

2009 No.

**SUPREME COURT, NORTHERN IRELAND
PROCEDURE**

**The Criminal Appeal (Serious Crime Prevention Orders) Rules
(Northern Ireland) 2009**

Made - - - - - 2009

Coming into operation - 30th June 2009

To be laid before Parliament

The Northern Ireland Supreme Court Rules Committee makes the following Rules in exercise of the powers conferred by sections 55 and 55A of the Judicature (Northern Ireland) Act 1978(a).

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Criminal Appeal (Serious Crime Prevention Orders) Rules (Northern Ireland) 2009 and shall come into operation on 30th June 2009.

(2) In these Rules—

“Court” means the Court of Appeal in Northern Ireland;

“the 2007 Act” means the Serious Crime Act 2007(b);

“the 2008 Order” means the Serious Crime Act 2007 (Appeals under Section 24) Order 2008(c);

“appeal” means an appeal under section 24 of the 2007 Act against a decision of the Crown Court and “application for leave to appeal” shall be construed accordingly;

“chief clerk” means the chief clerk of the Crown Court which made the decision which is the subject of the appeal; and

“Master” means the Master (High Court).

Forms

2. Any reference in these Rules to a form means a form set out in the Schedule or a form to the same effect.

(a) 1978 c.23 to which the most recent relevant amendment was made by paragraphs 29 and 30 of Schedule 5 to the Constitutional Reform Act 2005 (c.4)
(b) 2007 c.27.
(c) S.I. 2008/1863

Notice of appeal or application for leave to appeal

3.—(1) A notice of appeal (where the trial judge has granted leave) or of an application for leave to appeal to the Court shall be given by completing Form 1 and serving it on—

- (a) the Master;
- (b) the chief clerk; and, as appropriate
- (c) the person who is the subject of a serious crime prevention order;
- (d) the Director of Public Prosecutions for Northern Ireland; and
- (e) any person who was given an opportunity to make representations in the proceedings which are the subject of the appeal.

(2) A notice of appeal or of an application for leave to appeal under paragraph (1) shall be served within 28 days from the date of the decision of the Crown Court which is the subject of the appeal.

(3) The Court may, on application of the appellant, extend the time within which notice of appeal or of an application for leave to appeal shall be given either before or after that period expires.

(4) The notice of appeal or application for leave to appeal shall be accompanied by any documents necessary for the proper determination of the appeal or application for leave to appeal including—

- (a) a transcript of the decision which is the subject of the appeal; and
- (b) any skeleton arguments or submissions provided to the trial judge by the parties in respect of the decision which is the subject of the appeal.

(5) In the case of a person who is granted leave to appeal, a notice of application for leave to appeal shall be treated as notice of appeal.

Application by a third party to make representations on appeal

4. An application by a third party under section 9(5) of the Act to make representations in an appeal shall be made by serving written notice on—

- (a) the Master;
- (b) the chief clerk;
- (c) the person who is the subject of a serious crime prevention order;
- (d) the Director of Public Prosecutions for Northern Ireland; and
- (e) any other person who was given an opportunity to make representations in the proceedings which are the subject of the appeal.

Notes and report of trial judge

5. The Master may request the trial judge to furnish to him a certified copy of his notes of the proceedings which are the subject of the appeal, together with a report in writing giving his opinion upon the proceedings or any point arising in it.

Supply of documentary and other exhibits

6.—(1) The Master shall, on request, supply to any person who is a party to the appeal copies of documents or other exhibits required for the appeal or application for leave to appeal and in such case may make charges in accordance with scales and charges fixed for the time being by the Treasury.

(2) The Master shall, on request, make arrangements for any party to the appeal to inspect any document or other exhibit required for the appeal.

(3) This rule shall not apply to the supply of transcripts of any proceedings or part thereof.

Hearing by the Master

7.—(1) The Master shall, for the purpose of hearing any of the applications referred to in Article 52 of the 2008 Order, sit in such place as he may appoint, and he may sit otherwise than in open court.

(2) As soon as practicable after the Master determines such an application, he shall serve notice of his decision in Form 2 on—

- (a) the chief clerk;
- (b) the person who is the subject of a serious crime prevention order;
- (c) the Director of Public Prosecutions for Northern Ireland; and
- (d) any person who was given an opportunity to make representations in the proceedings which are the subject of the appeal.

(3) Where the Master has refused an application referred to in Article 52 of the 2008 Order, the party making the application may have the application determined by a single judge of the Court by serving notice of renewal in Form 2 on the Master within 14 days, or such longer period as the single judge of the Court may fix, from the date on which the notice of the decision was served on him.

Hearing by a single judge

8.—(1) A single judge of the Court shall, for the purpose of hearing any of the applications referred to in Article 51 of the 2008 Order, sit in such place as he may appoint, and he may sit otherwise than in open court.

(2) As soon as practicable after a single judge of the Court determines such an application, the Master shall serve notice of the Judge's decision in Form 2 on—

- (a) the chief clerk;
- (b) the person who is the subject of a serious crime prevention order;
- (c) the Director of Public Prosecutions for Northern Ireland; and
- (d) any person who was given an opportunity to make representations in the proceedings which are the subject of the appeal.

(3) Where a single judge of the Court has refused an application referred to in Article 51 of the 2008 Order, the party making the application may have the application determined by the Court by serving notice of renewal in Form 2 on the Master within 14 days, or such longer period as the single judge of the Court may fix, from the date on which the notice of the decision was served on him.

(4) Where an application under paragraph (3) is not served within the prescribed period, or such extended period as the single judge of the Court has allowed, the application shall be treated as having been refused by the Court.

Notice of hearing and determination of the Court

9.—(1) The Master shall, as far in advance as reasonably practicable, give notice of the date fixed for the hearing by the Court of an appeal or application for leave to—

- (a) the chief clerk;
- (b) the person who is the subject of a serious crime prevention order;
- (c) the Director of Public Prosecutions for Northern Ireland; and
- (d) any person who was given an opportunity to make representations in the proceedings which are the subject of the appeal.

(2) As soon as is reasonably practicable after the determination of an appeal or application for leave to appeal, the Master shall serve notice of the decision of the Court on those parties listed in paragraph (1).

Assistance from the Crown Court

10. The Master may require the chief clerk to furnish the Court with any assistance or information which it may require for the purposes of exercising its jurisdiction under section 24 of the 2007 Act, the 2008 Order or these Rules.

Appeal to the House of Lords [Supreme Court]

11. An application to the Court for leave to appeal to the House of Lords under Part 6 of the 2008 Order shall either be made—

- (a) orally, immediately after the decision of the Court from which an appeal lies to the House of Lords; or
- (b) by serving notice in writing which shall include the grounds of the application on the Master within 28 days of the decision of the Court.

Abandonment of proceedings

12. An appeal or an application for leave to appeal (including an application for leave to appeal to the House of Lords) may be abandoned before the hearing of the appeal or application by serving on the Master notice thereof in Form 3.

Service

13. Any notice or other document which is required by these Rules to be given to any person shall be served in accordance with Rule 30 of the Criminal Appeal (Northern Ireland) Rules 1968(a).

(a) S.R. 1968 No. 218

Dated

Signed by the authority of the Lord Chancellor.

In exercise of the powers conferred by section 55A(3) of the Judicature (Northern Ireland) Act 1978, I allow these Rules.

Parliamentary Under-Secretary of State
Ministry of Justice

Dated

SCHEDULE

Rule 3(1)

Form 1

NOTICE OF APPEAL OR APPLICATION FOR LEAVE TO APPEAL

(Section 24 of the Serious Crime Act 2007)

(Article 47 of The Serious Crime Act 2007 (Appeals under Section 24) Order 2008)

**To: The Master
Court of Appeal
Royal Courts of Justice
Belfast
BT1 3JF**

<i>Details Required</i>	<i>Notes</i>
<p>Details of the appellant</p> <p>Name:</p> <p>DPPNI/subject of order/a person who was given an opportunity to make representations in the proceedings which are the subject of the appeal <i>(delete as appropriate)</i></p> <p>Address:</p>	<p><i>If in custody, please give prison number and address of establishment in which detained.</i></p>
<p>Case Details</p> <p>Venue of Crown Court:</p> <p>Name of Judge:</p> <p>Name of the subject of the order:</p> <p>Details of indictment:</p>	<p><i>Details of indictment should include the Bill number and the offences on the indictment.</i></p>
<p>Details of the decision of the Crown Court</p> <p>The decision(s) that is (are) the subject of this notice of appeal/application for leave to appeal are:</p> <p>The date on which decision(s) made:</p> <p>Please attach a transcript of the decision(s) or a copy of the order which is the subject of the appeal and any skeleton arguments provided to the judge of the Crown Court by the parties.</p>	

Form 2

**DETERMINATION BY THE MASTER OR A SINGLE JUDGE
[AND NOTICE OF RENEWAL]**

(Section 24 of the Serious Crime Act 2007)

(Articles 51 and 52 of The Serious Crime Act 2007 (Appeals under Section 24) Order 2008)

PART A

<i>Details Required</i>	<i>Notes</i>
<p>Details of the applicant</p> <p>DPPNI/subject of order/a person who was given an opportunity to make representations in the proceedings which are the subject of the appeal <i>(delete as appropriate)</i></p>	
Name:	
Address:	<i>In the case of a defendant in custody, please give the prison number and the address of the establishment in which the defendant is detained.</i>
ORDER BY THE MASTER	
<input type="checkbox"/> Application for extension of time for notice of appeal or notice of application for leave to appeal to be given <input type="checkbox"/> Application for a witness to attend for examination and be examined before the Court <input type="checkbox"/> Application for the production of any document, exhibit or other thing. <i>(tick where appropriate)</i>	<p><i>Article 52(2)(a) of the 2008 Order</i></p> <p><i>Article 52(2)(b) of the 2008 Order</i></p> <p><i>Article 52(2)(c) of the 2008 Order</i></p>
<p>DECISION</p> <p><i>If an application has been refused by the Master, it may be renewed for consideration by a single judge of the Court.</i></p> <p><i>If the applicant wishes to have the application renewed the applicant <u>must fill in Part B of this form and return the form to the Master.</u></i></p>	

Form 3

NOTICE OF ABANDONMENT OF PROCEEDINGS

(Section 24 of the Serious Crime Act 2007)

**To: The Master
Court of Appeal
Royal Courts of Justice
Belfast
BT1 3JF**

<i>Details required</i>	<i>Notes</i>
<p>Details of the appellant</p> <p>Name: DPPNI/subject of order/a person who was given an opportunity to make representations in the proceedings which are the subject of the appeal (delete as appropriate) Address:</p> <p>Case details</p> <p>Venue of Crown Court:</p> <p>Name of Judge:</p> <p>Details of indictment:</p>	<p><i>In the case of a defendant in custody, please give your prison number and the address of the establishment in which you are detained.</i></p> <p><i>Details of indictment should include the Bill number and the offences on the indictment which are the subject of the appeal.</i></p>
<p>Details of the decision</p> <p>The decision(s) that is (are) the subject of this appeal is (are):</p> <p>The date on which decision(s) made:</p>	
<p>Abandonment of proceedings</p> <p>I, (insert name of) (insert address), abandon my [appeal] [application for leave to appeal]* against the decision(s) made by the [Crown Court][Court of Appeal], at the time, date and place set out above.</p> <p>against the decision (s) made by the Crown Court at the time, date and place set out above.</p>	

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules make provision for applications to the Court of Appeal in relation to appeals under section 24 of the Serious Crime Act 2007 (“the 2007 Act”) and Parts 5 and 6 of the Serious Crime Act 2007 (Appeals under section 24) Order 2008 (“the 2008 Order”).

Section 24 of the 2007 Act provides that a person who is the subject of a serious crime prevention order, or the Director of Public Prosecutions may appeal to the Court of Appeal against a decision of the Crown Court in relation to that order. In addition, any person who was given an opportunity to make representations in the proceedings by virtue of section 9(4) of the 2007 Act may appeal to the Court of Appeal against a decision of the Crown Court to make, vary or not vary a serious crime prevention order.

In particular, the Rules;

- prescribe procedure in relation to giving notice of appeal or an application for leave to appeal under section 24 of the 2007 Act;
- make provision in relation to the provision of notes, documents and exhibits (excepting transcripts) from the original proceedings;
- make provision in relation to applications that can be heard by the Master or a single judge of the Court of Appeal, and in relation to applications by aggrieved parties for decisions arising from those applications to be determined by the full Court;
- prescribe the procedure for making an application to the Court of Appeal for leave to appeal to the House of Lords under Part 6 of the 2008 Order; and
- prescribe procedure governing the abandonment of proceedings by the applicant.