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STATUTORY INSTRUMENTS

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**2003 No. 421**

**The Crown Court (Confiscation,  
Restraint and Receivership) Rules 2003**

**PART II**

CONFISCATION PROCEEDINGS

**Statements in connection with confiscation orders**

5.—(1) When the prosecutor or the Director is required, under section 16 of the Act, to give a statement to the Crown Court, the prosecutor or the Director, as the case may be, must also, as soon as practicable, serve a copy of the statement on the defendant.

(2) Any statement given to the Crown Court by the prosecutor or the Director under section 16 of the Act must, in addition to the information required by the Act, include the following information—

- (a) the name of the defendant;
- (b) the name of the person by whom the statement is made and the date on which it is made;
- (c) where the statement is not given to the Crown Court immediately after the defendant has been convicted, the date on which and the place where the relevant conviction occurred.

(3) Where, under section 17 of the Act, the Crown Court orders the defendant to indicate the extent to which he accepts each allegation in a statement given by the prosecutor or the Director, the defendant must indicate this in writing to the prosecutor or the Director (as the case may be) and must give a copy to the Crown Court.

(4) Where the Crown Court orders the defendant to give to it any information under section 18 of the Act, the defendant must provide the information in writing and must, as soon as practicable, serve a copy of it on—

- (a) the prosecutor, if the prosecutor asked the court to proceed under section 6 of the Act; or
- (b) the Director, if the Director asked the court to proceed under section 6 of the Act.

**Postponement of confiscation proceedings**

6. The Crown Court may grant a postponement under section 14(1)(b) of the Act without a hearing.

**Application for reconsideration of decision to make confiscation order or benefit assessed for purposes of confiscation order**

7.—(1) This rule applies where the prosecutor or Director makes an application under section 19, 20 or 21 of the Act.

(2) The application must be in writing and give details of—

- (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 varied;
  - (d) the grounds for the application; and
  - (e) an indication of the evidence available to support the application.
- (3) The application must be lodged with the Crown Court.
- (4) The application must be served on the defendant at least 7 days before the date fixed by the court for hearing the application, unless the Crown Court specifies a shorter period.

**Application for reconsideration of available amount**

**8.**—(1) This rule applies where the prosecutor, the Director or a receiver makes an application under section 22 of the Act for a new calculation of the available amount.

- (2) The application must be in writing and may be supported by a witness statement.
  - (3) The application and any witness statement must be lodged with the Crown Court.
  - (4) The application and any witness statement must be served on—
    - (a) the defendant;
    - (b) the receiver, if the prosecutor or the Director is making the application and a receiver has been appointed under section 50 or 52 of the Act; and
    - (c) if the receiver is making the application—
      - (i) the prosecutor; or
      - (ii) if the Director is appointed as the enforcement authority under section 34 of the Act, the Director,
- at least 7 days before the date fixed by the court for hearing the application, unless the Crown Court specifies a shorter period.

**Variation of confiscation order due to inadequacy of available amount**

**9.**—(1) This rule applies where the defendant or a receiver makes an application under section 23 of the Act for the variation of a confiscation order.

- (2) The application must be in writing and may be supported by a witness statement.
  - (3) The application and any witness statement must be lodged with the Crown Court.
  - (4) The application and any witness statement must be served on—
    - (a) the prosecutor, or if the Director is appointed as the enforcement authority under section 34, the Director;
    - (b) the defendant, if the receiver is making the application; and
    - (c) the receiver, if the defendant is making the application and a receiver has been appointed under section 50 or 52 of the Act,
- at least 7 days before the date fixed by the court for hearing the application, unless the Crown Court specifies a shorter period.

**Application by justices' chief executive to discharge confiscation order**

**10.**—(1) This rule applies where a justices' chief executive makes an application under section 24 or 25 of the Act for the discharge of a confiscation order.

- (2) The application must be in writing and give details of—
  - (a) the confiscation order;
  - (b) the amount outstanding under the order; and

- (c) the grounds for the application.
- (3) The application must be served on—
  - (a) the defendant;
  - (b) the prosecutor; and
  - (c) any receiver appointed under section 50 of the Act.
- (4) The Crown Court may determine the application without a hearing unless a person listed in paragraph (3) indicates, within 7 days after the application was served on him, that he would like to make representations.
- (5) If the Crown Court makes an order discharging the confiscation order, the court must, at once, send a copy of the order to—
  - (a) the justices' chief executive who applied for the order;
  - (b) the defendant;
  - (c) the prosecutor; and
  - (d) any receiver appointed under section 50 of the Act.

**Application for variation of confiscation order made against an absconder**

**11.**—(1) This rule applies where the defendant makes an application under section 29 of the Act for the variation of a confiscation order made against an absconder.

(2) The application must be in writing and supported by a witness statement which must give details of—

- (a) the confiscation order made against an absconder under section 6 of the Act as applied by section 28 of the Act;
  - (b) the circumstances in which the defendant ceased to be an absconder;
  - (c) the defendant's conviction of the offence or offences concerned; and
  - (d) the reason why he believes the amount required to be paid under the confiscation order was too large.
- (3) The application and witness statement must be lodged with the Crown Court.

(4) The application and witness statement must be served on the prosecutor or, if the Director is appointed as the enforcement authority under section 34 of the Act, the Director at least 7 days before the date fixed by the court for hearing the application, unless the Crown Court specifies a shorter period.

**Application for discharge of confiscation order made against an absconder**

**12.**—(1) This rule applies if the defendant makes an application under section 30 of the Act for the discharge of a confiscation order.

(2) The application must be in writing and supported by a witness statement which must give details of—

- (a) the confiscation order made under section 28 of the Act;
- (b) the date on which the defendant ceased to be an absconder;
- (c) the acquittal of the defendant if he has been acquitted of the offence concerned; and
- (d) if the defendant has not been acquitted of the offence concerned—
  - (i) the date on which the defendant ceased to be an absconder;

- (ii) the date on which the proceedings taken against the defendant were instituted and a summary of steps taken in the proceedings since then; and
- (iii) any indication given by the prosecutor that he does not intend to proceed against the defendant.

(3) The application and witness statement must be lodged with the Crown Court.

(4) The application and witness statement must be served on the prosecutor or, if the Director is appointed as the enforcement authority under section 34 of the Act, the Director at least 7 days before the date fixed by the court for hearing the application, unless the Crown Court specifies a shorter period.

(5) If the Crown Court orders the discharge of the confiscation order, the court must serve notice on the magistrates' court responsible for enforcing the order if the Director has not been appointed as the enforcement authority under section 34 of the Act.

### **Application for increase in term of imprisonment in default**

**13.**—(1) This rule applies where the prosecutor or the Director makes an application under section 39(5) of the Act to increase the term of imprisonment in default of payment of a confiscation order.

(2) The application must be made in writing and give details of—

- (a) the name and address of the defendant;
- (b) the confiscation order;
- (c) the grounds for the application; and
- (d) the enforcement measures taken, if any.

(3) On receipt of the application, the court must—

- (a) at once, send to the defendant and, if the Director has not been appointed as the enforcement authority under section 34 of the Act, the magistrates' court responsible for enforcing the order, a copy of the application; and
- (b) fix a time, date and place for the hearing and notify the applicant and the defendant of that time, date and place.

(4) If the Crown Court makes an order increasing the term of imprisonment in default, the court must, at once, send a copy of the order to—

- (a) the applicant;
- (b) the defendant;
- (c) where the defendant is in custody at the time of the making of the order, the person having custody of the defendant; and
- (d) if the Director has not been appointed as the enforcement authority under section 34 of the Act, the magistrates' court responsible for enforcing the order.

### **Compensation—general**

**14.**—(1) This rule applies to an application for compensation under section 72 of the Act.

(2) The application must be in writing and may be supported by a witness statement.

(3) The application and any witness statement must be lodged with the Crown Court.

(4) The application and any witness statement must be served on—

- (a) the person alleged to be in default; and

- (b) the person by whom the compensation would be payable under section 72(9) of the Act (or if the compensation is payable out of a police fund under section 72(9)(a), the chief officer of the police force concerned),

at least 7 days before the date fixed by the court for hearing the application, unless the Crown Court directs otherwise.

### **Compensation—confiscation order made against absconder**

**15.**—(1) This rule applies to an application for compensation under section 73 of the Act.

(2) The application must be in writing and supported by a witness statement which must give details of—

- (a) the confiscation order made under section 28 of the Act;
- (b) the variation or discharge of the confiscation order under section 29 or 30 of the Act;
- (c) the realisable property to which the application relates; and
- (d) the loss suffered by the applicant as result of the confiscation order.

(3) The application and witness statement must be lodged with the Crown Court.

(4) The application and witness statement must be served on the prosecutor or, if the Director is appointed as the enforcement authority under section 34, the Director at least 7 days before the date fixed by the court for hearing the application, unless the Crown Court specifies a shorter period.