## STATUTORY INSTRUMENTS

# 2020 No. 759

# The Criminal Procedure Rules 2020

## PART 36

### APPEAL TO THE COURT OF APPEAL: GENERAL RULES

**Declaration of incompatibility with a Convention right**

**36.12.**—(1) This rule applies where a party—

 (a) wants the court to make a declaration of incompatibility with a Convention right under section 4 of the Human Rights Act 1998(**1**); or

 (b) raises an issue that the Registrar thinks may lead the court to make such a declaration.

(2) The Registrar must serve notice on—

 (a) the relevant person named in the list published under section 17(1) of the Crown Proceedings Act 1947(**2**); or

 (b) the Treasury Solicitor, if it is not clear who is the relevant person.

(3) That notice must include or attach details of—

 (a) the legislation affected and the Convention right concerned;

 (b) the parties to the appeal; and

 (c) any other information or document that the Registrar thinks relevant.

(4) A person who has a right under the 1998 Act to become a party to the appeal must—

 (a) serve notice on—

  (i) the Registrar, and

  (ii) the other parties,

 if that person wants to exercise that right; and

 (b) in that notice—

  (i) indicate the conclusion that that person invites the court to reach on the question of incompatibility, and

  (ii) identify each ground for that invitation, concisely outlining the arguments in support.

(5) The court must not make a declaration of incompatibility—

 (a) less than 15 business days after the Registrar serves notice under paragraph (2); and

 (b) without giving any person who serves a notice under paragraph (4) an opportunity to make representations at a hearing.

---

(**1**) 1998 c. 42; section 4 was amended by section 40 of, and paragraph 66 of Schedule 9 to, the Constitutional Reform Act 2005 (c. 4) and section 67 of, and paragraph 43 of Schedule 6 to, the Mental Capacity Act 2005 (c. 9).

(**2**) 1947 c. 44; section 17 was amended by article 3(2) of S.I. 1968/1656.