
STATUTORY INSTRUMENTS

2024 No. 62

The Criminal Procedure (Amendment) Rules 2024

Amendments to the Criminal Procedure Rules

- 9.** In Part 33 (Confiscation and related proceedings)—
- (a) omit—
 - (i) rules 33.2 (Calculation of time) and 33.3 (Court office closed), and
 - (ii) rules 33.47 (Order for costs) to 33.50 (Application of costs rules) inclusive;
 - (b) in each of the following rules for “2 days” substitute “2 business days” in each place it occurs—
 - (i) rule 33.53 (Application for discharge or variation of restraint or ancillary order by a person affected by the order), and
 - (ii) rule 33.54 (Application for variation of restraint or ancillary order by the person who applied for the order);
 - (c) in each of the following rules for “7 days” substitute “5 business days” in each place it occurs—
 - (i) rule 33.5 (Application to vary or set aside registration),
 - (ii) rule 33.11 (Certificates of service),
 - (iii) 33.18 (Application by magistrates’ court officer to discharge confiscation order),
 - (iv) 33.19 (Application for variation of confiscation order made against an absconder),
 - (v) 33.20 (Application for discharge of confiscation order made against an absconder),
 - (vi) 33.22 (Compensation – general),
 - (vii) 33.23 (Compensation – confiscation order made against absconder),
 - (viii) 33.24 (Payment of money held or detained in satisfaction of confiscation order),
 - (ix) 33.32 (Taking control of goods and forfeiture),
 - (x) 33.46 (Preparation of documents),
 - (xi) 33.56 (Application for appointment of a management or an enforcement receiver),
 - (xii) 33.57 (Application for conferral of powers on a management receiver or an enforcement receiver),
 - (xiii) 33.58 (Applications for discharge or variation of receivership orders and applications for other orders), and
 - (xiv) 33.59 (Sums in the hands of receivers);
 - (d) in each of the following rules for “the eighth day” substitute “6 business days” in each place it occurs—
 - (i) rule 33.15 (Application for reconsideration),
 - (ii) rule 33.16 (Application for new calculation of available amount), and
 - (iii) rule 33.17 (Variation of confiscation order due to inadequacy of available amount);

- (e) in rule 33.62 (Accounts) for “14 days” substitute “10 business days” in each place it occurs;
- (f) in each of the following rules for “21 days” substitute “15 business days” in each place it occurs—
 - (i) rule 33.26 (Appeal about decision on application to realise seized property), and
 - (ii) rule 33.31 (Appeal about property detention decision);
- (g) in rule 33.65 (Postponed determinations) for “28 days” substitute “20 business days”;
- (h) for rule 33.13 (Statements in connection with confiscation orders) substitute—

“Confiscation proceedings

33.13.—(1) This rule applies where—

- (a) rule 25.16(7) applies (Trial and sentence in the Crown Court; Procedure if the court convicts);
- (b) the court can make a confiscation order; and
- (c) the prosecutor asks the court to make such an order, or the court considers making such an order on its own initiative.

(2) The court must satisfy itself that there has been explained to the defendant, in terms the defendant can understand (with help, if necessary)—

- (a) in every case—
 - (i) that the court’s requirements for information must be obeyed, and
 - (ii) the potential consequences of not doing so; and
- (b) if the court makes a confiscation order—
 - (i) the amount that must be paid and how that has been calculated,
 - (ii) the potential consequences of failing to pay that amount, and
 - (iii) if applicable, the possibility that the prosecutor in future may apply to the court to order the defendant to pay more.

(3) The court must set a confiscation timetable that—

- (a) requires the defendant to serve on the court officer and the prosecutor information under section 18 of the Proceeds of Crime Act 2002⁽¹⁾ not more than 15 business days after the court sets the timetable (or within such other period as the court directs);
- (b) requires the defendant to serve on any person who holds an interest in property in which the defendant also holds an interest (‘an interested person’) not more than 15 business days after the court sets the timetable (or within such other period as the court directs)—
 - (i) notice of the confiscation proceedings,
 - (ii) notice that the defendant has named that person as an interested person, with the reasons why, and
 - (iii) notice of what that person must do under paragraph (9) of this rule, giving addresses for the court office, the prosecutor and the defendant;

(1) 2002 c. 29; section 18 was amended by section 94 of, and paragraph 7 of Schedule 8 to, the Serious Crime Act 2007 (c. 27) and section 2 of the Serious Crime Act 2015 (c. 9).

- (c) requires the prosecutor to serve on the court officer and the defendant a statement of information under section 16 of the Proceeds of Crime Act 2002(2) not more than 20 business days after service of the defendant's section 18 information (or within such other period as the court directs);
 - (d) requires the defendant to serve on the court officer and the prosecutor a response to the prosecutor's statement of information, under section 17 of the Proceeds of Crime Act 2002(3), not more than 30 business days after service of that statement (or within such other period as the court directs); and
 - (e) fixes a date for the confiscation hearing.
- (4) The information from the defendant under section 18 of the 2002 Act must—
- (a) list the defendant's property;
 - (b) give details of the defendant's income;
 - (c) list any property in which an interested person holds an interest and include—
 - (i) that person's name and address,
 - (ii) the name and address of that person's legal representative, if known, and
 - (iii) details of that person's interest in the property.
- (5) In or with the statement of information under section 16 of the 2002 Act the prosecutor must—
- (a) set out the grounds for a confiscation order;
 - (b) list the prosecutor's assertions in a way that allows the defendant to indicate the extent to which (if at all) the defendant accepts each assertion;
 - (c) identify any interested person known to the prosecutor but not mentioned in the defendant's information, with details of that person's interest;
 - (d) include a financial investigator's witness statement that sets out the matters of fact on which the prosecutor relies;
 - (e) include any other witness statement or other evidence relied upon in support of the prosecutor's case; and
 - (f) if either the defendant's information or the prosecutor's statement of information has mentioned an interested person, apply for further directions.
- (6) Where the prosecutor mentions in the statement of information an interested person not also mentioned in the defendant's information, at the same time as serving the statement of information the prosecutor must serve on that person—
- (a) notice of the confiscation proceedings;
 - (b) notice that the prosecutor has named that person as an interested person, with the reasons why; and
 - (c) notice of what that person must do under paragraph (9) of this rule, giving addresses for the court office, the prosecutor and the defendant.
- (7) In or with the response under section 17 of the 2002 Act the defendant must—
- (a) state whether, and if so to what extent, the defendant accepts each assertion made by the prosecutor in the statement of information;

(2) 2002 c. 29; section 16 was amended by section 94 of, and paragraph 5 of Schedule 8 to, the Serious Crime Act 2007 (c. 27) and section 2 of the Serious Crime Act 2015 (c. 9).

(3) 2002 c. 29; section 17 was amended by section 94 of, and paragraph 6 of Schedule 8 to, the Serious Crime Act 2007 (c. 27).

- (b) in respect of each assertion that the defendant does not accept, give reasons why and particulars of any matters on which the defendant intends to rely;
- (c) include any assertion by the defendant that benefit from criminal conduct has been shared with somebody else; and
- (d) include any witness statement or other evidence relied upon in support of the defendant's case.

(8) Where part of the defendant's response concerns the interest of an interested person, at the same time as serving the response the defendant must serve that part on that person.

(9) An interested person served with notice of the proceedings by the defendant or by the prosecutor must, not more than 45 business days after service of that notice (or within such other period as the court directs)—

- (a) serve a response on the court officer, the prosecutor and the defendant; and
- (b) in or with the response—
 - (i) state whether, and if so to what extent, the interested person accepts the assertions made about that person's interest,
 - (ii) in respect of each assertion that the interested person does not accept, give reasons why and particulars of any matters on which that person intends to rely,
 - (iii) give particulars of the person's interest (if any) in the property, and
 - (iv) include any witness statement or other evidence on which the interested person relies.

(10) The court must—

- (a) when setting the confiscation timetable take into account any indication then available that the case will involve unusual complexity; and
- (b) review the timetable and give such further directions as may be needed if—
 - (i) the defendant or the prosecutor identifies an interested person,
 - (ii) other information may affect the date fixed for the confiscation hearing, or
 - (iii) either party applies for further directions.

(11) The court must not determine the extent of the defendant's interest in property in which it appears to the court that another person holds an interest unless that interested person has had a reasonable opportunity to make representations.

(12) With or without a hearing, the court may—

- (a) shorten or extend a time limit which it has set;
- (b) vary, discharge or supplement an order (other than a confiscation order) which it has made where this rule applies; and
- (c) postpone the confiscation hearing.

[Note. Under section 6 of the Proceeds of Crime Act 2002(4), where a defendant is convicted of an offence the Crown Court must (with some exceptions)—

- (a) *decide whether the defendant has 'a criminal lifestyle', within the meaning of the Act, or has benefited from particular criminal conduct;*

(4) 2002 c. 29; section 6 was amended by section 336 of, and paragraph 75 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44), section 94 of, and paragraph 2 of Schedule 8 and Schedule 14 to, the Serious Crime Act 2007 (c. 27), section 12 of, and paragraph 12 of the Schedule to, the Prevention of Social Housing Fraud Act 2013 (c. 3), section 88 of, and paragraph 19 of Schedule 4 to, the Serious Crime Act 2015 (c. 9) and section 416 of, and paragraph 181 of Schedule 24 to, the Sentencing Act 2020 (c. 17).

- (b) decide the ‘recoverable amount’, within the meaning of the Act; and
- (c) make a confiscation order requiring the defendant to pay that amount.

Under section 14 of the 2002 Act⁽⁵⁾, unless exceptional circumstances apply the court may postpone confiscation proceedings for a maximum of 2 years from the date of conviction, or until the end of a period of 3 months following the determination of an appeal by the defendant against conviction, if that is later:

Under section 16 of the 2002 Act, where the Crown Court is considering confiscation the prosecutor must give the court a statement of information which the prosecutor believes to be relevant to what the court must decide, within such period as the court directs. Under section 17 of the Act, where the prosecutor gives such a statement the court may order the defendant to respond and, if the defendant does not do so, then the court may treat the defendant as accepting the prosecutor’s allegations. Under section 18, for the purpose of obtaining information to help it in carrying out its functions the court may at any time order the defendant to give it information specified in the order and, if the defendant does not do so, then the court may draw such inference as it believes appropriate. Under section 18A⁽⁶⁾, for the purpose of obtaining information to help it to determine the extent of the defendant’s interest in property the court may at any time order a person who the court thinks may hold an interest in that property to give it information specified in the order and, if that person does not do so, then the court may draw such inference as it believes appropriate.

Under section 27 of the 2002 Act⁽⁷⁾, special provisions apply where the defendant absconds.

See also the rules in Part 3 (Case management) and Part 15 (Disclosure).

For powers to vary a confiscation order see—

- (a) rule 28.4 (Variation of sentence); and
- (b) rules 33.15 to 33.20.

Under section 97 of the Serious Organised Crime and Police Act 2005⁽⁸⁾, the Secretary of State may by order provide for confiscation orders to be made by magistrates’ courts.]”;

- (i) in rule 33.24 (Payment of money held or detained in satisfaction of confiscation order)—
 - (i) in paragraph (1), for “bank or building society” in each place it occurs substitute “relevant financial institution”,
 - (ii) for paragraph (1)(d) substitute—
 - “(d) state the name and address of the relevant financial institution at which the account in which the money ordered to be paid is held and the sort code, if known;”, and
 - (iii) at the end of the rule insert—

(5) 2002 c. 29; section 14 was amended by section 94 of, and paragraph 4 of Schedule 8 and Schedule 14 to, the Serious Crime Act 2007 (c. 27), section 12 of, and paragraph 15 of the Schedule to, the Prevention of Social Housing Fraud Act 2013 (c. 3), section 88 of, and paragraph 21 of Schedule 4 to, the Serious Crime Act 2015 (c. 9) and section 416 of, and paragraph 183 of Schedule 24 to, the Sentencing Act 2020 (c. 17).

(6) 2002 c. 29; section 18A was inserted by section 2 of the Serious Crime Act 2015 (c. 9).

(7) 2002 c. 29; section 27 was amended by section 94 of, and paragraph 14 of Schedule 8 and Schedule 14 to, the Serious Crime Act 2007 (c. 27), sections 9 and 88 of the Serious Crime Act 2015 (c. 9) and section 416 of, and paragraph 189 of Schedule 24 to, the Sentencing Act 2020 (c. 17).

(8) 2005 c. 15; section 97 was amended by S.I. 2010/976 and sections 40 and 88 of the Serious Crime Act 2015 (c. 9).

“[Note. Under section 67(8) of the Proceeds of Crime Act 2002(9), “relevant financial institution” means a bank, a building society, an electronic money institution or a payment institution; “electronic money institution” means an institution or person registered by the Financial Conduct Authority under the Electronic Money Regulations 2011; and “payment institution” means a person registered by that Authority under the Payment Services Regulations 2017.]”;

(j) for rule 33.25 (Application to realise seized property) substitute—

“Application to realise seized property or to realise or destroy cryptoassets

- 33.25.**—(1) This rule applies where a magistrates’ court can make an order—
- (a) under section 67A of the Proceeds of Crime Act 2002(10) authorising the realisation of seized personal property;
 - (b) under section 67B of the 2002 Act(11) determining any storage, insurance or realisation costs recoverable by the officer;
 - (c) under section 67ZA of the 2002 Act(12) requiring the realisation of seized cryptoassets; or
 - (d) under section 67AA of the 2002 Act(13) authorising the destruction of seized cryptoassets.
- (2) An applicant for such an order must—
- (a) apply in writing; and
 - (b) serve the application on—
 - (i) the court officer, and
 - (ii) any person whom the applicant believes would be affected by an order, including (where the application concerns cryptoassets) the UK-connected cryptoasset service provider which administers the crypto wallet in which the cryptoassets are held.
- (3) The application must—
- (a) specify the property or cryptoassets concerned;
 - (b) explain the applicant’s entitlement to apply and, as applicable—
 - (i) how the proposed realisation of personal property meets the conditions prescribed by section 67A of the 2002 Act,
 - (ii) how any storage, etc. costs have been calculated,
 - (iii) how the proposed realisation of cryptoassets meets the conditions prescribed by section 67ZA of the 2002 Act, and
 - (iv) how the proposed destruction of cryptoassets meets the conditions prescribed by section 67AA of the 2002 Act;
 - (c) attach any material on which the applicant relies; and

(9) 2002 c. 29; section 67(8) was substituted by sections 26 and 58 of the Criminal Finances Act 2017 (c. 22) and amended by section 219 of, and paragraph 11 of Schedule 8 to, the Economic Crime and Corporate Transparency Act 2023 (c. 56).

(10) 2002 c. 29; section 67A was inserted by section 58 of the Policing and Crime Act 2009 (c. 26) and amended by section 14 of the Serious Crime Act 2015 (c. 9).

(11) 2002 c. 29; section 67B was inserted by section 58 of the Policing and Crime Act 2009 (c. 26).

(12) 2002 c. 29; section 67ZA was inserted by section 219 of, and paragraph 12 of Schedule 8 to, the Economic Crime and Corporate Transparency Act 2023 (c. 56).

(13) 2002 c. 29; section 67AA was inserted by section 219 of, and paragraph 13 of Schedule 8 to, the Economic Crime and Corporate Transparency Act 2023 (c. 56).

- (d) propose the terms of the order, including an assessment of the market value of any cryptoassets ordered to be destroyed.
- (4) The court may—
 - (a) determine the application at a hearing, or without a hearing;
 - (b) consider an application made orally instead of in writing; and
 - (c) consider an application which has not been served on a person likely to be affected by an order.
- (5) If the court authorises a realisation of personal property or a realisation or destruction of cryptoassets, the applicant must—
 - (a) notify any person affected by the order who was absent when it was made; and
 - (b) serve on the court officer a list of those so notified.

[Note. Under sections 67ZA and 67A of the Proceeds of Crime Act 2002, one of the officers listed in section 41A of the Act(14) may apply to a magistrates' court for authority to realise personal property or cryptoassets seized by such an officer if—

- (a) *a confiscation order has been made against a person who holds that property or those cryptoassets;*
- (b) *no receiver has been appointed in relation to that property or those cryptoassets; and*
- (c) *any period allowed for payment of the confiscation order has expired.*

Under section 67AA of the 2002 Act, in those same circumstances an officer may apply to a magistrates' court for authority to destroy cryptoassets if it is not reasonably practicable to realise them or there are reasonable grounds to believe that their realisation would be contrary to the public interest, having regard in particular to how likely it is that the entry of the cryptoassets into general circulation would facilitate criminal conduct by any person.

Under section 67B of the 2002 Act(15), if a magistrates' court makes an order under section 67A then on the same or a subsequent occasion the court may determine an amount which may be recovered by the applicant in respect of reasonable costs incurred in storing or insuring the property, or realising it.

In the 2002 Act, for the purposes of the provisions to which this rule refers—

- (a) *section 84(16) makes general provisions about property; and*
- (b) *section 84A(17) defines 'cryptoasset' and related expressions.]”;*
- (k) in rule 33.26 (Appeal about decision on application to realise seized property)—
 - (i) for the heading to the rule substitute “Appeal about decision on application to realise seized property or to realise or destroy cryptoassets”, and
 - (ii) for the note to the rule substitute—

“[Note. Under section 67C of the Proceeds of Crime Act 2002(18), an officer entitled to apply for an order under section 67ZA, 67A, 67AA or 67B of that Act

(14) 2002 c. 29; section 41A was inserted by section 52 of the Policing and Crime Act 2009 (c. 26) and amended by section 61 of, and paragraph 112 of Schedule 8 and paragraph 15 of Schedule 21 to, the Crime and Courts Act 2013 (c. 22).

(15) 2002 c. 29; section 67B was inserted by section 58 of the Policing and Crime Act 2009 (c. 26).

(16) 2002 c. 29; section 84 was amended by S.I. 2016/1034.

(17) 2002 c. 29; section 84A was inserted by section 219 of, and paragraph 18 of Schedule 8 to, the Economic Crime and Corporate Transparency Act 2023 (c. 56).

(18) 2002 c. 29; section 67C was inserted by section 58 of the Policing and Crime Act 2009 (c. 26) and amended by section 219 of, and paragraph 14 of Schedule 8 to, the Economic Crime and Corporate Transparency Act 2023 (c. 56).

(authority to realise seized property or requirement to realise cryptoassets towards satisfaction of a confiscation order; authority to destroy cryptoassets; determination of storage, etc. costs) may appeal against a refusal to make an order, or against a costs determination; and a person affected by an order, other than defendant against whom the confiscation order was made, may appeal against the order. J”;

- (l) in rule 33.27 (Application for direction about surplus proceeds)—
 - (i) in paragraph (1)(a) for “an officer to realise property” substitute “the realisation of personal property or requiring the realisation of cryptoassets”,
 - (ii) in paragraph (1)(b) omit “so authorised”,
 - (iii) in paragraph (1)(d) after “the property” insert “or cryptoassets”, and
 - (iv) in paragraph (3)(a) for “which was” substitute “or cryptoassets”;
- (m) in rule 33.28 (Application for approval to seize property or to search)—
 - (i) in paragraph (1) omit “who is entitled to apply”,
 - (ii) for paragraph (1)(a) substitute—
 - “(a) under section 47C of that Act(19), to seize—
 - (i) realisable property which is not cash or exempt property, or
 - (ii) any free property which is a cryptoasset-related item; or”, and
 - (iii) for the first paragraph of the note to the rule substitute—

“[Note. Under section 47C of the Proceeds of Crime Act 2002, if any of the conditions listed in section 47B of the Act(20) are met then one of the officers listed in section 47A(21) may seize—

- (a) *realisable property other than cash or exempt property as defined in section 47C, if the officer has reasonable grounds for suspecting that—*
 - (i) *the property may otherwise be made unavailable for satisfying any confiscation order that has been or may be made against a defendant; or*
 - (ii) *the value of the property may otherwise be diminished as a result of conduct by the defendant or any other person; and*
- (b) *any free property if the officer has reasonable grounds for suspecting that it is a cryptoasset-related item as defined in section 47C.*

In the 2002 Act, for the purposes of the provisions to which this rule refers—

- (a) *section 82(22) defines ‘free property’;*
- (b) *section 83 defines ‘realisable property’;*

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- (19) 2002 c. 29; section 47C was inserted by section 55 of the Policing and Crime Act 2009 (c. 26) and amended by section 61 of, and paragraph 16 of Schedule 21 to, the Crime and Courts Act 2013 (c. 22) and section 219 of, and paragraph 3 of Schedule 8 to, the Economic Crime and Corporate Transparency Act 2023 (c. 56).
 - (20) 2002 c. 29; section 47B was inserted by section 55 of the Policing and Crime Act 2009 (c. 26) and amended by section 13 of the Serious Crime Act 2015 (c. 9) and section 219 of, and paragraph 2 of Schedule 8 to, the Economic Crime and Corporate Transparency Act 2023 (c. 56).
 - (21) 2002 c. 29; section 47A was inserted by section 55 of the Policing and Crime Act 2009 (c. 26) and amended by section 55 of the Crime and Courts Act 2013 (c. 22), section 58 of, and paragraph 3 of Schedule 1 to, the Criminal Finances Act 2017 (c. 22) and S.I. 2018/285.
 - (22) 2002 c. 29; section 82 was amended by section 178 of, and paragraph 5 of Schedule 6 to, the Serious Organised Crime and Police Act 2005 (c. 15), section 100 of, and paragraph 7 of Schedule 3 to, the Counter-Terrorism Act 2008 (c. 28), section 116 of, and paragraph 101 of Schedule 7 to, Policing and Crime Act 2009 (c. 26), sections 34 and 58 of, and paragraph 22 of Schedule 5 to, the Criminal Finances Act 2017 (c. 22), section 416 of, and paragraph 196 of Schedule 24 to, the Sentencing Act 2020 (c. 17) and section 219 of, and paragraph 3 of Schedule 9 to, the Economic Crime and Corporate Transparency Act 2023 (c. 56).

- (c) *section 84 makes general provisions about property; and*
 - (d) *section 84A defines ‘cryptoasset’ and related expressions.’;*
 - (n) in rule 33.53 (Application for discharge or variation of restraint or ancillary order by a person affected by the order) after paragraph (4) insert—
 - “(5) Where the application is for the Crown Court to make or vary an exception for the applicant’s reasonable living expenses it must include—
 - (a) details of the applicant’s current income and expenditure, with evidence of each item; and
 - (b) representations about proposed expenditure that include—
 - (i) the applicant’s previous standard of living and usual expenditure;
 - (ii) the possibility that the expenditure might maintain or improve the value of assets available to meet a confiscation order,
 - (iii) the possibility that the expenditure might reduce the value of such assets to less than the likely value of a confiscation order,
 - (iv) the likely duration of the restraint order, and
 - (v) the overall total of proposed expenditure.’; and
 - (o) amend the table of contents correspondingly.