

2015 No. 13 (L. 1)

**SENIOR COURTS OF ENGLAND AND WALES
MAGISTRATES' COURTS, ENGLAND AND WALES**

The Criminal Procedure (Amendment) Rules 2015

Made - - - - - *7th January 2015*

Laid before Parliament *12th January 2015*

Coming into force in accordance with rule 2

The Criminal Procedure Rule Committee makes the following Rules under section 69 of the Courts Act 2003(a), after consulting in accordance with section 72(1)(a) of that Act.

Citation, commencement and interpretation

1. These Rules may be cited as the Criminal Procedure (Amendment) Rules 2015.
2. Rules 5, 7, 8, 10, 14 and 15 of these Rules shall come into force on 2nd February 2015 and rules 4, 6, 9, 11, 12, 13 and 16 on 6th April 2015.
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 2014(b).

Amendments to the Criminal Procedure Rules 2014

4. In Part 3 (Case management)—
 - (a) in rule 3.9 (Case preparation and progression) after paragraph (6) insert—

“(7) Where directions for appropriate treatment and questioning are required, the court must—

 - (a) invite representations by the parties and by any intermediary; and
 - (b) set ground rules for the conduct of the questioning, which rules may include—
 - (i) a direction relieving a party of any duty to put that party’s case to a witness or a defendant in its entirety,
 - (ii) directions about the manner of questioning,
 - (iii) directions about the duration of questioning,
 - (iv) if necessary, directions about the questions that may or may not be asked,
 - (v) where there is more than one defendant, the allocation among them of the topics about which a witness may be asked, and

(a) 2003 c. 39; section 69 was amended by sections 15(1) and 146 of, and paragraphs 308 and 332 of Schedule 4 and Part 2 of Schedule 18 to, the Constitutional Reform Act 2005 (c. 4).
(b) S.I. 2014/1610.

- (vi) directions about the use of models, plans, body maps or similar aids to help communicate a question or an answer.”; and
- (b) in rule 3.13 (Pre-trial hearings: general rules)—
 - (i) at the end of paragraph (1)(c)(i), omit ‘or’,
 - (ii) at the end of paragraph (1)(c)(ii), insert ‘, or’, and
 - (iii) after paragraph (1)(c)(ii), insert—
 - “(iii) such a hearing is required to set ground rules for the conduct of the questioning of a witness or defendant.”

5. In Part 6 (Investigation orders and warrants)—

- (a) in rule 6.1 (When this Part applies)—
 - (i) for paragraph (2) substitute—
 - “(2) Sections 2 and 4 of this Part apply where, for the purposes of an investigation to which Part 8 of the Proceeds of Crime Act 2002 or the Proceeds of Crime Act 2002 (External Investigations) Order 2014(a) applies, a Crown Court judge can make, and the Crown Court can vary or discharge—
 - (a) a production order, under sections 345 and 351 of the 2002 Act(b) or under articles 6 and 12 of the 2014 Order;
 - (b) an order to grant entry, under sections 347 and 351 of the 2002 Act or under articles 8 and 12 of the 2014 Order;
 - (c) a disclosure order, under sections 357 and 362 of the 2002 Act(c) or under articles 16 and 21 of the 2014 Order;
 - (d) a customer information order, under sections 363 and 369 of the 2002 Act(d) or under articles 22 and 28 of the 2014 Order;
 - (e) an account monitoring order, under sections 370, 373 and 375 of the 2002 Act(e) or under articles 29, 32 and 34 of the 2014 Order.”,
 - (ii) in sub-paragraph (b) of the first paragraph of the note to the rule, for ‘an investigation under Part 8 of the Proceeds of Crime Act 2002’ substitute ‘an investigation to which Part 8 of the Proceeds of Crime Act 2002 or the Proceeds of Crime Act 2002 (External Investigations) Order 2014 applies’,
 - (iii) for the sixth paragraph of the note to the rule substitute—
 - “*Under section 343 of the Proceeds of Crime Act 2002(f)—*
 - (a) *any Crown Court judge may make an order to which Section 4 of this Part applies for the purposes of a confiscation investigation, a money laundering investigation or (when the Policing and Crime Act 2009(g) comes into force) a detained cash investigation;*

(a) S.I. 2014/1893.

(b) 2002 c. 29; section 345 was amended by section 75 of the Serious Crime Act 2007 (c. 27). Section 351 was amended by sections 74 and 77 of, and paragraphs 103 and 104 of Schedule 8 and paragraphs 1 and 6 of Schedule 10 to, the Serious Crime Act 2007 (c. 27).

(c) 2002 c. 29; section 357 was amended by sections 74 and 77 of, and paragraphs 103 and 108 of Schedule 8 and paragraphs 1 and 10 of Schedule 10 to, the Serious Crime Act 2007 (c. 27). Section 362 was amended by section 74 of, and paragraphs 103 and 110 of Schedule 8 to, the Serious Crime Act 2007 (c. 27).

(d) 2002 c. 29; section 363 was amended by section 77 of, and paragraphs 1 and 11 of Schedule 10 to, the Serious Crime Act 2007 (c. 27). Section 369 was amended by section 74 of, and paragraphs 103 and 111 of Schedule 8 to, the Serious Crime Act 2007 (c. 27).

(e) 2002 c. 29; section 370 was amended by section 77 of, and paragraphs 1 and 12 of Schedule 10 to, the Serious Crime Act 2007 (c. 27). Section 375 was amended by section 74 of, and paragraphs 103 and 112 of Schedule 8 to, the Serious Crime Act 2007 (c. 27).

(f) 2002 c. 29; section 343 was amended by section 77 of, and paragraphs 1 and 3 of Schedule 10 to, the Serious Crime Act 2007 (c. 27) and section 169 of, and paragraphs 1 and 4 of Schedule 19 to, the Coroners and Justice Act 2009 (c. 25). It is further amended by section 66 of the Policing and Crime Act 2009 (c. 26), with effect from a date to be appointed.

(g) 2009 c. 26.

- (b) *only a High Court judge may make such an order for the purposes of a civil recovery investigation, an exploitation proceeds investigation or (until the Policing and Crime Act 2009 comes into force) a detained cash investigation (and these rules do not apply to an application to such a judge in such a case).*”, and
- (iv) in sub-paragraph (b) of the seventh paragraph of the note to the rule, for ‘sections 351, 362, 369 and 375’ substitute ‘sections 351, 362, 369, 375 and 446’;
- (b) rename Section 4, ‘Orders under the Proceeds of Crime Act 2002 etc.’;
- (c) rename rule 6.14, ‘Application for an order under the Proceeds of Crime Act 2002 etc.’ and in the rule so renamed—
 - (i) for paragraph (2)(d) substitute—
 - “(d) in the case of an investigation in the United Kingdom, explain why the applicant thinks that—
 - (i) the person under investigation has benefited from criminal conduct, in the case of a confiscation investigation, or committed a money laundering offence, in the case of a money laundering investigation, or
 - (ii) the cash involved is property obtained through unlawful conduct, or is intended to be used in unlawful conduct, in the case of a detained cash investigation;”,
 - (ii) after paragraph (2)(d) insert—
 - “(e) in the case of an investigation outside the United Kingdom, explain why the applicant thinks that—
 - (i) there is an investigation by an overseas authority which relates to a criminal investigation or to criminal proceedings (including proceedings to remove the benefit of a person’s criminal conduct following that person’s conviction), and
 - (ii) the investigation is into whether property has been obtained as a result of or in connection with criminal conduct, or into the extent or whereabouts of such property;”, and
 - (iii) renumber paragraphs (2)(e) and (f) accordingly;
 - (d) in the note to rule 6.15 (Content of application for a production order)—
 - (i) for the first sentence substitute ‘See sections 345 to 350 of the Proceeds of Crime Act 2002(a) and articles 6 to 11 of the Proceeds of Crime Act 2002 (External Investigations) Order 2014(b).’, and
 - (ii) for the second sentence substitute ‘A Crown Court judge may make a production order for the purposes of a confiscation investigation, a money laundering investigation or (when the Policing and Crime Act 2009 comes into force) a detained cash investigation.’;
 - (e) in the note to rule 6.16 (Content of application for an order to grant entry), for the first sentence substitute ‘See section 347 of the Proceeds of Crime Act 2002 and article 8 of the Proceeds of Crime Act 2002 (External Investigations) Order 2014.’;
 - (f) in the note to rule 6.17 (Content of application for a disclosure order), for the first sentence substitute ‘See sections 357, 358 and 361 of the Proceeds of Crime Act 2002(c) and articles 16, 17 and 20 of the Proceeds of Crime Act 2002 (External Investigations) Order 2014.’;
 - (g) in the note to rule 6.18 (Content of application for a customer information order), for the first sentence substitute ‘See sections 363, 364, 365 and 368 of the Proceeds of Crime Act

(a) 2002 c. 29; sections 345 and 346 were amended by section 75 of the Serious Crime Act 2007 (c. 27), and section 350 was amended by section 77 of, and paragraphs 1 and 5 of Schedule 10 to, the Serious Crime Act 2007 (c. 27).

(b) S.I. 2014/1893.

(c) 2002 c. 29; section 357 was amended by section 74 and 77 of, and paragraphs 103 and 108 of Schedule 8 and paragraphs 1 and 10 of Schedule 10 to, the Serious Crime Act 2007 (c. 27) and section 361 was amended by section 74 of, and paragraphs 103 and 109 of Schedule 8 to, the Serious Crime Act 2007 (c. 27).

2002(a) and articles 22, 23, 24 and 27 of the Proceeds of Crime Act 2002 (External Investigations) Order 2014.’;

- (h) in the note to rule 6.19 (Content of application for an account monitoring order), for the first sentence substitute ‘See sections 370, 371 and 374 of the Proceeds of Crime Act 2002(b) and articles 29, 30 and 33 of the Proceeds of Crime Act 2002 (External Investigations) Order 2014.’;
- (i) in rule 6.22 (Application to punish for contempt of court)—
 - (i) for paragraph (1) substitute—

“(1) This rule applies where a person is accused of disobeying—

 - (a) a production order made under section 345 of the Proceeds of Crime Act 2002(c) or article 6 of the Proceeds of Crime Act 2002 (External Investigations) Order 2014(d); or
 - (b) an account monitoring order made under section 370 of the 2002 Act or article 29 of the 2014 Order.”,
 - (ii) for the second sentence of the note to the rule substitute ‘See sections 351(7) and 375(6) of the Proceeds of Crime Act 2002, articles 12(6) and 34(5) of the Proceeds of Crime Act 2002 (External Investigations) Order 2014 and section 45 of the Senior Courts Act 1981.’,
 - (iii) for the third sentence of the note to the rule substitute ‘Disobedience to a disclosure order or to a customer information order is an offence: see sections 359 and 366 of the 2002 Act and articles 18 and 25 of the 2014 Order.’, and
 - (iv) for the fourth sentence of the note to the rule substitute ‘Under section 342 of the 2002 Act and under article 5 of the 2014 Order, subject to the exceptions for which those provide it is an offence to make a disclosure likely to prejudice an investigation or to interfere with documents relevant to it.’; and
- (j) amend the table of contents correspondingly.

6. In Part 14 (The indictment)—

- (a) in rule 14.1 (Service of indictment)—
 - (i) at the end of paragraph (1)(c), omit ‘or’, and
 - (ii) omit paragraph (1)(d); and
- (b) in rule 14.2 (Form and content of indictment), for paragraph (5)(a) substitute—

“(a) any count charging substantially the same offence as one specified in the notice of the offence or offences for which the defendant was sent for trial; and”.

7. In rule 17.21 (Respondent’s notice)—

- (a) for paragraph (4)(b) substitute—

“(b) identify each ground of opposition on which the respondent relies and the ground of appeal to which each such ground of opposition relates;”;
- (b) in paragraph (4)(d), for ‘appellant’ substitute ‘respondent’.

8. In rule 39.1 (Appeal against officer’s refusal to excuse or postpone jury service), for ‘a county court’ substitute ‘the county court’.

9. Rename Part 50, ‘Behaviour orders’ and in the Part so renamed—

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- (a) 2002 c. 29; section 363 was amended by section 77 of, and paragraphs 1 and 11 of Schedule 10 to, the Serious Crime Act 2007 (c. 27). Section 364 was amended by section 107 of the Serious Crime Act 2007 (c. 27) and article 2(1) of and paragraph 196 of Schedule 1 to, S.I. 2009/1941.
 - (b) 2002 c. 29; section 370 was amended by section 77 of, and paragraphs 1 and 12 of Schedule 10 to, the Serious Crime Act 2007 (c. 27).
 - (c) 2002 c. 29; section 345 was amended by section 75 of the Serious Crime Act 2007 (c. 27).
 - (d) S.I. 2014/1893.

- (a) in rule 50.1 (When this Part applies),
 - (i) for paragraph (1)(a) substitute—
 - “(a) as well as, or instead of, passing a sentence; and”,
 - (ii) omit sub-paragraph (a)(viii) of the first paragraph of the note to the rule, and
 - (iii) renumber sub-paragraph (a)(ix) of that paragraph accordingly;
- (b) in rule 50.2 (Behaviour orders: general rules)—
 - (i) in paragraph (2), after ‘but’ insert ‘unless other legislation otherwise provides’,
 - (ii) at the end of paragraph (3)(a), insert ‘or’,
 - (iii) at the end of paragraph (3)(b), omit ‘or’,
 - (iv) omit paragraph (3)(c), and
 - (v) for the third sentence of the note to the rule substitute ‘See section 14A(3) of the Football Spectators Act 1989(a) and sections 8A(4) and 9(1) of the Crime and Disorder Act 1998(b).’;
- (c) in rule 50.4 (Evidence to assist the court: special rules)—
 - (i) at the end of paragraph (1)(b), insert ‘or’,
 - (ii) at the end of paragraph (1)(c), omit ‘or’, and
 - (iii) omit paragraph (1)(d); and
- (d) in rule 50.5 (Application to vary or revoke behaviour order)—
 - (i) in paragraph (1)(b)(iii), for ‘mentioned in’ substitute ‘protected or affected by’,
 - (ii) at the end of paragraph (1)(b)(v), omit ‘or’,
 - (iii) at the end of paragraph (1)(b)(vi), insert ‘, or’, and
 - (iv) after paragraph (1)(b)(vi), insert—
 - “(vii) the Director of the Serious Fraud Office.”

10. In Part 52 (Enforcement of fines and other orders for payment)—

- (a) in rule 52.1 (When this Part applies)—
 - (i) for paragraph (2) substitute—
 - “(2) Rules 52.7 to 52.9 apply where the court, or a fines officer, issues a warrant for an enforcement agent to take control of a defendant’s goods and sell them, using the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007(c).”, and
 - (ii) for the final paragraph of the note to the rule substitute—
 - “*See also section 62 of, and Schedule 12 to, the Tribunals, Courts and Enforcement Act 2007. In that Act, a warrant to which this Part applies is described as ‘a warrant of control’.*”;
- (b) rename rule 52.7, ‘Information to be included in a warrant of control’;
- (c) for rules 52.8 and 52.9 substitute—

“Warrant of control: application by enforcement agent for extension of time, etc.

52.8.—(1) This rule applies where an enforcement agent wants the court to exercise a power under Schedule 12 to the Tribunals, Courts and Enforcement Act 2007, or under regulations made under that Schedule, to—

(a) 1989 c. 37; section 14A was substituted, together with sections 14 and 14B–14J, for the existing sections 14–17, by section 1 of, and paragraphs 1 and 2 of Schedule 1 to, the Football (Disorder) Act 2000 (c. 25).
 (b) 1998 c. 37; section 8A is inserted and section 9(1) amended by section 41(1), (3) and (4) of the Crime and Security Act 2010 (c. 17), with effect from a date to be appointed.
 (c) 2007 c. 15.

- (a) shorten or extend a time limit;
 - (b) give the agent authority to—
 - (i) enter premises which the agent would not otherwise have authority to enter,
 - (ii) enter or remain on premises at a time at which the agent would not otherwise have authority to be there,
 - (iii) use reasonable force, in circumstances in which the agent would not otherwise have authority to use such force,
 - (iv) sell goods by a method which the agent would not otherwise have authority to use, or
 - (v) recover disbursements which the agent would not otherwise have authority to recover;
 - (c) specify the manner in which goods which have not been sold must be disposed of.
- (2) Such an enforcement agent must—
- (a) apply in writing;
 - (b) serve the application on the court officer; and
 - (c) pay any fee prescribed.
- (3) The application must—
- (a) identify the power that the agent wants the court to exercise;
 - (b) explain how the conditions for the exercise of that power are satisfied, including any condition that requires the agent to give another person notice of the application;
 - (c) specify those persons, if any, to whom the agent has given notice in accordance with such a condition; and
 - (d) propose the terms of the order that the agent wants the court to make.
- (4) A person to whom the enforcement agent has given notice of an application and who wants to make representations to the court must—
- (a) serve the representations on—
 - (i) the court officer,
 - (ii) the enforcement agent, and
 - (iii) any other person to whom the enforcement agent gave notice;
 - (b) do so as soon as reasonably practicable and in any event within such period as the court directs; and
 - (c) in the representations, propose the terms of the order that that person wants the court to make, and explain why.
- (5) The court—
- (a) must not determine an application unless any person to whom the enforcement agent gave notice—
 - (i) is present, or
 - (ii) has had a reasonable opportunity to respond;
 - (b) subject to that, may determine an application—
 - (i) at a hearing, which must be in private unless the court otherwise directs, or
 - (ii) without a hearing.

[Note. See paragraphs 8, 15, 20, 21, 25, 31, 32 and 41 of Schedule 12 to the Tribunals, Courts and Enforcement Act 2007(a), regulations 6, 9, 13, 22, 25, 28, 29, 41 and 47 of the Taking Control of Goods Regulations 2013(b) and regulation 10 of the Taking Control of Goods (Fees) Regulations 2014(c). Under paragraph 41 of that Schedule and regulation 41 of the 2013 Regulations, on an application for authority to sell goods otherwise than by public auction the enforcement agent must give notice to a creditor of the defendant in the circumstances described in those provisions.]

Warrant of control: application to resolve dispute

52.9.—(1) This rule applies where a defendant’s goods are sold using the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 and there is a dispute about—

- (a) what share of the proceeds of those goods should be paid by the enforcement agent to a co-owner; or
- (b) the fees or disbursements sought or recovered by the enforcement agent out of the proceeds.

(2) An enforcement agent, a defendant or a co-owner who wants the court to resolve the dispute must—

- (a) apply in writing as soon as practicable after becoming aware of the grounds for doing so;
- (b) serve the application on—
 - (i) the court officer,
 - (ii) each other party to the dispute, and
 - (iii) any other co-owner; and
- (c) pay any fee prescribed.

(3) The application must—

- (a) identify the warrant of control;
- (b) specify the goods sold, the proceeds, and the fees and disbursements sought or recovered by the enforcement agent;
- (c) identify the power that the applicant wants the court to exercise;
- (d) specify the persons served with the application;
- (e) explain the circumstances of the dispute; and
- (f) propose the terms of the order that the applicant wants the court to make.

(4) A person served with an application who wants to make representations to the court must—

- (a) serve the representations on—
 - (i) the court officer,
 - (ii) the applicant, and
 - (iii) any other person on whom the application was served;
- (b) do so as soon as reasonably practicable and in any event within such period as the court directs; and
- (c) in the representations, propose the terms of the order that that person wants the court to make, and explain why.

(a) 2007 c. 15. Paragraph 31 of Schedule 12 was amended by section 25(1), (5) of the Crime and Courts Act 2013 (c. 22). Paragraphs 60 and 66 of Schedule 12 were amended by paragraph 52 of Schedule 9 to the Crime and Courts Act 2013 (c. 22).

(b) S.I. 2013/1894.

(c) S.I. 2014/1.

- (5) The court—
 - (a) must determine an application at a hearing, which must be in private unless the court otherwise directs;
 - (b) must not determine an application unless each party—
 - (i) is present, or
 - (ii) has had a reasonable opportunity to attend.

[Note. See paragraph 50 of Schedule 12 to the Tribunals, Courts and Enforcement Act 2007(a), and regulations 15 and 16 of the Taking Control of Goods (Fees) Regulations 2014(b).]”; and

- (d) amend the table of contents correspondingly.

11. In Part 58 (Proceeds of Crime Act 2002: rules applicable only to confiscation proceedings)—

- (a) for rule 58.1 (Statements in connection with confiscation orders) substitute—
 - “**58.1.**—(1) This rule applies where—
 - (a) the court can make a confiscation order; and
 - (b) the prosecutor asks the court to make such an order, or the court decides to make such an order on its own initiative.
 - (2) Within such periods as the court directs—
 - (a) if the court so orders, the defendant must give such information, in such manner, as the court directs;
 - (b) the prosecutor must serve a statement of information relevant to confiscation on the court officer and the defendant;
 - (c) if the court so directs—
 - (i) the defendant must serve a response notice on the court officer and the prosecutor, and
 - (ii) the parties must identify what is in dispute.
 - (3) The court may—
 - (a) shorten or extend a time limit which it has set;
 - (b) vary, discharge or supplement an order which it has made.
 - (4) A prosecutor’s statement of information must—
 - (a) identify the maker of the statement and show its date;
 - (b) identify the defendant in respect of whom it is served;
 - (c) specify the conviction which gives the court power to make the confiscation order, or each conviction if more than one;
 - (d) if the prosecutor believes the defendant to have a criminal lifestyle, include such matters as the prosecutor believes to be relevant in connection with deciding—
 - (i) whether the defendant has such a lifestyle,
 - (ii) whether the defendant has benefited from his or her general criminal conduct,
 - (iii) the defendant’s benefit from that conduct, and
 - (iv) whether the court should or should not make such assumptions about the defendant’s property as legislation permits;

(a) 2007 c. 15.
 (b) S.I. 2014/1.

- (e) if the prosecutor does not believe the defendant to have a criminal lifestyle, include such matters as the prosecutor believes to be relevant in connection with deciding—
 - (i) whether the defendant has benefited from his or her particular criminal conduct, and
 - (ii) the defendant’s benefit from that conduct.

(5) A defendant’s response notice must—

- (a) indicate the extent to which the defendant accepts the allegations made in the prosecutor’s statement of information; and
- (b) so far as the defendant does not accept an allegation, give particulars of any matters on which the defendant relies,

in any manner directed by the court.

(6) The court must satisfy itself that there has been explained to the defendant, in terms the defendant can understand (with help, if necessary)—

- (a) that if the defendant accepts to any extent an allegation in a prosecutor’s statement of information, then the court may treat that as conclusive for the purposes of deciding whether the defendant has benefited from general or particular criminal conduct, and if so by how much;
- (b) that if the defendant fails in any respect to comply with a direction to serve a response notice, then the court may treat that as acceptance of each allegation to which the defendant has not replied, except the allegation that the defendant has benefited from general or particular criminal conduct; and
- (c) that if the defendant fails without reasonable excuse to comply with an order to give information, then the court may draw such inference as it believes is appropriate.

[Note. Under section 6 of the Proceeds of Crime Act 2002(a), where a defendant is convicted of an offence the Crown Court must (with some exceptions)—

- (a) decide whether the defendant has ‘a criminal lifestyle’, within the meaning of the Act, or has benefited from particular criminal conduct;*
- (b) decide the ‘recoverable amount’, within the meaning of the Act; and*
- (c) make a confiscation order requiring the defendant to pay that amount.*

Under section 16 of the 2002 Act(b), where the Crown Court is considering confiscation the prosecutor must give the court a statement of information which the prosecutor believes to be relevant to what the court must decide, within such period as the court directs. Under section 17 of the Act(c), where the prosecutor gives such a statement the court may order the defendant to respond and, if the defendant does not do so, then the court may treat the defendant as accepting the prosecutor’s allegations. Under section 18(d), for the purpose of obtaining information to help it in carrying out its functions the court may at any time order the defendant to give it information specified in the order and, if the defendant does not do so, then the court may draw such inference as it believes appropriate.

(a) 2002 c. 29; section 6 was amended by paragraph 75 of Schedule 3 to the Criminal Justice Act 2003 (c. 44), section 74(2) of, and paragraphs 1 and 2 of Schedule 8 to, the Serious Crime Act 2007 (c. 27) and section 10 of, and paragraphs 11 and 12 of the Schedule to, the Prevention of Social Housing Fraud Act 2013 (c. 3).

(b) 2002 c. 29; section 16 was amended by section 74(2) of, and paragraphs 1 and 5 of Schedule 8 to, the Serious Crime Act 2007 (c. 27).

(c) 2002 c. 29; section 17 was amended by section 74(2) of, and paragraphs 1 and 6 of Schedule 8 to, the Serious Crime Act 2007 (c. 27).

(d) 2002 c. 29; section 18 was amended by section 74(2) of, and paragraphs 1 and 7 of Schedule 8 to, the Serious Crime Act 2007 (c. 27).

Under section 27 of the 2002 Act(a), special provisions apply where the defendant absconds.

Under section 97 of the Serious Organised Crime and Police Act 2005(b), the Secretary of State may by order provide for confiscation orders to be made by magistrates' courts.];

- (b) for rule 58.2 (Postponement of confiscation proceedings) substitute—

“**58.2.** The court may postpone confiscation proceedings without a hearing.

[Note. See section 14 of the Proceeds of Crime Act 2002(c).]”;

- (c) in rule 58.3 (Application for reconsideration)—

- (i) for paragraph (1) substitute—

“(1) This rule applies where the prosecutor wants the court, in view of fresh evidence—

- (a) to consider making a confiscation order where the defendant was convicted but no such order was considered;
- (b) to reconsider a decision that the defendant had not benefited from criminal conduct;
- (c) to reconsider a decision about the amount of the defendant's benefit.”,

- (ii) in paragraph (3), for ‘lodged with the Crown Court’ substitute ‘served on the court officer’, and

- (iii) at the end of the rule insert—

“[Note. See sections 19, 20 and 21 of the Proceeds of Crime Act 2002(d).]”;

- (d) in rule 58.4 (Application for new calculation of available amount)—

- (i) for paragraph (1) substitute—

“(1) This rule applies where the prosecutor or a receiver wants the court to make a new calculation of the amount available for confiscation.”,

- (ii) in paragraph (3), for ‘lodged with the Crown Court’ substitute ‘served on the court officer’,

- (iii) in paragraph (4)(b), omit ‘under section 50 of the 2002 Act’,

- (iv) in paragraph (4), for ‘Crown Court’ substitute ‘court’, and

- (v) at the end of the rule insert—

“[Note. See section 22 of the Proceeds of Crime Act 2002(e).]”;

- (e) in rule 58.5 (Variation of confiscation order due to inadequacy of available amount)—

- (i) for paragraph (1) substitute—

“(1) This rule applies where the defendant or a receiver wants the court to vary a confiscation order because the amount available is inadequate.”,

- (ii) in paragraph (3), for ‘lodged with the Crown Court’ substitute ‘served on the court officer’,

- (iii) in paragraph (4)(c), omit ‘under section 50 of the 2002 Act’,

- (iv) in paragraph (4), for ‘Crown Court’ substitute ‘court’, and

(a) 2002 c. 29; section 27 was amended by paragraph 75 of Schedule 3 to the Criminal Justice Act 2003 (c. 44) and section 74 of, and paragraphs 1 and 14 of Schedule 8 to, the Serious Crime Act 2007 (c. 27).

(b) 2005 c. 15; section 97 was amended by S.I. 2010/976.

(c) 2002 c. 29; section 14 was amended by section 74(2) of, and paragraphs 1 and 4 of Schedule 8 to, the Serious Crime Act 2007 (c. 27).

(d) 2002 c. 29; sections 19, 20 and 21 were amended by section 74(2) of, and paragraph 1 and paragraphs 8, 9 and 10 respectively, of Schedule 8 to, the Serious Crime Act 2007 (c. 27).

(e) 2002 c. 29; section 22 was amended by section 74(2) of, and paragraph 11 of Schedule 8 to, the Serious Crime Act 2007 (c. 27).

(v) at the end of the rule insert—

“*[Note. See section 23 of the Proceeds of Crime Act 2002(a).]*”;

(f) in rule 58.6 (Application by magistrates’ court officer to discharge confiscation order)—

(i) for paragraph (1) substitute—

“(1) This rule applies where a magistrates’ court officer wants the court to discharge a confiscation order because the amount available is inadequate or the sum outstanding is very small.”,

(ii) in paragraph (3)(c), omit ‘appointed under section 50 of the 2002 Act’,

(iii) for paragraph (4) substitute—

“(4) The court may determine the application without a hearing unless a person listed in paragraph (3) indicates, within seven days after the application was served, that he or she would like to make representations.”,

(iv) in paragraph (5), for ‘Crown Court’ substitute ‘court’ and for ‘the court must’ substitute ‘the court officer must’,

(v) in paragraph (5)(d), omit ‘appointed under section 50 of the 2002 Act’, and

(vi) at the end of the rule insert—

“*[Note. See sections 24 and 25 of the Proceeds of Crime Act 2002(b).]*”;

(g) in rule 58.7 (Application for variation of confiscation order made against an absconder)—

(i) for paragraph (1) substitute—

“(1) This rule applies where the defendant wants the court to vary a confiscation order made while the defendant was an absconder.”,

(ii) in paragraph (2)(a) omit ‘made against an absconder under section 6 of the 2002 Act as applied by section 28 of the 2002 Act’,

(iii) in paragraph (2)(d), for ‘he’ substitute ‘the defendant’,

(iv) in paragraph (3), for ‘lodged with the Crown Court’ substitute ‘served on the court officer’,

(v) in paragraph (4), for ‘Crown Court’ substitute ‘court’, and

(vi) at the end of the rule insert—

“*[Note. See section 29 of the Proceeds of Crime Act 2002(c).]*”;

(h) in rule 58.8 (Application for discharge of confiscation order made against an absconder)—

(i) for paragraph (1) substitute—

“(1) This rule applies where the defendant wants the court to discharge a confiscation order made while the defendant was an absconder and—

(a) the defendant since has been tried and acquitted of each offence concerned; or

(b) the prosecution has not concluded or is not to proceed.”,

(ii) in paragraph (2)(a) omit ‘made under section 28 of the 2002 Act’,

(iii) in paragraph (2)(c), after ‘he’ insert ‘or she’,

(iv) for paragraph (2)(d)(iii) substitute—

“(iii) any indication that the prosecutor does not intend to proceed against the defendant.”,

(a) 2002 c. 29; section 23 was amended by section 74(2) of, and paragraph 12 of Schedule 8 to, the Serious Crime Act 2007 (c. 27).

(b) 2002 c. 29; sections 24 and 25 were amended by section 109(1) of, and paragraphs 406(a) and 406(b), respectively, of Schedule 8 to, the Courts Act 2003 (c. 39).

(c) 2002 c. 29.

- (v) in paragraph (3), for ‘lodged with the Crown Court’ substitute ‘served on the court officer’,
- (vi) in paragraph (4), for ‘Crown Court’ substitute ‘court’,
- (vii) for paragraph (5) substitute—

“(5) If the court orders the discharge of the confiscation order, the court officer must serve notice on any other court responsible for enforcing the order.”, and
- (viii) at the end of the rule insert—

“[*Note. See section 30 of the Proceeds of Crime Act 2002(a).*]”;
- (i) in rule 58.9 (Application for increase in term of imprisonment in default)—
 - (i) for paragraph (1) substitute—

“(1) This rule applies where—

 - (a) a court varies a confiscation order; and
 - (b) the prosecutor wants the court in consequence to increase the term of imprisonment to be served in default of payment.”,
 - (ii) in paragraph (3), for ‘the court must’ substitute ‘the court officer must’,
 - (iii) in paragraph (3)(a), for ‘the magistrates’ court’ substitute ‘any other court’,
 - (iv) in paragraph (4), for ‘Crown Court’ substitute ‘court’ and for ‘the court must’ substitute ‘the court officer must’,
 - (v) in paragraph (4)(d), for ‘the magistrates’ court’ substitute ‘any other court’, and
 - (vi) at the end of the rule insert—

“[*Note. See section 39(5) of the Proceeds of Crime Act 2002(b).*]”;
- (j) in rule 58.10 (Compensation – general)—
 - (i) for paragraph (1) substitute—

“(1) This rule applies where a person who held realisable property wants the court to award compensation for loss suffered in consequence of anything done in relation to that property in connection with confiscation proceedings.”,
 - (ii) in paragraph (3), for ‘lodged with the Crown Court’ substitute ‘served on the court officer’,
 - (iii) in paragraph (4)(b) omit ‘under section 72(9) or 302(7A)(c) of the 2002 Act (or if the compensation is payable out of a police fund under section 72(9)(a) or 302(7A), the chief officer of the police force concerned)’,
 - (iv) in paragraph (4), for ‘Crown Court’ substitute ‘court’, and
 - (v) at the end of the rule insert—

“[*Note. See section 72 of the Proceeds of Crime Act 2002(d).*]”;
- (k) in rule 58.11 (Compensation – confiscation order made against absconder)—
 - (i) for paragraph (1) substitute—

“(1) This rule applies where—

 - (a) the court varies or discharges a confiscation order made against an absconder;

(a) 2002 c. 29.

(b) 2002 c. 29; section 39(5) was amended by section 74(2) of, and paragraphs 1 and 21(2) of Schedule 8 to, the Serious Crime Act 2007 (c. 27).

(c) 2002 c. 29; paragraph (7A) was inserted by section 79 of, and paragraphs 1 and 11 of Schedule 11 to, the Serious Crime Act 2007 (c. 27).

(d) 2002 c. 29; section 72 was amended by section 50(6) of, and paragraph 97 of Schedule 4 to, the Commissioners for Revenue and Customs Act 2005 (c. 11), section 61 of the Policing and Crime Act 2009 (c. 26) and sections 15 and 55 of, and paragraphs 108 and 114 of Schedule 8 and paragraphs 14 and 19 of Schedule 21 to, the Crime and Courts Act 2013 (c. 22).

- (b) a person who held realisable property suffered loss as a result of the making of that confiscation order; and
- (c) that person wants the court to award compensation for that loss.”,
- (ii) in paragraph (2)(a) omit ‘made under section 28 of the 2002 Act’,
- (iii) in paragraph (2)(b) omit ‘under section 29 or 30 of the 2002 Act’,
- (iv) in paragraph (3), for ‘lodged with the Crown Court’ substitute ‘served on the court officer’,
- (v) in paragraph (4), for ‘Crown Court’ substitute ‘court’, and
- (vi) at the end of the rule insert—

“[*Note. See section 73 of the Proceeds of Crime Act 2002(a).*]”;

- (l) after rule 58.12 (Payment of money in bank or building society account in satisfaction of confiscation order) insert—

“Application to realise seized property

58.13.—(1) This rule applies where—

- (a) property is held by a defendant against whom a confiscation order has been made;
- (b) the property has been seized by or produced to an officer; and
- (c) an officer who is entitled to apply wants a magistrates’ court—
 - (i) to make an order under section 67A of the Proceeds of Crime Act 2002(b) authorising the realisation of the property towards satisfaction of the confiscation order, or
 - (ii) to determine any storage, insurance or realisation costs in respect of the property which may be recovered under section 67B of the 2002 Act.

(2) Such an officer must—

- (a) apply in writing; and
- (b) serve the application on—
 - (i) the court officer, and
 - (ii) any person whom the applicant believes would be affected by an order.

(3) The application must—

- (a) specify the property;
- (b) explain—
 - (i) the applicant’s entitlement to apply,
 - (ii) how the proposed realisation meets the conditions prescribed by section 67A of the 2002 Act, and
 - (iii) how any storage, etc. costs have been calculated;
- (c) attach any material on which the applicant relies; and
- (d) propose the terms of the order.

(4) The court may—

- (a) determine the application at a hearing, or without a hearing;
- (b) consider an application made orally instead of in writing;
- (c) consider an application which has not been served on a person likely to be affected by an order.

(a) 2002 c. 29.

(b) 2002 c. 29; section 67A is inserted by section 58 of the Policing and Crime Act 2009 (c. 26), with effect from a date to be appointed.

- (5) If the court authorises the realisation of the property, the applicant must—
- (a) notify any person affected by the order who was absent when it was made; and
 - (b) serve on the court officer a list of those so notified.

[Note. Under section 67A of the Proceeds of Crime Act 2002, one of the officers listed in section 41A of the Act may apply to a magistrates' court for authority to realise property seized by such an officer if—

- (a) a confiscation order has been made against the owner of the property;*
- (b) no receiver has been appointed in relation to that property; and*
- (c) any period allowed for payment of the confiscation order has expired.*

Under section 67B of the 2002 Act, if a magistrates' court makes an order under section 67A then on the same or a subsequent occasion the court may determine an amount which may be recovered by the applicant in respect of reasonable costs incurred in storing or insuring the property, or realising it.]

Appeal about decision on application to realise seized property

58.14.—(1) This rule applies where on an application under rule 58.13 for an order authorising the realisation of property—

- (a) a magistrates' court decides not to make such an order and an officer who is entitled to apply wants to appeal against that decision to the Crown Court, under section 67C(1) of the Proceeds of Crime Act 2002(a);
- (b) a magistrates' court makes such an order and a person who is affected by that decision, other than the defendant against whom the confiscation order was made, wants to appeal against it to the Crown Court, under section 67C(2) of the 2002 Act;
- (c) a magistrates' court makes a decision about storage, etc. costs and an officer who is entitled to apply wants to appeal against that decision to the Crown Court, under section 67C(4) of the 2002 Act.

(2) The appellant must serve an appeal notice—

- (a) on the Crown Court officer and on any other party;
- (b) not more than 21 days after the magistrates' court's decision, or, if applicable, service of notice under rule 58.13(5).

(3) The appeal notice must—

- (a) specify the decision under appeal;
- (b) where paragraph (1)(a) applies, explain why the property should be realised;
- (c) in any other case, propose the order that the appellant wants the court to make, and explain why.

(4) Rule 63.10 (Constitution of the Crown Court) applies on such an appeal.

[Note. Under section 67C of the Proceeds of Crime Act 2002, an officer entitled to apply for an order under section 67A or 67B of that Act (authority to realise seized property towards satisfaction of a confiscation order; determination of storage, etc. costs) may appeal against a refusal to make an order, or against a costs determination; and a person affected by an order, other than the owner, may appeal against the order.]

(a) 2002 c. 29; section 67C is inserted by section 58 of the Policing and Crime Act 2009 (c. 26), with effect from a date to be appointed.

Application for direction about surplus proceeds

58.15.—(1) This rule applies where—

- (a) on an application under rule 58.13, a magistrates' court has made an order authorising an officer to realise property;
- (b) an officer so authorised holds proceeds of that realisation;
- (c) the confiscation order has been fully paid; and
- (d) the officer, or a person who had or has an interest in the property represented by the proceeds, wants a magistrates' court or the Crown Court to determine under section 67D of the Proceeds of Crime Act 2002^(a)—
 - (i) to whom the remaining proceeds should be paid, and
 - (ii) in what amount or amounts.

(2) Such a person must—

- (a) apply in writing; and
- (b) serve the application on—
 - (i) the court officer, and
 - (ii) as appropriate, the officer holding the proceeds, or any person to whom such proceeds might be paid.

(3) The application must—

- (a) specify the property which was realised;
- (b) explain the applicant's entitlement to apply;
- (c) describe the distribution proposed by the applicant and explain why that is proposed;
- (d) attach any material on which the applicant relies; and
- (e) ask for a hearing, if the applicant wants one, and explain why it is needed.

(4) A person who wants to make representations about the application must—

- (a) serve the representations on—
 - (i) the court officer,
 - (ii) the applicant, and
 - (iii) any other person to whom proceeds might be paid;
- (b) do so as soon as reasonably practicable after service of the application;
- (c) attach any material on which that person relies; and
- (d) ask for a hearing, if that person wants one, and explain why it is needed.

(5) The court—

- (a) must not determine the application unless the applicant and each person on whom it was served—
 - (i) is present, or
 - (ii) has had an opportunity to attend or to make representations;
- (b) subject to that, may determine the application—
 - (i) at a hearing (which must be in private unless the court otherwise directs), or without a hearing,
 - (ii) in the absence of any party to the application.

^(a) 2002 c. 29; section 67D is inserted by section 58 of the Policing and Crime Act 2009 (c. 26), with effect from a date to be appointed.

[Note. Under section 67D of the Proceeds of Crime Act 2002, a magistrates' court or the Crown Court may determine to whom, and in what proportions, any surplus proceeds of realisation must be distributed. Once a magistrates' court has made such a determination, the Crown Court may not do so, and vice versa.]"; and

(m) amend the table of contents correspondingly.

12. Rename Part 59, 'Proceeds of Crime Act 2002: rules applicable to restraint, seizure and detention proceedings' and in the Part so renamed—

- (a) in the first column of the table of contents, before the entry for rule 59.1 (Application for restraint order or ancillary order), insert the heading 'Restraint proceedings';
- (b) before rule 59.1 insert the heading 'Restraint proceedings';
- (c) after rule 59.6 (Application to punish for contempt of court) insert—

“SEIZURE AND DETENTION PROCEEDINGS

Application for approval to seize property or to search

59.7.—(1) This rule applies where an officer who is entitled to apply wants the approval of a magistrates' court, under section 47G of the Proceeds of Crime Act 2002(a)—

- (a) to seize property, under section 47C of that Act(b);
- (b) to search premises or a person or vehicle for property to be seized, under section 47D, 47E or 47F of that Act(c).

(2) Such an officer must—

- (a) apply in writing; and
- (b) serve the application on the court officer.

(3) The application must—

- (a) explain—
 - (i) the applicant's entitlement to apply, and
 - (ii) how the proposed seizure meets the conditions prescribed by sections 47B, 47C and, if applicable, 47D, 47E or 47F of the 2002 Act(d);
- (b) if applicable, specify any premises, person or vehicle to be searched;
- (c) attach any material on which the applicant relies; and
- (d) propose the terms in which the applicant wants the court to give its approval.

(4) The court—

- (a) must determine the application—
 - (i) at a hearing, which must be in private unless the court otherwise directs, and
 - (ii) in the applicant's presence;
- (b) may consider an application made orally instead of in writing.

[Note. Under section 47C of the Proceeds of Crime Act 2002, if any of the conditions listed in section 47B of the Act are met then one of the officers listed in section 47A may seize property other than cash or exempt property, as defined in the section, if that officer has reasonable grounds for suspecting that—

(a) 2002 c. 29; section 47G is inserted by section 55 of the Policing and Crime Act 2009 (c. 26), with effect from a date to be appointed.

(b) 2002 c. 29; section 47C is inserted by section 55 of the Policing and Crime Act 2009 (c. 26), with effect from a date to be appointed.

(c) 2002 c. 29; sections 47D, 47E and 47F are inserted by section 55 of the Policing and Crime Act 2009 (c. 26), with effect from a date to be appointed.

(d) 2002 c. 29; section 47B is inserted by section 55 of the Policing and Crime Act 2009 (c. 26), with effect from a date to be appointed.

- (a) *the property may otherwise be made unavailable for satisfying any confiscation order that has been or may be made against a defendant; or*
- (b) *the value of the property may otherwise be diminished as a result of conduct by the defendant or any other person.*

Under sections 47D, 47E and 47F of the 2002 Act, such an officer may search premises, a person or a vehicle, respectively, for such property, on the conditions listed in those sections.

By sections 47C(6), 47D(2), 47E(4), 47F(6) and 47G of the 2002 Act, such an officer may seize property, and may search for it, only with the approval of a magistrates' court or, if that is impracticable, the approval of a senior officer (as defined by section 47G), unless in the circumstances it is not practicable to obtain the approval of either.]

Application to extend detention period

59.8.—(1) This rule applies where an officer who is entitled to apply, or the prosecutor, wants a magistrates' court to make an order, under section 47M of the Proceeds of Crime Act 2002(a), extending the period for which seized property may be detained.

(2) Such an officer or prosecutor must—

- (a) apply in writing; and
- (b) serve the application on—
 - (i) the court officer, and
 - (ii) any person whom the applicant believes would be affected by an order.

(3) The application must—

- (a) specify—
 - (i) the property to be detained, and
 - (ii) whether the applicant wants it to be detained for a specified period or indefinitely;
- (b) explain—
 - (i) the applicant's entitlement to apply, and
 - (ii) how the proposed detention meets the conditions prescribed by section 47M of the 2002 Act;
- (c) attach any material on which the applicant relies; and
- (d) propose the terms of the order.

(4) The court—

- (a) must determine the application—
 - (i) at a hearing, which must be in private unless the court otherwise directs, and
 - (ii) in the applicant's presence;
- (b) may—
 - (i) consider an application made orally instead of in writing,
 - (ii) require service of the application on the court officer after it has been heard, instead of before.

(5) If the court extends the period for which the property may be detained, the applicant must—

- (a) notify any person affected by the order who was absent when it was made; and

(a) 2002 c. 29; section 47M is inserted by section 55 of the Policing and Crime Act 2009 (c. 26), with effect from a date to be appointed.

- (b) serve on the court officer a list of those so notified.

[Note. Under section 47M of the Proceeds of Crime Act 2002, one of the officers listed in that section, or the prosecutor, may apply to a magistrates' court for an order extending the period of 48 hours for which, under section 47J of the Act(a), property seized under section 47C may be detained.

On an application to which this rule applies, hearsay evidence within the meaning of section 1(2) of the Civil Evidence Act 1995 is admissible: see section 47Q of the 2002 Act(b).]

Application to vary or discharge order for extended detention

59.9.—(1) This rule applies where an officer who is entitled to apply, the prosecutor, or a person affected by an order to which rule 59.8 applies, wants a magistrates' court to vary or discharge that order, under section 47N of the Proceeds of Crime Act 2002(c).

- (2) Such a person must—
 - (a) apply in writing; and
 - (b) serve the application on—
 - (i) the court officer, and
 - (ii) as appropriate, the applicant for the order, or any person affected by the order.
- (3) The application must—
 - (a) specify the order and the property detained;
 - (b) explain—
 - (i) the applicant's entitlement to apply,
 - (ii) why it is appropriate for the order to be varied or discharged,
 - (iii) if applicable, on what grounds the court must discharge the order;
 - (c) attach any material on which the applicant relies;
 - (d) if applicable, propose the terms of any variation; and
 - (e) ask for a hearing, if the applicant wants one, and explain why it is needed.
- (4) A person who wants to make representations about the application must—
 - (a) serve the representations on—
 - (i) the court officer, and
 - (ii) the applicant;
 - (b) do so as soon as reasonably practicable after service of the application;
 - (c) attach any material on which that person relies;
 - (d) ask for a hearing, if that person wants one, and explain why it is needed.
- (5) The court—
 - (a) must not determine the application unless the applicant and each person on whom it was served—
 - (i) is present, or
 - (ii) has had an opportunity to attend or to make representations;
 - (b) subject to that, may determine the application—

(a) 2002 c. 29; section 47J is inserted by section 55 of the Policing and Crime Act 2009 (c. 26), with effect from a date to be appointed.

(b) 2002 c. 29; section 47Q is inserted by section 55 of the Policing and Crime Act 2009 (c. 26), with effect from a date to be appointed.

(c) 2002 c. 29; section 47N is inserted by section 55 of the Policing and Crime Act 2009 (c. 26), with effect from a date to be appointed.

- (i) at a hearing (which must be in private unless the court otherwise directs), or without a hearing,
- (ii) in the absence of any party to the application.

[Note. Under section 47N of the Proceeds of Crime Act 2002, one of the officers listed in section 47M of the Act, the prosecutor, or a person affected by an order under section 47M, may apply to a magistrates' court for the order to be varied or discharged. Section 47N(3) lists the circumstances in which the court must discharge such an order.]

On an application to which this rule applies, hearsay evidence within the meaning of section 1(2) of the Civil Evidence Act 1995 is admissible: see section 47Q of the 2002 Act.]

Appeal about property detention decision

59.10.—(1) This rule applies where—

- (a) on an application under rule 59.8 for an order extending the period for which property may be detained—
 - (i) a magistrates' court decides not to make such an order, and
 - (ii) an officer who is entitled to apply for such an order, or the prosecutor, wants to appeal against that decision to the Crown Court under section 47O(1) of the Proceeds of Crime Act 2002(a);
- (b) on an application under rule 59.9 to vary or discharge an order under rule 59.8—
 - (i) a magistrates' court determines the application, and
 - (ii) a person who is entitled to apply under that rule wants to appeal against that decision to the Crown Court under section 47O(2) of the 2002 Act.

(2) The appellant must serve an appeal notice—

- (a) on the Crown Court officer and on any other party;
- (b) not more than 21 days after the magistrates' court's decision, or, if applicable, service of notice under rule 59.8(5).

(3) The appeal notice must—

- (a) specify the decision under appeal;
- (b) where paragraph (1)(a) applies, explain why the detention period should be extended;
- (c) where paragraph (1)(b) applies, propose the order that the appellant wants the court to make, and explain why.

(4) Rule 63.10 (Constitution of the Crown Court) applies on such an appeal.

[Note. Under section 47O of the Proceeds of Crime Act 2002, one of those entitled to apply for an order under section 47M of that Act (extension of detention of property) may appeal against a refusal to make an order, and one of those entitled to apply for the variation or discharge of such an order, under section 47N of that Act, may appeal against the decision on such an application.]

On an appeal to which this rule applies, hearsay evidence within the meaning of section 1(2) of the Civil Evidence Act 1995 is admissible: see section 47Q of the 2002 Act.]; and

- (d) amend the table of contents correspondingly.

13. In Part 63 (Appeal to the Crown Court)—

- (a) after rule 63.6 (Reference by the Criminal Cases Review Commission), insert—

(a) 2002 c. 29; section 47O is inserted by section 55 of the Policing and Crime Act 2009 (c. 26), with effect from a date to be appointed.

“Application to introduce further evidence

63.7.—(1) This rule applies where—

- (a) a party wants to introduce evidence that was not introduced by either party in the magistrates’ court; and
- (b) one of these Parts applies—
 - (i) Part 29 (Measures to assist a witness or defendant to give evidence),
 - (ii) Part 34 (Hearsay evidence),
 - (iii) Part 35 (Evidence of bad character), or
 - (iv) Part 36 (Evidence of a complainant’s previous sexual behaviour).

(2) Such a party must serve the notice or application to introduce evidence required by that Part not more than 14 days after service of the appeal notice.

[Note. See also Part 27 (Witness statements) and Part 33 (Expert evidence), which may apply where this Part applies.]”;

- (b) renumber rules 63.7 to 63.10 accordingly; and
- (c) amend the table of contents correspondingly.

14. In rule 76.11, which concerns the assessment and re-assessment of costs, in paragraph (2)(a), for ‘court officer’ substitute ‘Lord Chancellor’.

15. In the preamble to the Criminal Procedure Rules 2014, in sub-paragraph (b)—

- (a) in the first column, headed ‘Rule’, in the first entry, for ‘4.7’ substitute ‘4.11’; and
- (b) in the second column, headed ‘Power’, in the corresponding position, for ‘Section 12(1)’ substitute ‘Section 12(1), (3)’.

16. In the Arrangement of Rules contained in the Criminal Procedure Rules 2014—

- (a) for the title to Part 50 substitute ‘Behaviour orders’; and
- (b) for the title to Part 59 substitute ‘Proceeds of Crime Act 2002: rules applicable to restraint, seizure and detention proceedings’.

*Thomas of Cwmgiedd, C.J.
Rafferty, L.J.
Leveson, P.
Openshaw, J.
Martin Picton
Martin Edmunds
Stephen Earl
Nicholas Moss
Richard Chown
Siân Jones
Alison Saunders
Patrick Gibbs
Nathaniel Rudolf
Michael Caplan
Paul Harris
Lynne Owens
Matthew Evans*

I allow these Rules, which shall come into force in accordance with rule 2.

7th January 2015

Chris Grayling
Lord Chancellor
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules make the following amendments to the Criminal Procedure Rules 2014, S.I. 2014/1610:

<i>Rule</i>	<i>Amendment</i>
Part 3	Rules 3.9 and 3.13 are amended to provide for a ‘ground rules hearing’ at which the court may give directions for the appropriate treatment and questioning of, in particular, a vulnerable witness or defendant.
Part 6	Rules 6.1, 6.14, 6.15, 6.16, 6.17, 6.18, 6.19 and 6.22 are amended to provide for (i) applications for investigation orders under the Proceeds of Crime Act 2002 (External Investigations) Order 2014 and (ii) applications to Crown Court judges for production orders in detained cash investigations, when section 66 of the Policing and Crime Act 2009 comes into force.
Part 14	Rules 14.1 and 14.2 are amended to omit references to committal for trial, following the abolition of that procedure.
Part 17	Rule 17.21(4) is amended to clarify and correct two sub-paragraphs.
Part 39	Rule 39.1 is amended to correct a reference to the county court.
Part 50	The Part is renamed and rules 50.1, 50.2, 50.4 and 50.5 are amended (i) to define the scope of the Part, (ii) to omit references to drinking banning orders, which have been repealed, and (iii) to provide for applications to vary orders by the Director of the Serious Fraud Office.
Part 52	Rules 52.1, 52.7, 52.8 and 52.9 are amended to provide for applications made under regulations that supplement the Tribunals, Courts and Enforcement Act 2007.
Part 58	Rules 58.1 to 58.11 are amended to incorporate procedures required by the Proceeds of Crime Act 2002 and to include notes to the rules. Rules 58.13 to 58.15 are added to provide for applications and appeals under sections 67A to 67D of the Proceeds of Crime Act 2002, when they come into force.
Part 59	The Part is renamed and rules 59.7 to 59.11 are added to provide for applications and appeals under sections 47A to 47S of the Proceeds of Crime Act 2002, when they come into force.
Part 63	A new rule 63.7 is added to require notice when further evidence is to be introduced on an appeal to the Crown Court from a magistrates’ court.
Part 76	Rule 76.11 is amended to provide for some costs assessments under that rule to be carried out by any member of the staff of the Lord Chancellor.

The amendments to Parts 6, 17, 39, 52 and 76, and to the preamble, come into force on 2nd February 2015 and the other changes made by these Rules come into force on 6th April 2015.

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