
STATUTORY INSTRUMENTS

2005 No. 384

The Criminal Procedure Rules 2005

PART 40

TAINTED ACQUITTALS

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Time of certification

40.1. Where a person is convicted of an offence as referred to in section 54(1)(b) of the Criminal Procedure and Investigations Act 1996(1) and it appears to the court before which the conviction has taken place that the provisions of section 54(2) are satisfied, the court shall make the certification referred to in section 54(2) at any time following conviction but no later than—

- (a) immediately after the court sentences or otherwise deals with that person in respect of the offence; or
- (b) where the court, being a magistrates' court, commits that person to the Crown Court, or remits him to another magistrates' court, to be dealt with in respect of the offence, immediately after he is so committed or remitted, as the case may be; or
- (c) where that person is a child or young person and the court, being the Crown Court, remits him to a youth court to be dealt with in respect of the offence, immediately after he is so remitted.

[Note. Formerly rule 2 of the Magistrates' Courts (Criminal Procedure and Investigations Act 1996) (Tainted Acquittals) Rules 1997(2) and rule 2 of the Crown Court (Criminal Procedure and Investigations Act 1996) (Tainted Acquittals) Rules 1997(3).]

Form of certification in the Crown Court

40.2. A certification referred to in section 54(2) of the Criminal Procedure and Investigations Act 1996 by the Crown Court shall be drawn up in the form set out in the Practice Direction.

[Note. Formerly rule 3 of the Crown Court (Criminal Procedure and Investigations Act 1996) (Tainted Acquittals) Rules 1997.]

Service of a copy of the certification

40.3.—(1) Where a magistrates' court or the Crown Court makes a certification as referred to in section 54(2) of the Criminal Procedure and Investigations Act 1996, the court officer shall, as soon as practicable after the drawing up of the form, serve a copy on the acquitted person referred to in the certification, on the prosecutor in the proceedings which led to the acquittal, and, where the acquittal has taken place before a court other than, or at a different place to, the court where the certification has been made, on—

- (a) the clerk of the magistrates' court before which the acquittal has taken place; or
- (b) the Crown Court officer at the place where the acquittal has taken place.

(2) Service as referred to in paragraph (1) above may be made by delivering the copy of the form to the person to be served (where that person is an individual), or by sending it by post in a letter addressed to him at his usual or last known residence or place of business in England or Wales; in the case of a company, such a letter may also be addressed to the company at its registered office in England or Wales (if it has such a registered office).

(3) If the person to be served is acting by a solicitor, the copy of the form may be served by delivering it, or by sending it by post, to the solicitor's address for service.

(4) In paragraph (3) "solicitor" includes a body corporate which is recognised by the Council of the Law Society under section 9 of the Administration of Justice Act 1985 (4) (a "recognised body") and, in the case of a recognised body, the reference to the solicitor's address for service shall be construed as a reference to the address specified by the recognised body as its address for the purposes of the service of the copy of the form (including where the person to be served is a party to the proceedings which led to the conviction referred to in the form, an address specified for the general purposes of those proceedings), or, in the absence of such a specified address, to its registered office.

[Note. Formerly rule 4 of the Magistrates' Courts (Criminal Procedure and Investigations Act 1996) (Tainted Acquittals) Rules 1997 and rule 4 of the Crown Court (Criminal Procedure and Investigations Act 1996) (Tainted Acquittals) Rules 1997.]

Entry in register or records in relation to the conviction which occasioned certification

40.4. A clerk of a magistrates' court or an officer of a Crown Court which has made a certification under section 54(2) of the Criminal Procedure and Investigations Act 1996 shall enter in the register or records, in relation to the conviction which occasioned the certification, a note of the fact that certification has been made, the date of certification, the name of the acquitted person referred to in

(2) [S.I. 1997/1055](#); amended by [S.I. 2001/615](#) and [2003/1236](#).

(3) [S.I. 1997/1054](#).

(4) [1985 c. 61](#); section 9 was amended by the Courts and Legal Services Act [1990 \(c. 41\)](#), Schedule 18, paragraph 54 and Schedule 20, the Access to Justice Act [1999 \(c. 22\)](#), Schedule 15, Part 2, [S.I. 2001/1090](#), Schedule 5, paragraph 12 and [S.I. 2003/1887](#), Schedule 2, paragraph 6(a).

the certification, a description of the offence of which the acquitted person has been acquitted, the date of the acquittal, and the name of the court before which the acquittal has taken place.

[Note. Formerly rule 5 of the Magistrates' Courts (Criminal Procedure and Investigations Act 1996) (Tainted Acquittals) Rules 1997 and rule 5 of the Crown Court (Criminal Procedure and Investigations Act 1996) (Tainted Acquittals) Rules 1997. As to the requirement for a magistrates' court to keep a register, see rule 6.1.]

Entry in the register or records in relation to the acquittal

40.5. The court officer of the court before which an acquittal has taken place shall, as soon as practicable after receipt of a copy of a form recording a certification under section 54(2) of the Criminal Procedure and Investigations Act 1996 relating to the acquittal, enter in the register or records a note that the certification has been made, the date of the certification, the name of the court which has made the certification, the name of the person whose conviction occasioned the making of the certification, and a description of the offence of which that person has been convicted. Where the certification has been made by the same court as the court before which the acquittal has occurred, sitting at the same place, the entry shall be made as soon as practicable after the making of the certification. In the case of an acquittal before a magistrates' court the entry in the register shall be signed by the clerk of the court.

[Note. Formerly rule 6 of the Magistrates' Courts (Criminal Procedure and Investigations Act 1996) (Tainted Acquittals) Rules 1997 and rule 6 of the Crown Court (Criminal Procedure and Investigations Act 1996) (Tainted Acquittals) Rules 1997. As to the requirement for a magistrates' court to keep a register, see rule 6.1.]

Display of copy certification form

40.6.—(1) Where a court makes a certification as referred to in section 54(2) of the Criminal Procedure and Investigations Act 1996, the court officer shall, as soon as practicable after the drawing up of the form, display a copy of that form at a prominent place within court premises to which place the public has access.

(2) Where an acquittal has taken place before a court other than, or at a different place to, the court which has made the certification under section 54(2) of the 1996 Act in relation to the acquittal, the court officer at the court where the acquittal has taken place shall, as soon as practicable after receipt of a copy of the form recording the certification, display a copy of it at a prominent place within court premises to which place the public has access.

(3) The copy of the form referred to in paragraph (1), or the copy referred to in paragraph (2), shall continue to be displayed as referred to, respectively, in those paragraphs at least until the expiry of 28 days from, in the case of paragraph (1), the day on which the certification was made, or, in the case of paragraph (2), the day on which the copy form was received at the court.

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

Entry in the register or records in relation to decision of High Court

40.7.—(1) The court officer at the court where an acquittal has taken place shall, on receipt from the Administrative Court Office of notice of an order made under section 54(3) of the Criminal Procedure and Investigations Act 1996 quashing the acquittal, or of a decision not to make such an order, enter in the register or records, in relation to the acquittal, a note of the fact that the acquittal has been quashed by the said order, or that a decision has been made not to make such an order, as the case may be.

(2) The court officer of the court which has made a certification under section 54(2) of the 1996 Act shall, on receipt from the Administrative Court Office of notice of an order made under section 54(3) of that Act quashing the acquittal referred to in the certification, or of a decision not to make such an order, enter in the register or records, in relation to the conviction which occasioned the certification, a note that the acquittal has been quashed by the said order, or that a decision has been made not to make such an order, as the case may be.

(3) The entries in the register of a magistrates' court referred to, respectively, in paragraphs (1) and (2) above shall be signed by the magistrates' court officer.

[Note. Formerly rule 8 of the Magistrates' Courts (Criminal Procedure and Investigations Act 1996) (Tainted Acquittals) Rules 1997 and rule 8 of the Crown Court (Criminal Procedure and Investigations Act 1996) (Tainted Acquittals) Rules 1997. As to the requirement on a magistrates' court to keep a register, see rule 6.1. As to the procedure to be followed in the High Court, see RSC Order 116 in Schedule 1 to the Civil Procedure Rules 1998(5).]

Display of copy of notice received from High Court

40.8.—(1) Where the court officer of a court which has made a certification under section 54(2) of the Criminal Procedure and Investigations Act 1996 or before which an acquittal has occurred to which such a certification refers, receives from the Administrative Court Office notice of an order quashing the acquittal concerned, or notice of a decision not to make such an order, he shall, as soon as practicable after receiving the notice, display a copy of it at a prominent place within court premises to which place the public has access.

(2) The copy notice referred to in paragraph (1) shall continue to be displayed as referred to in that paragraph at least until the expiry of 28 days from the day on which the notice was received at the court.

[Note. Formerly rule 9 of the Magistrates' Courts (Criminal Procedure and Investigations Act 1996) (Tainted Acquittals) Rules 1997 and rule 9 of the Crown Court (Criminal Procedure and Investigations Act 1996) (Tainted Acquittals) Rules 1997. As to the procedure to be followed in the High Court, see RSC Order 116 in Schedule 1 to the Civil Procedure Rules 1998.]