EXPLANATORY MEMORANDUM TO

THE CRIMINAL PROCEDURE (AMENDMENT) RULES 2018

2018 No. 132 (L. 2)

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Rules amend the Criminal Procedure Rules 2015, S.I. 2015 No. 1490, in miscellaneous respects.

2.2 They add new, more detailed, rules about applications to start prosecutions in magistrates' courts; revised rules about the procedure on an application to introduce evidence of a complainant's previous sexual behaviour under section 41 of the Youth Justice and Criminal Evidence Act 1999; new, more detailed, rules about the material to be supplied to an advocate appointed by the court to cross-examine a witness whom an unrepresented defendant is not allowed to cross-examine; new rules about the procedure to follow where the Court of Appeal is asked to re-open previous appeal proceedings; and new rules about applications for further information orders under the Terrorism Act 2000 and under the Proceeds of Crime Act 2002, both as amended by the Criminal Finances Act 2017.

2.3 They amend the rule about ordering separate Crown Court trials; the rule about the supply of transcript of Crown Court proceedings; the rule about the arrest warrant that a magistrates' court must issue where a defendant is sentenced to imprisonment or detention in his or her absence; the rule about identifying those upon whose preparatory work an expert witness relies; the rule about taking a jury's verdicts where more than one offence is charged; the rule about the content of grounds of appeal to the Court of Appeal; the rules about references and applications by the Attorney General to the Court of Appeal; and the rules about the duties of legal representatives in extradition appeal cases. They make miscellaneous other minor amendments and corrections to keep the Criminal Procedure Rules up to date.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 Sections 68 to 72 of the Courts Act 2003 provide for a Criminal Procedure Rule Committee of 18 members to make rules that govern the practice and procedure of the

criminal courts, that is, magistrates' courts, the Crown Court, the High Court, in an extradition appeal, and the Court of Appeal, Criminal Division. Section 69 requires the Committee to make rules that are simple and simply expressed, and that help make the criminal justice system accessible, fair and efficient. Section 72 requires the Committee to consult such persons as they consider appropriate before making rules. Members of the Rule Committee are drawn from among all the groups involved in the criminal justice system: the judiciary, including the magistracy, the legal professions, prosecutors, the police, voluntary organisations and the Ministry of Justice.

4.2 The first rules made by the Rule Committee were the Criminal Procedure Rules 2005. In those Rules, the Committee consolidated, organised and began to simplify rules of criminal procedure that before then had been contained in nearly 50 separate statutory instruments, and added notes that cross-referred to other relevant criminal justice legislation. Since then, the Committee has continued to revise and simplify those procedure rules in accordance with its statutory objective, while at the same time providing for new government initiatives, and for developments in legislation and in case law. Unless rule changes are needed urgently, the rules now are amended if necessary in June, and again if necessary in December, with the changes coming into force ordinarily on the first Monday in October and on the first Monday in April, respectively, of each year.

4.3 These Rules supplement the Acts to which paragraphs 2 and 7 of this Memorandum refer. They exercise for the first time a power conferred on the Committee by section 38(7) of the Youth Justice and Criminal Evidence Act 1999: see paragraph 7.22 of this Memorandum.

5. Extent and Territorial Application

5.1 The extent of this instrument is England and Wales.

5.2 The territorial application of this instrument is England and Wales.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

Order for separate trials

7.1 Rule 4 of these Rules amends rule 3.21 of the Criminal Procedure Rules (Application for joint or separate trials, etc.) to remove the current requirement that the Crown Court must order separate trials of offences unless they are all founded on the same facts or form or are part of a series of offences of the same or a similar character. The amendment recognises the court's statutory discretion to order separate trials in those circumstances without purporting to require it to do so.

7.2 Until 2016 the Criminal Procedure Rules had prohibited the inclusion of more than one alleged offence in a single Crown Court indictment (the formal list of allegations against the defendant) unless the offences all were founded on the same facts or formed or were part of a series of offences of the same or a similar character; and the common law was understood to mean that the consequence of breach of that

procedural requirement would be the annulment of the entire trial. With effect from 3rd October, 2016, the Criminal Procedure (Amendment No. 2) Rules 2016, S.I. 2016/705, removed that procedural requirement and instead added the current rule to require the Crown Court always to order separate trials of offences that are not connected in that way.

7.3 However, section 5(3) of the Indictments Act 1915 provides that where an indictment charges more than one offence the court may or may not order separate trials. During further Committee discussion of the case of *R v Williams* [2017] EWCA Crim 281, [2017] 4 W.L.R. 93,[1] it was suggested that a procedure rule which purports to require the separate trial of offences where the 1915 Act does not might not be compatible with the Act. After consideration, the Committee agreed, and agreed to further amend the rule accordingly.

Supply of transcript

7.4 Rule 5 of these Rules amends rule 5.5 of the Criminal Procedure Rules (Recording and transcription of proceedings in the Crown Court) to dispel a misunderstanding of the effect of the current rule where someone wants transcript of court proceedings held in public to which reporting restrictions apply. Rule 5.7 (Supply to a party of information or documents from records or case materials) and rule 5.8 (Supply to the public, including reporters, of information about cases) are both amended consequentially, and to dispel a misunderstanding about the use of those rules to obtain transcript.

7.5 Rule 5.5 of the Criminal Procedure Rules prohibits the supply of transcript if that supply would contravene a reporting restriction. Statutory reporting restrictions, for example the restriction on publishing the name of a child or the name of the complainant of a sexual offence, prohibit the publication or broadcasting to the general public of the information to which they apply but they do not necessarily prohibit the supply of transcript to an individual member of the public, who could have been present in court anyway and so could have heard what was said. The Rule Committee learned that new administrative arrangements for the supply of transcript of proceedings in the Crown Court had brought to light a misunderstanding about the rule, which had been read to mean that if reporting restrictions of any kind applied to information given in public in the proceedings then transcript could not be supplied to anyone other than the Registrar of Criminal Appeals without a judge's permission. The Committee therefore agreed to rephrase the rule to make it more obvious that transcript can be supplied unless a reporting restriction that applies has the effect of prohibiting its supply in the particular circumstances.

7.6 During discussion of that amendment the Committee agreed also to clarify the relationship between rule 5.5 and rules 5.7 and 5.8, which concern the supply of other information and documents to parties and the public respectively: namely, that rule 5.5 applies to transcript and the other two rules do not.

Application for a summons

7.7 Rule 6 of these Rules substitutes for rule 7.2 of the Criminal Procedure Rules, currently entitled 'Information and written charge', a new rule about making an application for the issue of a magistrates' court summons or warrant to start a

[1] The judgment is available at: http://www.bailii.org/ew/cases/EWCA/Crim/2017/281.html.

prosecution. Rules 7.3 (Allegation of offence in information or charge) and 7.4 (Summons, warrant and requisition) both are amended consequentially.

7.8 With very few exceptions, prosecutions begin with (i) the defendant being charged by the police and required to attend a magistrates' court (as soon as possible, if the defendant is kept in police custody, or on a specified later date if the defendant is released on bail), (ii) the defendant being sent by the prosecutor a written charge and a requisition to attend a magistrates' court on a specified date, or (iii) the defendant being sent a summons to attend a magistrates' court on a specified date that is issued by the court in response to an application (an 'information') by the prosecutor. The majority of prosecutions brought by the police, the Crown Prosecution Service, the Serious Fraud Office and local and other public authorities begin now with arrest and charge or with written charge and requisition, but some still are started by the issue of a summons; and any prosecution brought by a private individual or body begins with an application for the court to issue a summons.

7.9 At present the detailed procedural requirements for an application to issue a summons are contained in case law and not in the Criminal Procedure Rules. It was suggested to the Rule Committee that it would help prospective applicants and magistrates' courts if the procedure were codified and set out in the Rules. The Committee agreed. The Committee will now prepare a new application form for use with the rule by someone who is neither a public authority nor represented by a lawyer, to help such a person submit to the court the information that the court needs to decide whether it is appropriate to issue a summons.

Warrant for detention or imprisonment after conviction in absence

7.10 Rule 8 of these Rules amends rule 13.3 of the Criminal Procedure Rules (Terms of a warrant for detention or imprisonment) in order to specify what must be directed by a warrant for a defendant's detention or imprisonment where a custodial sentence is imposed by a magistrates' court in the defendant's absence. Rule 12 of these Rules amends rule 24.12 of the Criminal Procedure Rules (Trial and sentence in a magistrates' court; Procedure where a party is absent) consequentially.

7.11 In certain circumstances section 11(3), (3A) and (5) of the Magistrates' Courts Act 1980 allows a custodial sentence to be imposed on a defendant in his or her absence; but in such a case 'the offender must be brought before the court before being taken to a prison or other institution to begin serving his sentence (and the sentence or order is not to be regarded as taking effect until he is brought before the court)'. It was suggested to the Rule Committee that it would help to clarify the effect of those statutory words, and would help magistrates' courts, if rule 13.3 provided explicitly for the terms of the warrant to be issued in such a case. The Committee agreed. The effect is explicitly to authorise the issue of a single dual-purpose warrant of arrest and of commitment to custody, but via the court.

Experts' assistants

7.12 Rule 9 of these Rules amends rule 19.4 of the Criminal Procedure Rules (Content of expert's report) to make clear that the rule requires an expert witness to identify those assistants, for example laboratory technicians, who produce information on which the expert wishes to rely in his or her evidence; but not those assistants, if any, who have performed subsidiary functions.

7.13 Section 127 of the Criminal Justice Act 2003 (Expert evidence: preparatory work) provides that if an expert witness bases an opinion or inference on 'any representation of fact or opinion' made by another person for the purposes of criminal proceedings then as long as the expert gives notice of the name of that person, and of the nature of the fact or opinion involved, then that representation of fact or opinion can be accepted in court as evidence even though the person who made it is not called as a witness him or herself. Rule 19.4 of the Criminal Procedure Rules lists what an expert witness must include in a written report of his or her own findings and expert opinion. One of its requirements is that the report must 'say who carried out any examination, measurement, test or experiment which the expert has used for the report and (i) give the qualifications, relevant experience and accreditation of that person, (ii) say whether or not the examination, measurement, test or experiment was carried out under the expert's supervision, and (iii) summarise the findings on which the expert relies'. That corresponds with the equivalent Civil Procedure Rule and practice direction.

7.14 The Rule Committee received representations from the Forensic Science Regulator reporting that among forensic science providers the current rule is understood to require an expert witness to identify in his or her report every assistant who has contributed in any way to the outcome of a test or experiment – by preparing laboratory equipment, for example, or by preparing materials to be used in a test – and not just those assistants on whose representations of fact or opinion the expert relies within the meaning of section 127 of the 2003 Act. In the Committee's view such an interpretation of the rule goes beyond what it requires and beyond what section 127 requires. To clarify the intention of the rule, therefore, the Committee agreed to adopt the language of the Act itself in place of the paraphrase in the current rule.

Evidence of a complainant's previous sexual behaviour

7.15 Rule 10 of these Rules and the Schedule substitute revised rules for those in Part 22 of the Criminal Procedure Rules (Evidence of a complainant's previous sexual behaviour). The rules are rearranged for consistency with the arrangement of rules about special measures for witnesses (Part 18) and other Criminal Procedure Rules about the introduction of evidence (Parts 20 and 21), which other rules have been revised and re-ordered since the Part 22 rules first were made. The time for an application to introduce sexual behaviour evidence is clarified and abbreviated, consistently with those other rules. The new rules make explicit the court's and the prosecutor's obligations to complainants. They make explicit the court's powers to give directions for the treatment and questioning of a witness (sometimes called 'ground rules') about whom such evidence is due to be introduced.

7.16 Section 41 of the Youth Justice and Criminal Evidence Act 1999 prohibits evidence or cross-examination about the alleged previous sexual behaviour of a complainant of a sexual offence, subject to statutory exceptions. The rules in Part 22 govern the procedure on an application for the court's permission exceptionally to allow the introduction of such evidence under one of those exceptions.

7.17 In connection with their review of section 41 published on 14th December, 2017,[2] the Lord Chancellor and the Attorney General invited the Committee to review the rules. The Committee did so – the rules had not been reviewed since 2006 – and decided

[2] See: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/667675/limiting-the-use-of-sexual_history-evidence-in-sex_cases.pdf

that these revised rules would better facilitate the just and effective exercise of the court's power under section 41.

Information for cross-examination advocates

7.18 Rule 11 of these Rules amends rule 23.2 of the Criminal Procedure Rules (Appointment of advocate to cross-examine witness) to include more detailed provision for the supply of relevant material to an advocate appointed by the court to cross-examine a witness.

7.19 Sections 34 and 35 of the Youth Justice and Criminal Evidence Act 1999 prevent a defendant who is not represented by a lawyer from cross-examining a witness who is the complainant of a sexual offence or is a child. Section 36 of the Act allows the court to prevent such a defendant from cross-examining a witness in other circumstances. Under section 38 of the Act, where a defendant is prevented from cross-examining a witness under one of those other sections then the court must give the defendant an opportunity to appoint an advocate to conduct the cross-examination, and if he or she does not do so then the court may appoint an independent advocate for the purpose. Rule 23.2 of the Criminal Procedure Rules presently requires the court to give directions for the supply of relevant material to such an advocate but does not specify what such material ordinarily should include.

7.20 It was suggested to the Rule Committee that the rules should be more specific about what material should be supplied to an independent advocate and about the procedure after the court appoints such an advocate. The Committee agreed. Drawing on relevant guidance issued by the legal professions as well as on members' own experience they amended the rules accordingly. The rule also now allows an advocate to apply for an order for the disclosure of unused prosecution material if the advocate thinks that appropriate.

Taking the jury's verdicts where more than one offence is alleged

7.21 Rule 13 of these Rules amends rule 25.14 of the Criminal Procedure Rules (Directions to the jury and taking the verdict) to make clear that in a case in which more than one jury verdict is required the Crown Court can either take each verdict as it is reached or can ask the jury to postpone the delivery of a verdict until it has reached others.

7.22 Paragraph VI 26Q of the Lord Chief Justice's Criminal Practice Directions[3] supplements the Criminal Procedure Rules by listing the questions that must be asked by the judge or by court staff when taking a jury's verdict. The directions recognise that where a jury must reach verdicts on more than one alleged offence then it is possible that not all their verdicts will be reached at the same time and possible that not all their verdicts will be unanimous. The directions say, 'The judge may exercise discretion in deciding when to record the unanimous verdict; the circumstances of the case may dictate that it is more desirable to give the majority direction before the recording of any unanimous verdicts. If so, then instead of being asked about each count in turn, the jury should be asked "Have you reached verdicts upon which you are all agreed in respect of all defendants and/or all counts?" Should the jury in the end be unable to agree on a verdict by the required majority, the judge in his discretion will either ask them to deliberate further, or discharge them.'

[3] The content of the practice directions is published with the Criminal Procedure Rules at: http://www.justice.gov.uk/courts/procedure-rules/criminal/rulesmenu-2015.

7.23 It was pointed out to the Rule Committee that rule 25.14 of the Criminal Procedure Rules, which prescribes the procedure for taking a jury's verdict on each individual allegation (because the verdict on each must be announced separately), implies that the court may not postpone the taking of a verdict in the circumstances described in the practice directions. That was not the Committee's intention and they agreed to amend the rule accordingly.

Reopening the determination of an appeal to the Court of Appeal

7.24 Rule 15 of these Rules amends rule 36.6 of the Criminal Procedure Rules (Appeal to the Court of Appeal: general rules; Hearings) and adds a new rule 36.15 (Reopening the determination of an appeal) to supply a procedure that supplements the jurisdiction of the Court of Appeal in exceptional circumstances to reopen a final decision that it has reached.

7.25 In a series of judgments of the Court of Appeal between 2015 and 2017, beginning with the judgment in *R v Yasain* [2015] EWCA Crim 1277, [2015] 2 Cr App R 28[4] and culminating in the judgment in *R v Hockey* [2017] EWCA Crim 742, [2017] WLR(D) 398 [5], the court defined its inherent jurisdiction in rare cases to reopen a previous decision determining appeal proceedings. In each of the two judgments just mentioned the court suggested that the Rule Committee should make rules to supply a procedure for invoking that jurisdiction. The Committee has accepted those invitations and has done so.

Discouraging prolixity in grounds of appeal to the Court of Appeal

7.26 Rule 16 of these Rules amends rule 39.3 of the Criminal Procedure Rules (Appeal to the Court of Appeal about conviction or sentence; Form of appeal notice) to emphasise the importance of clarity and concision in an appellant's grounds of appeal.

7.27 Rule 39.3 of the Criminal Procedure Rules prescribes what an appeal notice must contain. Among other things it requires that the notice must 'identify each ground of appeal … concisely outlining each argument in support', but the current rule does not prescribe the length of the appeal notice or how it must be arranged. In several recent judgments of the Court of Appeal, including notably the judgment in *R v James, R v Selby* [2016] EWCA Crim 1639, the court has complained of the unnecessary and excessive length of an appellant's grounds of appeal – in that case, extending to well in excess of 100 pages in the case of each appellant – and has made the point that such prolixity impedes the court's comprehension of what is in issue, makes it more difficult for the court to deal justly with the case and, by increasing the time required to read and adjudicate in that case, impedes the consideration of other cases. In a recent extradition appeal case the High Court made similar complaints about the excessive length of written submissions ('skeleton arguments'): see paragraph 7 of the judgment in *RT v the Circuit Court in Tarnobrzeg, Poland* [2017] EWHC 1978 (Admin), [2017] 4 WLR 137.[6]

7.28 In the judgment in *R v James, R v Selby* the court suggested that the Rule Committee should make rules to give what the court called 'more pointed guidance' to appellants, and perhaps should impose a page limit of some sort. The Committee has accepted that invitation and has done so. The Committee has also asked the Lord Chief Justice

[4] The judgment is available at: http://www.bailii.org/ew/cases/EWCA/Crim/2015/1277.html
[5] The judgment is available at: http://www.bailii.org/ew/cases/EWCA/Crim/2017/742.html
[6] The judgment is available at: http://www.bailii.org/ew/cases/EWHC/Admin/2017/1978.html

by means of the Criminal Practice Directions made by him to impose constraints on other written submissions, in the Court of Appeal and in the other criminal courts.

Service of references and applications by the Attorney General to the Court of Appeal

7.29 Rule 17 of these Rules amends rules in Part 41 of the Criminal Procedure Rules (Reference to the Court of Appeal of point of law or unduly lenient sentence) to recognise an improvement in process agreed between the Attorney General and the Registrar of Criminal Appeals.

7.30 Under section 36 of the Criminal Justice Act 1972, where a defendant is acquitted in the Crown Court the Attorney General may refer to the Court of Appeal a point of law that arose – for example, to obtain a ruling of the Court of Appeal on the correct interpretation of an Act of Parliament that was in issue in the case. Under section 36 of the Criminal Justice Act 1988, if the Attorney General thinks the sentencing of a defendant in the Crown Court is unduly lenient then in specified circumstances the Attorney may refer the case to the Court of Appeal for the sentence to be reviewed.

7.31 Part 41 of the Criminal Procedure Rules prescribes the procedure on such a reference or application. Under the current rules the reference or application is served only on the Registrar of Criminal Appeals, whose duty it then is to send a copy to the defendant concerned. To improve the speed and efficiency of the process it has been agreed between the Attorney and Registrar that the Attorney will serve the relevant documents on the defendant, too, at the same time as serving them on the Registrar. They jointly invited the Rule Committee to amend the rules accordingly. The Committee has done so.

Withdrawal of legal representative in extradition appeal case

7.32 Rule 19 of these Rules amends rule 46.2 of the Criminal Procedure Rules (Notice of appointment, etc. of legal representative: general rules) to make explicit provision for the withdrawal of a legal representative in an extradition appeal case in the High Court.

7.33 Part 46 of the Criminal Procedure Rules deals generally with the functions of legal representatives in the cases to which the Rules apply and deals with the appointment, dismissal or withdrawal of legal representatives in those cases. Until now, however, there has been no explicit provision in those rules about extradition appeal cases in the High Court, to which the Criminal Procedure Rules have applied since 2014. The procedure has been governed (but incompletely) by the Criminal Practice Directions instead. Consequent on a discussion of other aspects of the rules about extradition appeal in Part 50 of the Criminal Procedure Rules, the Rule Committee decided to correct the omission. Because of the special circumstances of extradition cases, the rule amendments require a representative who withdraws from an extradition appeal case to give the court office information about the defendant's whereabouts and about his or her likely requirements for interpretation or other arrangements to facilitate his or her participation.

Rules to supplement the Criminal Finances Act 2017: further information orders

7.34 Rule 20 of these Rules amends four rules in Part 47 of the Criminal Procedure Rules (Investigation orders and warrants) to accommodate statutory amendments made by the Criminal Finances Act 2017 to the Terrorism Act 2000 and to the Proceeds of

Crime Act 2002. The changes provide for applications by investigators to magistrates' courts for what the Act describes as 'further information orders'.

7.35 Under the new section 22B of the Terrorism Act 2000 and under the new section 339ZH of the Proceeds of Crime Act 2002 a magistrates' court can make a further information order to require someone to provide information 'relating to a matter arising from a disclosure' where that disclosure was required by one of the other provisions of those two Acts (a disclosure by a bank or other financial institution, etc. of a suspicion of terrorist financing or of money laundering). The rule amendments follow closely the new statutory provisions. Among other existing rules that will apply to this new type of application, rule 47.5 (Exercise of court's powers) and rule 47.6 (Application for order: general rules) will apply and will require notice of the application to be given unless the applicant can satisfy the court of one of the factors listed in the first of those rules.

Miscellaneous corrections

7.36 These Rules make consequential and other corrections to the cross-references contained in rule 2.2, 3.1, 10.2 (in the note to the rule), 32.2, 36.3 (in the note to the rule), 39.7 (in the note to the rule), 42.6, 42.10, 47.33(in the note to the rule) and 47.62 (in the note to the rule) of the Criminal Procedure Rules; either because of other changes made by these Rules, or because the Rule Committee has noticed an earlier uncorrected error.

Consolidation

7.37 When it made the Criminal Procedure Rules 2005, the Rule Committee declared its intention to effect after 5 years a legislative consolidation of those Rules with such amendments as had been made by then, and it did so in the Criminal Procedure Rules 2010. Having consulted on the possibility of continuing to consolidate the Rules at regular intervals, the Committee decided to do so and subsequently produced the Criminal Procedure Rules 2011, the Criminal Procedure Rules 2012, the Criminal Procedure Rules 2013, the Criminal Procedure Rules 2014 and the Criminal Procedure Rules 2015: each consolidating the previous year's rules with subsequent amendments. The Committee intends to effect further such consolidations in future but, in response to representations by publishers and others, the Committee has decided not to do so again until 2020, thus reverting to its initial plan to consolidate at 5 yearly intervals. In the meantime, an informal consolidated text will continue to be available to the public free of charge on the Ministry of Justice website at: http://www.justice.gov.uk/courts/procedure-rules/criminal/rulesmenu-2015

8. Consultation outcome

8.1 The Rule Committee fulfilled its statutory obligation to consult as the Committee considers appropriate by, in each instance, inviting and reviewing suggestions and observations solicited by its members from among the groups from which each is drawn.

8.2 In addition, in connection with the amendments to Part 19 of the Criminal Procedure Rules (see paragraphs 7.12 – 7.14 of this Memorandum) the Committee invited and acted on observations of the Forensic Science Regulator, by whom the proposal for the amendment had been made, and drew the proposed amendments to the attention of organisations to which a number of expert witnesses belong (in response to which, no

comments were received). In connection with the amendments to Parts 36 and 39 of the Rules (see paragraphs 7.24 – 7.25 and 7.26 – 7.28 above) the Committee invited and acted on observations of the Registrar of Criminal Appeals; and in connection with the amendments to Part 41 (see paragraphs 7.29 – 7.31 above) the Committee invited and acted on observations of the Registrar and of representatives of the Attorney General. In connection with the amendments to Part 47 of the Criminal Procedure Rules (see paragraphs 7.34 – 7.35 above) the Committee consulted with representatives of the Home Office and of the National Crime Agency.

9. Guidance

9.1 Amendments to the Criminal Procedure Rules are drawn to the attention of participants in the criminal justice system by correspondence addressed by the Committee secretariat to members of the judiciary, to other relevant representative bodies (for example, the Law Society and the Bar Council) and to the editors of relevant legal journals; as well as by publicity within HM Courts and Tribunals Service, within the principal prosecuting authorities, and among local criminal justice boards.

9.2 News of changes to the Rules and of the effect of those changes is published on the Ministry of Justice website, at: http://www.justice.gov.uk/courts/procedure-rules/criminal.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 These Rules have no impact of themselves on the public sector, because they reproduce rules and procedures that are already current, and they introduce new rules and procedures that supplement legislation already made.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 The making of Criminal Procedure Rules attracts independent academic and other comment. From time to time the Rules are in issue in cases in which the judgment is reported. The Committee secretariat draws members' attention to such comment and reports. Observations arising from judicial, institutional and commercial training courses on the Rules are monitored by Committee members. The Committee secretariat maintains an email address for enquiries about the rules, and from the enquirers to that address receives comments which it relays to the Committee. Twice a year the Committee receives and considers statistical information about criminal case management gathered by HM Courts and Tribunals Service and the Ministry of Justice.

12.2 Each judge and lawyer member of the Criminal Procedure Rule Committee practises regularly in the criminal courts, and each other member deals regularly with matters that affect or arise from the business of those courts. Each therefore draws upon his or her experience of the operation of the courts and of the Rules. Although members

participate in an individual capacity, each is able also to reflect the views of the professional or other 'constituency' from which each comes.

12.3 Representatives of HM Courts and Tribunals Service, and of the criminal justice departments of government, attend Rule Committee meetings as observers. They, too, draw to the Committee's attention, as they arise, matters affecting the operation of the Rules.

13. Contact

13.1 Jonathan Solly at the Ministry of Justice Telephone: 020 3334 4031 or email: jonathan.solly@justice.gov.uk can answer any queries regarding the instrument.