
STATUTORY INSTRUMENTS

2005 No. 384

The Criminal Procedure Rules 2005

PART 56

**CONFISCATION PROCEEDINGS UNDER THE CRIMINAL
JUSTICE ACT 1988 AND THE DRUG TRAFFICKING ACT 1994**

Postponed determinations

56.2.—(1) Where an application is made by the defendant or the prosecutor—

- (a) to a magistrates' court under section 72A(5)(a) of the Criminal Justice Act 1988⁽¹⁾ asking the court to exercise its powers under section 72A(4) of that Act; or
- (b) to the Crown Court under section 3(5)(a) of the Drug Trafficking Act 1994⁽²⁾ asking the Court to exercise its powers under section 3(4) of that Act, or under section 72A(5)(a) of the 1988 Act asking the court to exercise its powers under section 72A(4) of the 1988 Act,

the application must be made in writing and a copy must be served on the prosecutor or the defendant, as the case may be.

(2) A party served with a copy of an application under paragraph (1) shall, within 28 days of the date of service, notify the applicant and the court officer, in writing, whether or not he proposes to oppose the application, giving his reasons for any opposition.

(3) After the expiry of the period referred to in paragraph (2), the court shall determine whether an application under paragraph (1) is to be dealt with—

- (a) without a hearing; or
- (b) at a hearing at which the parties may be represented.

[Note. Formerly rule 104B of the Magistrates' Courts Rules 1981 and rule 34 of the Crown Court Rules 1982. The relevant provisions of the 1988 and 1994 Acts were repealed on 24th March 2003 but they continue to have effect in respect of proceedings for offences committed before that date.]

⁽¹⁾ Section 72A was inserted by the Criminal Justice Act 1993 (c. 36), section 28.

⁽²⁾ Section 3 was repealed, with savings, by the Proceeds of Crime Act 2002 (c. 29), Schedule 11, paragraphs 1, 25(1) and (2) (a) and Schedule 12.