

## EXPLANATORY MEMORANDUM TO

### THE CRIMINAL PROCEDURE (AMENDMENT NO. 2) RULES 2022

2022 No. 815 (L. 9)

#### 1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.

#### 2. Purpose of the instrument

- 2.1 These Rules amend the Criminal Procedure Rules 2020, S.I. 2020 No. 759, in eighteen miscellaneous respects.
- 2.2 They supplement provisions of the Police, Crime, Sentencing and Courts Act 2022 that allow courts to use live video and audio links in more circumstances than hitherto; that allow for a British Sign Language interpreter to assist a deaf juror; that introduce serious violence reduction orders; and that amend existing statutory provision for overseas production orders. They impose obligations on prosecutors and courts to avoid duplication and ambiguity in the preparation of indictments in the Crown Court. They supplement provisions of the Judicial Review and Courts Act 2022 that allow documents to be served in accordance with Criminal Procedure Rules which hitherto could be served only by post, and that allow the Crown Court to send a case back to a magistrates' court for trial or sentence where appropriate. They amend rules that provide for the retention of written jury directions and the retention of other material held by the court. They require publication of warnings in court hearing lists where an automatic statutory reporting restriction may apply to a listed case. They require identification of the prosecutor in a magistrates' court summons if the prosecutor is not a public authority; identify criteria for refusing to issue a summons that may be applied by the court; and require more detailed information than hitherto for the trial court about any claim for a private prosecutor's costs to be paid out of public funds. They supply a procedure to be followed when a defendant previously found by the Crown Court to be unfit to be tried later recovers sufficiently for the trial to resume. They supplement provisions of the Domestic Abuse Act 2021 that introduce domestic abuse protection orders. They impose a requirement to give advance notice of additional requirements in football banning orders. They amend rules that govern applications for the Crown Court to re-assess confiscation orders made under legislation since superseded. They impose a time limit for the initial decision on an application to a magistrates' court or to the Crown Court for a case to be stated in a proposed appeal to the High Court. They amend rules that provide for court staff to take statutory declarations from defendants.

#### 3. Matters of special interest to Parliament

##### *Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 In its Twenty-Ninth Report of Session 2021-22, published on 25<sup>th</sup> March, 2022, the Joint Committee on Statutory Instruments reported for defective drafting rules 5(a) and 6(b) of the Criminal Procedure (Amendment) Rules 2022, S.I. 2022/45; the first for lack of clarity as to how a "copy" of a summons addressed to one person can

impose a requirement on another person, under an amendment made to rule 7.4 of the Criminal Procedure Rules 2020, and the second for omitting a consequential amendment to rule 9.2 of the 2020 Rules.

- 3.2 Rule 9(b) of these Rules corrects that omission. Having carefully considered the Joint Committee’s view of rule 7.4(8) of the 2020 Rules, the Rule Committee respectfully disagreed and decided to maintain the present formulation, for the reasons given in the department’s Memorandum published with the Joint Committee’s report.

*Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.3 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

**4. Extent and Territorial Application**

- 4.1 The territorial extent of this instrument is England and Wales.  
4.2 The territorial application of this instrument is England and Wales.

**5. European Convention on Human Rights**

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

**6. Legislative Context**

- 6.1 Sections 68 to 72 of the Courts Act 2003 provide for a Criminal Procedure Rule Committee of 18 members to make rules that govern the practice and procedure of the criminal courts, that is, magistrates’ courts, the Crown Court, the High Court, in an extradition appeal, and the criminal division of the Court of Appeal. Section 69 requires the Committee to make rules that are simple and simply expressed, and that help make the criminal justice system accessible, fair and efficient. Section 72 requires the Committee to consult such persons as they consider appropriate before making rules. Members of the Rule Committee are drawn from among all the groups involved in the criminal justice system: the judiciary, including the magistracy, the legal professions, prosecutors, the police, voluntary organisations and the Ministry of Justice.
- 6.2 The first rules made by the Rule Committee were the Criminal Procedure Rules 2005. In those Rules, the Committee consolidated, organised and began to simplify rules of criminal procedure that before then had been contained in nearly 50 separate statutory instruments, and added notes that cross-referred to other relevant criminal justice legislation. Since then, the Committee has continued to revise and simplify those procedure rules in accordance with its statutory objective, while at the same time providing for new initiatives and for developments in legislation and in case law. Unless rule changes are needed urgently, the rules now are amended, if necessary, in June and in December, with the changes coming into force ordinarily on the first Monday in October and on the first Monday in April, respectively, of each year.
- 6.3 These rules supplement and accommodate (i) section 51 of, and Schedule 5 to, the Police, Crime, Sentencing and Courts Act 2022 (“the PCSC Act”), which amend provisions of the Crime (Overseas Production Orders) Act 2019; (ii) section 165 of

the PCSC Act, which creates serious violence reduction orders; (iii) section 196 of the PCSC Act, which provides for British Sign language interpreters for jurors; (iv) section 200 of, and Schedule 20 to, the PCSC Act, which enable participation in criminal court proceedings by live link; (v) section 11 of the Judicial Review and Courts Act 2022, which allows the Crown Court to send a case back to the magistrates' court for trial or sentence; (vi) section 16 of, and Schedule 1 to, that last Act, which amend 21 other statutory provisions to remove requirements for service of documents by post; (vii) section 5A of the Criminal Procedure (Insanity) Act 1964, under which a defendant who has been found unfit to be tried and who subsequently recovers can be returned to court for the trial to resume; (viii) section 83 of the Criminal Justice Act 1988 and sections 16 and 17 of the Drug Trafficking Act 1994, which provide for reassessments of the amount to be seized under a confiscation order made when those Acts still applied; (ix) section 31 of the Domestic Abuse Act 2021, which creates domestic abuse protection orders; (x) section 14A of the Football Spectators Act 1989, which creates football banning orders; and (xi) section 111 of the Magistrates' Courts Act 1980 and section 28 of the Senior Courts Act 1981, which confer rights of appeal by case stated to the High Court. By the relocation of two existing rules, these rules exercise the power conferred by section 2 of the Commissioners for Oaths Act 1889 to authorise the taking of a statutory declaration by court staff.

## **7. Policy background**

### *What is being done and why?*

#### *Live links*

- 7.1 Under the Crime and Disorder Act 1998 and the Criminal Justice Act 2003, both as temporarily modified by the Coronavirus Act 2020, criminal courts had some powers to allow participants in criminal proceedings to take part by a video or audio electronic link – a “live link”. The Police, Crime, Sentencing and Courts Act 2022 replaces those provisions with new ones that apply in more circumstances and to more participants, subject to statutory conditions the most important of which is that the court must be satisfied that it is in the interests of justice to give a live link direction in the individual case.
- 7.2 The Criminal Procedure Rules contain rules that supplement and accommodate the previous Acts, but which are not compatible with the new one. For that reason, the Rule Committee has made some new rules and has amended others to bring them up to date. The new rules supply procedures for the exercise of the courts' new powers. Although those powers can be exercised without an application, the new rules provide also for the content of an application where one is made and for ancillary procedures. There is a new definition of “live link” to correspond with the new statutory definition. There are major amendments to Parts 2, 3 and 18 of the Criminal Procedure Rules, and consequential or other minor amendments in Parts 7, 14 and 47, made by rules 4(a), (b), (c), 5(a), (b), (c), (d), (f), 8(a)(i), 11, 12 and 24(a) of these Rules.

#### *Indictments*

- 7.3 The “indictment” is the formal written record of the offences with which a defendant is charged in the Crown Court. The formal reading of those charges in order to take the defendant's plea, either guilty or not guilty, is known as the “arraignment”.

Usually, the arraignment takes place at a pre-trial hearing when the court gives directions for preparation for trial. Rule 3.32 of the Criminal Procedure Rules requires the Crown Court to obtain the prosecutor’s confirmation that the indictment accurately lists all the offences of which the prosecutor accuses the defendant just before the arraignment takes place (and so well before the trial). Rule 10.2 of the Rules governs the form of the indictment and the way in which it must be presented to the court. Rule 25.2 applies at the trial and lists some general powers that the court can exercise at that stage. With the court’s permission, an indictment can be amended. In some circumstances, however, the law allows the prosecutor to replace an indictment without the court’s permission, unless the defendant objects.

- 7.4 In 2019, in response to the judgment of the Court of Appeal in the case of *R v Johnson, R v Burton*<sup>1</sup> (which concerned two cases in each of which a defendant had been tried and convicted on an indictment containing charges on which that defendant had not been arraigned), the Rule Committee elaborated the rules<sup>2</sup> to codify the practice recommended in that judgment “for trial judges to enquire of counsel whether there were any outstanding issues in relation to the indictment before it is read before the jury at trial”. Since then, and despite that, it has been reported to the Committee that a proliferation of indictments and amended indictments in many cases still can cause confusion, argument and, potentially, unfairness. In December, 2021, an article was published in a legal practitioners’ journal deprecating the state of the law.<sup>3</sup>
- 7.5 After further discussion of Committee members’ experiences the Rule Committee decided to impose on prosecutors and on courts (i) more specific requirements for identification of the correct indictment or indictments, (ii) a prohibition against proceeding further on an indictment not so identified, (iii) a new requirement for the endorsement of every indictment document with an indication of its intended status (for example, as a proposed amendment, or as a replacement), and (iv) a new requirement for the prosecutor to provide a final, composite, indictment for sentencing purposes if the court so requires. Rules 5(e), 10 and 13(a), (c) of these Rules amend rules 3.32, 10.2, 25.2 and 25.16 of the Criminal Procedure Rules accordingly.

#### ***Service of documents***

- 7.6 The Judicial Review and Courts Act 2022 removes 21 statutory requirements for documents to be sent by post so that they can be “served” (meaning, sent and delivered formally) in accordance with Criminal Procedure Rules instead. Part 4 of the Criminal Procedure Rules governs service of documents and defines the various means by which a document may be served. To supplement those 21 statutory amendments, rule 6 of these Rules amends Part 4 of the Criminal Procedure Rules explicitly to apply those rules where other legislation so provides, and to list the 21 provisions concerned.

#### ***Court records***

- 7.7 Rule 5.4 of the Criminal Procedure Rules requires court staff to make the records which it lists. Rule 5.6 provides for court staff to keep evidence and other material served by the parties to a case, or to arrange for it to be kept by someone other appropriate person (for example, for prosecution exhibits to be kept by the police). Rules 5.8, 5.9 and 5.10 provide for access to information held by the court. Rule 25.17

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<sup>1</sup> [2018] EWCA Crim 2485, available at <https://www.bailii.org/ew/cases/EWCA/Crim/2018/2485.html>.

<sup>2</sup> By the Criminal Procedure (Amendment No. 2) Rules 2019, SI 2019/1119.

<sup>3</sup> *A sad indictment*; Paul Jarvis, Archbold Review 2021 Issue 10, 15 December 2021, at page 4.

requires court staff in the Crown Court to make case materials available to the court at the trial. Rule 25.18 requires those court staff to make records of the times at which the judge gives jurors directions, to make it easier to find records of what the judge said in transcript of a trial. It was suggested to the Rule Committee that (i) the rules about keeping evidence should apply explicitly to material not served by a party but prepared at the court's direction (for example, a video recording of the pre-trial cross-examination of a witness), (ii) the rules should require explicitly that written directions to a jury should be retained, and (iii) the duties to make records should be consolidated in a single rule. The Committee agreed. Rules 7(a), (b), (c), (d), (e) and 13(d), (e) amend rules 5.4, 5.6, 5.8, 5.9, 5.10, 25.17 and 25.18 of the Criminal Procedure Rules accordingly.

### ***Information about reporting restrictions***

- 7.8 Rule 5.11 of the Criminal Procedure Rules requires court staff to publish information about imminent court hearings in order to promote the open justice principle: that is, dealing with criminal cases in public, and allowing a public hearing to be reported to the public, as the principle is expressed in rule 5.7 of the Criminal Procedure Rules. However, in some cases reporting restrictions, listed in Part 6 of the Criminal Procedure Rules, apply, which restrictions may be imposed by the court in an individual case, or which may apply by Act of Parliament to all cases in a specified category – for example, the statutory prohibition against reporting the identity of the complainant of a sexual offence. Court lists include notice of reporting restrictions imposed by the court in individual cases, but it was reported to the Rule Committee that notice of cases in categories to which restrictions apply generally could not always be given.
- 7.9 The Rule Committee takes the view that people attending court are entitled to be warned if reporting restrictions do, or might, apply. After consulting HM Courts and Tribunals Service the Committee decided to amend the existing rule to require a warning that reporting restrictions might apply to cases in a court hearing list where the restriction is not one imposed by the court in an individual case. Rule 7(f) of these Rules amends rule 5.11 of the Criminal Procedure Rules accordingly.

### ***Private prosecution***

- 7.10 Most prosecutions are started by public authorities, principally the Crown Prosecution Service. However, section 6 of the Prosecution of Offences Act 1985 preserves the right for any person to start a prosecution if they can satisfy the court that the proposed defendant's alleged conduct, if it were proved, would amount to a crime; subject to the court's powers, in limited circumstances, to refuse to issue a summons for the defendant to attend court under section 1 of the Magistrates' Courts Act 1980; and subject to a power for the Director of Public Prosecutions to intervene and stop a prosecution if, in the Director's opinion, it fails to meet criteria that the Crown Prosecution Service would have applied. Rule 7.2(6) of the Criminal Procedure Rules requires a private prosecutor to give the court information about the proposed prosecution needed to help the court to decide whether to issue a summons. Rule 7.4(2) of the Rules lists the information that must be included in such a summons.
- 7.11 In October, 2020, the House of Commons Justice Committee recommended, among other things, that "every defendant who is privately prosecuted should be informed of his or her right to seek a review from the CPS. We recommend that this change be

implemented by a change to the Criminal Procedure Rules.”<sup>4</sup> In response to that recommendation and after discussion with the Director of Public Prosecutions, with magistrates’ representatives and with HM Courts and Tribunals Service, the Rule Committee decided (i) to require that every summons issued on the application of a private prosecutor should identify that prosecutor, so that the defendant could, if they wished, oppose the continuation of the proceedings in the court, or invite the Director to intervene, or both, and (ii) to list in the rule the circumstances in which magistrates’ courts may refuse to issue a summons. Rule 8(a)(ii) and (b) of these Rules amends rules 7.2 and 7.4 of the Criminal Procedure Rules accordingly.

- 7.12 A private prosecutor can recover their legal costs from public funds if the court so orders, irrespective of the outcome of the case but subject to any limit imposed by the court, under section 17 of the Prosecution of Offences Act 1985. Rule 45.4 of the Criminal Procedure Rules anticipates a detailed assessment of costs by staff for the court under the regulations that apply and requires the private prosecutor to outline their claim to the court but not to give details. Consistently with past judgments, the rule includes a presumption in favour of the court making a costs order.
- 7.13 In September, 2021, in the case of *R (TM Eye Limited) v Crown Court at Southampton and Others*<sup>5</sup> the High Court decided that a court which had dealt with a private prosecution could, and should, require more information about a private prosecutor’s claim for costs where the information supplied was not enough for the court to decide whether an order should be made and what limit, if any, to impose. In response to that judgment the Rule Committee decided that in future rules should require the court to be given information that corresponds with what the costs assessment regulations require for assessment staff, so that the court will be better equipped to decide on the order to be made. Rule 23 of these Rules makes those amendments to rule 45.4 of the Criminal Procedure Rules.

***Sending a case back to a magistrates’ court for trial or sentence***

- 7.14 In some cases, a magistrates’ court must, or can, send a defendant to the Crown Court for trial. In some circumstances a magistrates’ court which convicts a defendant must, or can, commit that defendant for sentence to the Crown Court so that a more severe sentence can be imposed than a magistrates’ court has the power to pass. Sometimes, however, after sending or committal the available evidence or other circumstances may change and it may become more appropriate for a defendant to be tried, or sentenced, or both, in a magistrates’ court after all. The Judicial Review and Courts Act 2022 gives the Crown Court new powers to send a case back to the magistrates’ court for trial or sentence.
- 7.15 The Rule Committee has made some new rules and has amended others to supply procedures for the exercise of the new powers. To distinguish between the new power to send back for trial and an existing power for the Crown Court to refer a defendant’s case to a magistrates’ court in limited circumstances at the end of proceedings in the Crown Court, the new rule about sending back refers to both powers. Rules 9 and 15 of these Rules amend Part 9 and rule 28.10 of the Criminal Procedure Rules accordingly.

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<sup>4</sup> <https://publications.parliament.uk/pa/cm5801/cmselect/cmjust/497/49702.htm>, recommendation 7 (page 31).

<sup>5</sup> [2021] EWHC 2624 (Admin), available at <https://www.bailii.org/ew/cases/EWHC/Admin/2021/2624.html>.

### ***Defendant becoming fit to be tried in the Crown Court***

- 7.16 A defendant whom, on the basis of medical evidence, the Crown Court finds unfit to be tried, and whom the jury then finds to have done the act or made the omission charged as an offence, cannot be convicted but can be detained in hospital compulsorily. If in due course the defendant becomes fit to be tried they can be returned to the Crown Court for the trial to resume, under section 5A of the Criminal Procedure (Insanity) Act 1964: a process that requires a co-ordination of action by hospital and prison authorities, the court, the prosecutor, and the defendant's legal representatives.
- 7.17 The statutory provisions are insufficiently detailed to govern the procedure. At present, there are no material procedure rules; practice varies; and a lack of clarity may result in the premature release, or unlawful detention, of the defendant. It was reported to the Rule Committee that it would assist if the Criminal Procedure Rules were to specify a procedure to follow for the giving of directions and the resumption of trial. The Committee agreed. Rule 13(b) of these Rules amends rule 25.10 of the Criminal Procedure Rules accordingly.

### ***British Sign Language interpreter for a juror***

- 7.18 The Police, Crime, Sentencing and Courts Act 2022 provides for a British Sign Language interpreter to assist a deaf juror who needs that interpretation to be able to participate effectively. To that extent the Act abolishes the law against allowing a non-juror to accompany jurors while they deliberate, and it imposes corresponding duties of confidentiality on the interpreter. The Criminal Procedure Rules prescribe the terms of the oath or affirmation taken by jurors themselves and the Rule Committee agreed to prescribe the terms of an oath or affirmation to be taken by a juror's interpreter. Rule 14 of these Rules adds new rule 26.6 to the Criminal Procedure Rules for that purpose.

### ***Behaviour orders***

- 7.19 Part 31 of the Criminal Procedure Rules sets out standard procedures for dealing with court orders that the rules call 'behaviour orders', meaning orders for which a number of Acts provide, which are made on a defendant's conviction (and in some cases on acquittal), and which impose prohibitions and requirements on the defendant's conduct to deter future offending.
- 7.20 The Domestic Abuse Act 2021 creates domestic abuse protection orders to protect people connected with a defendant from domestic abuse, or the risk of domestic abuse. The Police, Crime, Sentencing and Courts Act 2022 creates serious violence reduction orders to protect members of the public from the risk of harm involving a bladed article or offensive weapon used by the defendant. A football banning order under section 14A of the Football Spectators Act 1989 may simply ban the defendant from football matches or, like other behaviour orders, it may impose additional requirements. If the prosecutor gives no advance notice of additional requirements to be proposed in the event of conviction the case may have to be adjourned to consider them. It was suggested to the Committee that rule 31.3 of the Criminal Procedure Rules should require such advance notice, and the Committee agreed.
- 7.21 To accommodate and supplement the new orders, and to provide for advance notice of football banning order requirements, rule 17 of these rules amends Part 31 of the Criminal Procedure Rules. Rules 19 and 21 of these Rules amend Parts 34 and 39 of

the Criminal Procedure Rules to include in them references to new rights of appeal, to the Crown Court and to the Court of Appeal respectively, created by the 2021 and 2022 Acts.

***Reassessment of confiscation orders under legislation repealed***

- 7.22 At the end of a Crown Court case the court can make an order confiscating the proceeds of a convicted defendant's crimes. Repealed provisions of the Criminal Justice Act 1988 and the Drug Trafficking Act 1994 remain in force for some purposes in relation to confiscation orders made before the Proceeds of Crime Act 2002 and which remain undischarged. Those provisions allow applications for the variation of such orders. Rule 33.66 of the Criminal Procedure Rules governs some applications under the 1988 and 1994 Acts but not applications to vary an order. The lacuna was pointed out to the Rule Committee, which agreed to amend rule 33.66 accordingly. Rule 18 of these Rules makes the necessary amendments.

***Decision on application for a case to be stated for the High Court***

- 7.23 Section 111 of the Magistrates' Courts Act 1980 and section 28 of the Senior Courts Act 1981 confer rights of appeal on points of law from magistrates' courts and the Crown Court to the High Court. The prospective appellant first must obtain from the court that made the decision to be appealed a statement of the circumstances and of the legal point in issue. Part 35 of the Criminal Procedure Rules governs the procedure and sets a timetable for the preparation of the written "case". The rules specify no time limit for the court's initial decision to state a case or to decline to do so. In magistrates' courts, the rules require the magistrates' legal adviser to assist the court and to help prepare the case, but only if the court asks for that help.
- 7.24 It was reported to the Rule Committee that the absence of a time limit for the initial decision led sometimes to misunderstanding and sometimes to substantial delay. The Committee agreed to impose a time limit of 15 business days, the equivalent of three weeks. If necessary, that time limit can be extended by a judicial decision, the reasons for which decision will be recorded. The Committee decided, too, that magistrates' legal advisers should be required always to assist the magistrates in dealing with an application for a case to be stated. Rule 20 of these Rules amends Part 35 the Criminal Procedure Rules accordingly.

***Overseas production orders***

- 7.25 The Crime (Overseas Production Orders) Act 2019 allows a Crown Court judge in England and Wales at the request of an investigator in this jurisdiction to make an order against a person or corporation in another jurisdiction requiring them to produce or give access to electronic data likely to be of substantial value to the investigation here. The Police, Crime, Sentencing and Courts Act 2022 amends the definition of "excepted electronic data" in the 2019 Act and amends the provisions in the Act for service of documents abroad. Rule 24(b) to (e) of these Rules amends Part 47 of the Criminal Procedure Rule to accommodate and supplement those statutory amendments.

***Statutory declarations made before court officers: relocation of rules***

- 7.26 A defendant can make a statutory declaration of ignorance of an unpaid fixed penalty notice registered as a fine under section 72 or 73 of the Road Traffic Offenders Act 1988, or a statutory declaration of ignorance of the proceedings to render void



proceedings in a magistrates' court under section 14 or 16E of the Magistrates' Courts Act 1980. Under section 2 of the Commissioners for Oaths Act 1889 and rules 29.4 and 44.2 of the Criminal Procedure Rules, the Rules allow a court officer to take those declarations. It was suggested to the Rule Committee that those two provisions should be consolidated in a single rule placed with other rules about the powers of court officers, in Part 2 of the Rules. The Committee agreed. Rules 4(d), 16 and 22 of these Rules amend Part 2 and rules 29.4 and 44.2 of the Criminal Procedure Rules accordingly.

## **8. European Union Withdrawal and Future Relationship**

8.1 This instrument does not relate to withdrawal from the European Union.

## **9. Consolidation**

9.1 When it made the Criminal Procedure Rules 2005 the Committee declared its intention to effect after 5 years a legislative consolidation of those Rules with such amendments as had been made by then, and it did so in the Criminal Procedure Rules 2010. Having consulted on the desirability of continuing to consolidate the Rules at regular intervals, the Committee decided to do so: at first annually, between 2010 and 2015, then in 2016 reverting to the plan to consolidate at 5 yearly intervals.

9.2 In accordance with that plan the Rules were consolidated again in 2020. The Committee now intends to make a further consolidation in 2025. Meanwhile, the effects of amendments to the Criminal Procedure Rules 2020 will be published at <https://www.legislation.gov.uk/ukxi/2020/759/contents> and an informal consolidated text will continue to be available to the public, with some additional commentary and explanation, at <https://www.gov.uk/guidance/rules-and-practice-directions-2020>.

## **10. Consultation outcome**

10.1 The Rule Committee fulfilled its statutory obligation to consult as the Committee considers appropriate by inviting and reviewing suggestions and observations solicited by its members from among the groups from which each is drawn.

## **11. Guidance**

11.1 Amendments to the Criminal Procedure Rules are drawn to the attention of participants in the criminal justice system by correspondence addressed to members of the judiciary, to other relevant representative bodies (for example, the Law Society and the Bar Council) and to the editors of relevant legal journals; as well as by publicity within HM Courts and Tribunals Service, within the principal prosecuting authorities, and among local criminal justice boards.

11.2 News of changes to the Rules and of the effect of those changes is published at <https://www.gov.uk/guidance/announcements-from-the-criminal-procedure-rule-committee>.

## **12. Impact**

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector because these Rules maintain rules and procedures that are already current and introduce new rules and procedures that give effect to other legislation or established best practice.

12.3 An Impact Assessment has not been prepared for this instrument for those reasons.

### **13. Regulating small business**

13.1 The legislation does not apply to activities that are undertaken by small businesses.

### **14. Monitoring & review**

14.1 The making of Criminal Procedure Rules attracts independent academic and other comment. From time to time the Rules are in issue in cases in which the judgment is reported. The Committee secretariat draws members' attention to such comment and reports. Observations arising from judicial, institutional and commercial training courses on the Rules are monitored by Committee members. The Committee secretariat maintains an email address for enquiries about the rules, and from the enquirers to that address receives comments which it relays to the Committee. At least once a year the Committee receives and considers statistical information about criminal case management gathered by HM Courts and Tribunals Service and the Ministry of Justice.

14.2 Each judge and lawyer member of the Criminal Procedure Rule Committee practises regularly in the criminal courts, and each other member deals regularly with matters that affect or arise from the business of those courts. Each therefore draws upon his or her experience of the operation of the courts and of the Rules. Although members participate in an individual capacity, each is able also to reflect the views of the professional or other 'constituency' from which each comes.

14.3 Representatives of HM Courts and Tribunals Service, and of the criminal justice departments of government, attend Rule Committee meetings as observers. They, too, draw to the Committee's attention, as they arise, matters affecting the operation of the Rules.

### **15. Contact**

15.1 Jonathan Solly at the Ministry of Justice telephone: 07811 823574 or email: [jonathan.solly@justice.gov.uk](mailto:jonathan.solly@justice.gov.uk) can be contacted with any queries regarding the instrument.

15.2 Ed Lidington, Director of Court Recovery, Criminal and Family Justice, at the Ministry of Justice can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Rt Hon. Dominic Raab MP, Deputy Prime Minister, Lord Chancellor and Secretary of State for Justice, at the Ministry of Justice can confirm that this Explanatory Memorandum meets the required standard.