
STATUTORY INSTRUMENTS

2022 No. 815

The Criminal Procedure (Amendment No. 2) Rules 2022

Amendments to the Criminal Procedure Rules

17. In Part 31 (Behaviour orders)—

(a) in the first paragraph of the note to rule 31.1 (When this Part applies)—

(i) after sub-paragraph (a)(xi) insert—

“(xii) *section 342A of the 2020 Act*(1) (*serious violence reduction orders*),

(xiii) *section 31(3) of the Domestic Abuse Act 2021*(2) (*domestic abuse protection orders*);”,

(ii) for sub-paragraph (b) substitute—

“(b) *on acquittal, under—*

(i) *section 5A of the Protection from Harassment Act 1997*(3) (*restraining orders on acquittal*),

(ii) *section 31(5) of the Domestic Abuse Act 2021* (*domestic abuse protection orders on acquittal*);”,

(iii) at the end of sub-paragraph (c) omit “and”,

(iv) at the end of sub-paragraph (d) insert “and”, and

(v) after sub-paragraph (d) insert—

“(e) *where the Crown Court allows an appeal against conviction, under section 31(6) of the Domestic Abuse Act 2021* (*domestic abuse protection orders after appeal*).”;

(b) in rule 31.2 (Behaviour orders: general rules)—

(i) for paragraph (2) substitute—

“(2) That restriction does not apply to making—

(a) an interim behaviour order, but unless other legislation otherwise provides such an order has no effect unless the person to whom it is directed—

(i) is present when it is made, or

(ii) is handed a document recording the order not more than 7 days after it is made; or

(b) a domestic abuse protection order, but in that event the court must give the defendant an opportunity to make representations—

(i) as soon as is just and convenient, and

(ii) at a hearing of which notice has been given to all parties.”, and

(1) 2020 c. 17; section 342A is inserted by section 165 of the Police, Crime, Sentencing and Courts Act 2022 (c. 32) with effect from a date to be appointed.

(2) 2021 c. 17; section 31 comes into force on a date to be appointed.

(3) 1997 c. 40; section 5A was inserted by section 12(5) of the Domestic Violence, Crime and Victims Act 2004 (c. 28) and amended by paragraph 144 of Schedule 24 to the Sentencing Act 2020 (c. 17).

- (ii) in the second paragraph of the note to the rule, for “and section 366 of the Sentencing Act 2020(4)” substitute “section 366 of the Sentencing Act 2020 and section 34 of the Domestic Abuse Act 2021(5)”;
- (c) in rule 31.3 (Application for behaviour order and notice of terms of proposed order: special rules)—
 - (i) at the end of paragraph (1)(a)(iv) omit “or”,
 - (ii) at the end of paragraph (1)(a)(v) insert “or”,
 - (iii) after paragraph (1)(a)(v) insert—
 - “(vi) a serious violence reduction order;”,
 - (iv) at the end of paragraph (1)(b) omit “or”,
 - (v) in paragraph (1)(c) after “restraining order” insert “or domestic abuse protection order”,
 - (vi) at the end of paragraph (1)(c) insert “and”,
 - (vii) after paragraph (1)(c) insert—
 - “(d) a prosecutor proposes a football banning order with additional requirements if the defendant is convicted.”,
 - (viii) in paragraph (6), in the words before sub-paragraph (a) after “restraining order” insert “or domestic abuse protection order”,
 - (ix) at the end of paragraph (6)(a) omit “and”,
 - (x) in paragraph (6)(b), for “the draft order” substitute “a draft restraining order”,
 - (xi) at the end of paragraph (6)(b) insert “and”,
 - (xii) after paragraph (6)(b) insert—
 - “(c) in a draft domestic abuse protection order, specify those requirements (including any prohibitions or restrictions) which the prosecutor proposes as necessary to protect the person for whose protection the order is made from domestic abuse or the risk of domestic abuse, including different kinds of abusive behaviour.”,
 - (xiii) in paragraph (7), in the words before sub-paragraph (a) for “a criminal behaviour order or a prohibition order” substitute “a prohibition order, a criminal behaviour order or a domestic abuse protection order”,
 - (xiv) renumber paragraph (7) as (9),
 - (xv) after paragraph (6) insert—
 - “(7) Where paragraph (1)(d) applies (football banning order with additional requirements), the prosecutor must serve a draft order on the court officer and on the defendant not less than 2 business days before the hearing at which the order may be made.
 - (8) Where the prosecutor serves a draft domestic abuse protection order, the prosecutor must at the same time—
 - (a) where the draft order would impose a requirement to do something—
 - (i) identify the person who is to be responsible for supervising the defendant’s compliance, and

(4) 2020 c. 17.

(5) 2021 c. 17; section 34 comes into force on a date to be appointed.

- (ii) serve evidence from that person about the suitability and enforceability of that requirement; and
- (b) where the draft order would impose an electronic monitoring requirement—
 - (i) identify any person, other than the defendant, without whose co-operation it would be impracticable to secure the monitoring in question, and
 - (ii) serve evidence of that person’s consent.”,
- (xvi) in the second paragraph of the note to the rule for “rule 31.3(1)(b) and (c)” substitute “rule 31.3(1)(b), (c) and (d)”, and
- (xvii) for the third paragraph of the note to the rule substitute—

“The court may give a special measures direction under the Youth Justice and Criminal Evidence Act 1999—

 - (a) *on an application for an anti-social behaviour; under section 11 of the Crime and Disorder Act 1998(6);*
 - (b) *in proceedings for a prohibition order; under section 33 of the Psychoactive Substances Act 2016(7);*
 - (c) *on an application for a criminal behaviour order; under section 340 of the Sentencing Act 2020(8); and*
 - (d) *in proceedings for a domestic abuse protection order; under section 49 of the Domestic Abuse Act 2021(9).”;*
- (d) in rule 31.4 (Evidence to assist the court: special rules)—
 - (i) at the end of paragraph (1)(b) omit “or”,
 - (ii) at the end of paragraph (1)(c) insert “or”, and
 - (iii) after paragraph (1)(c) insert—

“(d) a domestic abuse protection order.”;
- (e) in rule 31.5 (Application to vary, renew, discharge or revoke behaviour order), in each of paragraphs (2)(c), (3)(b) and (6)(a) after “a restraining order” insert “or a domestic abuse protection order”;
- (f) after rule 31.9 (Court’s power to vary requirements under this Part) insert—

“Notice to supervisor of requirement for supervision or monitoring

31.10.—(1) This rule applies where—

- (a) the legislation under which a behaviour order is made allows the court to impose a requirement for supervision or electronic monitoring; and
 - (b) the court imposes such a requirement.
- (2) The court officer must—

(6) 1998 c. 37; section 11 was inserted by section 143 of the Serious Organised Crime and Police Act 2005 (c. 15), amended by paragraph 72 of Schedule 21 and Part 3 of Schedule 23 to the Coroners and Justice Act 2009 (c. 25) and repealed for specified purposes by paragraph 24 of Schedule 11 to the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12).

(7) 2016 c. 2.

(8) 2020 c. 17.

(9) 2021 c. 17; section 49 comes into force on a date to be appointed.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (a) inform the person to be responsible for the supervision or monitoring (‘the supervisor’) of the defendant’s name, address and, if available, telephone number, and as appropriate—
 - (i) details of the requirement to be supervised or monitored, and
 - (ii) details of the place at which the defendant’s presence must be monitored and the period or periods during which the defendant’s presence at that place must be monitored;
- (b) inform the defendant of the supervisor’s identity and the means by which the supervisor may be contacted; and
- (c) notify the supervisor of any subsequent variation, renewal, discharge or revocation of the requirement.

[Note. The legislation that gives the court power to make a behaviour order may define the circumstances in which a requirement for supervision or electronic monitoring may be imposed. Where a domestic abuse protection order is made under section 31 of the Domestic Abuse Act 2021(10), under section 35 of the 2021 Act(11) the court may impose any requirement, including any prohibition or restriction, that the court considers necessary to protect the person for whose protection the order is made from domestic abuse or the risk of domestic abuse. Under section 36 of the Act(12) an order that imposes a requirement to do something must specify the person who is to be responsible for supervising compliance with that requirement. Section 37 of the Act(13) provides for the circumstances in which the court may impose an electronic monitoring requirement.]’; and

- (g) amend the table of contents correspondingly.

(10) 2021 c. 17; section 31 comes into force on a date to be appointed.

(11) 2021 c. 17; section 35 comes into force on a date to be appointed.

(12) 2021 c. 17; section 36 comes into force on a date to be appointed.

(13) 2021 c. 17; section 37 comes into force on a date to be appointed.