
STATUTORY INSTRUMENTS

2015 No. 1490

The Criminal Procedure Rules 2015

PART 27

RETRIAL AFTER ACQUITTAL

APPLICATION TO COURT OF APPEAL TO QUASH ACQUITTAL AND ORDER RETRIAL

Application for order for retrial

27.4.—(1) This rule applies where—

- (a) a defendant has been acquitted—
 - (i) in the Crown Court, or on appeal from the Crown Court, of an offence listed in Part 1 of Schedule 5 to the Criminal Justice Act 2003⁽¹⁾ (qualifying offences),
 - (ii) in proceedings elsewhere than in the United Kingdom of an offence under the law of that place, if what was alleged would have amounted to or included one of those listed offences;
- (b) with the Director of Public Prosecutions' written consent, a prosecutor wants the Court of Appeal to make an order, as the case may be—
 - (i) quashing the acquittal in the Crown Court and ordering the defendant to be retried for the offence, or
 - (ii) declaring whether the acquittal outside the United Kingdom is a bar to the defendant's trial in England and Wales and, if it is, whether that acquittal shall not be such a bar.

(2) Such a prosecutor must—

- (a) apply in writing;
- (b) serve the application on the Registrar;
- (c) not more than 2 business days later serve on the defendant who was acquitted—
 - (i) the application, and
 - (ii) a notice charging the defendant with the offence, unless the defendant has already been arrested and charged under section 87 of the Criminal Justice Act 2003⁽²⁾ (arrest, under warrant or otherwise, and charge).

(3) The application must—

- (a) give details, with relevant facts and dates, of the defendant's acquittal;
- (b) explain—

⁽¹⁾ 2003 c. 44; Part 1 of Schedule 5 was amended by section 26 of, and paragraph 3 of Schedule 2 to, the Corporate Manslaughter and Corporate Homicide Act 2007 (c. 19).

⁽²⁾ 2003 c. 44.

- (i) what new and compelling evidence there is against the defendant, and
 - (ii) why in all the circumstances it would be in the interests of justice for the court to make the order sought;
- (c) include or attach any application for the following, with reasons—
- (i) an order under section 80(6) of the Criminal Justice Act 2003⁽³⁾ (Procedure and evidence) for the production of any document, exhibit or other thing which in the prosecutor’s opinion is necessary for the determination of the application,
 - (ii) an order under that section for the attendance before the court of any witness who would be a compellable witness at the trial the prosecutor wants the court to order,
 - (iii) an order for a reporting restriction under section 82 of the Criminal Justice Act 2003⁽⁴⁾ (Restrictions on publication in the interests of justice); and
- (d) attach—
- (i) written witness statements of the evidence on which the prosecutor relies as new and compelling evidence against the defendant,
 - (ii) relevant documents from the trial at which the defendant was acquitted, including a record of the offence or offences charged and of the evidence given, and
 - (iii) any other document or thing that the prosecutor thinks the court will need to decide the application.

[Note. See sections 75, 76, 77, 80 and 82 of the Criminal Justice Act 2003⁽⁵⁾. Under Part 1 of Schedule 5 to that Act, the qualifying offences include murder and other serious offences against the person, offences of importation and exportation of Class A drugs, offences of causing explosions and other serious damage, terrorism offences and war crimes and other international offences.

The time limit for serving an application on the defendant is prescribed by section 80(2) of the 2003 Act. It may be extended but not shortened.]

⁽³⁾ 2003 c. 44.

⁽⁴⁾ 2003 c. 44.

⁽⁵⁾ 2003 c. 44; section 76 was amended by S.I. 2012/1809.