
STATUTORY INSTRUMENTS

2010 No. 60

The Criminal Procedure Rules 2010

PART 72

**APPEAL TO THE COURT OF APPEAL UNDER THE PROCEEDS OF CRIME
ACT 2002: PROSECUTOR'S APPEAL REGARDING CONFISCATION**

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Notice of appeal

72.1.—(1) Where an appellant wishes to apply to the Court of Appeal for leave to appeal under section 31 of the Proceeds of Crime Act 2002(1), he must serve a notice of appeal in the form set out in the Practice Direction on—

- (a) the Crown Court officer; and
- (b) the defendant.

(2) When the notice of the appeal is served on the defendant, it must be accompanied by a respondent's notice in the form set out in the Practice Direction for the defendant to complete and a notice which—

- (a) informs the defendant that the result of an appeal could be that the Court of Appeal would increase a confiscation order already imposed on him, make a confiscation order itself or direct the Crown Court to hold another confiscation hearing;
- (b) informs the defendant of any right he has under article 6 of the Proceeds of Crime Act 2002 (Appeals under Part 2) Order 2003(2) to be present at the hearing of the appeal, although he may be in custody;
- (c) invites the defendant to serve notice on the registrar if he wishes—
 - (i) to apply to the Court of Appeal for leave to be present at proceedings for which leave is required under article 6 of the 2003 Order, or
 - (ii) to present any argument to the Court of Appeal on the hearing of the application or, if leave is given, the appeal, and whether he wishes to present it in person or by means of a legal representative;

(1) [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).
(2) [S.I. 2003/ 82](#).

- (d) draws to the defendant's attention the effect of rule 71.4 (supply of documentary and other exhibits); and
- (e) advises the defendant to consult a solicitor as soon as possible.

(3) The appellant must provide a Crown Court officer with a certificate of service stating that he has served the notice of appeal on the defendant in accordance with paragraph (1) or explaining why he has been unable to effect service.

Respondent's notice

72.2.—(1) This rule applies where a defendant is served with a notice of appeal under rule 72.1.

(2) If the defendant wishes to oppose the application for leave to appeal, he must, not later than 14 days after the date on which he received the notice of appeal, serve on the Registrar and on the appellant a notice in the form set out in the Practice Direction—

- (a) stating the date on which he received the notice of appeal;
- (b) summarising his response to the arguments of the appellant; and
- (c) specifying the authorities which he intends to cite.

(3) The time for giving notice under this rule may be extended by the Registrar, a single judge or by the Court of Appeal.

(4) Where the Registrar refuses an application under paragraph (3) for the extension of time, the defendant shall be entitled to have his application determined by a single judge.

(5) Where a single judge refuses an application under paragraph (3) or (4) for the extension of time, the defendant shall be entitled to have his application determined by the Court of Appeal.

Amendment and abandonment of appeal

72.3.—(1) The appellant may amend a notice of appeal served under rule 72.1 or abandon an appeal under section 31 of the Proceeds of Crime Act 2002—

- (a) without the permission of the Court at any time before the Court of Appeal have begun hearing the appeal; and
- (b) with the permission of the Court after the Court of Appeal have begun hearing the appeal,

by serving notice in writing on the Registrar.

(2) Where the appellant serves a notice abandoning an appeal under paragraph (1), he must send a copy of it to—

- (a) the defendant;
- (b) a court officer of the court of trial; and
- (c) the magistrates' court responsible for enforcing any confiscation order which the Crown Court has made.

(3) Where the appellant serves a notice amending a notice of appeal under paragraph (1), he must send a copy of it to the defendant.

(4) Where an appeal is abandoned under paragraph (1), the application for leave to appeal or appeal shall be treated, for the purposes of section 85 of the 2002 Act (conclusion of proceedings), as having been refused or dismissed by the Court of Appeal.