

1972 No. 1786 (L. 25)
CRIMINAL PROCEDURE, ENGLAND AND WALES
The Criminal Appeal (References to the European Court)
Rules 1972

<i>Made - - - -</i>	<i>21st November 1972</i>
<i>Laid before Parliament</i>	<i>1st December 1972</i>
<i>Coming into Operation</i>	<i>1st January 1973</i>

We, the Crown Court rule committee, in exercise of the powers conferred upon us by section 99 of the Supreme Court of Judicature (Consolidation) Act 1925(a) and section 46 of the Criminal Appeal Act 1968(b) as amended by section 56(1) of and paragraph 57(2) of Schedule 8 to the Courts Act 1971(c), hereby make the following Rules:—

1. These Rules may be cited as the Criminal Appeal (References to the European Court) Rules 1972 and shall come into operation on 1st January 1973.

2.—(1) In these Rules—

“the Act” means the Criminal Appeal Act 1968;

“the Court” means the Criminal Division of the Court of Appeal;

“the European Court” means the Court of Justice of the European Communities; and

“order” means an order referring a question to the European Court for a preliminary ruling under Article 177 of the Treaty establishing the European Economic Community, Article 150 of the Treaty establishing the European Atomic Energy Community or Article 41 of the Treaty establishing the European Coal and Steel Community.

(2) The Interpretation Act 1889(d) shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

3.—(1) An order may be made by the Court, on application or otherwise, at any time before the determination of an appeal or application for leave to appeal under Part I of the Act.

(2) An order shall set out in a schedule the request for the preliminary ruling of the European Court, and the Court may give directions as to the manner and form in which the schedule is to be prepared.

(a) 1925 c. 49.
(c) 1971 c. 23.

(b) 1968 c. 19.
(d) 1889 c. 63.

4. When an order has been made, a copy shall be sent to the senior master of the Supreme Court (Queen's Bench Division) for transmission to the Registrar of the European Court.

5. No appeal or application for leave to appeal, in the course of which an order is made, shall, unless the Court otherwise orders, be determined until the European Court has given a preliminary ruling on the question referred to it.

Dated 21st November 1972.

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EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules regulate the procedure of the Criminal Division of the Court of Appeal on references to the European Court for preliminary rulings under Article 177 of the E.E.C. Treaty, Article 150 of the Euratom Treaty and Article 41 of the E.C.S.C. Treaty. Those Articles directly confer a power, and in some cases a duty, on courts to refer certain questions as to the interpretation and validity of Community law to the European Court for a preliminary ruling.

The Rules provide that the Criminal Division of the Court of Appeal may order a reference, on application or otherwise, at any time before determination of the appeal. When made, the order is to set out the request for the European Court's ruling in a schedule. Normally the appeal will not be determined until the European Court has made a ruling. A copy of the order will be transmitted by the senior master to the Registrar of the European Court, thus constituting the notice of the reference required by Article 20(1) of the Statute of the European Court. Once received by the Registrar of the European Court, the reference will proceed to the ruling by that court in accordance with its own rules of procedure, after which the case will revert to the Court of Appeal for decision.

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