
STATUTORY RULES OF NORTHERN IRELAND

1997 No. 265

**SUPREME COURT, NORTHERN IRELAND
PROCEDURE**

**The Rules of the Supreme Court (Northern
Ireland) (Amendment No. 2) 1997**

Made - - - - *2nd June 1997*

To be laid before Parliament

Coming into operation *30th June 1997*

We, the Northern Ireland Supreme Court Rules Committee, being the authority having for the time being power under section 55 of the Judicature (Northern Ireland) Act 1978⁽¹⁾ to make, amend or revoke rules regulating the practice and procedure of the Supreme Court of Judicature of Northern Ireland, hereby, with the concurrence of the Lord Chancellor, exercise those powers as follows:—

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Rules of the Supreme Court (Northern Ireland) (Amendment No. 2) 1997 and shall come into operation on 30th June 1997.

(2) In these Rules—

“the principal rules” means the Rules of the Supreme Court (Northern Ireland) 1980⁽²⁾ and an Order referred to by number or an Appendix referred to by letter means the Order so numbered and the Appendix so lettered in the principal rules.

Arrangement of Orders

2. The Arrangement of Orders at the beginning of the principal rules shall be amended by adding at the end—

“118. The Criminal Procedure and Investigations Act 1996⁽³⁾”

Business of the Supreme Court

3. Order 1 rule 11 shall be amended by adding after paragraph (h), the following new paragraph—

(1) 1978 c. 23

(2) S.R. 1980 No. 346; to which the most recent relevant amendments were made by S.R. 1992 No. 2 and S.R. 1996 No. 282

(3) 1996 c. 25; as modified in its application to Northern Ireland by Schedule 4 to the Act.

“(i) applications under section 54(3) of the Criminal Procedure and Investigations Act 1996.”.

Contents of affidavit

4. Order 41 rule 5(1) shall be amended by inserting after sub-paragraph (g), the following new sub-paragraph—

“(h) Order 118 rule 5(2), rule 7, rule 8(1) and rule 9;”.

Amendment of the principal rules

5.—(1) After Order 117 there shall be inserted the Order set out in Schedule 1 to these Rules.

(2) For Form No. 38 in Appendix A there shall be substituted the Form set out in Schedule 2 to these Rules.

Dated 15th May 1997.

*R. D. Carswell
John MacDermott
Anthony Campbell
Brian Kerr
Hugh P. Kennedy
R. E. Weatherup
Tony Caher*

I concur

Dated 2nd June 1997.

Irvine of Lairg, C.

SCHEDULE 1

Rule 5(1)

Order 118

THE CRIMINAL PROCEDURE AND INVESTIGATIONS ACT 1996

Application

1. This Order shall apply in relation to acquittals in respect of offences alleged to be committed on or after 30th June 1997.

Interpretation

2. In this Order—

“the Act” means the Criminal Procedure and Investigations Act 1996(4);

“acquitted person” means a person whose acquittal of an offence is the subject of a certification under section 54(2) of the Act and “acquittal” means the acquittal of that person of that offence;

“conviction” means the conviction which occasioned a certification under section 54(2) of the Act;

“deponent” means a deponent to an affidavit filed under rule 5, 7, 8 or 9;

“magistrates' court” has the same meaning as in Article 2 of the Magistrates' Courts (Northern Ireland) Order 1981(5);

“prosecution” means the individual or body which acted as the prosecution in the proceedings which led to the acquittal;

“record of court proceedings” means a transcript of the evidence in the proceedings which led to the conviction for the administration of justice offence referred to in section 54(1)(b) of the Act or, as the case may be, the proceedings which led to the acquittal.

Exercise of jurisdiction

3. The jurisdiction of the High Court under section 54(3) of the Act shall be exercised, subject to rule 10(11), by a judge in chambers.

Time limit for making application

4. An application under section 54(3) of the Act shall be made not later than 28 days after—

(a) the expiry of the period allowed for appealing (whether by case stated or otherwise), or making an application for leave to appeal, against the conviction referred to in section 54(1)(b) of the Act; or

(b) where notice of appeal or application for leave to appeal against the conviction is given, the determination of the appeal or application for leave to appeal and, for this purpose, “determination” includes abandonment (within the meaning of rule 16 of the Criminal Appeal Rules (Northern Ireland) 1968(6) or, as the case may be, Article 150 of the Magistrates' Courts (Northern Ireland) Order 1981(7)).

(4) 1996 c. 25; as modified in its application to Northern Ireland by Schedule 4 to the Act

(5) S.I.1981/1675 (N.I. 26)

(6) S.R. 1968 No. 218; to which there are amendments not relevant to these Rules

(7) S.I. 1981/1675 (N.I. 26)

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Application

5.—(1) An application by the prosecution under section 54(3) of the Act shall be commenced by originating motion.

(2) The application shall be supported by an affidavit which deals with the conditions in section 55(1), (2) and (4) of the Act and which exhibits—

- (a) 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).

Notice to the acquitted person

6.—(1) The prosecution shall serve the notice of motion along with any supporting affidavit on the acquitted person within 4 days of issue of the application and at the same time shall also serve a notice—

- (a) specifying the date on which the notice of motion was issued; and
- (b) informing the acquitted person that—
 - (i) the result of the application may be the making of an order by the High Court quashing the acquittal, and
 - (ii) if he wishes to respond to the application he must within 28 days of the date of service on him of the notice, file in the Central Office any affidavit on which he intends to rely.

(2) Order 10 rule 1(3) shall not apply in relation to any notice of motion served in accordance with paragraph (1).

Affidavit of service on an acquitted person

7. The prosecution shall, as soon as practicable after serving the documents referred to in rule 6, file in the Central Office an affidavit of service which exhibits both a copy of the notice of motion and a copy of the accompanying notice required to be served with the notice of motion.

Response of acquitted person

8.—(1) If the acquitted person wishes to respond to the application, he shall, within 28 days of service on him under rule 6, file in the Central Office an affidavit which—

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

(2) The acquitted person shall, within 4 days of the filing of the documents mentioned in paragraph (1), serve a copy of them on the prosecution.

Evidence

9.—(1) An affidavit filed under rule 5, 7, 8 or this rule may contain statements of information or belief with the sources and grounds thereof.

(2) The prosecution may, not later than 10 days after expiry of the period allowed under rule 8(1), apply ex parte for an order granting leave to file further affidavit evidence.

(3) If the Court grants leave, the order shall specify a period within which further affidavit evidence or records are to be filed, and the Central Office shall serve a copy of the order on the prosecution and on the acquitted person.

(4) The prosecution shall, within 4 days of filing further evidence in the Central Office, serve a copy of that evidence on the acquitted person.

Determination of the application

10.—(1) Subject to paragraph (3), the Court shall determine whether or not to make an order under section 54(3) of the Act on the basis of the written material provided under rules 5, 7, 8 and 9 in the absence of the prosecution, the acquitted person, or of any deponent.

(2) The determination shall not be made and any hearing under paragraph (3) shall not take place before the expiry of—

- (a) 10 days after the expiry of the period allowed under rule 8(1), or
- (b) where the court has made an order under rule 9(3), 10 days after the expiry of any period allowed by that order.

(3) The Court may, of its own motion, or on the application of the prosecution or acquitted person, order a hearing of the application if it thinks fit.

(4) An application under paragraph (3) shall state whether a hearing is desired in order for a deponent for the other party to attend and be cross-examined and, if so, the reasons for wishing the deponent to attend.

(5) An application under paragraph (3) shall be made no later than 7 days—

- (a) after the expiry of the period allowed under rule 8(1); or
- (b) where the court has made an order under rule 9(3), after the expiry of any period allowed by that order.

(6) Where a hearing is ordered, the court may, of its own motion or on the application of the prosecution or acquitted person, order a deponent to attend in order to be cross-examined.

(7) The prosecution or the acquitted person, as the case may be, shall within 4 days after lodging an application under paragraph (3) serve a copy of it on the other party and file in the Central Office an affidavit of service.

(8) A party served under paragraph (7) shall, within 5 days of service, file any representations he wishes to make as to whether or not a hearing should be ordered.

(9) The Court shall not determine an application for a hearing under paragraph (3) unless—

- (a) an affidavit of service has been filed as required by paragraph (7); and
- (b) the period for filing representations allowed under paragraph (8) has expired, or
- (c) representations have been filed under paragraph (8).

The requirements imposed by sub-paragraphs (a) and (c) are satisfied even though the affidavit of service or, as the case may be, the representations are filed outside the time limits allowed.

(10) The Central Office shall serve notice on the prosecution and the acquitted person of an order made under the foregoing paragraphs of this rule and where a hearing is ordered, the notice shall—

- (a) set out the date, time and place of the hearing; and
- (b) give details of any deponent ordered to attend for cross-examination.

(11) A hearing ordered under paragraph (3) above shall be in open court unless the Court otherwise directs.

(12) The Central Office shall serve notice of any order made under section 54(3) of the Act quashing the acquittal or of a decision not to make such an order on the prosecution, the acquitted person; and

- (a) where the court before which the acquittal or conviction occurred was a magistrates' court, on the clerk of petty sessions for the petty sessions district for which that court sits;

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (b) where the court before which the acquittal or conviction occurred was the Crown Court, on the chief clerk of the Crown Court sitting at the place where the acquittal or conviction occurred.

SCHEDULE 2

Rule 5(2)

No. 38 Notice of application to High Court for bail

(O. 79 r. 2)

In the High Court of Justice in Northern Ireland
Queen's Bench Division (Crown Side)

IN THE MATTER OF⁽¹⁾ an applicant for bail
of⁽²⁾
Date of birth⁽³⁾

TAKE NOTICE THAT⁽¹¹⁾ ordered to
be committed to/at at present
detained in⁽⁴⁾ hereby
applies to the High Court for an order that he be released from custody⁽⁵⁾ [pending his trial] [or while on remand] [or pending the hearing of his appeal] upon such terms as the court may think just.

The grounds on which this application is made are as follows⁽⁶⁾⁽¹¹⁾.

Previous applications (if any) for bail⁽⁷⁾ before Magistrates' Court and/or High Court in respect of this offence.

In the event of the applicant being admitted to bail the following persons would be willing to stand as sureties for the due surrender of the applicant to his bail:

Name ⁽⁸⁾	Name ⁽⁸⁾
Address	Address
Occupation	Occupation
Dated	Signed
	⁽⁹⁾ Applicant or solicitor for the applicant

To: The Central Office, Royal Courts of Justice⁽¹⁰⁾

FOR USE BY SOLICITOR FOR THE APPLICANT OR TO BE COMPLETED BY GOVERNOR OF PLACE OF DETENTION

Name of Applicant:.....

Has the Applicant engaged a solicitor for this application?.....

If so, state name and address and telephone number of solicitor.....

.....

Offence(s) on which committed and/or detained.....

.....

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Scheduled/non-scheduled/both^[12]

.....

Court and date of committal or last remand

.....

*Court and date to which remanded^[13]

.....

*Date and court to which committed^[13]

.....

*Delete whichever is not applicable

Where application is made pending an appeal^[14]

(a) is the appeal against conviction or sentence or both

(b) Sentence imposed.....

(c) Court to which appeal lies

Name and station of Police Officer in charge of case

.....

NOTES

- [1] Insert full name of applicant.
- [2] Here state home address of applicant.
- [3] Here state date of birth of applicant.
- [4] Here state place to which he/she has been committed or in which he/she is detained (specifying if he/she is a new Committal).
- [5] Delete whichever is not applicable.
- [6] Set out the grounds on which the application is made.
- [7] Here give date(s) of previous applications, the court to which they were made and the result.
- [8] The names of a surety or sureties may be inserted here it is not necessary to give the names of sureties at this stage, but giving their names will facilitate the release of the applicant if the application is successful.
- [9] Where the applicant is not represented by a solicitor, the applicant must sign the summons.
- [10] Two copies of this form must be completed. Where completed by the applicant in person they must be sent to the Central Office by the Governor of the prison or other place where the applicant is detained.
- [11] No affidavit is required in support of this application.
- [12] Legal Aid will only be considered in respect of scheduled offences.
- [13] It is essential that the correct court and remand date is stated otherwise application may be delayed.
- [14] If application for bail is for purpose of appeal, copy Notice of Appeal **MUST** be lodged.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Rules.)

These Rules amend the Rules of the Supreme Court (Northern Ireland) 1980 so as to—

- insert a new Order 118 into the principal Rules which prescribes the procedure to be followed on application to the High Court under section 54(3) of the Criminal Procedure and Investigations Act 1996 (as modified in its application to Northern Ireland by Schedule 4 to the Act) for an order quashing an acquittal tainted by intimidation etc (rule 5(1));
- substitute a new Form 38 (Notice of Application to the High Court for bail) to provide for the inclusion of more information in relation to the application (rule 5(2)).