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STATUTORY INSTRUMENTS

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**2005 No. 384**

**The Criminal Procedure Rules 2005**

**PART 56**

**CONFISCATION PROCEEDINGS UNDER THE CRIMINAL JUSTICE ACT 1988 AND THE DRUG TRAFFICKING ACT 1994**

**Application to Crown Court for increase in term of imprisonment in default of payment of a confiscation order**

**56.5.**—(1) This rule applies to applications made, or that have effect as made, to the Crown Court under section 10 of the Drug Trafficking Act 1994(1) and section 75A of the Criminal Justice Act 1988(2) (interest on sums unpaid under confiscation orders).

(2) Notice of an application to which this rule applies to increase the term of imprisonment or detention fixed in default of payment of a confiscation order by a person (“the defendant”) shall be made by the prosecutor in writing to the court officer.

(3) A notice under paragraph (2) shall—

- (a) state the name and address of the defendant;
- (b) specify the grounds for the application;
- (c) give details of the enforcement measures taken, if any; and
- (d) include a copy of the confiscation order.

(4) On receiving a notice under paragraph (2), the court officer shall—

- (a) forthwith send to the defendant and the magistrates' court required to enforce payment of the confiscation order under section 140(1) of the Powers of Criminal Courts (Sentencing) Act 2000(3), a copy of the said notice; and
- (b) notify in writing the applicant and the defendant of the date, time and place appointed for the hearing of the application.

(5) Where the Crown Court makes an order pursuant to an application mentioned in paragraph (1) above, the court officer shall send forthwith a copy of the order—

- (a) to the applicant;
- (b) to the defendant;
- (c) where the defendant is at the time of the making of the order in custody, to the person having custody of him; and
- (d) to the magistrates' court mentioned in paragraph (4)(a).

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(1) Section 10 was repealed, with savings, by the Proceeds of Crime Act 2002 (c. 29), Schedule 11, paragraphs 1, 25(1) and (2) (a) and Schedule 12.

(2) Section 75A was inserted by the Proceeds of Crime Act 1995 (c. 11), section 9, and repealed, with savings, by the Proceeds of Crime Act 2002 (c. 29), Schedule 11, paragraphs 1, 17(1) and (2)(a) and Schedule 12.

(3) 2000 c. 6; section 140(1) is amended by the Criminal Justice Act 2003 (c. 44), Schedule 3, Part 2, paragraphs 74(1) and (4) (a), (b) and Schedule 37, Part 4, with effect from a date to be appointed.

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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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*[Note. Formerly rule 33 of the Crown Court Rules 1982. The relevant provisions of the 1988 and 1994 Acts were repealed on 24th March 2003 but they continue to have effect in respect of proceedings for offences committed before that date.]*