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STATUTORY INSTRUMENTS

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**2005 No. 384**

**The Criminal Procedure Rules 2005**

**PART 25**

**APPLICATIONS FOR PUBLIC INTEREST  
IMMUNITY AND SPECIFIC DISCLOSURE**

**Disclosure: application by accused and order of court**

**25.6.**—(1) This rule applies to an application by the accused under section 8(2) of the Criminal Procedure and Investigations Act 1996<sup>(1)</sup>.

(2) Such an application shall be made by notice in writing to the court officer and shall specify—

- (a) the material to which the application relates;
- (b) that the material has not been disclosed to the accused;
- (c) the reason why the material might be expected to assist the applicant's defence as disclosed by the defence statement given under section 5 or 6 of the 1996 Act<sup>(2)</sup>; and
- (d) the date of service of a copy of the notice on the prosecutor in accordance with paragraph (3).

(3) A copy of the notice referred to in paragraph (2) shall be served on the prosecutor at the same time as it is sent to the court officer.

(4) Where such an application is made in the Crown Court, the court officer shall refer it—

- (a) if the trial has started, to the trial judge, or
- (b) if the application is received before the start of the trial—
  - (i) to the judge who has been designated to conduct the trial, or
  - (ii) if no judge has been designated for that purpose, to such judge as may be designated for the purposes of determining the application.

(5) A prosecutor receiving notice under paragraph (3) of an application to which this rule applies shall give notice in writing to the court officer within 14 days of service of the notice that—

- (a) he wishes to make representations to the court concerning the material to which the application relates; or
- (b) if he does not so wish, that he is willing to disclose that material,

and a notice under paragraph 5(a) shall specify the substance of the representations he wishes to make.

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(1) 1996 c. 25; section 8(2) is substituted by the Criminal Justice Act 2003 (c. 44), section 38, with effect from a date to be appointed.

(2) 1996 c. 25; section 5 was amended by the Crime and Disorder Act 1998 (c. 37), Schedule 8, paragraph 126; sections 5 and 6 are amended by the Criminal Justice Act 2003 (c. 44), section 33(1), Schedule 3, Part 2, paragraphs 60(1) and (3), Schedule 36, Part 3, paragraphs 20, 23 and 24 and Schedule 37, Parts 3 and 4, with effect from a date to be appointed.

(6) A court may determine an application to which this rule applies without hearing representations from the applicant or the prosecutor unless—

- (a) the prosecutor has given notice under paragraph (5)(a) and the court considers that the representations should be made at a hearing; or
- (b) the court considers it necessary to hear representations from the applicant or the prosecutor in the interests of justice for the purposes of determining the application.

(7) Subject to paragraph (8), where a hearing is held in pursuance of this rule—

- (a) the court officer shall give notice in writing to the prosecutor and the applicant of the date and time when and the place where the hearing will take place;
- (b) the hearing shall be inter partes; and
- (c) the prosecutor and the applicant shall be entitled to make representations to the court.

(8) Where the prosecutor applies to the court for leave to make representations in the absence of the accused, the court may for that purpose sit in the absence of the accused and any legal representative of his.

(9) A copy of any order under section 8(2) of the 1996 Act shall be served on the prosecutor and the applicant.

*[Note. Formerly rule 7 of the Magistrates' Courts (Criminal Procedure and Investigations Act 1996) (Disclosure) Rules 1997 and rule 7 of the Crown Court (Criminal Procedure and Investigations Act 1996) (Disclosure) Rules 1997.]*