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STATUTORY INSTRUMENTS

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**1997 No. 699 (L. 5)**

**SUPREME COURT OF ENGLAND AND WALES**

**The Crown Court (Criminal Procedure and  
Investigations Act 1996) (Confidentiality) Rules 1997**

<i>Made</i>	- - - -	<i>10th March 1997</i>
<i>Laid before Parliament</i>		<i>11th March 1997</i>
<i>Coming into force</i>	- -	<i>1st April 1997</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 19 of the Criminal Procedure and Investigations Act 1996(2), hereby make the following Rules:

**1.—**(1) These Rules may be cited as the Crown Court (Criminal Procedure and Investigations Act 1996) (Confidentiality) Rules 1997 and shall come into force on 1st April 1997.

(2) In these Rules—

“the applicant” in any rule means the applicant in relation to an application to which that rule applies; and

“the prosecutor” means the prosecutor in the proceedings which are referred to in rule 2(3)(a); and any reference to a numbered section is a reference to the section so numbered in the Criminal Procedure and Investigations Act 1996.

**2.—**(1) This rule applies to an application under section 17(4).

(2) An application to which this rule applies shall be made by notice in writing to the appropriate officer of the Crown Court sitting at the same place as that in which the Crown Court sat or is sitting to conduct the proceedings for whose purposes the applicant was given, or allowed to inspect, the object to which the application relates.

(3) The notice of an application to which this rule applies shall—

(a) specify the object which the applicant seeks to use or disclose and the proceedings for whose purposes he was given, or allowed to inspect, it;

(b) where the applicant seeks to use or disclose any information recorded in the object specified in pursuance of sub-paragraph (a) above, specify that information;

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(1) 1981 c. 54; section 86 was amended by paragraph 36(2) of Schedule 18 to the Courts and Legal Services Act 1990 (c. 41).

(2) 1996 c. 25.

- (c) specify the reason why the applicant seeks permission to use or disclose the object specified in pursuance of sub-paragraph (a) above or any information specified in pursuance of sub-paragraph (b) above;
  - (d) describe any proceedings in connection with which the applicant seeks to use or disclose the object or information referred to in sub-paragraph (c) above; and
  - (e) specify the name and address of any person to whom the applicant seeks to disclose the object or information referred to in sub-paragraph (c) above.
- (4) On receipt of an application to which this rule applies the appropriate officer of the Crown Court shall fix a date and time for the hearing of the application.
- (5) The appropriate officer of the Crown Court shall give the applicant and the prosecutor at least 28 days' notice of the date fixed in pursuance of paragraph (4) above and shall at the same time send to the prosecutor a copy of the notice given to him in pursuance of paragraph (2) above.
- (6) Where the prosecutor has reason to believe that a person may claim to have an interest in the object specified in a notice of application in pursuance of paragraph (3)(a) above, or in any information so specified in pursuance of paragraph (3)(b) above, he shall, as soon as reasonably practicable after receipt of a copy of that notice under paragraph (5) above, send a copy of the notice to that person and inform him of the date fixed in pursuance of paragraph (4) above.
- 3.—**(1) This rule applies to an application under section 17(6)(b).
- (2) An application to which this rule applies shall be made by notice in writing to the officer referred to in rule 2 not less than 7 days before the date fixed in pursuance of rule 2(4).
- (3) The applicant shall at the same time send to the person whose application under section 17(4) is concerned a copy of the notice given in pursuance of paragraph (2) above.
- 4.—**(1) Where no application to which rule 3 applies is made in accordance with paragraph (2) of that rule, the court shall consider whether the application under section 17(4) may be determined without a hearing and may so determine it if the court thinks fit.
- (2) Where an application to which rule 2 applies is determined without a hearing the appropriate officer of the court shall give notice in writing to the person who made the application and to the prosecutor of any order made under section 17(4) or, as the case may be, that no such order has been made.
- 5.—**(1) This rule applies to proceedings in the Crown Court to deal with a contempt of court under section 18.
- (2) An application for an order of committal or for the imposition of a fine in proceedings to which this rule applies may be made by the prosecutor or by any other person claiming to have an interest in the object, or in any information recorded in an object, the use or disclosure of which is alleged to contravene section 17.
- (3) An application such as is referred to in paragraph (2) above shall be made by notice in writing to the appropriate officer of the Crown Court sitting at the same place as that in which the Crown Court sat or is sitting to conduct the proceedings for whose purposes the object mentioned in paragraph (2) above was given or inspected.
- (4) The notice referred to in paragraph (3) above shall set out the name and a description of the applicant, the name, description and address of the person sought to be committed or fined and the grounds on which his committal or the imposition of a fine is sought and shall be supported by an affidavit verifying the facts.
- (5) Subject to paragraph (6) below, the notice referred to in paragraph (3) above, accompanied by a copy of the affidavit in support of the application, shall be served personally on the person sought to be committed or fined.

(6) The court may dispense with service of the notice under this rule if it is of the opinion that it is necessary to do so in order to protect the applicant or for another purpose identified by the court.

(7) Nothing in the foregoing provisions of this rule shall be taken as affecting the power of the Crown Court to make an order of committal or impose a fine of its own motion against a person guilty of a contempt under section 18.

(8) Subject to paragraph (9) below, proceedings to which this rule applies shall be heard in open court.

(9) Proceedings to which this rule applies may be heard in private where—

(a) the object, the use or disclosure of which is alleged to contravene section 17, is; or

(b) the information, the use or disclosure of which is alleged to contravene that section, is recorded in,

an object which is, or forms part of, material in respect of which an application was made under section 3(6), 7(5), 8(5) or 9(8), whether or not the court made an order that the material be not disclosed:

Provided that where the court hears the proceedings in private it shall nevertheless, if it commits any person to custody or imposes a fine on him in pursuance of section 18(3), state in open court the name of that person, the period specified in the order of committal or, as the case may be, the amount of the fine imposed, or both such period and such amount where both are ordered.

(10) Except with the leave of the court hearing an application for an order of committal or for the imposition of a fine no grounds shall be relied upon at the hearing except the grounds set out in the notice referred to in paragraph (3) above.

(11) If on the hearing of the application the person sought to be committed or fined expresses a wish to give oral evidence on his own behalf, he shall be entitled to do so.

(12) The court by whom an order of committal is made may by order direct that the execution of the order of committal shall be suspended for such period or on such terms or conditions as it may specify.

(13) Where execution of an order of committal is suspended by an order under paragraph (12) above, the applicant for the order of committal must, unless the court otherwise directs, serve on the person against whom it was made a notice informing him of the making and terms of the order under that paragraph.

(14) The court may, on the application of any person committed to custody for a contempt under section 18, discharge him.

**6.—**(1) Where the Crown Court finds a person guilty of contempt under section 18 and proposes to make an order under subsection (4) or (7) of that section, the court may adjourn the proceedings.

(2) Where the court adjourns the proceedings under paragraph (1) above, the appropriate officer of the court shall give notice to the person found guilty and to the prosecutor—

(a) that the court proposes to make such an order and that, if an application is made in accordance with paragraph (4) below, it will before doing so hear any representations made by the person found guilty, or by any person in respect of whom the prosecutor gives notice to the court under paragraph (3) below, and

(b) of the time and date of the adjourned hearing.

(3) Where the prosecutor has reason to believe that a person may claim to have an interest in the object which has been used or disclosed in contravention of section 17 he shall, on receipt of notice under paragraph (2) above, give notice of that person's name and address to the appropriate officer of the court which made the finding of guilt.

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

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(4) Where the appropriate officer of the court receives a notice under paragraph (3) above, he shall, within 7 days of the finding of guilt, notify the person specified in that notice—

- (a) that the court has made a finding of guilt under section 18 and that it proposes to make an order under subsection (4) or, as the case may be, (7) of that section, and
- (b) of the time and date of the adjourned hearing.

(5) An application under section 18(6) shall be made by notice in writing to the appropriate officer of the court not less than 24 hours before the time set for the adjourned hearing.

*Mackay of Clashfern , C.  
Bingham of Cornhill , CJ.  
J W Kay , J.  
Geoffrey Rivlin  
Charles Harris  
Judith Beloff  
Nicholas P Valios  
L Dickinson*

Dated 10th March 1997

## **EXPLANATORY NOTE**

*(This note is not part of the Rules)*

These Rules provide for the practice and procedure to be followed in the Crown Court in relation to—

- (a) proceedings to deal with a contempt of court under section 18 of the Criminal Procedure and Investigations Act 1996 (“the 1996 Act”);
- (b) applications under section 17(4) and (6)(b) and 18(6) of the 1996 Act; and
- (c) orders under sections 17(4) and 18(4) and (7) of the 1996 Act.