

**The Criminal Procedure (Amendment No. 2) Rules 2008**  
**SI number 3269 of 2008 (L.28)**

**Guide for Court Users, Staff and Practitioners**

**December 2008**

## **Summary**

In April 2009, the seventh amendment of The Criminal Procedure Rules 2005 will come into force, affecting procedures used in magistrates' courts and the Crown Court. New procedure rules about bail, and about giving initial details of the prosecution case, are introduced. The existing trial procedure rules for magistrates' courts, including youth courts, and the rules about proceedings in those courts on the breach, revocation or amendment of community orders, are replaced.

The following information explains the types of change and is intended for court users, staff and practitioners.

## **Background**

The Criminal Procedure Rule Committee makes rules for the criminal courts in England and Wales. 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. They are usually only amended on two occasions in a year and the changes come into force in April or October.

### **1. New Provisions in The Criminal Procedure Rules 2005**

The Amendment Rules add the following **new provisions**:

#### **Part 2 – When the Rules apply**

A new rule **2.1(13)** explains that the new Part 21 rules (Initial details of prosecution case) apply on or after 6<sup>th</sup> April, 2009, unless the court otherwise directs, to allow for the gradual introduction of the arrangements in all magistrates' courts and all categories of case. For a limited time, until the national implementation of CJSSS has been completed, the old Part 21 rules can apply if the court so directs.

A new **rule 2.1(14)** confirms that the rules in the new Part 37 (Trial and sentence in a magistrates' court) apply in cases in which the court tries a case, or the defendant pleads guilty, on or after 6<sup>th</sup> April, 2009. In other cases, the rules in Parts 37 and 38 apply as if The Criminal Procedure (Amendment No. 2) Rules 2008 had not been made.

A new **rule 2.1(15)** confirms that the rules in the new Part 44 (Breach, revocation and amendment of community and other orders in a magistrates' court) apply in cases in which an application to which that Part applies is made on or after 6<sup>th</sup> April, 2009.

- These new rules are introduced by rule 3 of the Amendment Rules.

**Rule 2.2(1)** (Definitions) is expanded, to confirm that the term, 'justices' legal adviser' means a justices' clerk, or an assistant to a justices' clerk.

- This amendment is introduced by rule 4 of the Amendment Rules.

The note after **rule 7.2** (Information and written charge) is amended, to include a reference to Part 44 (Breach, revocation and amendment of community and other orders in a magistrates' court). It confirms that Rule 44.2(2) (Application by responsible officer) applies rules 7.2 to 7.4 to the procedure.

- This amendment is introduced by rule 5 of the Amendment Rules.

**Rule 7.4(1)** (Summons, warrant and requisition) has been substituted, following comment by the Joint Committee on Statutory Instruments in their Thirtieth Report of Session 2007-2008, published on 10th November, 2008.

- This amendment is introduced by rule 6 of the Amendment Rules.

## **Part 21 – Advance Information**

The original Part 21 (Advance Information) is replaced by a new Part 21 (Initial details of the prosecution case) to revise and simplify the rules about the early provision of details of the prosecution case.

A procedural initiative in magistrates' courts known as 'Criminal Justice: Simple, Speedy, Summary' (or by its initials, 'CJSSS') provides for the prosecutor to make available to the defendant and to the court, on the first day the case comes to court, enough information about it for the defendant to be given effective advice, and for the court to make effective case management decisions, straight away.

The new rules are shorter and clearer. They allow for the gradual introduction of the CJSSS arrangements in all magistrates' courts and all categories of case. If the court dis-applied the new rules, the rules in the old Part 21 would continue to apply instead.

- Rule 8 and Schedule 1 of the Amendment Rules introduce this amendment.

## **Part 37 – Summary Trial**

## **Part 38 – Trial of Children and Young Persons**

## **Part 44 – Sentencing of Children and Young Persons**

This note was prepared by the Secretariat to the Criminal Procedure Rule Committee  
Contact number: 0207 210 8084

## Background:

---

Parts 37, 38 and 44 of The Criminal Procedure Rules 2005 set out rules about trial and sentence in magistrates' courts, including youth courts. They re-produced rules formerly contained in The Magistrates' Courts Rules 1981 and in The Magistrates' Courts (Children and Young Persons) Rules 1992; but those rules were incomplete.

Essential rules of procedure governing this important stage in the progress of a criminal case are established by other legislation (principally, but not exclusively, by the Magistrates' Courts Act 1980); by practice directions; and by case law.

**The new rules in Parts 37 and 44 revise, simplify and consolidate the existing rules.** They incorporate other relevant rules of procedure, to make these rules comprehensive and easier to understand. They have been rewritten in the style of other new criminal procedure rules and include notes that highlight relevant provisions, including legislation. Part 38 is no longer required, so has been removed.

### **Part 37 - Summary Trial**

The rules in Part 37 (Summary trial) are replaced with a new Part 37 (Trial and sentence in a magistrates' court), which consolidates, revises and simplifies the rules about procedure at trial in magistrates' courts, including youth courts.

- Rule 9 and Schedule 2 of the Amendment Rules introduce this amendment.

### **Part 38 - Trial of Children and Young Persons**

Part 38 (Trial of Children and Young Persons) has been removed from The Criminal Procedure Rules 2005. The rules about the trial of children and young persons now are consolidated in the new Part 37.

- This amendment is introduced by rule 10 of the Amendment Rules.

### **Part 44 – Sentencing children and young persons**

The rules in Part 44 (Sentencing of Children and Young Persons) are replaced with a new Part 44 (Breach, revocation and amendment of community and other orders in a magistrates' court).

The new Part deals only with the procedures relating to community and other orders to which some of the old Parts 38 and 44 rules applied.

The new rules revise and simplify the procedure where a probation officer reports to a youth court that a young defendant has disobeyed

the terms of an order made on a finding of guilt, such as an order to attend a training course or other activity. These simplified rules apply to adult defendants in magistrates' courts as well.

- Rule 11 and Schedule 3 of the Amendment Rules introduce this amendment.

## **2. Amendments of The Criminal Procedure Rules 2005**

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

### **Part 19 – Bail in magistrates' courts and in the Crown Court**

**Rule 19.1** (Application to a magistrates' court to vary conditions of police bail) has been amended to remove the word, 'police' from the title. The rule is amended so that it now applies to all applications to vary bail conditions, not only police bail conditions.

The rules in Part 19 already require a party to a case in the Crown Court, who intends to apply for a variation of bail conditions, to give advance notice explaining what is sought, and why. The changes made by these Amendment Rules extend that requirement to magistrates' courts as well.

**A new Rule 19.25** is added, to introduce into magistrates' courts and the Crown Court a requirement for the defendant to give notice of the address at which he or she would reside, if the court was to grant bail with a 'condition of residence'.

The amendments give legislative effect to the well-established court practice of requiring prosecutors (with the police) to investigate the suitability of an address proposed, as a condition of residence, for a defendant who is to be released on conditional bail. The amendments oblige the prosecutor to assist the court; and they oblige a defendant who may be released on bail with a condition of residence to co-operate with the prosecutor in providing that assistance.

- These changes are introduced by rule 7 of these Amendment Rules.

### **Arrangement of Rules**

The Arrangement of Rules is amended to accommodate the changes to Part titles made in this and previous amendments of The Criminal Procedure Rules 2005.

These changes are introduced by rule 12 of these Amendment Rules.

### 3. Useful Web Addresses

- The **Statutory Instrument** can be viewed on the OPSI website, at :-  
[http://www.opsi.gov.uk/si/si2008/uksi\\_20083269\\_en\\_1](http://www.opsi.gov.uk/si/si2008/uksi_20083269_en_1)

---
  - The PDF (Acrobat) version of the Statutory Instrument can be viewed at :-  
[http://www.opsi.gov.uk/si/si2008/pdf/uksi\\_20083269\\_en.pdf](http://www.opsi.gov.uk/si/si2008/pdf/uksi_20083269_en.pdf)

---
  - When new Criminal Procedure Rules are made and the Statutory Instrument (SI) has been laid before Parliament, we post information on the Ministry of Justice website on the '**Changes to the Rules**' page. This provides advance notice of changes, to give the public information as soon as possible. This address for the news about this SI is :-  
<http://www.justice.gov.uk/news/announcement221208a.htm>

---
  - **The Criminal Procedure Rule Committee's home-page** is :-  
<http://www.justice.gov.uk/about/criminal-proc-rule-committee.htm>

---
  - The Committee's statutory duty is to make Criminal Procedure Rules that are simple and simply expressed – wherever possible, having consulted beforehand. Sections 69-74 of the Courts Act 2003 refer. This link provides access to the Courts Act 2003:  
[http://www.opsi.gov.uk/acts/acts2003/ukpga\\_20030039\\_en\\_9](http://www.opsi.gov.uk/acts/acts2003/ukpga_20030039_en_9)

---
  - The **Ministry of Justice home-page for the Criminal Procedure Rules**, which provides access to current news about proposals to amend the rules, is:-  
<http://www.justice.gov.uk/whatwedo/criminal-procedure-rules.htm>

---
  - The **Ministry of Justice website** area containing the complete **Criminal Procedure Rules, the Consolidated Criminal Practice Direction and Forms** is :-  
[http://www.justice.gov.uk/criminal/procrules\\_fin//index.htm](http://www.justice.gov.uk/criminal/procrules_fin//index.htm)

---
- Please note** that the Criminal Procedure Rules pages are not updated with amendments until they have actually come into force. This means that the effects of the seventh amendment will not appear until 6<sup>th</sup> April, 2009.
- The website also contains the forms for use in the criminal courts in Acrobat format, at :-  
[http://www.justice.gov.uk/criminal/procrules\\_fin/contents/formssection/formspage.htm](http://www.justice.gov.uk/criminal/procrules_fin/contents/formssection/formspage.htm)

---

- The HM Courts Service (HMCS) website address for Criminal Practice Directions is :- <http://www.hmcourts-service.gov.uk/cms/13442.htm>

- The path to the related forms in Word format is from the HMCS Forms and Guidance page:-

<http://www.hmcourts-service.gov.uk/HMCSCourtFinder/FormFinder.do>

Select the 'Work-type' field in the centre of the screen and from the drop-down menu, choose 'Criminal Procedure Rules'. A list of forms will then appear, from which you can make your selection.

We are continuing to develop ways to improve electronic access to these Word forms.