

A GUIDE TO THE CRIMINAL PROCEDURE (AMENDMENT) RULES 2025 (S.I. 2025/60)

Where to find the new rules

The Criminal Procedure (Amendment) Rules 2025 are at this address:

<https://www.legislation.gov.uk/ukxi/2025/60/contents/made>.

When the Rules come into force, the changes they make will appear at these addresses, too:

<https://www.gov.uk/guidance/rules-and-practice-directions-2020>

<https://www.legislation.gov.uk/ukxi/2020/759/contents>

What the new rules are for

The new rules amend the Criminal Procedure Rules 2020. They:

- (a) clarify the procedure on an application for a court order requiring a bank to allow a party to a criminal case to inspect and copy bank records.
- (b) clarify reference to a particular type of hearsay evidence in the rules about the introduction of such evidence.
- (c) clarify reference to the power of a magistrates' court to reduce the amount of a fine or to vary the payment terms.
- (d) amend the time limit for prosecution appeal against a judge's ruling in the Crown Court.
- (e) in connection with confiscation of the proceeds of crime, extend to receivership proceedings the same rules about the making of costs orders as presently apply to restraint proceedings.
- (f) clarify the rules about procedure in the event of contempt of court by obstruction, disruption or insulting or intimidating behaviour in a courtroom or in its vicinity.
- (g) correct two errors in the Criminal Procedure Rules, and amend the Criminal Procedure (Amendment No. 2) Rules 2024, S.I. 2024 No. 842, to correct amendments to the 2020 Rules yet to come into force.

When the new rules come into force

The changes to the Criminal Procedure Rules made by these rules come into force on 7 April 2025, except for the corrections which come into force on 24 February 2025.

What is in the new rules

Application for order to inspect and copy bank records

Under section 7 of the Bankers' Books Evidence Act 1879 a party to legal proceedings can apply to the court for an order allowing that party to inspect and take copies of entries in bank records for any of the purposes of those proceedings. Where the proceedings are in a criminal case, relevant procedure rules are in Part 17 of the Criminal Procedure Rules. However, in criminal cases there are few applications for 1879 Act orders because (i) evidence from bank records is likely to have been obtained by a public authority investigator under one of the powers to which Part 47 of the Criminal Procedure Rules applies (Investigation orders and warrants), (ii) that evidence is likely then to be introduced as part of the prosecution case, and (iii) records of banking transactions carried out by a defendant can be obtained by that defendant without a court order as a customer of the bank. Sometimes, however, an 1879 Act order may be needed by a defendant, or by a prosecutor who is not a public authority.

In the case of *R (Abbasi) v Crown Court at Southwark*¹ the Court of Appeal dealt with a case in which a private prosecutor had obtained evidence from bank records by issuing a witness summons, leading to legal argument in the Crown Court and then the High Court. The case was brought to the attention of the Rule Committee to whom it seemed that an application for an 1879 Act order might have made much of the argument irrelevant. The Committee decided to amend rules in Part 17 more clearly to reference and to supplement the Act.

Reference to hearsay evidence of which advance notice is required

Chapter 2 of Part 11 of the Criminal Justice Act 2003 provides for hearsay evidence, which the Act defines as “a statement not made in oral evidence in the proceedings”. Under section 115 of the Act, “statement” means any representation of fact or opinion. The Act lists circumstances in which hearsay evidence will be admissible in a criminal case. One circumstance, under section 117 of the Act, applies where a statement is contained in a document which was created or received by a person in the course of a trade, business, profession or other occupation, and the person who supplied the information contained in the statement had or may reasonably be supposed to have had personal knowledge of the matters dealt with. Under that section other requirements apply if the statement concerned was prepared specifically for the purposes of pending or contemplated criminal proceedings, or for a criminal investigation. Prompted by a judgment of the Court of Appeal about a case in which a witness who had given a written statement to the police then had gone abroad, in 2012 the Rule Committee included that sort of hearsay evidence in the list of evidence of which the Criminal Procedure Rules require advance notice under rule 20.2.

It was suggested to the Committee that rule 20.2(1)(c) misdescribes the evidence of which that requires notice when it lists “evidence in a statement prepared for the purposes of criminal proceedings”, because the word “statement” in that rule could mean either the type of statement defined by the Act or the type of written witness statement routinely used in criminal cases. In the Committee’s opinion the Act, too, is ambiguous in that respect. However, the Committee agreed that if the present description caused confusion then the rule should be changed to read (omitting two words) “a statement prepared for the purposes of criminal proceedings”.

Variation of fines, etc.

By section 85 of the Magistrates’ Courts Act 1980, “Where a fine has been imposed on conviction of an offender by a magistrates’ court, the court may at any time remit the whole or any part of the fine, but only if it thinks it just to do so having regard to a change of circumstances”. A magistrates’ court also has other powers to change the amount of a fine, and to vary the time for payment of a fine or of a criminal courts charge (which is a charge in respect of court costs levied under the Sentencing Act 2020). Rule 30.5 of the Criminal Procedure Rules supplies a procedure for the exercise of those powers. In some cases, however, where the court has made what is called a “collection order” under the Courts Act 2003, the court’s power to vary the time for payment is displaced by the power of a fines officer to do so under the 2003 Act.

It was suggested to the Rule Committee that rule 30.5 of the Criminal Procedure Rules misdescribes the powers that the court is unable to exercise where a collection order is in force. The Committee agreed to clarify the rule.

Prosecution appeal against Crown Court ruling

Section 58 of the Criminal Justice Act 2003 allows the prosecutor to appeal to the Court of Appeal against a ruling in the Crown Court, with the permission of the Crown Court judge or of the Court of Appeal. The ruling, and any prosecution appeal, may take place during a trial. It is important, therefore, that the appeal should be made and decided quickly. Part 38 of the Criminal Procedure Rules supplies the procedure. Rule 38.2 requires the prosecutor to tell the Crown Court judge of any decision to appeal immediately after the ruling against which

¹ <https://caselaw.nationalarchives.gov.uk/ewhc/admin/2024/1781>; judgment of 15th July, 2024.

the prosecutor wants to appeal, or on expiry of the time allowed by the judge, which time is limited by the rule. If the prosecutor wants to ask the Crown Court judge for permission to appeal, rule 38.5 requires the prosecutor to do that immediately after the ruling, too.

In the case of *R v Ng and O'Reilly*² the Court of Appeal dealt with a case in which a prosecution had been dismissed because prosecuting counsel had been unable to attend court on the date on which the case was listed for trial. The prosecutor appealed and the appeal was allowed, so the prosecution could continue. The Court of Appeal added, "When refusing an adjournment in circumstances where that will be a terminating ruling, the court must take steps to ensure that the prosecution is able to consider an appeal to this court. Necessarily, there will be no trial advocate present in cases of this kind, and fairness requires that the refusal is communicated to the prosecution in such a way that it can either give notice of its intention to appeal immediately after the ruling, or to seek an adjournment to allow it to consider doing so as required by CrimPR 38.2."

In response to that judgment the Rule Committee decided that rules 38.2 and 38.5 should allow for circumstances in which a ruling is made in the prosecutor's absence by providing explicitly that the prosecutor must have become aware of that ruling before the requirement to act immediately will apply. These rules make those amendments.

Costs orders in receivership proceedings

The Proceeds of Crime Act 2002 allows the Crown Court to order the confiscation of property held by a convicted defendant up to the value of the defendant's financial benefit from their crime or crimes. Where it seems likely that a defendant has benefited from crime then the Act allows the Crown Court to make a restraint order that prevents any dealing with property to which the order applies. To facilitate the enforcement of a confiscation order or a restraint order, the Act allows the Crown Court to appoint a receiver with power, among other things, to take possession of property, deal with it and collect the proceeds of its sale. In November, 2021, the Law Commission published a report that recommended changes to the law and procedure about confiscation and restraint orders.³ Some of the Commission's recommendations were addressed to the Rule Committee.⁴ In response to recommendation 92, and among other relevant rule changes made last year, the Committee amended the rule about orders for the payment of legal costs by one party to the other in restraint proceedings: see now rule 45.7(6) of the Criminal Procedure Rules⁵, which was amended by rule 11 of the Criminal Procedure (Amendment) Rules 2024.⁶ The rule now corresponds more closely with comparable statutory provisions that govern costs orders in unexplained wealth order proceedings.⁷

The Rule Committee was asked by the Home Office, the Crown Prosecution Service and the Serious Fraud Office to apply the amended costs rule to receivership proceedings as well as to restraint proceedings. The Committee agreed and these Rules amend rules 45.2 and 45.7 of the Criminal Procedure Rules for that reason.

Contempt of court

Obstructive, disruptive, insulting or intimidating behaviour in or near a courtroom is recognised as a type of contempt of court, as well as the conduct prohibited by the six statutory provisions listed in rule 48.5(1) of the Criminal Procedure Rules. Rules 48.5 to 48.8 of the Criminal Procedure Rules supply the procedure that a court must follow in the event of what appears to be that sort of contempt. Such conduct may affect directly the member or members of the court itself but the court's response must remain measured and impartial. The court must follow rules in Part 48 which since 2011 have incorporated long-established

² <https://caselaw.nationalarchives.gov.uk/ewca/crim/2024/493>; judgment of 9th May, 2024.

³ <https://www.lawcom.gov.uk/project/confiscation-under-part-2-of-the-proceeds-of-crime-act-2002/>.

⁴ Numbers 10, 11, 12, 13, 14, 15, 20, 33, 45, 48, 55, 90 and 92.

⁵ <https://www.legislation.gov.uk/uksi/2020/759/rule/45.7>.

⁶ <https://www.legislation.gov.uk/uksi/2024/62/rule/11/made#rule-11-c-vi>.

⁷ <https://www.legislation.gov.uk/ukpga/2002/29/section/362U>.

case law on achieving the twin objectives of prompt and effective action and fair trial for the alleged contemnor.

It was reported to the Committee that some judges and other legal practitioners now found the procedure set out in Part 48 difficult to reconcile with more recent guidance. The Committee reviewed the rules, taking into account the recent judgment of the Court of Appeal in *R v John Jordan*⁸ and the recently published consultation by the Law Commission on contempt of court, and decided to adjust them. These Rules amend rules in Part 48 for that reason. Rule 48.2 is amended to require the publication of any decision to punish for contempt of court. The procedure set out in rules 48.5 to 48.8, and in the first of those rules especially, is clarified.

Criminal Procedure Rule Committee secretariat
4 February 2025

⁸ <https://caselaw.nationalarchives.gov.uk/ewca/crim/2024/229>; judgment of 12th March, 2024.