
STATUTORY INSTRUMENTS

1992 No. 1848

SUPREME COURT OF ENGLAND AND WALES

**The Criminal Justice Act 1991 (Dismissal
of Transferred Charges) Rules 1992**

<i>Made</i>	- - - -	<i>27th July 1992</i>
<i>Laid before Parliament</i>		<i>3rd August 1992</i>
<i>Coming into force</i>	- -	<i>1st October 1992</i>

We, the Crown Court Rule Committee, in exercise of the powers conferred upon us by sections 84(1) and 86 of the Supreme Court Act 1981⁽¹⁾ and section 53(5) and paragraph 5(8) of Schedule 6 to the Criminal Justice Act 1991⁽²⁾, hereby make the following Rules:

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Criminal Justice Act 1991 (Dismissal of Transferred Charges) Rules 1992 and shall come into force on 1st October 1992.

(2) In these Rules “the Act” means the Criminal Justice Act 1991.

Oral applications for dismissal

2.—(1) Where notice of transfer has been given by the prosecution under section 53 of the Act and a person to whom it relates proposes to apply orally under paragraph 5(1) of Schedule 6 thereto for any charge in the case to be dismissed, he shall give notice in writing in Form 1 of his intention to the appropriate officer of the Crown Court at the place specified by the notice of transfer as the proposed place of trial.

(2) A notice of intention to make such an application shall be given not later than 14 days after the day on which notice of transfer was given, and a copy thereof shall be given at the same time to the Director of Public Prosecutions and to any other person to whom the notice of transfer relates.

(3) The time for giving notice may be extended, either before or after it expires, by the Crown Court, on an application made in accordance with paragraph (4) below.

(4) An application for an extension of time for giving notice shall be made in writing in Form 1 specifying the grounds of the application and shall be sent to the appropriate officer of the Crown

(1) 1981 c. 54.
(2) 1991 c. 53.

Court; and a copy thereof shall be given at the same time to the Director of Public Prosecutions and to any other person to whom the notice of transfer relates.

(5) The appropriate officer of the Crown Court shall give notice in Form 3 of the judge's decision on an application under paragraph (3) above—

- (a) to the applicant;
- (b) to the Director of Public Prosecutions; and
- (c) to any other person to whom the notice of transfer relates.

(6) A notice of intention to make an application under paragraph 5(1) of Schedule 6 to the Act shall be accompanied by a copy of any material on which the applicant relies and shall—

- (a) specify the charge or charges to which it relates;
- (b) state whether the leave of the judge is sought under paragraph 5(4) of that Schedule to adduce oral evidence on the application, indicating what witnesses it is proposed to call at the hearing; and
- (c) confirm in relation to each such witness that he is not a child to whom paragraph 5(5) of that Schedule applies.

(7) Where leave is sought from the judge for oral evidence to be given on an application, notice of his decision, indicating what witnesses are to be called if leave is granted, shall be given by the appropriate officer of the Crown Court in Form 3 to the Director of Public Prosecutions and to any other party to whom notice of transfer relates.

(8) Where an application for dismissal under paragraph 5(1) of Schedule 6 to the Act is to be made orally, the appropriate officer of the Crown Court shall list the application for hearing before a judge of the Crown Court.

Written applications for dismissal

3.—(1) A written application for dismissal under paragraph 5(1) of Schedule 6 to the Act shall be made in Form 1.

(2) The application shall be sent to the appropriate officer of the Crown Court and shall be accompanied by a copy of any statement or other document, and identify any article, on which the applicant relies.

(3) A copy of the application and of any accompanying documents shall be given at the same time to the Director of Public Prosecutions and to any other person to whom the notice of transfer relates.

(4) A written application for dismissal shall be made not later than 14 days after the day on which notice of transfer was given unless the time for making the application is extended, either before or after it expires, by the Crown Court; and paragraphs (4) and (5) of rule 2 above shall apply for the purposes of this paragraph as if references therein to giving notice of intention to make an oral application were references to making a written application under this rule.

Prosecution reply

4.—(1) Not later than 7 days from the date of service of notice of intention to apply orally for the dismissal of any charge contained in a notice of transfer, the Director of Public Prosecutions may apply to the Crown Court for leave under paragraph 5(4) of Schedule 6 to the Act to adduce oral evidence at the hearing of the application.

(2) Not later than 7 days from the date of receiving a copy of an application for dismissal under rule 3(2) above, the Director of Public Prosecutions may apply to the Crown Court for an oral hearing of the application.

(3) An application under paragraph (1) or (2) above shall be made in writing in Form 2 to the appropriate officer of the Crown Court specifying the grounds of the application and, in the case of an application under paragraph (2) above, stating whether the leave of the judge is sought under paragraph 5(4) of Schedule 6 to the Act to adduce oral evidence. Where leave is sought to adduce oral evidence under paragraph (1) or (2) above, the application should indicate what witnesses it is proposed to call and confirm in relation to each such witness that he is not a child to whom paragraph 5(5) of that Schedule applies.

(4) Notice of the judge's determination upon an application under paragraph (1) or (2) above, indicating what witnesses (if any) are to be called shall be served in Form 3 by the appropriate officer of the Crown Court on the Director of Public Prosecutions and on any other party to whom the notice of transfer relates.

(5) Where, having received the material specified in rule 2(6) or, as the case may be, rule 3(2) above, the Director of Public Prosecutions proposes to adduce in reply thereto any written comments or any further evidence, he shall serve any such comments, copies of the statements or other documents outlining the evidence of any proposed witnesses, copies of any video recordings which it is proposed to tender in evidence, and copies of any further documents on the appropriate officer of the Crown Court not later than 14 days from the date of receiving the said material, and shall at the same time serve copies thereof on all parties to whom the notice of transfer relates. In the case of a defendant acting in person, copies of video recordings need not be served but shall be made available for viewing by him.

(6) The time for—

- (a) making an application under paragraph (1) or (2) above; or
- (b) serving any material on the appropriate officer of the Crown Court under paragraph (5) above, may be extended, either before or after it expires, by the Crown Court, on application made in accordance with paragraph (7) below.

(7) An application for an extension of time under paragraph (6) above shall be made in writing in Form 2 and shall be served on the appropriate officer of the Crown Court; and a copy thereof shall be served at the same time on the applicant for dismissal and on any other person to whom the notice of transfer relates.

Determination of applications for dismissal—procedural matters

5.—(1) A judge may grant leave for a witness to give oral evidence on an application for dismissal notwithstanding that notice of intention to call the witness has not been given in accordance with the foregoing provisions of these Rules.

(2) Where an application for dismissal is determined otherwise than at an oral hearing, the appropriate officer of the Crown Court shall as soon as practicable, send to all the parties to the case a notice, in Form 4, of the outcome of the application.

Service of documents

6.—(1) Any notice or other document which is required by these Rules to be given to any person may be served personally on that person or sent to him by post at his usual or last known residence or place of business in England or Wales or, in the case of a company, at the company's registered office in England or Wales.

(2) If the person to be served is acting by a solicitor, the notice or other document may be served by delivering it, or sending by post, to the solicitor's address for service.

Forms

7.—(1) Any reference in these Rules to a form is a reference to a form set out in the Schedule to these Rules.

(2) The forms set out in the Schedule to these Rules or forms substantially to the like effect may be used with such variations as the circumstances may require.

*Mackay of Clashfern, C.
Taylor, C.J.,
Russell, L.J.,
J. A. Henham,
Michael McKenzie,
P. F. Guggenheim,
David Jeffreys,
M. D. L. Kalisher,
L. Naylor,
S. T. Hammond,
Geoffrey Rivlin.*

Dated 27th July 1992

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SCHEDULE

Rule 7

(Form 1)

Rule 7

SCHEDULE

FORMS

Case Number

Application for dismissal of transferred charge(s) Criminal Justice Act 1991 under Schedule 6 paragraph 5

This form may be used to give notice of intention to apply orally, or to apply in writing, for dismissal of transferred charge(s), for application to call witnesses or for an extension of time within which to apply. Applications for dismissal must be received by the Court named in the notice of transfer, within **14 days** of the date on that notice.

A copy of this form and of any statements or documentary evidence on which the applicant relies must be served at the same time on the Director of Public Prosecutions and on any other person to whom the notice of transfer relates.

Case Details

Enter the name of the Court shown on the Notice of Transfer, the case no., and the date of the Notice.

The Crown Court at

Crown Court Case Number

Date of notice of transfer

State the name and address of the applicant to whom this application relates. (If in custody give address where detained.)

Applicant Surname
Forenames
Address

Date of birth

Application

Tick box as appropriate

- Notice of intention to apply *orally* for dismissal Sch 6 para 5(3) CJA 1991
- Application to call witnesses in support of application for dismissal Sch 6 para 5(4) CJA 1991
- Application for extension of time within which to give notice of intention to make an oral application
- Written* application for dismissal
- Application for extension of time within which to make a written application

If applying for an extension only you will need to submit a complete form in due course.

Charges

Specify all charges and indicate those to which this application applies.

(If applying only for an extension, you do not need to complete this section)

Form 1 Application for dismissal of transferred charge(s) or for extension of time.

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(Form 1 page 2)

Grounds for applying

(a) Application for dismissal:

The evidence which has been disclosed would not be sufficient for a jury properly to convict.

(b) Application for extension of time:

If applying for an extension, state the grounds

Witnesses* and material on which you rely (copies of all documents including video recordings must be attached).

For oral applications, indicate which witnesses you propose to call, if leave is given. State the date of birth of each witness (or that he is 18 or over). In relation to each witness under 18, you must also provide the additional information requested (Sch. 6 para. 5(5)).

Witnesses under 18

Name:

Date of birth:

Date of any video recording of the witness as is mentioned in section 32A(2) of the Criminal Justice Act 1988:

Is the witness the alleged victim or an alleged witness of the commission of the offence(s) charged?
YES/NO (delete inapplicable)

I confirm that none of the proposed witnesses is a child to whom Schedule 6 paragraph 5(5) applies.

*continue overleaf if necessary

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Signature of applicant Details of any person signing on behalf of applicant
Name

Solicitor/Counsel
Address

Date _____

Reference

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(Form 2 page 2)

State the grounds on which the application is being made

Grounds for applying

Indicate which witnesses you propose to call, if leave is given

Witnesses* for the prosecution

State the date of birth of each witness (or that he is 18 or over). In relation to each witness under 18, you must also provide the additional information requested (Sch. 6 para. 5(5))

Witnesses under 18

Name:

Date of birth:

Date of any video recording of the witness as is mentioned in section 32A(2) of the Criminal Justice Act 1988:

Is the witness the alleged victim or an alleged witness of the commission of the offence(s) charged: YES/NO (delete inapplicable)

I confirm that none of the proposed witnesses is a child to whom Schedule 6 paragraph 5(5) applies.

Indicate any grounds on which it appears that a proposed witness for the defence is a child to whom Sch. 6 para. 5(5) applies

Witnesses for defence

Signature

Date

*continue overleaf if necessary

Form 2 Application by Prosecution for oral hearing or for extension of time

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(Form 3)

In the Crown Court at

Case Number

Notification of Court's Determination on Applications under Criminal Justice Act 1991 Schedule 6 paragraph 5

This form shall be used for notifying all parties of the court's determination of the following applications:

- by the prosecution for oral hearing of a defence application for dismissal;
- by the defence or prosecution for leave to call witnesses;
- by the defence or prosecution for an extension of time within which to lodge an application for oral hearing; or
- by the prosecution for extension of time within which to submit material to the court.

Case Details

Defendant(s) Surname:
Forename(s):
Address:
(if in custody give
address where detained)

Date of birth:

Charges (indicate those to which the application relates)

Nature of Application

- Application by prosecution for oral hearing of application for dismissal of transferred charges)
- Defence*/Prosecution* application for leave to call witnesses Sch 6 para 5(4) CJA 1991 for oral hearing
- Defence*/Prosecution* application for extension of time within which to lodge an application for oral hearing
- Prosecution application for extension of time within which to submit written comments or other material to the court

*delete as appropriate

Court's Decision

(Specify court's decision on each application considered. Where an application is refused the reasons for refusal should be stated. Where leave is granted to call witnesses, the court must be satisfied that none of the witnesses to be called is a child to whom Schedule 6 paragraph 5(5) applies.)

Signed
(an Officer of the Court)

Date

Form 3 Notice of the Court Decision on application for oral hearing etc., or extension of time
Page 1 of 2

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(Form 4)

In the Crown Court at

Case Number

Notification of the Court's determination of a written application for dismissal of transferred charge(s) under Criminal Justice Act 1991 Schedule 6 paragraph 5

Case Details

Defendant(s) Surname:

Forename(s):

Address:

(if in custody give
address where detained)

Date of birth:

Charges (*Those on which dismissal was sought to be separately identified*)*

Court's Decision (*Specify court's decision. Where an application is refused the reasons for refusal should be stated. Include details of any bail variations, and counts substituted, added or quashed.*)

Signed
(an Officer of the Court)
*continue overleaf if necessary

Date

Form 4 Notification of judge's determination of application for dismissal

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EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules make provision for the purposes of Schedule 6 paragraph 5 of the Criminal Justice Act 1991 (c. 53), which permits a person whose case has been transferred to the Crown Court under section 53 of that Act to apply to a Crown Court judge for the charge or charges to be dismissed.

By virtue of rule 1(1), the Rules come into force on 1st October 1992.

Rule 2 makes provision for oral applications for dismissal. Rule 3 relates to written applications. Rule 4 makes provision for the prosecution response. Rule 5 provides for the notification of determinations on applications where there is no oral hearing and permits witnesses to be heard by leave of the judge notwithstanding failure to give proper notice. Rule 6 provides for the service of documents, and rule 7 and the Schedule provide for the necessary forms for use in connection with applications.