

2022 No. 45 (L. 2)

SENIOR COURTS OF ENGLAND AND WALES
MAGISTRATES' COURTS, ENGLAND AND WALES

The Criminal Procedure (Amendment) Rules 2022

Made - - - - at 12.00 p.m. on 17th January 2022

Laid before Parliament at 4.30 p.m. on 17th January 2022

Coming into force - - - - 4th April 2022

The Criminal Procedure Rule Committee makes the following Rules under section 69 of the Courts Act 2003(a), section 52(1) of the Senior Courts Act 1981(b) and section 141(2) of the Sentencing Act 2020(c), after consulting in accordance with section 72(1)(a) of the 2003 Act.

Citation, commencement and interpretation

1. These Rules may be cited as the Criminal Procedure (Amendment) Rules 2022 and come into force on 4th April 2022.

2. In these Rules, a reference to a Part or rule by number alone means the Part or rule so numbered in the Criminal Procedure Rules 2020(d).

Amendments to the Criminal Procedure Rules

3. In Part 3 (Case management)—

(a) in rule 3.3 (The duty of the parties)—

(i) renumber paragraph (2)(g) as (2)(h),

(ii) at the end of paragraph (2)(f) delete “and”, and

(iii) after paragraph (2)(f) insert—

“(g) alerting the court to any potential need for a witness to be accompanied while giving evidence, and in that event—

(i) identifying a proposed companion,

(ii) naming that person, if possible, and

(iii) explaining why that person would be an appropriate companion for the witness, including the witness’ own views; and”;

(a) 2003 c. 39; section 69 was amended by sections 15(1) and 146 of, and paragraphs 308 and 332 of Schedule 4 and Part 2 of Schedule 18 to, the Constitutional Reform Act 2005 (c. 4).

(b) 1981 c. 54; section 52 was amended by section 31 of, and Part II of Schedule 1 to, the Prosecution of Offences Act 1985 (c. 23), section 4 of the Courts and Legal Services Act 1990 (c. 41), article 3 and paragraphs 11 and 12(a) of the Schedule to S.I. 2004/2035 and section 59 of, and paragraph 26 of Schedule 11 to, the Constitutional Reform Act 2005 (c. 4).

(c) 2020 c. 17.

(d) S.I. 2020/759; amended by S.I. 2021/40, 2021/849.

(b) in rule 3.8 (Case preparation and progression), for paragraph (6) substitute—

“(6) Facilitating the participation of any person includes—

- (a) giving directions for someone to accompany a witness while the witness gives evidence, including directions about seating arrangements for that companion; and
- (b) giving directions for the appropriate treatment and questioning of a witness or the defendant, especially where the court directs that such questioning is to be conducted through an intermediary.”

4. In Part 5 (Forms and court records), in rule 5.4 (Duty to make records)—

(a) renumber paragraph (1)(j)(iv) as (1)(j)(vi);

(b) at the end of paragraph (1)(j)(iii) delete “and”; and

(c) after paragraph (1)(j)(iii) insert—

“(iv) any statement made by the court under section 70(5) of the Proceeds of Crime Act 2002(a) (statement that if the court were not committing the defendant for consideration of a confiscation order then it would have committed the defendant to the Crown Court for sentence for an offence under section 14, 16 or 16A of the Sentencing Act 2020(b)),

(v) any opinion given by the court under section 18(4) or 19(3) of the Sentencing Act 2020 (opinion that if the court were not committing the defendant for sentence under section 18 or 19 of the 2020 Act then it could, or would be required to, commit the defendant to the Crown Court for sentence for the offence under one of sections 14, 15, 16, 16A or 17 of that Act), and”.

5. In Part 7 (Starting a prosecution in a magistrates’ court), in rule 7.4 (Summons, warrant and requisition)—

(a) for paragraph (8) substitute—

“(8) Where a summons or requisition is served on a defendant under 18—

- (a) the prosecutor or court officer who serves it must serve a copy on a parent or guardian of the defendant as well, and
- (b) if the court requires the parent or guardian to attend, the copy may impose that requirement or a separate summons or requisition may be issued for that purpose.”; and

(b) for the third paragraph of the note to the rule substitute—

“Under section 34A of the Children and Young Persons Act 1933(c), unless the court is satisfied that it would be unreasonable to require such attendance having regard to the circumstances of the case (i) the court may require the parent or guardian of a defendant under 18 to attend court with the defendant, and (ii) the court must do so if the defendant is under 16.”

6. In Part 9 (Allocation and sending for trial)—

(a) in rule 9.1 (When this Part applies), after paragraph (3) insert—

“(4) Rule 9.15 applies in a magistrates’ court where, after applying other rules in this Part, the court can commit for sentence to the Crown Court a defendant who pleads guilty to an offence related to one sent for trial there.”;

(b) in rule 9.2 (Exercise of magistrates’ court’s powers)—

(a) 2002 c. 29; section 70 was amended by section 41 of, and paragraph 75 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44), section 410 of, and paragraphs 181 and 195 of Schedule 24 to, the Sentencing Act 2020 (c. 17) and section 46 of, and paragraph 19 of Schedule 13 to, the Counter-Terrorism and Sentencing Act 2021 (c. 11).

(b) 2020 c. 17; section 16A was inserted by section 46 of, and paragraph 26 of Schedule 13 to, the Counter-Terrorism and Sentencing Act 2021 (c. 11).

(c) 1933 c. 12; section 34A was inserted by section 56 of the Criminal Justice Act 1991 (c. 53) and amended by section 107 of, and paragraph 1 of Schedule 5 to, the Local Government Act 2000 (c. 22) and regulations 3 and 5 of S.I. 2016/413.

- (i) at the end of paragraph (3)(b) omit “and”,
- (ii) at the end of paragraph (3)(c) insert “and”, and
- (iii) after paragraph (3)(c) insert—
 - “(d) where rule 9.15 (Committal for sentence for offence related to an offence sent for trial) applies, unless—
 - (i) it appears to the court to be contrary to the interests of justice to do so, and
 - (ii) the court considers that there is an acceptable reason for the defendant’s absence.”;
- (c) in rule 9.5 (Duty of magistrates’ court officer)—
 - (i) renumber paragraph (1)(b)(v) as (1)(b)(vi),
 - (ii) at the end of paragraph (1)(b)(iv) omit “and”, and
 - (iii) after paragraph (1)(b)(iv) insert—
 - “(v) any opinion stated by the court under rule 9.15 (Committal for sentence for offence related to an offence sent for trial), and”;
- (d) after rule 9.14 (Allocation and sending for Crown Court trial) insert—
 - “COMMITTAL FOR SENTENCE IN CONNECTION WITH SENDING FOR TRIAL

Committal for sentence for offence related to an offence sent for trial

9.15.—(1) This rule applies where—

- (a) on a previous occasion the court has sent the defendant to the Crown Court for trial for an offence in exercise of a power to which rule 9.7, 9.13 or 9.14 applies;
- (b) on the present occasion, under rule 9.9 or 9.13 the defendant indicates an intention to plead guilty to, and is convicted of, an offence which the court decides is related to the offence for which the defendant was previously sent for trial;
- (c) the court decides to commit the defendant to the Crown Court for sentence for the related offence under—
 - (i) section 18 of the Sentencing Act 2020(a), if the defendant is over 18, or
 - (ii) section 19 of the 2020 Act(b), if the defendant is under 18; and
- (d) in the court’s opinion, if it were not committing the defendant for sentence under section 18 or 19 of the 2020 Act then it could, or would be required to, commit the defendant to the Crown Court for sentence for the related offence under—
 - (i) section 14 or 15 of that Act, if the defendant is over 18, or
 - (ii) section 16, 16A or 17 of that Act(c), if the defendant is under 18.

(2) The court must state that opinion for the Crown Court.

[Note. See sections 18(4) and 19(3) of the Sentencing Act 2020 for the court’s powers to state the opinion to which this rule refers.

Under section 51E of the Crime and Disorder Act 1998(d)—

- (a) *an offence classified as triable either way is related to an offence for which a defendant has been sent for trial in the Crown Court if both offences are based on the same prosecution evidence (and see rule 10.2(4)(c) in the rules about indictments); and*

(a) 2020 c. 17.

(b) 2020 c. 17; section 19 was amended by section 46 of, and paragraph 26 of Schedule 13 to, the Counter-Terrorism and Sentencing Act 2021 (c. 11).

(c) 2020 c. 17; section 16A was inserted by section 46 of, and paragraph 26 of Schedule 13 to, the Counter-Terrorism and Sentencing Act 2021 (c. 11).

(d) 1998 c. 37; section 51E was substituted by paragraphs 15 and 18 of Schedule 3 to the Criminal Justice Act 2003 (c. 44).

- (b) *an offence classified as triable only summarily is related to an offence for which a defendant has been sent for trial in the Crown Court if both offences arise out of the same or connected circumstances.*

Under section 51 of the 1998 Act(a)—

- (a) *if a magistrates' court sends a defendant to the Crown Court for trial for an offence and on the same occasion deals with a related offence then the general rule is that the court must send the defendant to the Crown Court for trial for the related offence, too; but*
- (b) *if the court sends a defendant to the Crown Court for trial for an offence on one occasion and on a later occasion deals with a related offence then it may send the defendant to the Crown Court for trial for the related offence, too, or it may finish dealing with that offence itself and, if it convicts the defendant, may commit the defendant for sentence to the Crown Court instead.*

For the circumstances in which a magistrates' court may (and, in some cases, must) commit a defendant to the Crown Court for sentence or for the making of other orders beyond a magistrates' court's powers, see sections 14, 15, 16, 16A, 17, 18, 19, 20 and 24 of the Sentencing Act 2020 and paragraph 11 of Schedule 16 to that Act. See also rules 24.11 (Procedure if the court convicts) and 28.12 (Sentencing, etc. after committal to the Crown Court). The note to rule 28.12 summarises the statutory provisions that apply.]"; and

- (e) amend the table of contents correspondingly.

7. In Part 24 (Trial and sentence in a magistrates' court)—

- (a) in rule 24.8 (Written guilty plea: special rules)—

- (i) in paragraph (4), for “before the hearing date specified in the summons or requisition” substitute “as soon as practicable and in any event no later than the business day before the hearing date”, and
- (ii) after the third paragraph of the note to the rule insert—

“See also rule 24.11(10)(a) under which the court must adjourn where the defendant is absent before passing a custodial sentence or imposing a disqualification.”;

- (b) in rule 24.11 (Procedure if the court convicts)—

- (i) at the beginning of paragraph (9)(a) insert “subject to paragraph (10),”,
- (ii) for paragraph (10) substitute—

“(10) Despite the general rule—

- (a) the court must adjourn the hearing if—
 - (i) the case started with a summons, requisition or single justice procedure notice,
 - (ii) the defendant is absent, and
 - (iii) the court considers passing a custodial sentence (where it can do so), or imposing a disqualification (unless it has already adjourned the hearing to give the defendant an opportunity to attend);
- (b) the court may defer sentence for up to 6 months;
- (c) the court may, and in some cases must, commit the defendant to the Crown Court for sentence;
- (d) if the prosecutor asks the court to commit the defendant to the Crown Court in respect of an offence so that a confiscation order can be considered—
 - (i) the court must commit the defendant for that purpose, and
 - (ii) sub-paragraph (e) applies; and

(a) 1998 c. 37; section 51 was substituted by paragraphs 15 and 18 of Schedule 3 to the Criminal Justice Act 2003 (c. 44) and amended by section 52 of the Criminal Justice and Courts Act 2015 (c. 2).

- (e) where this sub-paragraph applies—
 - (i) the court may commit the defendant to the Crown Court to be dealt with there for any other offence of which the defendant has been convicted and with which the magistrates’ court otherwise could deal, and
 - (ii) if it does so, the court must state whether it would have committed the defendant to the Crown Court for sentence anyway under section 14, 16 or 16A of the Sentencing Act 2020(a).”, and
 - (iii) for the fourteenth and fifteenth paragraphs of the note to the rule substitute—

“Under section 3 of the Sentencing Act 2020, if (among other things) the defendant consents, the court may defer sentence for up to 6 months, for the purpose of allowing it to take account of the defendant’s conduct after conviction, or any change in the defendant’s circumstances.

For the circumstances in which a magistrates’ court may (and, in some cases, must) commit a defendant to the Crown Court for sentence or for the making of other orders beyond a magistrates’ court’s powers, see—

- (a) *sections 14, 15, 16, 16A, 17, 18, 19 and 20 of the Sentencing Act 2020(b);*
- (b) *the provisions listed in section 24 of the 2020 Act (including section 70 of the Proceeds of Crime Act 2002(c)); and*
- (c) *paragraph 11 of Schedule 16 to the 2020 Act.*

See section 70(5) of the Proceeds of Crime Act 2002 for the court’s power to make the statement to which this rule refers.

See also rules 9.15 (Committal for sentence of offence related to an offence sent for trial) and 28.8 (Sentencing, etc. after committal to the Crown Court). The note to rule 28.8 summarises the statutory provisions that apply.]”

8. In Part 25 (Trial and sentence in the Crown Court), in rule 25.14 (Directions to the jury and taking the verdict)—

- (a) for paragraph (3)(a) and (b) substitute—
 - “(a) to help the jury to come to a verdict—
 - (i) give jurors directions about the relevant law, and
 - (ii) summarise for them, to such extent as is necessary, the evidence relevant to the issues they must decide;
 - (b) give those directions orally and, as a general rule, in writing as well;”;
- (b) renumber paragraphs (5) and (6) as (6) and (7) respectively; and
- (c) for paragraph (4) substitute—
 - “(4) Directions to the jury under paragraph (3)(a) may include questions that the court invites jurors to answer in coming to a verdict.
 - (5) The court may give the jury other assistance in writing.”

9. In Part 28 (Sentencing procedures in special cases)—

- (a) for the heading to the Part substitute “Sentencing procedures in special cases and on committal for sentence, etc.”;

(a) 2020 c. 17; section 16A was inserted by section 46 of, and paragraph 26 of Schedule 13 to, the Counter-Terrorism and Sentencing Act 2021 (c. 11).

(b) 2020 c. 17; section 19 was amended by section 46 of, and paragraph 26 of Schedule 13 to, the Counter-Terrorism and Sentencing Act 2021 (c. 11).

(c) 2002 c. 29; section 70 was amended by section 41 of, and paragraph 75 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44), section 410 of, and paragraphs 181 and 195 of Schedule 24 to, the Sentencing Act 2020 (c. 17) and section 46 of, and paragraph 19 of Schedule 13 to, the Counter-Terrorism and Sentencing Act 2021 (c. 11).

- (b) in rule 28.10 (Information to be supplied on committal for sentence, etc.)—
 - (i) at the end of paragraph (2)(a)(vii) omit “and”,
 - (ii) at the end of paragraph (2)(a)(viii) insert “and”,
 - (iii) after paragraph (2)(a)(viii) insert—
 - “(ix) statement by the court for the purposes of section 70(5) of the Proceeds of Crime Act 2002(a);”, and
 - (iv) for sub-paragraphs (a) and (b) of the first paragraph of the note to the rule substitute—
 - “(a) a magistrates’ court may (and, in some cases, must) commit the defendant to the Crown Court for sentence, see rules 9.15 (Committal for sentence of offence related to an offence sent for trial), 24.11 (Procedure if the court convicts) and 28.12 (Sentencing, etc. after committal to the Crown Court) (the note to rule 28.12 summarises the statutory provisions that apply);
 - (b) a magistrates’ court may adjourn the case to another magistrates’ court for sentence, see section 10 of the Magistrates’ Courts Act 1980(b) and section 28 of the Sentencing Act 2020(c);”;
- (c) after rule 28.11 (Application to review sentence because of assistance given or withheld) insert—

“Sentencing, etc. after committal to the Crown Court

28.12.—(1) This rule applies where a magistrates’ court commits the defendant to the Crown Court—

- (a) for sentence; or
- (b) to be dealt with under other powers available to the Crown Court after a defendant’s conviction.

(2) Rule 25.16 (Trial and sentence in the Crown Court; Procedure if the court convicts) applies as if the defendant had been convicted in the Crown Court.

(3) As well as supplying the information required for sentencing purposes by rule 25.16(3), the prosecutor must identify any offence in respect of which the Crown Court cannot deal with the defendant in a way in which it could have done if the defendant had been convicted in the Crown Court, including—

- (a) an offence—
 - (i) committed for sentence under section 18 or 19, as the case may be, of the Sentencing Act 2020(d), and
 - (ii) in respect of which the magistrates’ court did not state the opinion to which section 18(4) or 19(3) of that Act refers;
- (b) an offence committed for sentence under section 20 of the 2020 Act; and
- (c) an offence—
 - (i) committed to the Crown Court under section 70 of the Proceeds of Crime Act 2002, and

(a) 2002 c. 29; section 70 was amended by section 41 of, and paragraph 75 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44), section 410 of, and paragraphs 181 and 195 of Schedule 24 to, the Sentencing Act 2020 (c. 17) and section 46 of, and paragraph 19 of Schedule 13 to, the Counter-Terrorism and Sentencing Act 2021 (c. 11).

(b) 1980 c. 43; section 10 was amended by section 59 of, and paragraph 1 of Schedule 9 to, the Criminal Justice Act 1982 (c. 48), section 68 of, and paragraph 6 of Schedule 8 to, the Criminal Justice Act 1991 (c. 53) and section 47 of the Crime and Disorder Act 1998 (c. 37).

(c) 2020 c. 17.

(d) 2020 c. 17; section 19 was amended by section 46 of, and paragraph 26 of Schedule 13 to, the Counter-Terrorism and Sentencing Act 2021 (c. 11).

- (ii) in respect of which the magistrates' court did not make the statement to which section 70(5) of that Act refers.

[Note. A magistrates' court may commit a convicted defendant to the Crown Court for sentence under—

- (a) *section 14 of the Sentencing Act 2020 (Committal for sentence on summary trial of offence triable either way: adults and corporations) where the defendant is over 18 or is a corporation, the offence is one triable either way and the court is of the opinion that the offence of which the defendant has been convicted, or the combination of that offence and one or more offences associated with it, was so serious that the Crown Court should have the power to deal with the defendant in any way that that court could have done if the defendant had been convicted there;*
- (b) *section 16 of the 2020 Act (Committal for sentence of young offenders on summary trial of certain serious offences) where the defendant is under 18, the offence of which the defendant has been convicted is one to which section 16 refers (offences punishable with imprisonment for 14 years or more and certain sexual offences), and the court is of the opinion that the offence of which the defendant has been convicted, or the combination of that offence and one or more offences associated with it, was such that the Crown Court should have the power to impose a sentence of detention under section 250 of the Act;*
- (c) *section 16A of the 2020 Act(a) (Committal for sentence of young offenders on summary trial of certain terrorist offences) where the defendant is under 18, the offence of which the defendant has been convicted is one within section 252A of the Act(b) (terrorism offences attracting special sentence for offenders of particular concern) and the court is of the opinion that the offence of which the defendant has been convicted, or the combination of that offence and one or more offences associated with it, was such that the Crown Court should have the power to impose a sentence of detention for more than 2 years under section 252A;*
- (d) *section 18 of the 2020 Act (Committal for sentence on indication of guilty plea to offence triable either way: adult offenders) where the defendant is over 18 and the court has sent the defendant to the Crown Court for trial for a related offence;*
- (e) *section 19 of the 2020 Act (Committal for sentence on indication of guilty plea by child with related offences) where the defendant is under 18, the court has sent the defendant to the Crown Court for trial for a related offence, and the offence of which the defendant has been convicted is one to which section 19 refers (offences punishable with imprisonment for 14 years or more and certain sexual offences); or*
- (f) *section 20 of the 2020 Act (Committal in certain cases where offender committed in respect of another offence) where the court commits the defendant to the Crown Court for sentence for an offence under any of sections 14 to 19 of the Act, or under one of the other provisions to which section 20 refers, and—*
 - (i) *if that offence is an indictable offence, then the court may also commit the defendant for sentence for any other offence, or*
 - (ii) *if that offence is a summary offence, then the court may also commit the defendant for sentence for any other offence of which the court itself has convicted the defendant and which is punishable with imprisonment or disqualification from driving, and for any suspended sentence with which the committing court could deal.*

A magistrates' court must commit a convicted defendant to the Crown Court for sentence under—

(a) 2020 c. 17; section 16A was inserted by section 46 of, and paragraph 26 of Schedule 13 to, the Counter-Terrorism and Sentencing Act 2021 (c. 11).
(b) 2020 c. 17; section 252A was inserted by section 22 of the Counter-Terrorism and Sentencing Act 2021 (c. 11).

- (a) *section 15 of the Sentencing Act 2020***(a)** (*Committal for sentence of dangerous adult offenders*) where the defendant is over 18, the offence of which the defendant has been convicted is one to which section 15 refers, and the court is of the opinion that an extended sentence of detention or imprisonment would be available in relation to the offence; or
- (b) *section 17 of the 2020 Act***(b)** (*Committal for sentence of dangerous young offenders*) where the defendant is under 18, the offence of which the defendant has been convicted is one to which section 17 refers, and the court is of the opinion that an extended sentence of detention would be available in relation to the offence.

*Under sections 21 and 22 of the Sentencing Act 2020***(c)** (*Power of Crown Court on committal for sentence of offender under section 14, 15 or 18; Power of Crown Court on committal for sentence of person under 18 under section 16, 16A, 17 or 19*), where the defendant is committed for sentence under any of sections 14 to 19 of that Act the Crown Court may deal with the defendant in any way in which it could have done if the defendant had been convicted in that court, unless—

- (a) *the defendant was committed for sentence under section 18 or 19;*
- (b) *the magistrates’ court did not state the opinion to which either section 18(4) or 19(3), whichever applies, refers (see also rule 9.15 (Committal for sentence for offence related to an offence sent for trial)); and*
- (c) *the defendant is not convicted in the Crown Court of any offence for which the magistrates’ court sent the defendant for trial,*

in which event the Crown Court may deal with the defendant only in a way in which the magistrates’ court could have done.

Under section 23 of the 2020 Act (Power of Crown Court on committal for sentence under section 20), where the defendant is committed for sentence under section 20 of the Act the Crown Court may deal with the defendant only in a way in which the magistrates’ court could have done except in relation to any suspended sentence committed under that section, in respect of which the Crown Court may exercise its usual powers on dealing with such a breach.

For other powers of a magistrates’ court to commit a defendant to the Crown Court for sentence or otherwise to deal with the defendant, see—

- (a) *the provisions listed in section 24 of the 2020 Act (Further powers to commit offender to the Crown Court to be dealt with); and*
- (b) *paragraph 11(2) of Schedule 16 to the 2020 Act, under which a magistrates’ court may commit the defendant to the Crown Court to be dealt with there if the magistrates’ court convicts the defendant of an offence during the operational period of a suspended sentence order made by the Crown Court.*

*The provisions listed in section 24 of the 2020 Act include section 70 of the Proceeds of Crime Act 2002***(d)**. *Under that section, if a magistrates’ court commits a defendant to the Crown Court so that a confiscation order can be considered then the court also may commit the defendant to the Crown Court to be dealt with there for any other offence of which the defendant has been convicted and with which the magistrates’ court otherwise*

(a) 2020 c. 17; section 15 was amended by section 46 of, and paragraph 11 of Schedule 13 to, the Counter-Terrorism and Sentencing Act 2021 (c. 11).

(b) 2020 c. 17; section 17 was amended by section 46 of, and paragraph 26 of Schedule 13 to, the Counter-Terrorism and Sentencing Act 2021 (c. 11).

(c) 2020 c. 17; section 22 was amended by section 46 of, and paragraph 26 of Schedule 13 to, the Counter-Terrorism and Sentencing Act 2021 (c. 11).

(d) 2002 c. 29; section 70 was amended by section 41 of, and paragraph 75 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44), section 410 of, and paragraphs 181 and 195 of Schedule 24 to, the Sentencing Act 2020 (c. 17) and section 46 of, and paragraph 19 of Schedule 13 to, the Counter-Terrorism and Sentencing Act 2021 (c. 11).

could deal. Under section 71 of the 2002 Act, the Crown Court may deal with the defendant in any way in which it could have done if the defendant had been convicted in that court, unless the magistrates' court did not make the statement to which section 70(5) refers. See also rule 24.11(10)(e), which refers to that statement.]"; and

(d) amend the table of contents correspondingly.

10. In Part 33 (Confiscation and related proceedings), in rule 33.47 (Order for costs)—

(a) renumber paragraphs (2) to (7) as (4) to (9) respectively;

(b) for paragraph (1) substitute—

“(1) This rule authorises the Crown Court, in addition to its other powers, to order a party to pay another party’s costs in restraint or receivership proceedings.

(2) The court may make such an order—

(a) on application by the party who incurred the costs; or

(b) on its own initiative.

(3) A party who wants the court to make such an order must apply—

(a) during the proceedings; or

(b) as soon as practicable following the conclusion of the proceedings, and in any event within 28 days of that conclusion.”;

(c) in paragraph (4), as renumbered, for “The court” substitute “Where the court is deciding whether to make such an order it”;

(d) in paragraph (8), as renumbered—

(i) for “paragraph (5)(f)” substitute “paragraph (7)(f)”, and

(ii) for “paragraph (5)(a) or (c)” substitute “paragraph (7)(a) or (c)”; and

(e) after paragraph (9), as renumbered, insert—

“(10) The court may extend the time limit under paragraph (3)(b) even after it has expired.”

11. In Part 42 (Appeal to the Court of Appeal in confiscation and related proceedings)—

(a) in rule 42.8 (Notice of determination)—

(i) for the heading to the rule substitute “Notice of determination and renewal of application for permission to appeal”,

(ii) in paragraph (1), for “This rule applies” substitute “Paragraphs (2) and (3) of this rule apply”,

(iii) in paragraph (3), for the words from “a court officer” to the end substitute “the Crown Court officer and the court officer for the magistrates’ court responsible for enforcing any confiscation order which the Crown Court has made (the ‘enforcing court’)”, and

(iv) after paragraph (3) insert—

“(4) Paragraphs (5) and (6) of this rule apply where—

(a) a single judge has refused an application for permission to appeal under section 31 of the 2002 Act^(a), and

(b) the appellant renews that application, in time or with an application to extend the time within which to renew.

(5) The Registrar must, as soon as practicable, notify the court officer for the enforcing court, if any, of the service of that renewed application.

(a) 2002 c. 29; section 31 was amended by section 74 of, and paragraphs 1 and 16 of Schedule 8 to, the Serious Crime Act 2007 (c. 27) and sections 3 and 85 of, and paragraph 27 of Schedule 4 to, the Serious Crime Act 2015 (c. 9).

(6) Unless a single judge, the Court of Appeal or the enforcing court otherwise directs, pending disposal of the renewed application the court officer for the enforcing court must withhold the payment of any sum not yet paid—

- (a) which under section 13(6) of the 2002 Act^(a) was directed to be paid out of sums recovered under a confiscation order, and
- (b) the payment of which is suspended pending appeal.

[Note. See also rule 42.11 (Notice of appeal) under which (i) the Registrar must notify the court officer for the enforcing court of the service of a notice of appeal, and (ii) that court officer must notify any person whose entitlement to payment of a sum is suspended by that appeal.

Under section 13 of the Proceeds of Crime Act 2002, if the Crown Court makes a confiscation order and one or more priority orders, as defined in that section, against the same defendant in the same proceedings then in some circumstances the court must direct that part or all of the priority order must be paid out of sums recovered under the confiscation order.

A compensation order under section 134 of the Sentencing Act 2020^(b) is such a priority order. Under section 141(1) of the 2020 Act, a person in whose favour a compensation order is made is not entitled to receive the amount due until there is no further possibility of the order being varied or set aside on appeal (disregarding any power to grant leave to appeal out of time). Under section 141(2) of the 2020 Act, Criminal Procedure Rules may make provision about the way in which the enforcing court is to deal with money paid in satisfaction of a compensation order where the entitlement of the person in whose favour it was made is suspended.]”;

- (b) in rule 42.11 (Notice of appeal)—
 - (i) at the end of paragraph (1)(a) omit “and”,
 - (ii) after paragraph (1)(b) insert—
 - “(c) the prosecutor, if the prosecutor is not the appellant; and
 - (d) any person who the appellant thinks is or may be someone—
 - (i) holding an interest in property in which the Crown Court determined the extent of the defendant’s interest under section 10A of the 2002 Act^(c), and
 - (ii) who is neither the defendant nor the appellant.”,
 - (iii) in paragraph (2), for the words before sub-paragraph (a) substitute “When a notice of appeal is served on a respondent defendant, or other person under paragraph (1)(d), it must be accompanied by a respondent’s notice in the form set out in the Practice Direction for the respondent to complete and a notice which”,
 - (iv) in paragraph (2), in each of sub-paragraphs (a), (b), (c) and (e) for “defendant” substitute “respondent” in each place it occurs and in sub-paragraph (d) for “defendant’s” substitute “respondent’s”,
 - (v) in paragraph (3), for “the defendant in accordance with paragraph (1)” substitute “each respondent”, and
 - (vi) after paragraph (3) insert—
 - “(4) The Crown Court officer must, as soon as practicable—
 - (a) notify the Registrar of the service of the notice of appeal;

(a) 2002 c. 29; section 13 was amended by section 54 of, and paragraph 11 of Schedule 12 to, the Criminal Justice and Courts Act 2015 (c. 2), section 6 of the Serious Crime Act 2015 (c. 9), section 410 of, and paragraph 182 of Schedule 24 to, the Sentencing Act 2020 (c. 17) and section 39 of, and paragraph 7 of Schedule 3 to, the Counter-Terrorism and Sentencing Act 2021 (c. 11).

(b) 2020 c. 17.

(c) 2002 c. 29; section 10A was inserted by section 1 of the Serious Crime Act 2015 (c. 9).

- (b) make available to the Registrar—
 - (i) the notice of appeal and any accompanying application served by the appellant,
 - (ii) details of the parties including their addresses, and
 - (iii) details of the court officer for the magistrates’ court responsible for enforcing any confiscation order which the Crown Court has made (the ‘enforcing court’).

(5) The Registrar must, as soon as practicable, notify the court officer for the enforcing court, if any, of the service of the notice of appeal.

(6) Where a person is entitled to receive a sum directed to be paid out of sums recovered under a confiscation order, the court officer for the enforcing court must, as soon as practicable, notify each such person of—

- (a) the appeal,
- (b) any suspension of that person’s entitlement pending appeal, and
- (c) any power for the Court of Appeal to vary or set aside that person’s entitlement on appeal.

[Note. See section 13 of the Proceeds of Crime Act 2002 and sections 134 and 141 of the Sentencing Act 2020. See also rule 42.8 (Notice of determination and renewal of application for permission to appeal) and the note to that rule.]”;

- (c) in rule 42.12 (Respondent’s notice), for “defendant” substitute “respondent” in each place it occurs and in paragraph (2)(b) for “defendant’s” substitute “respondent’s”;
- (d) in rule 42.13 (Amendment and abandonment of appeal), for paragraphs (2) and (3) substitute—

“(2) Where the appellant serves a notice abandoning an appeal under paragraph (1), the appellant must send a copy of it to—

- (a) each respondent served with the notice of appeal;
- (b) the Crown Court officer; and
- (c) the court officer for the magistrates’ court responsible for enforcing any confiscation order which the Crown Court has made.

(3) Where the appellant serves a notice amending a notice of appeal under paragraph (1), the appellant must send a copy of it to each respondent served with the notice of appeal.”; and

- (e) amend the table of contents correspondingly.

12. In the preamble to the Criminal Procedure Rules 2020, in sub-paragraph (b)—

- (a) in the first column, headed “Rule”, immediately beneath the entry for rule 40.8 insert “42.8”; and
- (b) in the second column, headed “Power”, in the corresponding position insert “Section 141(2) of the Sentencing Act 2020”.

Burnett of Maldon, C.J.
Fulford, L.J.
William Davis, L.J.
Foster, J.
Martin Edmunds
Patrick Field
Michael Snow
Louise Bryant
Nicola Hewer and Melissa Case
Suzanne Gadd
Max Hill

Alison Pople
Paul Jarvis
Folashade Abiodun
Edmund Smyth
Nicholas Ephgrave

I allow these Rules, which shall come into force on 4th April 2022.
Signed by authority of the Lord Chancellor

At 12.00 p.m. on 17th January 2022

James Cartlidge
Parliamentary Under Secretary of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Criminal Procedure Rules 2020, S.I. 2020/759, as follows:

<i>Rule</i>	<i>Amendment</i>
Part 3	Rules 3.3 and 3.8 are amended explicitly to provide for directions for the participation of a witness companion while the witness gives evidence.
Part 5	Rule 5.4 is amended explicitly to require the recording of any statement or opinion by a magistrates' court under the legislation to which those amendments refer, which legislation affects the powers of the Crown Court when a defendant is committed there for sentence.
Part 7	Rule 7.4 is amended explicitly to require the service on the parent or guardian of a young defendant of a copy of the summons or requisition served on that defendant.
Part 9	New rule 9.15 is added explicitly to require an opinion by a magistrates' court under the legislation to which the new rule refers, which opinion affects the powers of the Crown Court when a defendant is committed there for sentence. Rules 9.1, 9.2 and 9.5 are amended to refer to and supplement the new rule.
Part 24	Rule 24.8 is amended to encourage prompt entry of any written guilty plea that the defendant may wish to make where that rule applies. Rule 24.11 is amended (i) explicitly to require a statement by a magistrates' court under the legislation to which the amendment refers, which statement affects the powers of the Crown Court when a defendant is committed there for sentence, and (ii) explicitly to acknowledge the magistrates' court's powers to commit a defendant for sentence.
Part 25	Rule 25.14 is amended to encourage written as well as oral directions to jurors.
Part 28	The heading to the Part and rule 28.10 are amended, and new rule 28.12 is added, explicitly to acknowledge (i) the magistrates' court's powers under the legislation to which the new rule refers, and (ii) the Crown Court's procedure and sentencing powers when a defendant is committed there for sentence.
Part 33	Rule 33.7 is amended to impose a time limit for an application for costs in restraint or receivership proceedings.
Part 42	Rule 42.8 is amended (i) to require the Registrar of Criminal Appeals to notify the magistrates' court responsible for enforcing a confiscation order if an unsuccessful application for permission to appeal is renewed under the legislation to which that rule applies, and (ii) in such circumstances explicitly to require that magistrates' court's staff to withhold the payment of any sum suspended in consequence of the application for permission. Rule 42.11 is amended to require notice of such an appeal and of its effect to be given to those listed in the amendments. Rules 42.12 and 42.13 are amended for consistency with the amendments to rule 42.11.

These Rules come into force on 4th April 2022.

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