
STATUTORY INSTRUMENTS

2018 No. 847

The Criminal Procedure (Amendment No. 2) Rules 2018

Amendments to the Criminal Procedure Rules 2015

- 8.** In Part 34 (Appeal to the Crown Court)—
- (a) in rule 34.2 (Service of appeal notice)—
- (i) for the heading to the rule substitute “Service of appeal and respondent’s notices”, and
- (ii) after paragraph (4) insert—
- “(5) Where the appeal is against conviction or against a finding of guilt, unless the respondent agrees that the court should allow the appeal—
- (a) the respondent must serve a respondent’s notice on—
- (i) the Crown Court officer; and
- (ii) the appellant; and
- (b) the respondent must serve that notice not more than 21 days after service of the appeal notice.”;
- (b) for rule 34.3 (Form of appeal notice) substitute—

“Form of appeal and respondent’s notices

- 34.3.—**(1) The appeal notice must—
- (a) specify—
- (i) the conviction or finding of guilt,
- (ii) the sentence, or
- (iii) the order, or the failure to make an order,
- about which the appellant wants to appeal;
- (b) summarise the issues;
- (c) in an appeal against conviction or against a finding of guilt, to the best of the appellant’s ability and to assist the court in fulfilling its duty under rule 3.2 (the court’s duty of case management)—
- (i) identify the witnesses who gave oral evidence in the magistrates’ court,
- (ii) identify the witnesses who gave written evidence in the magistrates’ court,
- (iii) identify the prosecution witnesses whom the appellant will want to question if they are called to give oral evidence in the Crown Court,
- (iv) identify the likely defence witnesses,
- (v) give notice of any special arrangements or other measures that the appellant thinks are needed for witnesses,
- (vi) explain whether the issues in the Crown Court differ from the issues in the magistrates’ court, and if so how, and

- (vii) say how long the trial lasted in the magistrates' court and how long the appeal is likely to last in the Crown Court;
 - (d) in an appeal against a sentence, order or failure to make an order—
 - (i) identify any circumstances, report or other information of which the appellant wants the court to take account, and
 - (ii) explain the significance of those circumstances or that information to what is in issue;
 - (e) in an appeal against a finding that the appellant insulted someone or interrupted proceedings in the magistrates' court, attach—
 - (i) the magistrates' court's written findings of fact, and
 - (ii) the appellant's response to those findings;
 - (f) say whether the appellant has asked the magistrates' court to reconsider the case; and
 - (g) include a list of those on whom the appellant has served the appeal notice.
- (2) A respondent's notice must—
- (a) give the date on which the respondent was served with the appeal notice; and
 - (b) to assist the court in fulfilling its duty under rule 3.2—
 - (i) identify the witnesses who gave oral evidence in the magistrates' court,
 - (ii) identify the witnesses who gave written evidence in the magistrates' court,
 - (iii) identify the prosecution witnesses whom the respondent intends to call to give oral evidence in the Crown Court,
 - (iv) give notice of any special arrangements or other measures that the respondent thinks are needed for witnesses,
 - (v) explain whether the issues in the Crown Court differ from the issues in the magistrates' court, and if so how, and
 - (vi) say how long the trial lasted in the magistrates' court and how long the appeal is likely to last in the Crown Court.
- (3) Paragraph (4) applies in an appeal against conviction or against a finding of guilt where in the magistrates' court a party to the appeal—
- (a) introduced in evidence material to which applies—
 - (i) Part 16 (Written witness statements),
 - (ii) Part 19 (Expert evidence),
 - (iii) Part 20 (Hearsay evidence),
 - (iv) Part 21 (Evidence of bad character), or
 - (v) Part 22 (Evidence of a complainant's previous sexual behaviour); or
 - (b) made an application to which applies—
 - (i) Part 17 (Witness summonses, warrants and orders),
 - (ii) Part 18 (Measures to assist a witness or defendant to give evidence), or
 - (iii) Part 23 (Restriction on cross-examination by a defendant).
- (4) If such a party wants to reintroduce that material or to renew that application in the Crown Court that party must include a notice to that effect in the appeal or respondent's notice, as the case may be.

[Note. The Practice Direction sets out forms of appeal and respondent's notices for use in connection with this rule.

In some cases, a magistrates' court can reconsider a conviction, sentence or other order and make a fresh decision. See section 142 of the Magistrates' Courts Act 1980(1).

See also rule 3.11 (Conduct of a trial or an appeal).]

(c) for rule 34.4 (Duty of magistrates' court officer) substitute—

“Duty of magistrates' court officer

34.4.—(1) The magistrates' court officer must—

- (a) arrange for the magistrates' court to hear as soon as practicable any application to that court under rule 34.2(3)(c) (suspension of disqualification pending appeal); and
- (b) as soon as practicable notify the Crown Court officer of the service of the appeal notice and make available to that officer—
 - (i) the appeal notice and any accompanying application served by the appellant,
 - (ii) details of the parties including their addresses, and
 - (iii) a copy of each magistrates' court register entry relating to the decision under appeal and to any application for bail pending appeal.

(2) Where the appeal is against conviction or against a finding of guilt, the magistrates' court officer must make available to the Crown Court officer as soon as practicable—

- (a) all material served on the magistrate's court officer to which applies—
 - (i) Part 8 (Initial details of the prosecution case),
 - (ii) Part 16 (Written witness statements),
 - (iii) Part 17 (Witness summonses, warrants and orders),
 - (iv) Part 18 (Measures to assist a witness or defendant to give evidence),
 - (v) Part 19 (Expert evidence),
 - (vi) Part 20 (Hearsay evidence),
 - (vii) Part 21 (Evidence of bad character),
 - (viii) Part 22 (Evidence of a complainant's previous sexual behaviour),
 - (ix) Part 23 (Restriction on cross-examination by a defendant);
- (b) any case management questionnaire prepared for the purposes of the trial;
- (c) all case management directions given by the magistrates' court for the purposes of the trial; and
- (d) any other document, object or information for which the Crown Court officer asks.

(3) Where the appeal is against sentence, the magistrates' court officer must make available to the Crown Court officer as soon as practicable any report received for the purposes of sentencing.

(4) Unless the magistrates' court otherwise directs, the magistrates' court officer—

(1) 1980 c. 43; section 142 was amended by sections 26 and 29 of, and Schedule 3 to, the Criminal Appeal Act 1995 (c. 35).

- (a) must keep any document or object exhibited in the proceedings in the magistrates' court, or arrange for it to be kept by some other appropriate person, until at least—
 - (i) 6 weeks after the conclusion of those proceedings, or
 - (ii) the conclusion of any proceedings in the Crown Court that begin within that 6 weeks; but
- (b) need not keep such a document if—
 - (i) the document that was exhibited is a copy of a document retained by the party who produced it, and
 - (ii) what was in evidence in the magistrates' court was the content of that document.

[Note. See also section 133 of the Criminal Justice Act 2003(2) (Proof of statements in documents).]";

- (d) for rule 34.7 (Application to introduce further evidence or for ruling on procedure, evidence or other question of law) substitute—

“Preparation for appeal

34.7.—(1) The Crown Court may conduct a preparation for appeal hearing (and if necessary more than one such hearing) where—

- (a) it is necessary to conduct such a hearing in order to give directions for the effective determination of the appeal; or
- (b) such a hearing is required to set ground rules for the conduct of the questioning of a witness or appellant.

(2) Where under rule 34.3(4) a party gives notice to reintroduce material or to renew an application first introduced or made in the magistrates' court—

- (a) no other notice or application to the same effect otherwise required by these Rules need be served; and
- (b) any objection served by the other party in the magistrates' court is treated as renewed unless within 14 days that party serves notice withdrawing it.

(3) Paragraphs (4) and (5) apply where—

- (a) the appeal is against conviction or against a finding of guilt;
- (b) a party wants to introduce material or make an application under a Part of these Rules listed in rule 34.3(3); and
- (c) that party gives no notice of reintroduction or renewal under rule 34.3(4) (whether because the conditions for giving such a notice are not met or for any other reason).

(4) Such a party must serve the material, notice or application required by that Part not more than 14 days after service of the appeal notice.

(5) Subject to paragraph (4), the requirements of that Part apply (for example, as to the form in which a notice must be given or an application made and as to the time and form in which such a notice or application may be opposed).”;

- (e) in rule 34.11 (Constitution of the Crown Court), for paragraph (3) substitute—

“(3) Before the hearing of an appeal begins and after that hearing ends—

- (a) the Crown Court may comprise only a judge of the High Court, a Circuit judge, a Recorder or a qualifying judge advocate; and
- (b) so constituted, the court may, among other things, exercise the powers to which apply—
 - (i) the rules in this Part and in Part 3 (Case management), and
 - (ii) rule 35.2 (stating a case for the opinion of the High Court, or refusing to do so).”; and
- (f) amend the table of contents correspondingly.