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STATUTORY INSTRUMENTS

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**2005 No. 384**

**The Criminal Procedure Rules 2005**

**PART 41**

**RETRIAL FOLLOWING ACQUITTAL FOR SERIOUS OFFENCE**

**Examination of witnesses or evidence by the Court of Appeal**

**41.4.**—(1) Prior to the hearing of a section 76 application, a party may apply to the Court of Appeal for an order under section 80(6) of the Criminal Justice Act 2003 for—

- (a) the production of any document, exhibit or other thing; or
- (b) a witness to attend for examination and to be examined before the Court of Appeal.

(2) An application under paragraph (1) must be in the form set out in the Practice Direction and must be sent to the Registrar and a copy sent to each party to the section 76 application.

(3) An application must set out the reasons why the order was not sought from the Court when—

- (a) the notice was served on the Registrar under rule 41.2, if the application is made by the prosecutor; or
- (b) the response was served on the Registrar under rule 41.3, if the application is made by the acquitted person.

(4) An application must be made at least 14 days before the day of the hearing of the section 76 application.

(5) If the Court of Appeal makes an order under section 80(6) of the 2003 Act on its own motion or on application from the prosecutor, it must serve notice and reasons for that order on all parties to the section 76 application.