
STATUTORY INSTRUMENTS

2014 No. 1610

The Criminal Procedure Rules 2014

PART 38

TRIAL AND SENTENCE IN THE CROWN COURT

Selecting the jury

38.6.—(1) This rule—

(a) applies where—

- (i) the defendant pleads not guilty,
- (ii) the defendant declines to enter a plea and the court treats that as a not guilty plea, or
- (iii) the court determines that the defendant is not fit to be tried;

(b) does not apply where—

- (i) the court orders a trial without a jury because of a danger of jury tampering or where jury tampering appears to have taken place, or
- (ii) the court tries without a jury counts on an indictment after a trial of sample counts with a jury.

(2) The court must select a jury to try the case from the panel, or part of the panel, of jurors summoned by the Lord Chancellor to attend at that time and place.

(3) Where it appears that too few jurors to constitute a jury will be available from among those so summoned, the court—

- (a) may exercise its own power to summon others in the court room, or in the vicinity, up to the number likely to be required, and add their names to the panel summoned by the Lord Chancellor; but
- (b) must inform the parties, if they are absent when the court exercises that power.

(4) The court must select the jury by drawing at random each juror's name from among those so summoned and—

- (a) announcing each name so drawn; or
- (b) announcing an identifying number assigned by the court officer to that person, where the court is satisfied that that is necessary.

(5) If too few jurors to constitute a jury are available from the panel after all their names have been drawn, the court may—

- (a) exercise its own power to summon others in the court room, or in the vicinity, up to the number required; and
- (b) announce—
 - (i) the name of each person so summoned, or

- (ii) an identifying number assigned by the court officer to that person, where the court is satisfied that that is necessary.
- (6) The jury the court selects—
- (a) must comprise no fewer than 12 jurors;
 - (b) may comprise as many as 14 jurors to begin with, where the court expects the trial to last for more than 4 weeks.
- (7) Where the court selects a jury comprising more than 12 jurors, the court must explain to them that—
- (a) the purpose of selecting more than 12 jurors to begin with is to fill any vacancy or vacancies caused by the discharge of any of the first 12 before the prosecution evidence begins;
 - (b) any such vacancy or vacancies will be filled by the extra jurors in order of their selection from the panel;
 - (c) the court will discharge any extra juror or jurors remaining by no later than the beginning of the prosecution evidence; and
 - (d) any juror who is discharged for that reason then will be available to be selected for service on another jury, during the period for which that juror has been summoned.
- (8) Each of the 12 or more jurors the court selects—
- (a) must take an oath or affirm; and
 - (b) becomes a full jury member until discharged.
- (9) The oath or affirmation must be in these terms, or in any corresponding terms that the juror declares to be binding on him or her—

“I swear by Almighty God [*or I do solemnly, sincerely and truly declare and affirm*] that I will faithfully try the defendant and give a true verdict according to the evidence.”

[Note. See sections 2, 5, 6, and 11 of the Juries Act 1974(1). See also rule 38.7 (Discharging jurors).

Under sections 44 and 46 of the Criminal Justice Act 2003(2), the court may try a case without a jury where there is a danger of jury tampering, or where jury tampering appears to have taken place. Under section 17 of the Domestic Violence, Crime and Victims Act 2004(3), the court may try sample counts with a jury and other counts without a jury. Part 3 (preparation for trial in the Crown Court) contains rules about an application for such a trial.

Sections 1, 3, 4, 5 and 6 of the Oaths Act 1978(4) provide for the taking of oaths and the making of affirmations, and for the words that must be used.

Part 39 contains other rules about jurors.]

(1) 1974 c. 23; section 2 was amended by section 61 of the Administration of Justice Act 1982 (c. 53) and Part 10 of Schedule 37 to the Criminal Justice Act 2003 (c. 44). Section 5 was amended by section 15 of, and paragraphs 77 and 78 of Schedule 4 to, the Constitutional Reform Act 2005 (c. 4). Section 6 was amended by paragraph 45 of Schedule 15 to the Criminal Justice Act 1988 (c. 33). Section 11 was amended by section 58 of, and paragraph 8 of Schedule 10 and Schedule 11 to, the Domestic Violence, Crime and Victims Act 2004 (c. 28).

(2) 2003 c. 44.

(3) 2004 c. 28.

(4) 1978 c. 19.