; and
- (b) a witness statement which—
 - (i) deals with the conditions in section 55(1), (2) and (4) of the 1996 Act; and
 - (ii) exhibits any relevant documents (which may include a copy of any record of court proceedings),

within 28 days of service of the claim form under rule 77.10.

(2) The defendant must serve the documents in paragraph (1) on the claimant within 7 days of filing them with the court.

(3) Rule 8.5(3) does not apply.

Further evidence

77.12.—(1) The claimant may, not later than 10 days after the expiry of the period allowed in rule 77.11(1), apply without notice for permission to file further evidence.

(2) Any order granting permission to file further evidence will specify the period within which that further evidence is to be filed.

(3) The claimant must serve a copy of the further evidence on the defendant within 4 days of filing that further evidence.

(4) Rule 8.5(5) and 8.5(6) do not apply.

Determination of the application to quash an acquittal (general provisions)

77.13.—(1) The application to quash an acquittal will be determined without a hearing unless the court, of its own initiative or on the application by a party, orders otherwise.

(2) The determination of the application to quash an acquittal will not be made, and any hearing of the application (if ordered) will not take place, before the expiry of—

(a) 10 days after the expiry of the period allowed under rule 77.11(1); or

(b) 10 days after the expiry of the period allowed by any order made under rule 77.12(2).

(3) The court will serve notice of any order made on the application to quash an acquittal on the parties and where the court before which the acquittal or conviction occurred was—

(a) a magistrates' court, on the designated officer; or

(b) the Crown Court, on the appropriate officer of the Crown Court sitting at the place where the acquittal or conviction occurred.

Application for a hearing to determine the application to quash an acquittal

77.14.—(1) An application for a hearing under rule 77.13(1) must—

(a) be made no later than 7 days after the expiry of the period allowed—

(i) under rule 77.11(1); or

(ii) by any order made under rule 77.12(2); and

(b) state whether a hearing is requested in order for a witness for the other party to attend to be cross-examined^(GL) and, if so, the reasons for wishing the witness to attend.

(2) The party applying for a hearing must—

(a) serve a copy of the application notice on the other party within 4 days of filing it with the court; and

(b) file a certificate of service.

(3) The party served with an application for a hearing must file any representations within 5 days of service of the application notice.

(4) Subject to paragraph (5), the court will not determine an application for a hearing unless a certificate of service has been filed pursuant to sub-paragraph (2)(b) and—

(a) representations have been filed under paragraph (3); or

(b) the period for filing representations under paragraph (3) has expired.

(5) Where—

(a) no certificate of service has been filed; and

(b) no representations under paragraph (3) have been received after the expiry of 7 days from the date of filing the application,

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the court may dismiss the application for a hearing.

Hearing to determine the application to quash an acquittal

77.15. Where a hearing is ordered, the court—

- (a) may order a witness to attend to be cross-examined^(GL)—
 - (i) of its own initiative; or
 - (ii) on a without notice application by a party; and
- (b) will serve a notice on all parties setting out—
 - (i) the date, time and place of the hearing; and
 - (ii) the details of any witness ordered to attend for cross-examination^(GL).”