STATUTORY INSTRUMENTS

2017 No. 144 (L. 2)

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

The Criminal Procedure (Amendment) Rules 2017

Made - - - -	*10th February 2017*
Laid before Parliament	*16th February 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) 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 8 (Initial details of the prosecution case)—

(a) after rule 8.3 (Content of initial details) insert—

"**Use of initial details**

8.4.—(1) This rule applies where—

(a) the prosecutor wants to introduce information contained in a document listed in rule 8.3; and

(b) the prosecutor has not—

(i) served that document on the defendant, or

(**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.

(ii) made that information available to the defendant.

(2) The court must not allow the prosecutor to introduce that information unless the court first allows the defendant sufficient time to consider it."; and

(b) amend the table of contents correspondingly.

4. In Part 14 (Bail and custody time limits)—

(a) in rule 14.2 (Exercise of court's powers to which this Part applies)—

(i) after paragraph (1)(c) insert—

"(d) the court is satisfied that sufficient time has been allowed—

(i) for the defendant to consider the information provided by the prosecutor under rule 14.5(2), and

(ii) for the court to consider the parties' representations and make the decision required.", and

(ii) in paragraph (5), after "(with help, if necessary)" insert ", and by reference to the circumstances of the defendant and the case,"; and

(b) in rule 14.5 (Prosecutor's representations about bail), for paragraph (2) substitute—

"(2) The prosecutor must as soon as practicable—

(a) provide the defendant with all the information in the prosecutor's possession which is material to what the court must decide; and

(b) provide the court with the same information."

5. In Part 30 (Enforcement of fines and other orders for payment), in rule 30.3(2)(a) (Duty to give receipt), after "receipt" insert ", unless the method of payment generates an independent record (for example, a bank record)".

6. In Part 31 (Behaviour orders)—

(a) in the note to rule 31.1 (When this Part applies), after sub-paragraph (a)(ix) of the first paragraph insert—

"(x) *section 20 of the Immigration Act 2016*(**3**) *(labour market enforcement orders);";*

(b) in rule 31.3 (Application for behaviour order and notice of terms of proposed order: special rules)—

(i) for paragraph (1) substitute—

"(1) This rule applies where—

(a) a prosecutor wants the court to make one of the following orders if the defendant is convicted—

(i) an anti-social behaviour order (but this rule does not apply to an application for an interim anti-social behaviour order),

(ii) a serious crime prevention order,

(iii) a criminal behaviour order, or

(iv) a prohibition order;

(b) a prosecutor proposes, on the prosecutor's initiative or at the court's request, a sexual harm prevention order if the defendant is convicted;

(**3**) 2016 c. 19.

(c) a prosecutor proposes a restraining order whether the defendant is convicted or acquitted.",

(ii) in paragraph (2) after "Where paragraph (1)(a) applies" insert "(order on application)",

(iii) in paragraph (5) after "Where paragraph (1)(b) applies" insert "(sexual harm prevention order proposed)",

(iv) in paragraph (5)(b) omit "in a case in which a sexual harm prevention order is proposed,",

(v) renumber paragraph (6) as (7), and

(vi) after paragraph (5) insert—

"(6) Where paragraph (1)(c) applies (restraining order proposed), the prosecutor must—

(a) serve a draft order on the court officer and on the defendant as soon as practicable (without waiting for the verdict);

(b) in the draft order specify—

(i) those prohibitions which, if the defendant is convicted, the prosecutor proposes for the purpose of protecting a person from conduct which amounts to harassment or will cause fear of violence, or

(ii) those prohibitions which, if the defendant is acquitted, the prosecutor proposes as necessary to protect a person from harassment by the defendant."; and

(c) in the note to rule 31.3—

(i) at the beginning of the second paragraph insert "The orders listed in rule 31.3(1)(a) may be made on application by the prosecutor. The orders to which rule 31.3(1)(b) and (c) apply require no application and may be made on the court's own initiative.", and

(ii) omit the third paragraph.

7. In Part 33 (Confiscation and related proceedings)—

(a) in rule 33.15 (Application for reconsideration), for paragraphs (2), (3) and (4) substitute—

"(2) The application must—

(a) be in writing and give—

(i) the name of the defendant,

(ii) the date on which and the place where any relevant conviction occurred,

(iii) the date on which and the place where any relevant confiscation order was made or varied,

(iv) details of any slavery and trafficking reparation order made by virtue of any relevant confiscation order,

(v) the grounds for the application, and

(vi) an indication of the evidence available to support the application; and

(b) where the parties are agreed on the terms of the proposed order include, in one or more documents—

(i) a draft order in the terms proposed, and

(ii) evidence of the parties' agreement.

(3) The application must be served on—

(a) the court officer; and

(b) the defendant.

(4) The court—

(a) may determine the application without a hearing where the parties are agreed on the terms of the proposed order;

(b) must determine the application at a hearing in any other case.

(5) Where this rule or the court requires the application to be heard, the court officer must arrange for the court to hear it no sooner than the eighth day after it was served unless the court otherwise directs.";

(b) in rule 33.16 (Application for new calculation of available amount)—

(i) at the end of paragraph (2)(a) omit "and",

(ii) at the end of paragraph (2)(b) insert "and",

(iii) after paragraph (2)(b) insert—

"(c) where the parties are agreed on the terms of the proposed order, must include in one or more documents—

(i) a draft order in the terms proposed, and

(ii) evidence of the parties' agreement.",

(iv) in paragraph (4) omit "at least 7 days before the date fixed by the court for hearing the application, unless the court specifies a shorter period.", and

(v) after paragraph (4) insert—

"(5) The court—

(a) may determine the application without a hearing where the parties are agreed on the terms of the proposed order;

(b) must determine the application at a hearing in any other case.

(6) Where this rule or the court requires the application to be heard, the court officer must arrange for the court to hear it no sooner than the eighth day after it was served unless the court otherwise directs."; and

(c) in rule 33.17 (Variation of confiscation order due to inadequacy of available amount)—

(i) at the end of paragraph (2)(a) omit "and",

(ii) at the end of paragraph (2)(b) insert "and",

(iii) after paragraph (2)(b) insert—

"(c) where the parties are agreed on the terms of the proposed order, must include in one or more documents—

(i) a draft order in the terms proposed, and

(ii) evidence of the parties' agreement.",

(iv) in paragraph (4) omit "at least 7 days before the date fixed by the court for hearing the application, unless the court specifies a shorter period.", and

(v) after paragraph (4) insert—

"(5) The court—

(a) may determine the application without a hearing where the parties are agreed on the terms of the proposed order;

(b) must determine the application at a hearing in any other case.

(6) Where this rule or the court requires the application to be heard, the court officer must arrange for the court to hear it no sooner than the eighth day after it was served unless the court otherwise directs.".

8. In Part 34 (Appeal to the Crown Court), in rule 34.11 (Constitution of the Crown Court)—

(a) for paragraph (1)(b) substitute—

"(b) if the appeal is from a youth court, each justice of the peace must be qualified to sit as a member of a youth court."; and

(b) in paragraph (2)(a) omit "and need not include both a man and a woman".

9. In Part 36 (Appeal to the Court of Appeal: general rules)—

(a) for rule 36.14 (Abandoning a ground of appeal or opposition) substitute—

"**Grounds of appeal and opposition**

36.14.—(1) If the court gives permission to appeal then unless the court otherwise directs the decision indicates that—

(a) the appellant has permission to appeal on every ground identified by the appeal notice; and

(b) the court finds reasonably arguable each ground on which the appellant has permission to appeal.

(2) If the court gives permission to appeal but not on every ground identified by the appeal notice the decision indicates that—

(a) at the hearing of the appeal the court will not consider representations that address any ground thus excluded from argument; and

(b) an appellant who wants to rely on such an excluded ground needs the court's permission to do so.

(3) An appellant who wants to rely at the hearing of an appeal on a ground of appeal excluded from argument by a judge of the Court of Appeal when giving permission to appeal must—

(a) apply in writing, with reasons, and identify each such ground;

(b) serve the application on—

(i) the Registrar, and

(ii) any respondent;

(c) serve the application not more than 14 days after—

(i) the giving of permission to appeal, or

(ii) the Registrar serves notice of that decision on the applicant, if the applicant was not present in person or by live link when permission to appeal was given.

(4) Paragraph (5) applies where a party wants to abandon—

(a) a ground of appeal on which that party has permission to appeal; or

(b) a ground of opposition identified in a respondent's notice.

(5) Such a party must serve notice on—

(a) the Registrar; and

(b) each other party,