
STATUTORY INSTRUMENTS

2008 No. 3269

The Criminal Procedure (Amendment No. 2) Rules 2008

Citation, commencement and interpretation

1. These Rules may be cited as The Criminal Procedure (Amendment No. 2) Rules 2008 and shall come into force on 6th April 2009.

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(12) (When the Rules apply), insert—

“(13) The rules in Part 21 apply unless the court otherwise directs under rule 21.1(2). If it does so, the rules replaced by those rules apply.

(14) The rules in Part 37 apply in cases in which on or after 6th April 2009—

- (a) the court tries a case; or
- (b) the defendant pleads guilty.

In other cases, the rules in Parts 37 and 38 apply as if The Criminal Procedure (Amendment No. 2) Rules 2008 had not been made.

(15) The rules in Part 44 apply in cases in which an application to which that Part applies is made on or after 6th April 2009. In other cases, the rules in Parts 38 and 44 apply as if The Criminal Procedure (Amendment No. 2) Rules 2008 had not been made.”.

4. In rule 2.2(1) (Definitions), after the definition of “court officer”, insert—

““justices' legal adviser” means a justices' clerk or an assistant to a justices' clerk;”.

5. In the note after rule 7.2 (Information and written charge), before “The Practice Direction”, insert “See also Part 44 (Breach, revocation and amendment of community and other orders in a magistrates' court). Rule 44.2(2) (Application by responsible officer) applies rules 7.2 to 7.4 to the procedure with which that rule deals.”.

6. For rule 7.4(1) (Summons, warrant and requisition), substitute—

“(1) The court may issue or withdraw a summons or warrant—

- (a) without giving the parties an opportunity to make representations; and
- (b) without a hearing, or at a hearing in public or in private.”.

7. In Part 19 (Bail in magistrates' courts and the Crown Court)—

(a) in the table of contents—

- (i) from the entry for rule 19.1, omit “police”,
- (ii) after the entry for rule 19.24, insert, in the first column, “Grant of bail subject to a condition of residence” and, in the second column, “rule 19.25”;

- (b) from the heading to rule 19.1 (Application to a magistrates' court to vary conditions of police bail), omit "police";
- (c) in rule 19.1—
 - (i) in rule 19.1(1), after "1984", insert " , to vary conditions of police bail,"
 - (ii) from the end of rule 19.1(1)(d), omit "and",
 - (iii) in rule 19.1(1)(e), after "custody", insert " ; and (f) specify the address at which the applicant would reside, if the court imposed a condition of residence",
 - (iv) in rule 19.1(3), after "shall serve", insert "not less than 24 hours",
 - (v) after rule 19.1(4), insert—
 - “(5) A party who wants a magistrates' court to vary or to impose conditions of bail under section 3(8) of the Bail Act 1976(2), must—
 - (a) serve notice, not less than 24 hours before the hearing at which that party intends to apply, on—
 - (i) the court officer, and
 - (ii) the other party; and
 - (b) in that notice—
 - (i) specify the variation or conditions proposed, and
 - (ii) explain the reasons.”, and
 - (vi) for rule 19.1(7), substitute—
 - “(7) The court may—
 - (a) vary or waive a time limit under paragraph (3) or (5) of this rule; and
 - (b) allow a notice to be—
 - (i) in a different form to one set out in the Practice Direction, or
 - (ii) given orally.”;
- (d) at the end of the note after rule 19.1 (Application to a magistrates' court to vary conditions of bail), insert “The Practice Direction sets out a form for use in connection with this rule.”; and
- (e) after rule 19.24 (Forfeiture of recognizances in respect of person bailed to appear before the Crown Court), insert—

“Grant of bail subject to a condition of residence—

- 19.25.—**(1) The defendant must notify the prosecutor of the address at which the defendant would reside if released on bail with a condition of residence—
- (a) as soon as practicable after the institution of proceedings, unless already done; and
 - (b) as soon as practicable after any change of that address.
- (2) The prosecutor must help the court to assess the suitability of an address proposed as a condition of residence.

(2) 1976 c. 63; section 3(8) was amended by section 65 of, and Schedule 12 to, the Criminal Law Act 1977 (c. 45). It was amended, in respect of cases sent for trial under section 51A(3)(d) of the Crime and Disorder Act 1998 (c. 37), by section 41 of, and paragraph 48 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44). It is to be amended by section 41 of, and paragraph 48 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44) for remaining purposes, from a date to be appointed.

[Note. Under section 4 of the Bail Act 1976(3), the general rule, subject to exceptions, is that a defendant must be granted bail. Schedule 1 to the Act sets out some of the exceptions. Paragraph 5 of that Schedule allows a court to withhold bail if satisfied that it has not been practicable, for want of time since the institution of the proceedings, to obtain sufficient information for it to take the decisions required by that Schedule.]”.

8. For Part 21 (Advance information), substitute the Part as set out in Schedule 1 to these Rules.
9. For Part 37 (Summary trial), substitute the Part as set out in Schedule 2 to these Rules.
10. Omit Part 38 (Trial of children and young persons).
11. For Part 44 (Sentencing children and young persons), substitute the Part as set out in Schedule 3 to these Rules.
12. In the Arrangement of Rules contained in The Criminal Procedure Rules 2005—
 - (a) in the entry for Part 7, for “Commencing proceedings in a magistrates' court”, substitute “Starting a prosecution in a magistrates' court”;
 - (b) in the entry for Part 21, for “Advance information in magistrates' courts”, substitute “Initial details of the prosecution case”;
 - (c) in the entry for Part 37, for “Summary trial”, substitute “Trial and sentence in a magistrates' court”;
 - (d) omit the entry for Part 38;
 - (e) in the entry for Part 44, for “Sentencing children and young persons”, substitute “Breach, revocation and amendment of community and other orders in a magistrates' court”;
 - (f) in the entry for Part 50, for “Supplementary orders made on conviction”, substitute “Civil behaviour orders after verdict or finding”;
 - (g) in the entry for Part 58, for “Proceeds of Crime Act 2002—rules for confiscation proceedings”, substitute “Proceeds of Crime Act 2002—rules applicable only to confiscation proceedings”;
 - (h) in the entry for Part 60, for “Proceeds of Crime Act 2002—rules for receivership proceedings”, substitute “Proceeds of Crime Act 2002—rules applicable only to receivership proceedings”;
 - (i) in the entry for Part 61, for “Proceeds of Crime Act 2002—rules for both restraint and receivership proceedings”, substitute “Proceeds of Crime Act 2002—rules applicable to restraint and receivership proceedings”;
 - (j) in the entry for Part 62, for “Proceeds of Crime Act 2002—rules for investigations”, substitute “Proceeds of Crime Act 2002—rules applicable to investigations”;
 - (k) in the entry for Part 63, for “Appeal to the Crown Court against conviction or sentence”, substitute “Appeal to the Crown Court”;
 - (l) in the entry for Part 64, “Appeal to the High Court by case stated”, substitute “Appeal to the High Court by way of case stated”;
 - (m) in the entry for Part 65, for “Appeal to the Court of Appeal against ruling in preparatory hearing”, substitute “Appeal to the Court of Appeal: general rules”;

(3) 1976 c. 63; section 4 was amended by section 154 of, and paragraph 145 of Schedule 7 to, the Magistrates' Courts Act 1980 (c. 43), section 168 of, and paragraphs 32 and 33 of Schedule 10 to, the Criminal Justice and Public Order Act 1994 (c. 33), section 58 of the Criminal Justice and Court Services Act 2000 (c. 43), sections 198 and 220 of, and Schedule 4 to, the Extradition Act 2003 (c. 41), section 304 of, and paragraphs 20 and 22 of Schedule 32 to, the Criminal Justice Act 2003 (c. 44) and section 42 of, and paragraph 34 of Schedule 13 to, the Police and Justice Act 2006 (c. 48). It is to be amended by sections 6 and 148 of, and paragraph 23 of Schedule 4 and Part 1 of Schedule 28 to, the Criminal Justice and Immigration Act 2008 (c. 4).

- (n) in the entry for Part 66, for “Appeal to the Court of Appeal against ruling adverse to prosecution”, substitute “Appeal to the Court of Appeal against ruling at preparatory hearing”;
- (o) in the entry for Part 67, for “Appeal to the Court of Appeal regarding reporting or public access”, substitute “Appeal to the Court of Appeal against ruling adverse to prosecution”;
- (p) in the entry for Part 68, for “Appeal to the Court of Appeal against conviction or sentence”, substitute “Appeal to the Court of Appeal about conviction or sentence”;
- (q) in the entry for Part 69, for “Reference to the Court of Appeal on point of law”, substitute “Appeal to the Court of Appeal regarding reporting or public access restriction”;
- (r) in the entry for Part 70, for “Reference to the Court of Appeal of unduly lenient sentence”, substitute “Reference to the Court of Appeal of point of law or unduly lenient sentence”;
and
- (s) in the entry for Part 74, for “Appeal to the House of Lords”, substitute “Appeal or reference to the House of Lords”.

*Judge, C.J.
Hooper, L.J.
Thomas, L.J. O
Openshaw, J.
Charles Wide
Roderick Denyer
Stephen Dawson
Nicholas Moss
Tessa Szagun
Keir Starmer
Patrick Gibbs
Tom Little
Michael Caplan
Derek French
Martin Baker
James Riches
Jeremy Corbett*

I allow these Rules which shall come into force on 6th April 2009.

14th December 2008

Jack Straw
Lord Chancellor