
STATUTORY INSTRUMENTS

1994 No. 3153 (L.19)

SUPREME COURT OF ENGLAND AND WALES

The Crown Court (Amendment) (No. 2) Rules 1994

Made - - - - *8th December 1994*
Laid before Parliament *12th December 1994*
Coming into force - - *3rd February 1995*

We, the Crown Court Rule Committee, in exercise of the powers conferred upon us by sections 84(1) and 86 of the Supreme Court Act 1981(1), hereby make the following Rules:

1. These Rules may be cited as the Crown Court (Amendment) (No. 2) Rules 1994 and shall come into force on 3rd February 1995.
2. For Rule 25A of the Crown Court Rules 1982(2) (“the 1982 Rules”) there shall be substituted the following rule—

“Statements relating to drug trafficking

25A.—(1) When, in any proceedings in respect of a drug trafficking offence, the prosecutor or the defendant tenders to the Crown Court any statement or other document under section 11 of the Drug Trafficking Act 1994(3) he must give a copy thereof as soon as practicable to the defendant or the prosecutor, as the case may be.

(2) Any statement tendered to the Crown Court by the prosecutor under section 11(1) of the said Act of 1994 shall include the following particulars, namely—

- (a) the name of the defendant;
- (b) the name of the person by whom the statement is made and the date on which it was made;
- (c) where the statement is not tendered immediately after the defendant has been convicted, the date on which and the place where the relevant conviction occurred;
- (d) such information known to the prosecutor as is relevant to the determination as to whether or not the defendant has benefited from drug trafficking and to the assessment of the value of his proceeds of drug trafficking.

(1) 1981 c. 54; section 86 was amended by Schedule 17, paragraph 36 of the Courts and Legal Services Act 1990 (c. 41).
(2) S.I. 1982/1109; relevant amending instruments are S.I. 1986/2151 and 1991/1288.
(3) 1994 c. 37.

(3) Where, in accordance with section 11(5) of the said Act of 1994, the defendant indicates the extent to which he accepts any allegation contained within the prosecutor's statement, he must indicate the same in writing to the prosecutor, and serve a copy of that reply on the appropriate officer of the Crown Court.

(4) Expressions used in this rule shall have the same meanings as in the said Act of 1994.”.

3. After rule 33 of the 1982 Rules there shall be inserted the following rules:

“Postponed determinations

34.—(1) Where an application to the Crown Court is made by the defendant or the prosecutor under section 3(5)(a) of the Drug Trafficking Act 1994 asking the Court to exercise its powers under section 3(4) of that Act, or under section 72A(5)(a) of the Criminal Justice Act 1988(4) asking the court to exercise its powers under section 72A(4) of that Act, such an application must be made in writing and a copy thereof must be served on the prosecutor or the defendant, as the case may be.

(2) A party which is served with a copy of an application under paragraph (1) shall, within 28 days of the date of service, notify the applicant and the appropriate officer of the Crown Court, in writing, whether or not it proposes to oppose the application, giving its reasons for any such opposition.

(3) After the expiry of the period referred to in paragraph (2), the Crown Court shall determine whether an application under paragraph (1) is to be dealt with—

- (a) without a hearing, or
- (b) at a hearing at which the parties may be represented.

Drug trafficking — revised assessments

35.—(1) Where the prosecutor makes an application under section 13, 14 or 15 of the Drug Trafficking Act 1994, such an application must be in writing and a copy thereof must be served on the defendant.

(2) The application must include the following particulars, namely—

- (a) the name of the defendant;
- (b) the date on which and the place where the relevant conviction occurred;
- (c) the date on which and the place where any relevant confiscation order was made;
- (d) the grounds on which the application is made;
- (e) an indication of the evidence available to support the application.

Drug trafficking — compensation

36. Where a Crown Court cancels a confiscation order under section 22(2) of the Drug Trafficking Act 1994, the appropriate officer of the Crown Court shall serve notice to that effect on the High Court and on the magistrates' court which has responsibility for enforcing the order.”.

(4) 1988 c. 33; section 72A was inserted by the Criminal Justice Act 1993, section 28.

Dated 8th December 1994

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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.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Crown Court Rules 1982 to govern procedures arising out of provisions of the Drug Trafficking Act 1994 and the Criminal Justice Act 1988, deriving from the Criminal Justice Act 1993. Rule 25A governs the procedure to be followed where a statement or other document is tendered to the Crown Court under section 11 of the 1994 Act. Rule 34 contains procedural provisions where an application is made by the defendant or the prosecutor under section 3(5)(a) of the 1994 Act or section 72A(5)(a) of the 1988 Act. Rule 35 specifies the procedure a prosecutor must follow in making an application under section 13, 14 or 15 of the 1994 Act. Rule 36 states that when a Crown Court cancels a confiscation order under section 22(2) of the 1994 Act notice of that cancellation must be given to the High Court and to the magistrates' court responsible for enforcing the order.