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STATUTORY INSTRUMENTS

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**2013 No. 1554**

**The Criminal Procedure Rules 2013**

**PART 9**

**ALLOCATION AND SENDING FOR TRIAL**

*SECTION 4: CROWN COURT INITIAL PROCEDURE AFTER SENDING FOR TRIAL*

**Service of prosecution evidence**

**9.15.**—(1) This rule applies where—

- (a) a magistrates' court sends the defendant to the Crown Court for trial; and
- (b) the prosecutor serves on the defendant copies of the documents containing the evidence on which the prosecution case relies.

(2) The prosecutor must at the same time serve copies of those documents on the Crown Court officer.

*[Note. See The Crime and Disorder Act 1998 (Service of Prosecution Evidence) Regulations 2005(1). The time for service of the prosecution evidence is prescribed by regulation 2. It is—*

- (a) *not more than 50 days after sending for trial, where the defendant is in custody; and*
- (b) *not more than 70 days after sending for trial, where the defendant is on bail.]*

**Application to dismiss offence sent for Crown Court trial**

**9.16.**—(1) This rule applies where a defendant wants the Crown Court to dismiss an offence sent for trial there.

(2) The defendant must—

- (a) apply in writing—
  - (i) not more than 28 days after service of the prosecution evidence, and
  - (ii) before the defendant's arraignment;
- (b) serve the application on—
  - (i) the Crown Court officer, and
  - (ii) each other party;
- (c) in the application—
  - (i) explain why the prosecution evidence would not be sufficient for the defendant to be properly convicted,
  - (ii) ask for a hearing, if the defendant wants one, and explain why it is needed,

- (iii) identify any witness whom the defendant wants to call to give evidence in person, with an indication of what evidence the witness can give,
  - (iv) identify any material already served that the defendant thinks the court will need to determine the application, and
  - (v) include any material not already served on which the defendant relies.
- (3) A prosecutor who opposes the application must—
  - (a) serve notice of opposition, not more than 14 days after service of the defendant’s notice, on—
    - (i) the Crown Court officer, and
    - (ii) each other party;
  - (b) in the notice of opposition—
    - (i) explain the grounds of opposition,
    - (ii) ask for a hearing, if the prosecutor wants one, and explain why it is needed,
    - (iii) identify any witness whom the prosecutor wants to call to give evidence in person, with an indication of what evidence the witness can give,
    - (iv) identify any material already served that the prosecutor thinks the court will need to determine the application, and
    - (v) include any material not already served on which the prosecutor relies.
- (4) The court may determine an application under this rule—
  - (a) at a hearing, in public or in private, or without a hearing;
  - (b) in the absence of—
    - (i) the defendant who made the application,
    - (ii) the prosecutor, if the prosecutor has had at least 14 days in which to serve notice opposing the application.
- (5) The court may—
  - (a) shorten or extend (even after it has expired) a time limit under this rule;
  - (b) allow a witness to give evidence in person even if that witness was not identified in the defendant’s application or in the prosecutor’s notice.

*[Note. Under paragraph 2 of Schedule 3 to the Crime and Disorder Act 1998(2), on an application by the defendant the Crown Court must dismiss an offence charged if it appears to the court that the evidence would not be sufficient for the applicant to be properly convicted.]*

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(2) 1998 c. 37; paragraph 2 of Schedule 3 was amended by paragraphs 15 and 20 of Schedule 3, paragraph 73 of Schedule 36 and Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c. 44) and SI 2004/2035.