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STATUTORY INSTRUMENTS

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**2000 No. 2987 (L. 25)**

**SUPREME COURT OF ENGLAND AND WALES**

**The Crown Court (Amendment) (No. 2) Rules 2000**

*Made* - - - - *7th November 2000*  
*Laid before Parliament* *8th November 2000*  
*Coming into force* - - *4th December 2000*

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), section 81 of the Police and Criminal Evidence Act 1984(2) and sections 43(3) and 65(1) of the Youth Justice and Criminal Evidence Act 1999(3), hereby make the following Rules:

**Citation and commencement**

1. These Rules may be cited as the Crown Court (Amendment) (No. 2) Rules 2000 and shall come into force on 4th December 2000.

**Amendment of Crown Court Rules 1982**

2. After rule 23C of the Crown Court Rules 1982(4), there shall be inserted the following rule:

**“Procedure for applications in proceedings for sexual offences**

**23D.**—(1) An application for leave under section 41(2) of the 1999 Act must be made in writing to the appropriate officer of the Crown Court and must either—

- (a) be received by that officer within 28 days of—
  - (i) the committal of the defendant, or
  - (ii) the consent to the preferment of a bill of indictment in relation to the case, or
  - (iii) the service of notice of transfer under section 53 of the Criminal Justice Act 1991(5), or

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(1) 1981 c. 54.  
(2) 1984 c. 60.  
(3) 1999 c. 23.  
(4) S.I.1982/1109; the relevant amending Instruments are S.I. 1992/1847 and 1999/598 (L. 2).  
(5) 1991 c. 53.

- (iv) where a person is sent for trial under section 51 of the Crime and Disorder Act 1998(6), the service of copies of the documents containing the evidence on which the charge or charges are based under paragraph 1 of Schedule 3 to that Act,
    - or within such period as the Court may in any particular case determine, or
  - (b) be accompanied by a full written explanation specifying the reasons why the application could not have been made within the 28 days mentioned above.
- (2) Such an application must contain the following—
- (a) a summary of the evidence it is proposed to adduce and of the questions it is proposed to put to any witness;
  - (b) a full explanation of the reasons why it is considered that the evidence and questions fall within section 41(3) or (5) of the 1999 Act;
  - (c) a summary of any document or other evidence to be submitted in support of such evidence and questions;
  - (d) where it is proposed that a witness at the trial give evidence as to the complainant's sexual behaviour, the name and date of birth of any such witness.
- (3) A copy of the application must be sent to all the parties to the proceedings at the same time as it is sent to the appropriate officer of the Crown Court.
- (4) Where a copy of the application is received by the prosecutor more than 14 days before the date set for the trial to begin, the prosecutor must, within 14 days of the receipt of the application, notify the other parties to the proceedings and the appropriate officer of the Crown Court in writing whether or not—
- (a) he opposes the application, giving reasons for any such opposition, and
  - (b) he wishes to be represented at any hearing of the application.
- (5) Where a copy of the application is received by a party to the proceedings other than the prosecutor more than 14 days before the date set for the trial to begin, that party may make observations in writing on the application to the appropriate officer of the Court, but any such observations must be made within 14 days of the receipt of the application and be copied to the other parties to the proceedings.
- (6) In considering any application under this rule, the Court may request a party to the proceedings to provide the Court with such information as it may specify and which the Court considers would assist it in determining the application.
- (7) Where the Court makes such a request, the person required to provide the information must do so within 14 days of the Court making the request or by such time as the Court considers appropriate in the circumstances of the case.
- (8) An application under paragraph (1) must be determined by a judge of the Crown Court following a hearing if—
- (a) the prosecutor has notified the appropriate officer that he opposes the application; or
  - (b) the copy of the application was received by any of the parties to the proceedings less than 14 days before the date set for the trial to begin.
- (9) An application under paragraph (1) must be determined by a judge of the Crown Court following a hearing in any case where he considers such a hearing is appropriate in the circumstances of the particular case.

- (10) The date and time of the hearing must be—
- (a) determined by the Crown Court or the appropriate officer of the Court after taking into consideration—
    - (i) any time which a party to the proceedings has been given to respond to a request for information; and
    - (ii) the date fixed for any other hearing relevant to the proceedings; and
  - (b) notified by the appropriate officer of the Crown Court to all the parties to the proceedings.
- (11) Except where paragraph (8) or (9) applies, an application under paragraph (1) must be determined by a judge of the Crown Court without a hearing.
- (12) The appropriate officer of the Crown Court must, as soon as possible after the determination of an application made in accordance with paragraph (1), give notice of the decision and the reasons for it to all the parties to the proceedings.
- (13) An application under section 41(2) of the 1999 Act may be made orally where the application is made after the trial has begun.
- (14) The person making the application under paragraph (13) must—
- (a) give reasons why the applicant failed to make the application in writing in accordance with paragraph (1); and
  - (b) provide the Court with the information set out in paragraph (2)(a) to (d).
- (15) In this rule, “the 1999 Act” means the Youth Justice and Criminal Evidence Act 1999(7).”.

### **Hearing in chambers**

3. In rule 27(2) of the Crown Court Rules 1982, after paragraph (d) there shall be inserted the following paragraph—

- “(dd) hearing an application under section 41(2) of the Youth Justice and Criminal Evidence Act 1999;”.

### **Expert Evidence Rules**

4. In paragraph (1) of rule 3 of the Crown Court (Advance Notice of Expert Evidence) Rules 1987(8), after the words “he has already done so” there shall be inserted the words “or the evidence is the subject of an application for leave to adduce such evidence in accordance with section 41 of the Youth Justice and Criminal Evidence Act 1999.”.

*Irvine of Lairg, C.  
Wolf, C. J.  
Kay, L. J.  
Master McKenzie  
L. E. Dickinson*

Dated 7th November 2000

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(7) 1999 c. 23.

(8) S.I. 1987/716; the relevant amending instrument is S.I. 1997/700.

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

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## **EXPLANATORY NOTE**

*(This note is not part of the Rules)*

These Rules amend the Crown Court Rules 1982. They detail the procedure to be followed on an application for leave to introduce evidence or to ask questions in cross-examination about the sexual behaviour of the complainant at a trial of a person charged with a sexual offence. Rule 3 provides for a judge of the Crown Court to hold a hearing of an application for leave in chambers. Rule 4 disapplies the rules relating to the advance notice of expert evidence where an application for leave is made in accordance with these Rules.