
STATUTORY INSTRUMENTS

2005 No. 384

The Criminal Procedure Rules 2005

PART 16

RESTRICTIONS ON REPORTING AND PUBLIC ACCESS

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Application for a reporting direction under section 46(6) of the Youth Justice and Criminal Evidence Act 1999

16.1.—(1) An application for a reporting direction made by a party to any criminal proceedings, in relation to a witness in those proceedings, must be made in the form set out in the Practice Direction or orally under rule 16.3.

(2) If an application for a reporting direction is made in writing, the applicant shall send that application to the court officer and copies shall be sent at the same time to every other party to those proceedings.

[Note. Formerly rule 2 of the Magistrates' Courts (Reports Relating to Adult Witnesses) Rules 2004(1) and rule 2 of the Crown Court (Reports Relating to Adult Witnesses) Rules 2004(2). Section 46 of the Youth Justice and Criminal Evidence Act 1999(3) applies to adult witnesses the quality of whose evidence, or whose co-operation, is likely to be diminished if their identity is made public. For reporting restrictions generally see direction I.3 in the Practice Direction.]

Opposing an application for a reporting direction under section 46(6) of the Youth Justice and Criminal Evidence Act 1999

16.2.—(1) If an application for a reporting direction is made in writing, any party to the proceedings who wishes to oppose that application must notify the applicant and the court officer in writing of his opposition and give reasons for it.

(2) A person opposing an application must state in the written notification whether he disputes that the—

- (a) witness is eligible for protection under section 46 of the Youth Justice and Criminal Evidence Act 1999; or
- (b) granting of protection would be likely to improve the quality of the evidence given by the witness or the level of co-operation given by the witness to any party to the proceedings in connection with that party's preparation of its case.

(3) The notification under paragraph (1) must be given within five business days of the date the application was served on him unless an extension of time is granted under rule 16.6.

[Note. Formerly rule 3 of the Magistrates' Courts (Reports Relating to Adult Witnesses) Rules 2004 and rule 3 of the Crown Court (Reports Relating to Adult Witnesses) Rules 2004.]

Urgent action on an application under section 46(6) of the Youth Justice and Criminal Evidence Act 1999

16.3.—(1) The court may give a reporting direction under section 46 of the Youth Justice and Criminal Evidence Act 1999 in relation to a witness in those proceedings, notwithstanding that the five business days specified in rule 16.2(3) have not expired if—

- (a) an application is made to it for the purposes of this rule; and
- (b) it is satisfied that, due to exceptional circumstances, it is appropriate to do so.

(2) Any party to the proceedings may make the application under paragraph (1) whether or not an application has already been made under rule 16.1.

(3) An application under paragraph (1) may be made orally or in writing.

(4) If an application is made orally, the court may hear and take into account representations made to it by any person who in the court's view has a legitimate interest in the application before it.

(5) The application must specify the exceptional circumstances on which the applicant relies.

[Note. Formerly rule 4 of the Magistrates' Courts (Reports Relating to Adult Witnesses) Rules 2004 and rule 4 of the Crown Court (Reports Relating to Adult Witnesses) Rules 2004.]

Excepting direction under section 46(9) of the Youth Justice and Criminal Evidence Act 1999

16.4.—(1) An application for an excepting direction under section 46(9) of the Youth Justice and Criminal Evidence Act 1999 (a direction dispensing with restrictions imposed by a reporting direction) may be made by—

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- (1) [S.I. 2004/2419](#).
 - (2) [S.I. 2004/2420](#).
 - (3) [1999 c. 23](#).

- (a) any party to those proceedings; or
 - (b) any person who, although not a party to the proceedings, is directly affected by a reporting direction given in relation to a witness in those proceedings.
- (2) If an application for an excepting direction is made, the applicant must state why—
- (a) the effect of a reporting direction imposed places a substantial and unreasonable restriction on the reporting of the proceedings; and
 - (b) it is in the public interest to remove or relax those restrictions.
- (3) An application for an excepting direction may be made in writing, pursuant to paragraph (4), at any time after the commencement of the proceedings in the court or orally at a hearing of an application for a reporting direction.
- (4) If the application for an excepting direction is made in writing it must be in the form set out in the Practice Direction and the applicant shall send that application to the court officer and copies shall be sent at the same time to every party to those proceedings.
- (5) Any person served with a copy of an application for an excepting direction who wishes to oppose it, must notify the applicant and the court officer in writing of his opposition and give reasons for it.
- (6) The notification under paragraph (5) must be given within five business days of the date the application was served on him unless an extension of time is granted under rule 16.6.

[Note. Formerly rule 5 of the Magistrates' Courts (Reports Relating to Adult Witnesses) Rules 2004 and rule 5 of the Crown Court (Reports Relating to Adult Witnesses) Rules 2004.]

Variation or revocation of a reporting or excepting direction under section 46 of the Youth Justice and Criminal Evidence Act 1999

16.5.—(1) An application for the court to—

- (a) revoke a reporting direction; or
- (b) vary or revoke an excepting direction,

may be made to the court at any time after the commencement of the proceedings in the court.

(2) An application under paragraph (1) may be made by a party to the proceedings in which the direction was issued, or by a person who, although not a party to those proceedings, is in the opinion of the court directly affected by the direction.

(3) An application under paragraph (1) must be made in writing and the applicant shall send that application to the officer of the court in which the proceedings commenced, and at the same time copies of the application shall be sent to every party or, as the case may be, every party to the proceedings.

(4) The applicant must set out in his application the reasons why he seeks to have the direction varied or, as the case may be, revoked.

(5) Any person served with a copy of an application who wishes to oppose it, must notify the applicant and the court officer in writing of his opposition and give reasons for it.

(6) The notification under paragraph (5) must be given within five business days of the date the application was served on him unless an extension of time is granted under rule 16.6.

[Note. Formerly rule 6 of the Magistrates' Courts (Reports Relating to Adult Witnesses) Rules 2004 and rule 6 of the Crown Court (Reports Relating to Adult Witnesses) Rules 2004.]

Application for an extension of time in proceedings under section 46 of the Youth Justice and Criminal Evidence Act 1999

16.6.—(1) An application may be made in writing to extend the period of time for notification under rule 16.2(3), rule 16.4(6) or rule 16.5(6) before that period has expired.

(2) An application must be accompanied by a statement setting out the reasons why the applicant is unable to give notification within that period.

(3) An application must be sent to the court officer and a copy of the application must be sent at the same time to the applicant.

[Note. Formerly rule 7 of the Magistrates' Courts (Reports Relating to Adult Witnesses) Rules 2004 and rule 7 of the Crown Court (Reports Relating to Adult Witnesses) Rules 2004.]

Decision of the court on an application under section 46 of the Youth Justice and Criminal Evidence Act 1999

16.7.—(1) The court may—

- (a) determine any application made under rules 16.1 and rules 16.3 to 16.6 without a hearing; or
- (b) direct a hearing of any application.

(2) The court officer shall notify all the parties of the court's decision as soon as reasonably practicable.

(3) If a hearing of an application is to take place, the court officer shall notify each party to the proceedings of the time and place of the hearing.

(4) A court may hear and take into account representations made to it by any person who in the court's view has a legitimate interest in the application before it.

[Note. Formerly rule 8 of the Magistrates' Courts (Reports Relating to Adult Witnesses) Rules 2004 and rule 8 of the Crown Court (Reports Relating to Adult Witnesses) Rules 2004.]

Proceedings sent or transferred to the Crown Court with direction under section 46 of the Youth Justice and Criminal Evidence Act 1999 in force

16.8. Where proceedings in which reporting directions or excepting directions have been ordered are sent or transferred from a magistrates' court to the Crown Court, the magistrates' court officer shall forward copies of all relevant directions to the Crown Court officer at the place to which the proceedings are sent or transferred.

[Note. Formerly rule 9 of the Magistrates' Courts (Reports Relating to Adult Witnesses) Rules 2004.]

Hearings in camera and applications under section 46 of the Youth Justice and Criminal Evidence Act 1999

16.9. If in any proceedings, a prosecutor or defendant has served notice under rule 16.10 of his intention to apply for an order that all or part of a trial be held in camera, any application under this Part relating to a witness in those proceedings need not identify the witness by name and date of birth.

[Note. Formerly rule 9 of the Crown Court (Reports Relating to Adult Witnesses) Rules 2004.]

Application to hold a Crown Court trial in camera

16.10.—(1) Where a prosecutor or a defendant intends to apply for an order that all or part of a trial be held in camera for reasons of national security or for the protection of the identity of a witness

or any other person, he shall not less than 7 days before the date on which the trial is expected to begin serve a notice in writing to that effect on the Crown Court officer and the prosecutor or the defendant as the case may be.

(2) On receiving such notice, the court officer shall forthwith cause a copy thereof to be displayed in a prominent place within the precincts of the Court.

(3) An application by a prosecutor or a defendant who has served such a notice for an order that all or part of a trial be heard in camera shall, unless the Court orders otherwise, be made in camera, after the defendant has been arraigned but before the jury has been sworn and, if such an order is made, the trial shall be adjourned until whichever of the following shall be appropriate—

- (a) 24 hours after the making of the order, where no application for leave to appeal from the order is made; or
- (b) after the determination of an application for leave to appeal, where the application is dismissed; or
- (c) after the determination of the appeal, where leave to appeal is granted.

[Note. Formerly rule 24A of the Crown Court Rules 1982(4). As to the procedure for appealing against an order, see rule 67.2.]

Crown Court hearings in chambers

16.11.—(1) The criminal jurisdiction of the Crown Court specified in the following paragraph may be exercised by a judge of the Crown Court sitting in chambers.

(2) The said jurisdiction is—

- (a) hearing applications for bail;
- (b) issuing a summons or warrant;
- (c) hearing any application relating to procedural matters preliminary or incidental to criminal proceedings in the Crown Court, including applications relating to legal aid;
- (d) jurisdiction under rules 12.2 (listing first appearance of accused sent for trial), 28.3 (application for witness summons), 63.2(5) (extending time for appeal against decision of magistrates' court), and 64.7 (application to state case for consideration of High Court);
- (e) hearing an application under section 41(2) of the Youth Justice and Criminal Evidence Act 1999 (evidence of complainant's previous sexual history);
- (f) hearing applications under section 22(3) of the Prosecution of Offences Act 1985(5) (extension or further extension of custody time limit imposed by regulations made under section 22(1) of that Act);
- (g) hearing an appeal brought by an accused under section 22(7) of the 1985 Act against a decision of a magistrates' court to extend, or further extend, such a time limit, or brought by the prosecution under section 22(8) of the same Act against a decision of a magistrates' court to refuse to extend, or further extend, such a time limit;
- (h) hearing appeals under section 1 of the Bail (Amendment) Act 1993(6) (against grant of bail by magistrates' court); and
- (i) hearing appeals under section 16 of the Criminal Justice Act 2003(7) (against condition of bail imposed by magistrates' court).

(4) [S.I. 1982/1109](#); amending instruments relevant to this Part are [S.I. 1988/1635](#), [1989/1103](#), [1994/1480](#), [2000/2987](#), [2000/3362](#), [2003/1664](#) and [2004/1292](#).

(5) [1985 c. 23](#); section 22(3), (7) and (8) was amended by section 43 of the Crime and Disorder Act 1998 ([c. 37](#)).

(6) [1993 c. 26](#); section 1 was amended by section 200 and 220 of, and Schedule 4 to, the Extradition Act 2003 ([c. 41](#)), and is further amended by section 18 of the Criminal Justice Act 2003 ([c. 44](#)) with effect from a date to be appointed.

(7) [2003 c. 44](#).

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

[Note. Formerly rule 27 of the Crown Court Rules 1982. As to hearing restraint and receivership proceedings under the Proceeds of Crime Act 2002(8)in chambers see rule 61.4.]