

2017 No. 915 (L. 13)

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

The Criminal Procedure (Amendment No. 4) Rules 2017

<i>Made</i> - - - -	<i>12th September 2017</i>
<i>Laid before Parliament</i>	<i>14th September 2017</i>
<i>Coming into force</i> - -	<i>13th November 2017</i>

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 No. 4) Rules 2017 and shall come into force on 13th November 2017.

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 2015(b).

Amendments to the Criminal Procedure Rules 2015

3. In Part 3 (Case management)—

(a) in rule 3.13 (Pre-trial hearings: general rules), as amended by the Criminal Procedure (Amendment No. 3) Rules 2017(c)—

(i) for the heading to the rule substitute “Pre-trial hearings in the Crown Court: general rules”,

(ii) after paragraph (4) insert—

“(5) The court—

(a) at the first hearing in the Crown Court must require a defendant who is present—

(i) to provide, in writing or orally, his or her name, date of birth and nationality,
or

(ii) to confirm that information by those means, where the information was given to the magistrates’ court which sent the defendant for trial; and

(b) at any subsequent hearing may require such a defendant to provide or confirm that information by those means.”,

(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. 2015/1490; amended by S.I. 2016/120, 2016/705, 2017/144, 2017/282, 2017/755.

(c) S.I. 2017/755.

(iii) at the end of the note to the rule insert—

“Under section 86A of the Courts Act 2003(a), Criminal Procedure Rules must specify stages of proceedings at which the court must require the information listed in rule 3.13(5). A person commits an offence if, without reasonable excuse, that person fails to comply with such a requirement, whether by providing false or incomplete information or by providing no information.”;

(b) after rule 3.26 (Use of Welsh language at trial) insert—

“PREPARATION FOR TRIAL IN A MAGISTRATES’ COURT

Pre-trial hearings in a magistrates’ court: general rules

3.27.—(1) A magistrates’ court—

- (a) must conduct a preparation for trial hearing unless—
 - (i) the court sends the defendant for trial in the Crown Court, or
 - (ii) the case is one to which rule 24.8 or rule 24.9 applies (Written guilty plea: special rules; Single justice procedure: special rules);
- (b) may conduct a further pre-trial case management hearing (and if necessary more than one such hearing) only where—
 - (i) the court anticipates a guilty plea,
 - (ii) it is necessary to conduct such a hearing in order to give directions for an effective trial, or
 - (iii) such a hearing is required to set ground rules for the conduct of the questioning of a witness or defendant.

(2) At a preparation for trial hearing the court must give directions for an effective trial.

(3) At a preparation for trial hearing, if the defendant is present the court must—

- (a) satisfy itself that there has been explained to the defendant, in terms the defendant can understand (with help, if necessary), that the defendant will receive credit for a guilty plea;
- (b) take the defendant’s plea or if no plea can be taken then find out whether the defendant is likely to plead guilty or not guilty; and
- (c) unless the defendant pleads guilty, satisfy itself that there has been explained to the defendant, in terms the defendant can understand (with help, if necessary), that at the trial—
 - (i) the defendant will have the right to give evidence after the court has heard the prosecution case,
 - (ii) if the defendant does not attend, the trial is likely to take place in the defendant’s absence, and
 - (iii) where the defendant is released on bail, failure to attend court when required is an offence for which the defendant may be arrested and punished and bail may be withdrawn.

(4) A pre-trial case management hearing must be in public, as a general rule, but all or part of the hearing may be in private if the court so directs.

(5) The court—

- (a) at the first hearing in the case must require a defendant who is present to provide, in writing or orally, his or her name, date of birth and nationality; and

(a) 2003 c. 39; section 86A is inserted by section 162 of the Policing and Crime Act 2017 (c. 3), with effect from a date to be appointed.

- (b) at any subsequent hearing may require such a defendant to provide that information by those means.

[Note. At the first hearing in a magistrates' court the court may, and in some cases must, send the defendant to the Crown Court for trial, depending upon (i) the classification of the offence, (ii) the defendant's age, (iii) whether the defendant is awaiting Crown Court trial for another offence, (iv) whether another defendant charged with the same offence is awaiting Crown Court trial, and (v) in some cases, the value of property involved. See also Part 9 (Allocation and sending for trial).

Under section 11 of the Magistrates' Courts Act 1980(a), where the defendant does not attend the trial, where the defendant is at least 18 years old, and subject to some exceptions, then the court must proceed in his or her absence unless it appears to the court to be contrary to the interests of justice to do so. Where the defendant does not attend the trial and he or she is under 18 then, again subject to some exceptions, the court may proceed in his or her absence.

Under sections 8A and 8B of the Magistrates' Courts Act 1980(b), a pre-trial ruling about the admissibility of evidence or any other question of law is binding unless it later appears to the court in the interests of justice to discharge or vary that ruling.

Under section 86A of the Courts Act 2003(c), Criminal Procedure Rules must specify stages of proceedings at which the court must require the information listed in rule 3.27(5) and may specify other stages of proceedings when such requirements may be imposed. A person commits an offence if, without reasonable excuse, that person fails to comply with such a requirement, whether by providing false or incomplete information or by providing no information.]"; and

- (c) amend the table of contents correspondingly.

4. In the preamble to the Criminal Procedure Rules 2015, in sub-paragraph (b)—

- (a) in the first column, headed 'Rule', before the entry for rule 3.24 insert "3.13" and in the second column, headed 'Power', in the corresponding position insert "Section 86A of the Courts Act 2003"; and
- (b) in the first column, headed 'Rule', after the entry for rule 3.24 insert "3.27" and in the second column, headed 'Power', in the corresponding position insert "Section 86A of the Courts Act 2003".

Thomas of Cwmgiedd, C.J.

Rafferty, L.J.

Leveson, P.

Openshaw, J.

Martin Picton

Martin Edmunds

Michael Snow

Louise Bryant

Nicola Hewer and Melissa Case

Siân Jones

Alison Saunders

-
- (a) 1980 c. 43; section 11 was amended by section 123 of, and paragraph 1 of Schedule 8 to, the Criminal Justice Act 1988 (c. 33), section 168 of, and paragraph 39 of Schedule 10 to, the Criminal Justice and Public Order Act 1994 (c. 33), section 119 of, and paragraph 39 of Schedule 8 to, the Crime and Disorder Act 1998 (c. 37), paragraphs 25 and 26 of Schedule 32 to the Criminal Justice Act 2003 (c. 44), section 54 of the Criminal Justice and Immigration Act 2008 (c. 4) and sections 48 and 50 of, and paragraphs 2 and 4 of Schedule 11 to, the Criminal Justice and Courts Act 2015 (c. 2).
- (b) 1980 c. 43; section 8A was inserted by section 45 of, and Schedule 3 to, the Courts Act 2003 (c. 39) and amended by SI 2006/2493 and paragraphs 12 and 14 of Schedule 5 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10). Section 8B was inserted by section 45 of, and Schedule 3 to, the Courts Act 2003 (c. 39) and amended by paragraph 51 of Schedule 3, and Part 4 of Schedule 37, to the Criminal Justice Act 2003 (c. 44).
- (c) 2003 c. 39; section 86A is inserted by section 162 of the Policing and Crime Act 2016 (c. 3), with effect from a date to be appointed.

Alison Pople
Nathaniel Rudolf
Paul Harris
David Kenyon
Jodie Blackstock

I allow these Rules, which shall come into force on 13th November 2017.
Signed by authority of the Lord Chancellor

12th September 2017

Sam Gyimah
Parliamentary Under Secretary of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Criminal Procedure Rules 2015, S.I. 2015/1490, as follows:

<i>Rule</i>	<i>Amendment</i>
Part 3	Rule 3.13 is amended to require the Crown Court to collect from a defendant the information required by section 86A of the Courts Act 2003 (name, date of birth and nationality). Rule 3.27 is added to require a magistrates' court to collect that information. The rule also provides for the conduct of a preparation for trial hearing in a magistrates' court.

These Rules come into force on 13th November 2017.

© Crown copyright 2017

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£4.25

UK201709131002 09/2017 19585

<http://www.legislation.gov.uk/id/uksi/2017/915>

ISBN 978-0-11-116026-8



9 780111 160268