STATUTORY INSTRUMENTS

2016 No. 120 (L. 1)

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

The Criminal Procedure (Amendment) Rules 2016

Made - - - -	*27th January 2016*
Laid before Parliament	*5th February 2016*
Coming into force - -	*4th April 2016*

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 2016 and shall come into force on 4th April 2016.

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 rule 2.2 (Definitions), in the definition of 'live link', for 'in court' substitute 'in the courtroom'.

4. In rule 3.24 (Arraigning the defendant on the indictment)—

(a) after paragraph (4) insert—

"(5) In a case in which a magistrates' court sends the defendant for trial, the Crown Court must take the defendant's plea—

(a) not less than 2 weeks after the date on which that sending takes place, unless the parties otherwise agree; 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.

(b) not more than 16 weeks after that date, unless the court otherwise directs (either before or after that period expires).”; and

(b) in the first paragraph of the note to the rule, after ‘section 6 of the Criminal Law Act 1967(**3**)’ insert ‘, section 77 of the Senior Courts Act 1981(**4**)’.

5. In Part 4 (Service of documents)—

(a) in rule 4.3 (Service by handing over a document)—

(i) after paragraph (4)(a) insert—

“(b) in relation to an application to a High Court judge for permission to serve a draft indictment—

(i) in London, the Listing Office of the Queen’s Bench Division of the High Court, and

(ii) elsewhere, the office at which court staff administer the business of any court then constituted of a High Court judge;”, and

(ii) renumber paragraph (4)(b) as paragraph (4)(c); and

(b) in rule 4.4 (Service by leaving or posting a document)—

(i) after paragraph (3)(a) insert—

“(b) in relation to an application to a High Court judge for permission to serve a draft indictment—

(i) in London, the Queen’s Bench Listing Office, Royal Courts of Justice, Strand, London WC2A 2LL, and

(ii) elsewhere, the office at which court staff administer the business of any court then constituted of a High Court judge;”, and

(ii) renumber paragraph (3)(b) as paragraph (3)(c).

6. In Part 10 (The indictment)—

(a) omit the fourth paragraph of the note to rule 10.1 (Service of indictment);

(b) after rule 10.2 (Form and content of indictment) insert—

“**Application to a High Court judge for permission to serve a draft indictment**

10.3.—(1) This rule applies where a prosecutor wants a High Court judge’s permission to serve a draft indictment.

(2) Such a prosecutor must—

(a) apply in writing;

(b) serve the application on—

(i) the court officer, and

(ii) the proposed defendant, unless the judge otherwise directs; and

(**3**) 1967 c. 58; section 6 was amended by paragraph 41 of Schedule 36 to the Criminal Justice Act 2003 (c. 44) and section 11 of the Domestic Violence, Crime and Victims Act 2004 (c. 28).

(**4**) 1981 c. 54; section 77 was amended by section 15 of, and paragraph 11 of Schedule 2 to, the Criminal Justice Act 1987 (c. 38), section 168 of, and paragraph 18 of Schedule 9 to, the Criminal Justice and Public Order Act 1994 (c. 33), section 41 of, and paragraph 54 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44) and article 3 of, and paragraphs 11 and 13 of the Schedule to, SI 2004/2035. It is further amended by section 31 of, and paragraph 11 of Schedule 1 and Schedule 2 to, the Prosecution of Offences Act 1985 (c. 23) with effect from a date to be appointed.

(c) ask for a hearing, if the prosecutor wants one, and explain why it is needed.

(3) The application must—

(a) attach—

(i) the proposed indictment,

(ii) copies of the documents containing the evidence on which the prosecutor relies, including any written witness statement or statements complying with rule 16.2 (Content of written witness statement) and any documentary exhibit to any such statement,

(iii) a copy of any indictment on which the defendant already has been arraigned, and

(iv) if not contained in such an indictment, a list of any offence or offences for which the defendant already has been sent for trial;

(b) include—

(i) a concise statement of the circumstances in which, and the reasons why, the application is made, and

(ii) a concise summary of the evidence contained in the documents accompanying the application, identifying each passage in those documents said to evidence each offence alleged by the prosecutor and relating that evidence to each count in the proposed indictment; and

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

(i) the evidence on which the prosecutor relies will be available at the trial, and

(ii) the allegations contained in the application are substantially true

unless the application is made by or on behalf of the Director of Public Prosecutions or the Director of the Serious Fraud Office.

(4) A proposed defendant served with an application who wants to make representations to the judge must—

(a) serve the representations on the court officer and on the prosecutor;

(b) do so as soon as practicable, and in any event within such period as the judge directs; and

(c) ask for a hearing, if the proposed defendant wants one, and explain why it is needed.

(5) The judge may determine the application—

(a) without a hearing, or at a hearing in public or in private;

(b) with or without receiving the oral evidence of any proposed witness.

(6) At any hearing, if the judge so directs a statement required by paragraph (3)(c) must be repeated on oath or affirmation.

(7) If the judge gives permission to serve a draft indictment, the decision must be recorded in writing and endorsed on, or annexed to, the proposed indictment.

[Note. See section 2(6) of the Administration of Justice (Miscellaneous Provisions) Act 1933(**5**)*.]"; and*

(c) amend the table of contents correspondingly.

7. In Part 17 (Witness summonses, warrants and orders)—

(a) in rule 17.3 (Application for summons, warrant or order: general rules)—

(i) in paragraph (2), for 'The party applying must' substitute 'A party applying for a witness summons or order must',

(ii) after paragraph (2) insert—

"(3) A party applying for an order to be allowed to inspect and copy an entry in bank records must—

(a) identify the entry;

(b) explain the purpose for which the entry is required; and

(c) propose—

(i) the terms of the order, and

(ii) the period within which the order should take effect, if 3 days from the date of service of the order would not be appropriate.",

(iii) renumber paragraph (3) as paragraph (4), and

(iv) after paragraph (4), as so renumbered, insert—

"(5) The applicant must serve any order made on the witness to whom, or the bank to which, it is directed."; and

(b) in rule 17.5 (Application for summons to produce a document, etc.: special rules), in paragraph (5) for 'a banker's book' substitute 'bank records'.

8. In rule 21.4 (Notice to introduce evidence of a defendant's bad character)—

(a) in paragraph (2), for 'That party' substitute 'A prosecutor or co-defendant who wants to introduce such evidence';

(b) in paragraph (3), for 'A prosecutor who wants to introduce such evidence must serve the notice' substitute 'A prosecutor must serve any such notice';

(c) in paragraph (4), for 'A co-defendant who wants to introduce such evidence must serve the notice' substitute 'A co-defendant must serve any such notice';

(d) in paragraph (5), after 'A party who objects to the introduction of the evidence' insert 'identified by such a notice';

(e) in paragraph (6)(a), after 'determine' insert 'such';

(f) in paragraph (7), after 'receive' insert 'such'; and

(g) after paragraph (7), insert—

"(8) A defendant who wants to introduce evidence of his or her own bad character must—

(a) give notice, in writing or orally—

(i) as soon as reasonably practicable, and in any event

(**5**) 1933 c. 36; section 2(6) was amended by Part IV of Schedule 11 to the Courts Act 1971 (c. 23), paragraph 1 of the Schedule to S.I. 2004/2035 and section 82 of the Deregulation Act 2015 (c. 20).

(ii) before the evidence is introduced, either by the defendant or in reply to a question asked by the defendant of another party's witness in order to obtain that evidence; and

(b) in the Crown Court, at the same time give notice (in writing, or orally) of any direction about the defendant's character that the defendant wants the court to give the jury under rule 25.14 (Directions to the jury and taking the verdict)."

9. In rule 24.3 (Trial and sentence in a magistrates' court, Procedure on plea of not guilty)—

(a) for paragraph (3)(a) substitute—

"(a) the prosecutor may summarise the prosecution case, concisely identifying the relevant law, outlining the facts and indicating the matters likely to be in dispute;";

(b) after paragraph (3)(a) insert—

"(b) to help the members of the court to understand the case and resolve any issue in it, the court may invite the defendant concisely to identify what is in issue;";

(c) renumber paragraphs (3)(b) to (3)(h) accordingly; and

(d) in the note to the rule, for 'rule 37.3(3)(d)' substitute 'rule 24.3(3)(e)'.

10. In Part 25 (Trial and sentence in the Crown Court)—

(a) in rule 25.9 (Procedure on plea of not guilty)—

(i) for paragraph (2)(b) substitute—

"(b) the prosecutor may summarise the prosecution case, concisely outlining the facts and the matters likely to be in dispute;",

(ii) after paragraph (2)(b) insert—

"(c) where there is a jury, to help the jurors to understand the case and resolve any issue in it the court may—

(i) invite the defendant concisely to identify what is in issue, if necessary in terms approved by the court,

(ii) if the defendant declines to do so, direct that the jurors be given a copy of any defence statement served under rule 15.4 (Defence disclosure), edited if necessary to exclude any reference to inappropriate matters or to matters evidence of which would not be admissible;",

(iii) renumber paragraphs (2)(c) to (2)(j) accordingly,

(iv) in paragraph (3), for 'Paragraph (2)(d)' substitute 'Paragraph (2)(e)', and

(v) in paragraph (4), for 'Paragraph (2)(e)' substitute 'Paragraph (2)(f)';

(vi) in the note to the rule, after the first paragraph insert—

"Under section 6E of the Criminal Procedure and Investigations Act 1996(**6**) *the court may make the direction for which rule 25.9(2)(c)(ii) provides on application or on the court's own initiative.", and*

(vii) in the note to the rule, for 'rule 25.9(2)(e)' substitute 'rule 25.9(2)(f)';

(b) in rule 25.12 (Evidence of a witness in writing), for paragraph (2) substitute—

(**6**) 1996 c. 25; section 6E was inserted by section 36 of the Criminal Justice Act 2003 (c. 44).