
STATUTORY INSTRUMENTS

2020 No. 759

The Criminal Procedure Rules 2020

PART 10

THE INDICTMENT

Application to a High Court judge for permission to serve a draft indictment

10.9.—(1) This rule applies where a prosecutor wants a High Court judge’s permission to serve a draft indictment.

- (2) Such a prosecutor must—
 - (a) apply in writing;
 - (b) serve the application on—
 - (i) the court officer, and
 - (ii) the proposed defendant, unless the judge otherwise directs; and
 - (c) ask for a hearing, if the prosecutor wants one, and explain why it is needed.
- (3) The application must—
 - (a) attach—
 - (i) the proposed indictment,
 - (ii) copies of the documents containing the evidence on which the prosecutor relies, including any written witness statement or statements complying with rule 16.2 (Content of written witness statement) and any documentary exhibit to any such statement,
 - (iii) a copy of any indictment on which the defendant already has been arraigned, and
 - (iv) if not contained in such an indictment, a list of any offence or offences for which the defendant already has been sent for trial;
 - (b) include—
 - (i) a concise statement of the circumstances in which, and the reasons why, the application is made, and
 - (ii) a concise summary of the evidence contained in the documents accompanying the application, identifying each passage in those documents said to evidence each offence alleged by the prosecutor and relating that evidence to each count in the proposed indictment; and
 - (c) contain a statement that, to the best of the prosecutor’s knowledge, information and belief—
 - (i) the evidence on which the prosecutor relies will be available at the trial, and
 - (ii) the allegations contained in the application are substantially true

unless the application is made by or on behalf of the Director of Public Prosecutions or the Director of the Serious Fraud Office.

(4) A proposed defendant served with an application who wants to make representations to the judge must—

- (a) serve the representations on the court officer and on the prosecutor;
- (b) do so as soon as practicable, and in any event within such period as the judge directs; and
- (c) ask for a hearing, if the proposed defendant wants one, and explain why it is needed.

(5) The judge may determine the application—

- (a) without a hearing, or at a hearing in public or in private; and
- (b) with or without receiving the oral evidence of any proposed witness.

(6) At any hearing, if the judge so directs a statement required by paragraph (3)(c) must be repeated on oath or affirmation.

(7) If the judge gives permission to serve a draft indictment, the decision must be recorded in writing and endorsed on, or annexed to, the proposed indictment.

[Note. See section 2(6) of the Administration of Justice (Miscellaneous Provisions) Act 1933(1).]

(1) 1933 c. 36; section 2(6) was amended by Part IV of Schedule 11 to the Courts Act 1971 (c. 23), paragraph 1 of the Schedule to S.I. 2004/2035 and section 82 of the Deregulation Act 2015 (c. 20).