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STATUTORY INSTRUMENTS

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**2007 No. 2317**

**The Criminal Procedure (Amendment No. 2) Rules 2007**

**Citation, commencement and interpretation**

1. These Rules may be cited as the Criminal Procedure (Amendment No. 2) Rules 2007 and shall come into force on 1st October 2007.

2. In these Rules, a reference to a Part or rule by number alone means the Part or rule so numbered in the Criminal Procedure Rules 2005(1).

**Amendments to the Criminal Procedure Rules 2005**

3. After rule 2.1(6) (When the rules apply), insert—

“(7) The rules in Parts 65, 66, 67, 68, 69 and 70 apply where an appeal, application or reference, to which one of those Parts applies, is made on or after 1st October 2007. In other cases the rules replaced by those rules apply.”

4. In rule 2.2(1) (Definitions)—

(a) at the appropriate place, insert—

(i) ““business day” means any day except Saturday, Sunday, Christmas Day, Boxing Day, Good Friday, Easter Monday or a bank holiday;”;

(ii) ““live link” means an arrangement by which a person can see and hear, and be seen and heard by, the court when that person is not in court;”;

(iii) ““public interest ruling” means a ruling about whether it is in the public interest to disclose prosecution material under sections 3(6), 7A(8) or 8(5) of the Criminal Procedure and Investigations Act 1996(2).”;

(b) at the end of the definition of “court officer”, omit “and”; and

(c) at the end of the definition of “Practice Direction”, for “.”, substitute “; and”.

5. In Part 13 (Dismissal of charges transferred or sent to the Crown Court), in the table of contents—

(a) in the first column, omit “Service of documents”; and

(b) in the second column, omit “rule 13.6”.

6. In Part 15 (Preparatory hearings in case of serious fraud and other complex or lengthy cases in the Crown Court), in the table of contents—

(a) in the first column, omit “Service”; and

(b) in the second column, omit “rule 15.6”.

7. In Part 34 (Hearsay evidence), in the table of contents—

(a) in the first column, omit “Methods of giving notice”; and

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(1) S.I.2005/384; amended by S.I. 2006/353, 2006/2636, 2007/699.

(2) 1996 c. 25; section 7A was inserted by section 37 of the Criminal Justice Act 2003 (c. 44).

- (b) in the second column, omit “rule 34.6”.
- 8. In Part 35 (Evidence of bad character), in the table of contents—
  - (a) in the first column, omit “Methods of giving notice”; and
  - (b) in the second column, omit “rule 35.7”.
- 9. In Part 37 (Summary trial)—
  - (a) in the table of contents, in the second column—
    - (i) for “rule 37.6”, substitute “rule 37.7”, and
    - (ii) for “rule 37.7”, substitute “rule 37.8”;
  - (b) in the table of contents—
    - (i) in the first column, insert in the appropriate place “Application to change a plea of guilty”, and
    - (ii) in the second column, insert in the appropriate place “rule 37.6”;
  - (c) after rule 37.5 (Notice of intention to cite previous convictions), insert—

**“Application to change a plea of guilty**

**37.6.**—(1) The defendant must apply as soon as practicable after becoming aware of the grounds for making an application to change a plea of guilty, and may only do so before the final disposal of the case, by sentence or otherwise.

- (2) Unless the court otherwise directs, the application must be in writing and it must—
  - (a) set out the reasons why it would be unjust for the guilty plea to remain unchanged;
  - (b) indicate what, if any, evidence the defendant wishes to call;
  - (c) identify any proposed witness; and
  - (d) indicate whether legal professional privilege is waived, specifying any material name and date.
- (3) The defendant must serve the written application on—
  - (a) the court officer; and
  - (b) the prosecutor.”;

- (d) Renumber rule 37.6 (Preservation of depositions where offence triable either way is dealt with summarily) as rule 37.7; and
- (e) Renumber rule 37.7 (Order of evidence and speeches: complaint) as rule 37.8.
- 10. In Part 39 (Trial on indictment)—
  - (a) In the table of contents—
    - (i) at the end of the first column, insert “Application to change a plea of guilty”, and
    - (ii) at the end of the second column, insert “rule 39.3”;
  - (b) In the note after rule 39.1 (Time limits for beginning of trials), omit “For time limits for the listing of plea and directions hearings see direction IV.42 in the Practice Direction.”; and
  - (c) after rule 39.2 (Appeal against refusal to excuse from jury service or to defer attendance), insert—

**“Application to change a plea of guilty**

**39.3.**—(1) The defendant must apply as soon as practicable after becoming aware of the grounds for making an application to change a plea of guilty, and may only do so before the final disposal of the case, by sentence or otherwise.

(2) Unless the court otherwise directs, the application must be in writing and it must—

- (a) set out the reasons why it would be unjust for the guilty plea to remain unchanged;
- (b) indicate what, if any, evidence the defendant wishes to call;
- (c) identify any proposed witness; and
- (d) indicate whether legal professional privilege is waived, specifying any material name and date.

(3) The defendant must serve the written application on—

- (a) the court officer; and
- (b) the prosecutor.”.

**11.** In Part 41 (Retrial following acquittal for serious offence), in the table of contents—

- (a) in the first column, omit “Service”; and
- (b) in the second column, omit “rule 41.17”.

**12.** In Part 52 (Enforcement of fines), in the table of contents—

- (a) in the first column, omit “Notice of date of magistrates' court means enquiry”; and
- (b) in the second column, omit “rule 52.5”.

**13.** In Part 55 (Road traffic penalties), in the table of contents—

- (a) in the first column, omit “Notice of registration to defaulter under section 71(6) of the Road Traffic Offenders Act 1988(3)”; and
- (b) in the second column omit “rule 55.4”.

**14.** In the heading to Part 63 (Appeal to the Crown Court against conviction or sentence), omit “against conviction or sentence”.

**15.** In rule 63.1 (Application of this Part)—

- (a) for “and”, substitute “,”; and
- (b) after “supervision order”, insert “and section 14A(5A) of the Football Spectators Act 1989(4) (failure to make football banning order)”.

**16.** In the note after rule 63.1, for “Formerly”, substitute “This rule derives in part from”.

**17.** In rule 63.2(3) (Notice of appeal), for “day on which the decision appealed against is given”, substitute “making of, or failure to make, the decision appealed against”.

**18.** In the note after rule 63.2, for “Formerly”, substitute “This rule derives in part from”.

**19.** In rule 63.3(2) (Documents to be sent to Crown Court), for “and of the last known or usual place of abode”, substitute “or proceedings, and details of the last known addresses”.

**20.** In rule 63.3(3), omit “for the court from whose decision the appeal is brought”.

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(3) 1988 c. 53; section 71(6) was amended by section 109 of, and paragraph 317 of Schedule 8 to, the Courts Act 2003 (c. 39).

(4) 1989 c. 37; section 14A(5A) was inserted by section 52 of, and paragraphs 1 and 3 of Schedule 3 to, the Violent Crime Reduction Act 2006 (c. 38).

- 21.** In the note after rule 63.3, for “Formerly”, substitute “This rule derives in part from”.
- 22.** In rule 63.8(1) (Number and qualification of justices – dispensation for special circumstances), for “constituted without unreasonable delay and the Court includes one justice who is a member of a youth court panel.”, substitute  
“so constituted without unreasonable delay and the Court includes—  
(a) in the case of the hearing of an appeal from a youth court, one justice who is a member of a youth court panel; or  
(b) in any other case, one justice.”.
- 23.** In the note after rule 63.8, for “Formerly”, substitute “This rule derives in part from”.
- 24.** In rule 63.9 (Disqualifications), for “he”, substitute “that justice”.
- 25.** In the note after rule 63.9, for “Formerly”, substitute “This rule derives in part from”.
- 26.** In Part 64 (Appeal to the High Court by way of case stated), in the table of contents—  
(a) in the first column, omit “Service of documents on application to magistrates' court”; and  
(b) in the second column, omit “rule 64.5”.
- 27.** For Part 65 (Appeal to the Court of Appeal against ruling in preparatory hearing), substitute the Part as set out in Schedule 1 to these Rules.
- 28.** For Part 66 (Appeal to the Court of Appeal against ruling adverse to prosecution), substitute the Part as set out in Schedule 2 to these Rules.
- 29.** For Part 67 (Appeal to the Court of Appeal against order restricting reporting or public access), substitute the Part as set out in Schedule 3 to these Rules.
- 30.** For Part 68 (Appeal to the Court of Appeal against conviction, sentence or sentence review decision), substitute the Part as set out in Schedule 4 to these Rules.
- 31.** For Part 69 (Reference to the Court of Appeal of point of law), substitute the Part as set out in Schedule 5 to these Rules.
- 32.** For Part 70 (Reference to the Court of Appeal of unduly lenient sentence), substitute the Part as set out in Schedule 6 to these Rules.
- 33.** In Part 71 (Appeal to the Court of Appeal under the Proceeds of Crime Act 2002<sup>(5)</sup> – general rules), in the table of contents—  
(a) in the first column, omit “Service of documents”; and  
(b) in the second column, omit “rule 71.11”.
- 34.** In the heading to Part 74 (Appeal to the House of Lords), after “Appeal”, insert “or reference”.
- 35.** In Part 74 (Appeal to the House of Lords)—  
(a) in the table of contents, in the first column, after “appeal”, insert “or to refer a case”;  
(b) in the heading to rule 74(1) (Application for leave to appeal from the Criminal Division of the Court of Appeal to the House of Lords), after “leave to appeal”, insert “or to refer a case”;  
(c) in rule 74.1(1)(a), after “2005”, insert “, or for a reference to the House of Lords under section 36(3) of the Criminal Justice Act 1972<sup>(6)</sup> or section 36(5) of the Criminal Justice Act 1988<sup>(7)</sup>”; and

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<sup>(5)</sup> 2002 c. 29.

<sup>(6)</sup> 1972 c. 71; section 36(3) is amended by section 40 of, and paragraph 23 of Schedule 9 to, the Constitutional Reform Act 2005 (c. 4), with effect from a date to be appointed.

- (d) in rule 74.1(1)—
- (i) after “from which an appeal”, insert “or reference”, and
  - (ii) after “Registrar”, insert—
    - (i) “within 7 business days of the reasons for the court’s decision, where the appeal to the court concerned a decision under Part 9 of the Criminal Justice Act 2003(8); or
    - (ii) within 14 days of the court’s opinion, where a reference to the court was made under section 36(3) of the Criminal Justice Act 1972.”.

**36.** In the note after rule 74.1, for “Formerly”, substitute “This rule derives in part from”.

*Phillips of Worth Matravers, C.J.*  
*Sir Igor Judge, P.*  
*Hooper, L.J.*  
*Openshaw, J.*  
*Charles Wide*  
*Roderick Denyer*  
*Anthony Evans*  
*Brenda Large*  
*Andrew Mimmack*  
*David Wood*  
*Sir Kenneth Macdonald*  
*David Fisher*  
*Tom Little*  
*Graham White*  
*Derek French*  
*Martin Baker*  
*Mark Harris*  
*James Riches*

I allow these Rules, which shall come into force on 1st October, 2007.

26th July 2007

*Jack Straw*  
Lord Chancellor and Secretary of State for  
Justice

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(7) 1988 c. 33; section 36(5) is amended by section 40 of, and paragraphs 23 and 48 of Schedule 9 to, the Constitutional Reform Act 2005 (c. 4), with effect from a date to be appointed.

(8) 2003 c. 44.