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STATUTORY INSTRUMENTS

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**2020 No. 759**

**The Criminal Procedure Rules 2020**

**PART 27**

**RETRIAL AFTER ACQUITTAL**

*APPLICATION FOR CERTIFICATE TO ALLOW ORDER FOR RETRIAL*

**Application for certificate**

**27.2.**—(1) This rule applies where—

- (a) a defendant has been acquitted of an offence;
  - (b) a person has been convicted of one of the following offences involving interference with or intimidation of a juror or a witness (or potential witness) in any proceedings which led to the defendant's acquittal—
    - (i) perverting the course of justice,
    - (ii) intimidation etc. of witnesses, jurors and others under section 51(1) of the Criminal Justice and Public Order Act 1994<sup>(1)</sup>, or
    - (iii) aiding, abetting, counselling, procuring, suborning or inciting another person to commit an offence under section 1 of the Perjury Act 1911<sup>(2)</sup>; and
  - (c) the prosecutor wants the court by which that person was convicted to certify for the High Court that there is a real possibility that, but for the interference or intimidation, the defendant would not have been acquitted.
- (2) The prosecutor must—
- (a) apply in writing as soon as practicable after that person's conviction; and
  - (b) serve the application on—
    - (i) the court officer, and
    - (ii) the defendant who was acquitted, if the court so directs.
- (3) The application must—
- (a) give details, with relevant facts and dates, of—
    - (i) the conviction for interference or intimidation, and
    - (ii) the defendant's acquittal; and

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(1) 1994 c. 33; section 51 was amended by section 29 of, and paragraph 19 of Schedule 2 to, the Criminal Appeal Act 1995 (c. 35), section 67 of, and paragraphs 21 and 22 of Schedule 4 to, the Youth Justice and Criminal Evidence Act 1999 (c. 23), paragraphs 62 and 64 of Schedule 36 to the Criminal Justice Act 2003 (c. 44), section 45 of, and paragraph 36 of Schedule 17 to, the Crime and Courts Act 2013 (c. 22) and section 50 of, and paragraph 14 of Schedule 11 to, the Criminal Justice and Courts Act 2015 (c. 2). It is further amended by paragraph 11 of Schedule 36 to the Criminal Justice Act 2003 (c. 44), with effect from a date to be appointed.

(2) 1911 c.6.

- (b) explain—
  - (i) why there is a real possibility that, but for the interference or intimidation, the defendant would not have been acquitted, and
  - (ii) why it would not be contrary to the interests of justice to prosecute the defendant again for the offence of which he or she was acquitted, despite any lapse of time or other reason.
- (4) The court may—
  - (a) extend the time limit under paragraph (2);
  - (b) allow an application to be in a different form to one set out in the Practice Direction, or to be made orally; and
  - (c) determine an application under this rule—
    - (i) at a hearing, in private or in public; or
    - (ii) without a hearing.
- (5) If the court gives a certificate, the court officer must serve it on—
  - (a) the prosecutor; and
  - (b) the defendant who was acquitted.

*[Note: See Section 54 of the Criminal Procedure and Investigations Act 1996 (Acquittals tainted by intimidation, etc.).*

*For the procedure on application to the High Court, see rules 77.6 to 77.15 of the Civil Procedure Rules 1998(3).]*