

A GUIDE TO THE CRIMINAL PROCEDURE (AMENDMENT NO. 2) RULES 2013 (S.I. 2013/3183)

What these Rules are for

The Criminal Procedure (Amendment No. 2) Rules 2013 add some new rules to the Criminal Procedure Rules 2013 and bring them up to date.

The Amendment Rules:

- (a) include a new rule about publishing court hearing lists, in Part 5 of the Criminal Procedure Rules
- (b) make changes to the rules about sending a case for trial in the Crown Court, in Part 9 of the Criminal Procedure Rules
- (c) add new rules about 'deferred prosecution agreements' (these are explained below), in a new Part 12 of the Criminal Procedure Rules
- (d) include up to date references to other legislation, and make some other changes as a result of other legislation.

When these rules come into force

The new Part 12 Rules come into force on Monday 24th February, 2014, which is when the Criminal Procedure Rule Committee expects the Crime and Courts Act 2013 provisions about deferred prosecution agreements to come into force. The other rule changes come into force on Monday 7th April, 2014.

What is in these Rules

Publication of court hearing lists

The new rules amend rule 5.8 of the Criminal Procedure Rules to provide for the long-established practice of publishing court hearing lists in the court building. The object of the practice and of the amended rule is to give the public, as well as the parties, notice of the place and time of a court hearing. The rule amendment also authorises the wider publication of that information, including publication by electronic means, subject to the other legal restrictions that apply.

Consistently with other legislation about the publication of details of criminal cases, and in particular the Rehabilitation of Offenders Act 1974 and the Data Protection Act 1998, rule 5.8 already provides for the circumstances in which basic information about a court hearing, and about the court's decision, must be supplied to anyone who asks for that information. Rule 5.8 also allows for an application to the court for the supply of other information. The Rule Committee heard that it would help if the rule provided explicitly for the publication of hearing lists, and that it would help, too, if the rule could allow for the plans of Her Majesty's Courts and Tribunals Service in future to make court hearing lists more widely available on the internet, where some daily hearing lists already are published.

Sending for trial

The new rules amend rule 9.2 of the Criminal Procedure Rules to provide a procedure for a magistrates' court to follow when the court is dealing with two or more defendants who are jointly charged with an offence which can be tried either in the Crown Court or in a magistrates' court.

The Rule Committee heard that there was some doubt about the procedure required by those sections of the Crime and Disorder Act 1998 which apply to this situation. In some circumstances, those sections require the magistrates to go back and deal again with a defendant whom they have just agreed should be tried in the magistrates' court. The Committee agreed that it would help to introduce a procedural requirement for the court to explain to the defendants that if one of them is sent for trial in the Crown Court then any others who have pleaded not guilty must usually be sent for trial there, too, even if neither they nor the magistrates would have opted for Crown Court trial, and even if the magistrates have already just decided on magistrates' court trial: the point of those sections of the Act being to make sure that there will be only one trial.

Deferred prosecution agreements

The new rules insert a new Part 12 in the Criminal Procedure Rules to provide for the procedure relating to this new way of dealing with some alleged crimes.

Schedule 17 to the Crime and Courts Act 2013 provides for a way of dealing with fraud and some other offences, allegedly committed by a corporation, partnership or association, by means of a 'deferred prosecution agreement' made between the prosecutor and the prospective defendant and approved by the Crown Court. Most of the new procedure is required by the Act, and the notes to the new rules identify the statutory provisions which each rule supplements. In addition, the new rules include a requirement for the parties to the agreement each to make formal declarations to the court that the information each has supplied is accurate and complete, and the rules include provision for the court to order one party to pay the other's legal costs in proceedings for an alleged breach of the agreement.

Other amendments

By an amendment to rule 2.2 the new rules bring up to date the references in the Criminal Procedure Rules to the associated Criminal Practice Directions made by the Lord Chief Justice, which he has revised and renamed.

In response to a suggestion in a report by the House of Lords Secondary Legislation Scrutiny Committee published on 25th July, 2013, the new rules add references to 'criminal contempt' and 'civil contempt' to the notes to rules 62.5 and 62.9 of the Criminal Procedure Rules, to help make it clear to what type of contempt of court each rule refers.

The new rules amend the note to rule 76.4 of the Criminal Procedure Rules to reflect changes to the entitlement to defendants' costs orders made by the Costs in Criminal Cases (General) (Amendment) (No. 2) Regulations 2013.

Criminal Procedure Rule Committee secretariat
18th December, 2013