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STATUTORY INSTRUMENTS

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**2020 No. 759**

The Criminal Procedure Rules 2020

PART 2

[<sup>F1</sup>UNDERSTANDING AND APPLYING THE RULES; POWERS AND  
DUTIES OF COURT OFFICERS AND JUSTICES' LEGAL ADVISERS]

**Textual Amendments**

**F1** Pt. 2 heading substituted (2.10.2023) by [The Criminal Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/786\)](#), rules 1, **3(a)**

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Status: Point in time view as at 01/04/2024.

Changes to legislation: There are currently no known outstanding effects for the The Criminal Procedure Rules 2020, PART 2. (See end of Document for details)

UNDERSTANDING AND APPLYING THE RULES

When the Rules apply

2.1.—(1) In general, Criminal Procedure Rules apply—

- (a) in all criminal cases in magistrates’ courts and in the Crown Court;
(b) in extradition cases in the High Court; and
(c) in all cases in the criminal division of the Court of Appeal.

(2) If a rule applies only in one or some of those courts, the rule makes that clear.

(3) These Rules apply on and after 5th October, 2020, but unless the court otherwise directs, they do not affect a right or duty existing under the Criminal Procedure Rules 2015(1).

[F4(4) The amendments to Part 14 of these Rules (Bail and custody time limits) made by rule 7(a) and (b) of the Criminal Procedure (Amendment) Rules 2023 do not apply in relation to a defendant arrested before 28th October, 2022, for an offence, or in relation to such a defendant who on or after that date is arrested again in relation to that offence under—

- (a) section 46A of the Police and Criminal Evidence Act 1984 (arrest for failure to attend at a police station as required by police bail, or failure to comply with a condition of such bail); or
(b) section 24A of the Criminal Justice Act 2003 (arrest for failure to comply with a condition attached to a conditional caution).]

F5(5) .....

F6(6) .....

[Note. The rules replaced by the first Criminal Procedure Rules (the Criminal Procedure Rules 2005(2)) were revoked when those Rules came into force by provisions of the Courts Act 2003, the Courts Act 2003 (Consequential Amendments) Order 2004(3) and the Courts Act 2003 (Commencement No. 6 and Savings) Order 2004(4). The first Criminal Procedure Rules reproduced the substance of all the rules they replaced.

F7 .....

[F8 Amendments made by the Police, Crime, Sentencing and Courts Act 2022 to the pre-charge bail provisions of the Police and Criminal Evidence Act 1984 came into force on 28th October, 2022. Under section 45(3) of the 2022 Act, those amendments do not apply in the circumstances described in paragraph (4) of this rule.]]

Textual Amendments

- F4 Rule 2.1(4) inserted (3.4.2023) by The Criminal Procedure (Amendment) Rules 2023 (S.I. 2023/44), rules 1, 3(a)
F5 Rule 2.1(5) omitted (15.8.2022) by virtue of The Criminal Procedure (Amendment No. 2) Rules 2022 (S.I. 2022/815), rules 2(a), 4(b)(i)
F6 Rule 2.1(6) omitted (15.8.2022) by virtue of The Criminal Procedure (Amendment No. 2) Rules 2022 (S.I. 2022/815), rules 2(a), 4(b)(i)

(1) S.I. 2015/1490; amended by S.I. 2016/120, 2016/705, 2017/144, 2017/282, 2017/755, 2017/915, 2018/132, 2018/847, 2019/143, 2019/908, 2019/1119, 2020/32, 2020/417.
(2) S.I. 2005/384; amended by S.I. 2006/353, 2006/2636, 2007/699, 2007/2317, 2007/3662, 2008/2076, 2008/3269 and 2009/2087.
(3) S.I. 2004/2035.
(4) S.I. 2004/2066.

- F7** Words in rule 2.1 omitted (15.8.2022) by virtue of [The Criminal Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/815\)](#), rules 2(a), 4(b)(ii)
- F8** Words in rule 2.1 inserted (3.4.2023) by [The Criminal Procedure \(Amendment\) Rules 2023 \(S.I. 2023/44\)](#), rules 1, 3(b)

#### **Commencement Information**

- I1** Rule 2.1 in force at 5.10.2020, see Preamble

### **Definitions**

**2.2.—(1)** In these Rules, unless the context makes it clear that something different is meant:

‘advocate’ means a person who is entitled to exercise a right of audience in the court under section 13 of the Legal Services Act 2007<sup>(5)</sup>;

‘authorised court officer’ has the meaning given by rule 2.4;

‘business day’ means any day except Saturday, Sunday, Christmas Day, Boxing Day, Good Friday, Easter Monday or a bank holiday;

‘court’ means a tribunal with jurisdiction over criminal cases. It includes a judge, recorder, District Judge (Magistrates’ Court), lay justice and, when exercising their judicial powers, the Registrar of Criminal Appeals and an authorised court officer;

‘court officer’ means the appropriate member of the staff of a court;

‘justices’ legal adviser’ means a person authorised under section 28 of the Courts Act 2003<sup>(6)</sup> to give advice about law to justices of the peace;

‘legal representative’ means:

- (i) the person for the time being named as a party’s representative in any legal aid representation order made under section 16 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012<sup>(7)</sup>, or
- (ii) subject to that, the person named as a party’s representative in any notice for the time being given under rule 46.2 (Notice of appointment, etc. of legal representative: general rules), provided that person is entitled to conduct litigation in the court under section 13 of the Legal Services Act 2007;

[<sup>F9</sup>‘live link direction’ means a direction that:

- (i) under section 51(1) of the Criminal Justice Act 2003 requires or permits a person to take part through a live audio link or a live video link in the proceedings listed in section 51(3) of that Act, or
- (ii) under section 206A of the Extradition Act 2003 requires a person to take part through a live link in a hearing in proceedings under Part 1 or Part 2 of that Act;]

‘live link direction’ means a direction that requires or permits a person to take part through a live audio link or a live video link in the proceedings listed in section 51(3) of the Criminal Justice Act 2003;

‘Practice Direction’ means the Lord Chief Justice’s Criminal Practice Directions, as amended, and ‘Criminal Costs Practice Direction’ means the Lord Chief Justice’s Practice Direction (Costs in Criminal Proceedings), as amended;

(5) 2007 c. 29.

(6) 2003 c. 39; section 28 is substituted by section 3 of, and paragraph 26 of the Schedule to, the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018 (c. 33).

(7) 2012 c. 10.

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‘public interest ruling’ means a ruling about whether it is in the public interest to disclose prosecution material under sections 3(6), 7A(8) or 8(5) of the Criminal Procedure and Investigations Act 1996<sup>(8)</sup>; and

‘Registrar’ means the Registrar of Criminal Appeals or a court officer exercising a function of the Registrar.

(2) [<sup>F10</sup>Special definitions and definitions] of some other expressions are in the rules in which they apply.

[Note. The glossary at the end of the Rules is a guide to the meaning of certain legal expressions used in them.]

#### Textual Amendments

**F9** Words in rule 2.2(1) substituted (1.4.2024) by [The Criminal Procedure \(Amendment\) Rules 2024 \(S.I. 2024/62\)](#), rules 1, **3(a)**

**F10** Words in rule 2.2(2) substituted (15.8.2022) by [The Criminal Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/815\)](#), rules 2(a), **4(c)(ii)**

#### Commencement Information

**I2** Rule 2.2 in force at 5.10.2020, see Preamble

### References to legislation, including these Rules

**2.3.—**(1) In these Rules, where a rule refers to an Act of Parliament or to subordinate legislation by title and year, subsequent references to that Act or to that legislation in the rule are shortened: so, for example, after a reference to the Criminal Procedure and Investigations Act 1996<sup>(9)</sup> that Act is called ‘the 1996 Act’; and after a reference to the Criminal Procedure and Investigations Act 1996 (Defence Disclosure Time Limits) Regulations 2011<sup>(10)</sup> those Regulations are called ‘the 2011 Regulations’.

(2) In the courts in which these Rules apply—

(a) unless the context makes it clear that something different is meant, a reference to the Criminal Procedure Rules, without reference to a year, is a reference to the Criminal Procedure Rules in force at the date on which the event concerned occurs or occurred;

(b) a reference to the Criminal Procedure Rules may be abbreviated to ‘CrimPR’; and

(c) a reference to a Part or rule in the Criminal Procedure Rules may be abbreviated to, for example, ‘CrimPR Part 3’ or ‘CrimPR 3.5’.

#### Commencement Information

**I3** Rule 2.3 in force at 5.10.2020, see Preamble

<sup>(8)</sup> 1996 c. 25; section 7A was inserted by section 37 of the Criminal Justice Act 2003 (c. 44).

<sup>(9)</sup> 1996 c. 25.

<sup>(10)</sup> S.I. 2011/209.

## POWERS OF AUTHORISED COURT OFFICERS

### Exercise of court's functions by authorised court officers: general rules

**2.4.**—(1) This rule and rules 2.5, 2.6, 2.7, 2.8 and 2.9 provide for the exercise of relevant judicial functions within the meaning of section 67A of the Courts Act 2003**(11)**—

- (a) in a court in which these Rules apply; and
  - (b) by a person authorised for the purpose by the Lord Chief Justice under section 67B of that Act**(12)**.
- (2) In this rule and in rules 2.5, 2.6, 2.7, 2.8 and 2.9—
- (a) ‘authorised court officer’ means any such person; and
  - (b) a reference to an authorised court officer who is legally qualified is a reference to one who has such qualifications as are for the time being prescribed by regulations made under section 28(3) of the Courts Act 2003.
- (3) No court officer may—
- (a) authorise a person’s committal to prison;
  - (b) authorise a person’s arrest (but that exclusion does not apply to the issue of a warrant of arrest, whether or not endorsed for bail, to secure that a person attends court proceedings relating to an offence of which the person has been accused or convicted in a case in which no objection is made by or on behalf of that person to the issue of the warrant);
  - (c) grant or withhold bail, except to the extent that rule 2.6 or rule 2.8 allows;
  - (d) adjudicate on guilt, or on the act or omission with which a defendant is charged, except to the extent of—
    - (i) acquitting a defendant against whom the prosecutor offers no evidence,
    - (ii) convicting a defendant who pleads guilty, or
    - (iii) giving a prosecutor permission to withdraw a case;
  - (e) determine the admissibility of evidence;
  - (f) set ground rules for the conduct of questioning where rule 3.8(6), (7) (directions for the appropriate treatment and questioning of a witness or the defendant) applies;
  - (g) make findings of fact for the purpose of sentence, defer or pass sentence, impose a penalty or commit a defendant to the Crown Court for sentence;
  - (h) make an order for a party or other person to pay costs, unless that party or person agrees;
  - (i) make any other order consequent upon acquittal, conviction or a finding that the accused did the act or made the omission charged, except to the extent that rule 2.8 allows;
  - (j) vary, discharge, remit, remove, revoke, review or suspend a sentence, penalty or other order consequent on acquittal or conviction, except to the extent that rule 2.8 allows;
  - (k) order the search, confiscation, restraint, detention or seizure of property except to the extent that rule 2.8 allows;
  - (l) determine an appeal or reference to an appeal court, or an application for permission to appeal or refer, except to the extent that rule 2.6 allows; or
  - (m) determine an allegation of contempt of court.

**(11)** 2003 c. 39; section 67A is inserted by section 3 of, and paragraph 32 of the Schedule to, the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018 (c. 33).

**(12)** 2003 c. 39; section 67B is inserted by section 3 of, and paragraph 32 of the Schedule to, the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018 (c. 33).

*Status: Point in time view as at 01/04/2024.*

*Changes to legislation: There are currently no known outstanding effects for the  
The Criminal Procedure Rules 2020, PART 2. (See end of Document for details)*

(4) An authorised court officer may exercise a relevant judicial function for which rule 2.5, 2.6, 2.7, 2.8 or 2.9 provides—

- (a) only subject to the same conditions as apply to its exercise by the court or person whose function it is; and
- (b) where a party affected by the exercise of that function is entitled to make representations before its exercise, only if each such party has had a reasonable opportunity to make such representations—
  - (i) in writing, or
  - (ii) at a hearing (whether or not that party in fact attends).

(5) Unless the context makes it clear that something different is meant, provision in rule 2.5, 2.6, 2.7, 2.8 or 2.9 permitting the exercise of a relevant judicial function by an authorised court officer includes a power to decline to exercise that function.

*[Note. Under section 67A of the Courts Act 2003, ‘relevant judicial function’ means a function of a court to which the general duty of the Lord Chancellor under section 1 of that Act applies and a judicial function of a person holding an office that entitles the person to exercise functions of such a court, but does not include in a court in which Criminal Procedure Rules apply—*

- (a) *any function so far as its exercise involves authorising a person’s committal to prison; or*
- (b) *any function so far as its exercise involves authorising a person’s arrest, except the issue of a warrant of arrest (whether or not endorsed for bail) to secure that a person attends court proceedings relating to an offence of which the person has been accused or convicted in a case in which no objection is made by or on behalf of that person to the issue of the warrant.*

*Under section 67B of the 2003 Act, in a court in which Criminal Procedure Rules apply the Rules may provide for the exercise of relevant judicial functions by persons who are appointed under section 2(1) of that Act and who satisfy any requirements specified in the Rules as to qualifications or experience. Such a person may exercise such a function only if authorised to do so by the Lord Chief Justice.*

*Section 28 of the 2003 Act provides for persons authorised by the Lord Chief Justice to give advice to justices of the peace about matters of law. Such a person may be authorised for that purpose only if appointed under section 2(1) of that Act and possessed of such qualifications as may be prescribed by regulations made under section 28. See also rule 2.2 (Definitions).]*

#### **Commencement Information**

**I4** Rule 2.4 in force at 5.10.2020, see Preamble

### **Exercise of functions of the Court of Appeal**

**2.5.—(1)** This rule provides for the exercise by an authorised court officer of relevant judicial functions of—

- (a) the criminal division of the Court of Appeal; and
  - (b) the Registrar of Criminal Appeals.
- (2) Subject to rule 2.4, an authorised court officer may exercise—
- (a) any function of the criminal division of the Court of Appeal that may be exercised by the Registrar of Criminal Appeals; and
  - (b) any other judicial function of the Registrar.

- (3) Where an authorised court officer exercises a function of the court—
- (a) the same provision as that made by section 31A(4) or section 31C(3), as the case may be, of the Criminal Appeal Act 1968(13) applies as if that function had been exercised by the Registrar; and
  - (b) rule 36.5 (Renewing an application refused by a judge or the Registrar) applies.

[Note. See also rule 2.4, which makes general rules about the exercise of judicial functions by authorised court officers.

For the functions of the criminal division of the Court of Appeal that may be exercised by the Registrar of Criminal Appeals, see sections 31A and 31B of the Criminal Appeal Act 1968(14). For other functions of the Registrar, see section 21 of that Act(15).

Sections 31A(4) and 31C(3) of the 1968 Act provide for the reconsideration by a judge of a decision by the Registrar to which those provisions apply.]

#### Commencement Information

15 Rule 2.5 in force at 5.10.2020, see Preamble

### Exercise of functions of the High Court

2.6.—(1) This rule provides for the exercise by an authorised court officer of relevant judicial functions of the High Court in relation to its jurisdiction under the Extradition Act 2003(16).

(2) An authorised court officer may exercise any such function of the High Court to which the rules in Section 3 of Part 50 apply (Extradition; Appeal to the High Court), subject to—

- (a) rule 2.4; and
  - (b) paragraph (3) of this rule.
- (3) No court officer may—
- (a) grant or withhold bail;
  - (b) impose or vary a condition of bail; or
  - (c) reopen a decision which determines an appeal or an application for permission to appeal, unless paragraph (4) applies.
- (4) If making a decision to which the parties have agreed in writing, an authorised court officer may—
- (a) give or refuse permission to appeal;
  - (b) determine an appeal;
  - (c) grant or withhold bail; or
  - (d) impose or vary a condition of bail.
- (5) Paragraph (6) of this rule—

(13) 1968 c. 19; section 31A was inserted by section 6 of the Criminal Appeal Act 1995 (c. 35) and amended by sections 87 and 109 of, and Schedule 10 to, the Courts Act 2003 (c. 39) and paragraphs 86 and 88 of Schedule 36 to the Criminal Justice Act 2003 (c. 44). Section 31C was inserted by section 87 of the Courts Act 2003 (c. 39) and amended by sections 47 and 149 of, and paragraphs 1 and 12 of Schedule 8 and part 3 of Schedule 28 to, the Criminal Justice and Immigration Act 2008 (c. 4).

(14) 1968 c. 19; section 31B was inserted by section 87 of the Courts Act 2003 (c. 39).

(15) 1968 c. 19.

(16) 2003 c. 41.

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*Changes to legislation: There are currently no known outstanding effects for the Criminal Procedure Rules 2020, PART 2. (See end of Document for details)*

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- (a) applies where a party wants a judge to reconsider a decision made by an authorised court officer; but
  - (b) does not apply where such an officer agrees to postpone the date on which the required period for extradition begins under section 36(3) of the Extradition Act 2003(17).
- (6) Such a party must—
- (a) apply for such a reconsideration as soon as reasonably practicable, and in any event no later than the earlier of—
    - (i) the next hearing before a judge, or
    - (ii) the fifth business day after the date on which notice of the decision is served on the applicant;
  - (b) unless the application is made at a hearing, serve the application on—
    - (i) the court officer, and
    - (ii) each other party (if any) affected by the decision; and
  - (c) in the application—
    - (i) specify the decision in issue,
    - (ii) explain why it is appropriate for the decision to be reconsidered and what decision the applicant thinks would be appropriate, and
    - (iii) ask for a hearing, if one is wanted, and explain why it is needed.
- (7) The judge may determine the application—
- (a) at a hearing (which may be in public or private), or without a hearing; and
  - (b) in the absence of—
    - (i) the applicant,
    - (ii) each other party (if any) affected by the decision.
- (8) But the judge must not determine the application in the absence of an affected party unless that party has had—
- (a) such notice as the nature and urgency of the application permits; and
  - (b) a reasonable opportunity to make written representations.

*[Note. See also—*

- (a) *rule 2.4, which makes general rules about the exercise of judicial functions by authorised court officers;*
- (b) *rule 2.10, which provides for extension of the time limit under this rule;*
- (c) *rule 3.6 (Application to vary a direction); and*
- (d) *rule 50.18 (Case management in the High Court).*

*For the functions of the High Court for which this rule provides, see the introductory note to Section 3 of Part 50. See also rule 50.30 for the constitution of the High Court when exercising the powers to which that Section of that Part applies.*

*Under section 36 of the Extradition Act 2003, where an extradition order has been made under Part 1 of the Act and the outcome of an appeal by the defendant is that he or she is to be extradited, then unless the requesting authority and the High Court agree to postpone that starting date the defendant must be removed to the requesting territory within 10 days starting with the*

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(17) 2003 c. 41; section 36 was amended by section 40 of, and paragraph 81 of Schedule 9 to, the Constitutional Reform Act 2005 (c. 4).



*day on which the decision of the relevant court on the appeal becomes final or proceedings on the appeal are discontinued.]*

#### **Commencement Information**

**I6** Rule 2.6 in force at 5.10.2020, see Preamble

### **Exercise of functions of the Crown Court**

**2.7.**—(1) This rule provides for the exercise by an authorised court officer of relevant judicial functions of the Crown Court in a criminal cause or matter.

(2) Subject to rule 2.4 and to paragraph (3) of this rule, an authorised court officer may—

(a) determine an application to extend a time limit set by a rule or by a judge, including a time limit for the conduct of confiscation proceedings, unless the effect would be—

(i) to affect the date of any hearing that has been fixed, including a trial, or

(ii) significantly to affect the progress of the case in any other way;

[<sup>F11</sup>(b) give a live link direction under section 51 of the Criminal Justice Act 2003 for the participation of a defendant in custody in a preliminary hearing, a sentencing hearing or an enforcement hearing; and]

(c) exercise the court’s functions listed in rule 23.2 (Appointment of advocate to cross-examine witness) and select such an advocate as that rule describes (but a court officer may not decline to select such an advocate where that rule applies).

(3) An authorised court officer may not exercise a function of the court in a case in which a judge so directs.

(4) Paragraph (5) of this rule applies where a party or an advocate appointed under rule 23.2 (Appointment of advocate to cross-examine witness) wants a judge to reconsider a decision made by an authorised court officer.

(5) Such a party or advocate must—

(a) apply for such a reconsideration as soon as reasonably practicable, and in any event no later than the earlier of—

(i) the next hearing before a judge, or

(ii) the tenth business day after the date on which notice of the decision is served on the applicant;

(b) unless the application is made at a hearing, serve the application on—

(i) the court officer, and

(ii) each other party (if any) affected by the decision; and

(c) in the application—

(i) specify the decision in issue,

(ii) explain why it is appropriate for the decision to be reconsidered and what decision the applicant thinks would be appropriate, and

(iii) ask for a hearing, if one is wanted, and explain why it is needed.

(6) The judge may determine the application—

(a) at a hearing (which may be in public or private), or without a hearing; and

(b) in the absence of—

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- (i) the applicant,
- (ii) each other party (if any) affected by the decision.

(7) But the judge must not determine the application in the absence of an affected party unless that party has had—

- (a) such notice as the nature and urgency of the application permits; and
- (b) a reasonable opportunity to make representations.

[Note. See also—

- (a) *rule 2.4, which makes general rules about the exercise of judicial functions by authorised court officers;*
- (b) *rule 2.10, which provides for extension of the time limit under this rule; and*
- (c) *rule 3.6 (Application to vary a direction).*

*For the constitution and powers of the Crown Court, see the note to rule 25.1 (Trial and sentence in the Crown Court; When this Part applies).]*

#### Textual Amendments

**F11** Rule 2.7(2)(b) substituted (15.8.2022) by [The Criminal Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/815\)](#), rules 2(a), **4(d)**

#### Commencement Information

**I7** Rule 2.7 in force at 5.10.2020, see Preamble

### Exercise of functions of a magistrates' court

**2.8.**—(1) This rule provides for the exercise by an authorised court officer of relevant judicial functions of a magistrates' court in a criminal cause or matter.

- (2) Subject to rule 2.4 and to paragraph (12) of this rule, an authorised court officer may—
- (a) fix, cancel or vary the date, time or place for a hearing, including a trial, or adjourn a hearing;
  - (b) adjourn, remit or transfer proceedings from one local justice area to another;
  - (c) determine an application to extend a time limit set by a rule or by the court, unless the effect would be—
    - (i) to affect the date of any hearing that has been fixed, including a trial, or
    - (ii) significantly to affect the progress of the case in any other way;
  - (d) issue a summons at the request of a public prosecutor, or under section 16B of the Magistrates' Courts Act 1980(**18**) (Cases not tried in accordance with section 16A) or section 83 of that Act(**19**) (Process for securing attendance of offender);
  - (e) give a prosecutor permission to withdraw a case;
  - (f) grant bail where the defendant already is on bail and—
    - (i) the conditions, if any, to which that bail is subject will remain the same, or
    - (ii) bail conditions will be varied or imposed with both parties' agreement;

**(18)** 1980 c. 43; section 16B was inserted by section 48 of the Criminal Justice and Courts Act 2015 (c. 2).

**(19)** 1980 c. 43; section 83 was amended by articles 46 and 47 of [S.I. 2006/1737](#) and sections 97(2) and 106 of, and Part V (table 8) of Schedule 15 to, the Access to Justice Act 1999 (c. 22).

- (g) give consent for another magistrates' court to deal with a defendant for an offence in respect of which the defendant, when an adult, was discharged conditionally;
  - (h) order a convicted defendant to produce his or her driving licence;
  - (i) require a statement of the defendant's assets and other financial circumstances;
  - (j) amend an attendance centre order to—
    - (i) vary the day or hour specified in that order for the defendant's first attendance, or
    - (ii) substitute an alternative centre;
  - (k) amend the local justice area or responsible officer named in an order of the court;
  - (l) amend a sentence or order by requiring it to be completed in Northern Ireland or Scotland;
  - (m) extend the time for service of a statutory declaration to which applies—
    - (i) rule 44.2 (Statutory declaration of ignorance of proceedings), or
    - (ii) rule 29.4 (Statutory declaration to avoid fine after fixed penalty notice);
  - (n) fix a later time at which a defendant must attend court for the purposes of an enquiry or hearing under section 82 of the Magistrates' Courts Act 1980(20) (Restriction on power to impose imprisonment for default);
  - (o) conduct a means enquiry;
  - (p) make a collection order;
  - (q) issue a warrant of control;
  - (r) extend the time for payment of a fine or sum to which Part 30 (Enforcement of fines and other orders for payment) applies;
  - (s) vary an order for the payment by instalments of such a fine or sum;
  - (t) make a transfer of fine order;
  - (u) make a disclosure order under section 125CA Magistrates' Courts Act 1980(21) (Power to make disclosure order) for the purposes of securing the execution of a warrant;
  - (v) make an attachment of earnings order;
  - (w) make or withdraw an application for deductions to be made from a defendant's benefit payments; and
  - (x) take any step listed in paragraph 38 of Schedule 5 to the Courts Act 2003(22) (range of further steps available against defaulters).
- (3) In addition to the functions listed in paragraph (2), subject to rule 2.4 and to paragraph (12) of this rule an authorised court officer who is legally qualified may exercise the other functions of a magistrates' court listed in paragraphs (4) to (11).
- (4) In connection with the rules about general matters (Parts 1 to 6)—

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(20) 1980 c. 43; section 82 was amended by section 77 of, and paragraph 52 of Schedule 14 to, the Criminal Justice Act 1982 (c. 48), sections 61 and 123 of, and paragraphs 1 and 2 of Schedule 8 to, the Criminal Justice Act 1988 (c. 33), section 55 of and paragraph 10 of Schedule 4 to the Crime (Sentences) Act 1997 (c. 43), paragraph 220 of Schedule 8 to the Courts Act 2003 (c. 39), section 62 of, and paragraphs 45 and 51 of Schedule 13 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15) and section 179 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12) and section 54 of, and paragraphs 2 and 3 of Schedule 12 to, the Criminal Justice and Courts Act 2015 (c. 2). It is further amended by paragraphs 58 and 63 of Part II of Schedule 7 to the Criminal Justice and Court Services Act 2000 (c. 43) and Part 7 of Schedule 37 to the Criminal Justice Act 2003 (c. 44), with effect from dates to be appointed.

(21) 1980 c. 43; section 125CA was inserted by section 28 of the Domestic Violence, Crime and Victims Act 2004 (c. 28) and amended by section 62 of, and paragraphs 45 and 60 of Schedule 13 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(22) 2003 c. 39; paragraph 38 of Schedule 5 was amended by articles 2, 4 and 26 of S.I. 2006/1737, section 62 of, and paragraphs 148 and 149 of Schedule 13 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15), section 80 of the Criminal Justice and Immigration Act 2008 (c. 4) and section 88 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).

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- (a) exercising the powers to which section 50 of the Crime and Disorder Act 1998(23) (Early administrative hearings) refers, where that section applies and subject to the restrictions that it contains;
- [<sup>F12</sup>(b) giving, varying or revoking a live link direction under sections 51 and 52 of the Criminal Justice Act 2003 for the participation of a defendant in custody in a preliminary hearing, a sentencing hearing or an enforcement hearing;]
- (c) determining an application to extend a time limit set by a rule or by the court;
- (d) giving, varying or revoking an order for separate or joint trials in respect of two or more defendants or two or more offences, if all parties agree;
- (e) giving, varying or revoking directions for the conduct of proceedings, including—
  - (i) the timetable for the case,
  - (ii) the attendance of the parties,
  - (iii) the service of documents (including summaries of any legal arguments relied on by the parties),
  - (iv) the manner in which evidence is to be given, insofar as this rule makes no other provision and except the making, varying or revocation of a witness anonymity order;
- [<sup>F13</sup>(f) directing the correction of a court record under rule 5.4(4) (correction of inaccuracy in court record);]
- [<sup>F14</sup>(g)] where rule 5.10 applies (Request for information determined by the court)—
  - (i) directing service of a request under rule 5.10(2)(a)(ii) (service on a person not specified by the rule),
  - (ii) extending the period for objection under rule 5.10(3), and
  - (iii) determining a request referred to the court under rule 5.9(7) (Request for information by a party or person directly affected by a case) where no notice of objection is given within the time for which rule 5.10(3) provides;
- [<sup>F14</sup>(h)] imposing a reporting restriction under section 45 of the Youth Justice and Criminal Evidence Act 1999(24) (identity of a person under 18) where there is no objection to the order;
- [<sup>F14</sup>(i)] giving permission for proceedings to be recorded; and
- [<sup>F14</sup>(j)] asking a court security officer to remove a person from a courtroom.
- (5) In connection with the rules about preliminary proceedings (Parts 7 to 12)—
  - (a) issuing a summons and giving directions for service;
  - (b) under section 4 of the Summary Jurisdiction (Process) Act 1881(25), endorsing a summons or warrant issued by a court in Scotland;
  - (c) giving a prosecutor permission to withdraw a charge;
  - (d) dismissing a prosecution where the prosecutor offers no evidence;
  - (e) amending a charge; and

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(23) 1998 c. 37; section 50 was amended by section 106 of, and Schedule 15 to, the Access to Justice Act 1999 (c. 22), sections 41 and 332 of, and paragraphs 15 and 16 of Schedule 3 and Part 4 of Schedule 37 to, the Criminal Justice Act 2003 (c. 44), regulation 8 of S.I. 2006/2493 and section 39 of, and paragraphs 46 and 47 of Schedule 5 to, the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10). It is further amended by section 3 of, and paragraphs 20 and 22 of the Schedule to, the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018 (c. 33).

(24) 1999 c. 23.

(25) 1881 c. 24.

- (f) sending a defendant to the Crown Court for trial where the only condition for sending is—
  - (i) that prescribed by section 51(2)(a), of the Crime and Disorder Act 1998(26) (offence triable only on indictment other than one in respect of which notice is given under section 51B or 51C of that Act(27)), or
  - (ii) the service of a notice under section 51B or 51C of that Act (prosecutor’s notice requiring sending for trial in a case of serious or complex fraud or a case in which a child is to be called as a witness).
- (6) In connection with the rules about custody and bail (Parts 13 and 14)—
  - (a) issuing or withdrawing a warrant for a person’s arrest to secure that the person attends court proceedings relating to an offence of which the person has been accused or convicted in a case in which no objection is made by or on behalf of that person to the issue of the warrant; and
  - (b) granting bail where—
    - (i) the defendant is present,
    - (ii) the prosecutor agrees to the grant of bail, and
    - (iii) the conditions, if any, to which that bail will be subject will remain the same as before, or will be varied or imposed with the parties’ agreement.
- (7) In connection with the rules about evidence (Parts 16 to 23)—
  - (a) requiring a person who has made a written statement to attend before the court to give evidence;
  - (b) issuing a witness summons and giving directions for its service; and
  - (c) exercising the court’s functions listed in rule 23.2 (Appointment of advocate to cross-examine witness) and appointing such an advocate as that rule describes (but a court officer may not decline to appoint such an advocate where that rule applies).
- (8) In connection with the rules about trial (Parts 24 to 27)—
  - (a) convicting a defendant who has pleaded guilty;
  - (b) requesting a pre-sentence report where a defendant pleads guilty; and
  - (c) directing the commissioning of a medical report.
- (9) In connection with the rules about appeal (Parts 34 to 44)—
  - (a) stating a case for the opinion of the High Court where the decision under appeal was made by an authorised court officer; and
  - (b) requiring the appellant to enter into a recognizance under section 114 of the Magistrates’ Courts Act 1980(28) on an application to state a case for the opinion of the High Court.
- (10) In connection with the rules about costs (Part 45)—
  - (a) making or varying an order for a party to pay costs, if both parties agree;
  - (b) making or varying an order for another person to pay costs, if that person agrees; and

(26) 1998 c. 37; section 51 was substituted by paragraphs 15 and 18 of Schedule 3 to the Criminal Justice Act 2003 (c. 44) and amended by section 52 of the Criminal Justice and Courts Act 2015 (c. 2).

(27) 1998 c. 37; sections 51B and 51C were inserted by paragraphs 15 and 18 of Schedule 3 to the Criminal Justice Act 2003 (c. 44). Section 51B was amended by section 50 of, and paragraph 69 of Schedule 4 to, the Commissioners for Revenue and Customs Act 2005 (c. 11), paragraphs 46 and 48 of Schedule 5 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10) and article 3 of, and paragraphs 14 and 15 of Schedule 2 to, S.I. 2014/834. Section 51C was modified by section 63 of, and paragraph 36 of Schedule 6 to, the Serious Crime Act 2007 (c. 27) and amended by regulations 8 and 9 of S.I. 2016/244.

(28) 1980 c. 43; section 114 was amended by section 90 of, and paragraphs 95 and 113 of Schedule 13 to, the Access to Justice Act 1999 (c. 22) and section 109 of, and paragraph 235 of Schedule 8 to, the Courts Act 2003 (c. 39). It is further amended by section 3 of, and paragraphs 5 and 7 of the Schedule to, the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018 (c 33).

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- (c) making a costs order to which rule 45.4 (Costs out of central funds) applies.
- (11) In connection with the rules about other proceedings (Parts 46 to 50)—
- (a) making a legal aid representation order on an appeal against a refusal of legal aid (but a court officer may not decline to make such an order); and
- (b) determining an application for a change of legal representative.
- (12) An authorised court officer who is not a justices' legal adviser may not exercise a function of the court in a case in which a District Judge (Magistrates' Courts), a lay justice or a justices' legal adviser so directs.

[Note. See also—

- (a) rule 2.4, which makes general rules about the exercise of judicial functions by authorised court officers; and
- (b) rule 3.6 (Application to vary a direction).

*Under section 148 of the Magistrates' Courts Act 1980(29), the expression 'magistrates' court' means any justice or justices of the peace acting under any enactment or by virtue of their commission or under the common law. For a court's power to try an allegation of an offence, see the note to rule 24.1 (Trial and sentence in a magistrates' court; When this Part applies).*

*Under section 50 of the Crime and Disorder Act 1998(30), where a defendant has been charged with an offence at a police station the magistrates' court before whom he or she appears or is brought for the first time in relation to the charge may consist of a single justice; and where on such an occasion the powers of a single justice are exercised by an authorised court officer that court officer may not remand the defendant in custody or, without the consent of the prosecutor and the defendant, remand the defendant on bail on conditions other than those (if any) previously imposed.*

*Under section 8B(3) of the Magistrates' Courts Act 1980(31), a magistrates' court may discharge or vary (or further vary) a pre-trial ruling within the meaning of section 8A of that Act(32) if the court has given the parties an opportunity to be heard and if, among other things, there has been a material change of circumstances since the ruling was made or, if a previous application has been made, since the application (or last application) was made.*

*Under section 53(4) of the Courts Act 2003(33), a court security officer acting in the execution of that officer's duty may remove any person from a courtroom at the request of a judge or a justice of the peace.]*

#### Textual Amendments

- F12** Rule 2.8(4)(b) substituted (15.8.2022) by [The Criminal Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/815\)](#), rules 2(a), **4(e)**
- F13** Rule 2.8(4)(f) inserted (1.4.2024) by [The Criminal Procedure \(Amendment\) Rules 2024 \(S.I. 2024/62\)](#), rules 1, **3(b)(ii)**

- (29) 1980 c. 43; section 148 was amended by section 109 of, and paragraph 248 of Schedule 8 to, the Courts Act 2003 (c. 39).
- (30) 1998 c. 37; section 50 was amended by section 106 of, and Schedule 15 to, the Access to Justice Act 1999 (c. 22), sections 41 and 332 of, and paragraphs 15 and 16 of Schedule 3 and Part 4 of Schedule 37 to, the Criminal Justice Act 2003 (c. 44), regulation 8 of S.I. 2006/2493 and section 39 of, and paragraphs 46 and 47 of Schedule 5 to, the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10). It is further amended by section 3 of, and paragraphs 20 and 22 of the Schedule to, the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018 (c. 33).
- (31) 1980 c. 43; 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).
- (32) 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).
- (33) 2003 c. 39.

**F14** Rule 2.8(4)(f)-(i) renumbered as rule 2.8(4)(g)-(j) (1.4.2024) by [The Criminal Procedure \(Amendment\) Rules 2024 \(S.I. 2024/62\)](#), rules 1, **3(b)(i)**

**Commencement Information**

**I8** Rule 2.8 in force at 5.10.2020, see Preamble

**Exercise of functions of a District Judge (Magistrates' Courts) in extradition cases**

**2.9.**—(1) This rule provides for the exercise by an authorised court officer of relevant judicial functions of a District Judge (Magistrates' Courts) in a case to which Part 50 (Extradition) applies.

(2) Subject to rule 2.4, an authorised court officer who is legally qualified may—

- (a) fix, cancel or vary the date, time or place for a hearing, including an extradition hearing; and
- (b) determine an application to extend a time limit set by a rule or by the court, unless the effect would be—
  - (i) to affect the date of any hearing that has been fixed, including an extradition hearing, or
  - (ii) significantly to affect the progress of the case in any other way.

(3) An authorised court officer who is not a justices' legal adviser may not exercise a function of the court in a case in which a District Judge (Magistrates' Courts) or a justices' legal adviser so directs.

[Note. See also—

- (a) *rule 2.4, which makes general rules about the exercise of judicial functions by authorised court officers;*
- (b) *rule 3.6 (Application to vary a direction); and*
- (c) *rule 50.4 (Case management in the magistrates' court and duty of court officer).]*

**Commencement Information**

**I9** Rule 2.9 in force at 5.10.2020, see Preamble

**Court's power to extend time under rule 2.6 or rule 2.7**

**2.10.**—(1) The court may extend (even after it has expired) a time limit under rule 2.6 (Exercise of functions of the High Court) or rule 2.7 (Exercise of functions of the Crown Court).

(2) A party who wants an extension of time must—

- (a) apply when serving the application for which it is needed; and
- (b) explain the delay.

**Commencement Information**

**I10** Rule 2.10 in force at 5.10.2020, see Preamble



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## *[<sup>F15</sup>POWERS OF COURT OFFICERS TO TAKE STATUTORY DECLARATIONS*

### **Textual Amendments**

**F15** Rule 2.11 and cross-heading inserted (3.10.2022) by [The Criminal Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/815\)](#), rules 2, **4(f)**

### **Taking of statutory declarations by court officers**

- 2.11.**—(1) This rule applies to a statutory declaration required by—
- (a) rule 29.4 (Statutory declaration to avoid fine after fixed penalty notice); or
  - (b) rule 44.2 (Statutory declaration of ignorance of proceedings).
- (2) A court officer may take a statutory declaration to which this rule applies if that officer is—
- (a) a justices’ legal adviser;
  - (b) nominated for the purpose by a justices’ legal adviser; or
  - (c) authorised to exercise the function to which rule 2.8(2)(m) refers (extending time for the service of a statutory declaration).

*[Note. Section 2 of the Commissioners for Oaths Act 1889 allows rules that regulate the procedure of a court to authorise the taking of a statutory declaration by an officer of that court.]*

## *[<sup>F16</sup>JUSTICES’ LEGAL ADVISERS*

### **Textual Amendments**

**F16** Rule 2.12 and cross-heading inserted (2.10.2023) by [The Criminal Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/786\)](#), rules 1, **3(b)**

### **Duties of justices’ legal adviser**

**2.12.**—(1) This rule applies in relation to a magistrates’ court, including a youth court, that comprises a lay justice or lay justices.

- (2) A justices’ legal adviser—
- (a) must provide the court with any legal advice that it needs to carry out its functions, whether the court asks for that advice or not, including advice about—
    - (i) questions of law,
    - (ii) questions of mixed law and fact,
    - (iii) matters of practice and procedure,
    - (iv) relevant judicial decisions that bind the court,
    - (v) the process to be followed to reach a decision,
    - (vi) the process to be followed when sentencing,
    - (vii) the range of penalties and orders available when sentencing and the matters to be taken into account, in accordance with any sentencing guideline that applies, and
    - (viii) any other matter relevant to the case before the court;
  - (b) must allow the parties, if present, an opportunity to make representations to the court about that advice;



- (c) may ask questions of a party or witness on the court's behalf to clarify representations and evidence;
- (d) if necessary must assist the court with the formulation and recording of reasons for its decisions; and
- (e) may make announcements on the court's behalf, other than an announcement of—
  - (i) an allocation or sending decision,
  - (ii) an indication of likely sentence, or
  - (iii) a verdict or sentence.
- (3) To provide the legal advice required by paragraph (2)(a) a justices' legal adviser must—
  - (a) if necessary, attend the members of the court outside the courtroom; and
  - (b) in that event, inform the parties, if present, of any such advice given there.
- (4) A justices' legal adviser must assist a party who has no legal representative—
  - (a) to understand what the court requires and why;
  - (b) to provide information required by the court to prepare for trial or to carry out its other functions; and
  - (c) if necessary, to make representations to the court or to give evidence.
- (5) In performing the functions for which these Rules provide a justices' legal adviser—
  - (a) must avoid the appearance of advocacy for a party;
  - (b) must adhere to the same principles that apply to courts of independence, impartiality, integrity, propriety, competence, diligence and ensuring fair treatment; and
  - (c) may consult with other justices' legal advisers.

*[Note. Section 28 of the Courts Act 2003 provides for persons authorised by the Lord Chief Justice to give advice to justices of the peace about matters of law. Such a person may be authorised for that purpose only if appointed under section 2(1) of that Act and possessed of such qualifications as may be prescribed. Section 29 of the 2003 Act provides that the Lord Chief Justice may give directions to such a person but that, apart from that, such a person is not subject to the direction of the Lord Chancellor or anyone else when exercising functions under section 28.*

See also rule 2.2 (Definitions).

The following rules impose specific duties on a justices' legal adviser in addition to those listed in this rule—

- (a) rule 9.4 (duty of justices' legal adviser during allocation and sending for trial);
- (b) rule 14.3 (duty of justices' legal adviser in proceedings about bail and custody time limits);
- (c) rule 24.14 (duty of justices' legal adviser during trial and sentence in a magistrates' court);
- (d) rule 30.2 ((duty of justices' legal adviser in proceedings about the enforcement of fines and other orders for payment);
- (e) rule 35.4 (duty of justices' legal adviser on an application to a magistrates' court to state a case for the High Court); and
- (f) rule 47.25 (duty of justices' legal adviser on an application to a magistrates' court for a search warrant).]]

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