
 STATUTORY INSTRUMENTS

1976 No. 2164 (L. 38)

SUPREME COURT OF JUDICATURE, ENGLAND

The Crown Court (Amendment No. 2) Rules 1976

Made - - - 13th December 1976

Laid before Parliament 23rd December 1976

Coming into Operation 17th January 1977

We, the Crown Court rule committee, in exercise of the powers conferred on us by sections 14(1) and (2) and 15 of the Courts Act 1971(a), hereby make the following Rules:—

1. These Rules may be cited as the Crown Court (Amendment No. 2) Rules 1976 and shall come into operation on 17th January 1977.

2. After rule 8 of the Crown Court Rules 1971(b), as amended(c), there shall be inserted the following Rules:—

“*Appeals under Children and Young Persons Act 1969*

8A.—(1) Where the Crown Court has made an order under section 32A(1) of the Children and Young Persons Act 1969(d) on an appeal under section 2(12), 16(8) or 21(4) of that Act, the Court shall appoint a guardian *ad litem* of the relevant child or young person for the purposes of the appeal if it appears to the Court that it is in his interests to do so.

(2) Where a juvenile court has made an order under section 32A(1) or (2) of the said Act of 1969 and, by virtue of section 32A(3) of that Act, that order has effect for the purposes of an appeal to the Crown Court, the Crown Court shall appoint a guardian *ad litem* of the relevant child or young person for the purposes of the appeal if it appears to the Court that it is in his interests to do so.

(3) A guardian *ad litem* shall be selected from the panel established by regulations under section 103 of the Children Act 1975(e) or, if this is not practicable, shall be some other suitable person and, in either case, the person selected shall not be a member, officer or servant of a local authority or authorised person (within the meaning of section 1 of the Act of 1969) which is a party to the proceedings; and where the appeal arises out of proceedings in which a juvenile court has appointed a person to act as guardian *ad litem*, that person shall be appointed for the purposes of the appeal unless the Crown Court is satisfied that in all the circumstances it would be inappropriate to appoint him.

(a) 1971 c. 23.

(b) S.I. 1971/1292 (1971 II p. 3696).

(c) There are no relevant amendments.

(d) 1969 c. 54.

(e) 1975 c. 72 (no regulations under section 103 had been made by the date of these Rules).

(4) Where it appears to the Court desirable that some other person should act as guardian *ad litem* in substitution for the person appointed earlier, the Court shall revoke the earlier appointment and make a new appointment.

(5) The duties of a guardian *ad litem* appointed under this rule are to safeguard the interests of the child or young person before the Crown Court and to give the Court such assistance as it may require.

(6) In this and the following rule “child” means a person under the age of 14 and “young person” means a person who has attained that age and is under the age of 17.

8B.—(1) Where an order under section 32A of the Children and Young Persons Act 1969 has effect for the purposes of an appeal to the Crown Court under section 2(1), 16(8) or 21(4) of that Act, the parent or guardian of the relevant child or young person shall be entitled:—

- (a) to meet any allegations made against him in the course of the proceedings on the appeal by—
 - (i) cross-examining any witness for the appellant or respondent, and
 - (ii) giving or calling evidence; and
- (b) to make representations to the court.

(2) Any evidence or representations given or made under this rule shall be given or made at the conclusion of the evidence for the appellant and the respondent.”.

3. In rule 22(2)(d) of the Crown Court Rules 1971 there shall be inserted “8”, after “rule 7(7)”.

Dated 13th December 1976.

Elwyn-Jones, C.
Widgery, C.J.
Frederick Lawton, L.J.
Hugh Griffiths, J.
Bernard B. Gillis.
John Rutter.
D. R. Thompson.
Geoffrey Powell-Davis.
Wigoder.
David Calcutt.
Norman Cooper.
G. G. A. Whitehead.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules amend the Crown Court Rules 1971 to take account of the amendments made to the Children and Young Persons Act 1969 by section 64 of the Children Act 1975. That section inserts two sections after section 32 of the Act of 1969. The first of these, section 32A, deals with certain proceedings in a juvenile court or on appeal to the Crown Court where there may be a conflict of interests between parent and child and enables the Court to order that the parent is not to be treated as authorised to act on behalf of his child. The other section, section 32B, enables a guardian *ad litem* to be appointed where an order has been made under section 32A and, in particular, provides that rules of court shall provide for the appointment of a guardian *ad litem* of the child or young person for the purposes of any proceedings to which an order under section 32A(1) relates. These Rules insert a new rule, rule 8A, in the 1971 Rules which provides for the Crown Court to appoint a guardian *ad litem* in the circumstances referred to in section 32B(2) or for the purposes of an appeal to the Crown Court where, by virtue of section 32A(3), an order under section 32A made by the juvenile court has effect for the purposes of the appeal. The amendment to rule 22 of the 1971 Rules allows this jurisdiction to be exercised by a judge of the Crown Court sitting in chambers.

The second new rule, rule 8B, added to the 1971 Rules specifies the part which may be taken by a parent or guardian in proceedings in the Crown Court in respect of which an order under section 32A of the 1969 Act is in force.

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