1973. No. 428 [NC]

CRIMINAL PROCEDURE, NORTHERN IRELAND

Criminal Appeal (Reference of Points of Law) (Northern Ireland) Rules 1973

We, the Northern Ireland Supreme Court Rules Committee, being the authority having for the time being power under section 7 of the Northern Ireland Act 1962(a) and section 49 of the Criminal Appeal (Northern Ireland) Act 1968(b) to make, amend or revoke rules regulating the practice and procedure of the Court of Criminal Appeal in Northern Ireland, hereby exercise those powers and all other powers enabling us in that behalf as follows:—

Citation and commencement

1. These rules may be cited as the Criminal Appeal (Reference of Points of Law) (Northern Ireland) Rules 1973 and shall come into operation on 5th November 1973.

Interpretation

2.—(1) In these rules, unless the context otherwise requires—

"Act" means the Criminal Appeal (Northern Ireland) Act 1968,

"Court" means the Court of Criminal Appeal in Northern Ireland,

"reference" means a reference of a point of law to the Court in pursuance of section 48A of the Act,

"the Registrar" means the Registrar of the Court of Criminal Appeal and includes any other officer of the Supreme Court directed by the Lord Chief Justice to exercise the powers and perform the duties of the Registrar under the Act,

"respondent" in relation to any reference means the acquitted person in whose case the point of law referred arose.

(2) The Interpretation Act 1889(c) shall apply to the interpretation of these rules as it applies to the interpretation of an Act of Parliament.

Form of reference

3.—(1) Every reference shall be in writing and shall—

(*a*) specify the point of law referred and, where appropriate, such facts of the case as are necessary for the proper consideration of the point of law,

(*b*) summarise the arguments intended to be put to the Court,

(*c*) specify the authorities intended to be cited, and

(*d*) be lodged with the Registrar within the 3 months next following the conclusion of the trial at which the point of law referred arose.

(2) No mention shall be made in the reference of the proper name of any person or place which is likely to lead to the identification of the respondent.

(a) 10 & 11 Eliz. 2. c. 30.
(b) 1968. c. 21.
(c) 52 & 53 Vict. c. 63.

(3) A reference shall be entitled "Reference under section 48A of the Criminal Appeal (Northern Ireland) Act 1968" together with the year and number of the reference.

Service of notice on respondent

4.—(1) The Registrar shall cause to be served on the respondent notice of the reference which shall also—

(*a*) inform the respondent that the reference will not affect the trial in relation to which it is made or any acquittal in that trial,

(*b*) invite the respondent, within such period as may be specified in the notice (being not less than 28 days from the date of service of the notice), to inform the Registrar if he wishes to present any argument to the Court and, if so, whether he wishes to present such argument in person or by Counsel on his behalf.

(2) The Court shall not hear argument by or on behalf of the Attorney General until the period specified in the notice has expired, unless the respondent agrees or has indicated that he does not wish to present any argument to the Court.

Withdrawal or amendment of reference

5. The Attorney General may withdraw or amend the reference at any time before the Court have begun the hearing, or, after that, and until the Court have given their opinion, may withdraw or amend the reference by leave of the Court, and notice of such withdrawal or amendment shall be served on the respondent on behalf of the Attorney General.

Identity of respondent

6. The Court shall ensure that the identity of the respondent is not disclosed during the proceedings on a reference except where the respondent has given his consent to the use of his name in the proceedings.

Reference to House of Lords

7. An application under section 48A(3) of the Act (reference to the House of Lords) may be made orally immediately after the Court give their opinion or by notice served on the Registrar within the 14 days next following.

Mode of service

8.—(1) For the purpose of these rules service of a document on the respondent may be effected—

(*a*) in the case of a document to be served on a body corporate by delivering it to the secretary or clerk of the body at its registered or principal office or sending it by post addressed to the secretary or clerk of that body at that office,

(*b*) in the case of a document to be served on any other person by—

(i) delivering it to the person to whom it is directed, or

(ii) leaving it for him with some person at his last known or usual place of abode, or

(iii) sending it by post addressed to him at his last known or usual place of abode.

(2) For the purpose of these rules service of a document on the Registrar may be effected by—

(*a*) delivering it to the Registrar,

(*b*) addressing it to him and leaving it as his office in the Royal Courts of Justice (Ulster) Belfast, or

(*c*) sending it by post addressed to him at his said office.

Extension of time

9. The Court may extend or abridge the time appointed by these rules.

Dated this 11th October 1973.

Robert Lowry
L. E. Curran
E. W. Jones
A. McGonigal
John MacDermott

EXPLANATORY NOTE

(*This note is not part of the rules, but is intended to indicate their general purport.*)

These rules provide safeguards in respect of disclosure of the identity of an acquitted person where a point of law, arising out of the trial in which that person was acquitted, is referred to the Court of Criminal Appeal under section 48A of the Criminal Appeal (Northern Ireland) Act 1968.

Section 48A was inserted in the Act of 1968 by section 63(3) of the Criminal Justice Act 1972; section 66 of that Act required such rules of court to be made before the commencement of section 48A of the Act of 1968.

The rules also provide for the form of the reference, for notice to be given to the acquitted person and for certain other procedural matters.