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STATUTORY INSTRUMENTS

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**2010 No. 1921**

**The Criminal Procedure (Amendment) Rules 2010**

**Citation, commencement and interpretation**

1. These Rules may be cited as The Criminal Procedure (Amendment) Rules 2010 and shall come into force on 4th October 2010.

2. In these Rules, a reference to a Part or rule by number alone means the Part or rule so numbered in The Criminal Procedure Rules 2010(1).

**Amendments to The Criminal Procedure Rules 2010**

3. In Part 2 (Understanding and applying the rules)—

- (a) in paragraph (1) of rule 2.2 (Definitions), in the entry relating to ‘Practice Direction’, after ‘amended’, insert ‘, and ‘Criminal Costs Practice Direction’ means the Lord Chief Justice’s Practice Direction (Costs in Criminal Proceedings), as amended’; and
- (b) in the note to rule 2.5 (Representatives), for ‘section 27 or 28 of the Courts and Legal Services Act 1990(2)’, substitute ‘section 13 of the Legal Services Act 2007(3)’.

4. For rule 3.10 (Conduct of a trial or an appeal), and the note to that rule, substitute—

“**3.10.** In order to manage a trial or an appeal, the court—

- (a) must establish, with the active assistance of the parties, what are the disputed issues;
- (b) must consider setting a timetable that—
  - (i) takes account of those issues and of any timetable proposed by a party, and
  - (ii) may limit the duration of any stage of the hearing;
- (c) may require a party to identify—
  - (i) which witnesses that party wants to give evidence in person,
  - (ii) the order in which that party wants those witnesses to give their evidence,
  - (iii) whether that party requires an order compelling the attendance of a witness,
  - (iv) what arrangements are desirable to facilitate the giving of evidence by a witness,
  - (v) what arrangements are desirable to facilitate the participation of any other person, including the defendant,
  - (vi) what written evidence that party intends to introduce,
  - (vii) what other material, if any, that person intends to make available to the court in the presentation of the case, and
  - (viii) whether that party intends to raise any point of law that could affect the conduct of the trial or appeal; and

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(1) S.I. 2010/60.

(2) 1990 c. 41; sections 27 and 28 were repealed by sections 208 and 210 of, and paragraphs 83 and 84 of Schedule 21 and Schedule 23 to, the Legal Services Act 2007 (c. 29).

(3) 2007 c. 29.

- (d) may limit—
- (i) the examination, cross-examination or re-examination of a witness, and
  - (ii) the duration of any stage of the hearing.

*[Note. See also rules 3.5 and 3.8.]”.*

**5. In Part 5 (Forms and court records)—**

- (a) in Section 1 of the table of contents, omit ‘by justices’ clerks’;
- (b) in rule 5.1 (Forms), after ‘Practice Direction’, insert ‘and in the Criminal Costs Practice Direction’;
- (c) for rule 5.3 (Signature of magistrates’ courts forms by justices’ clerks) and the heading to that rule, substitute—

**“Signature of magistrates’ courts forms**

**5.3.—**(1) This rule applies where a form for use in connection with a magistrates’ court case provides for its signature.

(2) Unless other legislation otherwise requires, signature may be by any written or electronic authentication of the form by, or with the authority of, the signatory.

*[Note. Section 7 of the Electronic Communications Act 2000(4) provides for the use of an electronic signature in an electronic communication.]”;* and

- (d) in rule 5.7 (Proof of proceedings in magistrates’ courts), for ‘admissible’, substitute ‘available for admission’.

**6. In rule 7.4 (Summons, warrant and requisition), for paragraph (3), substitute—**

- “(3) A summons or requisition must—
- (a) contain notice of when and where the defendant is required to attend the court;
  - (b) specify each offence in respect of which it is issued;
  - (c) in the case of a summons, identify—
    - (i) the court that issued it, unless that is otherwise recorded by the court officer, and
    - (ii) the court office for the court that issued it; and
  - (d) in the case of a requisition, identify the person under whose authority it is issued.”.

**7. For Part 18 (Warrants), substitute the Part as set out in Schedule 1 to these Rules.**

**8. In rule 19.17 (Crown Court procedure on appeal against grant of bail by a magistrates’ court)—**

- (a) for paragraph (4), substitute—

“(4) The person concerned shall be entitled to be present at the hearing of the appeal.”;

and
- (b) at the end of the rule, insert—

*“[Note. Under sections 57A and 57B of the Crime and Disorder Act 1998(5), the person concerned is to be treated as present in court when, by virtue of a live link direction within the meaning of those sections, that person attends a hearing through a live link.]”.*

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(4) 2000 c. 7.

(5) 1998 c. 37; sections 57A to 57E were substituted for section 57 as originally enacted, by section 45 of the Police and Justice Act 2006 (c. 48). Section 57A was amended by section 109 of the Coroners and Justice Act 2009 (c. 25) and section 57B was amended by section 106 of the Coroners and Justice Act 2009 (c. 25).

9. In Part 29 (Measures to assist a witness or defendant to give evidence)—
- (a) in the table of contents, after ‘rule 29.22’, insert—
    - (i) in the first column—

“Section 6: live link directions  
Exercise of court’s powers  
Content of application for a live link direction  
Application to discharge a live link direction  
Representations in response”, and
    - (ii) in the second column—

“rule 29.23  
rule 29.24  
rule 29.25  
rule 29.26”;
  - (b) in rule 29.1 (When this Part applies)—
    - (i) for ‘**29.1.—(1)**’, substitute ‘**29.1.**’,
    - (ii) re-number paragraph ‘(e)’ as ‘(f)’, and
    - (iii) after paragraph ‘(d)’, insert—
      - “(e) where the court can give or discharge a direction (a ‘live link direction’), on an application or on its own initiative, for a witness to give evidence by live link under—
        - (i) section 32 of the Criminal Justice Act 1988**(6)**, or
        - (ii) sections 51 and 52 of the Criminal Justice Act 2003**(7)**”;
  - (c) at the end of the note to rule 29.4 (Decisions and reasons), insert ‘and sections 51(8) and 52(7) of the Criminal Justice Act 2003**(8)**’;
  - (d) after rule 29.22 (Representations in response), insert—

“SECTION 6: LIVE LINK DIRECTIONS

*[Note. The rules in Section 2 (general rules) also apply. The rules in this Section do not apply to an application for a special measures direction allowing a witness to give evidence by live link: as to which, see the rules in Section 3 (special measures directions).]*

**Exercise of court’s powers**

- 29.23.** The court may decide whether to give or discharge a live link direction—
- (a) at a hearing, in public or in private, or without a hearing;
  - (b) in a party’s absence, if that party—
    - (i) applied for the direction or discharge, or
    - (ii) has had at least 14 days in which to make representations.

(6) 1988 c. 33; section 32 was amended by section 55 of the Criminal Justice Act 1991 (c. 53), section 29 of, and paragraph 16 of Schedule 2 to, the Criminal Appeal Act 1995 (c. 35), section 62 of the Criminal Procedure and Investigations Act 1996 (c. 25), section 67 of, and Schedule 6 and paragraph 3 of Schedule 7 to, the Youth Justice and Criminal Evidence Act 1999 (c. 23) and paragraphs 24 and 26 of the Schedule to S.I. 2004/2035.

(7) 2003 c. 44.

(8) 2003 c. 44.

### **Content of application for a live link direction**

**29.24.** An applicant for a live link direction must—

- (a) unless the court otherwise directs, identify the place from which the witness will give evidence;
- (b) if that place is in the United Kingdom, explain why it would be in the interests of the efficient or effective administration of justice for the witness to give evidence by live link;
- (c) if the applicant wants the witness to be accompanied by another person while giving evidence—
  - (i) name that person, if possible, and
  - (ii) explain why it is appropriate for the witness to be accompanied;
- (d) ask for a hearing, if the applicant wants one, and explain why it is needed.

*[Note. See section 32 of the Criminal Justice Act 1988 and section 51 of the Criminal Justice Act 2003.*

*The Practice Direction sets out a form of application for use in connection with this rule.]*

### **Application to discharge a live link direction**

**29.25.—**(1) A party who wants the court to discharge a live link direction must—

- (a) apply in writing, as soon as reasonably practicable after becoming aware of the grounds for doing so; and
- (b) serve the application on—
  - (i) the court officer, and
  - (ii) each other party.

(2) The applicant must—

- (a) explain what material circumstances have changed since the direction was given;
- (b) explain why it is in the interests of justice to discharge the direction; and
- (c) ask for a hearing, if the applicant wants one, and explain why it is needed.

*[Note. See section 32(4) of the Criminal Justice Act 1988<sup>(9)</sup> and section 52(3) of the Criminal Justice Act 2003<sup>(10)</sup>.]*

### **Representations in response**

**29.26.—**(1) This rule applies where a party wants to make representations about—

- (a) an application for a live link direction;
- (b) an application for the discharge of such a direction; or
- (c) a direction or discharge that the court proposes on its own initiative.

(2) Such a party must—

- (a) serve the representations on—

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<sup>(9)</sup> 1988 c. 33; section 32(4) was amended by article 3 of, and paragraphs 24 and 26 of the Schedule to S.I. 2004/2035.

<sup>(10)</sup> 2003 c. 44.

- (i) the court officer, and
- (ii) each other party;
- (b) do so not more than 14 days after, as applicable—
  - (i) service of the application, or
  - (ii) notice of the direction or discharge that the court proposes; and
- (c) ask for a hearing, if that party wants one, and explain why it is needed.
- (3) Representations against a direction or discharge must explain, as applicable, why the conditions prescribed by the Criminal Justice Act 1988 or the Criminal Justice Act 2003 are not met.”; and
- (e) after the summary at the end of Part 29 (Measures to assist a witness or defendant to give evidence), insert—

**“Live link direction**

*Under section 32 of the Criminal Justice Act 1988, the court can allow a witness who is outside the United Kingdom to give evidence by live link—*

- (a) *in proceedings in a youth court, or on appeal from such proceedings; or*
- (b) *at a trial in the Crown Court, or on appeal from such a trial.*

*Under section 51 of the Criminal Justice Act 2003, on an application or on its own initiative, the court can allow a witness who is in the United Kingdom, but outside the building in which the proceedings are held, to give evidence by live link. The court must be satisfied that that is in the interests of the efficient or effective administration of justice.*

*If a witness is eligible for the assistance of a special measures direction (as to which, see the note above), the court can allow the witness to give evidence by live link under sections 19 and 24 of the Youth Justice and Criminal Evidence Act 1999(11). Section 3 of this Part contains relevant rules.”.*

**10.** In the note following rule 35.3 (Application to introduce evidence of non-defendant’s bad character), for ‘rule 35.6’, substitute ‘rule 35.5’.

**11.** In the note following rule 35.4 (Notice to introduce evidence of a defendant’s bad character), for ‘rule 35.6’, substitute ‘rule 35.5’.

**12.** In rule 37.10 (Procedure if court convicts), paragraph (3)(d)(iii)—

- (a) after ‘any’, insert ‘sentencing’; and
- (b) after ‘guidelines’ omit ‘issued by the Sentencing Guidelines Council,’.

**13.** In the note after rule 37.10 (Procedure if court convicts), for ‘The Sentencing Guidelines Council may issue sentencing guidelines under section 170 of the Criminal Justice Act 2003(12)’, substitute ‘The Sentencing Council may issue sentencing guidelines under section 120 of the Coroners and Justice Act 2009(13)’.

**14.** For Part 42 (Remittal from one magistrates’ court to another for sentence), substitute the Part set out in Schedule 2 to these Rules.

**15.** For Part 44 (Breach, revocation and amendment of community and other orders in a magistrates’ court), substitute the Part set out in Schedule 3 to these Rules.

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(11) 1999 c. 23; section 24 was amended by paragraph 385 of Schedule 8 to, and Schedule 10 to, the Courts Act 2003 (c. 39) and is amended by section 102(1) of the Coroners and Justice Act 2009 (c. 25), with effect from a date to be appointed.

(12) 2003 c. 44; section 170 was amended by article 8 of, and paragraph 9 of the Schedule to S.I. 2007/2128 and is amended by section 178 of, and Part 4 of Schedule 23 to, the Coroners and Justice Act 2009 (c. 25), with effect from a date to be appointed.

(13) 2009 c. 25.

16. In Part 50 (Civil behaviour orders after verdict or finding)—  
 (a) for rule 50.2 (Behaviour orders: general rules), substitute—

**“Behaviour orders: general rules**

**50.2.**—(1) The court must not make a behaviour order unless the person to whom it is directed has had an opportunity—

- (a) to consider what order is proposed and why; and
- (b) to make representations at a hearing (whether or not that person in fact attends).

(2) That restriction does not apply to making an interim behaviour order, but such an order has no effect unless the person to whom it is directed—

- (a) is present when it is made; or
- (b) is handed a document recording the order not more than 7 days after it is made.

(3) Where the court decides not to make, where it could—

- (a) a football banning order;
- (b) a parenting order, after a person under 16 is convicted of disobeying an anti-social behaviour order; or
- (c) a drinking banning order,

the court must announce, at a hearing in public, the reasons for its decision.

*[Note. The Acts listed in the note to rule 50.1 impose requirements specific to each different type of behaviour order. Not all allow the court to make an interim behaviour order.*

*See section 14A(3) of the Football Spectators Act 1989(14); section 8A(4) of the Crime and Disorder Act 1998(15); and section 6(4) of the Violent Crime Reduction Act 2006(16).]*”;

- (b) for rule 50.5 (Application to vary or revoke behaviour order), substitute—

**“Application to vary or revoke behaviour order**

**50.5.**—(1) The court may vary or revoke a behaviour order if—

- (a) the legislation under which it is made allows the court to do so; and
- (b) one of the following applies—

- (i) the prosecutor,
- (ii) the person to whom the order is directed,
- (iii) any other person mentioned in the order,
- (iv) the relevant authority or responsible officer,
- (v) the relevant Chief Officer of Police, or
- (vi) the Director of Public Prosecutions.

(2) A person applying under this rule must—

- (a) apply in writing as soon as practicable after becoming aware of the grounds for doing so, explaining—

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(14) 1989 c. 37; section 14A was substituted, together with sections 14 and 14B–14J, for the existing sections 14–17, by section 1 of, and paragraphs 1 and 2 of Schedule 1 to, the Football (Disorder) Act 2000 (c. 25).

(15) 1998 c. 37; section 8A is inserted by section 41(1) and (3) of the Crime and Security Act 2010 (c. 17), with effect from a date to be appointed.

(16) 2006 c. 38.

- (i) what material circumstances have changed since the order was made, and
    - (ii) why the order should be varied or revoked as a result; and
  - (b) serve the application on—
    - (i) the court officer,
    - (ii) as appropriate, the prosecutor or defendant, and
    - (iii) any other person listed in paragraph (1)(b), if the court so directs.
- (3) A party who wants the court to take account of any particular evidence before making its decision must, as soon as practicable—
  - (a) serve notice in writing on—
    - (i) the court officer,
    - (ii) as appropriate, the prosecutor or defendant, and
    - (iii) any other person listed in paragraph (1)(b) on whom the court directed the application to be served; and
  - (b) in that notice identify the evidence and attach any written statement that has not already been served.
- (4) The court may decide an application under this rule with or without a hearing.
- (5) But the court must not—
  - (a) dismiss an application under this rule unless the applicant has had an opportunity to make representations at a hearing (whether or not the applicant in fact attends); or
  - (b) allow an application under this rule unless everyone required to be served, by this rule or by the court, has had at least 14 days in which to make representations, including representations about whether there should be a hearing.
- (6) The court officer must—
  - (a) serve the application on any person, if the court so directs; and
  - (b) give notice of any hearing to—
    - (i) the applicant, and
    - (ii) any person required to be served, by this rule or by the court.

*[Note. The legislation that gives the court power to make a behaviour order may limit the circumstances in which it may be varied or revoked and may require a hearing.*

*If a party relies on hearsay evidence, see also rules 50.6, 50.7 and 50.8.]”*

**17.** For Part 52 (Enforcement of fines), substitute the Part as set out in Schedule 4 to these Rules.

**18.** For Part 55 (Road traffic penalties), substitute the Part as set out in Schedule 5 to these Rules.

**19.** For the table in paragraph (2) of rule 57.15 (External requests and orders), substitute—

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<i>“Article of The Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005</i>	<i>Section of the Proceeds of Crime Act 2002</i>
8	41
9	42
10	43
11	44

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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.*

<i>“Article of The Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005</i>	<i>Section of the Proceeds of Crime Act 2002</i>
15	48
16	49
17	58
23	31
27	50
28	51
41	62
42	63
44	65
45	66”

**20.** In rule 58.10 (Compensation – general), in paragraph (4)(b)—

- (a) after ‘person’, insert ‘or authority’;
- (b) after ‘72(9)’, insert ‘or 302(7A)(17)’; and
- (c) after ‘72(9)(a)’, insert ‘or 302(7A)’.

**21.** In Part 60 (Proceeds of Crime Act 2002: Rules applicable only to receivership proceedings)—

- (a) in rules 60.1(3)(e) (Application for appointment of a management or an enforcement receiver), 60.5(1) (Security) and 60.6(1) (Remuneration), for ‘member of staff of the Crown Prosecution Service or the Revenue and Customs Prosecutions Office’, substitute ‘person falling within section 55(8) of the 2002 Act(18)’; and
- (b) in rule 60.5(1) (Security) and rule 60.6(1) (Remuneration), for ‘member or he is on secondment’, substitute ‘member of staff or on secondment’.

**22.** Omit Part 30 (Use of live television link other than for vulnerable witnesses), Part 43 (Committal to the Crown Court for sentence), Part 45 (Deferred sentence), Part 47 (Suspended sentences of imprisonment), Part 48 (Community penalties), Part 49 (Hospital and guardianship orders), Part 53 (Compensation orders) and Part 54 (Conditional discharge).

**23.** In the preamble to The Criminal Procedure Rules 2010—

- (a) in the first column, headed ‘Rule’—
  - (i) omit ‘5.7’, and
  - (ii) for ‘34.3’, substitute ‘34.4’, and
  - (iii) insert, in the appropriate place, ‘42.4’; and
- (b) in the second column, headed ‘Power’—
  - (i) omit ‘Section 145(1)(c) of the Magistrates’ Courts Act 1980(19)’, and
  - (ii) insert, beside ‘42.4’, ‘Section 155(7) of the Powers of Criminal Courts (Sentencing) Act 2000(20)’.

(17) 2002 c. 29; paragraph (7A) was inserted by section 79 of, and paragraphs 1 and 11 of Schedule 11 to, the Serious Crime Act 2007 (c. 27).

(18) 2002 c. 29; section 55(8) was amended by section 51(1) and (2) of the Policing and Crime Act 2009 (c. 26).

(19) 1980 c. 43.

(20) 2000 c. 6; section 155(7) was amended by article 3 of, and paragraphs 39 and 43 to, S.I. 2004/2035.



**24.** In the Arrangement of Rules contained in The Criminal Procedure Rules 2010—

- (a) omit the entries for Part 30 (Use of live television link other than for vulnerable witnesses), Part 43 (Committal to the Crown Court for sentence), Part 45 (Deferred sentence), Part 47 (Suspended sentences of imprisonment), Part 48 (Community penalties), Part 49 (Hospital and guardianship orders), Part 53 (Compensation orders) and Part 54 (Conditional discharge);
- (b) for the entry for Part 42 (Remand from one magistrates' court to another for sentence), substitute 'Sentencing procedures in special cases';
- (c) in the entry for Part 44 (Breach, revocation and amendment of community and other orders in a magistrates' court), omit 'in a magistrates' court'; and
- (d) in the entry for Part 52 (Enforcement of fines), after 'fines', insert 'and other orders for payment'.

*Judge, C.J.  
Hooper, L.J.  
Thomas, L.J.  
Openshaw, J.  
Charles Wide  
Roderick Denyer  
Stephen Dawson  
Nicholas Moss  
Tessa Szagun  
Keir Starmer  
Patrick Gibbs  
Tom Little  
Michael Caplan  
Derek French  
James Barker-McCardle  
Jeremy Corbett  
James Riches*

I allow these Rules, which shall come into force on

26th July 2010

*Kenneth Clarke*  
Lord Chancellor