

2017 No. 1287 (L. 21)

SENIOR COURTS OF ENGLAND AND WALES

The Crown Court (Amendment) Rules 2017

Made - - - - *11th December 2017*

Laid before Parliament *18th December 2017*

Coming into force in accordance with Article 1

The Lord Chief Justice makes the following Rules in exercise of the powers conferred by section 84(1) of the Senior Courts Act 1981(a):

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Crown Court (Amendment) Rules 2017.

(2) Rule 6 of these Rules comes into force on 16th April 2018 so far as it relates to Rule 8(fa) of the Crown Court Rules 1982(b).

(3) Rule 7(b) of these Rules comes into force on 16th April 2018 so far as it relates to section 303S of the Proceeds of Crime Act 2002(c).

(4) Otherwise, these Rules come into force on 31st January 2018.

(5) In these Rules, a reference to a rule by number alone means the rule so numbered in the Crown Court Rules 1982.

Amendments to the Crown Court Rules 1982

2. The Crown Court Rules 1982 are amended in accordance with rules 3 to 7 of these Rules.

3. In Rule 8(e), after “Anti-terrorism Crime and Security Act 2001”, insert “(“ATCSA”)” and for “that Act”, substitute “ATCSA” in both places where it occurs.

4. After rule 8(e), insert—

“(ea) in the case of an appeal under paragraph 10K of Schedule 1 to ATCSA(d)—

(i) to any person to whom notice of the order for further detention of property was given in accordance with paragraph 10D(11) of Schedule 1 to ATCSA and who has not been joined as a party to the case, and

(a) 1981 c.54. Section 84(1) was amended by section 10 of and paragraph 1(4)(a) of Schedule 2 to, the Civil Procedure Act 1997 (c.12), and by S.I. 2004/2035 and S.I. 2012/2398.

(b) S.I.1982/1109. Rule 8 was amended by section 70 of the Criminal Justice Act 1991 (c. 53), and by S.I. 1988/952, S.I. 1988/1322, S.I. 2001/193, S.I. 2001/614, S.I. 2001/4012, S.I. 2002/2997, and S.I. 2005/617. Part III of Schedule 3 was amended by S.I. 1988/1322, S.I. 2001/193, S.I. 2001/4012, S.I. 2002/2977, S.I. 2004/1047 and S.I. 2009/3361.

(c) 2002 c.29. Chapters 3A and 3B of Part 5 of the Proceeds of Crime Act were inserted by sections 15 and 16 of the Criminal Finances Act 2017 (c. 22).

(d) Parts 4A and 4B (comprising paragraphs 10A to 10Z7) of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001 (c.24) were inserted by section 39 of, and Schedule 3 to, the Criminal Finances Act 2017 (c. 22).

(ii) to any person who has made an application under paragraph 10O(1) of Schedule 1 to ATCSA and who has not been joined as a party to the case.

(eb) in the case of an appeal under paragraph 10Z4 of Schedule 1 to ATCSA—

(i) to any person to whom notice of the account freezing order was given in accordance with paragraph 10S(5) of Schedule 1 to ATCSA and who has not been joined as a party to the case, and

(ii) to any person who has made an application under paragraph 10T(1)(b) of Schedule 1 to ATCSA and who has not been joined as a party to the case.”

5. In Rule 8(f), after “Proceeds of Crime Act 2002”, insert “(“POCA”)” and for “that Act”, substitute “POCA” in both places where it occurs.

6. After rule 8(f), insert—

“(fa)in the case of an appeal under section 303S of POCA(a)—

(i) to any person to whom notice of the order for further detention of property was given in accordance with section 303L(14) of POCA and who has not been joined as a party to the case, and

(ii) to any person who has made an application under section 303V of POCA and who has not been joined as a party to the case.

(fb) in the case of an appeal under section 303Z16 of POCA—

(i) to any person to whom notice of the account freezing order was given in accordance with section 303Z3(5) of POCA and who has not been joined as a party to the case, and

(ii) to any person who has made an application under section 303Z4(1)(b) of POCA and who has not been joined as a party to the case.”

7. In Part III of Schedule 3 (appeals in which the Notice of Appeal is to state the grounds of appeal)—

(a) in the entry relating to The Anti-terrorism, Crime and Security Act 2001, in the third column, for “paragraph 7” substitute “paragraphs 7, 10K, 10Z4.”;

(b) in the entry relating to the Proceeds of Crime Act 2002, in the third column, for “section 299” substitute “sections 299, 303S, 303Z16.”.

8th December 2017

Ian Burnett
Lord Chief Justice

I allow these Rules

11th December 2017

Dominic Raab
Minister of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Crown Court Rules 1982 (S.I. 1982/1109) (“CCR”) to take account of amendments made to Part 5 of the Proceeds of Crime Act 2002 (c. 29) (“POCA”) and Schedule 1

(a) Chapters 3A and 3B (comprising sections 303B to 303Z19) of Part 5 of the Proceeds of Crime Act 2002 (c.29) were inserted by sections 15 and 16 of the Criminal Finances Act 2017 (c. 22).

of the Anti-terrorism, Crime and Security Act 2001 (c. 24) (“ATCSA”) by the Criminal Finances Act 2017 (c. 22) (“CFA”). The amendments are-

- Section 15 of the CFA inserted new chapter 3A into Part 5 of POCA, which permits the search for, and seizure, detention and forfeiture of certain listed items of personal (or moveable) property where the property derives from, or is intended for use in, unlawful conduct. Property can be detained for an initial period after seizure, after which time an order for further detention of the property under section 303L must be obtained. Section 303S of that Act provides for an appeal to the Crown Court by any party to proceedings in which an order is made by a magistrates’ court for the forfeiture of listed items of property.
- Section 39 of and Schedule 3 to the CFA insert new part 4A into Schedule 1 of ATCSA which makes similar provision in respect of listed assets which are intended to be used for the purposes of terrorism, consist of the resources of a proscribed organisation, or are property earmarked as terrorist property. An order for further detention of the property can be made under paragraph 10D, and paragraph 10K provides for appeals to the Crown Court by any party to proceedings in which an order or decision is made by a magistrates’ court in respect of the forfeiture of listed items of terrorist property.
- Section 16 of the CFA inserted new chapter 3B into Part 5 of POCA, which permits law enforcement agencies to apply for an order freezing funds in a bank or building society account, and to forfeit funds in that account, where the funds derive from, or are intended for use in, unlawful conduct. The magistrates’ court can make an account freezing order under section 303Z3, and section 303Z4 allows any person affected by such an order to apply to the court to vary or set aside the account freezing order. Section 303Z16 of that Act provides for an appeal to the Crown Court by any party to proceedings in which an order is made by a magistrates’ court for the forfeiture of funds in bank or building society accounts.
- Section 40 of and Schedule 4 to the CFA insert new part 4B into Schedule 1 of ATCSA, which makes similar provision in respect of funds in a bank or building society account which are intended to be used for the purposes of terrorism, consist of the resources of a proscribed organisation, or are property earmarked as terrorist property. Account freezing orders can be made under paragraph 10S, and paragraph 10Z4 provides for appeals to the Crown Court by any party to proceedings in which an order or decision is made by a magistrates’ court in respect of the forfeiture of terrorist funds in a bank or building society account.

Rules 1 to 4 of these Rules come into force on 31st January 2018. To the extent that it relates to new rule 8(fa) of the CCR, rule 5 comes into force on 16th April 2018, but otherwise it also comes into force on 31st January 2018. Rule 6 comes into force on 31st January 2018, with the exception that rule 6(b) comes into force on 16th April 2018 so far as it refers to section 303S of POCA. The provisions which come into force on 16th April 2018 are within new Chapter 3A of Part 5 of POCA, which is inserted by section 15 of the CFA, which will commence on 16th April 2018.

Rules 2 to 5 provide for notice of the appeals under sections 303S and 303Z16 of POCA, and the appeals under paragraphs 10K and 10Z4 of Schedule 1 to ATCSA (“the relevant appeals”) to be given to certain persons with an interest in the proceedings who may not have been joined as parties to the case in the magistrates’ court. Notice of appeal will already be sent to parties to the case under rule 8(b) of the CCR.

Rule 6 adds the relevant appeals to the list of appeals to the Crown Court set out in Part III of Schedule 3 to the CCR, in which the notice of appeal is to state the grounds of appeal.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

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Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£4.25

UK201712131035 12/2017 19585

<http://www.legislation.gov.uk/id/uksi/2017/1287>

ISBN 978-0-11-116349-8



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