
STATUTORY INSTRUMENTS

2017 No. 144

The Criminal Procedure (Amendment) Rules 2017

Amendments to the Criminal Procedure Rules 2015

- 10.** In Part 39 (Appeal to the Court of Appeal about conviction or sentence)—
- (a) in rule 39.3 (Form of appeal notice), at the end of the note to the rule insert “See also rule 39.7 (Introducing evidence).”;
 - (b) in rule 39.6 (Respondent’s notice), at the end of the note to the rule insert “See also rule 39.7 (Introducing evidence).”;
 - (c) for rule 39.7 (Adaptation of rules about introducing evidence) substitute—

“Introducing evidence

39.7.—(1) The following Parts apply with such adaptations as the court or the Registrar may direct—

- (a) Part 16 (Written witness statements);
- (b) Part 18 (Measures to assist a witness or defendant to give evidence);
- (c) Part 19 (Expert evidence);
- (d) Part 20 (Hearsay evidence);
- (e) Part 21 (Evidence of bad character); and
- (f) Part 22 (Evidence of a complainant’s previous sexual behaviour).

(2) But the general rule is that—

- (a) a respondent who opposes an appellant’s application or notice to which one of those Parts applies must do so in the respondent’s notice, with reasons;
- (b) an appellant who opposes a respondent’s application or notice to which one of those Parts applies must serve notice, with reasons, on—
 - (i) the Registrar, and
 - (ii) the respondent

not more than 14 days after service of the respondent’s notice; and

- (c) the court or the Registrar may give directions with or without a hearing.

(3) A party who wants the court to order the production of a document, exhibit or other thing connected with the proceedings must—

- (a) identify that item; and
- (b) explain—
 - (i) how it is connected with the proceedings,
 - (ii) why its production is necessary for the determination of the case, and
 - (iii) to whom it should be produced (the court, appellant or respondent, or any two or more of them).

- (4) A party who wants the court to order a witness to attend to be questioned must—
- (a) identify the proposed witness; and
 - (b) explain—
 - (i) what evidence the proposed witness can give,
 - (ii) why that evidence is capable of belief,
 - (iii) if applicable, why that evidence may provide a ground for allowing the appeal,
 - (iv) on what basis that evidence would have been admissible in the case which is the subject of the application for permission to appeal or appeal, and
 - (v) why that evidence was not introduced in that case.

(5) Where the court orders a witness to attend to be questioned, the witness must attend the hearing of the application for permission to appeal or of the appeal, as applicable, unless the court otherwise directs.

(6) Where the court orders a witness to attend to be questioned before an examiner on the court's behalf, the court must identify the examiner and may give directions about—

- (a) the time and place, or times and places, at which that questioning must be carried out;
- (b) the manner in which that questioning must be carried out, in particular as to—
 - (i) the service of any report, statement or questionnaire in preparation for the questioning,
 - (ii) the sequence in which the parties may ask questions, and
 - (iii) if more than one witness is to be questioned, the sequence in which those witnesses may be questioned; and
- (c) the manner in which, and when, a record of the questioning must be submitted to the court.

(7) Where the court orders the questioning of a witness before an examiner, the court may delegate to that examiner the giving of directions under paragraph (6)(a), (b) and (c).

[Note. An application to introduce evidence or for directions about evidence must be included in, or attached to, an appeal notice or a respondent's notice: see rules 39.3(2)(h)(v), (vi) and 39.6(6)(f)(iv), (v).]

Under section 23 of the Criminal Appeal Act 1968(1), the Court of Appeal may order the production of a document, exhibit or other thing, may order a witness to attend to be examined before the court and may allow the introduction of evidence that was not introduced at trial. Under section 23(4), if it thinks it necessary or expedient in the interests of justice the court may order the examination of a witness to be conducted before any judge, court officer or other person, and allow the admission of a record of that examination as evidence before the court.]”;

- (d) amend the table of contents correspondingly; and
- (e) in rule 39.11 (Right to attend hearing)—
 - (i) at the end of paragraph (a) omit “or”,
 - (ii) renumber paragraph (b) as (c), and

(1) 1968 c. 19; section 23 was amended by sections 4 and 29 of, and paragraph 4 of Schedule 2 to, the Criminal Appeal Act 1995 (c. 35), section 48 of the Police and Justice Act 2006 (c. 48) and section 47 of, and paragraphs 1 and 10 of Schedule 8 to, the Criminal Justice and Immigration Act 2008 (c. 4).

(iii) after paragraph (a) insert—

“(b) it is the hearing of an appeal and the court directs that—

(i) the appeal involves a question of law alone, and

(ii) for that reason the appellant has no permission to attend; or”.