
 S T A T U T O R Y I N S T R U M E N T S

2000 No. 2036
SUPREME COURT OF ENGLAND AND WALES
The Criminal Appeal (Amendment) Rules 2000

Made - - - - - *25th July 2000*

Laid before Parliament *27th July 2000*

Coming into force - - - *2nd October 2000*

We, the Crown Court Rule Committee, in exercise of the powers conferred on us by sections 84(1), 84(2) and 86 of the Supreme Court Act 1981(a) and section 5 of the Human Rights Act 1998(b), hereby makes the following Rules:

Citation and commencement

1. These Rules may be cited as the Criminal Appeal (Amendment) Rules 2000 and shall come into force on 2nd October 2000.

Amendment of Criminal Appeal Rules 1968

2. The Criminal Appeal Rules 1968(c) shall be amended as follows—

(a) in rule 2, after paragraph (2)(a) there shall be inserted—

“(aa) A notice of the grounds of appeal or application set out in Form 3 shall include notice—

- (i) of any application to be made to the court for a declaration of incompatibility under section 4 of the Human Rights Act 1998; or
- (ii) of any issue for the court to decide which may lead to the court making such a declaration.

(ab) Where the grounds of appeal or application include notice in accordance with paragraph (aa) above, a copy of the notice shall be served on the prosecutor by the appellant.”.

(b) after rule 14 there shall be inserted—

“Human Rights Act

14A.—(1) The court shall not consider making a declaration of incompatibility under section 4 of the Human Rights Act 1998 unless it has given written notice to the Crown.

(2) Where notice has been given to the Crown, a Minister, or other person entitled under the Human Rights Act 1998 to be joined as a party, shall be so joined on giving written notice to the court.

(3) A notice given under paragraph (1) above shall be given to—

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

(a) 1981 c. 54.

(b) 1998 c. 42.

(c) S.I. 1968/1262. Rule 2 was amended by S.I. 1987/1977 and 1989/1102.

(d) 1947 c. 44.

- (b) in the case of doubt as to whether any and if so which of those departments is appropriate, the Treasury Solicitor.
 - (4) A notice given under paragraph (1) above, shall provide an outline of the issues in the case and specify—
 - (a) the prosecutor and appellant;
 - (b) the date, judge and court of the trial in the proceedings from which the appeal lies;
 - (c) the provision of primary legislation and the Convention right under question.
 - (5) Any consideration of whether a declaration of incompatibility should be made, shall be adjourned for—
 - (a) 21 days from the date of the notice given under paragraph (1) above; or
 - (b) such other period (specified in the notice), as the court shall allow in order that the relevant Minister or other person, may seek to be joined and prepare his case.
 - (6) Unless the court otherwise directs, the Minister or other person entitled under the Human Rights Act 1998 to be joined as a party shall, if he is to be joined, give written notice to the court and every other party.
 - (7) Where a Minister of the Crown has nominated a person to be joined as a party by virtue of section 5(2)(a) of the Human Rights Act 1998, a notice under paragraph (6) above shall be accompanied by a written nomination signed by or on behalf of the Minister.”.
- (c) in rule 15 after paragraph (1)(d) there shall be inserted—
- “(e) in the case of a declaration of incompatibility under section 4 of the Human Rights Act 1998, the declaration shall be served on—
 - (i) all of the parties to the proceedings; and
 - (ii) where a Minister of the Crown has not been joined as a party, the Crown (in accordance with rule 14A(3) above).”.

Dated 25th July 2000

*Irvine of Lairg, C.
Harry Woolf, C. J.
L. Dickinson
Charles Harris
Master Mckenzie*

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Criminal Appeal Rules 1968 so as to provide the Crown with notice of issues relating to the Human Rights compatibility of primary legislation.

Section 4 of the Human Rights Act 1998 (“the 1998 Act”) provides the Court of Appeal with the power to make a declaration of incompatibility in respect of a provision of primary legislation. Section 5 of the 1998 Act provides the Crown with an entitlement to notice (in accordance with rules of court), where a court is considering whether to make such a declaration. It further provides various parties with an entitlement (in accordance with rules of court), to be joined in the proceedings.

These Rules provide for the relevant notice and joining arrangements. They further provide for notice that a declaration of incompatibility has been made.

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