STATUTORY INSTRUMENTS

2010 No. 60

The Criminal Procedure Rules 2010

PART 62

CONTEMPT OF COURT

Contents of this Part

When this Part applies

62.1.—(1) This Part applies—

(a) in the Crown Court, where a person is accused of disobeying—

(i) an order of the Crown Court, or

(ii) any other order, where legislation allows that person to be punished as if that were an order of the Crown Court;

(b) in magistrates' courts and in the Crown Court, where a person is accused of contempt of court under section 18 of the Criminal Procedure and Investigations Act 1996(**1**).

(2) In this Part, 'respondent' means any such accused person.

(**1**) 1996 c. 25.

[Note. The Crown Court has power to punish for contempt of court a person who disobeys its order: see section 45 of the Senior Courts Act 1981(**2**)*.*

Under section 18 of the Criminal Procedure and Investigations Act 1996, a magistrates' court and the Crown Court can punish for contempt of court the use of disclosed prosecution material in contravention of section 17 of that Act(**3**)*.*

See also—

(a) *rule 6.13 and rule 6.22 (disobedience to certain investigation orders);*

(b) *rule 22.8 (unauthorised disclosure of prosecution material);*

(c) *rule 59.6 (disobedience to a restraint order).]*

Exercise of court's power to punish for contempt of court

62.2. The court must not exercise its power to punish the respondent for contempt of court in the respondent's absence, unless the respondent has had at least 14 days in which to—

(a) make any representations; and

(b) introduce any evidence.

Application to punish for contempt of court

62.3.—(1) A person who wants the court to exercise its power to punish the respondent for contempt of court must—

(a) apply in writing and serve the application on the court officer; and

(b) serve on the respondent—

(i) the application, and

(ii) notice of where and when the court will hear the application (not less than 14 days after service).

(2) The application must—

(a) identify the respondent;

(b) explain that it is an application for the respondent to be punished for contempt of court;

(c) contain such particulars of the conduct constituting contempt of court as to make clear what the applicant alleges against the respondent; and

(d) include a notice warning the respondent that the court—

(i) can impose imprisonment, or a fine, or both, for contempt of court, and

(ii) may deal with the application in the respondent's absence, if the respondent does not attend the hearing of the application.

[Note. The Practice Direction sets out a form of application for use in connection with this rule.

The rules in Part 4 require that an application under this rule must be served by handing it to the person accused of contempt of court.]

Notice of suspension of punishment

62.4.—(1) This rule applies where—

(**2**) 1981 c. 54. The Act's title was amended by section 59(5) of, and paragraph 1 of Schedule 11 to, the Constitutional Reform Act 2005 (c. 4).

(**3**) 1996 c. 25; section 17 was amended by section 331 of, and paragraphs 20 and 33 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44).

(a) the court exercises its power to suspend a punishment it imposes for contempt of court—

(i) for a period, or

(ii) conditionally; and

(b) the respondent is absent when the court does so.

(2) The applicant must serve on the respondent notice of the terms of the court's order.

Application to discharge an order for imprisonment

62.5.—(1) This rule applies where—

(a) the court has ordered the respondent's imprisonment for contempt of court; and

(b) the respondent wants the court to discharge that order.

(2) The respondent must—

(a) apply in writing;

(b) serve the application on—

(i) the court officer, and

(ii) the applicant who applied for the respondent's punishment;

(c) explain why it is appropriate for the order to be discharged; and

(d) ask for a hearing, if the respondent wants one.

Introduction of written witness statement or other hearsay

62.6.—(1) A party who wants to introduce in evidence the written statement of a witness, or other hearsay, must—

(a) serve a copy of the statement, or notice of other hearsay, on—

(i) the court officer, and

(ii) the other party; and

(b) serve the copy or notice—

(i) when serving the application under rule 62.3, in the case of the applicant, or

(ii) not more than 7 days after service of that application, in the case of the respondent.

(2) Such service is notice of that party's intention to introduce in evidence that written witness statement, or other hearsay, unless that party otherwise indicates when serving it.

(3) A party entitled to receive such notice may waive that entitlement by so informing the court officer and the party who would have given it.

[Note. On an application under rule 62.3, hearsay evidence is admissible under the Civil Evidence Act 1995(**4**)*. Section 1(2) of the 1995 Act defines hearsay as meaning 'a statement made otherwise than by a person while giving oral evidence in the proceedings which is tendered as evidence of the matters stated'. Section 13 of the Act defines a statement as meaning 'any representation of fact or opinion, however made'.*

Under section 2 of the 1995 Act, a party who wants to introduce hearsay in evidence must give reasonable and practicable notice, in accordance with procedure rules, unless the recipient waives that requirement.]

(**4**) 1995 c. 38.

Content of written witness statement

62.7.—(1) This rule applies to a written witness statement served under rule 62.6.

(2) Such a written witness statement must contain a declaration by the person making it that it is true to the best of that person's knowledge and belief.

False statements

62.8.—(1) In the Crown Court, the court can punish for contempt of court a person who makes, or causes to be made, a false statement in such a written witness statement without an honest belief in its truth.

(2) The Crown Court may exercise its power to punish that person for contempt of court—

(a) on an application by a party, with the court's permission; or

(b) on its own initiative.

(3) A person who wants the court to exercise that power must comply with the rules in this Part.

Content of notice of other hearsay

62.9.—(1) This rule applies to a notice of hearsay, other than a written witness statement, served under rule 62.6.

(2) Such a notice must—

(a) set out the evidence, or attach the document that contains it; and

(b) identify the person who made the statement that is hearsay.

Cross-examination of maker of written witness statement or other hearsay

62.10.—(1) This rule applies where a party wants the court's permission to cross-examine the maker of a written witness statement, or other hearsay statement, served under rule 62.6.

(2) The party who wants to cross-examine that person must—

(a) apply in writing, with reasons; and

(b) serve the application on—

(i) the court officer, and

(ii) the party who served the hearsay.

(3) A respondent who wants to cross-examine such a person must apply to do so not more than 7 days after service of the hearsay by the applicant.

(4) An applicant who wants to cross-examine such a person must apply to do so not more than 3 days after service of the hearsay by the respondent.

(5) The court—

(a) may decide an application under this rule without a hearing; but

(b) must not dismiss such an application unless the person making it has had an opportunity to make representations at a hearing.

[Note. See also section 3 of the Civil Evidence Act 1995(**5**)*.]*

(**5**) 1995 c. 38.

Credibility and consistency of maker of written witness statement or other hearsay

62.11.—(1) This rule applies where a party wants to challenge the credibility or consistency of the maker of a written witness statement, or other hearsay statement, served under rule 62.6.

(2) The party who wants to challenge the credibility or consistency of that person must—

(a) serve a written notice of intention to do so on—

(i) the court officer, and

(ii) the party who served the hearsay; and

(b) in it, identify any statement or other material on which that party relies.

(3) A respondent who wants to challenge such a person's credibility or consistency must serve such a notice not more than 7 days after service of the hearsay by the applicant.

(4) An applicant who wants to challenge such a person's credibility or consistency must serve such a notice not more than 3 days after service of the hearsay by the respondent.

(5) The party who served the hearsay—

(a) may call that person to give oral evidence instead; and

(b) if so, must serve a notice of intention to do so on—

(i) the court officer, and

(ii) the other party

as soon as practicable after service of the notice under paragraph (2).

[Note. Section 5(2) of the Civil Evidence Act 1995 describes the procedure for challenging the credibility of the maker of a statement of which hearsay evidence is introduced.

See also section 6 of that Act. The 1995 Act does not allow the introduction of evidence of a previous inconsistent statement otherwise than in accordance with sections 5, 6 and 7 of the Criminal Procedure Act 1865(**6**)*.]*

Court's power to vary requirements under this Part

62.12.—(1) The court may shorten or extend (even after it has expired) a time limit under this Part.

(2) A person who wants an extension of time must—

(a) apply when serving the statement, notice or application for which it is needed; and

(b) explain the delay.

(**6**) 1865 c. 18; section 6 was amended by section 10 of the Decimal Currency Act 1969 (c. 19), section 119 of, and Schedule 7 to, the Police and Criminal Evidence Act 1984 (c. 60), section 90 of, and paragraph 3 of Schedule 13 to, the Access to Justice Act 1999 (c. 22), section 109 of, and paragraph 47 of Schedule 8 to, the Courts Act 2003 (c. 39) and sections 331 and 332 of, and paragraph 79 of Schedule 36 to, and Schedule 37 to, the Criminal Justice Act 2003 (c. 44).