
STATUTORY INSTRUMENTS

2020 No. 759

The Criminal Procedure Rules 2020

PART 42 **E+W**

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 **E+W**

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 [F1issued under] the Practice Direction on—

- (a) the Crown Court officer; F2...
- (b) the defendant.
- [F3(c) the prosecutor, if the prosecutor is not the appellant; and
- (d) any person who the appellant thinks is or may be someone—
 - (i) holding an interest in property in which the Crown Court determined the extent of the defendant’s interest under section 10A of the 2002 Act, and
 - (ii) who is neither the defendant nor the appellant.]

(2) [F4When a notice of appeal is served on a respondent defendant, or other person under paragraph (1)(d), it must be accompanied by a respondent’s notice in the form [F5issued under] the Practice Direction for the respondent to complete and a notice which] —

- (a) informs the [F6respondent] 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 [F7respondent] 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 [F8respondent] 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

(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.

- (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 [F8respondent] wishes to present it in person or by means of a legal representative;
- (d) draws to the [F9respondent's] attention the effect of rule 42.4 (Supply of documentary and other exhibits); and
- (e) advises the [F10respondent] to consult a solicitor as soon as possible.
- (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 [F11each respondent] or explaining why it has not been possible to do so.
- [F12(4) The Crown Court officer must, as soon as practicable—
- (a) notify the Registrar of the service of the notice of appeal;
- (b) make available to the Registrar—
- (i) the notice of appeal and any accompanying application served by the appellant,
- (ii) details of the parties including their addresses, and
- (iii) details of the court officer for the magistrates' court responsible for enforcing any confiscation order which the Crown Court has made (the 'enforcing court').
- (5) The Registrar must, as soon as practicable, notify the court officer for the enforcing court, if any, of the service of the notice of appeal.
- (6) Where a person is entitled to receive a sum directed to be paid out of sums recovered under a confiscation order, the court officer for the enforcing court must, as soon as practicable, notify each such person of—
- (a) the appeal,
- (b) any suspension of that person's entitlement pending appeal, and
- (c) any power for the Court of Appeal to vary or set aside that person's entitlement on appeal.

[Note. See section 13 of the Proceeds of Crime Act 2002 and sections 134 and 141 of the Sentencing Act 2020. See also rule 42.8 (Notice of determination and renewal of application for permission to appeal) and the note to that rule.]

Textual Amendments

- F1** Words in rule 42.11(1) substituted (2.10.2023) by [The Criminal Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/786\)](#), rule 1, [Sch. para. 47](#)
- F2** Word in rule 42.11(1)(a) omitted (4.4.2022) by virtue of [The Criminal Procedure \(Amendment\) Rules 2022 \(S.I. 2022/45\)](#), rules 1, [11\(b\)\(i\)](#)
- F3** Rule 42.11(1)(c)(d) inserted (4.4.2022) by [The Criminal Procedure \(Amendment\) Rules 2022 \(S.I. 2022/45\)](#), rules 1, [11\(b\)\(ii\)](#)
- F4** Words in rule 42.11(2) substituted (4.4.2022) by [The Criminal Procedure \(Amendment\) Rules 2022 \(S.I. 2022/45\)](#), rules 1, [11\(b\)\(iii\)](#)
- F5** Words in rule 42.11(2) substituted (2.10.2023) by [The Criminal Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/786\)](#), rule 1, [Sch. para. 47](#)
- F6** Word in rule 42.11(2)(a) substituted (4.4.2022) by [The Criminal Procedure \(Amendment\) Rules 2022 \(S.I. 2022/45\)](#), rules 1, [11\(b\)\(iv\)](#)
- F7** Word in rule 42.11(2)(b) substituted (4.4.2022) by [The Criminal Procedure \(Amendment\) Rules 2022 \(S.I. 2022/45\)](#), rules 1, [11\(b\)\(iv\)](#)
- F8** Word in rule 42.11(2)(c) substituted (4.4.2022) by [The Criminal Procedure \(Amendment\) Rules 2022 \(S.I. 2022/45\)](#), rules 1, [11\(b\)\(iv\)](#)

Changes to legislation: There are currently no known outstanding effects for the The Criminal Procedure Rules 2020, Cross Heading: CONFISCATION: APPEAL BY PROSECUTOR OR BY PERSON WITH INTEREST IN PROPERTY. (See end of Document for details)

- F9** Word in rule 42.11(2)(d) substituted (4.4.2022) by [The Criminal Procedure \(Amendment\) Rules 2022 \(S.I. 2022/45\)](#), rules 1, **11(b)(iv)**
- F10** Word in rule 42.11(2)(e) substituted (4.4.2022) by [The Criminal Procedure \(Amendment\) Rules 2022 \(S.I. 2022/45\)](#), rules 1, **11(b)(iv)**
- F11** Words in rule 42.11(3) substituted (4.4.2022) by [The Criminal Procedure \(Amendment\) Rules 2022 \(S.I. 2022/45\)](#), rules 1, **11(b)(v)**
- F12** Rules 42.11(4)-(6) and Note inserted (4.4.2022) by [The Criminal Procedure \(Amendment\) Rules 2022 \(S.I. 2022/45\)](#), rules 1, **11(b)(vi)**

Commencement Information

- I1** Rule 42.11 in force at 5.10.2020, see Preamble

Respondent's notice **E+W**

42.12.—(1) This rule applies where a [^{F13}respondent] is served with a notice of appeal under rule 42.11.

(2) If the [^{F13}respondent] wishes to oppose the application for permission to appeal, the [^{F13}respondent] must, not more than 10 business days after service of the notice of appeal, serve on the Registrar and on the appellant a notice in the form [^{F14}issued under] the Practice Direction—

- (a) stating the date on which the notice of appeal was served;
- (b) summarising the [^{F15}respondent's] response to the arguments of the appellant; and
- (c) specifying the authorities which the [^{F13}respondent] 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 [^{F13}respondent] 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 [^{F13}respondent] is entitled to have the application determined by the Court of Appeal.

Textual Amendments

- F13** Word in rule 42.12 substituted (4.4.2022) by [The Criminal Procedure \(Amendment\) Rules 2022 \(S.I. 2022/45\)](#), rules 1, **11(c)**
- F14** Words in rule 42.12(2) substituted (2.10.2023) by [The Criminal Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/786\)](#), rule 1, **Sch. para. 48**
- F15** Word in rule 42.12(2)(b) substituted (4.4.2022) by [The Criminal Procedure \(Amendment\) Rules 2022 \(S.I. 2022/45\)](#), rules 1, **11(c)**

Commencement Information

- I2** Rule 42.12 in force at 5.10.2020, see Preamble

Amendment and abandonment of appeal **E+W**

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

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(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.

[^{F16}(2) Where the appellant serves a notice abandoning an appeal under paragraph (1), the appellant must send a copy of it to—

- (a) each respondent served with the notice of appeal;
- (b) the Crown Court officer; and
- (c) the court officer for 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 each respondent served with the notice of appeal.]

(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.

Textual Amendments

F16 [Rule 42.13\(2\)\(3\)](#) substituted (4.4.2022) by [The Criminal Procedure \(Amendment\) Rules 2022 \(S.I. 2022/45\)](#), rules 1, **11(d)**

Commencement Information

I3 Rule 42.13 in force at 5.10.2020, see Preamble

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