
STATUTORY INSTRUMENTS

1998 No. 3048 (L.15)

SUPREME COURT OF ENGLAND AND WALES

**The Crime and Disorder Act 1998
(Dismissal of Charges Sent) Rules 1998**

<i>Made</i>	- - - -	<i>6th December 1998</i>
<i>Laid before Parliament</i>		<i>9th December 1998</i>
<i>Coming into force</i>	- -	<i>4th January 1999</i>

We the Crown Court Rule Committee, in exercise of the powers conferred upon us by sections 84(1) and 86 of the Supreme Court Act 1981⁽¹⁾ and paragraph 2(7) of Schedule 3 to the Crime and Disorder Act 1998⁽²⁾, hereby make the following Rules:

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Crime and Disorder Act 1998 (Dismissal of Charges Sent) Rules 1998 and shall come into force on 4th January 1999.

(2) In these Rules, “the Act” means the Crime and Disorder Act 1998.

Oral applications for dismissal

2.—(1) Where a person sent for trial under section 51 of the Act—

- (a) has been served under paragraph 1 of Schedule 3 thereto with copies of the documents containing the evidence on which the charge or charges against him are based; and
- (b) proposes to apply orally under paragraph 2(1) of that Schedule for any of the charges in the case to be dismissed,

he shall give notice in writing of his intention to the appropriate officer of the Crown Court at the place specified in the notice under section 51(7) of the Act.

(2) A notice of intention to make an application shall be given not later than 14 days after the day on which the documents were served under paragraph 1 of Schedule 3 to the Act, and a copy thereof shall be given at the same time to the authority by or on behalf of whom the documents were served (“the prosecution”) and to any person with whom the applicant is jointly charged.

(3) The time for giving notice may be extended, either before or after it expires, by the Crown Court, on an application made in accordance with paragraph (4) below.

(1) 1981 c. 54; section 86 was amended by Schedule 18, paragraph 36 of the Courts and Legal Services Act 1990 (c. 41).

(2) 1998 c. 37.

(4) An application for an extension of time for giving notice shall be made in writing specifying the grounds for the application and shall be sent to the appropriate officer of the Crown Court; and a copy thereof shall be given at the same time to the prosecution and to any person with whom the applicant is jointly charged.

(5) The appropriate officer of the Crown Court shall give notice in writing of the judge's decision on an application under paragraph (3) above—

- (a) to the applicant;
- (b) to the prosecution; and
- (c) to any other person with whom the applicant is jointly charged.

(6) A notice of intention to make an application under paragraph 2(1) of Schedule 3 to the Act shall be accompanied by a copy of any material on which the applicant relies and shall—

- (a) specify the charge or charges to which it relates; and
- (b) state whether the leave of the judge is sought under paragraph 2(4) of Schedule 3 to the Act to adduce oral evidence on the application, indicating what witnesses it is proposed to call at the hearing.

(7) Where leave is sought from the judge for oral evidence to be given on an application, notice of his decision, indicating what witnesses are to be called if leave is granted, shall be given by the appropriate officer of the Crown Court in writing to the prosecution, the applicant and any person with whom the applicant is jointly charged.

(8) Where an application for dismissal under paragraph 2(1) of Schedule 3 to the Act is to be made orally, the appropriate officer of the Crown Court shall list the application for hearing before a judge of the Crown Court, and the prosecution shall be given the opportunity to be represented at the hearing.

Written applications for dismissal

3.—(1) A written application for dismissal under paragraph 2(1) of Schedule 3 to the Act shall be sent to the appropriate officer of the Crown Court and shall be accompanied by a copy of any statement or other document, and identify any article, on which the applicant relies.

(2) A copy of the application and of any accompanying documents shall be given at the same time to the prosecution and to any person with whom the applicant is jointly charged.

(3) A written application for dismissal shall be made not later than 14 days after the day on which documents required by paragraph 1 of Schedule 3 to the Act were served unless the time for making the application is extended either before or after it expires, by the Crown Court; and paragraphs (4) and (5) of rule 2 above shall apply for the purposes of this paragraph as if references therein to giving notice of intention to make an oral application were references to making a written application under this rule.

Prosecution reply

4.—(1) Not later than 7 days from the date of receiving a copy of the notice of intention to apply orally for the dismissal of any charge based on documents served under paragraph 1 of Schedule 3 to the Act, the prosecution may apply to the Crown Court for leave under paragraph 2(4) of that Schedule to adduce oral evidence at the hearing of the application, indicating what witnesses it is proposed to call.

(2) Not later than 7 days from the date of receiving a copy of a written application for dismissal under rule 3(2) above, the prosecution may apply to the Crown Court for an oral hearing of the application.

(3) An application under paragraph (1) or (2) above shall be made in writing to the appropriate officer of the Crown Court specifying the grounds of the application and in the case of an application under paragraph (2) above, stating whether the leave of the judge is sought under paragraph 2(4) of Schedule 3 to the Act to adduce oral evidence and, if so, indicating what witnesses it is proposed to call.

(4) Notice of the judge's determination upon an application under paragraph (1) or (2) above, indicating what witnesses (if any) are to be called shall be served in writing by the appropriate officer of the Crown Court on the prosecution, the applicant for dismissal and any person with whom the applicant for dismissal is jointly charged.

(5) When, having received the material specified in rule 2(6) or, as the case may be, rule 3(2) above, the prosecution proposes to adduce in reply thereto any written comments, or any further evidence, it shall serve any such comments, copies of the statements or other documents outlining the evidence of any proposed witnesses and copies of any further documents on the appropriate officer of the Crown Court not later than 14 days from the date of receiving the said material, and shall at the same time serve copies thereof on the applicant and any person with whom the applicant is jointly charged.

(6) The time for—

- (a) making an application under paragraph (1) or (2) above; or
- (b) serving any material on the appropriate officer of the Crown Court under paragraph (5) above,

may be extended, either before or after it expires, by the Crown Court, on an application made in accordance with paragraph (7) below.

(7) An application for an extension of time under paragraph (6) above shall be made in writing and shall be given to the appropriate officer of the Crown Court; and a copy thereof shall be given at the same time to the applicant for dismissal and to any person with whom the applicant for dismissal is jointly charged.

Determination of applications for dismissal—procedural matters

5.—(1) A judge may grant leave for a witness to give oral evidence on an application for dismissal notwithstanding that notice of intention to call the witness has not been given in accordance with the foregoing provisions of these Rules.

(2) Where an application for dismissal is determined otherwise than at an oral hearing, the appropriate officer of the Crown Court shall, as soon as practicable, send to the applicant, the prosecution and any person with whom the applicant is jointly charged, a notice of the outcome of the application.

Service of documents

6.—(1) Any notice or other document which is required by these Rules to be given to any person may be served personally on that person or sent to him by post at his usual or last known residence or place of business in England or, Wales, or in the case of a company, at the company's registered office in England or Wales.

(2) If the person to be served is acting by a solicitor, the notice or other document may be served by delivering it, or sending it by post, to the solicitor's address for service.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Dated 6th December 1998

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EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules make provision for the purposes of paragraph 2 of Schedule 3 to the Crime and Disorder Act 1998 (c. 37), which permits a person who is charged with an offence or offences, and whose case has been sent to the Crown Court for trial under section 51 of that Act, to apply to the Crown Court for the charge or charges to be dismissed.

Rule 2 makes provision for oral applications for dismissal.

Rule 3 relates to written applications.

Rule 4 makes provision for the prosecution response.

Rule 5 provides for the notification of determinations on applications where there is no oral hearing and permits witnesses to be heard by leave of the judge notwithstanding failure to give proper notice.

Rule 6 provides for the service of documents.