

2019 No. 143 (L. 1)

SENIOR COURTS OF ENGLAND AND WALES
MAGISTRATES' COURTS, ENGLAND AND WALES

The Criminal Procedure (Amendment) Rules 2019

<i>Made</i> - - - -	<i>25th January 2019</i>
<i>Laid before Parliament</i>	<i>31th January 2019</i>
<i>Coming into force</i> - -	<i>1st April 2019</i>

The Criminal Procedure Rule Committee makes the following Rules under section 69 of the Courts Act 2003(a), after consulting in accordance with section 72(1)(a) of that Act.

Citation, commencement and interpretation

1. These Rules may be cited as the Criminal Procedure (Amendment) Rules 2019 and shall come into force on 1st April 2019.

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 2015(b).

Amendments to the Criminal Procedure Rules

3. In Part 4 (Service of documents), for each of rules 4.3(4)(a) (Service by handing over a document) and 4.4(3)(a) (Service by leaving or posting a document), each of which defines the expression “relevant court office”, substitute—

“(a) in relation to a case in a magistrates’ court or in the Crown Court, the office at the address advertised by the Lord Chancellor as the place at which that court’s business is administered;”.

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

- (a) in the note to rule 5.4 (Duty to make records), for “rule 16.8” substitute “rule 6.8”;
- (b) in rule 5.8 (Supply to the public, including reporters, of information about cases)—
 - (i) in paragraph (1)(b), for “heard” substitute “considered by the court”;
 - (ii) for paragraph (3)(a) substitute—
 - “(a) may be made orally, giving no reasons, if—
 - (i) paragraph (4) requires the court officer to supply the information requested, and

(a) 2003 c. 39; section 69 was amended by sections 15(1) and 146 of, and paragraphs 308 and 332 of Schedule 4 and Part 2 of Schedule 18 to, the Constitutional Reform Act 2005 (c. 4).

(b) S.I. 2015/1490; amended by S.I. 2016/120, 2016/705, 2017/144, 2017/282, 2017/755, 2017/915, 2018/132, 2018/847.

- (ii) the information is to be supplied only by word of mouth;”,
- (iii) for paragraph (5)(b) substitute—
 - “(b) in writing, including by—
 - (i) written certificate or extract, or
 - (ii) such arrangements as the Lord Chancellor directs.”,
- (iv) in paragraph (6)(e), for “any trial and any appeal” substitute “the case”,
- (v) for paragraph (7)(a) substitute—
 - “(a) supply to the applicant, by word of mouth or in writing (including by written certificate or extract), other information about the case; or”, and
- (vi) for paragraphs (9) to (11) substitute—
 - “(9) Where a case is due to be heard in public, the court officer must—
 - (a) publish the information listed in paragraph (10) if—
 - (i) the information is available to the court officer, and
 - (ii) the publication of the information is not prohibited by a reporting restriction;
 - (b) publish that information—
 - (i) by notice displayed somewhere prominent in the vicinity of a court room in which the hearing is due to take place, or by such other arrangements as the Lord Chancellor directs (including arrangements for publication by electronic means), and
 - (ii) for no longer than 5 business days.
 - (10) The information that paragraph (9) requires the court officer to publish is—
 - (a) the date, time and place of the hearing;
 - (b) the identity of the defendant; and
 - (c) such other information as it may be practicable to publish concerning—
 - (i) the type of hearing,
 - (ii) the identity of the prosecutor,
 - (iii) the identity of the court,
 - (iv) the offence or offences alleged, and
 - (v) whether any reporting restriction applies.
 - (11) Where a case is ready to be tried without a hearing under rule 24.9 (Single justice procedure: special rules), the court officer must—
 - (a) publish the information listed in paragraph (12) if—
 - (i) the information is available to the court officer, and
 - (ii) the publication of the information is not prohibited by a reporting restriction;
 - (b) publish that information—
 - (i) by such arrangements as the Lord Chancellor directs, including arrangements for publication by electronic means, and
 - (ii) for no longer than 5 business days.
 - (12) The information that paragraph (11) requires the court officer to publish is—
 - (a) the identity of the defendant;
 - (b) the identity of the prosecutor;
 - (c) the offence or offences alleged; and
 - (d) whether any reporting restriction applies.”; and
- (c) in rule 5.9 (Supply of written certificate or extract from records)—

- (i) for the heading to the rule substitute “Supply of written certificate or extract from records for use in evidence, etc.”, and
- (ii) at the end of the note to the rule insert—

“This rule applies where certificates or extracts from court records are required for use in evidence or for some other purpose specified in legislation. Where this rule does not apply, information about a case may be obtained under rule 5.8.”; and

- (d) amend the table of contents correspondingly.

5. In Part 7 (Starting a prosecution in a magistrates’ court), in rule 7.2 (Application for summons, etc.)—

- (a) omit paragraph (5)(a); and
- (b) renumber paragraph (5)(b) and (c) as (5)(a) and (b) respectively.

6. In Part 19 (Expert evidence)—

- (a) in rule 19.2 (Expert’s duty to the court)—

- (i) at the end of paragraph (3)(b) omit “and”,
- (ii) at the end of paragraph (3)(c) insert “and”,
- (iii) after paragraph (3)(c) insert—

“(d) to disclose to the party for whom the expert’s evidence is commissioned anything—

- (i) of which the expert is aware, and
- (ii) of which that party, if aware of it, would be required to give notice under rule 19.3(3)(c).”

- (iv) after paragraph (3)(d) insert—

“[Note. The Practice Direction lists examples of matters that should be disclosed under this rule and rule 19.3(3)(c).]”; and

- (b) in rule 19.3 (Introduction of expert evidence), for paragraph (3)(c) substitute—

“(c) serve with the report notice of anything of which the party serving it is aware which might reasonably be thought capable of—

- (i) undermining the reliability of the expert’s opinion, or
- (ii) detracting from the credibility or impartiality of the expert;”

- (c) renumber rule 19.9 (Court’s power to vary requirements under this Part) as rule 19.10;

- (d) after rule 19.8 (Instructions to a single joint expert) insert—

“Application to withhold information from another party

19.9.—(1) This rule applies where—

- (a) a party introduces expert evidence under rule 19.3(3);
- (b) the evidence omits information which it otherwise might include because the party introducing it thinks that that information ought not be revealed to another party; and
- (c) the party introducing the evidence wants the court to decide whether it would be in the public interest to withhold that information.

(2) The party who wants to introduce the evidence must—

- (a) apply for such a decision; and
- (b) serve the application on—
 - (i) the court officer, and

- (ii) the other party, but only to the extent that serving it would not reveal what the applicant thinks ought to be withheld.
- (3) The application must—
 - (a) identify the information;
 - (b) explain why the applicant thinks that it would be in the public interest to withhold it; and
 - (c) omit from the part of the application that is served on the other party anything that would reveal what the applicant thinks ought to be withheld.
- (4) Where the applicant serves only part of the application on the other party, the applicant must—
 - (a) mark the other part, to show that it is only for the court; and
 - (b) in that other part, explain why the applicant has withheld it from the other party.
- (5) The court may—
 - (a) direct the applicant to serve on the other party any part of the application which has been withheld;
 - (b) determine the application at a hearing or without a hearing.
- (6) Any hearing of an application to which this rule applies—
 - (a) must be in private, unless the court otherwise directs; and
 - (b) if the court so directs, may be, wholly or in part, in the absence of the party from whom information has been withheld.
- (7) At any hearing of an application to which this rule applies—
 - (a) the general rule is that the court must consider, in the following sequence—
 - (i) representations first by the applicant and then by the other party, in both parties’ presence, and then
 - (ii) further representations by the applicant, in the absence of the party from whom information has been withheld; but
 - (b) the court may direct other arrangements for the hearing.”; and
 - (e) amend the table of contents correspondingly.

7. In Part 24 (Trial and sentence in a magistrates’ court), in rule 24.9 (Single justice procedure: special rules) for “an information” in paragraph (10)(a) substitute “an application for a summons to be issued”.

8. In Part 34 (Appeal to the Crown Court), in rule 34.7 (Preparation for appeal) for “14 days”, in each place it occurs, substitute “21 days”.

9. In Part 50 (Extradition), in rule 50.4 (Case management in the magistrates’ court and duty of court officer)—

- (a) renumber paragraph (5) as (6); and
- (b) after paragraph (4) insert—
 - “(5) Where this rule applies, active assistance by the presenting officer includes—
 - (a) taking reasonable steps to ensure that the defendant will be able to understand (with help, if necessary)—
 - (i) what is alleged by the warrant, if Part 1 of the 2003 Act^(a) applies, or
 - (ii) the content of the extradition request, if Part 2 of the Act applies; and
 - (b) providing in writing identification of the equivalent offence or offences under the law of England and Wales for the conduct being relied on if—

(a) 2003 c. 41; the Extradition Act 2003.

- (i) this is raised for the defence as an issue and the court considers it necessary to identify the equivalent offence or offences in writing, or
- (ii) the defendant is not represented.”.

Burnett of Maldon, C.J.
Leveson, P.
Haddon-Cave, L.J.
William Davis, J.
Martin Picton
Martin Edmunds
Michael Snow
Louise Bryant
Nicola Hewer and Melissa Case
Max Hill
Alison Pople
Nathaniel Rudolf
Paul Harris
Folashade Abiodun
Nicholas Ephgrave
David Kenyon
Jodie Blackstock

I allow these Rules, which shall come into force on 1st April 2019.

25th January 2019

David Gauke
Lord Chancellor

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Criminal Procedure Rules 2015, S.I. 2015/1490, as follows:

<i>Rule</i>	<i>Amendment</i>
Part 4	Rules 4.3 and 4.4 are amended to define as the court office at which a document must be served on a court officer for a magistrates' court or the Crown Court the office advertised as the one at which that court's business is administered (which may not be in the same place as that court's courtrooms).
Part 5	Rule 5.8 is amended to allow the provision of information from court records in writing, not only by word of mouth; and to require the publication of information about cases due to be tried without a hearing under rule 24.9 (the single justice procedure) as well as information about cases due to be heard in public. The note to rule 5.9, and the rule heading, are amended to emphasise that that rule applies only to the supply of information from court records where that is needed for use in evidence or for some other purpose specified in legislation.
Part 7	Rule 7.2 is amended to require all private prosecutors to provide the information listed in the rule, not only those who have no legal representative.
Part 19	Rules 19.3 and 19.4 are amended to require an expert witness to disclose to the party by whom he or she is commissioned, and to require that party to disclose to each other party and to the court, anything that might reasonably be thought capable of undermining the reliability of the expert's opinion or detracting from the expert's credibility or impartiality. A new rule 19.9 is added to govern the procedure where a party who introduces expert evidence wants to withhold in the public interest part of what the expert witness otherwise could say, for example because to say it would reveal confidential investigative techniques.
Part 34	Rule 34.7 is amended to align the time limits under that rule with the time limit for the service of a respondent's notice under rule 34.2.
Part 50	Rule 50.4 is amended to require in some extradition cases an identification of the offence or offences under English and Welsh law that the defendant's conduct in another country would have amounted to had it occurred in England or Wales.

Amendments to cross-references. The note to rule 5.4 and rule 24.9(10)(a) are amended to correct the cross-references that they contain.

These Rules come into force on 1st April 2019.

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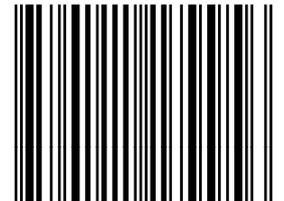
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