STATUTORY INSTRUMENTS

2018 No. 132 (L. 2)

SENIOR COURTS OF ENGLAND AND WALES MAGISTRATES' COURTS, ENGLAND AND WALES

The Criminal Procedure (Amendment) Rules 2018

Made - - - -	*31st January 2018*
Laid before Parliament	*1st February 2018*
Coming into force - -	*2nd April 2018*

The Criminal Procedure Rule Committee makes the following Rules under section 69 of the Courts Act 2003(**1**), after consulting in accordance with section 72(1)(a) of that Act.

Citation, commencement and interpretation

1. These Rules may be cited as the Criminal Procedure (Amendment) Rules 2018 and shall come into force on 2nd April 2018.

2. In these Rules, a reference to a Part or rule by number alone means the Part or rule so numbered in the Criminal Procedure Rules 2015(**2**).

Amendments to the Criminal Procedure Rules 2015

3. In Part 2 (Understanding and applying the Rules), in the definition of legal representative in rule 2.2 (Definitions) for "rule 46.2 (Notice of appointment or change of legal representative)" substitute "rule 46.2 (Notice of appointment, etc. of legal representative: general rules)".

4. In Part 3 (Case management)—

(a) in rule 3.1 (When this Part applies), after paragraph (2) insert—

"(3) Rule 3.27 applies in a magistrates' court unless—

(a) the court sends the defendant for trial in the Crown Court; or

(b) the case is one to which rule 24.8 or rule 24.9 applies (Written guilty plea: special rules; Single justice procedure: special rules).''; and

(**1**) 2003 c. 39; section 69 was amended by sections 15(1) and 146 of, and paragraphs 308 and 332 of Schedule 4 and Part 2 of Schedule 18 to, the Constitutional Reform Act 2005 (c. 4).

(**2**) S.I. 2015/1490; amended by S.I. 2016/120, 2016/705, 2017/144, 2017/282, 2017/755, 2017/915.

(b) in rule 3.21 (Application for joint or separate trials, etc.), for paragraph (4) substitute—

"(4) Where the same indictment charges more than one offence, the court may exercise its power to order separate trials of those offences if of the opinion that—

(a) the defendant otherwise may be prejudiced or embarrassed in his or her defence (for example, where the offences to be tried together are neither founded on the same facts nor form or are part of a series of offences of the same or a similar character); or

(b) for any other reason it is desirable that the defendant should be tried separately for any one or more of those offences.".

5. In Part 5 (Forms and court records)—

(a) in rule 5.5 (Recording and transcription of proceedings in the Crown Court)—

(i) for paragraph (2) substitute—

"(2) Unless the court otherwise directs, a person who transcribes a recording of proceedings under such arrangements—

(a) may only supply a transcript of a recording of a hearing in private to—

(i) the Registrar, or

(ii) an individual who was present at that hearing;

(b) if the recording of a hearing in public contains information to which reporting restrictions apply, may only supply a transcript containing that information to—

(i) the Registrar, or

(ii) a recipient to whom that supply will not contravene those reporting restrictions;

(c) subject to paragraph (2)(a) and (b), must supply any person with any transcript for which that person asks—

(i) in accordance with the transcription arrangements made by the court officer, and

(ii) on payment by that person of any fee prescribed.", and

(ii) at the end of the note to the rule insert—

"For the circumstances in which reporting restrictions may apply, see the provisions listed in the note to rule 6.1. In summary, reporting restrictions prohibit the publication of the information to which they apply where that publication is likely to lead members of the public to acquire the information concerned.";

(b) in rule 5.7 (Supply to a party of information or documents from records or case materials), for paragraph (1) substitute—

"(1) This rule—

(a) applies where—

(i) a party wants information, or a copy of a document, from records or case materials kept by the court officer (for example, in case of loss, or to establish what is retained), or

(ii) a person affected by an order made, or warrant issued, by the court wants such information or such a copy; but

(b) does not apply to—

(i) a recording arranged under rule 5.5 (Recording and transcription of proceedings in the Crown Court),

(ii) a copy of such a recording, or

(ii) a transcript of such a recording."; and

(c) in rule 5.8 (Supply to the public, including reporters, of information about cases), after paragraph (1)(b) insert—

"(c) does not apply to—

(i) a recording arranged under rule 5.5 (Recording and transcription of proceedings in the Crown Court),

(ii) a copy of such a recording, or

(ii) a transcript of such a recording.".

6. In Part 7 (Starting a prosecution in a magistrates' court)—

(a) for rule 7.2 (Information and written charge) substitute—

"**Application for summons, etc.**

7.2.—(1) A prosecutor who wants the court to issue a summons must—

(a) serve on the court officer a written application; or

(b) unless other legislation prohibits this, present an application orally to the court, with a written statement of the allegation or allegations made by the prosecutor.

(2) A prosecutor who wants the court to issue a warrant must—

(a) serve on the court officer—

(i) a written application, or

(ii) a copy of a written charge that has been issued; or

(b) present to the court either of those documents.

(3) An application for the issue of a summons or warrant must—

(a) set out the allegation or allegations made by the applicant in terms that comply with rule 7.3 (Allegation of offence in application or charge); and

(b) demonstrate—

(i) that the application is made in time, if legislation imposes a time limit, and

(ii) that the applicant has the necessary consent, if legislation requires it.

(4) As well as complying with paragraph (3), an application for the issue of a warrant must—

(a) demonstrate that the offence or offences alleged can be tried in the Crown Court;

(b) demonstrate that the offence or offences alleged can be punished with imprisonment; or

(c) concisely outline the applicant's grounds for asserting that the defendant's address is not sufficiently established for a summons to be served.

(5) Paragraph (6) applies unless the prosecutor is—

(a) represented by a legal representative for the purposes of the application under this rule;

(b) a public authority within the meaning of section 17 of the Prosecution of Offences Act 1985(**3**); or

(c) a person acting—

(i) on behalf of such an authority, or

(ii) in that person's capacity as an official appointed by such an authority.

(6) Where this paragraph applies, as well as complying with paragraph (3), and with paragraph (4) if applicable, an application for the issue of a summons or warrant must—

(a) concisely outline the grounds for asserting that the defendant has committed the alleged offence or offences;

(b) disclose—

(i) details of any previous such application by the same applicant in respect of any allegation now made, and

(ii) details of any current or previous proceedings brought by another prosecutor in respect of any allegation now made; and

(c) include a statement that to the best of the applicant's knowledge, information and belief—

(i) the allegations contained in the application are substantially true,

(ii) the evidence on which the applicant relies will be available at the trial,

(iii) the details given by the applicant under paragraph (6)(b) are true, and

(iv) the application discloses all the information that is material to what the court must decide.

(7) Where the statement required by paragraph (6)(c) is made orally—

(a) the statement must be on oath or affirmation, unless the court otherwise directs; and

(b) the court must arrange for a record of the making of the statement.

(8) An authorised prosecutor who issues a written charge must notify the court officer immediately.

(9) A single document may contain—

(a) more than one application; or

(b) more than one written charge.

(10) Where an offence can be tried only in a magistrates' court, then unless other legislation otherwise provides—

(a) a prosecutor must serve an application for the issue of a summons or warrant on the court officer or present it to the court; or

(**3**) 1985 c. 23; section 17 was amended by section 40 of, and paragraph 41 of Schedule 9 to, the Constitutional Reform Act 2005 (c. 4) and paragraphs 1 and 4 and Part 4 of Schedule 7 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).

(b) an authorised prosecutor must issue a written charge,

not more than 6 months after the offence alleged.

(11) Where an offence can be tried in the Crown Court then—

(a) a prosecutor must serve an application for the issue of a summons or warrant on the court officer or present it to the court; or

(b) an authorised prosecutor must issue a written charge,

within any time limit that applies to that offence.

(12) The court may determine an application to issue or withdraw a summons or warrant—

(a) without a hearing, as a general rule, or at a hearing (which must be in private unless the court otherwise directs);

(b) in the absence of—

(i) the prosecutor,

(ii) the defendant;

(c) with or without representations by the defendant.

(13) If the court so directs, a party to an application to issue or withdraw a summons or warrant may attend a hearing by live link or telephone.

[Note. In some legislation, including the Magistrates' Courts Act 1980, an application for the issue of a summons or warrant is described as an 'information' and serving an application on the court officer or presenting it to the court is described as 'laying' that information.

The time limits for serving or presenting an application and for issuing a written charge are prescribed by section 127 of the Magistrates' Courts Act 1980(**4**) *and section 30(5) of the Criminal Justice Act 2003*(**5**)*.*

In section 17 of the Prosecution of Offences Act 1985 'public authority' means (a) a police force as defined by that Act, (b) the Crown Prosecution Service or any other government department, (c) a local authority or other authority or body constituted for purposes of the public service or of local government, or carrying on under national ownership any industry or undertaking or part of an industry or undertaking, or (d) any other authority or body whose members are appointed by Her Majesty or by any Minister of the Crown or government department or whose revenues consist wholly or mainly of money provided by Parliament.

Part 46 (Representatives) contains rules allowing a member, officer or employee of a prosecutor, on the prosecutor's behalf, to—

(a) *serve on the court officer or present to the court an application for the issue of a summons or warrant; or*

(b) *issue a written charge and requisition.*

See Part 3 for the court's general powers of case management, including power to consider applications and give directions for (among other things) the amendment of an allegation or charge and for separate trials.

(**4**) 1980 c. 43.
(**5**) 2003 c. 44; section 30(5) was amended by section 47 of the Criminal Justice and Courts Act 2015 (c.2).