
STATUTORY INSTRUMENTS

2020 No. 32 (L. 5)

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

The Criminal Procedure (Amendment) Rules 2020

Made - - - - *14th January 2020*
Laid before Parliament *15th January 2020*
Coming into force - - *6th April 2020*

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 2020 and shall come into force on 6th April 2020.

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

3. In Part 2 (Understanding and applying the Rules)—

- (a) for the heading to the Part substitute “Understanding and applying the Rules and powers of authorised court officers”;
- (b) before the heading to rule 2.1 (When the Rules apply) insert—
“UNDERSTANDING AND APPLYING THE RULES”;
- (c) in rule 2.2 (Definitions), in paragraph (1)—
 - (i) after the entry for “advocate” insert—
“‘authorised court officer’ has the meaning given by rule 2.4”,

(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, 2018/132, 2018/847, 2019/143, 2019/908, 2019/1119.

- (ii) in the entry for “court”, for “a justices’ clerk or assistant clerk” substitute “and an authorised court officer”;
- (iii) in the entry for “justices’ legal adviser”, for “a justices’ clerk or an assistant to a justices’ clerk” substitute “a person authorised under section 28 of the Courts Act 2003(3) to give advice about law to justices’ of the peace”, and
- (iv) in the entry for “Registrar”, for “acting with the Registrar’s authority” substitute “exercising a function of the Registrar”;
- (d) in rule 2.3 (References to legislation, including these Rules), in paragraph (2) for “In the courts to which these Rules apply” substitute “In the courts in which these Rules apply”;
- (e) after rule 2.3 insert—

“POWERS OF AUTHORISED COURT OFFICERS

Exercise of court’s functions by authorised court officers: general rules

2.4.—(1) This rule and rules 2.5, 2.6, 2.7, 2.8 and 2.9 provide for the exercise of relevant judicial functions within the meaning of section 67A of the Courts Act 2003(4)—

- (a) in a court in which these Rules apply;
 - (b) by a person authorised for the purpose by the Lord Chief Justice under section 67B of that Act(5).
- (2) In this rule and in rules 2.5, 2.6, 2.7, 2.8 and 2.9—
- (a) ‘authorised court officer’ means any such person;
 - (b) a reference to an authorised court officer who is legally qualified is a reference to one who has such qualifications as are for the time being prescribed by regulations made under section 28(3) of the Courts Act 2003.
- (3) No court officer may—
- (a) authorise a person’s committal to prison;
 - (b) authorise a person’s arrest (but that exclusion does not apply to the issue of a warrant of arrest, whether or not endorsed for bail, to secure that a person attends court proceedings relating to an offence of which the person has been accused or convicted in a case in which no objection is made by or on behalf of that person to the issue of the warrant);
 - (c) grant or withhold bail, except to the extent that rule 2.6 or rule 2.8 allows;
 - (d) adjudicate on guilt, or on the act or omission with which a defendant is charged, except to the extent of—
 - (i) acquitting a defendant against whom the prosecutor offers no evidence,
 - (ii) convicting a defendant who pleads guilty, or
 - (iii) giving a prosecutor permission to withdraw a case;
 - (e) determine the admissibility of evidence;

(3) 2003 c. 39; section 28 is substituted by section 3 of, and paragraph 26 of the Schedule to, the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018 (c. 33).

(4) 2003 c. 39; section 67A is inserted by section 3 of, and paragraph 32 of the Schedule to, the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018 (c. 33).

(5) 2003 c. 39; section 67B is inserted by section 3 of, and paragraph 32 of the Schedule to, the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018 (c. 33).

- (f) set ground rules for the conduct of questioning where rule 3.9(6), (7) (directions for the appropriate treatment and questioning of a witness or the defendant) applies;
 - (g) make findings of fact for the purpose of sentence, defer or pass sentence, impose a penalty or commit a defendant to the Crown Court for sentence;
 - (h) make an order for a party or other person to pay costs, unless that party or person agrees;
 - (i) make any other order consequent upon acquittal, conviction or a finding that the accused did the act or made the omission charged, except to the extent that rule 2.8 allows;
 - (j) vary, discharge, remit, remove, revoke, review or suspend a sentence, penalty or other order consequent on acquittal or conviction, except to the extent that rule 2.8 allows;
 - (k) order the search, confiscation, restraint, detention or seizure of property except to the extent that rule 2.8 allows;
 - (l) determine an appeal or reference to an appeal court, or an application for permission to appeal or refer, except to the extent that rule 2.6 allows; or
 - (m) determine an allegation of contempt of court.
- (4) An authorised court officer may exercise a relevant judicial function for which rule 2.5, 2.6, 2.7, 2.8 or 2.9 provides—
- (a) only subject to the same conditions as apply to its exercise by the court or person whose function it is; and
 - (b) where a party affected by the exercise of that function is entitled to make representations before its exercise, only if each such party has had a reasonable opportunity to make such representations—
 - (i) in writing, or
 - (ii) at a hearing (whether or not that party in fact attends).
- (5) Unless the context makes it clear that something different is meant, provision in rule 2.5, 2.6, 2.7, 2.8 or 2.9 permitting the exercise of a relevant judicial function by an authorised court officer includes a power to decline to exercise that function.

[Note. Under section 67A of the Courts Act 2003, ‘relevant judicial function’ means a function of a court to which the general duty of the Lord Chancellor under section 1 of that Act applies and a judicial function of a person holding an office that entitles the person to exercise functions of such a court, but does not include in a court in which Criminal Procedure Rules apply—

- (a) *any function so far as its exercise involves authorising a person’s committal to prison; or*
- (b) *any function so far as its exercise involves authorising a person’s arrest, except the issue of a warrant of arrest (whether or not endorsed for bail) to secure that a person attends court proceedings relating to an offence of which the person has been accused or convicted in a case in which no objection is made by or on behalf of that person to the issue of the warrant.*

Under section 67B of the 2003 Act, in a court in which Criminal Procedure Rules apply the Rules may provide for the exercise of relevant judicial functions by persons who are appointed under section 2(1) of that Act and who satisfy any requirements specified in the

Rules as to qualifications or experience. Such a person may exercise such a function only if authorised to do so by the Lord Chief Justice.

Section 28 of the 2003 Act provides for persons authorised by the Lord Chief Justice to give advice to justices of the peace about matters of law. Such a person may be authorised for that purpose only if appointed under section 2(1) of that Act and possessed of such qualifications as may be prescribed by regulations made under section 28. See also rule 2.2 (Definitions).]

Exercise of functions of the Court of Appeal

2.5.—(1) This rule provides for the exercise by an authorised court officer of relevant judicial functions of—

- (a) the criminal division of the Court of Appeal; and
 - (b) the Registrar of Criminal Appeals.
- (2) Subject to rule 2.4, an authorised court officer may exercise—
- (a) any function of the criminal division of the Court of Appeal that may be exercised by the Registrar of Criminal Appeals; and
 - (b) any other judicial function of the Registrar.
- (3) Where an authorised court officer exercises a function of the court—
- (a) the same provision as that made by section 31A(4) or section 31C(3), as the case may be, of the Criminal Appeal Act 1968⁽⁶⁾ applies as if that function had been exercised by the Registrar; and
 - (b) rule 36.5 (Renewing an application refused by a judge or the Registrar) applies.

[Note. See also rule 2.4, which makes general rules about the exercise of judicial functions by authorised court officers.

For the functions of the criminal division of the Court of Appeal that may be exercised by the Registrar of Criminal Appeals, see sections 31A and 31B of the Criminal Appeal Act 1968⁽⁷⁾. For other functions of the Registrar, see section 21 of that Act⁽⁸⁾.

Sections 31A(4) and 31C(3) of the 1968 Act provide for the reconsideration by a judge of a decision by the Registrar to which those provisions apply.]

Exercise of functions of the High Court

2.6.—(1) This rule provides for the exercise by an authorised court officer of relevant judicial functions of the High Court in relation to its jurisdiction under the Extradition Act 2003⁽⁹⁾.

(2) An authorised court officer may exercise any such function of the High Court to which the rules in Section 3 of Part 50 apply (Extradition; Appeal to the High Court), subject to—

- (a) rule 2.4; and
- (b) paragraph (3) of this rule.

⁽⁶⁾ 1968 c. 19; section 31A was inserted by section 6 of the Criminal Appeal Act 1995 (c. 35) and amended by sections 87 and 109 of, and Schedule 10 to, the Courts Act 2003 (c. 39) and paragraphs 86 and 88 of Schedule 36 to the Criminal Justice Act 2003 (c. 44). Section 31C was inserted by section 87 of the Courts Act 2003 (c. 39) and amended by sections 47 and 149 of, and paragraphs 1 and 12 of Schedule 8 and part 3 of Schedule 28 to, the Criminal Justice and Immigration Act 2008 (c. 4).

⁽⁷⁾ 1968 c. 19; section 31B was inserted by section 87 of the Courts Act 2003 (c. 39).

⁽⁸⁾ 1968 c. 19.

⁽⁹⁾ 2003 c. 41.

- (3) No court officer may—
 - (a) grant or withhold bail;
 - (b) impose or vary a condition of bail; or
 - (c) reopen a decision which determines an appeal or an application for permission to appeal,unless paragraph (4) applies.
- (4) If making a decision to which the parties have agreed in writing, an authorised court officer may—
 - (a) give or refuse permission to appeal;
 - (b) determine an appeal;
 - (c) grant or withhold bail; or
 - (d) impose or vary a condition of bail.
- (5) Paragraph (6) of this rule—
 - (a) applies where a party wants a judge to reconsider a decision made by an authorised court officer;
 - (b) does not apply where such an officer agrees to postpone the date on which the required period for extradition begins under section 36(3) of the Extradition Act 2003⁽¹⁰⁾.
- (6) Such a party must—
 - (a) apply for such a reconsideration as soon as reasonably practicable, and in any event no later than the earlier of—
 - (i) the next hearing before a judge, or
 - (ii) the fifth business day after the date on which notice of the decision is served on the applicant;
 - (b) unless the application is made at a hearing, serve the application on—
 - (i) the court officer, and
 - (ii) each other party (if any) affected by the decision; and
 - (c) in the application—
 - (i) specify the decision in issue,
 - (ii) explain why it is appropriate for the decision to be reconsidered and what decision the applicant thinks would be appropriate, and
 - (iii) ask for a hearing, if one is wanted, and explain why it is needed.
- (7) The judge may determine the application—
 - (a) at a hearing (which may be in public or private), or without a hearing;
 - (b) in the absence of—
 - (i) the applicant,
 - (ii) each other party (if any) affected by the decision.
- (8) But the judge must not determine the application in the absence of an affected party unless that party has had—
 - (a) such notice as the nature and urgency of the application permits; and

⁽¹⁰⁾ 2003 c. 41; section 36 was amended by section 40 of, and paragraph 81 of Schedule 9 to, the Constitutional Reform Act 2005 (c. 4).

- (b) a reasonable opportunity to make representations.

[Note. See also—

- (a) rule 2.4, which makes general rules about the exercise of judicial functions by authorised court officers;
- (b) rule 2.10, which provides for extension of the time limit under this rule;
- (c) rule 3.6 (Application to vary a direction); and
- (d) rule 50.18 (Case management in the High Court).

For the functions of the High Court for which this rule provides, see the introductory note to Section 3 of Part 50. See also rule 50.30 for the constitution of the High Court when exercising the powers to which that Section of that Part applies.

Under section 36 of the Extradition Act 2003, where an extradition order has been made under Part 1 of the Act and the outcome of an appeal by the defendant is that he or she is to be extradited then (a) the defendant must be removed to the requesting territory within 10 days starting with the day on which the decision of the relevant court on the appeal becomes final or proceedings on the appeal are discontinued, unless (b) the requesting authority and the High Court agree to postpone that starting date.]

Exercise of functions of the Crown Court

2.7.—(1) This rule provides for the exercise by an authorised court officer of relevant judicial functions of the Crown Court in a criminal cause or matter.

(2) Subject to rule 2.4 and to paragraph (3) of this rule, an authorised court officer may—

- (a) determine an application to extend a time limit set by a rule or by a judge, including a time limit for the conduct of confiscation proceedings, unless the effect would be—
 - (i) to affect the date of any hearing that has been fixed, including a trial, or
 - (ii) significantly to affect the progress of the case in any other way;
- (b) give a live link direction under section 57B, 57E or 57F of the Crime and Disorder Act 1998⁽¹¹⁾ (Use of live link at preliminary hearings where accused is in custody; Use of live link in sentencing hearings; Use of live link in certain enforcement hearings);
- (c) exercise the court’s functions listed in rule 23.2 (Appointment of advocate to cross-examine witness) and select such an advocate as that rule describes (but a court officer may not decline to select such an advocate where that rule applies).

(3) An authorised court officer may not exercise a function of the court in a case in which a judge so directs.

(4) Paragraph (5) of this rule applies where a party or an advocate appointed under rule 23.2 (Appointment of advocate to cross-examine witness) wants a judge to reconsider a decision made by an authorised court officer.

(5) Such a party or advocate must—

- (a) apply for such a reconsideration as soon as reasonably practicable, and in any event no later than the earlier of—

⁽¹¹⁾ 1998 c. 37; sections 57A to 57E were substituted for section 57 as originally enacted by section 45 of the Police and Justice Act 2006 (c. 48). Sections 57B and 57E were amended, and section 57F was inserted, by section 106 of the Coroners and Justice Act 2009 (c. 25).

- (i) the next hearing before a judge, or
 - (ii) the tenth business day after the date on which notice of the decision is served on the applicant;
- (b) unless the application is made at a hearing, serve the application on—
 - (i) the court officer, and
 - (ii) each other party (if any) affected by the decision; and
- (c) in the application—
 - (i) specify the decision in issue,
 - (ii) explain why it is appropriate for the decision to be reconsidered and what decision the applicant thinks would be appropriate, and
 - (iii) ask for a hearing, if one is wanted, and explain why it is needed.
- (6) The judge may determine the application—
 - (a) at a hearing (which may be in public or private), or without a hearing;
 - (b) in the absence of—
 - (i) the applicant,
 - (ii) each other party (if any) affected by the decision.
- (7) But the judge must not determine the application in the absence of an affected party unless that party has had—
 - (a) such notice as the nature and urgency of the application permits; and
 - (b) a reasonable opportunity to make representations.

[Note. See also—

- (a) rule 2.4, which makes general rules about the exercise of judicial functions by authorised court officers;*
- (b) rule 2.10, which provides for extension of the time limit under this rule; and*
- (c) rule 3.6 (Application to vary a direction).*

For the constitution and powers of the Crown Court, see the note to rule 25.1 (Trial and sentence in the Crown Court; When this Part applies).]

Exercise of functions of a magistrates' court

2.8.—(1) This rule provides for the exercise by an authorised court officer of relevant judicial functions of a magistrates' court in a criminal cause or matter.

(2) Subject to rule 2.4 and to paragraph (12) of this rule, an authorised court officer may—

- (a) fix, cancel or vary the date, time or place for a hearing, including a trial, or adjourn a hearing;
- (b) adjourn, remit or transfer proceedings from one local justice area to another;
- (c) determine an application to extend a time limit set by a rule or by the court, unless the effect would be—
 - (i) to affect the date of any hearing that has been fixed, including a trial, or
 - (ii) significantly to affect the progress of the case in any other way;

- (d) issue a summons at the request of a public prosecutor, or under section 16B of the Magistrates' Courts Act 1980⁽¹²⁾ (Cases not tried in accordance with section 16A) or section 83 of that Act⁽¹³⁾ (Process for securing attendance of offender);
- (e) give a prosecutor permission to withdraw a case;
- (f) grant bail where the defendant already is on bail and—
 - (i) the conditions, if any, to which that bail is subject will remain the same, or
 - (ii) bail conditions will be varied or imposed with both parties' agreement;
- (g) give consent for another magistrates' court to deal with a defendant for an offence in respect of which the defendant, when an adult, was discharged conditionally;
- (h) order a convicted defendant to produce his or her driving licence;
- (i) require a statement of the defendant's assets and other financial circumstances;
- (j) amend an attendance centre order to—
 - (i) vary the day or hour specified in that order for the defendant's first attendance, or
 - (ii) substitute an alternative centre;
- (k) amend the local justice area or responsible officer named in an order of the court;
- (l) amend a sentence or order by requiring it to be completed in Northern Ireland or Scotland;
- (m) extend the time for service of a statutory declaration to which applies—
 - (i) rule 24.17 (Statutory declaration of ignorance of proceedings), or
 - (ii) rule 29.4 (Statutory declaration to avoid fine after fixed penalty notice);
- (n) fix a later time at which a defendant must attend court for the purposes of an enquiry or hearing under section 82 of the Magistrates' Courts Act 1980⁽¹⁴⁾ (Restriction on power to impose imprisonment for default);
- (o) conduct a means enquiry;
- (p) make a collection order;
- (q) issue a warrant of control;
- (r) extend the time for payment of a fine or sum to which Part 30 (Enforcement of fines and other orders for payment) applies;
- (s) vary an order for the payment by instalments of such a fine or sum;
- (t) make a transfer of fine order;

⁽¹²⁾ 1980 c. 43; section 16B was inserted by section 48 of the Criminal Justice and Courts Act 2015 (c. 2).

⁽¹³⁾ 1980 c. 43; section 83 was amended by articles 46 and 47 of S.I. 2006/1737 and sections 97(2) and 106 of, and Part V (table 8) of Schedule 15 to, the Access to Justice Act 1999 (c. 22).

⁽¹⁴⁾ 1980 c. 43; section 82 was amended by section 77 of, and paragraph 52 of Schedule 14 to, the Criminal Justice Act 1982 (c. 48), sections 61 and 123 of, and paragraphs 1 and 2 of Schedule 8 to, the Criminal Justice Act 1988 (c. 33), section 55 of and paragraph 10 of Schedule 4 to the Crime (Sentences) Act 1997 (c. 43), paragraph 220 of Schedule 8 to the Courts Act 2003 (c. 39), section 62 of, and paragraphs 45 and 51 of Schedule 13 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15) and section 179 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12) and section 54 of, and paragraphs 2 and 3 of Schedule 12 to, the Criminal Justice and Courts Act 2015 (c. 2). It is further amended by paragraphs 58 and 63 of Part II of Schedule 7 to the Criminal Justice and Court Services Act 2000 (c. 43) and Part 7 of Schedule 37 to the Criminal Justice Act 2003 (c. 44), with effect from dates to be appointed.

- (u) make a disclosure order under section 125CA Magistrates' Courts Act 1980(15) (Power to make disclosure order) for the purposes of securing the execution of a warrant;
- (v) make an attachment of earnings order;
- (w) make or withdraw an application for deductions to be made from a defendant's benefit payments;
- (x) take any step listed in paragraph 38 of Schedule 5 to the Courts Act 2003(16) (range of further steps available against defaulters).

(3) In addition to the functions listed in paragraph (2), subject to rule 2.4 and to paragraph (12) of this rule an authorised court officer who is legally qualified may exercise the other functions of a magistrates' court listed in paragraphs (4) to (11).

(4) In connection with the rules about general matters (Parts 1 to 6)—

- (a) exercising the powers to which section 50 of the Crime and Disorder Act 1998(17) (Early administrative hearings) refers, where that section applies and subject to the restrictions that it contains;
- (b) giving, varying or revoking a live link direction under Part IIIA of the Crime and Disorder Act 1998(18) (Live links for accused's attendance at certain preliminary, sentencing and other hearings);
- (c) determining an application to extend a time limit set by a rule or by the court;
- (d) giving, varying or revoking an order for separate or joint trials in respect of two or more defendants or two or more offences, if all parties agree;
- (e) giving, varying or revoking directions for the conduct of proceedings, including—
 - (i) the timetable for the case,
 - (ii) the attendance of the parties,
 - (iii) the service of documents (including summaries of any legal arguments relied on by the parties),
 - (iv) the manner in which evidence is to be given, insofar as this rule makes no other provision and except the making, varying or revocation of a witness anonymity order;
- (f) determining an application under rule 5.7(5) (supply to a party of information or documents from records or case materials; information to which paragraph (4) of that rule does not apply) where—
 - (i) rule 5.7(6) applies (information about the grounds on which an order was made, or a warrant was issued, in the absence of the party or person applying for that information), and

(15) 1980 c. 43; section 125CA was inserted by section 28 of the Domestic Violence, Crime and Victims Act 2004 (c. 28) and amended by section 62 of, and paragraphs 45 and 60 of Schedule 13 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(16) 2003 c. 39; paragraph 38 of Schedule 5 was amended by articles 2, 4 and 26 of S.I. 2006/1737, section 62 of, and paragraphs 148 and 149 of Schedule 13 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15), section 80 of the Criminal Justice and Immigration Act 2008 (c. 4) and section 88 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).

(17) 1998 c. 37; section 50 was amended by section 106 of, and Schedule 15 to, the Access to Justice Act 1999 (c. 22), sections 41 and 332 of, and paragraphs 15 and 16 of Schedule 3 and Part 4 of Schedule 37 to, the Criminal Justice Act 2003 (c. 44), regulation 8 of S.I. 2006/2493 and section 39 of, and paragraphs 46 and 47 of Schedule 5 to, the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10). It is further amended by section 3 of, and paragraphs 20 and 22 of the Schedule to, the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018 (c. 33).

(18) 1998 c. 37; Part IIIA was substituted by section 45 of the Police and Justice Act 2006 (c. 48).

- (ii) no notice of objection under that paragraph is given within the time for which that paragraph provides;
- (g) imposing a reporting restriction under section 45 of the Youth Justice and Criminal Evidence Act 1999⁽¹⁹⁾ (identity of a person under 18) where there is no objection to the order;
- (h) giving permission for proceedings to be recorded;
- (i) asking a court security officer to remove a person from a courtroom.
- (5) In connection with the rules about preliminary proceedings (Parts 7 to 12)—
 - (a) issuing a summons and giving directions for service;
 - (b) under section 4 of the Summary Jurisdiction (Process) Act 1881⁽²⁰⁾, endorsing a summons or warrant issued by a court in Scotland;
 - (c) giving a prosecutor permission to withdraw a charge;
 - (d) dismissing a prosecution where the prosecutor offers no evidence;
 - (e) amending a charge;
 - (f) sending a defendant to the Crown Court for trial where the only condition for sending is—
 - (i) that prescribed by section 51(2)(a), of the Crime and Disorder Act 1998⁽²¹⁾ (offence triable only on indictment other than one in respect of which notice is given under section 51B or 51C of that Act⁽²²⁾), or
 - (ii) the service of a notice under section 51B or 51C of that Act (prosecutor’s notice requiring sending for trial in a case of serious or complex fraud or a case in which a child is to be called as a witness).
- (6) In connection with the rules about custody and bail (Parts 13 and 14)—
 - (a) issuing or withdrawing a warrant for a person’s arrest to secure that the person attends court proceedings relating to an offence of which the person has been accused or convicted in a case in which no objection is made by or on behalf of that person to the issue of the warrant;
 - (b) granting bail where—
 - (i) the defendant is present,
 - (ii) the prosecutor agrees to the grant of bail, and
 - (iii) the conditions, if any, to which that bail will be subject will remain the same as before, or will be varied or imposed with the parties’ agreement.
- (7) In connection with the rules about evidence (Parts 16 to 23)—
 - (a) requiring a person who has made a written statement to attend before the court to give evidence;
 - (b) issuing a witness summons and giving directions for its service;

⁽¹⁹⁾ 1999 c. 23.

⁽²⁰⁾ 1881 c. 24.

⁽²¹⁾ 1998 c. 37; section 51 was substituted by paragraphs 15 and 18 of Schedule 3 to the Criminal Justice Act 2003 (c. 44) and amended by section 52 of the Criminal Justice and Courts Act 2015 (c. 2).

⁽²²⁾ 1998 c. 37; sections 51B and 51C were inserted by paragraphs 15 and 18 of Schedule 3 to the Criminal Justice Act 2003 (c. 44). Section 51B was amended by section 50 of, and paragraph 69 of Schedule 4 to, the Commissioners for Revenue and Customs Act 2005 (c. 11), paragraphs 46 and 48 of Schedule 5 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10) and article 3 of, and paragraphs 14 and 15 of Schedule 2 to, S.I. 2014/834. Section 51C was modified by section 63 of, and paragraph 36 of Schedule 6 to, the Serious Crime Act 2007 (c. 27) and amended by regulations 8 and 9 of S.I. 2016/244.

- (c) exercising the court's functions listed in rule 23.2 (Appointment of advocate to cross-examine witness) and appointing such an advocate as that rule describes (but a court officer may not decline to appoint such an advocate where that rule applies).
- (8) In connection with the rules about trial (Parts 24 to 27)—
 - (a) convicting a defendant who has pleaded guilty;
 - (b) requesting a pre-sentence report where a defendant pleads guilty;
 - (c) directing the commissioning of a medical report.
- (9) In connection with the rules about appeal (Parts 34 to 44)—
 - (a) stating a case for the opinion of the High Court where the decision under appeal was made by an authorised court officer;
 - (b) requiring the appellant to enter into a recognizance under section 114 of the Magistrates' Courts Act 1980(23) on an application to state a case for the opinion of the High Court.
- (10) In connection with the rules about costs (Part 45)—
 - (a) making or varying an order for a party to pay costs, if both parties agree;
 - (b) making or varying an order for another person to pay costs, if that person agrees;
 - (c) making a costs order to which rule 45.4 (Costs out of central funds) applies.
- (11) In connection with the rules about other proceedings (Parts 46 to 50)—
 - (a) making a legal aid representation order on an appeal against a refusal of legal aid (but a court officer may not decline to make such an order);
 - (b) determining an application for a change of legal representative.
- (12) An authorised court officer who is not a justices' legal adviser may not exercise a function of the court in a case in which a District Judge (Magistrates' Courts), a lay justice or a justices' legal adviser so directs.

[Note. See also—

- (a) rule 2.4, which makes general rules about the exercise of judicial functions by authorised court officers; and
- (b) rule 3.6 (Application to vary a direction).

Under section 148 of the Magistrates' Courts Act 1980(24), the expression 'magistrates' court' means any justice or justices of the peace acting under any enactment or by virtue of their commission or under the common law. For a court's power to try an allegation of an offence, see the note to rule 24.1 (Trial and sentence in a magistrates' court; When this Part applies).

Under section 50 of the Crime and Disorder Act 1998(25), where a defendant has been charged with an offence at a police station the magistrates' court before whom he or she appears or is brought for the first time in relation to the charge may consist of a single

(23) 1980 c. 43; section 114 was amended by section 90 of, and paragraphs 95 and 113 of Schedule 13 to, the Access to Justice Act 1999 (c. 22) and section 109 of, and paragraph 235 of Schedule 8 to, the Courts Act 2003 (c. 39). It is further amended by section 3 of, and paragraphs 5 and 7 of the Schedule to, the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018 (c. 33).

(24) 1980 c. 43; section 148 was amended by section 109 of, and paragraph 248 of Schedule 8 to, the Courts Act 2003 (c. 39).

(25) 1998 c. 37; section 50 was amended by section 106 of, and Schedule 15 to, the Access to Justice Act 1999 (c. 22), sections 41 and 332 of, and paragraphs 15 and 16 of Schedule 3 and Part 4 of Schedule 37 to, the Criminal Justice Act 2003 (c. 44), regulation 8 of S.I. 2006/2493 and section 39 of, and paragraphs 46 and 47 of Schedule 5 to, the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10). It is further amended by section 3 of, and paragraphs 20 and 22 of the Schedule to, the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018 (c. 33).

justice; and where on such an occasion the powers of a single justice are exercised by an authorised court officer that court officer may not remand the defendant in custody or, without the consent of the prosecutor and the defendant, remand the defendant on bail on conditions other than those (if any) previously imposed.

Under section 8B(3) of the Magistrates' Courts Act 1980(26), a magistrates' court may discharge or vary (or further vary) a pre-trial ruling within the meaning of section 8A of that Act(27) if the court has given the parties an opportunity to be heard and if, among other things, there has been a material change of circumstances since the ruling was made or, if a previous application has been made, since the application (or last application) was made.

Under section 53(4) of the Courts Act 2003(28), a court security officer acting in the execution of that officer's duty may remove any person from a courtroom at the request of a judge or a justice of the peace.]

Exercise of functions of a District Judge (Magistrates' Courts) in extradition cases

2.9.—(1) This rule provides for the exercise by an authorised court officer of relevant judicial functions of a District Judge (Magistrates' Courts) in a case to which Part 50 (Extradition) applies.

- (2) Subject to rule 2.4, an authorised court officer who is legally qualified may—
- (a) fix, cancel or vary the date, time or place for a hearing, including an extradition hearing;
 - (b) determine an application to extend a time limit set by a rule or by the court, unless the effect would be—
 - (i) to affect the date of any hearing that has been fixed, including an extradition hearing, or
 - (ii) significantly to affect the progress of the case in any other way.

(3) An authorised court officer who is not a justices' legal adviser may not exercise a function of the court in a case in which a District Judge (Magistrates' Courts) or a justices' legal adviser so directs.

[Note. See also—

- (a) rule 2.4, which makes general rules about the exercise of judicial functions by authorised court officers;*
- (b) rule 3.6 (Application to vary a direction); and*
- (c) rule 50.4 (Case management in the magistrates' court and duty of court officer).]*

Court's power to extend time under rule 2.6 or rule 2.7

2.10.—(1) The court may extend (even after it has expired) a time limit under rule 2.6 (Exercise of functions of the High Court) or rule 2.7 (Exercise of functions of the Crown Court).

(26) 1980 c. 43; section 8B was inserted by section 45 of, and Schedule 3 to, the Courts Act 2003 (c. 39) and amended by paragraph 51 of Schedule 3, and Part 4 of Schedule 37, to the Criminal Justice Act 2003 (c. 44).

(27) 1980 c. 43; section 8A was inserted by section 45 of, and Schedule 3 to, the Courts Act 2003 (c. 39) and amended by SI 2006/2493 and paragraphs 12 and 14 of Schedule 5 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).

(28) 2003 c. 39.

- (2) A party who wants an extension of time must—
 - (a) apply when serving the application for which it is needed; and
 - (b) explain the delay.”; and
- (f) amend the table of contents correspondingly.
- 4. In Part 3 (Case management)—
 - (a) in rule 3.1 (When this Part applies), in paragraph (4) for “Rule 3.28 applies” substitute “Rules 3.28 and 3.29 apply”;
 - (b) after rule 3.28 (Directions for commissioning medical reports, other than for sentencing purposes) insert—

“NOTIFICATION HEARINGS

Hearing to inform the court of sensitive material

- 3.29.**—(1) This rule applies where the prosecutor has, or is aware of, material—
- (a) the revelation of which to the public or to the defendant the prosecutor thinks would give rise to a real risk of serious prejudice to an important public interest;
 - (b) to which the prosecutor does not think the obligation to disclose prosecution material applies, under Part I of the Criminal Procedure and Investigations Act 1996; but
 - (c) of the existence of which the prosecutor thinks it necessary to inform the court to avoid—
 - (i) potential unfairness to the defendant in the conduct of the trial,
 - (ii) potential prejudice to the fair management of the trial, or
 - (iii) potential prejudice to that important public interest.
- (2) Such a prosecutor must—
- (a) ask for a hearing so to inform the court; and
 - (b) notify the defendant of that request only to such extent, if any, and at such time, if at all, as the court directs.
- (3) At or before the hearing the prosecutor must—
- (a) explain—
 - (i) why the hearing is necessary, and
 - (ii) why it is necessary for the hearing to take place in the defendant’s absence;
 - (b) explain to what extent, if any, and when, if at all, the defendant should be informed—
 - (i) of the hearing,
 - (ii) of the material of which the prosecutor wants to inform the court; and
 - (c) provide or describe the material to the court—
 - (i) only to the extent needed to achieve the purpose for which the hearing is convened, and
 - (ii) in such manner as the court directs.
- (4) Unless the court otherwise directs—
- (a) any such hearing—

- (i) must be in private, and
 - (ii) must take place in the defendant’s absence;
 - (b) the court officer must not give notice to anyone other than the prosecutor of—
 - (i) the court’s decision on the request for a hearing,
 - (ii) the arrangements for any such hearing,
 - (iii) any directions given at such a hearing; and
 - (c) the court officer may—
 - (i) keep any written representations or material received under this rule, or
 - (ii) arrange for the whole or any part to be kept by some other appropriate person, subject to any conditions that the court may impose.”; and
 - (c) amend the table of contents correspondingly.
- 5. In Part 5 (Forms and court records), in rule 5.8 (Supply to the public, including reporters, of information about cases)—
 - (a) in paragraph (1)—
 - (i) renumber sub-paragraphs (a), (b) and (c) as (b), (c) and (d) respectively, and
 - (ii) before sub-paragraph (b), as thus renumbered, insert—
 - “(a) requires the supply and publication of information about cases with regard to the importance of—
 - (i) dealing with criminal cases in public, and
 - (ii) allowing a public hearing to be reported to the public.”;
 - (b) in paragraph (6)—
 - (i) at the end of sub-paragraph (e) omit “and”,
 - (ii) at the end of sub-paragraph (f) insert “; and”, and
 - (iii) after sub-paragraph (f) insert—
 - “(g) such other information about the case as is required by arrangements made under paragraph (5)(b)(ii).”;
 - (c) for paragraph (9)(b) substitute—
 - “(b) publish that information for no longer than 5 business days—
 - (i) by notice displayed somewhere prominent in the vicinity of a court room in which the hearing is due to take place, and
 - (ii) by such arrangements as the Lord Chancellor directs, including arrangements for publication by electronic means, but only to the extent needed to comply with paragraph (1)(a).”;
 - (d) for paragraph (11)(b) substitute—
 - “(b) publish that information for no longer than 5 business days—
 - (i) by such arrangements as the Lord Chancellor directs, including arrangements for publication by electronic means, but
 - (ii) only to the extent needed to comply with paragraph (1)(a).”;
 - (e) for paragraph (e) of the note to the rule substitute—

“(e) Part 3 of the Data Protection Act 2018⁽²⁹⁾ (sections 43(3) and 117 of which make exceptions for criminal proceedings from some other provisions of that Act); and”.

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

(a) in rule 7.1 (When this Part applies), after paragraph (1)(c) insert—

“(d) the prosecutor alleges an offence against a defendant who is due to attend, or attends, the court in response to another allegation.”;

(b) in rule 7.2 (Application for summons, etc.), in paragraph (3)(a) for “rule 7.3” substitute “rule 7.3(1)”;

(c) in rule 7.3 (Allegation of offence in application for summons, etc. or charge)—

(i) for the heading to the rule substitute “Allegation of offence”,

(ii) after paragraph (2) insert—

“(3) Where rule 7.1(1)(d) applies (additional allegation in existing prosecution), the prosecutor must—

(a) set out the additional allegation in terms that comply with paragraph (1);

(b) as soon as practicable—

(i) serve the additional allegation on the court officer and the defendant, or

(ii) present the additional allegation orally to the court, with a written statement of that allegation;

(c) demonstrate that the allegation is made in time, if legislation imposes a time limit; and

(d) demonstrate that the prosecutor has the necessary consent, if legislation requires it.

[Note. In some circumstances the court may allow the prosecutor to amend an allegation of an offence, including to allege a different offence. In those circumstances the allegation may be amended after any time limit for prosecuting the different offence has expired if the amendment is based on substantially the same facts as the allegation first made. See Part 3 for the court’s general powers of case management, including power to consider an application and give directions for (among other things) the amendment of an allegation.]”; and

(d) amend the table of contents correspondingly.

7. In Part 13 (Warrants for arrest, detention or imprisonment), in rule 13.4 (Information to be included in a warrant)—

(a) renumber paragraph (3) as (5); and

(b) after paragraph (2) insert—

“(3) A warrant for detention or imprisonment must include such an indication of the defendant’s physical and mental health as may be needed to alert those to whom the warrant is directed—

(a) to any vulnerability of the defendant; and

(b) to any risk to others that may be posed by the defendant.

(4) The indication required by paragraph (3) may be given by reference to an accompanying document.”.

8. In Part 28 (Sentencing procedures in special cases)—

(a) in rule 28.9 (Information to be supplied on admission to hospital or guardianship)—

(i) for the heading to the rule substitute “Information to be supplied on committal to custody or admission to hospital or guardianship”,

(ii) in paragraph (1) renumber sub-paragraphs (a) and (b) as (b) and (c) respectively and before sub-paragraph (b), as thus renumbered, insert—

“(a) orders the defendant’s committal to custody on withholding bail or on sentencing;”

(iii) for paragraph (2) substitute—

“(2) Where paragraph (1)(a) applies, unless the court otherwise directs the court officer must, as soon as practicable, serve on or make available to the custodian any psychiatric, psychological or other medical report about the defendant received by the court for the purposes of the case.

(3) Where paragraph (1)(b) or (c) applies, unless the court otherwise directs the court officer must, as soon as practicable, serve on or make available to (as applicable) the hospital or the guardian—

(a) a record of the court’s order;

(b) such information as the court has received that appears likely to assist in treating or otherwise dealing with the defendant, including information about—

(i) the defendant’s mental condition,

(ii) the defendant’s other circumstances, and

(iii) the circumstances of the offence.”, and

(iv) before the first paragraph of the note to the rule insert—

“*Rule 13.3 provides for the terms of a warrant for detention or imprisonment. Rule 13.4 provides for the information that such a warrant must contain.*”; and

(b) amend the table of contents correspondingly.

9. In Part 31 (Behaviour orders)—

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

“(xi) *section 19 of the Offensive Weapons Act 2019*(**30**) (*knife crime prevention orders*);”;

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

(i) at the end of paragraph (1)(a)(iii) omit “or”,

(ii) at the end of paragraph (1)(a)(iv) insert “, or”, and

(iii) after paragraph (1)(a)(iv) insert—

“(v) a knife crime prevention order;” and

(c) in rule 31.5 (Application to vary or revoke behaviour order), after the first paragraph of the note to the rule insert—

(30) 2019 c. 17; section 19 comes into force on a date to be appointed.

“Under section 26 of the Offensive Weapons Act 2019(31), where the court has made a knife crime prevention order the court may require the applicant and the defendant to attend one or more review hearings to consider whether the order should be varied or discharged. Where a requirement or prohibition imposed by the knife crime prevention order is to have effect after the end of one year from the date the order is made, the court must convene such a review on a specified date within the last 4 weeks of that year.”.

10. In Part 34 (Appeal to the Crown Court), in rule 34.1 (When this Part applies)—

- (a) at the end of paragraph (1)(d)(iv) omit “or”;
- (b) at the end of paragraph (1)(d)(v) insert “, or”;
- (c) after paragraph (1)(d)(v) insert—
 - “(vi) section 28(5)(b) of the Offensive Weapons Act 2019(32).”; and
- (d) at the end of the note to the rule insert—

“Under section 28(5)(b) of the Offensive Weapons Act 2019 an applicant to a magistrates’ court for the variation, renewal or discharge of a knife crime prevention order made by that court, or a respondent to such an application, may appeal to the Crown Court against the decision of the magistrates’ court.”.

11. In Part 39 (Appeal to the Court of Appeal about conviction or sentence)—

- (a) in rule 39.1 (When this Part applies)—
 - (i) for paragraph (1)(f) substitute—
 - “(f) a person wants to appeal to the Court of Appeal under—
 - (i) section 24 of the Serious Crime Act 2007(33),
 - (ii) section 28(5)(a) of the Offensive Weapons Act 2019(34), or
 - (iii) regulation 3C or 3H of the Costs in Criminal Cases (General) Regulations 1986(35).”,
 - (ii) in the note to the rule, in sub-paragraph (d) of the first paragraph after “a finding of disability” insert “or a finding that the defendant did the act or made the omission charged as an offence”, and
 - (iii) in the note to the rule, after the tenth paragraph insert—
 - “Under section 28(5)(a) of the Offensive Weapons Act 2019 an applicant to the Crown Court for the variation, renewal or discharge of a knife crime prevention order made by that court, or a respondent to such an application, may appeal to the Court of Appeal against the decision of the Crown Court.”; and*
- (b) in rule 39.2 (Service of appeal notice)—
 - (i) the existing text becomes paragraph (1),
 - (ii) after paragraph (1) insert—
 - “(2) Paragraphs (3), (4) and (5) apply—
 - (a) where the appeal is about—

(31) 2019 c. 17; section 26 comes into force on a date to be appointed.

(32) 2019 c. 17; section 28 comes into force on a date to be appointed.

(33) 2007 c. 27.

(34) 2019 c. 17; section 28 comes into force on a date to be appointed.

(35) S.I. 1986/1335; regulation 3C was inserted by regulation 2 of The Costs in Criminal Cases (General) (Amendment) Regulations 1991 (SI 1991/789) and amended by regulation 5 of The Costs in Criminal Cases (General) (Amendment) Regulations 2004 (SI 2004/2408). Regulation 3H was inserted by regulation 7 of The Costs in Criminal Cases (General) (Amendment) Regulations 2004 (SI 2004/2408).

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

- (i) a finding of disability under section 4 of the Criminal Procedure (Insanity) Act 1964(36),
 - (ii) a finding under section 4A of the 1964 Act(37) that the defendant did the act or made the omission charged as an offence, or
 - (iii) a hospital order, interim hospital order or supervision order made under section 5 or 5A of the 1964 Act(38);
- (b) unless the appeal notice includes grounds of appeal prepared by the person who was appointed to put the case for the defence under rule 25.10 (Defendant unfit to plead).
- (3) The Registrar must refer the appeal notice to a judge of the Court of Appeal for the judge to give or refuse to give procedural directions under section 31B of the Criminal Appeal Act 1968(39).
- (4) The judge may—
- (a) give such procedural directions as the case requires where the appeal notice includes grounds of appeal that the judge considers reasonably arguable; or
 - (b) refuse to give such directions, in any other case.
- (5) Such procedural directions may include—
- (a) a direction for the appointment of a person to put the case for the appellant on appeal;
 - (b) a direction to commission medical evidence;
 - (c) a direction for the reference of the case to the judge again to give, or to refuse to give, further directions.”; and
- (iii) at the end of the note to the rule insert—

“Under section 31C of the 1968 Act(40) a party has no right to renew to the Court of Appeal an application for procedural directions refused by a judge.”

12. In the preamble to the Criminal Procedure Rules 2015, in sub-paragraph (b), in the first column, headed “Rule”, before the entry for rule 3.13 insert “2.4, 2.5, 2.6, 2.7, 2.8 and 2.9” and in the second column, headed “Power”, in the corresponding position insert “Section 67B(1) of the Courts Act 2003(41)”.

(36) 1964 c. 84; section 4 was substituted, together with section 4A, for section 4 as originally enacted, by section 2 of the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25), and amended by section 22 of the Domestic Violence, Crime and Victims Act 2004 (c. 28).

(37) See (d) immediately above.

(38) 1964 c. 84; section 5 was substituted, and section 5A inserted, by section 24 of the Domestic Violence, Crime and Victims Act 2004 (c. 28). Section 5A was amended by section 15 of the Mental Health Act 2007 (c. 12).

(39) 1968 c. 19; section 31B was inserted by section 87 of the Courts Act 2003 (c. 39).

(40) 1968 c. 19; section 31C was inserted by section 87 of the Courts Act 2003 (c. 39) and amended by sections 47 and 149 of, and paragraphs 1 and 12 of Schedule 8 and part 3 of Schedule 28 to, the Criminal Justice and Immigration Act 2008 (c. 4).

(41) 2003 c. 39; section 67B is inserted by section 3 of, and paragraph 32 of the Schedule to, the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018 (c. 33).

Burnett of Maldon, C.J.
Fulford, L.J.
Haddon-Cave, L.J.
William Davis, J.
Martin Picton
Martin Edmunds
Michael Snow
Louise Bryant
Nicola Hewer and Melissa Case
Suzanne Gadd
Max Hill
Alison Pople
Paul Jarvis
Folashade Abiodun
Edmund Smyth
Nicholas Ephgrave
David Kenyon
Jodie Blackstock

I allow these Rules, which shall come into force on 6th April 2020.

14 January 2020

Robert Buckland
Lord Chancellor

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

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Criminal Procedure Rules 2015, [S.I. 2015/1490](#), as follows:

<i>Rule</i>	<i>Amendment</i>
Part 2	Rules 2.4 to 2.10 are added to provide for the exercise of judicial functions by authorised court officers under section 67B of the Courts Act 2003. The heading to Part 2 and rules 2.2 and 2.3 are amended in consequence.
Part 3	Rule 3.29 is added to provide a procedure for the prosecutor to inform the court of the existence of sensitive material that is not required to be disclosed to the defendant under Part 1 of the Criminal Procedure and Investigations Act 1996. Rule 3.1 is amended in consequence.
Part 5	Rule 5.8 is amended to include a statement of the principle of open justice to which the rule gives effect and to make clear that the supply and publication of information about criminal cases is subject to that principle.
Part 7	Rule 7.3 is amended to clarify the procedure that a prosecutor must follow to add a further offence to an existing prosecution in a magistrates' court. Rule 7.1 is amended in consequence.
Part 13	Rule 13.4 is amended to require in a warrant for the detention or imprisonment of a defendant an indication of any physical or mental ill-health of which the custodian ought to be aware.
Part 28	Rule 28.9 is amended to require the supply to a custodian of a defendant any psychiatric, psychological or other medical report received by the court.
Part 31	Rules 31.1, 31.3 and the note to rule 31.5 are amended to refer to knife crime prevention orders made under the Offensive Weapons Act 2019.
Part 34	Rule 34.1 and the note to that rule are amended to refer to the right of appeal to the Crown Court in relation to the variation, renewal or discharge of a knife crime prevention order.

<i>Rule</i>	<i>Amendment</i>
Part 39	Rule 39.1 and the note to that rule are amended to refer to (i) the right of appeal to the Court of Appeal in relation to the variation, renewal or discharge of a knife crime prevention order, and (ii) the right of appeal to the Court of Appeal against findings consequent on a finding of disability under the Criminal Procedure (Insanity) Act 1964. Rule 39.2 is amended to require the Registrar of Criminal Appeals in some cases to refer to a judge for procedural directions an application for permission to appeal in respect of such a 1964 Act finding.

These Rules come into force on 6th April 2020.