
STATUTORY INSTRUMENTS

2007 No. 3662

The Criminal Procedure (Amendment No. 3) Rules 2007

Citation, commencement and interpretation

1. These Rules may be cited as the Criminal Procedure (Amendment No. 3) Rules 2007.
2. Rules 1–4 and 15–23 of these Rules shall come into force on 1st April 2008 and rules 5–14 and 24–33 of these Rules shall come into force on 7th April 2008.
3. 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

4. After rule 2.1(7) (When the Rules apply), insert—
 - “(8) The rules in Parts 57–62 apply in proceedings to which one of those Parts applies that begin on or after 1st April 2008. In such proceedings beginning before that date the rules in those Parts apply as if—
 - (a) the amendments made to them by The Criminal Procedure (Amendment No. 3) Rules 2007 had not been made; and
 - (b) references to the Director of the Assets Recovery Agency or to that Agency were references to the Serious Organised Crime Agency.”.
5. After rule 2.1(8) (When the Rules apply), insert—
 - “(9) The rules in Part 50 apply in cases in which the defendant is charged on or after 7th April 2008 and in other cases if the court so orders. Otherwise, the rules replaced by those rules apply.
 - “(10) The rules in Part 74 apply where an appeal, application or reference, to which Part 74 applies, is made on or after 7th April 2008. In other cases the rules replaced by those rules apply.”.
6. For the note after rule 2.1, substitute—

“[Note. The rules replaced by the first Criminal Procedure Rules (The Criminal Procedure Rules 2005) were revoked when those Rules came into force by provisions of the Courts Act 2003, The Courts Act 2003 (Consequential Amendments) Order 2004⁽²⁾ and The Courts Act 2003 (Commencement No. 6 and Savings) Order 2004⁽³⁾. The first Criminal Procedure Rules reproduced the substance of all the rules they replaced.]”
7. After rule 3.5(5) (The court’s case management powers), insert—
 - “(6) If a party fails to comply with a rule or a direction, the court may—
 - (a) fix, postpone, bring forward, extend, cancel or adjourn a hearing;
 - (b) exercise its powers to make a costs order; and

⁽¹⁾ S.I.2005/384; amended by S.I. 2006/353, 2006/2636, 2007/699 and S.I. 2007/2317.
⁽²⁾ S.I. 2004/2035.
⁽³⁾ S.I. 2004/2066.

(c) impose such other sanction as may be appropriate.”.

8. At the end of the note after rule 3.5 (The court’s case management powers), insert—

“See also rule 3.10.

The court may make a costs order under—

- (a) *section 19 of the Prosecution of Offences Act 1985(4), where the court decides that one party to criminal proceedings has incurred costs as a result of an unnecessary or improper act or omission by, or on behalf of, another party;*
- (b) *section 19A of that Act(5), where the court decides that a party has incurred costs as a result of an improper, unreasonable or negligent act or omission on the part of a legal representative;*
- (c) *section 19B of that Act(6), where the court decides that there has been serious misconduct by a person who is not a party.*

Under some other legislation, including Parts 24, 34 and 35 of these Rules, if a party fails to comply with a rule or a direction then in some circumstances—

- (a) *the court may refuse to allow that party to introduce evidence;*
- (b) *evidence that that party wants to introduce may not be admissible;*
- (c) *the court may draw adverse inferences from the late introduction of an issue or evidence.*

See also—

section 81(1) of the Police and Criminal Evidence Act 1984(7)and section 20(3) of the Criminal Procedure and Investigations Act 1996(8) (advance disclosure of expert evidence);

section 11(5) of the Criminal Procedure and Investigations Act 1996(9)(faults in disclosure by accused);

section 132(5) of the Criminal Justice Act 2003(10)(failure to give notice of hearsay evidence)..”

9. After rule 3.8(2) (Case preparation and progression), insert—

“(3) In order to prepare for a trial in the Crown Court, the court must conduct a plea and case management hearing unless the circumstances make that unnecessary.”.

10. For rule 3.10 (Conduct of a trial or an appeal), substitute—

“**3.10** In order to manage a trial or (in the Crown Court) an appeal—

- (a) the court must establish, with the active assistance of the parties, what disputed issues they intend to explore; and
- (b) the court may require a party to identify—
 - (i) which witnesses that party wants to give oral evidence,

(4) 1985 c. 23; section 19 was amended by section 166(2) and (3) of the Criminal Justice Act 1988 (c. 33), section 45 of, and Schedule 6 to, the Legal Aid Act 1988 (c. 34), section 7 of, and paragraph 8 of Schedule 3 to, the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25), section 24 of, and paragraphs 27 and 28 of Schedule 4 to, the Access to Justice Act 1999 (c. 22), sections 40(1) and 67(4) of, and paragraph 4 of Schedule 7 to, the Youth Justice and Criminal Evidence Act 1999 (c. 23), section 165(1) of, and paragraph 99 of Schedule 9 to, the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) and section 378(1) of, and paragraph 107 (a) and (b) of Schedule 16 to, the Armed Forces Act 2006 (c. 52).

(5) 1985 c. 23; section 19A was inserted by section 111 of the Courts and Legal Services Act 1990 (c. 41).

(6) 1985 c. 23; section 19B was inserted by section 93 of the Courts Act 2003 (c. 39).

(7) 1984 c. 60; section 81(1) was amended by section 109(1) of, and paragraph 286 of Schedule 8 to, the Courts Act 2003 (c. 39).

(8) 1996 c. 25; section 20(3) was amended by section 109(1) of, and paragraph 378 of Schedule 8 to, the Courts Act 2003 (c. 39).

(9) 1996 c. 25; section 11 was substituted by section 39 of the Criminal Justice Act 2003 (c. 44).

(10) 2003 c. 44.

- (ii) the order in which that party wants those witnesses to give their evidence,
- (iii) whether that party requires an order compelling the attendance of a witness,
- (iv) what arrangements are desirable to facilitate the giving of evidence by a witness,
- (v) what arrangements are desirable to facilitate the participation of any other person, including the defendant,
- (vi) what written evidence that party intends to introduce,
- (vii) what other material, if any, that person intends to make available to the court in the presentation of the case,
- (viii) whether that party intends to raise any point of law that could affect the conduct of the trial or appeal, and
- (ix) what timetable that party proposes and expects to follow.”.

11. After rule 3.10 (Conduct of a trial or an appeal), insert—

“*[Note. See also rule 3.5.]*”.

12. For Part 50 (Supplementary orders made on conviction), substitute the Part as set out in Schedule 1 to these Rules.

13. In rule 56.4(4) (Application to Crown Court to discharge or vary order to make material available)—

- (a) for “Commissioners of Customs and Excise”, substitute “Commissioners for Her Majesty’s Revenue and Customs”;
- (b) for “Her Majesty’s Customs and Excise”, substitute “Her Majesty’s Revenue and Customs”.

14. In the note after rule 56.4 (Application to Crown Court to discharge or vary order to make material available), for “Formerly”, substitute “This rule derives in part from”.

15. In rule 57.1 (Interpretation), omit “52, 53,”, “56(4),”, and “60(2) and (3),”.

16. In the note after rule 57.1 (Interpretation), for “Formerly”, substitute “This rule derives from”.

17. For Part 58 (Proceeds of Crime Act 2002(11)—rules applicable only to confiscation proceedings), substitute the Part as set out in Schedule 2 to these Rules.

18. In rule 59.1 (Application for restraint order), omit “, the Director”.

19. In the note after rule 59.1 (Application for restraint order), for “Formerly”, substitute “This rule derives from”.

20. For Part 60 (Proceeds of Crime Act 2002—rules applicable only to receivership proceedings), substitute the Part as set out in Schedule 3 to these Rules.

21. In rule 61.1(1) (Distress and forfeiture)—

- (a) omit “and 60(2) and (3)”; and
- (b) for “,” before “59(2)”, substitute “and”.

22. In the note after rule 61.1 (Distress and forfeiture), for “Formerly”, substitute “This rule derives from”.

23. For Part 62 (Proceeds of Crime Act 2002—rules applicable to investigations), substitute the Part as set out in Schedule 4 to these Rules.

- 24.** In rule 65.1(1) (When this Part applies)—
- (a) before “appeals”, insert “applications,”;
 - (b) for “and 70”, substitute “, 70 and 74”.
- 25.** In the note after rule 65.1 (When this Part applies), for “and 31C”, substitute “, 31C and 44”.
- 26.** For the note after rule 65.3 (Power to vary requirements), substitute—
- “[Note. The time limit for serving an appeal notice—*
- (a) *under section 18 of the Criminal Appeal Act 1968(12) on an appeal against conviction or sentence, and*
 - (b) *under section 18A of that Act(13) on an appeal against a finding of contempt of court may be extended but not shortened: see rule 68.2.*
- The time limit for serving an application for permission to refer a sentencing case under section 36 of the Criminal Justice Act 1988(14) may be neither extended nor shortened: see rule 70.2(2).*
- The time limits in rule 74.2 for applying to the Court of Appeal for permission to appeal or refer a case to the House of Lords may be extended or shortened only as explained in the note to that rule.]”.*
- 27.** In the note after rule 65.5 (Renewing an application refused by a judge or the Registrar), for “and 31C”, substitute “, 31C and 44”.
- 28.** In rule 65.6 (Hearings)—
- (a) Re-number rule 65.6(4) as rule 65.6(5);
 - (b) Before rule 65.6(5), insert—
 - “(4) Where the appellant wants to appeal or to refer a case to the House of Lords the court—
 - (a) may decide without a hearing an application—
 - (i) for permission to appeal or to refer a sentencing case, or
 - (ii) to refer a point of law; but
 - (b) must announce its decision on such an application at a hearing in public.”.
- 29.** In rule 65.10(a)(ii) (Duty of person keeping exhibit), for “proceedings in the Court of Appeal”, substitute “appeal proceedings”.
- 30.** In rule 68.1(1) (When this Part applies)—
- (a) at the end of rule 68.1(1)(d), omit “or”;
 - (b) at the end of rule 68.1(1)(e), insert—
 - “; or
 - (f) a person wants to appeal to the Court of Appeal under section 24 of the Serious Crime Act 2007(15)

(12) 1968 c. 19.

(13) 1968 c. 19; section 18A was inserted by section 170 of, and paragraphs 20 and 25 of Schedule 15 to, the Criminal Justice Act 1988 (c. 33).

(14) 1988 c. 33; section 36 was amended by sections 272, 304 and 331 of, and paragraphs 45 and 46 of Schedule 32 and paragraph 96 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44) and sections 49 and 65 of, and paragraph 3 of Schedule 1 and Schedule 5 to, the Violent Crime Reduction Act 2006 (c. 38). It is further amended by section 40 of, and paragraph 48 of Schedule 9 to, the Constitutional Reform Act 2005 (c. 4), with effect from a date to be appointed.

(15) 2007 c. 27.

31. In the note after rule 68.1 (When this Part applies), after “Court of Appeal”, in the second place it occurs, insert—

“Under section 24 of the Serious Crime Act 2007 a person who is the subject of a serious crime prevention order; or the relevant applicant authority, may appeal to the Court of Appeal against a decision of the Crown Court in relation to that order. In addition, any person who was given an opportunity to make representations in the proceedings by virtue of section 9(4) of the Act may appeal to the Court of Appeal against a decision of the Crown Court to make, vary or not vary a serious crime prevention order.”

32. For Part 71 (Appeal to the Court of Appeal under the Proceeds of Crime Act 2002—general rules), substitute the Part as set out in Schedule 5 to these Rules.

33. For Part 74 (Appeal or reference to the House of Lords), substitute the Part as set out in Schedule 6 to these Rules.

*Phillips of Worth Matravers, C.J.
Hooper, L.J.
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Charles Wide
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Stephen Dawson
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Andrew Mimmack
David Wood
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David Fisher
Tom Little
Graham White
Derek French
Martin Baker
James Riches*

I allow these Rules, rules 1–4 and 15–23 of which shall come into force on 1st April 2008 and the remainder of which shall come into force on 7th April 2008.

18th December 2007

Jack Straw
Lord Chancellor