

**2020 No. 210 (L. 8)**

**MAGISTRATES' COURTS, ENGLAND AND WALES**

**The Magistrates' Courts (Knife Crime Prevention Orders) Rules  
2020**

*Made* - - - - 25th February 2020

*Laid before Parliament* 4th March 2020

*Coming into force* - - 30th March 2020

The Lord Chief Justice makes the following Rules in exercise of the powers conferred by section 144 of the Magistrates' Courts Act 1980(a), with the concurrence of the Lord Chancellor.

**Citation, commencement and interpretation**

**1.**—(1) These Rules may be cited as the Magistrates' Courts (Knife Crime Prevention Orders) Rules 2020 and shall come into force on 30th March 2020.

(2) In these Rules—

- (a) “the 2019 Act” means the Offensive Weapons Act 2019(b) and a reference to a section by number alone is a reference to that section of the 2019 Act;
- (b) expressions defined or used in the 2019 Act mean the same as in it;
- (c) “applicant” includes any person acting under the authority of a chief officer of police;
- (d) the following expressions mean the same as in the Magistrates' Courts Rules 1981(c)—
  - (i) “business days” (see rule 2(1) of the 1981 Rules),
  - (ii) “summons” (see rule 98 of those Rules), and
  - (iii) “service” (see Rules 99 and 115 of those Rules); and
- (e) a reference to “hearsay evidence” is a reference to evidence consisting of hearsay within the meaning of section 1(2) of the Civil Evidence Act 1995(d).

**Application for a knife crime prevention order**

**2.**—(1) An applicant under section 14 of the 2019 Act(e) for a knife crime prevention order must—

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- (a) 1980 c. 43; section 144 was amended by section 109(1) and (3) and paragraphs 245(1), (2), (5) of Schedule 8 and Schedule 10 to the Courts Act 2003, section 15(1) and paragraphs 99, 102(1), (2), (3)(a), (3)(b), (4) and (6) of Schedule 4 to the Constitutional Reform Act 2005, section 208(1) and paragraphs 42, 43(b) of Schedule 21 to the Legal Services Act 2007, article 3(2) and paragraphs 1(1), (2) to (6) of Schedule 2 to S.I. 2012/2398 and section 17(6) and paragraphs 39, 52 and 99 of Schedule 10 to the Crime and Courts Act 2013. It is further amended by section 3 and paragraphs 5 and 10 of the Schedule to the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018, with effect from a date to be appointed.
  - (b) 2019 c. 17.
  - (c) S.I. 1981/552; relevant amendments were made by S.I. 2003/1236 and S.I. 2019/1367.
  - (d) 1995 c. 38.
  - (e) 2019 c. 17; section 14 comes into force on a date to be appointed.

- (a) apply by complaint;
- (b) in the application—
  - (i) identify the defendant by name, address and date of birth,
  - (ii) where the defendant is under 18, identify a parent or guardian of the defendant, by name and address, or if unable to do so explain why,
  - (iii) explain on what grounds the applicant is entitled to apply, and
  - (iv) summarise the facts of which the applicant intends to introduce evidence to satisfy the condition imposed by section 14(3) (possession on at least two occasions during 2 years of a bladed article);
- (c) specify each requirement and prohibition that the applicant proposes as necessary to—
  - (i) protect the public in England and Wales from the risk of harm involving a bladed article,
  - (ii) protect any particular member of the public in England and Wales (including the defendant) from such risk, or
  - (iii) prevent the defendant from committing an offence involving a bladed article;
- (d) identify each person whom the applicant proposes as supervisor of the defendant's compliance with any such requirement;
- (e) unless the applicant wants the court to exercise its powers under section 16(a) (application without notice)—
  - (i) serve the application on the defendant with a summons issued by the court,
  - (ii) where the defendant is under 18, serve the application and such a summons on any parent or guardian identified in sub-paragraph (b)(ii), and
  - (iii) where the defendant is under 18, identify the youth offending team consulted by the applicant before the application was made;
- (f) unless the court dismisses the application, serve any order made on the defendant; and
- (g) unless the defendant is present or represented when the court adjourns, give the defendant notice of any adjourned hearing.

(2) Where the application under section 14 includes an application under section 18(b) (interim knife crime prevention order if application adjourned), the applicant must explain why it would be just for the court to make such an interim order.

(3) Where the court exercises its powers under section 16, no later than 5 business days before the date fixed for any adjourned hearing, or within such other period as the court directs, the applicant must—

- (a) serve the application and notice of that hearing on the defendant; and
- (b) where the defendant is under 18—
  - (i) serve the application and notice on any parent or guardian identified in paragraph (1)(b)(ii), and
  - (ii) notify the court of the youth offending team consulted by the applicant.

(4) Unless the applicant wants the court to exercise its powers under section 16, no later than 5 business days before the date, or adjourned date, fixed for the hearing of the application the applicant must serve on the court officer and the defendant an indexed bundle containing—

- (a) the application;
- (b) the information to which paragraphs (1)(c) and (d) refer;
- (c) a written statement of such oral evidence as the applicant intends to introduce in support of the application; and

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(a) 2019 c. 17; section 16 comes into force on a date to be appointed.

(b) 2019 c. 17; section 18 comes into force on a date to be appointed.

(d) a notice of any hearsay evidence on which the applicant relies.

(5) A summons, application, order or notice of adjournment which this rule requires the applicant to serve may be served instead by a court officer.

### **Review of knife crime prevention order**

**3.—**(1) This rule applies where under section 26 of the 2019 Act<sup>(a)</sup> the court orders a review of a knife crime prevention order.

(2) The review must be heard by—

- (a) the court from which the appeal was made, where the review is ordered by a court hearing an appeal under section 28<sup>(b)</sup>; or
- (b) the court by which the review is ordered, in any other case.

(3) Unless the reviewing court otherwise directs—

- (a) not less than 10 business days before the date fixed for the hearing of the review—
  - (i) the applicant for the knife crime prevention order must serve on the defendant and on the court officer such material, including any report and recommendation, as the applicant wants the court to consider at the review,
  - (ii) an appropriate chief officer of police for the purposes of section 22<sup>(c)</sup> must serve on the applicant (if different), on the defendant and on the court officer such information, including any report, as that chief officer has received under section 22(5) (duties of supervisor of defendant's compliance with requirements), and
  - (iii) the applicant for the knife crime prevention order and any such chief officer (if different) must give notice of any application under rule 4 of these Rules which that person wants to make at the review hearing; and
- (b) not less than 5 business days before that date the defendant must give notice of any application under rule 4 which the defendant wants to make at the review hearing.

### **Application to vary, renew or discharge a knife crime prevention order**

**4.—**(1) An applicant under section 27 of the 2019 Act<sup>(d)</sup> for the variation, renewal or discharge of a knife crime prevention order or an interim such order must—

- (a) apply by complaint to the appropriate court as soon as practicable after becoming aware of the grounds for doing so;
- (b) in the application—
  - (i) identify the order in respect of which the application to vary, renew or discharge is made,
  - (ii) identify the parties to the application,
  - (iii) explain on what grounds the applicant is entitled to apply,
  - (iv) explain what circumstances have changed since the order was made and why the order should be varied, renewed or discharged as a result,
  - (v) if the applicant wants the court to impose an additional prohibition or requirement, explain how the requirements of section 27(7) are met,
  - (vi) summarise the facts of which the applicant intends to introduce evidence in support of the application, and

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<sup>(a)</sup> 2019 c. 17; section 26 comes into force on a date to be appointed.

<sup>(b)</sup> 2019 c. 17; section 28 comes into force on a date to be appointed.

<sup>(c)</sup> 2019 c. 17; section 22 comes into force on a date to be appointed.

<sup>(d)</sup> 2019 c. 17; section 27 comes into force on a date to be appointed.

- (vii) unless the defendant to the knife crime prevention order is the applicant under this rule, identify any youth offending team consulted by the applicant before the application under this rule was made;
- (c) unless the court officer agrees to do so, serve the application with a summons issued by the court on, as applicable—
  - (i) the applicant for the knife crime prevention order, or
  - (ii) the defendant.
- (2) The respondent to an application under this rule must, as soon as practicable—
  - (a) serve any representations in response; and
  - (b) give notice of any evidence on which the respondent will rely.
- (3) The court may determine an application under this rule in the absence of a party who consents to that determination.

### **Introduction of hearsay evidence**

**5.—**(1) In the proceedings to which these Rules apply, rules 3, 4 and 5 of the Magistrates' Courts (Hearsay Evidence in Civil Proceedings) Rules 1999<sup>(a)</sup> apply with the following adaptations.

(2) A notice of hearsay evidence under rule 3 of the 1999 Rules (hearsay notices) must be served—

- (a) no later than 5 business days before the hearing at which that evidence is introduced; or
- (b) within such other period as the court directs.

(3) An application to which rule 4 or rule 5 of the 1999 Rules applies (power to call witness for cross-examination on hearsay evidence; credibility and previous inconsistent statements) must be served as soon as reasonably practicable.

*Burnett of Maldon, C.J.*

I allow these Rules.

Signed by authority of the Lord Chancellor

*Chris Philp*  
Parliamentary Under Secretary of State  
Ministry of Justice

25th February 2020

### **EXPLANATORY NOTE**

*(This note is not part of the Rules)*

Under section 14 of the Offensive Weapons Act 2019 a magistrates' court may make a knife crime prevention order in respect of a defendant aged 12 years or more where (i) a chief officer of police applies for such an order, (ii) the court is satisfied that on at least two occasions during the previous two years the defendant had a bladed article, without good reason or lawful authority, in a public place in England and Wales, on school premises or on further education premises, and (iii) the court thinks that it is necessary to make the order to protect the public from the risk of harm involving a bladed article, to protect any particular member of the public (including the defendant) from such risk, or to prevent the defendant from committing an offence involving a bladed article. A knife crime prevention order may impose requirements and prohibitions which the court thinks necessary to achieve that protection or prevention.

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<sup>(a)</sup> S.I. 1999/681, amended by S.I. 2005/617.

An application may be made without giving notice to the defendant. In some circumstances the court may make an interim order. It is an offence to breach a knife crime prevention order.

Under section 26 of the Act a court that makes a knife crime prevention order may, and in some circumstances must, order the applicant and the defendant to attend one or more review hearings for the purpose of considering whether the knife crime prevention order should be varied or discharged.

Under section 27 of the Act the applicant for a knife crime prevention order and the defendant may apply to the court to vary, renew or discharge the order.

Section 28 of the Act gives the parties rights of appeal.

These Rules supply the procedure to follow on an application for a knife crime prevention order (rule 2), on a review of an order (rule 3) and on an application to vary, renew or discharge the order (rule 4).

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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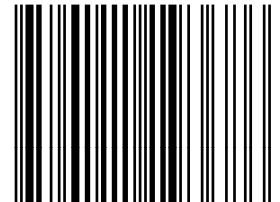


£4.90

UK202003031008 03/2020 19585

<http://www.legislation.gov.uk/id/uksi/2020/210>

ISBN 978-0-11-119368-6



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