

**EXPLANATORY MEMORANDUM TO**  
**THE CRIMINAL PROCEDURE RULES 2020**

**2020 No. 759 (L. 19)**

**1. Introduction**

- 1.1 This Explanatory Memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.
- 1.2 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 2015, S.I. 2015 No. 1490, the Criminal Procedure (Amendment) Rules 2016, S.I. 2016/120, the Criminal Procedure (Amendment No. 2) Rules 2016, S.I. 2016/705, the Criminal Procedure (Amendment) Rules 2017, S.I. 2017/144, the Criminal Procedure (Amendment No. 2) Rules 2017, S.I. 2017/282, the Criminal Procedure (Amendment No. 3) Rules 2017, S.I. 2017/755, the Criminal Procedure (Amendment No. 4) Rules 2017, S.I. 2017/915, the Criminal Procedure (Amendment) Rules 2018, S.I. 2018/132, the Criminal Procedure (Amendment No. 2) Rules 2018, S.I. 2018/847, the Criminal Procedure (Amendment) Rules 2019, S.I. 2019/143, the Criminal Procedure (Amendment No. 2) Rules 2019, S.I. 2019/1119 and the Criminal Procedure (Amendment) Rules 2020, S.I. 2020/32. They rearrange and augment Part 3 of the Rules, the rules about case management and pre-trial preparation, to restore the coherence of that Part. They include the new rules and rule amendments described beneath; make consequential rule amendments; and include up to date references to relevant legislation. Otherwise, they reproduce the rules that they consolidate and supersede.
- 2.2 These Rules maintain temporarily the temporary amendments to the Criminal Procedure Rules 2015 made by the Criminal Procedure (Amendment No. 2) (Coronavirus) Rules 2020, S.I. 2020/417. They include a new rule about ground rules hearings in Part 3. They amend the rules about service of documents (Part 4); about the information required in an allegation of theft or damage (Part 7); about the information that must be passed to the Crown Court when a case is sent for trial (Part 9); about the content of an indictment (Part 10); about the giving of a special measures direction (Parts 18 and 39); and about the powers exercisable by High Court officers in extradition appeal cases (Part 50). They replace rules in Part 44 that no longer have any practical use with rules more appropriate to that position within the Criminal Procedure Rules. For consistency of expression, they substitute for time limits set by the 2015 Rules equivalent time limits expressed in business days and include connectives omitted from those Rules.

### **3. Matters of special interest to Parliament**

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

- 3.1 In its Fourth Report of Session 2019-21, published on 6<sup>th</sup> March, 2020, the Joint Committee on Statutory Instruments reported for defective drafting amendments to rule 5.8 of the Criminal Procedure Rules 2015 made by the Criminal Procedure (Amendment) Rules 2020, S.I. 2020/32. The amendments required the court officer to publish specified information, in specified circumstances, about cases awaiting determination, by, among other means, “such arrangements as the Lord Chancellor directs, including arrangements for publication by electronic means”. The Joint Committee considered that phrase to be ambiguous as to whether the Lord Chancellor was subject to an obligation or not. The Criminal Procedure Rule Committee reviewed the use of that phrase, which appears also in other rules and has done so for some years. Having considered carefully the current Joint Committee’s view, the Rule Committee respectfully disagreed and decided to maintain the present formulation.
- 3.2 In its Eleventh Report of Session 2019-21, published on 15<sup>th</sup> May, 2020, the Joint Committee on Statutory Instruments reported for defective drafting rules 2 and 3 of the Criminal Procedure (Amendment No. 2) (Coronavirus) Rules 2020, S.I. 2020/417. Those rules provided for the amendments made by the other provisions of that instrument to cease to have effect when material provisions of the Coronavirus Act 2020 expire. In doing so, however, rules 2 and 3 listed those other provisions incorrectly. That instrument now is revoked with the Criminal Procedure Rules 2015 which it had amended. Rule 2.1(4) of the Criminal Procedure Rules 2020 (When the Rules apply) adopts the same temporary amendments as that instrument had made, and rule 2.1(5), (6) of the 2020 Rules now provides for their cessation.

#### *Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.3 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

### **4. Extent and Territorial Application**

- 4.1 The territorial extent of this instrument is England and Wales.
- 4.2 The territorial application of this instrument is England and Wales.

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

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

### **6. Legislative Context**

- 6.1 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 criminal division of the Court of Appeal. 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. Section 72 requires the Committee to consult such persons as they consider appropriate before

making rules. 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.

- 6.2 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 initiatives and for developments in legislation and in case law. Unless rule changes are needed urgently, the rules now are amended, if necessary, in June and in December, with the changes coming into force ordinarily on the first Monday in October and on the first Monday in April, respectively, of each year.
- 6.3 The temporary rule amendments first made by the Criminal Procedure (Amendment No. 2) (Coronavirus) Rules 2020, S.I. 2020/417, are maintained by rule 2.1(4). They are consequent upon the modifications made by the Coronavirus Act 2020 to sections 36, 37 and 38 of the Mental Health Act 1983, Part IIIA of the Crime and Disorder Act 1998, Part 8 of the Criminal Justice Act 2003, and sections 206A and 206C of the Extradition Act 2003; and on the addition of section 85A to the Courts Act 2003 by the 2020 Act. Rule 2.1(5), (6) relies on section 14A of the Interpretation Act 1978 which provides that ‘... subordinate legislation may include ... provision for the legislation to cease to have effect at the end of a specified day or a specified period’.

## **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 desirability of continuing to consolidate the Rules at regular intervals, the Committee decided to do so: at first annually, between 2010 and 2015, then in 2016 reverting to the plan to consolidate at 5 yearly intervals. This is the first such further consolidation since. See also paragraph 9 beneath.

### *Temporary amendments consequent on the Coronavirus Act 2020*

- 7.2 The provisions of the Crime and Disorder Act 1998 and the Criminal Justice Act 2003 which are temporarily modified by the Coronavirus Act 2020 allow for the use of live video and live audio links by people taking part in preliminary hearings, sentencing hearings and enforcement hearings, as defined in the 1998 Act, and by people taking part in ‘eligible criminal proceedings’ as defined in the 2003 Act (which proceedings include trials and appeals). As modified, those Acts impose detailed requirements and limitations which are not the same as those imposed by the unmodified provisions. The temporary amendments maintained by rule 2.1(4) of these Rules remove the procedural requirements that supplement the unmodified Acts and substitute ones compatible with the modified versions. They also make temporary amendments (i) to supplement modifications to the Extradition Act 2003 which allow for the use of live

video links in extradition hearings and in hearings in preparation for extradition hearings, and (ii) to supplement a modification to the Courts Act 2003 which allows courts in specified circumstances to make broadcasting and recording directions where proceedings take place wholly by live link.

- 7.3 Ordinarily, a criminal court can make certain orders for a defendant's detention and treatment under the Mental Health Act 1983 only after receiving the evidence of at least two registered medical practitioners, at least one of whom is approved as having special experience in the diagnosis or treatment of mental disorder. The Coronavirus Act 2020 modifies provisions of the 1983 Act so that where that requirement is impractical, or would involve undesirable delay, then the court may act on the evidence of only one such practitioner. These Rules make temporary amendments to notes to the relevant Criminal Procedure Rules so that those notes describe the effect of the modified provisions.

### ***Rearrangement of rules in Part 3***

- 7.4 Most of the rules included in the first Criminal Procedure Rules were adopted from the antecedents to those rules but the Part 3 rules about case management were new. Since their original promulgation in 2005 they have evolved steadily, to elaborate on the general principles included in the first version and to incorporate provision for most aspects of contemporary pre-trial case preparation and management. The rules about preparation for trial in magistrates' courts, about commissioning medical reports and, most recently, about hearings to inform the court of sensitive material all have been added since the Criminal Procedure Rules 2015 were made. To avoid repeatedly disturbing the arrangement of Part 3 each of those three rules has been appended to what already was there, with the result that the coherence of the Part has been lost. The rules numbered 9.15 (Service of prosecution evidence) and 9.16 (Application to dismiss offence sent for Crown Court trial) in the Criminal Procedure Rules 2015 are more concerned with preparation for Crown Court trial than they are with sending for trial, with which Part 9 is concerned. The rules about Crown Court trial venue and about the use of the Welsh language at trial in the Crown Court were added to Part 3 in 2013 but the corresponding rules for magistrates' courts still appear in the rules about trial and sentencing in Part 24. There is no good reason to maintain that different arrangement.
- 7.5 Taking those considerations into account, the Rule Committee decided to rearrange Part 3 accordingly, and to move to it what are now rules 9.15, 9.16 and 24.14 (Trial and sentence in a magistrates' court; Place of trial). In the appendix to this Explanatory Memorandum, and in the Explanatory Note appended to the Criminal Procedure Rules 2020, there are tables of destinations and derivations showing how the content of Part 3 of the Criminal Procedure Rules 2020 corresponds with the content of that Part of the Criminal Procedure Rules 2015.

### ***Ground rules hearings***

- 7.6 Rule 3.9 of the Criminal Procedure Rules 2015 (Case preparation and progression) provides for the setting of ground rules for the conduct of questioning 'especially where the court directs that such questioning is to be conducted through an intermediary', and lists examples of such ground rules that may be set. However, no present rule contains any more detailed provision about the procedure for doing so. The Lord Chief Justice's Criminal Practice Directions provide, "Discussion of ground rules is good practice, even if no intermediary is used, in all young witness cases and

in other cases where a witness or defendant has communication needs. Discussion before the day of trial is preferable to give advocates time to adapt their questions to the witness's needs. It may be helpful for a trial practice note of boundaries to be created at the end of the discussion. The judge may use such a document in ensuring that the agreed ground rules are complied with." A ground rules hearing will constitute an important feature of pre-trial preparation in a significant number of cases, therefore.

- 7.7 Taking those considerations into account, the Rule Committee decided to incorporate best practice in a new rule about ground rules hearings. During discussion it was pointed out that references to what the 2015 Rules describe as a 'speech impediment' is better now described as a 'speech disorder' and that expression was substituted.

*Service of documents on court offices*

- 7.8 Rule 4.6 of the Criminal Procedure Rules 2015 (Service by electronic means) provides for 'service' (meaning, the formal delivery of a document) by sending a document by electronic means to an electronic address which the person to be served 'has given', or by deposit at an electronic address to which the person to be served 'has been given access', in either case as long as the recipient has not refused to accept service at that electronic address. However, electronic addresses change, including court office email addresses, and although the fact of that change may be advertised by the person to be served, for example by substituting the new address for the court concerned in the online list of court office addresses published by HM Courts and Tribunals Service,<sup>1</sup> correspondents may overlook a change of address with the result that a document thought served in fact has not been received. It was reported to the Rule Committee that from time to time disputes arose over what constituted the 'giving' of a court office address.
- 7.9 For the purposes of service by handing over a document or by leaving or posting a document, in rules 4.3 and 4.4 of the Criminal Procedure Rules 2015, the address for service on a court officer is 'the relevant court office' which the rules define as 'the office at the address advertised by the Lord Chancellor as the place at which that court's business is administered'. To clarify the requirement for electronic service on a court officer, and to ensure consistency of the requirements for service by all the means for which the rules provide, the Rule Committee decided that a corresponding general definition of 'relevant court office' should be adopted. That definition now appears in rule 4.1 of these Rules.

*Service of an application to refer an unduly lenient sentence*

- 7.10 Since 2017 rule 4.11 of the Criminal Procedure Rules 2015 has provided that service of a document by electronic means will be treated as service on the same day as it is sent or uploaded if that day is a business day, as defined in the Rules, and if that document is sent or uploaded by no later than 2.30pm that day, or by no later than 4.30pm that day in an extradition appeal case in the High Court. If the document is sent or uploaded later that day then it will not count as served until the day after. The 28-day time limit for service by HM Attorney General on the Registrar of Criminal Appeals of an application for permission to refer to the Court of Appeal an instance of allegedly unduly lenient sentencing is set by the Criminal Justice Act 1988 and cannot be extended by the court. It was reported to the Rule Committee that from time to

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<sup>1</sup> At: <https://courtribunalfinder.service.gov.uk/search/>.

time information about such sentences reached the Attorney General's office so late that a period of as little as two or three hours on the last day of the statutory time limit could make a difference between the Attorney's power to refer a sentence and the loss of that power. The Attorney and the Registrar of Criminal Appeals asked the Committee to extend to 5.30pm the time limit for same-day service of such a sentencing reference by electronic means, so as not to impede the exercise of the power to refer a sentence in an appropriate case.

- 7.11 The Rule Committee agreed to do so. Service of such an application on the defendant, the time limit for which is not prescribed by the Act, is unaffected. Nor are the time limits for the service of other documents during the proceedings.

### *Low-level shoplifting*

- 7.12 'Low-level shoplifting', within the meaning of section 22A of the Magistrates' Courts Act 1980, is an offence of theft where the value of the stolen goods does not exceed £200; the goods were being offered for sale in a shop or other premises; and the defendant was, or was purporting to be, a customer or potential customer. Ordinarily, theft is an offence that can be tried in a magistrates' court or in the Crown Court: it is 'triable either way'. By contrast, low-level shoplifting is 'triable only summarily' unless the defendant is an adult and chooses Crown Court trial. That means that an allegation of theft from a shop can reach the Crown Court in any one of five ways: (i) it is low-level shoplifting and the defendant chooses Crown Court trial; (ii) it is low-level shoplifting and even though the defendant does not choose Crown Court trial the allegation is sent to the Crown Court for disposal there because it is related to another alleged offence sent to the Crown Court for trial; (iii) it is not low-value shoplifting and the magistrates' court decides it is sufficiently serious to be sent to the Crown Court for trial; (iv) it is not low-value shoplifting and even though the magistrates' court decides it is insufficiently serious to be sent to the Crown Court for trial still the defendant chooses Crown Court trial; or (v) it is not low-value shoplifting and the allegation is sent to the Crown Court for disposal there because it is related to another alleged offence sent to the Crown Court for trial. In each of circumstances (i), (iii), (iv) and (v) the defendant can be tried on indictment (or can plead guilty) and be sentenced in the Crown Court as for any offence of theft. In circumstance (ii), however, the offence remains triable only summarily and there are restrictions on the ways in which the Crown Court can deal with it. Therefore, it matters for the Crown Court to be clear about which of those five circumstances applies and in several cases heard by the Court of Appeal between 2017 and 2019 unlawful convictions had been entered, and sentences passed, because that had not been clear – even in some cases in which the defendant had pleaded guilty in the Crown Court.<sup>2</sup>
- 7.13 Although Criminal Procedure Rules cannot eliminate all possibility of error by prosecutors preparing papers for the Crown Court, the Rule Committee decided to make amendments to rules in Parts 7, 9 and 10 of the Rules to impose requirements and to include reminders to reduce the incidence of confusion. Rule 7.3 (Allegation of offence) is amended explicitly to require a statement of the value, if known, of any theft or damage alleged. Rule 9.5 (Duty of magistrates' court officer) is amended explicitly to require transmission to the Crown Court of a record of any decision by the defendant to choose to be tried in the Crown Court for low-level shoplifting. Rule

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<sup>2</sup> See, most recently, *R v Yeo* [2019] EWCA Crim 2460, the judgment in which is available at: <https://www.bailii.org/ew/cases/EWCA/Crim/2019/2460.html>.

10.2 (The indictment: general rules) is amended explicitly to refer to section 40 of the Criminal Justice Act 1988, which lists the only summary offences that can be included in a Crown Court indictment (and low-level shoplifting is not one of them).

***Special measures directions without application***

- 7.14 Special measures directions under the Youth Justice and Criminal Evidence Act 1999 allow witnesses to give their evidence in ways that facilitate the completeness, coherence and accuracy of that evidence. A witness may be eligible for the assistance of such a direction by reason of youth or disability, or where the quality of evidence given by the witness is likely to be diminished by reason of fear or distress. The rules about applications for such directions are in Part 18 of the Criminal Procedure Rules 2015. Rule 18.10 (Content of application for a special measures direction) lists the requirements for such an application, and courts also have power to make such directions on their own initiative. It is now a well-established practice at preparation for trial hearings in magistrates' courts and at plea and trial preparation hearings in the Crown Court for the court to invite the parties to indicate, there and then, whether a witness is eligible for the assistance of a special measures direction, or requires any other assistance and, if so, then as far as possible to give, at once, such directions as are appropriate.
- 7.15 It was reported to the Rule Committee that some courts nonetheless understood the rules to require an application under rule 18.10 in every case, even where there is no objection to the direction and where the court acts on its own initiative as described above. The Committee decided to make a new rule 18.9 (now, 'Special measures direction without application') to make it clear that in specified circumstances the court can make a direction without requiring a formal application.

***Relocation of rules about reopening cases in magistrates' courts***

- 7.16 Part 44 of the Criminal Procedure Rules 2015 contains rules that govern the procedure on a criminal court making a request to the European Union Court of Justice for a preliminary ruling on the interpretation of the Treaty on the Functioning of the European Union or of the Treaty on European Union. The procedure has almost never been invoked, the rules are about to become redundant, and Part 44 then will become vacant.
- 7.17 Rules 24.17 and 24.18 of the 2015 Rules concern, respectively, statutory declarations of ignorance of proceedings in magistrates' courts, under sections 14 and 16E of the Magistrates' Courts Act 1980, and applications to magistrates' courts to set aside a conviction or to vary a costs, etc. order, under section 142 of that Act. They govern procedures for the exercise of statutory remedies that have more to do with the aftermath of a trial than with the trial itself (which is the subject of Part 24), and that are in some respects like rights of appeal (which are the subject of Parts 34 to 43). In these circumstances the Rule Committee decided that Part 44 of these Rules would be a more appropriate location for what are presently rules 24.17 and 24.18.

***Powers of High Court officers in extradition appeal cases***

- 7.18 Rule 50.30 of the Criminal Procedure Rules 2015 (Constitution of the High Court) confers powers on court officers as well as on masters and deputy masters of the High Court, under the authority of section 66 of the Senior Courts Act 1981. Now, however, the exercise of judicial functions by court officers more appropriately is conferred under section 67B of the Courts Act 2003, and rule 2.6 of the 2015 Rules

(Exercise of functions of the High Court) already now does that, to the same extent as rule 50.30. There is no need for that duplication and in these circumstances the Rule Committee decided to amend rule 50.30 of these Rules accordingly.

***Time limits in business days***

- 7.19 Rule 2.2(1) of the Criminal Procedure Rules defines ‘business day’ as meaning any day except Saturday, Sunday, Christmas Day, Boxing Day, Good Friday, Easter Monday or a bank holiday. Among other things, that allows for the imposition of short, but realistically short, time limits for taking certain steps without needing to make allowance for the intervention of weekends or public holidays. A time limit of four days that begins on a Monday allows for more working time to complete a task than does the same time limit starting on a Thursday. A time limit of four business days, however, allows for the same working period no matter on which day time begins to run. Where the intervention of a non-business day is unlikely to make much practical difference, the convention adopted in the Criminal Procedure Rules 2015 is for such a longer period to be expressed in days only, not business days. Nevertheless, in describing what amounts to a fortnight the Rules already use ‘10 business days’ in some instances and ‘14 days’ in others, and there are some other discrepancies. That is inconsistent and in some cases may be unfair. In these circumstances the Committee decided in future to express all time limits set by the Criminal Procedure Rules themselves in business days. A total of 122 changes have been made, listed in the Explanatory Note to these Rules. No time limit has been changed, only the way in which it is expressed.
- 7.20 Time limits set by legislation other than Criminal Procedure Rules have not been converted to business days because that would be incompatible with that other legislation. Time limits imposed by the rules in Part 33 of the Criminal Procedure Rules 2015 (Confiscation and related proceedings) have not been changed either. That Part contains some definitions special to those rules that it would not be appropriate to disturb.

***Connectives expressing conjunction, disjunction or reservation***

- 7.21 Rule 36.15(1) of the Criminal Procedure Rules 2015 lists the circumstances in which the Court of Appeal, criminal division, is required to determine an application to reopen the previous determination of an appeal. The Rule Committee had meant the rule to be a list of alternatives but the word ‘or’ was not used. In the appeal case of *R v Cunningham, R v Di Stefano*<sup>3</sup> it was suggested that the list in the rule should be read accumulatively, not disjunctively, so that every listed circumstance had to be met before the case could be referred to the court. In the event, the court interpreted the rule as the Committee had intended, pointing out that, by contrast with other rules, “The lack of the word ‘and’ between rule 36.15(1)(a) and (b) means they are to be read disjunctively, thereby setting out alternatives.” The Committee, however, was concerned that that rule had been susceptible to misinterpretation. It carried out a review of all the rules in which no connective word had been used, because it had been assumed that the meaning still would be clear, and decided that it would improve the clarity and consistency of those rules to include the appropriate connective.
- 7.22 The principles by which connectives have been selected are:

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<sup>3</sup> The judgment is available at: <https://www.bailii.org/ew/cases/EWCA/Crim/2019/2101.html>.



- (a) ‘or’ indicates (i) a simple alternative, or (ii) when prefaced with ‘any’ or ‘any of’, a collection of powers any one or more of which may be exercised;
  - (b) prefacing ‘or’ with ‘either’ indicates mutual exclusivity;
  - (c) ‘and’ indicates (i) an accumulation of requirements, circumstances, events or conditions each of which must be met or satisfied, and (ii) a collection of powers any one or more of which may be exercised, where the construction ‘any of X, Y or Z’ is not used; and
  - (d) ‘but’ indicates a reservation from or exception to an immediately preceding list of requirements, circumstances, events or conditions.
- 7.23 In some instances, where the rule is short and the addition of a connective would produce an unnecessarily laboured effect, the words used have been rearranged or the arrangement of the rule has been changed. In all, a total of 378 rules have been amended, listed in the Explanatory Note to these Rules.

*Other amendments*

- 7.24 The glossary omits the expression ‘justices’ clerk’ which no longer appears in the Rules, that office having been abolished by the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018. The 25 rules and notes to rules listed in the Explanatory Note have been amended to bring up to date the cross-references they contain, both generally and in consequence of the re-arrangement of Part 3.

**8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

- 8.1 This instrument does not relate to withdrawal from the European Union.

**9. Consolidation**

- 9.1 See also paragraph 7.1 above. The Committee now intends to effect a further consolidation in 2025, in accordance with its decision to consolidate at 5 yearly intervals. Meanwhile, the effects of future amendments to these Rules will be published at [www.legislation.gov.uk](http://www.legislation.gov.uk) and an informal consolidated text will continue to be made available to the public free of charge on the Ministry of Justice website, presently at: <http://www.justice.gov.uk/courts/procedure-rules/criminal/rulesmenu-2015>.

**10. Consultation outcome**

- 10.1 The Rule Committee fulfilled its statutory obligation to consult as the Committee considers appropriate by, in each instance, inviting and reviewing suggestions and observations solicited by its members from among the groups from which each is drawn.

**11. Guidance**

- 11.1 Amendments to the Criminal Procedure Rules are drawn to the attention of participants in the criminal justice system by correspondence addressed 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 HM Courts and Tribunals Service, within the principal prosecuting authorities, and among local criminal justice boards.

11.2 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>.

## **12. Impact**

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 These rules have no impact of themselves on the public sector because they maintain rules and procedures that are already current and introduce new rules and procedures that give effect to other legislation or established best practice.

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

## **13. Regulating small business**

13.1 The legislation does not apply to activities that are undertaken by small businesses.

## **14. Monitoring & review**

14.1 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. At least once a year the Committee receives and considers statistical information about criminal case management gathered by HM Courts and Tribunals Service and the Ministry of Justice.

14.2 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.

14.3 Representatives of HM 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.

## **15. Contact**

15.1 Jonathan Solly at the Ministry of Justice telephone: 07811 823574 or email: [jonathan.solly@justice.gov.uk](mailto:jonathan.solly@justice.gov.uk) can answer any queries regarding the instrument.

15.2 Matthew Gould, Deputy Director for Criminal Courts and Criminal Law Policy, at the Ministry of Justice can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Rt Hon. Robert Buckland QC MP, the Lord Chancellor, at the Ministry of Justice can confirm that this Explanatory Memorandum meets the required standard.

### Appendix: destination and derivation tables

The rules in Part 3 of the Criminal Procedure Rules 2020 correspond with those in Part 3 of the Criminal Procedure Rules 2015 as follows:

<i>Destinations</i>		<i>Derivations</i>	
<i>2015 Rules</i>	<i>2020 Rules</i>	<i>2020 Rules</i>	<i>2015 Rules</i>
3.1	3.1	3.1	3.1
3.2	3.2	3.2	3.2
3.3	3.3	3.3	3.3
3.4	3.4	3.4	3.4
3.5	3.5	3.5	3.5
3.6	3.6	3.6	3.6
3.7	3.7	3.7	3.7
3.8	3.15	3.8	3.9
3.9	3.8	3.9	<i>New rule</i>
3.10	3.12	3.10	3.28
3.11	3.13	3.11	3.29
3.12	3.14	3.12	3.10
3.13	3.21	3.13	3.11
3.14	3.22	3.14	3.12
3.15	3.23	3.15	3.8
3.16	3.24	3.16	3.27
3.17	3.25	3.17	24.14
3.18	3.26	3.18	24.14
3.19	3.27	3.19	9.15
3.20	3.28	3.20	9.16
3.21	3.29	3.21	3.13
3.22	3.30	3.22	3.14
3.23	3.31	3.23	3.15
3.24	3.32	3.24	3.16
3.25	3.33	3.25	3.17
3.26	3.34	3.26	3.18
3.27	3.16	3.27	3.19
3.28	3.10	3.28	3.20
3.29	3.11	3.29	3.21
9.15	3.19	3.30	3.22
9.16	3.20	3.31	3.23
24.14	3.17 & 3.18	3.32	3.24
		3.33	3.25
		3.34	3.26