
STATUTORY INSTRUMENTS

2015 No. 1490

The Criminal Procedure Rules 2015

PART 42

**APPEAL TO THE COURT OF APPEAL IN
CONFISCATION AND RELATED PROCEEDINGS**

*CONFISCATION: APPEAL BY PROSECUTOR
OR BY PERSON WITH INTEREST IN PROPERTY*

Notice of appeal

42.11.—(1) Where an appellant wishes to apply to the Court of Appeal for permission to appeal under section 31 of the Proceeds of Crime Act 2002(1), the appellant must serve a notice of appeal in the form set out in the Practice Direction on—

- (a) the Crown Court officer; and
- (b) the defendant.

(2) When the notice of a prosecutor’s appeal about a confiscation order is served on the defendant, it must be accompanied by a respondent’s notice in the form set out in the Practice Direction for the defendant to complete and a notice which—

- (a) informs the defendant that the result of an appeal could be that the Court of Appeal would increase a confiscation order already imposed, make a confiscation order itself or direct the Crown Court to hold another confiscation hearing;
- (b) informs the defendant of any right under article 6 of the Proceeds of Crime Act 2002 (Appeals under Part 2) Order 2003(2) to be present at the hearing of the appeal, although in custody;
- (c) invites the defendant to serve any notice on the Registrar—
 - (i) to apply to the Court of Appeal for permission to be present at proceedings for which such permission is required under article 6 of the 2003 Order, or
 - (ii) to present any argument to the Court of Appeal on the hearing of the application or, if permission is given, the appeal, and whether the defendant wishes to present it in person or by means of a legal representative;
- (d) draws to the defendant’s attention the effect of rule 42.4 (Supply of documentary and other exhibits); and
- (e) advises the defendant to consult a solicitor as soon as possible.

(1) 2002 c. 29; section 31 was amended by section 74 of, and paragraphs 1 and 16 of Schedule 8 to, the Serious Crime Act 2007 (c. 27) and section 3 of the Serious Crime Act 2015 (c. 9).

(2) S.I. 2003/ 82.

(3) The appellant must provide the Crown Court officer with a certificate of service stating that the appellant has served the notice of appeal on the defendant in accordance with paragraph (1) or explaining why it has not been possible to do so.

Respondent's notice

42.12.—(1) This rule applies where a defendant is served with a notice of appeal under rule 42.11.

(2) If the defendant wishes to oppose the application for permission to appeal, the defendant must, not more than 14 days after service of the notice of appeal, serve on the Registrar and on the appellant a notice in the form set out in the Practice Direction—

- (a) stating the date on which the notice of appeal was served;
- (b) summarising the defendant's response to the arguments of the appellant; and
- (c) specifying the authorities which the defendant intends to cite.

(3) The time for giving notice under this rule may be extended by the Registrar, a single judge or by the Court of Appeal.

(4) Where the Registrar refuses an application under paragraph (3) for the extension of time, the defendant is entitled to have the application determined by a single judge.

(5) Where a single judge refuses an application under paragraph (3) or (4) for the extension of time, the defendant is entitled to have the application determined by the Court of Appeal.

Amendment and abandonment of appeal

42.13.—(1) The appellant may amend a notice of appeal served under rule 42.11 or abandon an appeal under section 31 of the Proceeds of Crime Act 2002—

- (a) without the permission of the court at any time before the Court of Appeal has begun hearing the appeal; and
- (b) with the permission of the court after the Court of Appeal has begun hearing the appeal, by serving notice in writing on the Registrar.

(2) Where the appellant serves a notice abandoning an appeal under paragraph (1), the appellant must send a copy of it to—

- (a) the defendant;
- (b) a court officer of the court of trial; and
- (c) the magistrates' court responsible for enforcing any confiscation order which the Crown Court has made.

(3) Where the appellant serves a notice amending a notice of appeal under paragraph (1), the appellant must send a copy of it to the defendant.

(4) Where an appeal is abandoned under paragraph (1), the application for permission to appeal or appeal must be treated, for the purposes of section 85 of the 2002 Act (Conclusion of proceedings), as having been refused or dismissed by the Court of Appeal.