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STATUTORY INSTRUMENTS

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**2014 No. 1610**

**The Criminal Procedure Rules 2014**

**PART 62**

**CONTEMPT OF COURT**

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## SECTION 1: GENERAL RULES

### When this Part applies

**62.1.**—(1) This Part applies where the court can deal with a person for conduct—

- (a) in contempt of court; or
  - (b) in contravention of the legislation to which rules 62.5 and 62.9 refer.
- (2) In this Part, ‘respondent’ means any such person.

*[Note. For the court’s powers to punish for contempt of court, see the notes to rules 62.5 and 62.9.]*

### Exercise of court’s power to deal with contempt of court

**62.2.**—(1) The court must determine at a hearing—

- (a) an enquiry under rule 62.8;
  - (b) an allegation under rule 62.9.
- (2) The court must not proceed in the respondent’s absence unless—
- (a) the respondent’s behaviour makes it impracticable to proceed otherwise; or
  - (b) the respondent has had at least 14 days’ notice of the hearing, or was present when it was arranged.
- (3) If the court hears part of an enquiry or allegation in private, it must announce at a hearing in public—
- (a) the respondent’s name;
  - (b) in general terms, the nature of any conduct that the respondent admits, or the court finds proved; and
  - (c) any punishment imposed.

### Notice of suspension of imprisonment by Court of Appeal or Crown Court

**62.3.**—(1) This rule applies where—

- (a) the Court of Appeal or the Crown Court suspends an order of imprisonment for contempt of court; and
  - (b) the respondent is absent when the court does so.
- (2) The respondent must be served with notice of the terms of the court’s order—
- (a) by any applicant under rule 62.9; or
  - (b) by the court officer, in any other case.

*[Note. By reason of sections 15 and 45 of the Senior Courts Act 1981(1), the Court of Appeal and the Crown Court each has an inherent power to suspend imprisonment for contempt of court, on conditions, or for a period, or both.]*

### Application to discharge an order for imprisonment

**62.4.**—(1) This rule applies where the court can discharge an order for a respondent’s imprisonment for contempt of court.

- (2) A respondent who wants the court to discharge such an order must—

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(1) 1981 c. 54.

- (a) apply in writing, unless the court otherwise directs, and serve any written application on—
  - (i) the court officer, and
  - (ii) any applicant under rule 62.9 on whose application the respondent was imprisoned;
- (b) in the application—
  - (i) explain why it is appropriate for the order for imprisonment to be discharged, and
  - (ii) give details of any appeal, and its outcome; and
- (c) ask for a hearing, if the respondent wants one.

*[Note. By reason of sections 15 and 45 of the Senior Courts Act 1981, the Court of Appeal and the Crown Court each has an inherent power to discharge an order for a respondent's imprisonment for contempt of court in failing to comply with a court order.]*

*Under section 97(4) of the Magistrates' Courts Act 1980(2), a magistrates' court can discharge an order for imprisonment if the respondent gives evidence.*

*Under section 12(4) of the Contempt of Court Act 1981(3), a magistrates' court can discharge an order for imprisonment made under that section.]*

## SECTION 2: CONTEMPT OF COURT BY OBSTRUCTION, DISRUPTION, ETC.

### Initial procedure on obstruction, disruption, etc.

- 62.5.**—(1) This rule applies where the court observes, or someone reports to the court—
- (a) in the Court of Appeal or the Crown Court, obstructive, disruptive, insulting or intimidating conduct, in the courtroom or in its vicinity, or otherwise immediately affecting the proceedings;
  - (b) in the Crown Court, a contravention of—
    - (i) section 3 of the Criminal Procedure (Attendance of Witnesses) Act 1965(4) (disobeying a witness summons);
    - (ii) section 20 of the Juries Act 1974(5) (disobeying a jury summons);
    - (iii) section 8 of the Contempt of Court Act 1981(6) (obtaining details of a jury's deliberations, etc.);
  - (c) in a magistrates' court, a contravention of—
    - (i) section 97(4) of the Magistrates' Courts Act 1980 (refusing to give evidence), or
    - (ii) section 12 of the Contempt of Court Act 1981(7) (insulting or interrupting the court, etc.);

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(2) 1980 c. 43; section 97(4) was amended by sections 13 and 14 of, and paragraph 7 of Schedule 2 to, the Contempt of Court Act 1981 (c. 47) and section 17 of, and paragraph 6 of Schedule 3 and Part I of Schedule 4 to, the Criminal Justice Act 1991 (c. 53).

(3) 1981 c. 49.

(4) 1965 c. 69; section 3 was amended by section 56 of, and Part IV of Schedule 11 to, the Courts Act 1971 (c. 23) and sections 65 and 66 of the Criminal Procedure and Investigations Act 1996 (c. 25).

(5) 1974 c. 23; section 20 was amended by sections 37, 38 and 46 of the Criminal Justice Act 1982 (c. 48), section 170(1) of, and paragraph 46 of Schedule 15 to, the Criminal Justice Act 1988 (c. 33), paragraph 28 of Schedule 10 to, the Criminal Justice and Public Order Act 1994 (c. 33) and paragraphs 1 and 14 of Schedule 33 to, the Criminal Justice Act 2003 (c. 44).

(6) 1981 c. 49.

(7) 1981 c. 49; section 12 was amended by section 78 of, and Schedule 16 to, the Criminal Justice Act 1982 (c. 48), section 17(3) of, and Part I of Schedule 4 to, the Criminal Justice Act 1991 (c. 53); section 65(3) and (4) of, and paragraph 6(4) of Schedule 3 to, the Criminal Justice Act 1993 (c. 36) and section 165 of, and paragraph 83 of Schedule 9 to, the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6).

- (d) a contravention of section 9 of the Contempt of Court Act 1981(8) (without the court's permission, recording the proceedings, etc.);
  - (e) any other conduct with which the court can deal as, or as if it were, a criminal contempt of court, except failure to surrender to bail under section 6 of the Bail Act 1976(9).
- (2) Unless the respondent's behaviour makes it impracticable to do so, the court must—
- (a) explain, in terms the respondent can understand (with help, if necessary)—
    - (i) the conduct that is in question,
    - (ii) that the court can impose imprisonment, or a fine, or both, for such conduct,
    - (iii) (where relevant) that the court has power to order the respondent's immediate temporary detention, if in the court's opinion that is required,
    - (iv) that the respondent may explain the conduct,
    - (v) that the respondent may apologise, if he or she so wishes, and that this may persuade the court to take no further action, and
    - (vi) that the respondent may take legal advice; and
  - (b) allow the respondent a reasonable opportunity to reflect, take advice, explain and, if he or she so wishes, apologise.
- (3) The court may then—
- (a) take no further action in respect of that conduct;
  - (b) enquire into the conduct there and then; or
  - (c) postpone that enquiry (if a magistrates' court, only until later the same day).

*[Note. The conduct to which this rule applies is sometimes described as 'criminal' contempt of court.*

*By reason of sections 15 and 45 of the Senior Courts Act 1981, the Court of Appeal and the Crown Court each has an inherent power to imprison (for a maximum of 2 years), or fine (to an unlimited amount), or both, a respondent for contempt of court for the conduct listed in paragraph (1)(a), (b), (d) or (e). See also section 14 of the Contempt of Court Act 1981(10).*

*Under section 97(4) of the Magistrates' Courts Act 1980, and under sections 12 and 14 of the Contempt of Court Act 1981, a magistrates' court can imprison (for a maximum of 1 month), or fine (to a maximum of £2,500), or both, a respondent who contravenes a provision listed in paragraph (1)(c) or (d). Section 12(1) of the 1981 Act allows the court to deal with any person who—*

- (a) *wilfully insults the justice or justices, any witness before or officer of the court or any solicitor or counsel having business in the court, during his or their sitting or attendance in court or in going to or returning from the court; or*
- (b) *wilfully interrupts the proceedings of the court or otherwise misbehaves in court.*

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(8) 1981 c. 49.

(9) 1976 c. 63; section 6 was amended by sections 37, 38 and 46 of the Criminal Justice Act 1982 (c. 48), section 109 of, and paragraph 184 of Schedule 8 to, the Courts Act 2003 (c. 39) and section 15 of, and paragraph 48(1), (4) of Schedule 3 to, the Criminal Justice Act 2003 (c. 44).

(10) 1981 c. 49; section 14 was amended by section 65(1) of, and paragraphs 59 and 60 of Schedule 3 to, the Mental Health (Amendment) Act 1982 (c. 51), section 148 of, and paragraph 57 of Schedule 4 to, the Mental Health Act 1983 (c. 20), section 17(3) of, and Parts 1 and V of Schedule 4 to, the Criminal Justice Act 1991 (c. 53), section 65(3) and (4) of, and paragraph 6(5) of Schedule 3 to, the Criminal Justice Act 1993 (c. 36), section 165(1) of, and paragraph 84 of Schedule 9 to, the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), section 1(4) of, and paragraph 19 of Schedule 1 to, the Mental Health Act 2007 (c. 12) and section 17 of, and paragraph 52 of Schedule 9 and paragraph 53 of Schedule 10 to, the Crime and Courts Act 2013 (c. 22). It is further amended by sections 6(2) and 149 of, and paragraph 25 of Schedule 4 and Part 1 of Schedule 28 to, the Criminal Justice and Immigration Act 2008 (c. 4), with effect from a date to be appointed.

*Under section 89 of the Powers of Criminal Courts (Sentencing) Act 2000(11), no respondent who is under 21 may be imprisoned for contempt of court. Under section 108 of that Act(12), a respondent who is at least 18 but under 21 may be detained if the court is of the opinion that no other method of dealing with him or her is appropriate. Under section 14(2A) of the Contempt of Court Act 1981(13), a respondent who is under 17 may not be ordered to attend an attendance centre.*

*Under section 258 of the Criminal Justice Act 2003(14), a respondent who is imprisoned for contempt of court must be released unconditionally after serving half the term.*

*Under sections 14, 15 and 16 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(15), the respondent may receive advice and representation in “proceedings for contempt committed, or alleged to have been committed, by an individual in the face of the court”.*

*By reason of sections 15 and 45 of the Senior Courts Act 1981, the Court of Appeal and the Crown Court each has an inherent power temporarily to detain a respondent, for example to restore order, when dealing with obstructive, disruptive, insulting or intimidating conduct. Under section 12(2) of the Contempt of Court Act 1981(16), a magistrates’ court can temporarily detain a respondent until later the same day on a contravention of that section.*

*Part 19 contains rules about bail.]*

## **Review after temporary detention**

**62.6.**—(1) This rule applies in a case in which the court has ordered the respondent’s immediate temporary detention for conduct to which rule 62.5 applies.

- (2) The court must review the case—
  - (a) if a magistrates’ court, later the same day;
  - (b) if the Court of Appeal or the Crown Court, no later than the next business day.
- (3) On the review, the court must—
  - (a) unless the respondent is absent, repeat the explanations required by rule 62.5(2)(a); and
  - (b) allow the respondent a reasonable opportunity to reflect, take advice, explain and, if he or she so wishes, apologise.
- (4) The court may then—
  - (a) take no further action in respect of the conduct;
  - (b) if a magistrates’ court, enquire into the conduct there and then; or

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(11) 2000 c. 6; section 89 was amended by paragraph 74(1) and (3) of Schedule 3, and Part 4 of Schedule 37, to the Criminal Justice Act 2003 (c. 44) and is further amended by section 74 of, and paragraphs 160 and 180 of Schedule 7 to, the Criminal Justice and Court Services Act 2000 (c. 43) with effect from a date to be appointed.

(12) 2000 c. 6; section 108 is repealed by sections 74 and 75 of, and paragraphs 160 and 188 of Schedule 7 to, the Criminal Justice and Court Services Act 2000 (c. 43), with effect from a date to be appointed.

(13) 1981 c. 49; section 14 was amended by section 65(1) of, and paragraphs 59 and 60 of Schedule 3 to, the Mental Health (Amendment) Act 1982 (c. 51), section 148 of, and paragraph 57 of Schedule 4 to, the Mental Health Act 1983 (c. 20), section 17(3) of, and Parts 1 and V of Schedule 4 to, the Criminal Justice Act 1991 (c. 53), section 65(3) and (4) of, and paragraph 6(5) of Schedule 3 to, the Criminal Justice Act 1993 (c. 36), section 165(1) of, and paragraph 84 of Schedule 9 to, the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), section 1(4) of, and paragraph 19 of Schedule 1 to, the Mental Health Act 2007 (c. 12) and section 17 of, and paragraph 52 of Schedule 9 and paragraph 53 of Schedule 10 to, the Crime and Courts Act 2013 (c. 22). It is further amended by sections 6(2) and 149 of, and paragraph 25 of Schedule 4 and Part 1 of Schedule 28 to, the Criminal Justice and Immigration Act 2008 (c. 4), with effect from a date to be appointed.

(14) 2003 c. 44; section 258 was amended by article 3(1) and (12) of S.I. 2005/643 and sections 117 and 121 of, and paragraphs 1 and 5 of Schedule 17 and paragraphs 1 and 8 of Schedule 20 to, the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10). It is further amended by section 34(1) and (5) of the Police and Justice Act 2006 (c. 4), with effect from a date to be appointed.

(15) 2012 c. 10.

(16) 1981 c. 49; section 12(2) was amended by Part 1 of Schedule 4 to the Criminal Justice Act 1991 (c. 53).

- (c) if the Court of Appeal or the Crown Court—
  - (i) enquire into the conduct there and then, or
  - (ii) postpone the enquiry, and order the respondent's release from such detention in the meantime.

### **Postponement of enquiry**

- 62.7.**—(1) This rule applies where the Court of Appeal or the Crown Court postpones the enquiry.
- (2) The court must arrange for the preparation of a written statement containing such particulars of the conduct in question as to make clear what the respondent appears to have done.
  - (3) The court officer must serve on the respondent—
    - (a) that written statement;
    - (b) notice of where and when the postponed enquiry will take place; and
    - (c) a notice that—
      - (i) reminds the respondent that the court can impose imprisonment, or a fine, or both, for contempt of court, and
      - (ii) warns the respondent that the court may pursue the postponed enquiry in the respondent's absence, if the respondent does not attend.

### **Procedure on enquiry**

- 62.8.**—(1) At an enquiry, the court must—
- (a) ensure that the respondent understands (with help, if necessary) what is alleged, if the enquiry has been postponed from a previous occasion;
  - (b) explain what the procedure at the enquiry will be; and
  - (c) ask whether the respondent admits the conduct in question.
- (2) If the respondent admits the conduct, the court need not receive evidence.
  - (3) If the respondent does not admit the conduct, the court must consider—
    - (a) any statement served under rule 62.7;
    - (b) any other evidence of the conduct;
    - (c) any evidence introduced by the respondent; and
    - (d) any representations by the respondent about the conduct.
  - (4) If the respondent admits the conduct, or the court finds it proved, the court must—
    - (a) before imposing any punishment for contempt of court, give the respondent an opportunity to make representations relevant to punishment;
    - (b) explain, in terms the respondent can understand (with help, if necessary)—
      - (i) the reasons for its decision, including its findings of fact, and
      - (ii) the punishment it imposes, and its effect; and
    - (c) if a magistrates' court, arrange for the preparation of a written record of those findings.
  - (5) The court that conducts an enquiry—
    - (a) need not include the same member or members as the court that observed the conduct; but
    - (b) may do so, unless that would be unfair to the respondent.

*SECTION 3: CONTEMPT OF COURT BY FAILURE TO COMPLY WITH COURT ORDER, ETC.*

**Initial procedure on failure to comply with court order, etc.**

- 62.9.**—(1) This rule applies where—
- (a) a party, or other person directly affected, alleges—
    - (i) in the Crown Court, a failure to comply with an order to which rule 6.13 or 6.22 (certain investigation orders), or 59.6 (restraint order or ancillary order), applies,
    - (ii) in the Court of Appeal or the Crown Court, any other conduct with which that court can deal as a civil contempt of court, or
    - (iii) in the Crown Court or a magistrates’ court, unauthorised use of disclosed prosecution material under section 17 of the Criminal Procedure and Investigations Act 1996<sup>(17)</sup>;
  - (b) the court deals on its own initiative with conduct to which paragraph (1)(a) applies.
- (2) Such a party or person must—
- (a) apply in writing and serve the application on the court officer; and
  - (b) serve on the respondent—
    - (i) the application, and
    - (ii) notice of where and when the court will consider the allegation (not less than 14 days after service).
- (3) The application must—
- (a) identify the respondent;
  - (b) explain that it is an application for the respondent to be dealt with for contempt of court;
  - (c) contain such particulars of the conduct in question as to make clear what is alleged against the respondent; and
  - (d) include a notice warning the respondent that the court—
    - (i) can impose imprisonment, or a fine, or both, for contempt of court, and
    - (ii) may deal with the application in the respondent’s absence, if the respondent does not attend the hearing.
- (4) A court which acts on its own initiative under paragraph (1)(b) must—
- (a) arrange for the preparation of a written statement containing the same information as an application; and
  - (b) arrange for the service on the respondent of—
    - (i) that written statement, and
    - (ii) notice of where and when the court will consider the allegation (not less than 14 days after service).

*[Note. The conduct to which this rule applies is sometimes described as ‘civil’ contempt of court.*

*By reason of section 45 of the Senior Courts Act 1981<sup>(18)</sup>, the Crown Court has an inherent power to imprison (for a maximum of 2 years), or fine (to an unlimited amount), or both, a respondent for conduct in contempt of court by failing to comply with a court order or an undertaking given to the court.*

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<sup>(17)</sup> 1996 c. 25; section 17 was amended by section 331 of, and paragraphs 20 and 33 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44).

<sup>(18)</sup> 1981 c. 54.

*Under section 18 of the Criminal Procedure and Investigations Act 1996(19)—*

- (a) *the Crown Court can imprison (for a maximum of 2 years), or fine (to an unlimited amount), or both;*
- (b) *a magistrates' court can imprison (for a maximum of 6 months), or fine (to a maximum of £5,000), or both,*

*a person who uses disclosed prosecution material in contravention of section 17 of that Act. See also rule 22.8.*

*Under section 89 of the Powers of Criminal Courts (Sentencing) Act 2000, no respondent who is under 21 may be imprisoned for contempt of court. Under section 108 of that Act, a respondent who is at least 18 but under 21 may be detained if the court is of the opinion that no other method of dealing with him or her is appropriate. Under section 14(2A) of the Contempt of Court Act 1981, a respondent who is under 17 may not be ordered to attend an attendance centre.*

*Under section 258 of the Criminal Justice Act 2003, a respondent who is imprisoned for contempt of court must be released unconditionally after serving half the term.*

*The Practice Direction sets out a form of application for use in connection with this rule.*

*The rules in Part 4 require that an application under this rule must be served by handing it to the person accused of contempt of court unless the court otherwise directs.]*

### **Procedure on hearing**

**62.10.**—(1) At the hearing of an allegation under rule 62.9, the court must—

- (a) ensure that the respondent understands (with help, if necessary) what is alleged;
  - (b) explain what the procedure at the hearing will be; and
  - (c) ask whether the respondent admits the conduct in question.
- (2) If the respondent admits the conduct, the court need not receive evidence.
- (3) If the respondent does not admit the conduct, the court must consider—
- (a) the application or written statement served under rule 62.9;
  - (b) any other evidence of the conduct;
  - (c) any evidence introduced by the respondent; and
  - (d) any representations by the respondent about the conduct.
- (4) If the respondent admits the conduct, or the court finds it proved, the court must—
- (a) before imposing any punishment for contempt of court, give the respondent an opportunity to make representations relevant to punishment;
  - (b) explain, in terms the respondent can understand (with help, if necessary)—
    - (i) the reasons for its decision, including its findings of fact, and
    - (ii) the punishment it imposes, and its effect; and
  - (c) in a magistrates' court, arrange for the preparation of a written record of those findings.

### **Introduction of written witness statement or other hearsay**

**62.11.**—(1) Where rule 62.9 applies, an applicant or respondent who wants to introduce in evidence the written statement of a witness, or other hearsay, must—

- (a) serve a copy of the statement, or notice of other hearsay, on—

- (i) the court officer, and
  - (ii) the other party; and
- (b) serve the copy or notice—
- (i) when serving the application under rule 62.9, in the case of an applicant, or
  - (ii) not more than 7 days after service of that application or of the court’s written statement, in the case of the respondent.

(2) Such service is notice of that party’s intention to introduce in evidence that written witness statement, or other hearsay, unless that party otherwise indicates when serving it.

(3) A party entitled to receive such notice may waive that entitlement.

*[Note. On an application under rule 62.9, hearsay evidence is admissible under the Civil Evidence Act 1995. Section 1(2) of the 1995 Act(20) defines hearsay as meaning ‘a statement made otherwise than by a person while giving oral evidence in the proceedings which is tendered as evidence of the matters stated’. Section 13 of the Act(21) defines a statement as meaning ‘any representation of fact or opinion, however made’.*

*Under section 2 of the 1995 Act(22), a party who wants to introduce hearsay in evidence must give reasonable and practicable notice, in accordance with procedure rules, unless the recipient waives that requirement.]*

### **Content of written witness statement**

**62.12.**—(1) This rule applies to a written witness statement served under rule 62.11.

(2) Such a written witness statement must contain a declaration by the person making it that it is true to the best of that person’s knowledge and belief.

*[Note. By reason of sections 15 and 45 of the Senior Courts Act 1981(23), the Court of Appeal and the Crown Court each has an inherent power to imprison (for a maximum of 2 years), or fine (to an unlimited amount), or both, for contempt of court a person who, in a written witness statement to which this rule applies, makes, or causes to be made, a false statement without an honest belief in its truth. See also section 14 of the Contempt of Court Act 1981(24).]*

### **Content of notice of other hearsay**

**62.13.**—(1) This rule applies to a notice of hearsay, other than a written witness statement, served under rule 62.11.

(2) Such a notice must—

- (a) set out the evidence, or attach the document that contains it; and
- (b) identify the person who made the statement that is hearsay.

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(20) 1995 c. 38.

(21) 1995 c. 38.

(22) 1995 c. 38.

(23) 1981 c. 54.

(24) 1981 c. 49; section 14 was amended by section 65(1) of, and paragraphs 59 and 60 of Schedule 3 to, the Mental Health (Amendment) Act 1982 (c. 51), section 148 of, and paragraph 57 of Schedule 4 to, the Mental Health Act 1983 (c. 20), section 17(3) of, and Parts 1 and V of Schedule 4 to, the Criminal Justice Act 1991 (c. 53), section 65(3) and (4) of, and paragraph 6(5) of Schedule 3 to, the Criminal Justice Act 1993 (c. 36), section 165(1) of, and paragraph 84 of Schedule 9 to, the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), section 1(4) of, and paragraph 19 of Schedule 1 to, the Mental Health Act 2007 (c. 12) and section 17 of, and paragraph 52 of Schedule 9 and paragraph 53 of Schedule 10 to, the Crime and Courts Act 2013 (c. 22). It is further amended by sections 6(2) and 149 of, and paragraph 25 of Schedule 4 and Part 1 of Schedule 28 to, the Criminal Justice and Immigration Act 2008 (c. 4), with effect from a date to be appointed.

### **Cross-examination of maker of written witness statement or other hearsay**

**62.14.**—(1) This rule applies where a party wants the court’s permission to cross-examine a person who made a statement which another party wants to introduce as hearsay.

(2) The party who wants to cross-examine that person must—

- (a) apply in writing, with reasons; and
- (b) serve the application on—
  - (i) the court officer, and
  - (ii) the party who served the hearsay.

(3) A respondent who wants to cross-examine such a person must apply to do so not more than 7 days after service of the hearsay by the applicant.

(4) An applicant who wants to cross-examine such a person must apply to do so not more than 3 days after service of the hearsay by the respondent.

(5) The court—

- (a) may decide an application under this rule without a hearing; but
- (b) must not dismiss such an application unless the person making it has had an opportunity to make representations at a hearing.

*[Note. See also section 3 of the Civil Evidence Act 1995(25).]*

### **Credibility and consistency of maker of written witness statement or other hearsay**

**62.15.**—(1) This rule applies where a party wants to challenge the credibility or consistency of a person who made a statement which another party wants to introduce as hearsay.

(2) The party who wants to challenge the credibility or consistency of that person must—

- (a) serve a written notice of intention to do so on—
  - (i) the court officer, and
  - (ii) the party who served the hearsay; and
- (b) in it, identify any statement or other material on which that party relies.

(3) A respondent who wants to challenge such a person’s credibility or consistency must serve such a notice not more than 7 days after service of the hearsay by the applicant.

(4) An applicant who wants to challenge such a person’s credibility or consistency must serve such a notice not more than 3 days after service of the hearsay by the respondent.

(5) The party who served the hearsay—

- (a) may call that person to give oral evidence instead; and
- (b) if so, must serve a notice of intention to do so on—
  - (i) the court officer, and
  - (ii) the other party

as soon as practicable after service of the notice under paragraph (2).

*[Note. Section 5(2) of the Civil Evidence Act 1995(26) describes the procedure for challenging the credibility of the maker of a statement of which hearsay evidence is introduced. See also section 6 of that Act(27).]*

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(25) 1995 c. 38.

(26) 1995 c. 38.

(27) 1995 c. 38.

*The 1995 Act does not allow the introduction of evidence of a previous inconsistent statement otherwise than in accordance with sections 5, 6 and 7 of the Criminal Procedure Act 1865(28).]*

### **Magistrates' courts' powers to adjourn, etc.**

**62.16.**—(1) This rule applies where a magistrates' court deals with unauthorised disclosure of prosecution material under sections 17 and 18 of the Criminal Procedure and Investigations Act 1996(29).

(2) The sections of the Magistrates' Courts Act 1980 listed in paragraph (3) apply as if in those sections—

- (a) 'complaint' and 'summons' each referred to an application or written statement under rule 62.9;
- (b) 'complainant' meant an applicant; and
- (c) 'defendant' meant the respondent.

(3) Those sections are—

- (a) section 51(30) (issue of summons on complaint);
- (b) section 54(31) (adjournment);
- (c) section 55(32) (non-appearance of defendant);
- (d) section 97(1)(33) (summons to witness);
- (e) section 121(1)(34) (constitution and place of sitting of court);
- (f) section 123(35) (defect in process).

(4) Section 127 of the 1980 Act(36) (limitation of time) does not apply.

*[Note. Under section 19(3) of the Criminal Procedure and Investigations Act 1996(37), Criminal Procedure Rules may contain provisions equivalent to those contained in Schedule 3 to the Contempt of Court Act 1981(38) (which allows magistrates' courts in cases of contempt of court to use certain powers such courts possess in other cases).]*

### **Court's power to vary requirements under Section 3**

**62.17.**—(1) The court may shorten or extend (even after it has expired) a time limit under rule 62.11, 62.14 or 62.15.

(2) A person who wants an extension of time must—

- (a) apply when serving the statement, notice or application for which it is needed; and
- (b) explain the delay.

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- (28) 1865 c. 18; section 6 was amended by section 10 of the Decimal Currency Act 1969 (c. 19), section 90 of, and paragraph 3 of Schedule 13 to, the Access to Justice Act 1999 (c. 22), section 109 of, and paragraph 47 of Schedule 8 to, the Courts Act 2003 (c. 39) and sections 331 and 332 of, and paragraph 79 of Schedule 36 to, and Schedule 37 to, the Criminal Justice Act 2003 (c. 44). It is further amended by section 119 of, and Schedule 7 to, the Police and Criminal Evidence Act 1984 (c. 60) and article 90 of, and Schedule 7 to, S.I. 1989/1342, with effect from a date to be appointed.
- (29) 1996 c. 25; section 17 was amended by section 331 of, and paragraphs 20 and 33 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44).
- (30) 1980 c. 43; section 51 was substituted by section 47(1) of the Courts Act 2003 (c. 39).
- (31) 1980 c. 43.
- (32) 1980 c. 43.
- (33) 1980 c. 43; section 97(1) was substituted by section 169(2) of the Serious Organised Crime and Police Act 2005 (c. 15).
- (34) 1980 c. 43.
- (35) 1980 c. 43.
- (36) 1980 c. 43.
- (37) 1996 c. 25; section 19(3) was amended by section 109 of, and paragraph 377 of Schedule 8 to, the Courts Act 2003 (c. 39) and section 15 of, and paragraph 251 of Schedule 4 to, the Constitutional Reform Act 2005 (c. 4).
- (38) 1981 c. 49; Schedule 3 has been amended but the amendment is not relevant to this rule.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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