

A GUIDE TO THE CRIMINAL PROCEDURE (AMENDMENT) RULES 2026 (S.I. 2026/47)

Where to find the new rules

The Criminal Procedure (Amendment) Rules 2026 are at this address:

<https://www.legislation.gov.uk/ksi/2026/47/contents/made>

When these Amendment Rules come into force the changes they make will be included in the [Criminal Procedure Rules 2025](#) and in the copies of the Criminal Procedure Rules published on the [Criminal Procedure Rules 2025 and Practice Directions 2023 page](#), too.

What the new rules are for

The new rules amend the Criminal Procedure Rules 2025. They:

- (a) adopt from case law a description of the open justice principle, as that applies to the supply of information from court records.
- (b) substitute a time limit in business days for the time limit for serving a draft indictment at the direction of the Court of Appeal.
- (c) substitute a time limit for the service of an objection to the admissibility of a written witness statement, to ensure the compatibility of that time limit with section 9(2A) of the Criminal Justice Act 1967 in all circumstances.
- (d) clarify the availability of a magistrates' court's power to remit a fine or to vary the payment terms, to ensure the compatibility of the rule with sections 75 and 85 of the Magistrates' Courts Act 1980 and paragraphs 12 and 22 of Schedule 5 to the Courts Act 2003.
- (e) rearrange and clarify the rules about behaviour orders in Part 31 of the Criminal Procedure Rules.
- (f) clarify the application of rules about judicial approval of authorisations for the exercise of some powers under the Regulation of Investigatory Powers Act 2000.
- (g) correct errors in the Criminal Procedure Rules 2025 identified by the Parliamentary Joint Committee on Statutory Instruments and by the Criminal Procedure Rule Committee.

When the new rules come into force

The changes to the Criminal Procedure Rules made by these rules come into force on 6 April 2026, except for the corrections which come into force on 23 February 2026.

What is in the new rules

Application of the open justice principle

Rule 5.7 of the Criminal Procedure Rules requires that, "Where rules 5.8, 5.9, 5.10 and 5.11 apply, as well as furthering the overriding objective in accordance with rules 1.2 and 1.3 the court officer and the court must have regard to the importance of (a) dealing with criminal cases in public; (b) allowing a public hearing to be reported to the public; and (c) the rights of a person affected by a direction or order made, or warrant issued, by the court to understand why that decision was made. In rules 5.10 and 5.11 this requirement is called 'the open justice principle'." Rules 5.8 and 5.9 require court staff to supply specified information from court records on request to members of the public and to parties to a case. Where those rules do not require staff to supply information then the request is referred to a judge or magistrate for consideration under rule 5.10.

Substantially the same principle of open justice applies also in other courts. The recent judgment of the Court of Appeal in *In re HMP* [2025] EWCA Civ 824¹ concerned a decision of the family court. The judgment explained the purpose of the open justice principle as that

¹ <https://caselaw.nationalarchives.gov.uk/ewca/civ/2025/824>.

applies to access to information in court records, and did so in terms which the Rule Committee decided it would be helpful to include in the note to rule 5.10; for ready reference by those requesting information and by courts asked to determine such requests.

Time limits for (i) serving a draft indictment and (ii) objecting to a written witness statement

Rule 2.2(1) of the Criminal Procedure Rules defines 'business day' as meaning any day except Saturday, Sunday, Christmas Day, Boxing Day, Good Friday, Easter Monday or a bank holiday. That allows for the imposition of a short, but realistically short and fair, time limit for the service of a document without requiring separate provision each time for the potential effect of a weekend or public holiday. In the Criminal Procedure Rules 2020 time limits set by the Rules were converted to periods expressed in business days. Time limits set by legislation other than Criminal Procedure Rules were not converted to business days if to do so would have been incompatible with that other legislation.

In 2020 the time limit set by rule 10.8 of the Criminal Procedure Rules (Draft indictment served by the prosecutor at the direction of the Court of Appeal) was overlooked and remains 28 days, not 20 business days. Each of those periods is the equivalent of 4 weeks, but 20 business days means that weekends and any public holiday during that period do not count towards the time limit. The omission was recently drawn to the Rule Committee's attention. For consistency with other Criminal Procedure Rules, and in particular rules 10.4 and 10.5 about service of a draft indictment in other circumstances, each of which sets a time limit of 20 business days, the Rule Committee agreed to amend rule 10.8.

Section 9 of the Criminal Justice Act 1967 allows the prosecutor and defendant in a criminal case to rely on a witness's evidence given in a written statement as long as, among other things, "none of the other parties or their solicitors, within the relevant period, serves a notice ... objecting to the statement being tendered in evidence under this section". The "relevant period" is defined by the Act as "such number of days, which may not be less than seven, from the service of the copy of the statement as may be prescribed by Criminal Procedure Rules". Under the Criminal Procedure Rules, a party served with a written witness statement who objects to its introduction in evidence must serve a notice of any objection not more than 5 business days (the equivalent of a week) after service of the statement unless, among other things, the court extends that time limit, before or after the statement was served. In practice, the court will set a timetable for the service of written statements, and for any objection, which allows for a longer period than the minimum and is appropriate to the individual case.

In most circumstances, 5 business days will be exactly the same as 7 days. Moreover, the rules about service of documents in Part 4 of the Criminal Procedure Rules mean that the only way in which a time limit of 7 days in which to object to a written statement could be longer than 5 business days would be where the statement was delivered to the recipient by handing it to them personally on a Saturday or Sunday, an event which in practice is very unlikely to occur. But if that happened, and if the court had not already extended the time limit for objection and if the court refused to extend the time limit after the event by the one or two days required, then in those circumstances the time limit imposed by the rule would be shorter than the time limit required by section 9 of the Criminal Justice Act 1967. The Parliamentary Joint Committee on Statutory Instruments noticed that possibility and doubted the validity of the time limit in the rule, so the Rule Committee changed it to 7 business days.

Magistrates' courts' power to remit a fine

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 all those powers.

However, where the court has made a collection order under the Courts Act 2003 the court's power to vary the time for payment then 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 misdescribed the powers that the court is unable to exercise where a collection order is in force. The Committee agreed to clarify the rule.

Applications and proposals for behaviour orders

Part 31 of the Criminal Procedure Rules is headed "Behaviour orders" and rule 31.1 presently begins, "This Part applies where a magistrates' court or the Crown Court can (a) make, vary, renew, discharge or revoke a civil order (i) as well as, or instead of, passing a sentence, or in any other circumstances in which other legislation allows the court to make such an order, and (ii) that requires the defendant to do, or not do, something". The rules in Part 31 were first made in 2008. They apply to all present and any future statutory behaviour orders. A note to current rule 31.1 lists the existing statutory provisions to which those rules apply. Some require an application before the court can make an order, others do not. Most are available only if the defendant is convicted, but some are available on acquittal or in other circumstances. The court can give a special measures direction to support a witness in some cases but not others. Moreover, some orders can be made in civil proceedings to which criminal procedure rules do not apply.

The differences between the many statutory provisions can cause confusion. While reviewing the capacity of present Criminal Procedure Rules to accommodate provision for more behaviour orders in proposed legislation now under consideration by Parliament, the Rule Committee decided substantially to revise the description of the scope of Part 31 in rule 31.1, substantially to rearrange rules 31.3 and 31.4 to make it easier to distinguish between the procedures which they contain, and to make some consequential amendments.

Application to magistrates' court to approve an authorisation under the Regulation of Investigatory Powers Act 2000

The Regulation of Investigatory Powers Act 2000 among other things provides for a designated local authority officer to authorise surveillance in connection with a criminal investigation, or to authorise the use of a "covert human intelligence source", within the meaning of the Act, for that purpose. Judicial approval by a magistrate of such an authorisation is required, under sections 32A and 32B of the Act. Criminal Procedure Rules supplement those sections by supplying the procedure for an application for such approval in rules 47.51, 47.52 and 47.53.

Corresponding provision, under sections 23A and 23B of the same Act, used to apply to applications to magistrates to approve authorisations for the interception of communications. Under the Investigatory Powers Act 2016, in 2020 that provision was repealed subject to exceptions now no longer likely to occur. For that reason, the Rule Committee decided now to remove the references to those provisions in the Criminal Procedure Rules.

Correction of errors contained in the Criminal Procedure Rules 2025

A report by the Parliamentary Joint Committee on Statutory Instruments identified a number of mistakes in the Criminal Procedure Rules 2025 and the Criminal Procedure Rule Committee identified others. These Rules correct those mistakes.

Criminal Procedure Rule Committee secretariat
12 February 2026