
STATUTORY INSTRUMENTS

1998 No. 3132

The Civil Procedure Rules 1998

[^{F1}PART 77 E+W]

PROVISIONS IN SUPPORT OF CRIMINAL JUSTICE

Textual Amendments

F1 Pt. 77 inserted (6.4.2008) by [The Civil Procedure \(Amendment No.2\) Rules 2007 \(S.I. 2007/3543\)](#), rule 1(b), [Sch.](#)

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*Changes to legislation: There are currently no known outstanding effects for the
The Civil Procedure Rules 1998, PART 77. (See end of Document for details)*

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[^{F4}Scope of this Part **E+W**

77.1. This Part contains rules about—

- (a) in Section 1, applications for a serious crime prevention order under section 8 of the Serious Crime Act 2007 and related applications under sections 9, 17 and 18 of that Act; and
- (b) in Section 2, applications under section 54(3) of the Criminal Procedure and Investigations Act 1996 for an order quashing an acquittal.]

Textual Amendments

- F4** Rule 77.1 substituted (1.10.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2010 \(S.I. 2010/1953\)](#), rules 1(2), **10(b)**

[^{F5}SECTION 1 – SERIOUS CRIME PREVENTION ORDERS]

Textual Amendments

- F5** Pt. 77 Section 1 heading inserted (1.10.2010) by virtue of [The Civil Procedure \(Amendment No.2\) Rules 2010 \(S.I. 2010/1953\)](#), rules 1(2), **10(b)**

[^{F6}Interpretation **E+W**

77.1A. In this Section—

- (a) “the 2007 Act” means the Serious Crime Act 2007; and
- (b) “SCPO” means a serious crime prevention order under section 1 or section 9 of the 2007 Act.]

Textual Amendments

- F6** Rule 77.1A inserted (1.10.2010) by virtue of [The Civil Procedure \(Amendment No.2\) Rules 2010 \(S.I. 2010/1953\)](#), rules 1(2), **10(b)**

Application for a SCPO **E+W**

77.2. An application under section 8 of the 2007 Act for a SCPO must be started in accordance with Part 8 as modified by [^{F7}Practice Direction 77].

Textual Amendments

F7 Words in [rule 77.2](#) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), [rules 1\(2\)](#), [51\(a\)](#)

Applications by third parties to make representations and applications to vary or discharge a SCPO made by the High Court **E+W**

77.3. An application under—

- (a) section 9 of the 2007 Act; or
- (b) section 17 or 18 of the 2007 Act to vary or discharge a SCPO made by the High Court,

must be made in accordance with Part 23 as modified by [^{F8}Practice Direction 77.]

Textual Amendments

F8 Words in [rule 77.3](#) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), [rules 1\(2\)](#), [51\(a\)](#)

Application to vary or discharge a SCPO made by the Crown Court **E+W**

77.4. An application under section 17 or 18 of the 2007 Act to vary or discharge a SCPO made by the Crown Court must be started in accordance with Part 8.

Where to make an application **E+W**

77.5. Applications under this Part must be made to the Queen’s Bench Division of the High Court in one of the courts set out in [^{F9}Practice Direction 77].

Textual Amendments

F9 Words in [rule 77.5](#) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), [rules 1\(2\)](#), [51\(b\)](#)

[^{F10}SECTION 2 APPLICATION TO QUASH AN ACQUITTAL

Textual Amendments

F10 [Pt. 77 Section 2](#) inserted (1.10.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2010 \(S.I. 2010/1953\)](#), [rule 1\(2\)](#), [Sch. 4](#)

Scope and interpretation **E+W**

77.6.—(1) This Section contains rules about applications to quash an acquittal under section 54(3) of the Criminal Procedure and Investigations Act 1996 and applies in relation to acquittals in respect of offences alleged to have been committed on or after 15th April 1997.

(2) An application made under this Section may be made only by the individual or body which acted as prosecutor in the proceedings which led to the acquittal.

Status: Point in time view as at 06/04/2020.

*Changes to legislation: There are currently no known outstanding effects for the
The Civil Procedure Rules 1998, PART 77. (See end of Document for details)*

(3) In this Section—

- (a) “the 1996 Act” means the Criminal Procedure and Investigations Act 1996;
- (b) “acquitted person” means a person whose acquittal of an offence is the subject of a certification under section 54(2) of the 1996 Act, and “acquittal” means the acquittal of that person of that offence;
- (c) “magistrates’ court” has the same meaning as in section 148 of the Magistrates’ Courts Act 1980; and
- (d) “record of court proceedings” means—
 - (i) where the proceedings took place in the Crown Court, a transcript of the evidence; or
 - (ii) where the proceedings took place in a magistrates’ court, a transcript of the evidence if there is one and if not a note of the evidence made by the justices’ [F11]legal adviser], in the proceedings which led to the conviction for the administration of justice offence referred to in section 54(1)(b) of the 1996 Act or, as the case may be, the proceedings which led to the acquittal.

Textual Amendments

- F11** Words in rule 77.6(3)(d)(ii) substituted (6.4.2020) by [The Courts and Tribunals \(Judiciary and Functions of Staff\) Act 2018 \(Consequential, Transitional and Saving Provision\) Regulations 2020 \(S.I. 2020/100\)](#), reg. 1(2), [Sch. para. 5\(4\)](#) (with reg. 4)

Time limit for making the application **E+W**

77.7.—(1) An application for an order quashing an acquittal under section 54(3) of the 1996 Act shall not be made later than 28 days after—

- (a) the expiry of the period allowed for—
 - (i) appealing (whether by case stated or otherwise); or
 - (ii) making an application for permission to appeal,
 against the conviction referred to in section 54(1)(b) of the 1996 Act; or
- (b) where an appeal notice is filed or an application for permission to appeal against that conviction is made, the determination of the appeal or application for permission to appeal.

(2) For the purpose of sub-paragraph (1)(b), “determination” includes abandonment within the meaning of rules 63.8 and 65.13 of the Criminal Procedure Rules 2010 or, as the case may be, rule 11 of the Crown Court Rules 1982.

Where to make the application **E+W**

77.8.—(1) The jurisdiction of the High Court under section 54(3) of the 1996 Act may be exercised by a Divisional Court or a single judge of the High Court.

(2) The application must be made to the Administrative Court which will direct whether the application should be dealt with by a Divisional Court or a single judge of the High Court.

How to make the application **E+W**

77.9.—(1) The application must be made by filing a claim form pursuant to Part 8.

(2) The claimant must file with the claim form—

- (a) a witness statement which deals with the conditions in section 55(1), (2) and (4) of the 1996 Act and which exhibits any relevant documents (which may include a copy of any record of court proceedings); and
- (b) a copy of the certification under section 54(2) of the 1996 Act.

Notice to defendant (acquitted person) E+W

77.10.—(1) Within 7 days of the claim form being issued by the court, the claimant must serve on the defendant (the acquitted person) a copy of the claim form and the documents which accompanied it.

(2) The documents referred to in paragraph (1) must be accompanied by a notice informing the defendant that—

- (a) the result of the application may be the making of an order by the High Court quashing the acquittal; and
- (b) the defendant must, if wishing to respond to the application, file—
 - (i) within 14 days of service of the claim form an acknowledgment of service; and
 - (ii) within 28 days of service of the claim form any witness statement on which the defendant wishes to rely.

(3) The claimant must file as soon as practicable after service of the notice on the defendant a certificate of service together with a copy of the notice.

Response to the application E+W

77.11.—(1) The defendant must, if wishing to respond to the application, file—

- (a) an acknowledgment of service within 14 days of service of the claim form under rule 77.10; and
- (b) a witness statement which—
 - (i) deals with the conditions in section 55(1), (2) and (4) of the 1996 Act; and
 - (ii) exhibits any relevant documents (which may include a copy of any record of court proceedings),within 28 days of service of the claim form under rule 77.10.

(2) The defendant must serve the documents in paragraph (1) on the claimant within 7 days of filing them with the court.

(3) Rule 8.5(3) does not apply.

Further evidence E+W

77.12.—(1) The claimant may, not later than 10 days after the expiry of the period allowed in rule 77.11(1), apply without notice for permission to file further evidence.

(2) Any order granting permission to file further evidence will specify the period within which that further evidence is to be filed.

(3) The claimant must serve a copy of the further evidence on the defendant within 4 days of filing that further evidence.

(4) Rule 8.5(5) and 8.5(6) do not apply.

Status: Point in time view as at 06/04/2020.

*Changes to legislation: There are currently no known outstanding effects for the
The Civil Procedure Rules 1998, PART 77. (See end of Document for details)*

Determination of the application to quash an acquittal (general provisions) E+W

77.13.—(1) The application to quash an acquittal will be determined without a hearing unless the court, of its own initiative or on the application by a party, orders otherwise.

(2) The determination of the application to quash an acquittal will not be made, and any hearing of the application (if ordered) will not take place, before the expiry of—

- (a) 10 days after the expiry of the period allowed under rule 77.11(1); or
- (b) 10 days after the expiry of the period allowed by any order made under rule 77.12(2).

(3) The court will serve notice of any order made on the application to quash an acquittal on the parties and where the court before which the acquittal or conviction occurred was—

- (a) a magistrates' court, on the designated officer; or
- (b) the Crown Court, on the appropriate officer of the Crown Court sitting at the place where the acquittal or conviction occurred.

Application for a hearing to determine the application to quash an acquittal E+W

77.14.—(1) An application for a hearing under rule 77.13(1) must—

- (a) be made no later than 7 days after the expiry of the period allowed—
 - (i) under rule 77.11(1); or
 - (ii) by any order made under rule 77.12(2); and
- (b) state whether a hearing is requested in order for a witness for the other party to attend to be cross-examined^(GL) and, if so, the reasons for wishing the witness to attend.

(2) The party applying for a hearing must—

- (a) serve a copy of the application notice on the other party within 4 days of filing it with the court; and
- (b) file a certificate of service.

(3) The party served with an application for a hearing must file any representations within 5 days of service of the application notice.

(4) Subject to paragraph (5), the court will not determine an application for a hearing unless a certificate of service has been filed pursuant to sub-paragraph (2)(b) and—

- (a) representations have been filed under paragraph (3); or
- (b) the period for filing representations under paragraph (3) has expired.

(5) Where—

- (a) no certificate of service has been filed; and
- (b) no representations under paragraph (3) have been received after the expiry of 7 days from the date of filing the application,

the court may dismiss the application for a hearing.

Hearing to determine the application to quash an acquittal E+W

77.15. Where a hearing is ordered, the court—

- (a) may order a witness to attend to be cross-examined^(GL)—
 - (i) of its own initiative; or
 - (ii) on a without notice application by a party; and
- (b) will serve a notice on all parties setting out—

- (i) the date, time and place of the hearing; and
- (ii) the details of any witness ordered to attend for cross-examination^(GL).]]

Status:

Point in time view as at 06/04/2020.

Changes to legislation:

There are currently no known outstanding effects for the The Civil Procedure Rules 1998, PART 77.