

The Criminal Procedure (Amendment) Rules 2006 SI number 353 of 2006

Summary

On 3 April, 2006, the first amendment of the Criminal Procedure Rules, 2005 will come into force, affecting procedures used in all criminal courts. The following information explains the three types of change and is intended for court users, staff and practitioners.

Background

The three elements of change are: the introduction of some new provisions; the amendment of the current rules and the correction of some typographical errors.

These Rules amend the Criminal Procedure Rules 2005 (SI reference 384 of 2005), which govern the practice and procedure to be followed in the criminal courts - i.e. the criminal division of the Court of Appeal and (when dealing with any criminal cause or matter) the Crown Court and magistrates' courts.

1. New Provisions

The Rules add the following **new provisions** to the Criminal Procedure Rules 2005:

Preliminary Proceedings

A new Part 15 (preparatory hearings in cases of serious fraud and other complex, serious or lengthy cases in the Crown Court), in substitution for the existing Part 15, which makes provision for applications for preparatory hearings on the ground that the prosecutor wants the court to order that the trial be without a jury under sections 43 or 44 of the Criminal Justice Act 2003.

Custody and Bail

A new Part 18 (warrants), in substitution for the existing Part 18, which simplifies the existing rules on warrants.

Trial

A new rule 39.2 (appeal against refusal to excuse from jury service or to defer attendance), which incorporates existing rule 25 of the Crown Court Rules 1982 into the Criminal Procedure Rules 2005.

Confiscation and Related Proceedings

A new rule 57.15 (external requests and orders) which applies the rules in Parts 57, 59 to 61 and 71 to proceedings under the Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005.

Appeal

A new rule 65.11 (appeal against order following discharge of jury because of jury tampering), which applies Part 65 to appeals under section 47 of the Criminal Justice Act 2003.

2. Amendments

The following **amendments** to the current Rules are made:

Evidence

Rule 34.1 (hearsay evidence: when this Part applies) is amended to confine the application of Part 34 (hearsay evidence) to cases where the evidence is admissible on one or more of the following grounds:

- where (a) it is in the interests of justice for it to be admissible,
- (b) the witness is unavailable to attend,
- (c) the evidence is contained in a business or other document, or
- (d) the evidence is multiple hearsay.

In Part 35, rule 35.2 (introducing evidence of non-defendant's bad character) is amended to provide that an application to introduce the previous convictions of a prosecution witness must be made within 14 days of the date when the prosecutor discloses those convictions (rather than 14 days of the date when the prosecutor complies or purports to comply with his initial duty of disclosure under section 3 of the Criminal Procedure and Investigations Act 1996, as previously required).

Rule 35.6 is amended to extend the time limit for a defendant's application to exclude evidence of his own bad character from 7 days to 14 days.

Appeal

Part 66 (appeal to the Court of Appeal against ruling adverse to prosecution) is amended to ensure that the Registrar is not required to give or serve notice to a defendant or an interested party in a 'public interest ruling' case, unless a judge or the Court of Appeal otherwise directs.

Part 68 (appeal to the Court of Appeal against conviction or sentence) and Part 74 (appeal to the House of Lords) are amended so that those rules will apply, where appropriate, to appeals made under paragraph 14 of Schedule 22 to the Criminal Justice Act 2003.

Paragraph 14 of Schedule 22 to that Act provides a right of appeal against decisions of the High Court in cases where the Secretary of State has, prior to the commencement of Schedule 21 to that Act, given notice of a minimum period to be served by the prisoner before being released on licence or, that the prisoner should never be released on licence, and the prisoner has exercised his right under the transitional provision contained in Schedule 22 to the 2003 Act, to have that decision reviewed by the High Court.

3. Generally

The opportunity has been taken to correct some typographical errors in the Rules and to bring up to date references to other legislation.