
STATUTORY INSTRUMENTS

1995 No. 2618 (L. 9)

SUPREME COURT OF ENGLAND AND WALES

The Crown Court (Amendment) Rules 1995

Made - - - - *5th October 1995*
Laid before Parliament *10th October 1995*
Coming into force - - *1st November 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) and section 93H of the Criminal Justice Act 1988(2), hereby make the following Rules:

1. These Rules may be cited as the Crown Court (Amendment) Rules 1995 and shall come into force on 1st November 1995.
2. For Rule 25A and 25AA of the Crown Court Rules 1982(3) (“the 1982 Rules”) there shall be substituted the following rule—

“Statements etc. in connection with confiscation orders

25A.—(1) When, in any proceedings in respect of a drug trafficking offence or in respect of an offence to which Part VI of the Criminal Justice Act 1988 applies, the prosecutor or the defendant tenders to the Crown Court any statement or other document under section 11 of the Drug Trafficking Act 1994(4) or section 73 of the Criminal Justice Act 1988, he must serve a copy thereof as soon as practicable on 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 or section 73(1A) of the said Act of 1988 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;

(1) 1981 c. 54; section 86 was amended by Schedule 17, paragraph 36 of the Courts and Legal Services Act 1990 (c. 41).
(2) 1988 c. 33; section 73 was amended by section 3 of the Proceeds of Crime Act 1995 and sections 74A, 74B, 74C, 75A and 93H were inserted by, respectively, sections 5, 6, 7, 9 and 11 of that Act.
(3) S.I. 1982/1109; relevant amending instruments are S.I. 1986/2151, 1989/299, 1991/1288 and 1994/3153.
(4) 1994 c. 37.

- (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 benefitted from drug trafficking or relevant criminal conduct and to the assessment of the value of his proceeds of drug trafficking or, as the case may be, benefit from relevant criminal conduct.

(3) Where, in accordance with section 11(7) of the said Act of 1994 or section 73(1C) of the said Act of 1988, the defendant indicates in writing the extent to which he accepts any allegation contained within the prosecutor’s statement, he must indicate the same 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 or, where appropriate, the said Act of 1988.”.

3. Rule 25B of the 1982 Rules shall be amended as follows:—

- (i) for the heading to the rule there shall be substituted:

“Investigation into drug trafficking or into the proceeds of criminal conduct.”.

- (ii) In paragraph (1) after “section 27 of the Drug Trafficking Offences Act 1986(5)” there shall be inserted the words: “or section 93H of the Criminal Justice Act 1988”.

4. Rule 33 of the 1982 Rules shall be amended as follows:

- (i) for the heading to the rule there shall be substituted:

*“Application for increase in term of imprisonment
in default of payment of a confiscation order”.*

- (ii) In paragraph (1), at the end, there shall be added the words: “or under section 75A of the Criminal Justice Act 1988.”.

- (iii) In paragraph (2), after “section 15”, there shall be inserted the words: “of the said Act of 1990(6) or under subsection 2 of section 75A of the said Act of 1988.”.

5. For Rule 35 of the 1982 Rules there shall be substituted the following rule—

“35.—(1) Where the prosecutor makes an application under section 13, 14 or 15 of the Drug Trafficking Act 1994 or under section 74A, 74B or 74C of the Criminal Justice Act 1988, 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 any relevant conviction occurred;
- (c) the date on which and the place where any relevant confiscation order was made or, as the case may be, varied;
- (d) the grounds on which the application is made;
- (e) an indication of the evidence available to support the application.”.

(5) By virtue of paragraph 3 of Schedule 2 to the Drug Trafficking Act 1994 (c. 37) the reference to section 27 of the Drug Trafficking Offences Act 1986 (c. 32) is to be read as a reference to section 55 of the 1994 Act.

(6) By virtue of paragraph 3 of Schedule 2 to the Drug Trafficking Act 1994 the reference to section 15 of the Criminal Justice (International Co-operation) Act 1990 (c. 5) is to be read as a reference to section 10 of the 1994 Act.

*Mackay of Clashfern, C.
Taylor, C.J.
Patrick Russell, L.J.
J. W. Kay, J.
Geoffrey Rivlin
P. F. Guggenheim
Nicholas Valios
V. L. Garner*

Dated 5th October 1995

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 Part VI of the Criminal Justice Act 1988 (confiscation of the proceeds of an offence) as amended by the Proceeds of Crime Act 1995.