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STATUTORY INSTRUMENTS

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**2005 No. 384**

**The Criminal Procedure Rules 2005**

**PART 68**

**APPEAL TO THE COURT OF APPEAL  
AGAINST CONVICTION OR SENTENCE**

**Declaration of incompatibility**

**68.27.**—(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 1998 Act 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<sup>(1)</sup>; or
- (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; and
- (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 1998 Act 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 1998 Act, a notice under paragraph (6) above shall be accompanied by a written nomination signed by or on behalf of the Minister.

*[Note. Formerly rule 14A of the Criminal Appeal Rules 1968.]*