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STATUTORY INSTRUMENTS

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**2010 No. 60**

**The Criminal Procedure Rules 2010**

**PART 13**

**DISMISSAL OF CHARGES TRANSFERRED  
OR SENT TO THE CROWN COURT**

**Written notice of oral application for dismissal**

**13.2.**—(1) Where notice of transfer has been given under the Criminal Justice Act 1987 or the Criminal Justice Act 1991, or a person has been sent for trial under the Crime and Disorder Act 1998, and the person concerned proposes to apply orally—

- (a) under section 6(1) of the 1987 Act(1);
- (b) under paragraph 5(1) of Schedule 6 to the 1991 Act(2); or
- (c) under paragraph 2(1) of Schedule 3 to the 1998 Act(3)

for any charge in the case to be dismissed, he shall give notice of his intention in writing to the Crown Court officer at the place specified by the notice of transfer under the 1987 or 1991 Acts or the notice given under section 51(7) of the 1998 Act as the proposed place of trial. Notice of intention to make an application under the 1987 or 1991 Acts shall be in the form set out in the Practice Direction.

(2) Notice of intention to make an application shall be given—

- (a) in the case of an application to dismiss charges transferred under the 1987 Act, not later than 28 days after the day on which notice of transfer was given;
- (b) in the case of an application to dismiss charges transferred under the 1991 Act, not later than 14 days after the day on which notice of transfer was given; and
- (c) in the case of an application to dismiss charges sent under the 1998 Act, not later than 14 days after the day on which the documents were served under paragraph 1 of Schedule 3 to that Act,

and a copy of the notice shall be given at the same time to the prosecution and to any person to whom the notice of transfer relates or with whom the applicant for dismissal 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).

(4) An application for an extension of time for giving notice shall be made in writing to the Crown Court officer, and a copy thereof shall be given at the same time to the prosecution and to any other person to whom the notice of transfer relates or with whom the applicant for dismissal is

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(1) 1987 c. 38; section 6 was substituted by section 144(5) of the Criminal Justice Act 1988 (c. 33) and is repealed by paragraph 58 of Schedule 3 and Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c. 44), with effect from a date to be appointed.

(2) 1991 c. 53; Schedule 6 is repealed by Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c. 44), with effect from a date to be appointed.

(3) 1998 c. 37; paragraph 2(1) of Schedule 3 is amended by paragraphs 15 and 20 of Schedule 3 to the Criminal Justice Act 2003 (c. 44), with effect from a date to be appointed.

jointly charged. Such an application made in proceedings under the 1987 or 1991 Acts shall be in the form set out in the Practice Direction.

(5) The Crown Court officer shall give notice in the form set out in the Practice Direction of the judge's decision on an application under paragraph (3)—

- (a) to the applicant for dismissal;
- (b) to the prosecution; and
- (c) to any other person to whom the notice of transfer relates or with whom the applicant for dismissal is jointly charged.

(6) A notice of intention to make an application under section 6(1) of the 1987 Act, paragraph 5(1) of Schedule 6 to the 1991 Act or paragraph 2(1) of Schedule 3 to the 1998 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;
- (b) state whether the leave of the judge is sought under section 6(3) of the 1987 Act, paragraph 5(4) of Schedule 6 to the 1991 Act or paragraph 2(4) of Schedule 3 to the 1998 Act<sup>(4)</sup> to adduce oral evidence on the application, indicating what witnesses it is proposed to call at the hearing; and
- (c) in the case of a transfer under the 1991 Act, confirm in relation to each such witness that he is not a child to whom paragraph 5(5) of Schedule 6 to that Act applies.

(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 in writing by the Crown Court officer to the applicant for dismissal, the prosecution and to any other person to whom the notice of transfer relates or with whom the applicant for dismissal is jointly charged. Notice of a decision in proceedings under the 1987 or 1991 Acts shall be in the form set out in the Practice Direction.

(8) Where an application for dismissal under section 6(1) of the 1987 Act, paragraph 5(1) of Schedule 6 to the 1991 Act or paragraph 2(1) of Schedule 3 to the 1998 Act is to be made orally, the Crown Court officer 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.

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(4) 1998 c. 37; paragraph 2(4) of Schedule 3 is repealed by paragraphs 15 and 20 of Schedule 3 and Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c. 44), with effect from a date to be appointed.