
STATUTORY INSTRUMENTS

2011 No. 1709

The Criminal Procedure Rules 2011

PART 62

CONTEMPT OF COURT

SECTION 2: CONTEMPT OF COURT BY OBSTRUCTION, DISRUPTION, ETC.

Initial procedure on obstruction, disruption, etc.

- 62.5.**—(1) This rule applies where the court observes, or someone reports to the court—
- (a) in the Court of Appeal or the Crown Court, obstructive, disruptive, insulting or intimidating conduct, in the courtroom or in its vicinity, or otherwise immediately affecting the proceedings;
 - (b) in the Crown Court, a contravention of—
 - (i) section 3 of the Criminal Procedure (Attendance of Witnesses) Act 1965(1) (disobeying a witness summons);
 - (ii) section 20 of the Juries Act 1974(2) (disobeying a jury summons);
 - (iii) section 8 of the Contempt of Court Act 1981(3) (obtaining details of a jury’s deliberations, etc.);
 - (c) in a magistrates’ court, a contravention of—
 - (i) section 97(4) of the Magistrates’ Courts Act 1980 (refusing to give evidence), or
 - (ii) section 12 of the Contempt of Court Act 1981(4) (insulting or interrupting the court, etc.);
 - (d) a contravention of section 9 of the Contempt of Court Act 1981(5) (without the court’s permission, recording the proceedings, etc.);
 - (e) any other conduct with which the court can deal as, or as if it were, a criminal contempt of court, except failure to surrender to bail under section 6 of the Bail Act 1976(6).

(1) 1965 c. 69; section 3 was amended by section 56 of, and Part IV of Schedule 11 to, the Courts Act 1971 (c. 23) and sections 65 and 66 of the Criminal Procedure and Investigations Act 1996 (c. 25).

(2) 1974 c. 23; section 20 was amended by sections 37, 38 and 46 of the Criminal Justice Act 1982 (c. 48), section 170(1) of, and paragraph 46 of Schedule 15 to, the Criminal Justice Act 1988 (c. 33), paragraph 28 of Schedule 10 to, the Criminal Justice and Public Order Act 1994 (c. 33) and paragraphs 1 and 14 of Schedule 33 to, the Criminal Justice Act 2003 (c. 44).

(3) 1981 c. 49.

(4) 1981 c. 49; section 12 was amended by section 78 of, and Schedule 16 to, the Criminal Justice Act 1982 (c. 48), section 17(3) of, and Part I of Schedule 4 to, the Criminal Justice Act 1991 (c. 53); section 65(3) and (4) of, and paragraph 6(4) of Schedule 3 to, the Criminal Justice Act 1993 (c. 36) and section 165 of, and paragraph 83 of Schedule 9 to, the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6).

(5) 1981 c. 49.

(6) 1976 c. 63; section 6 was amended by sections 37, 38 and 46 of the Criminal Justice Act 1982 (c. 48), section 109 of, and paragraph 184 of Schedule 8 to, the Courts Act 2003 (c. 39) and sections 15 and 41 of, and paragraphs 48(1) and 48(4) of Schedule 3 to, the Criminal Justice Act 2003 (c. 44). The amendments made by Schedule 3 of the 2003 Act are in force in relation to certain cases only, and for remaining purposes will take effect from a date to be appointed.

- (2) Unless the respondent's behaviour makes it impracticable to do so, the court must—
- (a) explain, in terms the respondent can understand (with help, if necessary)—
 - (i) the conduct that is in question,
 - (ii) that the court can impose imprisonment, or a fine, or both, for such conduct,
 - (iii) (where relevant) that the court has power to order the respondent's immediate temporary detention, if in the court's opinion that is required,
 - (iv) that the respondent may explain the conduct,
 - (v) that the respondent may apologise, if he or she so wishes, and that this may persuade the court to take no further action, and
 - (vi) that the respondent may take legal advice; and
 - (b) allow the respondent a reasonable opportunity to reflect, take advice, explain and, if he or she so wishes, apologise.
- (3) The court may then—
- (a) take no further action in respect of that conduct;
 - (b) enquire into the conduct there and then; or
 - (c) postpone that enquiry (if a magistrates' court, only until later the same day).

[Note. By reason of sections 15 and 45 of the Senior Courts Act 1981, the Court of Appeal and the Crown Court each has an inherent power to imprison (for a maximum of 2 years), or fine (to an unlimited amount), or both, a respondent for contempt of court for the conduct listed in paragraph (1)(a), (b), (d) or (e). See also section 14 of the Contempt of Court Act 1981(7).

Under section 97(4) of the Magistrates' Courts Act 1980, and under sections 12 and 14 of the Contempt of Court Act 1981, a magistrates' court can imprison (for a maximum of 1 month), or fine (to a maximum of £2,500), or both, a respondent who contravenes a provision listed in paragraph (1)(c) or (d). Section 12(1) of the 1981 Act allows the court to "deal with any person who—

- (a) *wilfully insults the justice or justices, any witness before or officer of the court or any solicitor or counsel having business in the court, during his or their sitting or attendance in court or in going to or returning from the court; or*
- (b) *wilfully interrupts the proceedings of the court or otherwise misbehaves in court."*

Under section 89 of the Powers of Criminal Courts (Sentencing) Act 2000(8), no respondent who is under 21 may be imprisoned for contempt of court. Under section 108 of that Act(9), a respondent who is at least 18 but under 21 may be detained if the court is of the opinion that no other method of dealing with him or her is appropriate. Under section 14(2A) of the Contempt of

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- (7) 1981 c. 49; section 14 was amended by section 65(1) of, and paragraphs 59 and 60 of Schedule 3 to, the Mental Health (Amendment) Act 1982 (c. 51), section 148 of, and paragraph 57 of Schedule 4 to, the Mental Health Act 1983 (c. 20), section 17(3) of, and Parts 1 and V of Schedule 4 to, the Criminal Justice Act 1991 (c. 53), section 65(3) and (4) of, and paragraph 6(5) of Schedule 3 to, the Criminal Justice Act 1993 (c. 36), section 165(1) of, and paragraph 84 of Schedule 9 to, the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), section 1(4) of, and paragraph 19 of Schedule 1 to, the Mental Health Act 2007 (c. 12) and it is amended by sections 6(2) and 149 of, and paragraph 25 of Schedule 4 and Part 1 of Schedule 28 to, the Criminal Justice and Immigration Act 2008 (c. 4), with effect from a date to be appointed.
 - (8) 2000 c. 6; section 89 is amended by section 74 of, and paragraphs 160 and 180 of Schedule 7 to, the Criminal Justice and Court Services Act 2000 (c. 43), with effect from a date to be appointed. It was amended by paragraph 74(3)(b) of Schedule 3 of, the Criminal Justice Act 2003 (c. 44) with effect from 9 May, 2005, in relation to cases sent for trial under section 51A(3) of the Crime and Disorder Act 1998 (c. 37). It is also amended by paragraph 74(3)(a) of the 2003 Act, with effect from a date to be appointed.
 - (9) 2000 c. 6; section 108 is repealed by sections 74 and 75 of, and paragraphs 160 and 188 of Schedule 7 to, the Criminal Justice and Court Services Act 2000 (c. 43), with effect from a date to be appointed.

Court Act 1981(10), a respondent who is under 17 may not be ordered to attend an attendance centre.

Under section 258 of the Criminal Justice Act 2003(11), a respondent who is imprisoned for contempt of court must be released unconditionally after serving half the term.

Under section 12 of the Access to Justice Act 1999(12), the respondent may receive advice and representation funded by the Legal Services Commission in “proceedings for contempt committed, or alleged to have been committed, by an individual in the face of the court”.

By reason of sections 15 and 45 of the Senior Courts Act 1981, the Court of Appeal and the Crown Court each has an inherent power temporarily to detain a respondent, for example to restore order, when dealing with obstructive, disruptive, insulting or intimidating conduct. Under section 12(2) of the Contempt of Court Act 1981(13), a magistrates’ court can temporarily detain a respondent until later the same day on a contravention of that section.

Part 19 contains rules about bail.]

Review after temporary detention

62.6.—(1) This rule applies in a case in which the court has ordered the respondent’s immediate temporary detention for conduct to which rule 62.5 applies.

- (2) The court must review the case—
 - (a) if a magistrates’ court, later the same day;
 - (b) if the Court of Appeal or the Crown Court, no later than the next business day.
- (3) On the review, the court must—
 - (a) unless the respondent is absent, repeat the explanations required by rule 62.5(2)(a); and
 - (b) allow the respondent a reasonable opportunity to reflect, take advice, explain and, if he or she so wishes, apologise.
- (4) The court may then—
 - (a) take no further action in respect of the conduct;
 - (b) if a magistrates’ court, enquire into the conduct there and then; or
 - (c) if the Court of Appeal or the Crown Court—
 - (i) enquire into the conduct there and then, or
 - (ii) postpone the enquiry, and order the respondent’s release from such detention in the meantime.

Postponement of enquiry

62.7.—(1) This rule applies where the Court of Appeal or the Crown Court postpones the enquiry.

(2) The court must arrange for the preparation of a written statement containing such particulars of the conduct in question as to make clear what the respondent appears to have done.

(10) 1981 c. 49. There are two sub-section (2A)s. The first is relevant. It was inserted by section 77 of, and paragraph 60 of Schedule 14 to, the Criminal Justice Act 1982 (c. 48) and amended by section 165(1) of, and paragraph 84 of Schedule 9 to, the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6). It is repealed by sections 6(2) and 149 of, and paragraph 25 of Schedule 4 and Part 1 of Schedule 28 to, the Criminal Justice and Immigration Act 2008 (c. 4), with effect from a date to be appointed.

(11) 2003 c. 44; section 258 was amended by article 3(1) and (12) of S.I. 2005/643 and is amended by section 34(1) and (5) of the Police and Justice Act 2006 (c. 4), with effect from a date to be appointed.

(12) 1999 c. 22; section 12 was amended by section 182 of the Extradition Act 2003 (c. 41) and article 8 of, and paragraph 4 of the Schedule to, S.I. 2005/3429.

(13) 1981 c. 49; section 12(2) was amended by Part 1 of Schedule 4 to the Criminal Justice Act 1991 (c. 53).

- (3) The court officer must serve on the respondent—
 - (a) that written statement;
 - (b) notice of where and when the postponed enquiry will take place; and
 - (c) a notice that—
 - (i) reminds the respondent that the court can impose imprisonment, or a fine, or both, for contempt of court, and
 - (ii) warns the respondent that the court may pursue the postponed enquiry in the respondent's absence, if the respondent does not attend.

Procedure on enquiry

- 62.8.**—(1) At an enquiry, the court must—
- (a) ensure that the respondent understands (with help, if necessary) what is alleged, if the enquiry has been postponed from a previous occasion;
 - (b) explain what the procedure at the enquiry will be; and
 - (c) ask whether the respondent admits the conduct in question.
- (2) If the respondent admits the conduct, the court need not receive evidence.
- (3) If the respondent does not admit the conduct, the court will receive—
- (a) any statement served under rule 62.7;
 - (b) any other evidence of the conduct;
 - (c) any evidence introduced by the respondent; and
 - (d) any representations by the respondent about the conduct.
- (4) If the respondent admits the conduct, or the court finds it proved, the court must—
- (a) before imposing any punishment for contempt of court, give the respondent an opportunity to make representations relevant to punishment;
 - (b) explain, in terms the respondent can understand (with help, if necessary)—
 - (i) the reasons for its decision, including its findings of fact, and
 - (ii) the punishment it imposes, and its effect; and
 - (c) if a magistrates' court, arrange for the preparation of a written record of those findings.
- (5) The court that conducts an enquiry—
- (a) need not include the same member or members as the court that observed the conduct; but
 - (b) may do so, unless that would be unfair to the respondent.