
STATUTORY INSTRUMENTS

2020 No. 759

The Criminal Procedure Rules 2020

PART 33

CONFISCATION AND RELATED PROCEEDINGS

GENERAL RULES

Interpretation

33.1. In this Part words and expressions used have the same meaning as in Part 2 of the Proceeds of Crime Act 2002 and:

‘document’ means anything in which information of any description is recorded;

‘hearsay evidence’ means evidence consisting of hearsay within the meaning of section 1(2) of the Civil Evidence Act 1995(1);

‘restraint proceedings’ means proceedings under sections 42 and 58(2) and (3) of the Proceeds of Crime Act 2002(2);

‘receivership proceedings’ means proceedings under sections 48, 49, 50, 51, 54(4), 59(2) and (3), 62 and 63 of the 2002 Act(3);

‘witness statement’ means a written statement signed by a person which contains the evidence, and only that evidence, which that person would be allowed to give orally.

Commencement Information

II Rule 33.1 in force at 5.10.2020, see Preamble

Calculation of time

33.2.—(1) This rule shows how to calculate any period of time for doing any act which is specified by this Part for the purposes of any proceedings under Part 2 of the Proceeds of Crime Act 2002 or by an order of the Crown Court in restraint proceedings or receivership proceedings.

(2) A period of time expressed as a number of days shall be computed as clear days.

(3) In this rule ‘clear days’ means that in computing the number of days—

(a) the day on which the period begins; and

(1) 1995 c. 38.

(2) 2002 c. 29; section 42 was amended by sections 74(2) and 92 of, and paragraphs 1 and 23 of Schedule 8, and Schedule 14 to, the Serious Crime Act 2007 (c. 27). Section 58(2) was amended by section 62(3) of, and paragraphs 142 and 143 of Schedule 13 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(3) 2002 c. 29; sections 49, 62 and 63 were amended by sections 74 and 82(1) of, and paragraphs 1, 29 and 30 of Schedule 8 to, the Serious Crime Act (c. 27). Section 59(2) was amended by section 62(3) of, and paragraphs 142 and 144 of Schedule 13 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

Status: Point in time view as at 03/10/2022.

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- (b) if the end of the period is defined by reference to an event, the day on which that event occurs,
are not included.
- (4) Where the specified period is 5 days or less and includes a day which is not a business day that day does not count.

Commencement Information

I2 Rule 33.2 in force at 5.10.2020, see Preamble

Court office closed

33.3. When the period specified by this Part, or by an order of the Crown Court under Part 2 of the Proceeds of Crime Act 2002, for doing any act at the court office falls on a day on which the office is closed, that act shall be in time if done on the next day on which the court office is open.

Commencement Information

I3 Rule 33.3 in force at 5.10.2020, see Preamble

Application for registration of Scottish or Northern Ireland order

33.4.—(1) This rule applies to an application for registration of an order under article 6 of the Proceeds of Crime Act 2002 (Enforcement in different parts of the United Kingdom) Order 2002(4).

- (2) The application may be made without notice.
- (3) The application must be in writing and may be supported by a witness statement which must—
- (a) exhibit the order or a certified copy of the order; and
 - (b) to the best of the witness's ability, give full details of the realisable property located in England and Wales in respect of which the order was made and specify the person holding that realisable property.
- (4) If the court registers the order, the applicant must serve notice of the registration on—
- (a) any person who holds realisable property to which the order applies; and
 - (b) any other person whom the applicant knows to be affected by the order.
- (5) The permission of the Crown Court under rule 33.10 (Service outside the jurisdiction) is not required to serve the notice outside England and Wales.

Commencement Information

I4 Rule 33.4 in force at 5.10.2020, see Preamble

Application to vary or set aside registration

33.5.—(1) An application to vary or set aside registration of an order under article 6 of the Proceeds of Crime Act 2002 (Enforcement in different parts of the United Kingdom) Order 2002 may be made to the Crown Court by—

(4) [S.I. 2002/3133](#).

- (a) any person who holds realisable property to which the order applies; and
- (b) any other person affected by the order.
- (2) The application must be in writing and may be supported by a witness statement.
- (3) The application and any witness statement must be lodged with the Crown Court.
- (4) The application must be served on the person who applied for registration at least 7 days before the date fixed by the court for hearing the application, unless the Crown Court specifies a shorter period.
- (5) No property in England and Wales may be realised in pursuance of the order before the Crown Court has decided the application.

Commencement Information

I5 Rule 33.5 in force at 5.10.2020, see Preamble

Register of orders

33.6.—(1) The Crown Court must keep, under the direction of the Lord Chancellor, a register of the orders registered under article 6 of the Proceeds of Crime Act 2002 (Enforcement in different parts of the United Kingdom) Order 2002.

(2) The register must include details of any variation or setting aside of a registration under rule 33.5 and of any execution issued on a registered order.

(3) If the person who applied for registration of an order which is subsequently registered notifies the Crown Court that the court which made the order has varied or discharged the order, details of the variation or discharge, as the case may be, must be entered in the register.

Commencement Information

I6 Rule 33.6 in force at 5.10.2020, see Preamble

Statements of truth

33.7.—(1) Any witness statement required to be served by this Part must be verified by a statement of truth contained in the witness statement.

(2) A statement of truth is a declaration by the person making the witness statement to the effect that the witness statement is true to the best of his knowledge and belief and that he made the statement knowing that, if it were tendered in evidence, he would be liable to prosecution if he wilfully stated in it anything which he knew to be false or did not believe to be true.

(3) The statement of truth must be signed by the person making the witness statement.

(4) If the person making the witness statement fails to verify the witness statement by a statement of truth, the Crown Court may direct that it shall not be admissible as evidence.

Commencement Information

I7 Rule 33.7 in force at 5.10.2020, see Preamble

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Use of witness statements for other purposes

33.8.—(1) Except as provided by this rule, a witness statement served in proceedings under Part 2 of the Proceeds of Crime Act 2002 may be used only for the purpose of the proceedings in which it is served.

(2) Paragraph (1) does not apply if and to the extent that—

- (a) the witness gives consent in writing to some other use of it;
- (b) the Crown Court gives permission for some other use; or
- (c) the witness statement has been put in evidence at a hearing held in public.

Commencement Information

I8 Rule 33.8 in force at 5.10.2020, see Preamble

Service of documents

33.9.—(1) Rule 49.1 (Notice required to accompany process served outside the United Kingdom and translations) shall not apply in restraint proceedings and receivership proceedings.

(2) An order made in restraint proceedings or receivership proceedings may be enforced against the defendant or any other person affected by it notwithstanding that service of a copy of the order has not been effected in accordance with Part 4 if the Crown Court is satisfied that the person had notice of the order by being present when the order was made.

Commencement Information

I9 Rule 33.9 in force at 5.10.2020, see Preamble

Service outside the jurisdiction

33.10.—(1) Where this Part requires a document to be served on someone who is outside England and Wales, it may be served outside England and Wales with the permission of the Crown Court.

(2) Where a document is to be served outside England and Wales it may be served by any method permitted by the law of the country in which it is to be served.

(3) Nothing in this rule or in any court order shall authorise or require any person to do anything in the country where the document is to be served which is against the law of that country.

(4) Where this Part requires a document to be served a certain period of time before the date of a hearing and the recipient does not appear at the hearing, the hearing must not take place unless the Crown Court is satisfied that the document has been duly served.

Commencement Information

I10 Rule 33.10 in force at 5.10.2020, see Preamble

Certificates of service

33.11.—(1) Where this Part requires that the applicant for an order in restraint proceedings or receivership proceedings serve a document on another person, the applicant must lodge a certificate of service with the Crown Court within 7 days of service of the document.

- (2) The certificate must state—
- (a) the method of service;
 - (b) the date of service; and
 - (c) if the document is served under rule 4.9 (Service by another method), such other information as the court may require when making the order permitting service by that method.
- (3) Where a document is to be served by the Crown Court in restraint proceedings and receivership proceedings and the court is unable to serve it, the court must send a notice of non-service stating the method attempted to the party who requested service.

Commencement Information

III Rule 33.11 in force at 5.10.2020, see Preamble

External requests and orders

33.12.—(1) The rules in this Part and in Part 42 (Appeal to the Court of Appeal in confiscation and related proceedings) apply with the necessary modifications to proceedings under the Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005⁽⁵⁾ in the same way that they apply to corresponding proceedings under Part 2 of the Proceeds of Crime Act 2002⁽⁶⁾.

(2) This table shows how provisions of the 2005 Order correspond with provisions of the 2002 Act.

<i>Article of the Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005</i>	<i>Section of the Proceeds of Crime Act 2002</i>
8	41
9	42
10	43
11	44
15	48
16	49
17	58
23	31
27	50
28	51
41	62
42	63
44	65
45	66

⁽⁵⁾ S.I. 2005/3181.

⁽⁶⁾ 2002 c. 29.

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

Commencement Information

I12 Rule 33.12 in force at 5.10.2020, see Preamble

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