

2023 No. 44 (L. 1)

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

The Criminal Procedure (Amendment) Rules 2023

Made - - - - - *18th January 2023*

Laid before Parliament *19th January 2023*

Coming into force - - - *3rd April 2023*

The Criminal Procedure Rule Committee makes the following Rules under section 69 of the Courts Act 2003(a), 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 2023 and come into force on 3rd April 2023.

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(b).

Amendments to the Criminal Procedure Rules

3. In Part 2 (Understanding and applying the rules; powers of authorised court officers), in rule 2.1 (When the Rules apply)—

(a) after paragraph (3) insert—

“(4) The amendments to Part 14 of these Rules (Bail and custody time limits) made by rule 7(a) and (b) of the Criminal Procedure (Amendment) Rules 2023 do not apply in relation to a defendant arrested before 28th October, 2022, for an offence, or in relation to such a defendant who on or after that date is arrested again in relation to that offence under—

(a) section 46A of the Police and Criminal Evidence Act 1984(c) (arrest for failure to attend at a police station as required by police bail, or failure to comply with a condition of such bail); or

(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) S.I. 2020/759; amended by S.I. 2021/40, 2021/849, 2022/45, 2022/815.

(c) 1984 c. 60; section 46A was inserted by section 29 of the Criminal Justice and Public Order Act 1994 (c. 33) and amended by section 28 of, and paragraphs 1 and 5 of Schedule 2 to, the Criminal Justice Act 2003 (c. 44), section 46 of the Police and Justice Act 2006 (c. 48), section 108 of the Coroners and Justice Act 2009 (c. 25), section 61 of the Policing and Crime Act 2017 (c. 3) and paragraph 4 of Schedule 20 to the Police, Crime, Sentencing and Courts Act 2022 (c. 32).

(b) section 24A of the Criminal Justice Act 2003^(a) (arrest for failure to comply with a condition attached to a conditional caution).”; and

(b) at the end of the note to the rule insert—

“Amendments made by the Police, Crime, Sentencing and Courts Act 2022^(b) to the pre-charge bail provisions of the Police and Criminal Evidence Act 1984 came into force on 28th October, 2022^(c). Under section 45(3) of the 2022 Act, those amendments do not apply in the circumstances described in paragraph (4) of this rule.”

4. In Part 4 (Service of documents)—

(a) in rule 4.6 (Service by electronic means), for paragraph (3) substitute—

“(3) Where the person to be served under this rule is the court officer—

(a) the address for service is the relevant court office; and

(b) if service is by deposit under paragraph (2)(b), notice of that deposit—

(i) must be given only where arrangements for use of the electronic address advertised under rule 4.1(3) so require, and

(ii) if so required, must be given in accordance with those arrangements.”; and

(b) in rule 4.11 (Date of service)—

(i) at the end of paragraph (2)(d)(ii) omit “or”,

(ii) renumber paragraph (2)(d)(iii) as (2)(d)(iv),

(iii) in paragraph (2)(d)(iv) as thus renumbered after “sent” insert “, deposited”, and

(iv) after paragraph (2)(d)(ii) insert—

“(iii) on the day of its deposit under rule 4.6(2)(b), if that day is a business day and if under rule 4.6(3)(b) no notice of deposit is required, or”.

5. In Part 5 (Forms and court records)—

(a) in rule 5.8 (Request for information about a case)—

(i) for paragraph (1) substitute—

“(1) This rule—

(a) applies where anyone, including a member of the public or a reporter, requests information about a case including information contained in materials kept by the court officer for the purposes of the case; but

(b) does not apply if rule 5.12 applies (Request for written certificate or extract for use in evidence, etc.).”,

(ii) in paragraph (4)(c)(ii) for “about bail” substitute “to grant or withhold bail, or to impose or vary a bail condition”,

(iii) at the end of paragraph (4)(g) omit “and”,

(iv) at the end of paragraph (4)(h) insert “; and”, and

(v) after paragraph (4)(h) insert—

“(i) notice that reporting restrictions may apply to the publication of information supplied under this rule.”; and

(b) in rule 5.12 (Request for written certificate or extract for use in evidence, etc.)—

(i) in paragraph (1), in the words before sub-paragraph (a), after “legislation” insert “other than these Rules”,

(a) 2002 c. 44; section 24A was inserted by section 18 of the Police and Justice Act 2006 (c. 48) and amended by sections 60 and 64 of the Policing and Crime Act 2017 (c. 3) and paragraphs 14 and 15 of Schedule 4 to the Police, Crime, Sentencing and Courts Act 2022 (c. 32). It is repealed with effect from a date to be appointed by section 118 of that latter Act.

(b) 2022 c. 32.

(c) See S.I. 2022/1075.

- (ii) in paragraph (1)(b) for “such a certificate or extract” substitute “information about a case, including information contained in materials kept by the court officer for the purposes of the case,”,
- (iii) in paragraph (2), in the words before sub-paragraph (a), after “extract” insert “, or such information,”,
- (iv) in paragraph (2)(b) and in paragraph (3) for “or extract” in each place it occurs substitute “, extract or information”, and
- (v) for the second paragraph of the note to the rule substitute—

“Examples of legislation to which paragraph (1)(b) of this rule applies include (this is not a complete list)—

- (a) *section 17 of the Criminal Appeal Act 1995(a), under which information may be required by the Criminal Cases Review Commission;*
- (b) *section 115 of the Crime and Disorder Act 1998(b), under which information may be supplied to specified authorities for the purposes of that Act; and*
- (c) *article 7 of the Age of Criminal Responsibility (Scotland) Act 2019 (Consequential Provisions and Modifications) Order 2021(c), under which information may be required to assist in a review of Scottish criminal records concerning a time at which the subject of those records was under 12 years old.]”*

6. In Part 7 (Starting a prosecution in a magistrates’ court), in rule 7.2 (Application for summons, etc.) for the second paragraph of the note to the rule substitute—

“Where an offence can be tried only in a magistrates’ court the general time limit for serving or presenting an application for a summons or warrant, and for issuing a written charge, is prescribed by section 127 of the Magistrates’ Courts Act 1980(d) and section 30(5) of the Criminal Justice Act 2003(e). However, the legislation that creates the offence may prescribe a different time limit, which may be calculated by reference to the date of the offence or by reference to another event specified by that legislation. If the application contains insufficient information to show that it is in time the court may refuse to issue a summons or warrant.”

7. In Part 14 (Bail and custody time limits)—

- (a) in rule 14.18 (Exercise of court’s powers: extension of pre-charge bail)—
 - (i) in paragraph (2) for “12 months” in each place it occurs substitute “24 months”, and
 - (ii) for the second, third, fourth and fifth paragraphs of the note to the rule substitute—

“Sections 47ZA and 47ZB of the Police and Criminal Evidence Act 1984(f) limit the period during which a defendant who has been arrested for an offence may be on bail after being released without being charged. That period (‘the applicable bail period’) is—

-
- (a) 1995 c. 35; section 17 was amended by section 1 of the Criminal Cases Review Commission (Information) Act 2016 (c. 17).
 - (b) 1998 c. 37; section 115 was amended by paragraphs 150 and 151 of Schedule 7 to the Criminal Justice and Court Services Act 2000 (c. 43), paragraph 35 of Schedule 1 to S.I. 2000/90, section 97 of the Police Reform Act 2002 (c. 30), paragraph 25 of Schedule 1 to S.I. 2002/2469, section 219 of the Housing Act 2004 (c. 34), section 22 of, and paragraphs 1 and 7 of Schedule 9 to, the Police and Justice Act 2006 (c. 48), paragraph 29 of the Schedule to S.I. 2007/961, section 29 of the Transport for London Act 2008 (c. i), paragraph 13 of Schedule 1 to S.I. 2008/912, paragraphs 109 and 111 of Schedule 2 to S.I. 2010/866, section 98 of, and paragraphs 231 and 238 of Schedule 16 to, the Police Reform and Social Responsibility Act 2011 (c. 13), paragraphs 83 and 90 of Schedule 5 to the Health and Social Care Act 2012 (c. 7), article 26 of, and paragraph 30 of Schedule 2 to, S.I. 2013/602, paragraphs 78 and 80 of Schedule 1 and paragraphs 103 and 106 of Schedule 2 to the Policing and Crime Act 2017 (c. 3) and paragraph 1 of Schedule 1 and paragraphs 51 and 57 of Schedule 4 to the Health and Care Act 2022 (c. 31).
 - (c) S.I. 2021/1458.
 - (d) 1980 c. 43.
 - (e) 2003 c. 44; section 30(5) was amended by section 47 of the Criminal Justice and Courts Act 2015 (c. 2).
 - (f) 1984 c. 60; sections 47ZA and 47ZB were inserted by section 63 of the Policing and Crime Act 2017 (c. 3). Section 47ZB was amended by paragraphs 24 and 26 of Schedule 4 to the Police, Crime, Sentencing and Courts Act 2022 (c. 32).

- (a) 6 months from the day after the day on which the defendant was arrested (the defendant's 'bail start date') in an 'FCA', 'HMRC', 'NCA' or 'SFO' case (that is, a case, as defined by section 47ZB, being investigated by the Financial Conduct Authority, an officer of Revenue and Customs, the National Crime Agency or the Serious Fraud Office, as applicable); and
- (b) 3 months from the defendant's bail start date in any other case ('a standard case').

Under section 47ZDB of the 1984 Act(a), in an FCA, HMRC, NCA or SFO case the applicable bail period may be extended on the authority of the appropriate decision maker until the end of 12 months from the bail start date. 'Appropriate decision maker' is defined as, in summary, a senior officer of the relevant authority.

Under sections 47ZC and 47ZD of the 1984 Act(b), in a standard case the applicable bail period may be extended on the authority of a police officer of the rank of inspector or above until the end of 6 months from the bail start date. Under section 47ZDA(c) the applicable bail period may be further extended on the authority of a police officer of the rank of superintendent or above until the end of 9 months from the bail start date.

Under sections 47ZC and 47ZE of the 1984 Act(d), if the case is designated by the Director of Public Prosecutions as exceptionally complex (a 'designated case') the applicable bail period may be further extended on the authority of one of the senior officers listed in section 47ZE until the end of 12 months from the bail start date.

Under section 47ZF of the 1984 Act(e), on an application made before the date on which the applicable bail period ends by a constable, a member of staff of the Financial Conduct Authority of the description designated by its Chief Executive, an officer of Revenue and Customs, a National Crime Agency officer, a member of the Serious Fraud Office or a Crown Prosecutor, a magistrates' court may authorise an extension of that period—

- (a) from a previous total of 9 months to a new total of 12 months or, if the investigation is unlikely to be completed or a police charging decision made within a lesser period, a new total of 18 months (following extension under section 47ZDA of the Act);
- (b) from a previous total of 12 months to a new total of 18 months or, if the investigation is unlikely to be completed or a police charging decision made within a lesser period, a new total of 24 months (following extension under section 47ZDB or 47ZE of the Act),

where the conditions listed in that section are met.”;

- (b) in rule 14.19 (Application to authorise extension of pre-charge bail), in paragraph (2)(b) after “constable” insert “, an officer of Revenue and Customs, a National Crime Agency officer”; and
- (c) in rule 14.18 (Exercise of court's powers: extension of pre-charge bail), in paragraph (2)(a) omit “less than” and after “months” insert “or less”.

8. In Part 17 (Witness summonses, warrants and orders)—

- (a) in rule 17.7 (Application to withdraw a summons, warrant or order)—

-
- (a) 1984 c. 60; section 47ZDB was inserted by paragraphs 24 and 29 of Schedule 4 to the Police, Crime, Sentencing and Courts Act 2022 (c. 32).
 - (b) 1984 c. 60; section 47ZC was inserted by section 63 of the Policing and Crime Act 2017 (c. 3) and amended by paragraphs 1, 12, 24 and 27 of Schedule 4 to the Police, Crime, Sentencing and Courts Act 2022 (c. 32). Section 47ZD was inserted by section 63 of the Policing and Crime Act 2017 (c. 3) and amended by paragraphs 24 and 28 of Schedule 4 to the Police, Crime, Sentencing and Courts Act 2022 (c. 32).
 - (c) 1984 c. 60; section 47ZDA was inserted by paragraphs 24 and 29 of Schedule 4 to the Police, Crime, Sentencing and Courts Act 2022 (c. 32).
 - (d) 1984 c. 60; section 47ZE was inserted by section 63 of the Policing and Crime Act 2017 (c. 3) and amended by paragraphs 24 and 30 of Schedule 4 to the Police, Crime, Sentencing and Courts Act 2022 (c. 32).
 - (e) 1984 c. 60; section 47ZF was inserted by section 63 of the Policing and Crime Act 2017 (c. 3) and amended by paragraphs 24 and 31 of Schedule 4 to the Police, Crime, Sentencing and Courts Act 2022 (c. 32).

- (i) in paragraph (1)(b), in the words before sub-paragraph (b)(i), for “he was not aware of any application for it” substitute “the court received no representations by the witness before the summons, warrant or order was issued and, in the Crown Court, the witness had had no notice of any application for a summons,”
- (ii) in paragraph (1)(b)(i) for “he” substitute “the witness”,
- (iii) in paragraph (1)(b)(ii) for “he can, his duties or rights” substitute “the witness could do so, the witness’ duties or rights”,
- (iv) in paragraph (1)(c), in the words before sub-paragraph (c)(i), for “he was not aware of any application for it” substitute “the court received no representations by that person before the summons, warrant or order was issued”,
- (v) in paragraph (1)(c)(ii) for “his” substitute “that person’s”,
- (vi) in paragraph (2), in the words before sub-paragraph (a), for “the rule” substitute “this rule”,
- (vii) in paragraph (2)(a) for “he wants” substitute “the court should withdraw” and omit “to be withdrawn”,
- (viii) in paragraph (2)(b)(ii) after “the party” insert “(if any)”, and
- (ix) in paragraph (2)(b)(iii) omit “he knows” and after “application” insert “(if any)”; and
- (b) in rule 17.8 (Court’s power to vary requirements under this Part), in paragraph (2)(a) for “his” substitute “the” and for “he would otherwise have served an application in writing” substitute “the application otherwise should be served”.

9. In Part 31 (Behaviour orders)—

- (a) in rule 31.3 (Application for behaviour order and notice of terms of proposed order: special rules)—
 - (i) in paragraph (5)(b) after “prohibitions” insert “or requirements”,
 - (ii) omit paragraph (8), and
 - (iii) renumber paragraph (9) as (8); and
- (b) in rule 31.10 (Notice to supervisor of requirement for supervision or monitoring) for the note to the rule substitute—

“[Note. The legislation that gives the court power to make a behaviour order may specify circumstances in which a requirement for supervision or electronic monitoring may be imposed.]”

Under section 347A of the Sentencing Act 2020(a) and under section 36 of the Domestic Abuse Act 2021(b) a sexual harm prevention order or a domestic abuse protection order, respectively, which imposes a requirement, other than an electronic monitoring requirement, on the defendant must specify the person or organisation responsible for supervising compliance with that requirement. Before including such a requirement in an order the court must receive evidence from that supervisor about the requirement’s suitability and enforceability.

Under section 348A of the Sentencing Act 2020(c) and under section 37 of the Domestic Abuse Act 2021(d) a sexual harm prevention order or a domestic abuse protection order, respectively, which imposes an electronic monitoring requirement on the defendant must specify the person responsible for that monitoring. If there is a person other than the

(a) 2020 c. 17; section 347A is inserted by section 175 of the Police, Crime, Sentencing and Courts Act 2022 (c. 32) with effect from a date to be appointed.

(b) 2021 c. 17; section 36 comes into force on a date to be appointed.

(c) 2020 c. 17; section 348A is inserted by section 178 of the Police, Crime, Sentencing and Courts Act 2022 (c. 32) with effect from a date to be appointed.

(d) 2021 c. 17; section 37 comes into force on a date to be appointed.

defendant without whose co-operation it would be impracticable to secure that monitoring, the requirement may not be imposed without that person's consent.]”

10. In Part 45 (Costs), in rule 45.4 (Costs out of central funds) in paragraph (4)(a) omit “that person” in each place it occurs.

11. In Part 47 (Investigation orders and warrants)—

- (a) in rule 47.3 (Documents served on the court officer) in paragraph (1)(a)(i) for “may keep” substitute “must either keep”; and
- (b) in rule 47.25 (Exercise of court’s powers) in paragraph (2) omit “or telephone”.

*Burnett of Maldon, C.J.
Holroyde, L.J.
William Davis, L.J.
Foster, J.
Patrick Field
Heather Norton
Michael Snow
Louise Bryant
Ed Lidington
Max Hill
Alison Pople
Paul Jarvis
Folashade Abiodun
Edmund Smyth
Nicholas Ephgrave*

I allow these Rules, which shall come into force on 3rd April 2023.

Signed by authority of the Lord Chancellor

18th January 2023

Mike Freer
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 2	Rule 2.1 is amended to preserve rules in Part 14 otherwise amended by these Rules where the arrest to which they apply took place before 28th October 2022. This is to correspond with the effect of statutory amendments affecting pre-charge bail which the relevant Part 14 rules supplement.
Part 4	Rule 4.6 is amended to remove a party's obligation separately to notify the court officer of the service of a document on that officer where service is by uploading to an electronic court office address and notice is unnecessary. Rule 4.11 is amended correspondingly to define the date of service in such circumstances.
Part 5	Rules 5.8 and 5.12 are amended the more clearly to distinguish the circumstances in which each applies. Rule 5.8 is also amended (i) to clarify the circumstances in which information about bail decisions must be given, and (ii) to require court staff to notify those to whom information is supplied under that rule that reporting restrictions may prohibit the publication of that information by the recipient.
Part 7	The note to rule 7.2 is amended the more clearly to draw attention to the possibility that a specific time limit for the prosecution of a summary offence may displace the general time limit otherwise applicable; and to the particular need in such circumstances for the prosecutor to supply information sufficient to demonstrate that an application for the issue of a summons or warrant is made in time.
Part 14	Rules 14.18 and 14.19 are amended to correspond with the effect of statutory amendments affecting pre-charge bail which each rule supplements. Rule 14.18 is also amended, by rule 7(c) of these Rules, to correct an error.
Part 17	Rule 17.7 is amended to distinguish the conditions precedent to an application to withdraw a witness order made in a magistrates' court (which conditions are not confined by statute) and the conditions precedent to a corresponding application in the Crown Court (which are so confined). Rules 17.7 and 17.8 are also amended for consistency of expression with other, more recently formulated, Criminal Procedure Rules.
Part 31	Rule 31.3 is amended to correspond with amendments to the statutory provisions which the rule supplements. Rules 31.3 and 31.10 are also amended the more clearly to describe and accommodate the statutory provisions which those rules supplement for supervision and electronic monitoring.
Part 45	Rule 45.4 is amended to omit superfluous words.
Part 47	Rule 47.3 is amended to clarify the court officer's obligations under the rule. Rule 47.25 is amended to omit superfluous words.

These Rules come into force on 3rd April 2023.

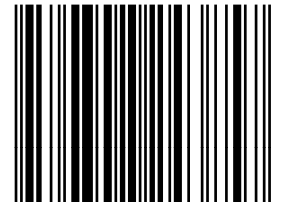
© Crown copyright 2023

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of His Majesty's Stationery Office and King's Printer of Acts of Parliament.

£6.90

<http://www.legislation.gov.uk/id/uksi/2023/44>

ISBN 978-0-34-824385-7



9 780348 243857