
STATUTORY INSTRUMENTS

1988 No. 952 (L.13)

SUPREME COURT OF ENGLAND AND WALES

The Crown Court (Amendment) Rules 1988

<i>Made</i>	- - - -	<i>24th May 1988</i>
<i>Laid before Parliament</i>		<i>8th June 1988</i>
<i>Coming into force</i>	- -	<i>1st August 1988</i>

We, the Crown Court Rule Committee, in exercise of the powers conferred upon us by sections 84(1) and (2) and 86 of the Supreme Court Act 1981(1), section 32C of the Children and Young Persons Act 1969(2) and section 4 of the Children and Young Persons (Amendment) Act 1986(3), hereby make the following Rules:—

1. These Rules may be cited as the Crown Court (Amendment) Rules 1988 and shall come into force on 1st August 1988.

2.—(1) The Crown Court Rules 1982(4) shall have effect subject to the amendments specified in the Schedule to these Rules.

(2) Nothing in these Rules shall apply in connection with an appeal against a decision of a juvenile court in any proceedings begun in that court before the date of their coming into force.

(1) 1981 c. 54.

(2) 1969 c. 54; section 32C was inserted by section 3(2) of the Children and Young Persons (Amendment) Act 1986.

(3) 1986 c. 28.

(4) S.I.1982/1109, amended by S.I. 1984/699 and 1986/2151.

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Dated 24th May 1988

SCHEDULE

Rule 2(1)

AMENDMENTS TO THE CROWN COURT RULES 1982

1. For Rule 7(2) there shall be substituted the following paragraph:—

“(2) The notice required by the preceding paragraph shall be in writing and shall be given—

- (a) in a case where the appeal is against a decision of a magistrates' court, to the clerk of the magistrates' court;
- (b) in the case of an appeal under section 81B of the Licensing Act 1964⁽⁵⁾ against a decision of licensing justices, to the clerk to the justices;
- (c) in any other case, to the appropriate officer of the Crown Court;
- (d) in the case of an appeal against a decision of a juvenile court in proceedings to which Part III of the Magistrates' Courts (Children and Young Persons) Rules 1988⁽⁶⁾ applies (care proceedings and proceedings relating to care or supervision orders), to any person (other than the appellant) to whom notice of the proceedings in the juvenile court was given in pursuance of Rule 14(3) of the said Rules and to any other person who made representations to the juvenile court in those proceedings in pursuance of Rule 19(1) of those Rules; and
- (e) in any case, to any other party to the appeal.”.

(2) For Rule 7(7) there shall be substituted the following paragraph:—

“(7) Where the Crown Court extends the time for giving notice of appeal, the appropriate officer of the Crown Court shall give notice of the extension to —

- (a) the appellant;
- (b) in the case of an appeal from a decision of a magistrates' court, to the clerk of that court;
- (c) in the case of an appeal under section 81B of the Licensing Act 1964 from a decision of licensing justices, to the clerk to the justices,

and the appellant shall give notice of the extension to any other party to the appeal and, in the case of an appeal against a decision of a juvenile court in proceedings to which Part III of the Magistrates' Courts (Children and Young Persons) Rules 1988 applies, to any other person required to be given notice of the appeal in pursuance of paragraph 2(d) above.”

3. For Rule 8 there shall be substituted the following Rule:—

“Entry of appeal and notice of hearing

8. On receiving notice of appeal, the appropriate officer of the Crown Court shall enter the appeal and give notice of the time and place of the hearing to —

- (a) the appellant;
- (b) any other party to the appeal;
- (c) in the case of an appeal from a decision of a magistrates' court, to the clerk of that court;
- (d) in the case of an appeal under section 81B of the Licensing Act 1964 from a decision of licensing justices, to the clerk to the justices,

⁽⁵⁾ Section 81B was inserted into the Licensing Act 1964 by section 3 of the Licensing (Amendment) Act 1980 (c. 40).

⁽⁶⁾ S.I. 1988/913.

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and, in the case of an appeal against a decision of a juvenile court in proceedings to which Part III of the Magistrates' Courts (Children and Young Persons) Rules 1988 applies, the appellant shall give notice of the time and place of the hearing to any other person to whom notice of the appeal has been given in pursuance of Rule 7(2)(d).”.

4. For Rule 9(3) there shall be substituted the following paragraph:—

“(3) A guardian *ad litem* shall be selected from a panel established in accordance with the Guardians Ad Litem and Reporting Officers (Panels) Regulations 1983(7) except that the person appointed shall not —

- (a) be a member, officer or servant of a local authority or authorised person (within the meaning of section 1 of the Children and Young Persons Act 1969) which is a party to the proceedings; or
- (b) be, or at any time have been, a member, officer or servant of a local authority or a voluntary organisation (within the meaning of section 87(1) of the Child Care Act 1980(8) who has been directly concerned in that capacity in arrangements relating to the care, accommodation or welfare of the relevant child or young person; or
- (c) be a serving probation officer (except that a probation officer who has not in that capacity been concerned with the relevant child or young person or his family (otherwise than for the purposes of the proceedings to which the appeal relates) and who is employed part-time may, when not engaged in his duties as a probation officer, act as a guardian *ad litem*);

and where the appeal arises out of proceedings in which a juvenile court has appointed a person to act as guardian *ad litem*, that person shall be appointed for the purposes of the appeal unless the Crown Court is satisfied that in all the circumstances it would be inappropriate to appoint him.”.

5. For Rule 9(6) there shall be substituted the following paragraph:—

“(6) In this Rule and in Rules 10, 10A and 10B “child” means a person under the age of 14 and “young person” means a person who has attained that age and is under the age of 17.”.

6. In Rule 10(1), for the words from the beginning to “purposes” there shall be substituted the words “Without prejudice to section 32A(4A) of the Children and Young Persons Act 1969(9), in the case”.

7. After Rule 10 there shall be inserted the following Rules:

“Applications by grandparents to be parties to appeals

10A.—(1) Where in any such proceedings as are mentioned in section 32A(1)(d), (e) or (f) of the Children and Young Persons Act 1969 a grandparent of the relevant child or young person makes an application under section 32C of that Act, the circumstances in which the court may give leave for that grandparent to be made a party to the appeal are those in which either —

- (a) that grandparent was a party to the proceedings in the juvenile court to which the appeal relates and the court is satisfied that making him a party to the appeal is likely to be in the interests of the welfare of the relevant child or young person, or
- (b) that grandparent was not a party to those proceedings but the court is satisfied that both of the criteria specified in the following paragraph are met.

(7) S.I. 1983/1908.

(8) 1980 c. 5.

(9) 1969 c. 54; subsection (4A) was inserted by section 3(1) of the Children and Young Persons (Amendment) Act 1986.

- (2) The criteria mentioned in sub-paragraph (b) of the preceding paragraph are —
- (a) that the grandparent had, before the date on which the proceedings to which the appeal relates were begun in the juvenile court, a substantial involvement in the child or young person’s upbringing at any time during his lifetime; and
 - (b) that making the grandparent a party to the proceedings is likely to be in the interests of the welfare of the relevant child or young person.

Written reports

10B.—(1) In the case of an appeal against a decision of a juvenile court in proceedings to which Part III of the Magistrates’ Courts (Children and Young Persons) Rules 1988 applies, any written report of a guardian *ad litem*, probation officer, local authority, local education authority, educational establishment or registered medical practitioner shall be given to the appropriate officer of the Crown Court before the date fixed for the hearing of the appeal, unless it is not practicable to do so.

(2) In the case of such an appeal, the appropriate officer of the Crown Court shall make available copies of any such report, so far as practicable before the hearing of the appeal, to:

- (a) the relevant child or young person, except where the court otherwise directs on the ground that it appears to it impracticable to do so having regard to his age and understanding or undesirable to do so having regard to serious harm which might thereby be suffered by him;
- (b) the legal representative, if any, of the relevant child or young person;
- (c) the guardian *ad litem* of the relevant child or young person;
- (d) the parent or guardian of the relevant child or young person (whether or not he is a party to the appeal); and
- (e) any other person who is a party to the appeal.

(3) In the case of such an appeal, copies of any such report may, if the court considers it desirable to do so, be shown to any other person who is not a party to the appeal but was required to be given notice of the appeal under Rule 7(2)(d).”

8. For sub-paragraph (d) of Rule 11(2) there shall be substituted the following sub-paragraph:—

“(d) in any case, to any other party to the appeal and to any other person to whom notice of appeal was required to be given by Rule 7(2)(d).”

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Crown Court Rules 1982 in relation to appeals in care and care-related proceedings. The amendments are mainly to take account of provisions of the Children and Young Persons (Amendment) Act 1986 which enable parents and grandparents in certain circumstances to be parties to such proceedings and to appeals therefrom; and to reflect provision in the Magistrates’ Courts (Children and Young Persons) Rules 1988 permitting greater participation by non-parties and providing for greater disclosure of written reports. Notice of the commencement and progress of an

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appeal is required to be given to persons entitled to participate in the proceedings in the juvenile court (paragraphs 1, 2, 3 and 8 of the Schedule); parents' and guardians' rights to participate in an appeal are extended (paragraph 6 of the Schedule); new Rule 10A (inserted by paragraph 7 of the Schedule) specifies the circumstances in which the Crown Court may grant an application by a grandparent to be made a party to an appeal; and new Rule 10B (also inserted by paragraph 7) concerns disclosure of written reports for the purposes of an appeal. There are other minor procedural and drafting amendments.