
STATUTORY INSTRUMENTS

2020 No. 759

The Criminal Procedure Rules 2020

PART 15

DISCLOSURE

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When this Part applies

[^{F2}15.1. This Part applies in a magistrates' court and in the Crown Court—

- (a) where Parts I and II of the Criminal Procedure and Investigations Act 1996 apply; and
- (b) where any comparable disclosure obligation applies otherwise than under the 1996 Act.

[Note. The Criminal Procedure and Investigations Act 1996 came into force on 1st April, 1997. It does not apply where the investigation began before that date. With effect from 4th April, 2005, the Criminal Justice Act 2003 made changes to the 1996 Act that do not apply to investigations begun earlier. In some circumstances, the prosecutor may be required to disclose material to which the 1996 Act does not apply: see sections 1 and 21 .

Part I of the 1996 Act contains sections 1 to 21A. Part II, which contains sections 22 to 27, requires an investigator to record information relevant to an investigation that is obtained during its course. See also the Criminal Procedure and Investigations Act 1996 (Code of Practice) Order 2015 issued under sections 23 to 25 of the 1996 Act.]]

Textual Amendments

- F2** Rule 15.1 substituted (1.4.2024) by [The Criminal Procedure \(Amendment\) Rules 2024 \(S.I. 2024/62\)](#), rules 1, 7(a)

[F3] Prosecution disclosure and disclosure management

15.2.—(1) This rule applies where any of the following occurs—

- (a) under section 3 of the Criminal Procedure and Investigations Act 1996 (Initial duty of prosecutor to disclose), or under any comparable obligation that applies where that section does not, the prosecutor—
 - (i) discloses to the defendant any prosecution material that might reasonably be considered capable of undermining the case for the prosecution against the defendant or of assisting the case for the defendant (in this rule, “gives initial disclosure”), or
 - (ii) gives the defendant a statement that there is no such material;
- (b) under section 7A of the 1996 Act (Continuing duty of prosecutor to disclose), or under any comparable obligation that applies where that section does not, the prosecutor discloses any further such material; or
- (c) the prosecutor serves a document (in this rule, a “disclosure management document”) prepared by the prosecutor that—
 - (i) describes the prosecutor’s approach to discharging the prosecution obligations to which this Part applies; and
 - (ii) gives the reasons for that approach.

(2) The prosecutor must discharge the prosecution obligations to which this Part applies as soon as is reasonably practicable.

(3) At the same time as the prosecutor discloses material to which this rule refers, or gives the defendant a statement that there is no, or no further, such material, the prosecutor must serve on the court officer notice to that effect.

(4) At the same time as the prosecutor serves on the defendant a disclosure management document, or revised such document, the prosecutor must serve that document on the court officer.

(5) As soon as is reasonably practicable after the prosecutor serves a disclosure management document, or revised such document, the defendant must—

- (a) make such observations on the content of that document as the defendant wants the court to take into account when giving directions for the preparation of the case for trial; and
- (b) serve any such observations on—
 - (i) the prosecutor, and
 - (ii) the court officer.

[Note. See—

- (a) sections 2 and 3 of the Criminal Procedure and Investigations Act 1996, which define material and prescribe how and in what circumstances it must be disclosed; and
- (b) sections 12 and 13 of the 1996 Act, and paragraph 10 of the Code of Practice accompanying the Criminal Procedure and Investigations Act 1996 (Code of Practice) Order 2015, which provide for the time limits for prosecution disclosure.

See also—

- (a) *rule 3.19 (preparation for trial in the Crown Court, service of prosecution evidence)*. In some circumstances in the Crown Court the time limit for the prosecutor to give initial disclosure begins when the prosecution evidence is served. Under regulation 2 of the Crime and Disorder Act 1998 (Service of Prosecution Evidence) Regulations 2005 the time for service of the prosecution evidence in the Crown Court is—
- (i) *not more than 50 days after sending for trial, where the defendant is in custody, and*
 - (ii) *not more than 70 days after sending for trial, where the defendant is on bail.*
- (b) *rule 15.4 (Defence disclosure)*.

In some circumstances disclosure is prohibited by section 56 of the Investigatory Powers Act 2016 .]]

Textual Amendments

- F3** Rule 15.2 substituted (1.4.2024) by [The Criminal Procedure \(Amendment\) Rules 2024 \(S.I. 2024/62\)](#), rules 1, **7(b)**

Prosecutor's application for public interest ruling

- 15.3.**—(1) This rule applies where—
- (a) without a court order, the prosecutor would have to disclose material; and
 - (b) the prosecutor wants the court to decide whether it would be in the public interest to disclose it.
- (2) The prosecutor must—
- (a) apply in writing for such a decision; and
 - (b) serve the application on—
 - (i) the court officer,
 - (ii) any person who the prosecutor thinks would be directly affected by disclosure of the material, and
 - (iii) the defendant, but only to the extent that serving it on the defendant would not disclose what the prosecutor thinks ought not be disclosed.
- (3) The application must—
- (a) describe the material, and explain why the prosecutor thinks that—
 - (i) it is material that the prosecutor would have to disclose,
 - (ii) it would not be in the public interest to disclose that material, and
 - (iii) no measure such as the prosecutor's admission of any fact, or disclosure by summary, extract or edited copy, adequately would protect both the public interest and the defendant's right to a fair trial;
 - (b) omit from any part of the application that is served on the defendant anything that would disclose what the prosecutor thinks ought not be disclosed (in which case, paragraph (4) of this rule applies); and
 - (c) explain why, if no part of the application is served on the defendant.
- (4) Where the prosecutor serves only part of the application on the defendant, the prosecutor must—
- (a) mark the other part, to show that it is only for the court; and
 - (b) in that other part, explain why the prosecutor has withheld it from the defendant.

- (5) Unless already done, the court may direct the prosecutor to serve an application on—
- (a) the defendant; and
 - (b) any other person who the court considers would be directly affected by the disclosure of the material.
- (6) The court must determine the application at a hearing which—
- (a) must be in private, unless the court otherwise directs; and
 - (b) if the court so directs, may take place, wholly or in part, in the defendant’s absence.
- (7) At a hearing at which the defendant is present—
- (a) the general rule is that the court must consider, in the following sequence—
 - (i) representations first by the prosecutor and any other person served with the application, and then by the defendant, in the presence of them all, and then
 - (ii) further representations by the prosecutor and any such other person in the defendant’s absence; but
 - (b) the court may direct other arrangements for the hearing.
- (8) The court may only determine the application if satisfied that it has been able to take adequate account of—
- (a) such rights of confidentiality as apply to the material; and
 - (b) the defendant’s right to a fair trial.
- (9) Unless the court otherwise directs, the court officer—
- (a) must not give notice to anyone other than the prosecutor—
 - (i) of the hearing of an application under this rule, unless the prosecutor served the application on that person, or
 - (ii) of the court’s decision on the application; and
 - (b) may—
 - (i) keep a written application or representations, 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.

[^{F4}Note. The prosecutor must not disclose material that the court orders it would not be in the public interest to disclose: see sections 3(6) and 7A(8) of the Criminal Procedure and Investigations Act 1996.]

See also sections 16 and 19 of the 1996 Act(1).]

Textual Amendments

- F4** Words in rule 15.3 Note substituted (1.4.2024) by [The Criminal Procedure \(Amendment\) Rules 2024 \(S.I. 2024/62\)](#), rules 1, 7(c)
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Commencement Information

- II** Rule 15.3 in force at 5.10.2020, see Preamble

(1) 1996 c. 25; section 16 was amended by section 331 of, and paragraphs 20 and 32 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44). Section 19 was amended by section 109 of, and paragraph 377 of Schedule 8 to, the Courts Act 2003 (c. 39), section 331 of, and paragraphs 20 and 34 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44) and section 15 of, and paragraph 251 of Schedule 4 to, the Constitutional Reform Act 2005 (c. 4).

[F5] Defence disclosure

- 15.4.**—(1) This rule applies where the defendant pleads not guilty and—
- (a) may give a defence statement in a magistrates’ court under section 6 of the Criminal Procedure and Investigations Act 1996; or
 - (b) must give—
 - (i) a defence statement in the Crown Court under section 5 of the 1996 Act; or
 - (ii) a defence witness notice in either court under section 6C of the 1996 Act.
- (2) In a magistrates’ court a defendant who wants to give a defence statement must do so not more than 14 days after the prosecutor gives initial disclosure under rule 15.2 (Prosecution disclosure and disclosure management) or gives the defendant a statement that there is no such material.
- (3) In the Crown Court the defendant must give a defence statement—
- (a) if the prosecutor has served on the defendant under rule 3.19 (Service of prosecution evidence) copies of the documents containing the evidence on which the prosecution case relies; and
 - (b) not more than 28 days after the prosecutor gives initial disclosure under rule 15.2 or gives the defendant a statement that there is no such material.
- (4) In either court the defendant must give a defence witness notice—
- (a) within the time for giving a defence statement in that court; and
 - (b) whether the defendant gives a defence statement or not.
- (5) If the time for giving a defence statement expires on a day that is not a business day then the time expires on the next business day.
- (6) A defendant gives a defence statement or defence witness notice by serving it on—
- (a) the court officer; and
 - (b) the prosecutor.

[Note. Under section 6A of the Criminal Procedure and Investigations Act 1996 a defence statement must—

- (a) *set out the nature of the defence, including any particular defences on which the defendant intends to rely;*
- (b) *indicate the matters of fact on which the defendant takes issue with the prosecutor; and, in respect of each, explain why;*
- (c) *set out particulars of the matters of fact on which the defendant intends to rely for the purposes of the defence;*
- (d) *indicate any point of law that the defendant wants to raise, including any point about the admissibility of evidence or about abuse of process, and any authority relied on; and*
- (e) *if the defence statement discloses an alibi, give particulars, including—*
 - (i) *the name, address and date of birth of any witness whom the defendant believes can give evidence in support (that is, evidence that the defendant was in a place, at a time, inconsistent with having committed the offence),*
 - (ii) *where the defendant does not know any of those details, any information that might help identify or find that witness.*

Under section 6C of the 1996 Act a defence witness notice that identifies any proposed defence witness (other than the defendant) must—

- (a) give the name, address and date of birth of each such witness, or as many of those details as are known to the defendant when the notice is given;
- (b) provide any information in the defendant's possession which might be of material assistance in identifying or finding any such witness in whose case any of the details mentioned in paragraph (a) are not known to the defendant when the notice is given; and
- (c) amend any earlier such notice, if the defendant —
 - (i) decides to call a person not included in an earlier notice as a proposed witness,
 - (ii) decides not to call a person so included, or
 - (iii) discovers any information which the defendant would have had to include in an earlier notice, if then aware of it.

The time for giving a defence statement and a defence witness notice to which this rule refers is prescribed by section 12 of the 1996 Act and by the Criminal Procedure and Investigations Act 1996 (Defence Disclosure Time Limits) Regulations 2011.

Under section 11 of the 1996 Act, if a defendant—

- (a) fails to disclose what the Act requires;
- (b) fails to do so within the time prescribed;
- (c) at trial, relies on a defence, or facts, not mentioned in the defence statement;
- (d) at trial, introduces alibi evidence without having given in the defence statement—
 - (i) particulars of the alibi, or
 - (ii) the details of the alibi witness, or witnesses, required by the Act; or
- (e) at trial, calls a witness not identified in a defence witness notice,

then the court or another party at trial may comment on that, and the court may draw such inferences as appear proper in deciding whether the defendant is guilty.

Under section 6E(2) of the 1996 Act, if before trial in the Crown Court it seems to the court that section 11 may apply then the court must warn the defendant.]]

Textual Amendments

- F5** Rule 15.4 substituted (1.4.2024) by [The Criminal Procedure \(Amendment\) Rules 2024 \(S.I. 2024/62\)](#), rules 1, **7(d)**

Defendant's application for prosecution disclosure

15.5.—(1) This rule applies where the defendant—

[^{F6}(a) has given a defence statement under rule 15.4 (Defence disclosure); and]

(b) wants the court to require the prosecutor to disclose material.

(2) The defendant must serve an application on—

(a) the court officer; and

(b) the prosecutor.

(3) The application must—

(a) describe the material that the defendant wants the prosecutor to disclose;

(b) explain why the defendant thinks there is reasonable cause to believe that—

(i) the prosecutor has that material, and

- (ii) it is material that the Criminal Procedure and Investigations Act 1996 requires the prosecutor to disclose; and
- (c) ask for a hearing, if the defendant wants one, and explain why it is needed.
- (4) The court may determine an application under this rule—
 - (a) at a hearing, in public or in private; or
 - (b) without a hearing.
- (5) The court must not require the prosecutor to disclose material unless the prosecutor—
 - (a) is present; or
 - (b) has had at least 10 business days in which to make representations.

^{F7}[Note. ...

Under section 8 of the Criminal Procedure and Investigations Act 1996(2), a defendant may apply for prosecution disclosure only if the defendant has given a defence statement.]

Textual Amendments

- F6** Rule 15.5(1)(a) substituted (1.4.2024) by [The Criminal Procedure \(Amendment\) Rules 2024 \(S.I. 2024/62\)](#), [rules 1](#), [7\(e\)](#)
- F7** Words in rule 15.5 Note omitted (2.10.2023) by virtue of [The Criminal Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/786\)](#), [rule 1](#), [Sch. para. 8](#)

Commencement Information

- I2** Rule 15.5 in force at 5.10.2020, see Preamble

Review of public interest ruling

- 15.6.**—(1) This rule applies where the court has ordered that it is not in the public interest to disclose material that the prosecutor otherwise would have to disclose, and—
- (a) the defendant wants the court to review that decision; or
 - (b) the Crown Court reviews that decision on its own initiative.
- (2) Where the defendant wants the court to review that decision, the defendant must—
- (a) serve an application on—
 - (i) the court officer, and
 - (ii) the prosecutor; and
 - (b) in the application—
 - (i) describe the material that the defendant wants the prosecutor to disclose, and
 - (ii) explain why the defendant thinks it is no longer in the public interest for the prosecutor not to disclose it.
- (3) The prosecutor must serve any such application on any person who the prosecutor thinks would be directly affected if that material were disclosed.
- (4) The prosecutor, and any such person, must serve any representations on—
- (a) the court officer; and

(2) [1996 c. 25](#); section 8 was amended by section 82 of, and paragraph 7 of Schedule 4 to, the Regulation of Investigatory Powers Act 2000 ([c. 23](#)) and section 38 of the Criminal Justice Act 2003 ([c. 44](#)).

- (b) the defendant, unless to do so would in effect reveal something that either thinks ought not be disclosed.
- (5) The court may direct—
 - (a) the prosecutor to serve any such application on any person who the court considers would be directly affected if that material were disclosed; and
 - (b) the prosecutor and any such person to serve any representations on the defendant.
- (6) The court must review a decision to which this rule applies at a hearing which—
 - (a) must be in private, unless the court otherwise directs; and
 - (b) if the court so directs, may take place, wholly or in part, in the defendant’s absence.
- (7) At a hearing at which the defendant is present—
 - (a) the general rule is that the court must consider, in the following sequence—
 - (i) representations first by the defendant, and then by the prosecutor and any other person served with the application, in the presence of them all, and then
 - (ii) further representations by the prosecutor and any such other person in the defendant’s absence; but
 - (b) the court may direct other arrangements for the hearing.
- (8) The court may only conclude a review if satisfied that it has been able to take adequate account of—
 - (a) such rights of confidentiality as apply to the material; and
 - (b) the defendant’s right to a fair trial.

[Note. The court’s power to review a public interest ruling is provided for by sections 14 and 15 of the Criminal Procedure and Investigations Act 1996(3). Under section 14 of the Act, a magistrates’ court may reconsider an order for non-disclosure only if a defendant applies. Under section 15, the Crown Court may do so on an application, or on its own initiative.

See also sections 16 and 19 of the 1996 Act.]

Commencement Information

I3 Rule 15.6 in force at 5.10.2020, see Preamble

Defendant’s application to use disclosed material

- 15.7.—**(1) This rule applies where a defendant wants the court’s permission to use disclosed prosecution material—
- (a) otherwise than in connection with the case in which it was disclosed; or
 - (b) beyond the extent to which it was displayed or communicated publicly at a hearing.
- (2) The defendant must serve an application on—
- (a) the court officer; and
 - (b) the prosecutor.
- (3) The application must—
- (a) specify what the defendant wants to use or disclose; and

(3) 1996 c. 25; section 14 was amended by section 331 of, and paragraphs 20 and 30 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44) and section 15 was amended by section 331 of, and paragraphs 20 and 31 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44).

- (b) explain why.
- (4) The court may determine an application under this rule—
 - (a) at a hearing, in public or in private; or
 - (b) without a hearing.
- (5) The court must not permit the use of such material unless—
 - (a) the prosecutor has had at least 20 business days in which to make representations; and
 - (b) the court is satisfied that it has been able to take adequate account of any rights of confidentiality that may apply to the material.

[Note. The court's power to allow a defendant to use disclosed material is provided for by section 17 of the Criminal Procedure and Investigations Act 1996(4).

See also section 19 of the 1996 Act.]

Commencement Information

I4 Rule 15.7 in force at 5.10.2020, see Preamble

Unauthorised use of disclosed material

15.8.—(1) This rule applies where a person is accused of using disclosed prosecution material in contravention of section 17 of the Criminal Procedure and Investigations Act 1996.

(2) A party who wants the court to exercise its power to punish that person for contempt of court must comply with the rules in Part 48 (Contempt of court).

(3) The court must not exercise its power to forfeit material used in contempt of court unless—

- (a) the prosecutor; and
- (b) any other person directly affected by the disclosure of the material,

is present, or has had at least 10 business days in which to make representations.

[Note. Under section 17 of the Criminal Procedure and Investigations Act 1996, a defendant may use disclosed prosecution material—

- (a) *in connection with the case in which it was disclosed, including on an appeal;*
- (b) *to the extent to which it was displayed or communicated publicly at a hearing in public; or*
- (c) *with the court's permission.*

Under section 18 of the 1996 Act, the court can punish for contempt of court any other use of disclosed prosecution material. See also section 19 of the 1996 Act.]

Commencement Information

I5 Rule 15.8 in force at 5.10.2020, see Preamble

Court's power to vary requirements under this Part

15.9. The court may—

- (a) shorten or extend (even after it has expired) a time limit [^{F8}set by] this Part;

(4) 1996 c. 25; section 17 was amended by section 331 of, and paragraphs 20 and 33 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44).

- [^{F9}(b)] extend (before it expires) a time limit to which rule 15.4 (Defence disclosure) refers, under regulation 3 of the Criminal Procedure and Investigations Act 1996 (Defence Disclosure Time Limits) Regulations 2011;]
- [^{F10}(c)] allow a defence statement, or a defence witness notice, to be in a different written form to one [^{F11}issued under] the Practice Direction, as long as it contains what the Criminal Procedure and Investigations Act 1996 requires;
- [^{F10}(d)] allow an application under this Part to be in a different form to one [^{F12}issued under] the Practice Direction, or to be presented orally; and
- [^{F10}(e)] specify the period within which—
- (i) any application under this Part must be made, or
 - (ii) any material must be disclosed, on an application to which rule 15.5 applies (Defendant’s application for prosecution disclosure).

F13 ...

Textual Amendments

- F8** Words in rule 15.9(a) substituted (1.4.2024) by [The Criminal Procedure \(Amendment\) Rules 2024 \(S.I. 2024/62\)](#), [rules 1, 7\(f\)\(i\)](#)
- F9** Rule 15.9(b) inserted (1.4.2024) by [The Criminal Procedure \(Amendment\) Rules 2024 \(S.I. 2024/62\)](#), [rules 1, 7\(f\)\(iii\)](#)
- F10** Rule 15.9(b)-(d) renumbered as rule 15.9(c)-(e) (1.4.2024) by [The Criminal Procedure \(Amendment\) Rules 2024 \(S.I. 2024/62\)](#), [rules 1, 7\(f\)\(ii\)](#)
- F11** Words in rule 15.9(b) substituted (2.10.2023) by [The Criminal Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/786\)](#), [rule 1, Sch. para. 9](#)
- F12** Words in rule 15.9(c) substituted (2.10.2023) by [The Criminal Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/786\)](#), [rule 1, Sch. para. 9](#)
- F13** Rule 15.9 Notes omitted (1.4.2024) by virtue of [The Criminal Procedure \(Amendment\) Rules 2024 \(S.I. 2024/62\)](#), [rules 1, 7\(g\)](#)

Commencement Information

- I6** Rule 15.9 in force at 5.10.2020, see Preamble

Changes to legislation:

There are currently no known outstanding effects for the The Criminal Procedure Rules 2020, PART 15.