



# The Court of Appeal Criminal Division

NOTICE and GROUNDS of application for leave to appeal and appeal by the prosecutor or by person with interest in property

s.31 Proceeds of Crime Act 2002

**Form**  
**POCA 1**

Write in BLACK INK and use BLOCK CAPITALS

**CAO No.**

<b>The Appellant (Prosecutor or person with interest in property)</b>	Name		
	Address		
	Postcode		Your reference

<b>The Defendant</b>  Give full name  If in custody give prison address where detained	Surname		
	Forenames		
	Prison Index No. <small>(if applicable)</small>		
	Address		
	Postcode		Date of birth
Solicitors details <small>(if any)</small>			

<b>Confiscation Hearing</b>	at	Crown Court	
	Name of judge		
	Dates of hearing		Indictment number

<b>The Appellant is applying for:</b>	<i>(Please tick as appropriate):</i>		
	<input type="checkbox"/>	a)	an extension of time in which to seek leave to appeal
	<input type="checkbox"/>	b)	leave to appeal
	<input type="checkbox"/>	c)	a witness order
	<input type="checkbox"/>	d)	leave to adduce evidence

<b>Ruling</b>	in respect of which application for leave to appeal is made:
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## Notes for guidance on the completion of form PoCA 1 and 2

1. An appeal under s. 31 of the Proceeds of Crime Act 2002 by the Prosecution or a person with an interest in property lies to the Court of Appeal Criminal Division from a decision of a judge at a confiscation hearing under s.6 of the Proceeds of Crime Act 2002 or a re-hearing under s.21 and s.22 of the Proceeds of Crime Act 2002 with the leave of the Court of Appeal. This form should be served on the appropriate officer of the Crown Court *within 28 days* from the making of the ruling. If you require an extension of time to lodge you should tick the relevant box on the form and under **Reasons** give an explanation for the late lodging.
2. A copy of this form, including these notes for guidance, must be served on the defendant at the same time as the form is served on the appropriate officer of the Crown Court. If you are personally serving a defendant who is in custody the form should be sent to the prison. The form will be handed to the defendant by a prison officer who will sign and date the appropriate box in form PoCA 2.
3. When this form is served on the defendant it must be accompanied by a Notice of Opposition (form PoCA 2) 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 the confiscation order already imposed on him, make a confiscation order itself or direct the Crown Court to hold another confiscation hearing;
  - b) informs the defendant that he has a right to be present at the hearing of any appeal, although he may be in custody;
  - c) invites the defendant to serve notice (in form PoCA 2) on the Registrar of Criminal Appeals if he wishes –
    - i) where he is in custody, to apply for leave to be present at proceedings other than the hearing of the appeal; or
    - ii) to present any arguments to the Court of Appeal on the hearing of the application for leave or, if leave is given, the appeal;
  - d) draws the defendant's attention to the fact that the Registrar of Criminal Appeals will, on request, supply to the defendant, or make arrangements for the defendant to inspect, copies of documents required for the appeal;
  - e) advises the defendant to consult a solicitor as soon as possible.
4. If reasons were given for the ruling, Counsel's note thereof should be included with the Notice and Grounds of Appeal (Form PoCA 1) and where the note has been approved by the judge in the Crown Court, that fact should be endorsed upon the copy provided to the Registrar.
5. If you are seeking leave to adduce evidence you must tick the relevant box and under **Reasons** you will need to state:
  - i) the name of the witness(es), giving brief details of the evidence to be given;
  - ii) the reason(s) why this evidence was not adduced at the hearing below; and
  - iii) whether you are seeking a witness order(s)).You should attach a witness statement or affidavit from each witness you are seeking to rely on.
6. Grounds of appeal settled by counsel must be signed by counsel.
7. A defendant who wishes to oppose the appeal must, within 14 days of receipt of a copy of the notice of appeal, serve on the Registrar and the appellant, a notice of opposition (form PoCA 2) stating the date on which the appellant's notice was received by him, summarising his response to the arguments of the appellant and specifying the authorities he intends to cite.
8. A defendant in custody may be served with the notice of appeal via the prison authorities. The uncompleted notice of opposition should be signed and dated by the prison officer when he hands the papers to the defendant. If the defendant wishes to oppose the appeal he must return the completed form to the prison authorities within 14 days of the date the appeal notice was handed to him. The completed notice of opposition should be signed and dated by the prison officer when it is returned by the defendant. The Prison will then forward the documents to the Registrar of Criminal Appeals. A defendant in custody must ensure he serves a copy of his notice of opposition on the appellant.

9. If you require an extension of time to lodge the notice of opposition you should tick the relevant box on the form and under **Reasons** give an explanation for the late lodging.
10. If you are seeking leave to adduce evidence you must tick the relevant box and under Reasons you will need to state:
- i) the name of the witness(es), giving brief details of the evidence to be given;
  - ii) the reason(s) why this evidence was not adduced at the hearing below; and
  - iii) whether you are seeking a witness order(s).
- You should attach a witness statement or affidavit from each witness you are seeking to rely on.
11. A defendant in custody, has the right to be present at the hearing of the appeal unless the appeal is on some ground involving a question of law only, in which case he will require permission to be present. Defendants can safely assume that they will be brought up to the Court of Appeal for ALL appeal hearings. A defendant, in custody, has no right to be present at proceedings preliminary or incidental to the hearing of the appeal, without permission of the Court. However, such hearings are uncommon. The hearing of the application for leave (permission) to appeal seldom involves an oral hearing.
12. An un-discharged Crown Court representation order will cover advice and assistance on the merits of opposing the appeal and the drafting of the notice of opposition: s.12(2)(b) and s.26 Access to Justice Act 1999. Application for a representation order to cover any appeal hearing may be made on form PoCA 2

## Grounds of Appeal

### *Notes*

1. Specify the question of fact or law in respect of which the appeal is brought (and where appropriate, such facts of the case as are necessary for the proper consideration of the question of law).

2. Summarise the arguments that you intend to put to the Court of Appeal (specifying any authorities to be cited).

<b>Reasons</b>	I am applying for an extension of time in which to seek leave to appeal because:
<p><i>Please state</i></p> <p><i>i) the name of the witness(es) and give brief details of the evidence to be given, attaching a witness statement or affidavit;</i></p> <p><i>ii) the reason(s) why this evidence was not adduced at the hearing below;</i></p> <p><i>iii) whether you are seeking a witness order(s)</i></p>	I am applying for leave to adduce the following evidence:

<b>Signature and certificate of service</b>	<p>I certify that on _____</p> <p>I served the defendant with:</p> <ol style="list-style-type: none"> <li>1. a copy of this notice and grounds</li> <li>2. a notice of opposition (Form PoCA 2)</li> </ol> <p>OR</p> <p>I have been unable to effect service on the defendant for the following reasons:</p>
	<p>Signature of appellant _____</p> <p>Date _____</p>

**On completion please send this form to the Crown Court where the confiscation order was made**

For Crown Court Use (see note below)		For Criminal Appeal Office Use	
Received (date)		Received (date)	
Signed		Acknowledged (date)	
Sent to Criminal Appeal Office (date)			
Signed			

**This notice and any attachments must be sent to the Registrar of Criminal Appeals together with the Indictment and record sheet and copies of ANY Statements of Information or Defendant's Responses provided for the confiscation hearing.**