
STATUTORY INSTRUMENTS

2011 No. 1709

The Criminal Procedure Rules 2011

PART 71

**APPEAL TO THE COURT OF APPEAL UNDER THE
PROCEEDS OF CRIME ACT 2002: GENERAL RULES**

Contents of this Part

Extension of time	rule 71.1
Other applications	rule 71.2
Examination of witness by court	rule 71.3
Supply of documentary and other exhibits	rule 71.4
Registrar's power to require information from court of trial	rule 71.5
Hearing by single judge	rule 71.6
Determination by full court	rule 71.7
Notice of determination	rule 71.8
Record of proceedings and transcripts	rule 71.9
Appeal to the Supreme Court	rule 71.10

Extension of time

71.1.—(1) An application to extend the time limit for giving notice of application for leave to appeal under Part 2 of the Proceeds of Crime Act 2002(1) must—

- (a) be included in the notice of appeal; and
- (b) state the grounds for the application.

(2) The parties may not agree to extend any date or time limit set by this Part, Part 72 or Part 73, or by The Proceeds of Crime Act 2002 (Appeals under Part 2) Order 2003(2).

Other applications

71.2. Rule 68.3(2)(h) (form of appeal notice) applies in relation to an application—

- (a) by a party to an appeal under Part 2 of the Proceeds of Crime Act 2002 that, under article 7 of The Proceeds of Crime Act 2002 (Appeals under Part 2) Order 2003, a witness be ordered to attend or that the evidence of a witness be received by the Court of Appeal; or

(1) 2002 c. 29.
(2) S.I. 2003/82.

(b) by the defendant to be given leave by the court to be present at proceedings for which leave is required under article 6 of the 2003 Order,

as it applies in relation to applications under Part I of the Criminal Appeal Act 1968⁽³⁾ and the form in which rule 68.3 requires notice to be given may be modified as necessary.

Examination of witness by court

71.3. Rule 65.7 (notice of hearings and decisions) applies in relation to an order of the court under article 7 of the Proceeds of Crime Act 2002 (Appeals under Part 2) Order 2003 to require a person to attend for examination as it applies in relation to such an order of the court under Part I of the Criminal Appeal Act 1968.

Supply of documentary and other exhibits

71.4. Rule 65.11 (Registrar's duty to provide copy documents for appeal or reference) applies in relation to an appellant or respondent under Part 2 of the Proceeds of Crime Act 2002 as it applies in relation to an appellant and respondent under Part I of the Criminal Appeal Act 1968.

Registrar's power to require information from court of trial

71.5. The Registrar may require the Crown Court to provide the Court of Appeal with any assistance or information which they may require for the purposes of exercising their jurisdiction under Part 2 of the Proceeds of Crime Act 2002, The Proceeds of Crime Act 2002 (Appeals under Part 2) Order 2003, this Part or Parts 72 and 73.

Hearing by single judge

71.6. Rule 65.6(5) (hearings) applies in relation to a judge exercising any of the powers referred to in article 8 of The Proceeds of Crime Act 2002 (Appeals under Part 2) Order 2003⁽⁴⁾ or the powers in rules 72.2(3) and (4) (respondent's notice), 73.2(2) (notice of appeal) and 73.3(6) (respondent's notice), as it applies in relation to a judge exercising the powers referred to in section 31(2) of the Criminal Appeal Act 1968⁽⁵⁾.

Determination by full court

71.7. Rule 65.5 (renewing an application refused by a judge or the registrar) shall apply where a single judge has refused an application by a party to exercise in his favour any of the powers listed in article 8 of The Proceeds of Crime Act 2002 (Appeals under Part 2) Order 2003, or the power in rule 72.2(3) or (4) as it applies where the judge has refused to exercise the powers referred to in section 31(2) of the Criminal Appeal Act 1968.

Notice of determination

71.8.—(1) This rule applies where a single judge or the Court of Appeal has determined an application or appeal under The Proceeds of Crime Act 2002 (Appeals under Part 2) Order 2003 or under Part 2 of the Proceeds of Crime Act 2002.

(2) The Registrar must, as soon as practicable, serve notice of the determination on all of the parties to the proceedings.

(3) 1968 c. 19.

(4) S.I. 2003/82.

(5) 1968 c. 19; section 31(2) was amended by section 21 of, and Schedule 2 to, the Costs in Criminal Cases Act 1973 (c. 14), section 29 of the Criminal Justice Act 1982 (c. 48), section 170 of, and paragraphs 20 and 29 of Schedule 15 to, the Criminal Justice Act 1988 (c. 33), section 87 of the Courts Act 2003 (c. 39) and section 48 of the Police and Justice Act 2006 (c. 48).

(3) Where a single judge or the Court of Appeal has disposed of an application for leave to appeal or an appeal under section 31 of the 2002 Act⁽⁶⁾, the registrar must also, as soon as practicable, serve the order on a court officer of the court of trial and any magistrates' court responsible for enforcing any confiscation order which the Crown Court has made.

Record of proceedings and transcripts

71.9. Rule 65.8(2)(a) and (b) (duty of Crown Court officer – arranging recording of proceedings in Crown Court and arranging transcription) and rule 65.9 (duty of person transcribing proceedings in the Crown Court) apply in relation to proceedings in respect of which an appeal lies to the Court of Appeal under Part 2 of the Proceeds of Crime Act 2002 as they apply in relation to proceedings in respect of which an appeal lies to the Court of Appeal under Part I of the Criminal Appeal Act 1968.

Appeal to the Supreme Court

71.10.—(1) An application to the Court of Appeal for leave to appeal to the Supreme Court under Part 2 of the Proceeds of Crime Act 2002 must be made—

- (a) orally after the decision of the Court of Appeal from which an appeal lies to the Supreme Court; or
- (b) in the form set out in the Practice Direction, in accordance with article 12 of The Proceeds of Crime Act 2002 (Appeals under Part 2) Order 2003 and served on the Registrar.

(2) The application may be abandoned at any time before it is heard by the Court of Appeal by serving notice in writing on the Registrar.

(3) Rule 65.6(5) (hearings) applies in relation to a single judge exercising any of the powers referred to in article 15 of the 2003 Order, as it applies in relation to a single judge exercising the powers referred to in section 31(2) of the Criminal Appeal Act 1968.

(4) Rule 65.5 (renewing an application refused by a judge or the Registrar) applies where a single judge has refused an application by a party to exercise in his favour any of the powers listed in article 15 of the 2003 Order as they apply where the judge has refused to exercise the powers referred to in section 31(2) of the 1968 Act.

(5) The form in which rule 65.5(2) requires an application to be made may be modified as necessary.

⁽⁶⁾ 2002 c. 29; section 31 was amended by section 74 of, and paragraphs 1 and 16 of Schedule 8 to, the Serious Crime Act 2007 (c. 27).