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STATUTORY INSTRUMENTS

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**2020 No. 32**

**The Criminal Procedure (Amendment) Rules 2020**

**Amendments to the Criminal Procedure Rules**

4. In Part 3 (Case management)—
- (a) in rule 3.1 (When this Part applies), in paragraph (4) for “Rule 3.28 applies” substitute “Rules 3.28 and 3.29 apply”;
  - (b) after rule 3.28 (Directions for commissioning medical reports, other than for sentencing purposes) insert—

*“NOTIFICATION HEARINGS*

**Hearing to inform the court of sensitive material**

- 3.29.**—(1) This rule applies where the prosecutor has, or is aware of, material—
- (a) the revelation of which to the public or to the defendant the prosecutor thinks would give rise to a real risk of serious prejudice to an important public interest;
  - (b) to which the prosecutor does not think the obligation to disclose prosecution material applies, under Part I of the Criminal Procedure and Investigations Act 1996; but
  - (c) of the existence of which the prosecutor thinks it necessary to inform the court to avoid—
    - (i) potential unfairness to the defendant in the conduct of the trial,
    - (ii) potential prejudice to the fair management of the trial, or
    - (iii) potential prejudice to that important public interest.
- (2) Such a prosecutor must—
- (a) ask for a hearing so to inform the court; and
  - (b) notify the defendant of that request only to such extent, if any, and at such time, if at all, as the court directs.
- (3) At or before the hearing the prosecutor must—
- (a) explain—
    - (i) why the hearing is necessary, and
    - (ii) why it is necessary for the hearing to take place in the defendant’s absence;
  - (b) explain to what extent, if any, and when, if at all, the defendant should be informed—
    - (i) of the hearing,
    - (ii) of the material of which the prosecutor wants to inform the court; and
  - (c) provide or describe the material to the court—

- (i) only to the extent needed to achieve the purpose for which the hearing is convened, and
    - (ii) in such manner as the court directs.
  - (4) Unless the court otherwise directs—
    - (a) any such hearing—
      - (i) must be in private, and
      - (ii) must take place in the defendant’s absence;
    - (b) the court officer must not give notice to anyone other than the prosecutor of—
      - (i) the court’s decision on the request for a hearing,
      - (ii) the arrangements for any such hearing,
      - (iii) any directions given at such a hearing; and
    - (c) the court officer may—
      - (i) keep any written representations or material received under this rule, or
      - (ii) arrange for the whole or any part to be kept by some other appropriate person, subject to any conditions that the court may impose.”; and
- (c) amend the table of contents correspondingly.