
STATUTORY INSTRUMENTS

2017 No. 144 (L. 2)

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

The Criminal Procedure (Amendment) Rules 2017

Made - - - - *10th February 2017*
Laid before Parliament *16th February 2017*
Coming into force - - *3rd April 2017*

The Criminal Procedure Rule Committee makes the following Rules under section 69 of the Courts Act 2003(1), after consulting in accordance with section 72(1)(a) of that Act.

Citation, commencement and interpretation

1. These Rules may be cited as the Criminal Procedure (Amendment) Rules 2017 and shall come into force on 3rd April 2017.

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 2015(2).

Amendments to the Criminal Procedure Rules 2015

3. In Part 8 (Initial details of the prosecution case)—
(a) after rule 8.3 (Content of initial details) insert—

“Use of initial details

8.4.—(1) This rule applies where—

- (a) the prosecutor wants to introduce information contained in a document listed in rule 8.3; and
(b) the prosecutor has not—
(i) served that document on the defendant, or

(1) 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).
(2) S.I. 2015/1490; amended by S.I. 2016/120, 2016/705.

- (ii) made that information available to the defendant.
 - (2) The court must not allow the prosecutor to introduce that information unless the court first allows the defendant sufficient time to consider it.”; and
 - (b) amend the table of contents correspondingly.
- 4. In Part 14 (Bail and custody time limits)—
 - (a) in rule 14.2 (Exercise of court’s powers to which this Part applies)—
 - (i) after paragraph (1)(c) insert—
 - “(d) the court is satisfied that sufficient time has been allowed—
 - (i) for the defendant to consider the information provided by the prosecutor under rule 14.5(2), and
 - (ii) for the court to consider the parties’ representations and make the decision required.”; and
 - (ii) in paragraph (5), after “(with help, if necessary)” insert “, and by reference to the circumstances of the defendant and the case,”; and
 - (b) in rule 14.5 (Prosecutor’s representations about bail), for paragraph (2) substitute—
 - “(2) The prosecutor must as soon as practicable—
 - (a) provide the defendant with all the information in the prosecutor’s possession which is material to what the court must decide; and
 - (b) provide the court with the same information.”
- 5. In Part 30 (Enforcement of fines and other orders for payment), in rule 30.3(2)(a) (Duty to give receipt), after “receipt” insert “, unless the method of payment generates an independent record (for example, a bank record)”.
- 6. In Part 31 (Behaviour orders)—
 - (a) in the note to rule 31.1 (When this Part applies), after sub-paragraph (a)(ix) of the first paragraph insert—
 - “(x) *section 20 of the Immigration Act 2016(3) (labour market enforcement orders);*”;
 - (b) in rule 31.3 (Application for behaviour order and notice of terms of proposed order: special rules)—
 - (i) for paragraph (1) substitute—
 - “(1) This rule applies where—
 - (a) a prosecutor wants the court to make one of the following orders if the defendant is convicted—
 - (i) an anti-social behaviour order (but this rule does not apply to an application for an interim anti-social behaviour order),
 - (ii) a serious crime prevention order,
 - (iii) a criminal behaviour order, or
 - (iv) a prohibition order;
 - (b) a prosecutor proposes, on the prosecutor’s initiative or at the court’s request, a sexual harm prevention order if the defendant is convicted;

- (c) a prosecutor proposes a restraining order whether the defendant is convicted or acquitted.”,
 - (ii) in paragraph (2) after “Where paragraph (1)(a) applies” insert “(order on application)”,
 - (iii) in paragraph (5) after “Where paragraph (1)(b) applies” insert “(sexual harm prevention order proposed)”,
 - (iv) in paragraph (5)(b) omit “in a case in which a sexual harm prevention order is proposed.”,
 - (v) renumber paragraph (6) as (7), and
 - (vi) after paragraph (5) insert—
 - “(6) Where paragraph (1)(c) applies (restraining order proposed), the prosecutor must—
 - (a) serve a draft order on the court officer and on the defendant as soon as practicable (without waiting for the verdict);
 - (b) in the draft order specify—
 - (i) those prohibitions which, if the defendant is convicted, the prosecutor proposes for the purpose of protecting a person from conduct which amounts to harassment or will cause fear of violence, or
 - (ii) those prohibitions which, if the defendant is acquitted, the prosecutor proposes as necessary to protect a person from harassment by the defendant.”; and
 - (c) in the note to rule 31.3—
 - (i) at the beginning of the second paragraph insert “The orders listed in rule 31.3(1)(a) may be made on application by the prosecutor. The orders to which rule 31.3(1)(b) and (c) apply require no application and may be made on the court’s own initiative.”, and
 - (ii) omit the third paragraph.
7. In Part 33 (Confiscation and related proceedings)—
- (a) in rule 33.15 (Application for reconsideration), for paragraphs (2), (3) and (4) substitute—
 - “(2) The application must—
 - (a) be in writing and give—
 - (i) the name of the defendant,
 - (ii) the date on which and the place where any relevant conviction occurred,
 - (iii) the date on which and the place where any relevant confiscation order was made or varied,
 - (iv) details of any slavery and trafficking reparation order made by virtue of any relevant confiscation order,
 - (v) the grounds for the application, and
 - (vi) an indication of the evidence available to support the application; and
 - (b) where the parties are agreed on the terms of the proposed order include, in one or more documents—
 - (i) a draft order in the terms proposed, and
 - (ii) evidence of the parties’ agreement.

- (3) The application must be served on—
 - (a) the court officer; and
 - (b) the defendant.
- (4) The court—
 - (a) may determine the application without a hearing where the parties are agreed on the terms of the proposed order;
 - (b) must determine the application at a hearing in any other case.
- (5) Where this rule or the court requires the application to be heard, the court officer must arrange for the court to hear it no sooner than the eighth day after it was served unless the court otherwise directs.”;
- (b) in rule 33.16 (Application for new calculation of available amount)—
 - (i) at the end of paragraph (2)(a) omit “and”,
 - (ii) at the end of paragraph (2)(b) insert “and”,
 - (iii) after paragraph (2)(b) insert—
 - “(c) where the parties are agreed on the terms of the proposed order, must include in one or more documents—
 - (i) a draft order in the terms proposed, and
 - (ii) evidence of the parties’ agreement.”,
 - (iv) in paragraph (4) omit “at least 7 days before the date fixed by the court for hearing the application, unless the court specifies a shorter period.”, and
 - (v) after paragraph (4) insert—
 - “(5) The court—
 - (a) may determine the application without a hearing where the parties are agreed on the terms of the proposed order;
 - (b) must determine the application at a hearing in any other case.
 - (6) Where this rule or the court requires the application to be heard, the court officer must arrange for the court to hear it no sooner than the eighth day after it was served unless the court otherwise directs.”; and
- (c) in rule 33.17 (Variation of confiscation order due to inadequacy of available amount)—
 - (i) at the end of paragraph (2)(a) omit “and”,
 - (ii) at the end of paragraph (2)(b) insert “and”,
 - (iii) after paragraph (2)(b) insert—
 - “(c) where the parties are agreed on the terms of the proposed order, must include in one or more documents—
 - (i) a draft order in the terms proposed, and
 - (ii) evidence of the parties’ agreement.”,
 - (iv) in paragraph (4) omit “at least 7 days before the date fixed by the court for hearing the application, unless the court specifies a shorter period.”, and
 - (v) after paragraph (4) insert—
 - “(5) The court—
 - (a) may determine the application without a hearing where the parties are agreed on the terms of the proposed order;

- (b) must determine the application at a hearing in any other case.
 - (6) Where this rule or the court requires the application to be heard, the court officer must arrange for the court to hear it no sooner than the eighth day after it was served unless the court otherwise directs.”.
- 8. In Part 34 (Appeal to the Crown Court), in rule 34.11 (Constitution of the Crown Court)—
 - (a) for paragraph (1)(b) substitute—
 - “(b) if the appeal is from a youth court, each justice of the peace must be qualified to sit as a member of a youth court.”; and
 - (b) in paragraph (2)(a) omit “and need not include both a man and a woman”.
- 9. In Part 36 (Appeal to the Court of Appeal: general rules)—
 - (a) for rule 36.14 (Abandoning a ground of appeal or opposition) substitute—

“Grounds of appeal and opposition

36.14.—(1) If the court gives permission to appeal then unless the court otherwise directs the decision indicates that—

- (a) the appellant has permission to appeal on every ground identified by the appeal notice; and
 - (b) the court finds reasonably arguable each ground on which the appellant has permission to appeal.
- (2) If the court gives permission to appeal but not on every ground identified by the appeal notice the decision indicates that—
 - (a) at the hearing of the appeal the court will not consider representations that address any ground thus excluded from argument; and
 - (b) an appellant who wants to rely on such an excluded ground needs the court’s permission to do so.
- (3) An appellant who wants to rely at the hearing of an appeal on a ground of appeal excluded from argument by a judge of the Court of Appeal when giving permission to appeal must—
 - (a) apply in writing, with reasons, and identify each such ground;
 - (b) serve the application on—
 - (i) the Registrar, and
 - (ii) any respondent;
 - (c) serve the application not more than 14 days after—
 - (i) the giving of permission to appeal, or
 - (ii) the Registrar serves notice of that decision on the applicant, if the applicant was not present in person or by live link when permission to appeal was given.
- (4) Paragraph (5) applies where a party wants to abandon—
 - (a) a ground of appeal on which that party has permission to appeal; or
 - (b) a ground of opposition identified in a respondent’s notice.
- (5) Such a party must serve notice on—
 - (a) the Registrar; and
 - (b) each other party,

before any hearing at which that ground will be considered by the court.

[Note. In some legislation, including the Criminal Appeal Act 1968, permission to appeal is described as 'leave to appeal'.

Under rule 36.5 (Renewing an application refused by a judge or the Registrar), if permission to appeal is refused the application for such permission may be renewed within the time limit (14 days) set by that rule.]"; and

(b) amend the table of contents correspondingly.

10. In Part 39 (Appeal to the Court of Appeal about conviction or sentence)—

(a) in rule 39.3 (Form of appeal notice), at the end of the note to the rule insert “See also rule 39.7 (Introducing evidence).”;

(b) in rule 39.6 (Respondent’s notice), at the end of the note to the rule insert “See also rule 39.7 (Introducing evidence).”;

(c) for rule 39.7 (Adaptation of rules about introducing evidence) substitute—

“Introducing evidence

39.7.—(1) The following Parts apply with such adaptations as the court or the Registrar may direct—

- (a) Part 16 (Written witness statements);
- (b) Part 18 (Measures to assist a witness or defendant to give evidence);
- (c) Part 19 (Expert evidence);
- (d) Part 20 (Hearsay evidence);
- (e) Part 21 (Evidence of bad character); and
- (f) Part 22 (Evidence of a complainant’s previous sexual behaviour).

(2) But the general rule is that—

- (a) a respondent who opposes an appellant’s application or notice to which one of those Parts applies must do so in the respondent’s notice, with reasons;
- (b) an appellant who opposes a respondent’s application or notice to which one of those Parts applies must serve notice, with reasons, on—
 - (i) the Registrar, and
 - (ii) the respondent
 not more than 14 days after service of the respondent’s notice; and
- (c) the court or the Registrar may give directions with or without a hearing.

(3) A party who wants the court to order the production of a document, exhibit or other thing connected with the proceedings must—

- (a) identify that item; and
- (b) explain—
 - (i) how it is connected with the proceedings,
 - (ii) why its production is necessary for the determination of the case, and
 - (iii) to whom it should be produced (the court, appellant or respondent, or any two or more of them).

(4) A party who wants the court to order a witness to attend to be questioned must—

- (a) identify the proposed witness; and
- (b) explain—
 - (i) what evidence the proposed witness can give,
 - (ii) why that evidence is capable of belief,
 - (iii) if applicable, why that evidence may provide a ground for allowing the appeal,
 - (iv) on what basis that evidence would have been admissible in the case which is the subject of the application for permission to appeal or appeal, and
 - (v) why that evidence was not introduced in that case.

(5) Where the court orders a witness to attend to be questioned, the witness must attend the hearing of the application for permission to appeal or of the appeal, as applicable, unless the court otherwise directs.

(6) Where the court orders a witness to attend to be questioned before an examiner on the court's behalf, the court must identify the examiner and may give directions about—

- (a) the time and place, or times and places, at which that questioning must be carried out;
- (b) the manner in which that questioning must be carried out, in particular as to—
 - (i) the service of any report, statement or questionnaire in preparation for the questioning,
 - (ii) the sequence in which the parties may ask questions, and
 - (iii) if more than one witness is to be questioned, the sequence in which those witnesses may be questioned; and
- (c) the manner in which, and when, a record of the questioning must be submitted to the court.

(7) Where the court orders the questioning of a witness before an examiner, the court may delegate to that examiner the giving of directions under paragraph (6) (a), (b) and (c).

[Note. An application to introduce evidence or for directions about evidence must be included in, or attached to, an appeal notice or a respondent's notice: see rules 39.3(2)(h)(v), (vi) and 39.6(6)(f)(iv), (v).

Under section 23 of the Criminal Appeal Act 1968(4), the Court of Appeal may order the production of a document, exhibit or other thing, may order a witness to attend to be examined before the court and may allow the introduction of evidence that was not introduced at trial. Under section 23(4), if it thinks it necessary or expedient in the interests of justice the court may order the examination of a witness to be conducted before any judge, court officer or other person, and allow the admission of a record of that examination as evidence before the court.]”;

(4) 1968 c. 19; section 23 was amended by sections 4 and 29 of, and paragraph 4 of Schedule 2 to, the Criminal Appeal Act 1995 (c. 35), section 48 of the Police and Justice Act 2006 (c. 48) and section 47 of, and paragraphs 1 and 10 of Schedule 8 to, the Criminal Justice and Immigration Act 2008 (c. 4).

- (d) amend the table of contents correspondingly; and
- (e) in rule 39.11 (Right to attend hearing)—
 - (i) at the end of paragraph (a) omit “or”,
 - (ii) renumber paragraph (b) as (c), and
 - (iii) after paragraph (a) insert—
 - “(b) it is the hearing of an appeal and the court directs that—
 - (i) the appeal involves a question of law alone, and
 - (ii) for that reason the appellant has no permission to attend; or”.

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

- (a) in rule 47.1 (When this Part applies), for “47.41, 47.45, 47.50 and 47.53” substitute “47.42, 47.46, 47.51 and 47.54”;
- (b) renumber rules 47.39 to 47.57 as rules 47.40 to 47.58 respectively;
- (c) after rule 47.38 (Application for an order under section 59 of the Criminal Justice and Police Act 2001) insert—

“Application containing information withheld from another party

47.39.—(1) This rule applies where—

- (a) an applicant serves an application to which rule 47.37 (Application for an order under section 1 of the Police (Property) Act 1897) or rule 47.38 (Application for an order under section 59 of the Criminal Justice and Police Act 2001) applies; and
- (b) the application includes information that the applicant thinks ought not be revealed to another party.

(2) The applicant must—

- (a) omit that information from the part of the application that is served on that other party;
- (b) mark the other part to show that, unless the court otherwise directs, it is only for the court; and
- (c) in that other part, explain why the applicant has withheld that information from that other party.

(3) If the court so directs, any hearing of an application to which this rule applies may be, wholly or in part, in the absence of a party from whom information has been withheld.

(4) At any hearing of an application to which this rule applies—

- (a) the general rule is that the court must consider, in the following sequence—
 - (i) representations first by the applicant and then by each other party, in all the parties’ presence, and then
 - (ii) further representations by the applicant, in the absence of a party from whom information has been withheld; but
- (b) the court may direct other arrangements for the hearing.”;

- (d) amend the table of contents correspondingly; and
- (e) in rule 47.40 as renumbered (Representations in response), after paragraph (3) insert—

“(4) Where representations include information that the person making them thinks ought not be revealed to another party, that person must—

- (a) omit that information from the representations served on that other party;
- (b) mark the information to show that, unless the court otherwise directs, it is only for the court; and
- (c) with that information include an explanation of why it has been withheld from that other party.”.

12. In Part 50 (Extradition)—

(a) in rule 50.1 (When this Part applies)—

(i) after paragraph (3) insert—

“(4) Section 4 of this Part applies to proceedings in a magistrates’ court under—

- (a) sections 54 and 55 of the Act (Request for consent to other offence being dealt with; Questions for decision at consent hearing);
- (b) sections 56 and 57 of the Act (Request for consent to further extradition to category 1 territory; Questions for decision at consent hearing).

(5) In this Part, and for the purposes of this Part in other rules—

- (a) ‘magistrates’ court’ means a District Judge (Magistrates’ Courts) exercising the powers to which Section 2 of this Part applies;
- (b) ‘presenting officer’ means an officer of the National Crime Agency, a police officer, a prosecutor or other person representing an authority or territory seeking the extradition of a defendant;
- (c) ‘defendant’ means a person arrested under Part 1 or Part 2 of the Extradition Act 2003.”,

(ii) in the first paragraph of the note to the rule, for “or was convicted” substitute “was convicted or is to serve a sentence”, and

(iii) after the third paragraph of the note to the rule insert—

“Under sections 67 and 139 of the Extradition Act 2003(5), a District Judge (Magistrates’ Courts) must be designated for the purposes of the Act to exercise the powers to which Section 2 of this Part applies.”;

(b) for rule 50.2 (Meaning of ‘magistrates’ court’, ‘presenting officer’ and ‘defendant’) substitute—

“Further objective in extradition proceedings

50.2. When exercising a power to which this Part applies, in furthering the overriding objective, in accordance with rule 1.3, the court must have regard to the importance of—

- (a) mutual confidence and recognition between judicial authorities in the United Kingdom and in requesting territories; and
- (b) the conduct of extradition proceedings in accordance with international obligations, including obligations to deal swiftly with extradition requests.”;

(c) for rule 50.3 (Exercise of magistrates’ court’s powers) substitute—

(5) 2003 c. 41; sections 67 and 139 were amended by section 15 of, and paragraphs 352 and 353 of Schedule 4 to, the Constitutional Reform Act 2005 (c. 4) and section 42 of, and paragraph 15 of Schedule 13 to, the Police and Justice Act 2006 (c. 48).

- “50.3.—(1) The general rule is that the magistrates’ court must exercise its powers at a hearing in public, but—
- (a) that is subject to any power the court has to—
 - (i) impose reporting restrictions,
 - (ii) withhold information from the public, or
 - (iii) order a hearing in private; and
 - (b) despite the general rule the court may, without a hearing—
 - (i) give any directions to which rule 50.4 applies (Case management in the magistrates’ court and duty of court officer), or
 - (ii) determine an application which these Rules allow to be determined by a magistrates’ court without a hearing in a case to which this Part does not apply.
- (2) If the court so directs, a party may attend by live link any hearing except an extradition hearing under rule 50.6 or 50.13.
- (3) Where the defendant is absent from a hearing—
- (a) the general rule is that the court must proceed as if the defendant—
 - (i) were present, and
 - (ii) opposed extradition on any ground of which the court has been made aware;
 - (b) the general rule does not apply if the defendant is under 18;
 - (c) the general rule is subject to the court being satisfied that—
 - (i) the defendant had reasonable notice of where and when the hearing would take place,
 - (ii) the defendant has been made aware that the hearing might proceed in his or her absence, and
 - (iii) there is no good reason for the defendant’s absence; and
 - (d) the general rule does not apply but the court may exercise its powers in the defendant’s absence where—
 - (i) the court discharges the defendant,
 - (ii) the defendant is represented and the defendant’s presence is impracticable by reason of his or her ill health or disorderly conduct, or
 - (iii) on an application under rule 50.32 (Application for consent to deal with another offence or for consent to further extradition), the defendant is represented or the defendant’s presence is impracticable by reason of his or her detention in the territory to which he or she has been extradited.
- (4) The court may exercise its power to adjourn—
- (a) if either party asks, or on its own initiative; and
 - (b) in particular—
 - (i) to allow there to be obtained information that the court requires,
 - (ii) following a provisional arrest under Part 1 of the Extradition Act 2003, pending receipt of the warrant,

- (iii) following a provisional arrest under Part 2 of the Act, pending receipt of the extradition request,
- (iv) if the court is informed that the defendant is serving a custodial sentence in the United Kingdom,
- (v) if it appears to the court that the defendant is not fit to be extradited, unless the court discharges the defendant for that reason,
- (vi) where a court dealing with a warrant to which Part 1 of the Act applies is informed that another such warrant has been received in the United Kingdom,
- (vii) where a court dealing with a warrant to which Part 1 of the Act applies is informed of a request for the temporary transfer of the defendant to the territory to which the defendant's extradition is sought, or a request for the defendant to speak to the authorities of that territory, or
- (viii) during a hearing to which rule 50.32 applies (Application for consent to deal with another offence or for consent to further extradition).

(5) The court must exercise its power to adjourn if informed that the defendant has been charged with an offence in the United Kingdom.

(6) The general rule is that, before exercising a power to which this Part applies, the court must give each party an opportunity to make representations, unless that party is absent without good reason.

(7) The court may—

- (a) shorten a time limit or extend it (even after it has expired), unless that is inconsistent with other legislation;
- (b) direct that a notice or application be served on any person;
- (c) allow a notice or application to be in a different form to one set out in the Practice Direction, or to be presented orally.

(8) A party who wants an extension of time within which to serve a notice or make an application must—

- (a) apply for that extension of time when serving that notice or making that application; and
- (b) give the reasons for the application for an extension of time.

[Note. See sections 8A, 8B, 9, 21B, 22, 23, 25 and 44 of the Extradition Act 2003(6) (powers in relation to extradition under Part 1 of the Act) and sections 76A, 76B, 77, 88, 89 and 91 of the Act(7) (powers in relation to extradition under Part 2 of the Act). Under sections 9 and 77 of the Act, at the extradition hearing the court has the same powers (as nearly as may be) as a magistrates' court would have if the proceedings were the summary trial of an information against the defendant: see also rule 24.12(3) (Trial and sentence in a magistrates' court; procedure where the defendant is absent).

(6) 2003 c. 41; sections 8A and 8B were inserted by section 69 of the Policing and Crime Act 2009 (c. 26). Sections 9 and 44 were amended by paragraph 16 of Schedule 13 to the Police and Justice Act 2006 (c. 48). section 21B was inserted by section 159 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12). Section 22 was amended by section 71 of the Policing and Crime Act 2009 (c. 26). Section 23 was amended by paragraph 7 of Schedule 13 to the Police and Justice Act 2006 (c. 48) and section 71 of the Policing and Crime Act 2009 (c. 26).

(7) 2003 c. 41; sections 76A and 76B were inserted by section 70 of the Policing and Crime Act 2009 (c. 26). Section 77 was amended by paragraph 16 of Schedule 13 to the Police and Justice Act 2006 (c. 48). Section 88 was amended by section 71 of the Policing and Crime Act 2009 (c. 26). Section 89 was amended by paragraph 7 of Schedule 13 to the Police and Justice Act 2006 (c. 48) and section 71 of the Policing and Crime Act 2009 (c. 26).

Under sections 206A to 206C of the 2003 Act⁽⁸⁾, the court may require a defendant to attend by live link a preliminary hearing to which rule 50.5, 50.9 or 50.11 applies, any hearing for the purposes of rule 50.12 and the hearing to which rule 50.32 applies.

Part 6 contains rules about reporting and access restrictions.

Part 14 contains rules about bail. Rules 14.2(3) and 14.7(7)(c) allow an application to be determined without a hearing in the circumstances to which those rules apply.

The principal time limits are prescribed by the Extradition Act 2003: see rule 50.16.J”;

(d) for rule 50.4 (Duty of magistrates’ court officer) substitute—

“Case management in the magistrates’ court and duty of court officer

50.4.—(1) The magistrates’ court and the parties have the same duties and powers as under Part 3 (Case management), subject to—

- (a) rule 50.2 (Further objective in extradition proceedings); and
- (b) paragraph (2) of this rule.

(2) Rule 3.6 (Application to vary a direction) does not apply to a decision to extradite or discharge.

(3) Where this rule applies, active case management by the court includes—

- (a) if the court requires information from the authorities in the requesting territory—
 - (i) nominating a court officer, the designated authority which certified the arrest warrant where Part 1 of the Extradition Act 2003 Act applies, a party or other person to convey that request to those authorities, and
 - (ii) in a case in which the terms of that request need to be prepared in accordance with directions by the court, giving such directions accordingly;
- (b) giving such directions as are required where, under section 21B of the Extradition Act 2003⁽⁹⁾, the parties agree—
 - (i) to the temporary transfer of the defendant to the requesting territory, or
 - (ii) that the defendant should speak with representatives of an authority in that territory.

(4) Where this rule applies, active assistance by the parties includes—

- (a) applying for any direction needed as soon as reasonably practicable;
- (b) concisely explaining the reasons for any application for the court to direct—
 - (i) the preparation of a request to which paragraph (3)(a) applies,
 - (ii) the making of arrangements to which paragraph (3)(b) applies.

(5) The court officer must—

- (a) as soon as practicable, serve notice of the court’s decision to extradite or discharge—

⁽⁸⁾ 2003 c. 41; sections 206A, 206B and 206C were inserted by section 78 of the Policing and Crime Act 2009 (c. 26).

⁽⁹⁾ 2003 c. 41; section 21B was inserted by section 159 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12).

- (i) on the defendant,
 - (ii) on the designated authority which certified the arrest warrant, where Part 1 of the 2003 Act applies,
 - (iii) on the Secretary of State, where Part 2 of the Act applies; and
- (b) give the court such assistance as it requires.

[Note. Part 3 contains rules about case management which apply at an extradition hearing and during preparation for that hearing. This rule must be read in conjunction with those rules.

Under section 21B of the Extradition Act 2003 (Request for temporary transfer etc.), where Part 1 of the Act applies, and in the circumstances described in that section, the parties may agree to the defendant's temporary transfer to the requesting territory, or may agree that the defendant will speak to representatives of an investigating, prosecuting or judicial authority in that territory. On the making by a party of a request to such effect the court must if necessary adjourn the proceedings for 7 days while the other party considers it. If the parties then agree to proceed with the proposed transfer or discussion the court must adjourn the proceedings for however long seems necessary.]”;

- (e) in rule 50.5 (Extradition under Part 1 of the Extradition Act 2003: Preliminary hearing after arrest)—
 - (i) in paragraph (4)(c) for “arrange” substitute “give directions”, and
 - (ii) for paragraph (4)(e) substitute—
 - “(e) give such directions as are required for the preparation and conduct of the extradition hearing.”;
- (f) in rule 50.6 (Extradition under Part 1 of the Extradition Act 2003: Extradition hearing), in paragraph (1) for “arranged by the court” substitute “directed”;
- (g) in rule 50.9 (Extradition under Part 2 of the Extradition Act 2003: Preliminary hearing after arrest)—
 - (i) in paragraph (2)(b) for “arrange” substitute “give directions”, and
 - (ii) for paragraph (2)(d) substitute—
 - “(d) give such directions as are required for the preparation and conduct of the extradition hearing.”;
- (h) in rule 50.10 (Issue of provisional arrest warrant), for paragraph (2)(a) substitute—
 - “(a) serve an information on the court officer; and”;
- (i) in rule 50.12 (Arrangement of extradition hearing after provisional arrest)—
 - (i) in paragraph (2)(a) for “arrange” substitute “give directions”, and
 - (ii) for paragraph (2)(c) substitute—
 - “(c) give such directions as are required for the preparation and conduct of the extradition hearing.”;
- (j) in rule 50.13 (Extradition under Part 2 of the Extradition Act 2003: Extradition hearing)—
 - (i) in paragraph (1) for “arranged by the court” substitute “directed”, and
 - (ii) in the note to the rule omit “103, 118A, 118B,”;
- (k) in rule 50.16 (Defendant’s application to be discharged), for paragraph (2)(a) substitute—
 - “(a) such a defendant must apply in writing and serve the application on—

- (i) the magistrates' court officer,
 - (ii) the High Court officer, where paragraph (1)(b)(v) applies, and
 - (iii) the prosecutor;”;
- (l) in rule 50.17 (Exercise of the High Court's powers)—
 - (i) for paragraph (1)(b) substitute—
 - “(b) despite the general rule, the court may determine without a hearing—
 - (i) an application for the court to consider out of time an application for permission to appeal to the High Court,
 - (ii) an application for permission to appeal to the High Court (but a renewed such application must be determined at a hearing),
 - (iii) an application for permission to appeal from the High Court to the Supreme Court,
 - (iv) an application for permission to reopen a decision under rule 50.27 (Reopening the determination of an appeal), or
 - (v) an application concerning bail; and”,
 - (ii) for paragraph (1)(c) substitute—
 - “(c) despite the general rule the court may, without a hearing—
 - (i) give case management directions,
 - (ii) reject a notice or application and, if applicable, dismiss an application for permission to appeal, where rule 50.31 (Payment of High Court fees) applies and the party who served the notice or application fails to comply with that rule, or
 - (iii) make a determination to which the parties have agreed in writing.”,
 - and
 - (iii) for paragraph (4) substitute—
 - “(4) If the High Court gives permission to appeal to the High Court—
 - (a) unless the court otherwise directs, the decision indicates that the appellant has permission to appeal on every ground identified by the appeal notice;
 - (b) unless the court otherwise directs, the decision indicates that the court finds reasonably arguable each ground on which the appellant has permission to appeal; and
 - (c) the court must give such directions as are required for the preparation and conduct of the appeal, including a direction as to whether the appeal must be heard by a single judge of the High Court or by a divisional court.”;
- (m) in rule 50.18 (Case management in the High Court), for paragraph (1) substitute—
 - “(1) The High Court and the parties have the same duties and powers as under Part 3 (Case management), subject to—
 - (a) rule 50.2 (Further objective in extradition proceedings); and
 - (b) paragraph (3) of this rule.”;
- (n) in rule 50.20 (Form of appeal notice), for paragraph (4)(a) substitute—
 - “(a) the notice must—
 - (i) explain what the defendant did to ensure that it was served as soon as it could be, and

- (ii) include or attach such evidence as the defendant relies upon to support that explanation; and”;
- (o) for rule 50.22 (Renewing an application for permission to appeal) substitute—

“Renewing an application for permission to appeal, restoring excluded grounds, etc.

50.22.—(1) This rule—

- (a) applies where the High Court—
 - (i) refuses permission to appeal to the High Court, or
 - (ii) gives permission to appeal to the High Court but not on every ground identified by the appeal notice;
- (b) does not apply where—
 - (i) a defendant applies out of time for permission to appeal to the High Court, and
 - (ii) the court for that reason refuses to consider that application.

(2) Unless the court refuses permission to appeal at a hearing, the appellant may renew the application for permission by serving notice on—

- (a) the High Court officer;
- (b) the respondent; and
- (c) any other person on whom the appellant served the appeal notice,

not more than 5 business days after service of notice of the court’s decision on the appellant.

(3) If the court refuses permission to appeal, the renewal notice must explain the grounds for the renewal.

(4) If the court gives permission to appeal but not on every ground identified by the appeal notice the decision indicates that—

- (a) at the hearing of the appeal the court will not consider representations that address any ground thus excluded from argument; and
- (b) an appellant who wants to rely on such an excluded ground needs the court’s permission to do so.

(5) An appellant who wants to rely at the hearing of an appeal on a ground of appeal excluded from argument must—

- (a) apply in writing, with reasons, and identify each such ground;
- (b) serve the application on—
 - (i) the High Court officer, and
 - (ii) the respondent;
- (c) serve the application not more than 5 business days after—
 - (i) the giving of permission to appeal, or
 - (ii) the High Court officer serves notice of that decision on the applicant, if the applicant was not present in person or by live link when permission to appeal was given.

(6) Paragraph (7) applies where a party wants to abandon—

- (a) a ground of appeal on which that party has permission to appeal; or

(b) a ground of opposition identified in a respondent's notice.

(7) Such a party must serve notice on—

(a) the High Court officer; and

(b) each other party,

before any hearing at which that ground will be considered by the court.

[Note. Under rule 50.17 (Exercise of the High Court's powers), the High Court may extend or shorten the time limits under this rule.

Rule 50.19 (Service of appeal notice) and the note to that rule set out the time limits for appeal.]”;

(p) for rule 50.24 (Discontinuing an appeal) substitute—

“Early termination of appeal: order by consent, etc.

50.24.—(1) This rule applies where—

(a) an appellant has served an appeal notice under rule 50.19; and

(b) the High Court—

(i) has not determined the application for permission to appeal, or

(ii) where the court has given permission to appeal, has not determined the appeal.

(2) Where the warrant or extradition request with which the appeal is concerned is withdrawn—

(a) the party or person so informing the court must serve on the High Court officer—

(i) notice to that effect by the authority or territory requesting the defendant's extradition,

(ii) details of how much of the warrant or extradition request remains outstanding, if any, and of any other warrant or extradition request outstanding in respect of the defendant,

(iii) details of any bail condition to which the defendant is subject, if the defendant is on bail, and

(iv) details sufficient to locate the defendant, including details of the custodian and of the defendant's date of birth and custody reference, if the defendant is in custody; and

(b) paragraph (5) applies but only to the extent that the parties want the court to deal with an ancillary matter.

(3) Where a defendant with whose discharge the appeal is concerned consents to extradition, paragraph (5) applies but only to the extent that the parties want the court to—

(a) give directions for that consent to be given to the magistrates' court or to the Secretary of State, as the case may be;

(b) deal with an ancillary matter.

(4) Paragraph (5) applies where the parties want the court to make a decision on which they are agreed—

(a) determining the application for permission to appeal or the appeal, as the case may be;

- (b) specifying the date on which that application or appeal is to be treated as discontinued; and
 - (c) determining an ancillary matter, including costs, if applicable.
- (5) The parties must serve on the High Court officer, in one or more documents

-
- (a) a draft order in the terms proposed;
 - (b) evidence of each party’s agreement to those terms; and
 - (c) concise reasons for the request that the court make the proposed order.

[Note. Under sections 42 and 124 of the Extradition Act 2003(10), where an appeal is pending in the High Court and the court is informed that the relevant warrant or extradition request has been withdrawn the court must—

- (a) *order the defendant’s discharge and quash the extradition order or decision, where the defendant has appealed against extradition;*
- (b) *dismiss the application for permission to appeal or the appeal, as the case may be, where the authority or territory requesting the defendant’s extradition has appealed against the defendant’s discharge.*

Under sections 45 and 127 of the 2003 Act(11), a defendant in respect of whom no extradition order or decision has been made may give consent to extradition in the magistrates’ court, or may give such consent to the Secretary of State if the case has been sent there.

Where the effect of the High Court’s decision is that the defendant is to be extradited, sections 36 and 118 of the Act(12) set time limits for extradition after the end of the case.

Part 45 contains rules about costs.]”;

- (q) in rule 50.25 (Application for permission to appeal to the Supreme Court), in paragraph (3) (b) omit “written”;
- (r) in rule 50.29 (Duties of court officers), for paragraph (3)(d) substitute—
 - “(d) where rule 50.24 applies (Early termination of appeal: order by consent, etc.), arrange for the High Court to consider the document or documents served under that rule;”;
- (s) in rule 50.30 (Constitution of the High Court), in paragraph (2) for “paragraph (1)(b), (d) or (e)” substitute “paragraph (1)(a), (b), (d) or (e)”;
- (t) after rule 50.31 (Payment of High Court fees) insert—

“SECTION 4: POST-EXTRADITION PROCEEDINGS

Application for consent to deal with another offence or for consent to further extradition

50.32.—(1) This rule applies where—

(10) 2003 c. 41; sections 42 and 124 were amended by article 3 of S.I. 2015/992.
(11) 2003 c. 41; sections 45 was amended by section 39 of, and paragraphs 62 and 63 of Schedule 5 to, the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10) and section 163 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12). Section 127 was amended by section 39 of, and paragraphs 62 and 64 of Schedule 5 to, the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).
(12) 2003 c. 41; sections 36 and 118 were amended by section 40 of, and paragraph 81 of Schedule 9 to, the Constitutional Reform Act 2005 (c. 4).

- (a) a defendant has been extradited to a territory under Part 1 of the Extradition Act 2003(13); and
 - (b) the court officer receives from the authority designated by the Secretary of State a request for the court's consent to—
 - (i) the defendant being dealt with in that territory for an offence other than one in respect of which the extradition there took place, or
 - (ii) the defendant's further extradition from there to another such territory for an offence.
- (2) The presenting officer must serve on the court officer—
- (a) the request; and
 - (b) a certificate given by the designated authority that the request was made by a judicial authority with the function of making such requests in the territory to which the defendant was extradited.
- (3) The court must—
- (a) give directions for service by a party or other person on the defendant of notice that the request for consent has been received, unless satisfied that it would not be practicable for such notice to be served;
 - (b) give directions for a hearing to consider the request to begin—
 - (i) no more than 21 days after the request was received by the designated authority, or
 - (ii) at such a later date as the court decides is in the interests of justice; and
 - (c) give such directions as are required for the preparation and conduct of that hearing.
- (4) At the hearing directed under paragraph (3), in the following sequence the court must decide—
- (a) whether the consent requested is required, having regard to—
 - (i) any opportunity given for the defendant to leave the requesting territory after extradition which the defendant did not take within 45 days of arrival there,
 - (ii) if the defendant did not take such an opportunity, any requirements for consent imposed by the law of the requesting territory or by arrangements between that territory and the United Kingdom where the request is for consent to deal with the defendant in that territory for another offence,
 - (iii) if the defendant did not take such an opportunity, any requirements for consent imposed by arrangements between the requesting territory and the United Kingdom where the request is for consent to extradite the defendant to another territory for an offence;
 - (b) if such consent is required, then—
 - (i) whether the offence in respect of which consent is requested is an extradition offence, and

(ii) if it is, whether the court would order the defendant's extradition under sections 11 to 25 of the Extradition Act 2003 (bars to extradition and other considerations) were the defendant in the United Kingdom and the court was considering extradition for that offence.

(5) The court must give directions for notice of its decision to be conveyed to the authority which made the request.

(6) Rules 50.3 (Exercise of magistrates' court's powers) and 50.4 (Case management in the magistrates' court and duty of court officer) apply on an application under this rule.

[Note. See sections 54, 55, 56 and 57 of the Extradition Act 2003(14).]"; and

(u) amend the table of contents correspondingly.

*Thomas of Cwmgiedd, C.J.
Rafferty, L.J.
Leveson, P.
Openshaw, J.
Martin Picton
Martin Edmunds
Michael Snow
Louise Bryant
Nicola Hewer
Siân Jones
Alison Saunders
Alison Pople
Nathaniel Rudolf
Paul Harris
Simon Byrne
David Kenyon
Jodie Blackstock*

I allow these Rules, which shall come into force on 3rd April 2017.

10th February 2017

Elizabeth Truss
Lord Chancellor

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Criminal Procedure Rules 2015, [S.I. 2015/1490](#), as follows:

Rule	Amendment
Part 8	A new rule 8.4 is added to require a magistrates' court to allow the defendant sufficient time to consider prosecution information not previously served or made available.
Part 14	Rule 14.2 is amended to require the court, when considering bail, to allow the defendant sufficient time to consider information provided by the prosecutor, and to give itself sufficient time to consider the parties' representations and come to a reasoned conclusion. Rule 14.5 is amended to make it explicit that prosecution information submitted to the court in bail proceedings must be provided to the defendant, too.
Part 30	Rule 30.3 is amended to remove the obligation to give the defendant a receipt for the payment of a fine, etc. where the method chosen to pay generates an independent record of the transaction.
Part 31	Labour market enforcement orders are added to the list of orders which the Part accommodates. Rule 31.3 is amended to require service of a draft restraining order where the prosecutor proposes such an order.
Part 33	Each of rules 33.15, 33.16 and 33.17 is amended to provide for the determination of an application by means of a consent order.
Part 34	Rule 34.11 is amended to remove the requirement for the constitution of the Crown Court to include both a man and a woman on an appeal from a youth court.
Part 36	Rule 36.14 is amended to provide for the exclusion and reinstatement of grounds of appeal.
Part 39	Rule 39.7 is amended to provide for the introduction of evidence in the Court of Appeal and for the questioning of a witness by an examiner on the court's behalf, with consequential amendments to rules 39.3 and 39.6. Rule 39.11 is

Rule	Amendment
	amended to complete the list of circumstances in which an appellant who is in custody has no right to attend proceedings in the Court of Appeal.
Part 47	A new rule 47.39 is added to provide for the submission to the court of information not served on the other party to an application for the retention or return of property. Consequential amendments are made to the content and numbering of some other rules in the Part.
Part 50	Amendments to twenty rules in the Part are made to provide for (i) a further objective in extradition proceedings, (ii) the conduct of some proceedings without a hearing in the magistrates' court, (iii) proceedings in a defendant's absence in the magistrates' court, (iv) case management in the magistrates' court, (v) the procedure on an application to appeal out of time to the High Court, (vi) the making of a consent order without a hearing in the High Court, (vii) the exclusion and reinstatement of grounds of appeal to the High Court, (viii) notices and consent orders that conclude proceedings in the High Court, (ix) proceedings on post-extradition requests for the court's consent to prosecution for other offences in the requesting state or for extradition from that state to a third state, and (x) changes consequential on all those others and changes to make consistent the expression of rules and to omit superfluous instances of the word 'written'.

These Rules come into force on 3rd April 2017.