STATUTORY INSTRUMENTS

2017 No. 282 (L. 5)

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

The Criminal Procedure (Amendment No. 2) Rules 2017

Made - - - -	*6th March 2017*
Laid before Parliament	*10th March 2017*
Coming into force - -	*3rd April 2017*

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 No. 2) Rules 2017 and shall come into force on 3rd April 2017.

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 14 (Bail and custody time limits)—

(a) in rule 14.1 (When this Part applies)—

(i) renumber paragraph (2) as paragraph (3), and

(ii) after paragraph (1) insert—

"(2) Rules 14.20, 14.21 and 14.22 apply where a magistrates' court can authorise an extension of the period for which a defendant is released on bail before being charged with an offence.";

(b) in the note to rule 14.1—

(i) at the end of sub-paragraph (f) of the first paragraph omit "*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.

(ii) at the end of sub-paragraph (g) of the first paragraph insert "*and*", and

(iii) after sub-paragraph (g) of the first paragraph insert—

"(h) *sections 47ZF and 47ZG of the Police and Criminal Evidence Act 1984*(**3**)*(extensions by court of pre-charge bail time limit).";*

(c) for the heading to rule 14.2 (Exercise of court's powers to which this Part applies) substitute "Exercise of court's powers: general";

(d) in rule 14.2, after paragraph (6) insert—

"(7) This rule does not apply on an application to a magistrates' court to authorise an extension of pre-charge bail.";

(e) at the end of the note to rule 14.2 insert—

"See also rule 14.20 (Exercise of court's powers: extension of pre-charge bail).";

(f) in rule 14.4 (General duties of court officer)—

(i) at the end of paragraph (1)(b)(i) omit "or",

(ii) at the end of paragraph (1)(b)(ii) insert "or",

(iii) after paragraph (1)(b)(ii) insert—

"(iii) on an application to which rule 14.21 applies (Application to authorise extension of pre-charge bail).",

(iv) after paragraph (4) insert—

"(5) Where the court determines without a hearing an application to which rule 14.21 applies (Application to authorise extension of pre-charge bail), the court officer must—

(a) if the court allows the application, notify the applicant;

(b) if the court refuses the application, notify the applicant and the defendant.";

(g) in rule 14.6 (Reconsideration of police bail by magistrates' court) for paragraph (1) substitute—

"(1) This rule applies where—

(a) a party wants a magistrates' court to reconsider a bail decision by a police officer after the defendant is charged with an offence;

(b) a defendant wants a magistrates' court to reconsider a bail condition imposed by a police officer before the defendant is charged with an offence.";

(h) after rule 14.19 (Appeal against custody time limit decision) insert—

"EXTENSION OF BAIL BEFORE CHARGE

Exercise of court's powers: extension of pre-charge bail

14.20.—(1) The court must determine an application to which rule 14.21 (Application to authorise extension of pre-charge bail) applies—

(a) without a hearing, subject to paragraph (2); and

(b) as soon as practicable, but as a general rule no sooner than the fifth business day after the application was served.

(2) The court must determine an application at a hearing where—

(**3**) 1984 c. 60; sections 47ZF and 47ZG were inserted by section 63 of the Policing and Crime Act 2017 (c. 3).

(a) if the application succeeds, its effect will be to extend the period for which the defendant is on bail to less than 12 months from the day after the defendant's arrest for the offence and the court considers that the interests of justice require a hearing;

(b) if the application succeeds, its effect will be to extend that period to more than 12 months from that day and the applicant or the defendant asks for a hearing;

(c) it is an application to withhold information from the defendant and the court considers that the interests of justice require a hearing.

(3) Any hearing must be in private.

(4) Subject to rule 14.22 (Application to withhold information from the defendant), at a hearing the court may determine an application in the absence of—

(a) the applicant;

(b) the defendant, if the defendant has had at least 5 business days in which to make representations.

(5) If the court so directs, a party to an application may attend a hearing by live link or telephone.

(6) The court must not authorise an extension of the period for which a defendant is on bail before being charged unless—

(a) the applicant states, in writing or orally, that to the best of the applicant's knowledge and belief—

(i) the application discloses all the information that is material to what the court must decide, and

(ii) the content of the application is true; or

(b) the application includes a statement by an investigator of the suspected offence that to the best of that investigator's knowledge and belief those requirements are met.

(7) Where the statement required by paragraph (6) 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) The court may shorten or extend (even after it has expired) a time limit imposed by this rule or by rule 14.21 (Application to authorise extension of pre-charge bail).

[Note. For the definition of 'defendant' for the purposes of this rule and rules 14.21 and 14.22, see rule 14.1(3).

Sections 47ZA and 47ZB of the Police and Criminal Evidence Act 1984(**4**)*limit the period during which a defendant who has been arrested for an offence may be on bail after being released without being charged. That period ('the applicable bail period') is—*

(a) *3 months from the day after the day on which the defendant was arrested (the defendant's 'bail start date') in 'an SFO case' (that is, a case investigated by the Serious Fraud Office);*

(**4**) 1984 c. 60; sections 47ZA and 47ZB were inserted by section 63 of the Policing and Crime Act 2017 (c. 3).

(b) *28 days from the defendant's bail start date in 'a standard case' (that is, 'an FCA case', meaning a case investigated by the Financial Conduct Authority, or any other non-SFO case).*

Under sections 47ZC and 47ZD of the 1984(**5**)*Act, in a standard case the applicable bail period may be extended on the authority of a police officer of the rank of superintendent or above until the end of 3 months from the bail start date.*

Under sections 47ZC and 47ZE of the Act(**6**)*, if the case is designated by a qualifying prosecutor as exceptionally complex (a 'designated case') the applicable bail period may be extended, in an SFO case, or further extended, in a standard case, on the authority of one of the senior officers listed in section 47ZE, until the end of 6 months from the bail start date.*

Under section 47ZF of the Act(**7**)*, on an application made before the date on which the applicable bail period endsby a member of the Serious Fraud Office, a member of staff of the Financial Conduct Authority, a constable or a Crown Prosecutor, a magistrates' court may authorise an extension of that period—*

(a) *from a previous total of 3 months to a new total of 6 months or, if the investigation is unlikely to be completed or a police charging decision made within a lesser period, a new total of 9 months;*

(b) *from a previous total of 6 months to a new total of 9 months or, if the investigation is unlikely to be completed or a police charging decision made within a lesser period, a new total of 12 months,*

where the conditions listed in that section are met.

Under section 47ZG of the Act(**8**)*, on a further such application (of which there may be more than one) a magistrates' court may authorise a further extension of the applicable bail period,on each occasion by a further 3 months or, if the investigation is unlikely to be completed or a police charging decision made within a lesser period, a further 6 months, where the conditions listed in that section are met.*

Under section 47ZL of the Act(**9**)*, the running of the applicable bail period does not begin (in the case of a first release on bail) or is suspended (in any other case) where—*

(a) *the defendant is released on bail to await a charging decision by the Director of Public Prosecutions under section 37B of the Act; or*

(b) *following arrest for breach of such bail the defendant is again released on bail.*

The court's authority therefore is not required for an extension of an applicable bail period the running of which is postponed or suspended pending a Director's charging decision. However—

(a) *time runs in any period during which information requested by the Director is being obtained; and*

(b) *if the Director requests information less than 7 days before the applicable bail period otherwise would end then the running of that*

(**5**) 1984 c. 60; sections 47ZC and 47ZD were inserted by section 63 of the Policing and Crime Act 2017 (c. 3).
(**6**) 1984 c. 60; section 47ZE was inserted by section 63 of the Policing and Crime Act 2017 (c. 3).
(**7**) 1984 c. 60; section 47ZF was inserted by section 63 of the Policing and Crime Act 2017 (c. 3).
(**8**) 1984 c. 60; section 47ZG was inserted by section 63 of the Policing and Crime Act 2017 (c. 3).
(**9**) 1984 c. 60; section 47ZL was inserted by section 63 of the Policing and Crime Act 2017 (c. 3).