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STATUTORY INSTRUMENTS

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**2020 No. 759**

**The Criminal Procedure Rules 2020**

**PART 11**

**DEFERRED PROSECUTION AGREEMENTS**

**Application to approve a proposal to enter an agreement**

**11.3.**—(1) This rule applies where a prosecutor wants the court to approve a proposal to enter an agreement.

(2) The prosecutor must—

- (a) apply in writing after the commencement of negotiations between the parties but before the terms of agreement have been settled; and
- (b) serve the application on—
  - (i) the court officer, and
  - (ii) the defendant.

(3) The application must—

- (a) identify the parties to the proposed agreement;
- (b) attach a proposed indictment setting out such of the offences listed in Part 2 of Schedule 17 to the Crime and Courts Act 2013 as the prosecutor is considering;
- (c) include or attach a statement of facts proposed for inclusion in the agreement, which must give full particulars of each alleged offence, including details of any alleged financial gain or loss;
- (d) include any information about the defendant that would be relevant to sentence in the event of conviction for the offence or offences;
- (e) specify the proposed expiry date of the agreement;
- (f) describe the proposed terms of the agreement, including details of any—
  - (i) monetary penalty to be paid by the defendant, and the time within which any such penalty is to be paid,
  - (ii) compensation, reparation or donation to be made by the defendant, the identity of the recipient of any such payment and the time within which any such payment is to be made,
  - (iii) surrender of profits or other financial benefit by the defendant, and the time within which any such sum is to be surrendered,
  - (iv) arrangement to be made in relation to the management or conduct of the defendant's business,
  - (v) co-operation required of the defendant in any investigation related to the offence or offences,
  - (vi) other action required of the defendant,

- (vii) arrangement to monitor the defendant's compliance with a term,
- (viii) consequence of the defendant's failure to comply with a term, and
- (ix) prosecution costs to be paid by the defendant, and the time within which any such costs are to be paid;
- (g) in relation to those terms, explain how they comply with—
  - (i) the requirements of the code issued under paragraph 6 of Schedule 17 to the Crime and Courts Act 2013, and
  - (ii) any sentencing guidelines or guideline cases which apply;
- (h) contain or attach the defendant's written consent to the proposal; and
- (i) explain why—
  - (i) entering into an agreement is likely to be in the interests of justice, and
  - (ii) the proposed terms of the agreement are fair, reasonable and proportionate.
- (4) If the proposed statement of facts includes assertions that the defendant does not admit, the application must—
  - (a) specify the facts that are not admitted; and
  - (b) explain why that is immaterial for the purposes of the proposal to enter an agreement.

*[Note. See paragraphs 5 and 7 of Schedule 17 to the Crime and Courts Act 2013.]*