
STATUTORY INSTRUMENTS

2022 No. 815

The Criminal Procedure (Amendment No. 2) Rules 2022

Amendments to the Criminal Procedure Rules

13. In Part 25 (Trial and sentence in the Crown Court)—

(a) in rule 25.2 (General powers and requirements)—

(i) for paragraph (2) substitute—

“(2) Before proceeding to trial the court must—

(a) if more than one indictment has been preferred or proposed—

(i) identify the indictment or indictments on which the prosecutor wants the defendant to be tried, and

(ii) identify any indictment or count in an indictment on which the prosecutor does not want to proceed;

(b) obtain the prosecutor’s confirmation, in writing or orally, that each indictment on which the defendant is about to be tried sets out—

(i) a statement of each offence that the prosecutor wants the court to try, and

(ii) such particulars of the conduct constituting the commission of each such offence as the prosecutor relies upon to make clear what is alleged;

(c) ensure that the defendant is correctly identified by each indictment on which the defendant is about to be tried;

(d) satisfy itself that each allegation has been explained to the defendant, in terms the defendant can understand (with help, if necessary); and

(e) invite any objection to the terms or validity of any indictment on which the defendant is about to be tried.”, and

(ii) after paragraph (3) insert—

“(4) Subject to paragraph (5), unless the court otherwise directs no further proceedings may be taken on an indictment or count in an indictment on which under this rule the prosecutor chooses not to proceed.

(5) Paragraph (4) does not apply to any count in an indictment which becomes a count in the indictment required by rule 25.16(3)(e) (substituted indictment for sentencing purposes).”;

(b) in rule 25.10 (Defendant unfit to plead)—

(i) after paragraph (3) insert—

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

(a) the jury decides that the defendant did the act or made the omission charged as an offence;

(b) the court makes a hospital order and a restriction order;

- (c) while the restriction order remains in effect the Secretary of State receives medical advice that the defendant can properly be tried and decides to remit the defendant to the Crown Court for trial; and
 - (d) the Secretary of State so notifies the court officer.
- (5) The prosecutor must serve on the court officer the medical report or reports by reference to which the defendant has been assessed as properly to be tried.
- (6) The court must give directions—
- (a) for the return of the defendant to the court, which initial directions may be given—
 - (i) without a hearing, or
 - (ii) at a hearing, which must take place in the defendant’s absence; and then
 - (b) for the future conduct of the case, which further directions must be given—
 - (i) at a hearing, and
 - (ii) in the defendant’s presence.
- (7) Directions under paragraph (6)(a)—
- (a) may include directions under rule 3.10 (Directions for commissioning medical reports, other than for sentencing purposes) for the commissioning of any further report required by the court;
 - (b) may set a timetable providing for the date by which representations about the future conduct of the case must be served; and
 - (c) must set a date for a hearing under paragraph (6)(b).
- (8) At the hearing under paragraph (6)(b)—
- (a) rule 3.21 (Pre-trial hearings in the Crown Court: general rules) applies even if a plea and trial preparation hearing has been conducted in the case before; and
 - (b) among other things, the court must decide whether to grant or withhold bail.”, and
- (ii) at the end of the note to the rule insert—
- “Under section 5A of the 1964 Act(1), where a hospital order and a restriction order have effect, and after consultation with the responsible clinician, the Secretary of State may remit a defendant for trial if satisfied that the defendant can properly be tried.”;*
- (c) in rule 25.16 (Procedure if the court convicts)—
- (i) for paragraph (1) substitute—

“(1) This rule applies where the court convicts the defendant.”,
 - (ii) at the end of paragraph (3)(c) omit “and”,
 - (iii) at the end of paragraph (3)(d) insert “and”, and
 - (iv) after paragraph (3)(d) insert—

“(e) if the court so directs, where no single indictment contains every count on which the defendant is to be sentenced provide a substituted

(1) 1964 c. 84; section 5A was inserted by section 24 of the Domestic Violence, Crime and Victims Act 2004 (c. 28), amended by section 15 of the Mental Health Act 2007 (c. 12) and repealed for certain purposes by paragraph 114 of Schedule 2 to the Sentencing (Pre-consolidation Amendments) Act 2020 (c. 9).

indictment for sentencing purposes that contains every such count and indicates—

- (i) the indictment from which each such count derives,
- (ii) the defendant’s plea to each such count,
- (iii) if a guilty plea, the date on which that plea was entered, and
- (iv) otherwise, the date on which the defendant was convicted on that count.”;

(d) in rule 25.17 (Provision of documents for the court)—

- (i) at the end of each of paragraphs (3)(a) and (3)(b) omit “and”,
- (ii) at the end of paragraph (3)(c) insert “and”, and
- (iii) after paragraph (3)(c) insert—

“(d) any evidence or other material prepared for the court.”; and

(e) in rule 25.18 (Duty of court officer and custodian)—

- (i) for paragraph (1)(e)(iv) substitute—

“(iv) retaining a copy of any written directions given to the jury under rule 25.14(2) or (3)(a),”;

- (ii) for paragraph (1)(e)(v) substitute—

“(v) retaining a copy of any written material given to assist the jury under rule 25.14(5), and”, and

- (iii) in paragraph (1)(e)(vi), for “rule 25.14(5)” substitute “rule 25.14(6)”.