1960 No. 2325 (L. 20)

The Criminal Appeal (No. 2) Rules, 1960

Made - - - -	12*th December*, 1960
Laid before Parliament	19*th December*, 1960
Coming into Operation	1*st January*, 1961

We, the Rule Committee of the Supreme Court, in pursuance of section 19 of the Criminal Justice Administration Act, 1956(**a**), hereby make the following Rules of Court under section 18 of the Criminal Appeal Act, 1907(**b**), as extended by subsection (1) of section 9 of the Administration of Justice Act, 1960(**c**), and under subsection (3) of section 13 of the said Act of 1960 :—

1. Subject to the provisions of the Schedule to these Rules, the Criminal Appeal Rules, 1908(**d**), shall, so far as applicable, have effect in relation to any proceedings in the Court of Criminal Appeal preliminary or incidental to an appeal to the House of Lords from the Court of Criminal Appeal under section 1 of the Administration of Justice Act, 1960, as they have effect in relation to an appeal under the Criminal Appeal Act, 1907.

2. Where, in the case of an appeal to the House of Lords under section 13 of the said Act of 1960 from an order or decision of the Court of Criminal Appeal in the exercise of jurisdiction to punish for contempt of court, the appellant is in custody, the Court of Criminal Appeal may, on the application of the appellant, order his release on his giving security (whether by recognizance, with or without sureties, or otherwise and for such reasonable sum as the Court may fix) for his appearance, within ten days after the judgment of the House of Lords on the appeal shall have been given, before the Court of Criminal Appeal unless the order or decision is reversed by that judgment; and Rule 29 of the Criminal Appeal Rules, 1908 (which relates to release on bail), other than paragraph (*h*) thereof, shall apply to an appellant under the said section 13 as it applies to an appellant under the Criminal Appeal Act, 1907.

3. The Interpretation Act, 1889(**e**), shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

4. These Rules may be cited as the Criminal Appeal (No. 2) Rules, 1960, and shall come into operation on the first day of January, 1961.

Dated the 12th day of December, 1960.

Kilmuir, C.
Parker of Waddington, C.J.
Evershed, M.R.
Merriman, P.
Harold Danckwerts, J.
Reginald W. Goff.
John F. Donaldson.
Charles Norton.
W. O. Carter.
Mervyn Griffith-Jones.

(**a**) 4 & 5 Eliz. 2. c. 34. (**b**) 7 Edw. 7. c. 23. (**c**) 8 & 9 Eliz. 2. c. 65.
(**d**) S.R. & O. 1908/227 (Rev. V, p. 352 : 1908, p. 239). (**e**) 52 & 53 Vict. c. 63.

Rule 1

SCHEDULE

MODIFICATIONS OF THE CRIMINAL APPEAL RULES, 1908

1. In their application to the proceedings specified in Rule 1 of these Rules the Criminal Appeal Rules, 1908, shall have effect subject to the modifications contained in the following paragraphs of this Schedule.

2. An application to the Court of Criminal Appeal—

(*a*) for leave to appeal to the House of Lords from a decision of the Court of Criminal Appeal under section 1 of the said Act of 1960,

(*b*) to extend under section 2 of the said Act of 1960 the time for making an application for leave to appeal to the House of Lords,

(*c*) to grant free legal aid under section 8 of the said Act of 1960, or

(*d*) to be present at the hearing of any application to which this paragraph applies,

shall either be made orally immediately after the decision of the Court of Criminal Appeal or shall be in the form in the Annex hereto.

3. Rule 22 of the Criminal Appeal Rules, 1908, (which relates to a notice of application for leave to appeal) shall not apply.

4. References in the said Rules to the Act shall be construed as references to sections 1 to 9 of the said Act of 1960 so far as they relate to the Court of Criminal Appeal.

5. Paragraph (*h*) of Rule 29 of the said Rules (which relates to the presence of an appellant on bail at the hearing of his appeal) shall not apply, and the conditions of the recognizances (specified in the forms in the Schedule to the said Rules) on which a person (whether appellant or respondent in the appeal to the House of Lords) may be granted bail, shall be that the person granted bail shall surrender himself to such person and at such time as may be directed by the Court of Criminal Appeal unless the House of Lords otherwise directs.

6. References in the said Rules to the powers which may be exercised by a judge of the Court of Criminal Appeal under section 17 of the said Act of 1907 shall be construed as references to the powers mentioned in subsection (4) of section 9 of the said Act of 1960.

7. For the purpose of the giving of notice by the Registrar of the result of an application for leave to appeal, or of an appeal, to the House of Lords by the prosecutor, references in the said Rules to the defendant shall be substituted for references to the appellant.

8. Subject to the provisions of paragraph 7 of this Schedule, in relation to an application by the defendant to the Court of Criminal Appeal in an appeal by the prosecutor, references in the said Rules to the appellant shall include references to the defendant.

ANNEX

Appeal to the House of Lords

To the Registrar of the Court of Criminal Appeal

Name of the defendant .....

Date of decision of Court of Criminal Appeal .....

Name and address of place at which defendant detained or, if not detained, defendant's address .....

.....

Name and address of defendant's guardian (if any)(') .....

.....

PART I

Application

I, the above named defendant(2), hereby apply to the Court of Criminal Appeal—

* Delete whichever is inapplicable.

* (*a*) for leave to appeal to the House of Lords from the above-mentioned decision of the Court of Criminal Appeal(3);

* (*b*) to extend the time within which I may apply for leave to appeal to the House of Lords against the decision of the Court of Criminal Appeal(4);

* (*c*) for free legal aid(5);

* (*d*) for permission to be present when this application [or the application by the prosecutor for leave to appeal] is heard by the Court of Criminal Appeal(6).

(Signed) .....

Dated the day of , 19 .

NOTES

(1) This only applies if a guardian has been appointed under the Mental Health Act, 1959. The defendant's guardian is the authority or person specified in the guardianship order made under that Act.

(2) If the prosecutor is applying for leave to appeal to the House of Lords, the form should be amended accordingly.

(3) The grounds of the application should be set out in Part III of this form.

(4) If this application is made more than fourteen days after the decision of the Court of Criminal Appeal, the reasons for the delay in making the application should be set out in Part III of this form.

(5) An applicant for free legal aid must answer the questions in Part II of this form. Free legal aid may be granted in respect of proceedings preliminary or incidental to an appeal as well as in respect of the appeal itself.

(6) This notice must be signed by the applicant. If he cannot write, he must affix his mark in the presence of a witness. The name and address of such attesting witness must be given.

PART II

Legal Aid

What was your occupation before conviction? .....

What was your gross income before conviction? .....

Have you any means to enable you to obtain legal aid for yourself? .....

Is any solicitor now acting for you? .....

If so, give his name and address .....

PART III

Grounds of appeal [and reasons for delay in making application.]

EXPLANATORY NOTE

(This Note is not part of the Rules, but is intended to indicate their general purport.)

Rule 1 of these Rules applies the Criminal Appeal Rules, 1908, to proceedings in the Court of Criminal Appeal preliminary or incidental to an appeal from the Court of Criminal Appeal to the House of Lords under section 1 of the Administration of Justice Act, 1960, subject to the modifications set out in the Schedule. The main modification is that an application to the Court of Criminal Appeal for leave to appeal, or to extend the time for appealing, or for legal aid, or to be present at the hearing of such an application must be made orally at the conclusion of the trial in the Court of Criminal Appeal or in the form prescribed in the Annex to the Schedule to these Rules.

Rule 2 authorises the Court of Criminal Appeal to release on bail a person appealing to the House of Lords from an order or decision of the Court of Criminal Appeal in the exercise of jurisdiction to punish for contempt of court.