
STATUTORY INSTRUMENTS

2022 No. 45

The Criminal Procedure (Amendment) Rules 2022

Amendments to the Criminal Procedure Rules

- 11.** In Part 42 (Appeal to the Court of Appeal in confiscation and related proceedings)—
- (a) in rule 42.8 (Notice of determination)—
- (i) for the heading to the rule substitute “Notice of determination and renewal of application for permission to appeal”,
- (ii) in paragraph (1), for “This rule applies” substitute “Paragraphs (2) and (3) of this rule apply”,
- (iii) in paragraph (3), for the words from “a court officer” to the end substitute “the Crown Court officer and the court officer for the magistrates’ court responsible for enforcing any confiscation order which the Crown Court has made (the ‘enforcing court’)”, and
- (iv) after paragraph (3) insert—
- “(4) Paragraphs (5) and (6) of this rule apply where—
- (a) a single judge has refused an application for permission to appeal under section 31 of the 2002 Act⁽¹⁾, and
- (b) the appellant renews that application, in time or with an application to extend the time within which to renew.
- (5) The Registrar must, as soon as practicable, notify the court officer for the enforcing court, if any, of the service of that renewed application.
- (6) Unless a single judge, the Court of Appeal or the enforcing court otherwise directs, pending disposal of the renewed application the court officer for the enforcing court must withhold the payment of any sum not yet paid—
- (a) which under section 13(6) of the 2002 Act⁽²⁾ was directed to be paid out of sums recovered under a confiscation order, and
- (b) the payment of which is suspended pending appeal.

[Note. See also rule 42.11 (Notice of appeal) under which (i) the Registrar must notify the court officer for the enforcing court of the service of a notice of appeal, and (ii) that court officer must notify any person whose entitlement to payment of a sum is suspended by that appeal.

Under section 13 of the Proceeds of Crime Act 2002, if the Crown Court makes a confiscation order and one or more priority orders, as defined in that section, against the same defendant in the same proceedings then in some circumstances the court must direct that part or all of the priority order must be paid out of sums recovered under the confiscation order.

(1) 2002 c. 29; section 31 was amended by section 74 of, and paragraphs 1 and 16 of Schedule 8 to, the Serious Crime Act 2007 (c. 27) and sections 3 and 85 of, and paragraph 27 of Schedule 4 to, the Serious Crime Act 2015 (c. 9).

(2) 2002 c. 29; section 13 was amended by section 54 of, and paragraph 11 of Schedule 12 to, the Criminal Justice and Courts Act 2015 (c. 2), section 6 of the Serious Crime Act 2015 (c. 9), section 410 of, and paragraph 182 of Schedule 24 to, the Sentencing Act 2020 (c. 17) and section 39 of, and paragraph 7 of Schedule 3 to, the Counter-Terrorism and Sentencing Act 2021 (c. 11).

A compensation order under section 134 of the Sentencing Act 2020⁽³⁾ is such a priority order. Under section 141(1) of the 2020 Act, a person in whose favour a compensation order is made is not entitled to receive the amount due until there is no further possibility of the order being varied or set aside on appeal (disregarding any power to grant leave to appeal out of time). Under section 141(2) of the 2020 Act, Criminal Procedure Rules may make provision about the way in which the enforcing court is to deal with money paid in satisfaction of a compensation order where the entitlement of the person in whose favour it was made is suspended.]”;

- (b) in rule 42.11 (Notice of appeal)—
- (i) at the end of paragraph (1)(a) omit “and”,
 - (ii) after paragraph (1)(b) insert—
 - “(c) the prosecutor, if the prosecutor is not the appellant; and
 - (d) any person who the appellant thinks is or may be someone—
 - (i) holding an interest in property in which the Crown Court determined the extent of the defendant’s interest under section 10A of the 2002 Act⁽⁴⁾, and
 - (ii) who is neither the defendant nor the appellant.”,
 - (iii) in paragraph (2), for the words before sub-paragraph (a) substitute “When a notice of appeal is served on a respondent defendant, or other person under paragraph (1)(d), it must be accompanied by a respondent’s notice in the form set out in the Practice Direction for the respondent to complete and a notice which”,
 - (iv) in paragraph (2), in each of sub-paragraphs (a), (b), (c) and (e) for “defendant” substitute “respondent” in each place it occurs and in sub-paragraph (d) for “defendant’s” substitute “respondent’s”,
 - (v) in paragraph (3), for “the defendant in accordance with paragraph (1)” substitute “each respondent”, and
 - (vi) after paragraph (3) insert—
 - “(4) The Crown Court officer must, as soon as practicable—
 - (a) notify the Registrar of the service of the notice of appeal;
 - (b) make available to the Registrar—
 - (i) the notice of appeal and any accompanying application served by the appellant,
 - (ii) details of the parties including their addresses, and
 - (iii) details of the court officer for the magistrates’ court responsible for enforcing any confiscation order which the Crown Court has made (the ‘enforcing court’).
 - (5) The Registrar must, as soon as practicable, notify the court officer for the enforcing court, if any, of the service of the notice of appeal.
 - (6) Where a person is entitled to receive a sum directed to be paid out of sums recovered under a confiscation order, the court officer for the enforcing court must, as soon as practicable, notify each such person of—
 - (a) the appeal,
 - (b) any suspension of that person’s entitlement pending appeal, and

(3) 2020 c. 17.

(4) 2002 c. 29; section 10A was inserted by section 1 of the Serious Crime Act 2015 (c. 9).

- (c) any power for the Court of Appeal to vary or set aside that person's entitlement on appeal.

[Note. See section 13 of the Proceeds of Crime Act 2002 and sections 134 and 141 of the Sentencing Act 2020. See also rule 42.8 (Notice of determination and renewal of application for permission to appeal) and the note to that rule.]”;

- (c) in rule 42.12 (Respondent's notice), for “defendant” substitute “respondent” in each place it occurs and in paragraph (2)(b) for “defendant's” substitute “respondent's”;
- (d) in rule 42.13 (Amendment and abandonment of appeal), for paragraphs (2) and (3) substitute—
 - “(2) Where the appellant serves a notice abandoning an appeal under paragraph (1), the appellant must send a copy of it to—
 - (a) each respondent served with the notice of appeal;
 - (b) the Crown Court officer; and
 - (c) the court officer for the magistrates' court responsible for enforcing any confiscation order which the Crown Court has made.
 - (3) Where the appellant serves a notice amending a notice of appeal under paragraph (1), the appellant must send a copy of it to each respondent served with the notice of appeal.”; and
- (e) amend the table of contents correspondingly.