

**EXPLANATORY MEMORANDUM TO  
THE CRIMINAL PROCEDURE RULES 2014**

**2014 No. 1610 (L. 26)**

1. This Explanatory Memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 In accordance with the programme of the Criminal Procedure Rule Committee, these Rules replace with consolidated rules the Criminal Procedure Rules 2013, S.I. 2013 No. 1554, the Criminal Procedure (Amendment) Rules 2013, S.I. 2013 No. 2525 and the Criminal Procedure (Amendment No.2) Rules 2013, S.I. 2013 No. 3183. They include new rules about preparation for trial, and trial, in the Crown Court (in Parts 3, 38 and 39); about appeal to the High Court in extradition cases (in Part 17); and about the procedure to be followed where proceedings become void, or where an order is set aside, in magistrates' courts (in Part 37). They make amendments to (i) the rules about service of documents (Part 4); (ii) the rule about applications for access to material used to obtain a search warrant, etc. (Part 5); (iii) the rule about sending for Crown Court trial where that sending is required by statute (Part 9); (iv) the rules about the preparation of indictments (Parts 12 and 14); (v) the rules about applications for witness summonses (Part 28); (vi) the rules about expert evidence (Part 33); (vii) the rules about variation of sentence (Part 42); (viii) the rules about behaviour orders made in criminal cases (Part 50); and (ix) the rules about the endorsement of driving records (Part 55). They make consequential rule amendments and include up to date references to relevant legislation. In all other respects, they reproduce the rules that they supersede.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 In its Thirty-first Report of Session 2010-12, published on 8<sup>th</sup> November, 2011, the Joint Committee on Statutory Instruments reported as failing to comply with proper drafting practice the use in the Criminal Procedure Rules 2011, S.I. 2011 No. 1709, of the word 'will' to express expectation where the JCSI had concluded that clarity required an expression of obligation instead. In the Criminal Procedure Rules 2013 the word 'will' was replaced by the word 'must' in those instances reported by the JCSI and in all comparable instances, with the exception of four occurrences. Those four occurrences appear still in these Rules, in Part 73 (Appeal to the Court of Appeal under the Proceeds of Crime Act 2002: restraint or receivership orders). As part of its programme of rule reform, the Criminal Procedure Rule Committee intends, as soon as possible, to replace that Part in its entirety. In the meantime, no judgment of a court, nor any complaint by a user of the Criminal Procedure Rules, save for the JCSI's Report, suggests that the affected rules have been misunderstood since rules in those terms first appeared in the Criminal Appeal (Confiscation, Restraint and Receivership) Rules 2003, S.I. 2003 No. 428, and subsequently in the Criminal

Procedure Rules 2005, S.I. 2005 No. 384, and in the Criminal Procedure Rules 2010, S.I. 2010 No. 60.

3.2 These Rules include empty Parts, maintaining a feature established by the Criminal Procedure Rules 2005 and repeated in the Criminal Procedure Rules 2010, the Criminal Procedure Rules 2011, the Criminal Procedure Rules 2012 and the Criminal Procedure Rules 2013. The Criminal Procedure Rule Committee believes that to maintain this feature avoids confusion pending its planned final consolidation of the Criminal Procedure Rules in 2015, with numeration in order and no empty Parts then retained. Consultation conducted by the Rule Committee in previous years among those who use and who publish the Rules has indicated that the repeated renumbering of the rules in the meantime would result in a potential for confusion, and a certainty of disproportionate expense, for such users and publishers.

#### **4. Legislative Context**

4.1 Sections 68 to 72 of the Courts Act 2003 provide for a Criminal Procedure Rule Committee of 18 members to make rules that govern the practice and procedure of the criminal courts, that is, magistrates' courts, the Crown Court, the High Court, in an extradition appeal, and the Court of Appeal, Criminal Division. Section 69 requires the Committee to make rules that are simple and simply expressed, and that help make the criminal justice system accessible, fair and efficient. Members of the Rule Committee are drawn from among all the groups involved in the criminal justice system: the judiciary, including the magistracy, the legal professions, prosecutors, the police, voluntary organisations and the Ministry of Justice.

4.2 The first rules made by the Rule Committee were the Criminal Procedure Rules 2005. In those Rules, the Committee consolidated, organised and began to simplify rules of criminal procedure that before then had been contained in nearly 50 separate statutory instruments, and added notes that cross-referred to other relevant criminal justice legislation. Since then, the Committee has continued to revise and simplify those procedure rules in accordance with its statutory objective, while at the same time providing for new government initiatives, and for developments in legislation and in case law. Unless rule changes are needed urgently, the rules now are consolidated annually, in June, and amended if necessary in December, with these revisions coming into force ordinarily on the first Monday in October and on the first Monday in April, respectively, of each year.

4.3 These Rules exercise new powers conferred on the Rule Committee by section 174 of the Anti-social Behaviour, Crime and Policing Act 2014, which transfers from the Civil Procedure Rule Committee to the Criminal Procedure Rule Committee the power to make procedure rules governing extradition appeal proceedings in the High Court. The Rules accommodate, by new rules, by rule amendments, or by cross-reference, as appropriate: section 14 of the Magistrates' Courts Act 1980, which provides that proceedings in a magistrates' court 'shall be void' where the defendant makes a statutory declaration of ignorance of those proceedings; section 22A of that same Act, inserted by section 176 of the Anti-social Behaviour, Crime and Policing Act 2014, which creates the offence of low-value shoplifting; section 142 of that Act, which allows a magistrates' court to set aside a conviction or other order where the court thinks it in the interests of justice to do so; section 12 of the Road Traffic Offenders Act 1988, which provides for the use of a defendant's self-incriminating response to a statutory requirement to identify the driver of a vehicle; section 103A of

the Sexual Offences Act 2003, inserted by Schedule 5 to the Anti-social Behaviour, Crime and Policing Act 2014, which provides for sexual harm prevention orders; section 10 of, and Schedule 3 to, the Road Safety Act 2006, which abolish the requirement for counterpart driving licences; section 22 of the Anti-social Behaviour, Crime and Policing Act 2014, which provides for criminal behaviour orders; Part 12 of that Act, which makes a number of amendments to the Extradition Act 2003; and the Public Bodies (Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions) Order 2014, S.I. 2014 No. 834, which amalgamates those two prosecuting offices.

## **5. Territorial extent and Application**

5.1 This instrument applies to England and Wales.

## **6. European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

- *What is being done and why*

### *Consolidation*

7.1 When it made the Criminal Procedure Rules 2005, the Committee declared its intention to effect after 5 years a legislative consolidation of those Rules with such amendments as had been made by then, and it did so in the Criminal Procedure Rules 2010. Having consulted on the possibility of continuing to consolidate the Rules, at annual intervals, the Committee decided to do so: first in the Criminal Procedure Rules 2011, then in the 2012 and 2013 Rules, and now in these Rules.

### *Case management: preparation for Crown Court trial*

7.2 Part 3 (Case management) is enlarged to include new rules about preparation for Crown Court trial, and some of the existing rules are amended in consequence of including those rules. Rule 3.1 is amended to redefine the scope of the Part. A new rule 3.8 supplies a power for the court to vary the requirements of other rules in the Part. The provisions for pre-trial hearings in the Crown Court, and about identifying the proposed defence trial advocate, are moved from rule 3.9 to the new rules. New rules 3.13 to 3.26 now govern preparation for trial in the Crown Court, and include the rules about statutory preparatory hearings which were in Part 15 of the Criminal Procedure Rules 2013.

7.3 As part of the Rule Committee's programme of codification and rule reform, the Committee has made the first ever comprehensive set of procedure rules to govern preparation for trial, and trial, in the Crown Court. The rules incorporate and codify a number of statutory and common law requirements, some of considerable antiquity. The new rules about preparation for trial appear in Part 3, and the new rules about trial and sentencing, and about jurors, appear in Parts 38 and 39 respectively: see paragraphs 7.25 to 7.26 beneath. After consulting (as to which, see paragraph 8.2 beneath), the Committee concluded that it would serve the statutory objective set by section 69 of the Courts Act 2003, described at paragraph 4.1 above, to codify these procedures, and to include the established practice in the Crown Court, in rules which would be accessible to all.

7.4 The new rules in Part 3 deal with procedures that will, ordinarily, take place before a jury is selected and the court starts hearing evidence. For some purposes, however, the rules about trial preparation and case management are likely to be applied during the trial as well.

*Service of documents: special provision for some road traffic cases, and other amendments*

7.5 In Part 4 (Service of documents), rules 4.1 and 4.7 are amended to provide for Part 4 to govern the service of documents in a case to which section 12 of the Road Traffic Offenders Act 1988 applies (proving the identity of the driver of a vehicle). Rules 4.3 and 4.4 are amended to provide for the service of documents in extradition appeal cases. Rule 4.10 is amended to create a general presumption that a document produced by a computer system for dispatch by post will have been posted unless something different is shown.

7.6 The Criminal Procedure Rules have not until now supplied a procedure to supplement section 12, even though that section allows the Rules to do so. The Crown Prosecution Service suggested to the Rule Committee that it would be helpful if they did, and the Committee agreed. While considering those rules, the Rule Committee decided that it would assist, in road traffic and other cases, if the presumption of posting under rule 4.10 which until now has applied only to documents produced by a court computer system applied also to other computer dispatch systems. The Committee amended rule 4.10 accordingly.

7.7 Now that the Criminal Procedure Rules will apply in extradition appeal cases (as to which, see paragraph 4.3 above and paragraphs 7.14 – 7.16 beneath), the Committee thought it important to specify in the Rules the court office to which such appeals should be delivered.

*Applications for access to confidential material used to obtain a search warrant, etc.*

7.8 In Part 5 (Forms and court records), rule 5.7 is amended to supply a procedure for the hearing of an application for access to the information and material used to obtain a search warrant or comparable order, where the investigator wants the court to withhold that information and material from the applicant. The rule provides that the court may, if it wishes, hear representations from the investigator in the absence of the applicant, using the same procedure for which other Criminal Procedure Rules already provide in comparable circumstances.

7.9 In response to the judgment of the High Court in *Commissioner of Police for the Metropolis v Bangs* [2014] EWHC 546 (Admin), in which case the court approved the use of this procedure, the Rule Committee decided to codify that decision by this amendment.

*Sending for trial for low-value shoplifting*

7.10 In Part 9 (Allocation and sending for trial), rule 9.7 is amended to supply a procedure for dealing with a case in which the defendant is charged with low-value shoplifting.

7.11 Under section 22A of the Magistrates' Courts Act 1980, recently inserted by the Anti-social Behaviour, Crime and Policing Act 2014, a defendant can be tried for low-value shoplifting only in a magistrates' court unless he or she chooses to be tried

in the Crown Court. The magistrates' court is not required to decide in which court the offence should be tried, as otherwise is the case where theft is alleged. The rule amendments require the defendant to be informed of the right to choose, and for him or her then to make a choice.

*Marking paper copies of the Crown Court indictment*

7.12 In Part 12 (Deferred prosecution agreements) and in Part 14 (The indictment), rules 12.4 and 14.1 are amended to require that where a paper copy of an indictment is made then that copy must be endorsed with a note to identify it as the indictment, and with a note of the date on which that indictment was served on the court.

7.13 The indictment, which is the formal statement of the charge against the defendant in the Crown Court, can be created and served on the court electronically and, if it is, then the date of its service will be clear. However, if court staff prepare a paper copy for the court's use then the date of that copy may not be apparent; and that copy may become confused with previous drafts, or subsequent amendments, of the indictment. To establish for what offence, exactly, the defendant is on trial, and may be convicted, clearly is of crucial importance; but the Registrar of Criminal Appeals reported to the Rule Committee that in some cases, where paper copies had been prepared for the court, that was unclear. Accordingly, the Committee agreed to impose requirements for the endorsement of any paper copy.

*Appeal to the High Court in an extradition case*

7.14 Part 17 (Extradition) is enlarged to include new rules governing the procedure in the High Court on an appeal to that court from a decision of the magistrates' court or of the Secretary of State. Some of the existing rules are amended in consequence of including the new rules. Rule 17.1 is amended to redefine the scope of the Part.

7.15 Part 12 of the Anti-social Behaviour, Crime and Policing Act 2014 makes amendments to the Extradition Act 2003 which, among other things, introduce a requirement that someone who wants to appeal to the High Court must first obtain that court's permission ('leave'); and which amend the Civil Procedure Act 1997, and the Courts Act 2003, to allow the Criminal Procedure Rule Committee to make rules for the appeal proceedings in the High Court, instead of those rules being contained in the Civil Procedure Rules as they have been until now. The Rule Committee has made rules 17.17 to 17.31 in exercise of that power.

7.16 In response to comments received when the Rule Committee consulted on the draft rules (as to which, see paragraph 8.3 beneath), rule 17.17(4) describes the criterion which the High Court will apply when deciding whether or not to give permission to appeal (the court will decide whether a ground of appeal is 'reasonably arguable'); rule 17.22, read with rule 17.17(1), prescribes the procedure for renewing an application for permission to appeal which the court refuses without a hearing; rule 17.27 provides a procedure for applying to the High Court to reopen an appeal; and rule 17.31 provides a procedure to be followed where a court fee that is payable is not paid. The other rules restate the procedure which until now has been prescribed by the Civil Procedure Rules, expressed in terms consistent with other Criminal Procedure Rules.

*Summoning a witness from whom a deposition is required*

7.17 In Part 28 (Witness summonses, warrants and orders), rule 28.1 is amended to redefine the scope of the Part so that the rules will apply where a witness is required to attend court to make a deposition.

7.18 Schedule 3 to the Crime and Disorder Act 1998 allows a magistrates' court to take a sworn deposition from a witness where a case has been sent to the Crown Court for trial, under the rules in Part 9 of the Criminal Procedure Rules and under the other legislation to which the rules and notes in that Part refer. The power to take a deposition is rarely used, and until now Criminal Procedure Rules have not supplied a procedure to supplement it. It was reported to the Rule Committee that it would be helpful if the Rules did so, and the Committee agreed. The rules in Part 28 already supply the procedure to be followed where the court exercises similar powers, so those rules now will apply to this power, too.

*Expert evidence*

7.19 Part 33 (Expert evidence) is amended to include new rules about an expert witness' duty to the court and about establishing the reliability of expert evidence. Rule 33.1 is amended to redefine the scope of the Part. Rule 33.2 is amended to redefine an expert's duty to the court. Rule 33.3 is amended to supply the procedure for introducing a summary of an expert's conclusions, and to require service of information detrimental to an expert's credibility. Rule 33.4 is amended to require that an expert's report must include information relevant to assessing the reliability of the expert's opinion.

7.20 In Law Commission Report No. 325, entitled 'Expert Evidence in Criminal Proceedings', published in March, 2011, the Commission concluded that "special rules are required for assessing the reliability of expert evidence as a factor bearing on admissibility, and ... opinion evidence with insufficient indicia of reliability (that is, pointers to reliability) ought not to be admitted in criminal proceedings ... there should be further disclosure obligations in relation to all expert evidence, whether the evidence is relied on by the prosecution or by the defence" (from paragraphs 1.8 to 1.12 of the Report). The Commission recommended that Parliament should enact legislation which, among other things, would contain a list of 'indicia of reliability'. The Government's response was published last year. Instead of introducing a Bill, it asked the Rule Committee to make changes to the Criminal Procedure Rules, so as to encourage the prompt introduction of expert evidence due to be relied upon at trial, in order that parties and courts would have enough time to consider it, and so as to require that experts' reports should deal explicitly with reliability, especially the reliability of scientific evidence.

7.21 The Rule Committee has made a number of amendments to the rules accordingly, the purpose of all of which is to clarify what information the court must have so as to be able to make an informed decision about the admissibility of the evidence, having regard to the reliability of the expert's opinion and, where relevant, having regard to the expert's own credibility. Where expert evidence is unlikely to be in dispute, the rules now provide for it to be introduced in the first instance in summary, with a full report required only if the conclusions are contested. Although the rules do not list 'indicia of reliability' of the sort recommended by the Law Commission, the Rule Committee has asked the Lord Chief Justice to amend the Criminal Practice Directions that supplement Part 33 of the Rules to include such indicia and to give courts guidance on how to apply them.

*Voiding proceedings, setting aside convictions and varying sentences*

7.22 Part 37 (Trial and sentence in a magistrates' court) is amended to include new provisions about voiding proceedings under section 14 of the Magistrates' Courts Act 1980, and about setting aside a conviction or other order under section 142 of that Act. Rule 37.1 is amended to redefine the scope of the Part. Rules 37.11 and 37.15 are amended, and rule 37.16 is added, to supply a procedure for dealing with a section 14 statutory declaration. Rule 37.17 is added to supply a procedure for dealing with a section 142 application. In Part 42 (Sentencing procedures in special cases), rule 42.4 (Variation of sentence) is amended

7.23 Section 14 of the Magistrates' Courts Act 1980 provides that magistrates' court proceedings 'shall be void' where the defendant makes a statutory declaration of his or her ignorance of those proceedings until after the beginning of the trial. Until now, the Criminal Procedure Rules have referred to that section but have not prescribed the procedure to follow where such a statutory declaration is made. It was suggested to the Rule Committee by Her Majesty's Courts and Tribunals Service that it would be helpful if the Rules did so, and the Committee agreed. New rule 37.16 provides for two possibilities, the first where the defendant attends court personally to deliver the statutory declaration and the second where the defendant delivers it by post or through someone else. In each case, the rule requires the court to proceed as soon as possible with a fresh trial.

7.24 Section 142 of the Magistrates' Courts Act 1980 allows a magistrates' court to set aside a conviction, or vary or rescind a sentence or other order, where doing that appears to the court to be in the interests of justice. Until now, the Criminal Procedure Rules have referred to that section, and have included a rule governing the procedure where that section is used to vary a sentence, but have not prescribed the procedure to follow where, under that section, the court is asked to set aside a conviction, or to vary or rescind a costs order or a behaviour order. It was again suggested to the Rule Committee by Her Majesty's Courts and Tribunals Service that it would be helpful if the Rules did so, and again the Committee agreed. New rule 37.17 requires notice to be given to the other party and, where a party proposes that a conviction should be set aside, the new rule imposes the same requirements that apply where a defendant applies to withdraw a guilty plea. While considering that rule, the Rule Committee decided that it would assist to amend rule 42.4, the variation of sentence rule, to allow the court, in its discretion, to vary a sentence in the defendant's absence where, for example, the court discovers that it has made a mistake, as long as the variation is favourable to the defendant.

*Trial and sentence in the Crown Court*

7.25 New Part 38 (Trial and sentence in the Crown Court) and new Part 39 (Jurors) are substituted for the old rules in Part 39 of the Criminal Procedure Rules 2013. As part of the Rule Committee's programme of codification and rule reform (see paragraph 7.3 above), they incorporate and codify a number of statutory and common law procedural requirements that govern jury trial, and formalise practices that have been adopted for some years at some Crown Court centres and which the Rule Committee agreed should be applied throughout the Crown Court.

7.26 Part 38 sets out, in a sequence that corresponds with the stages of the trial, rules to govern the procedure at each stage, including taking a guilty plea, if one is entered, or selecting a jury to try a contested case; the receipt of evidence; the

summing up of the case and the taking of a verdict; and the passing of sentence in the event of conviction. Rule 38.6, which governs selection of a jury, allows for the selection of 13 or 14 jurors for the opening stage of what is expected to be a long trial, so that if a juror has to be discharged during that stage the trial can continue with 12. Part 39 includes rules about providing appropriate information for jurors, and about enquiring into their availability for any trial that is due to last for longer than they had expected to serve.

#### *Sexual harm prevention orders and criminal behaviour orders*

7.27 In Part 50 (Civil behaviour orders after verdict or finding), rule 50.3 (Application for behaviour order and notice of terms of proposed order: special rules) is amended to apply it to two new types of behaviour order introduced by the Anti-social Behaviour, Crime and Policing Act 2014, namely sexual harm prevention orders and criminal behaviour orders; and to supply a procedure for an application for a special measures direction to assist a witness on an application for a criminal behaviour order or for an anti-social behaviour order (before the latter type of order is replaced).

#### *Endorsing a defendant's driving record*

7.28 In Part 55 (Road traffic penalties), rule 55.2 (Information to be supplied on order for endorsement of driving record, etc.) and rule 55.3 (Statutory declaration to avoid fine after fixed penalty notice) are amended to remove the requirements for endorsing counterpart driving licences, unless other legislation requires that. The Rule Committee was asked to make these rule changes in anticipation of the bringing into force of provisions of the Road Safety Act 2006 which abolish the requirement for such counterparts.

#### *Other amendments*

7.29 Rule 6.1 (Investigation orders and warrants: when the rules apply) is amended to clarify the type of appeal to which the associated other rules in Part 6 apply. Rule 8.1 (Discontinuing a prosecution: when the rules apply) is amended to omit the reference to the Director of Revenue and Customs Prosecutions, consequent on the merger of that office with that of Director of Public Prosecutions. Part 15 is omitted and the rules that were in that Part now appear in Part 3 as rules 3.14 to 3.18. Rules 17.3, 17.6 and 17.13, about extradition proceedings in a magistrates' court, are amended to take account of recent amendments to the Extradition Act 2003. Rule 42.10 (Information to be supplied on committal for sentence, etc.) is amended to allow the court which convicts a defendant to transfer information by electronic means to the court which will pass sentence, where that is different. Rule 76.5 (Costs on conviction and sentence, etc.) is amended to apply the rule to costs orders made by the High Court in an extradition appeal.

7.30 The note at the beginning of Part 33 is omitted and its content removed to the notes to other rules in Part 33. Rule 65.2; the note at the end of Part 3; the note at the beginning of Part 28; and the notes to rules 3.1, 3.5, 3.11, 4.1, 8.1, 9.6, 9.7, 17.1, 17.2, 17.3, 17.6, 17.13, 28.3, 33.3, 33.4, 37.1, 37.11, 37.12, 42.4, 50.1, 50.3, 52.5, 55.2, 63.3 and 66.1: all are amended to bring up to date the cross-references they contain.

#### *Bringing the new rules into force*

7.31 These Rules come into force on Monday 6<sup>th</sup> October, 2014, following the convention explained at paragraph 4.2 above. To effect the transition from the Criminal Procedure Rules 2013, rule 2.1(3) preserves any right or duty at that date



existing under those rules. The same rule applies the new extradition appeal rules to an appeal which begins on or after that date.

- ***Consolidation***

7.32 See paragraph 7.1 above. An informal consolidated text will continue to be available to the public free of charge on the Ministry of Justice website at:

<http://www.justice.gov.uk/courts/procedure-rules/criminal/rulesmenu>

## **8. Consultation outcome**

8.1 During 2009 the Rule Committee consulted with members of the judiciary, with bodies representing the legal professions, with commercial publishers of the text of the Criminal Procedure Rules, with the Parliamentary Committees then charged with their scrutiny, and with relevant government departments and agencies on the desirability of consolidating the Criminal Procedure Rules at regular intervals. No opposition was expressed to consolidation in principle. Several of those consulted endorsed the Committee's view that it would be important to identify in exactly what respect consolidated rules amended the rules that they replaced; and that it would be appropriate to use for that purpose the Explanatory Note and the Explanatory Memorandum published with the Rules. Some publishers and representatives of the legal professions cautioned against any significant re-arrangement of the Rules, for example by renumbering the constituent Parts to accommodate the omission of those that had become redundant, before the Committee's programme of reform was complete.

8.2 Between March and June, 2013, the Rule Committee consulted on the rules about preparation for trial, and trial, in the Crown Court by issuing an invitation to comment on the draft rules to judges and legal practitioners likely to be affected by them, and to academics and commentators on criminal procedure: bearing in mind that no novel procedures were to be introduced, and that rules were to be made only to incorporate and codify procedures already established by statute, common law or judicial practice. Responses were received from the Bar Council, the Criminal Bar Association, the Law Society, the Crown Prosecution Service, Her Majesty's Courts and Tribunals Service, two judges and two academics. Having taken account of those, the Rule Committee confirmed its provisional decision to include rules about additional jurors for the opening stage of a long trial, and made a number of detailed adjustments to other rules.

8.3 Between March and April, 2014, the Rule Committee consulted on the rules about extradition appeal to the High Court, again by issuing an invitation to comment on the draft rules to judges and legal practitioners likely to be affected by them, and to academics and commentators on criminal procedure: in this case bearing in mind that much of the procedure is compelled by the provisions of the Extradition Act 2003, and other procedures have been established by the Civil Procedure Rules which presently apply. Responses were received from the Crown Prosecution Service, the National Crime Agency, Her Majesty's Courts and Tribunals Service, two judges, a commentator on extradition law, the Extradition Lawyers' Association and Fair Trials International. Having taken account of their comments, the Rule Committee confirmed its provisional decisions about the requirements to be imposed for the service of an appeal notice, and about permitting an appeal hearing to proceed in a defendant's absence as long as he or she is represented; but the Committee made substantial

amendments to the rule reciting the criterion for giving permission to appeal, and to the rule about renewing an application for permission to appeal which is refused without a hearing; and decided to include rules about reopening the determination of an appeal, and about the procedure to be followed where a party fails to pay a court fee due under the legislation which requires the payment of such fees.

8.4 On other rule amendments, the Rule Committee fulfilled its statutory obligation to consult as the Committee considers appropriate by inviting and reviewing suggestions and observations solicited by its members from among the groups from which each is drawn, and by inviting and reviewing suggestions and observations by government departments and other authorities directly affected by rules of criminal procedure.

## **9. Guidance**

9.1 Amendments to the Criminal Procedure Rules are drawn to the attention of participants in the criminal justice system by correspondence addressed by the Committee secretariat to members of the judiciary, to other relevant representative bodies (for example, the Law Society and the Bar Council) and to the editors of relevant legal journals; as well as by publicity within Her Majesty's Courts and Tribunals Service, within the principal prosecuting authorities, and among local criminal justice boards.

9.2 In addition, news of changes to the Rules and of the effect of those changes is published on the Ministry of Justice website, at:  
<http://www.justice.gov.uk/courts/procedure-rules/criminal>

## **10. Impact**

10.1 These rules have no impact on business, charities or voluntary bodies.

10.2 These rules have no impact of themselves on the public sector, because they reproduce rules and procedures that are already current, and because they include new rules that supplement legislation already made.

10.3 An Impact Assessment has not been prepared for this instrument.

## **11. Regulating small business**

11.1 The legislation does not apply to small businesses.

## **12. Monitoring and review**

12.1 The making of Criminal Procedure Rules attracts independent academic and other comment. From time to time the Rules are in issue in cases in which the judgment is reported. The Committee secretariat draws members' attention to such comment and reports. Observations arising from judicial, institutional and commercial training courses on the Rules are monitored by Committee members. The Committee secretariat maintains an email address for enquiries about the rules, and from the enquirers to that address receives comments which it relays to the Committee. Twice a year the Committee receives and considers statistical information about criminal case management gathered by Her Majesty's Courts and Tribunals Service.

12.2 Each judge and lawyer member of the Criminal Procedure Rule Committee practises regularly in the criminal courts, and each other member deals regularly with matters that affect or arise from the business of those courts. Each therefore draws upon his or her experience of the operation of the courts and of the Rules. Although members participate in an individual capacity, each is able also to reflect the views of the professional or other ‘constituency’ from which each comes.

12.3 Representatives of Her Majesty’s Courts and Tribunals Service, and of the criminal justice departments of government, attend Rule Committee meetings as observers. They, too, draw to the Committee’s attention, as they arise, matters affecting the operation of the Rules.

### **13. Contact**

Jonathan Solly at the Ministry of Justice can answer any queries regarding the instrument. Telephone: 020 3334 4031, or e-mail: [jonathan.solly@justice.gsi.gov.uk](mailto:jonathan.solly@justice.gsi.gov.uk).