

PART 5

FORMS AND COURT RECORDS

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FORMS

Applications, etc. by forms or electronic means

- 5.1.**—(1) This rule applies where a rule, a practice direction or the court requires a person to—
- (a) make an application or give a notice;
 - (b) supply information for the purposes of case management by the court; or
 - (c) supply information needed for other purposes by the court.
- (2) Unless the court otherwise directs, such a person must—
- (a) use such electronic arrangements as the court officer may make for that purpose, in accordance with those arrangements; or
 - (b) if no such arrangements have been made, use the appropriate form set out in the Practice Direction or the Criminal Costs Practice Direction, in accordance with those Directions.

Forms in Welsh

- 5.2.**—(1) Any Welsh language form set out in the Practice Direction, or in the Criminal Costs Practice Direction, is for use in connection with proceedings in courts in Wales.
- (2) Both a Welsh form and an English form may be contained in the same document.
- (3) Where only a Welsh form, or only the corresponding English form, is served—
- (a) the following words in Welsh and English must be added:

“Darperir y ddogfen hon yn Gymraeg / Saesneg os bydd arnoch ei heisiau. Dylech wneud cais yn ddi-oed i (swyddog y llys) (rhodder yma’r cyfeiriad)

This document will be provided in Welsh / English if you require it. You should apply immediately to (the court officer) (address)”; and
 - (b) the court officer, or the person who served the form, must, on request, supply the corresponding form in the other language to the person served.

Signature of forms

5.3.—(1) This rule applies where a form provides for its signature.

(2) Unless other legislation otherwise requires, or the court otherwise directs, signature may be by any written or electronic authentication of the form by, or with the authority of, the signatory.

[Note. Section 7 of the Electronic Communications Act 2000(a) provides for the use of an electronic signature in an electronic communication.]

COURT RECORDS

Duty to make records

5.4.—(1) For each case, as appropriate, the court officer must record, by such means as the Lord Chancellor directs—

- (a) each charge or indictment against the defendant;
- (b) the defendant's plea to each charge or count;
- (c) each acquittal, conviction, sentence, determination, direction or order;
- (d) each decision about bail;
- (e) the power exercised where the court commits or adjourns the case to another court—
 - (i) for sentence, or
 - (ii) for the defendant to be dealt with for breach of a community order, a deferred sentence, a conditional discharge, or a suspended sentence of imprisonment, imposed by that other court;
- (f) the court's reasons for a decision, where legislation requires those reasons to be recorded;
- (g) any appeal;
- (h) each party's presence or absence at each hearing;
- (i) any consent that legislation requires before the court can proceed with the case, or proceed to a decision;
- (j) in a magistrates' court—
 - (i) any indication of sentence given in connection with the allocation of a case for trial, and
 - (ii) the registration of a fixed penalty notice for enforcement as a fine, and any related endorsement on a driving record;
- (k) in the Crown Court, any request for assistance or other communication about the case received from a juror;
- (l) the identity of—
 - (i) the prosecutor,
 - (ii) the defendant,
 - (iii) any other applicant to whom these Rules apply,
 - (iv) any interpreter or intermediary,
 - (v) the parties' legal representatives, if any, and
 - (vi) the judge, magistrate or magistrates, justices' legal adviser or other person who made each recorded decision;
- (m) where a defendant is entitled to attend a hearing, any agreement by the defendant to waive that right; and

(a) 2000 c. 7.

- (n) where interpretation is required for a defendant, any agreement by that defendant to do without the written translation of a document.
- (2) Such records must include—
- (a) each party's and representative's address, including any electronic address and telephone number available;
 - (b) the defendant's date of birth, if available; and
 - (c) the date of each event and decision recorded.

[Note. For the duty to keep court records, see sections 5 and 8 of the Public Records Act 1958(a).

Requirements to record the court's reasons for its decision are contained in: section 5 of the Bail Act 1976(b); section 47(1) of the Road Traffic Offenders Act 1988(c); sections 20, 33A and 33BB of the Youth Justice and Criminal Evidence Act 1999(d); section 174 of the Criminal Justice Act 2003(e); and rule 16.8.

The prosecution of some offences requires the consent of a specified authority. Requirements for the defendant's consent to proceedings in his or her absence are contained in sections 23 and 128 of the Magistrates' Courts Act 1980(f).

In the circumstances for which it provides, section 20 of the Magistrates' Courts Act 1980(g) allows the court to give an indication of whether a custodial or non-custodial sentence is more likely in the event of a guilty plea at trial in that court.

Requirements to register fixed penalty notices and to record any related endorsement of a driving record are contained in sections 57, 57A and 71 of the Road Traffic Offenders Act 1988(h).

For agreement to do without a written translation in a case in which the defendant requires interpretation, see rule 3.9(5).]

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- (a) 1958 c. 51; section 5 was amended by sections 67 and 86 of, and paragraph 2 of Schedule 5 to, the Freedom of Information Act 2000 (c. 36); and section 8 was amended by sections 27 and 35 of, and Schedule 2 to, the Administration of Justice Act 1969 (c. 58), section 1 of, and paragraph 19 of Schedule 2 to, the Administration of Justice Act 1970 (c. 31), section 56 of, and Schedule 11 to, the Courts Act 1971 (c. 23), section 152 of, and Schedule 7 to, the Senior Courts Act 1981 (c. 54) and sections 56 and 59 of, and Schedule 11 to, the Constitutional Reform Act 2005 (c. 4).
 - (b) 1976 c. 63; section 5 was amended by section 65 of, and Schedule 12 to, the Criminal Law Act 1977 (c. 45), section 60 of the Criminal Justice Act 1982 (c. 48), paragraph 1 of Schedule 3 to the Criminal Justice and Public Order Act 1994 (c. 33), paragraph 53 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), section 129(1) of the Criminal Justice and Police Act 2001 (c. 16), paragraph 182 of Schedule 8 to the Courts Act 2003 (c. 39), paragraph 48 of Schedule 3, paragraphs 1 and 2 of Schedule 36, and Parts 2, 4 and 12 of Schedule 37 to the Criminal Justice Act 2003 (c. 44) and section 208 of, and paragraphs 33 and 35 of Schedule 21 to, the Legal Services Act 2007 (c. 27).
 - (c) 1988 c. 53.
 - (d) 1999 c. 23; section 20(6) was amended by paragraph 384(a) of Schedule 8 to the Courts Act 2003 (c. 39); section 33A was inserted by section 47 of the Police and Justice Act 2006 (c. 48). Section 33BB is inserted by section 104(1) of the Coroners and Justice Act 2009, with effect from a date to be appointed.
 - (e) 2003 c. 44; section 174 was substituted by section 64 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).
 - (f) 1980 c. 43; section 23 was amended by section 125 of, and paragraph 25 of Schedule 18 to, the Courts and Legal Services Act 1990 (c. 41) and paragraphs 1 and 8 of Schedule 3 to the Criminal Justice Act 2003 (c. 44). section 128 was amended by section 59 to, and paragraphs 2, 3 and 4 of Schedule 9 to, the Criminal Justice Act 1982 (c. 48), section 48 of the Police and Criminal Evidence Act 1984 (c. 60), section 170(1) of, and paragraphs 65 and 69 of Schedule 15 to, the Criminal Justice Act 1988 (c. 33), section 125(3) of, and paragraph 25 of Schedule 18 to, the Courts and Legal Services Act 1990 (c. 41), sections 49, 52 and 80 of, and Schedule 5 to, the Criminal Procedure and Investigations Act 1996 (c. 25), paragraph 75 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) and paragraph 51 of Schedule 3 and Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c. 44). It is modified by section 91(5) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).
 - (g) 1980 c. 43; section 20 was amended by section 100 of, and paragraph 25 of Schedule 11 to, the Criminal Justice Act 1991 (c. 53), paragraph 63 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) and paragraphs 1 and 6 of Schedule 3 to the Criminal Justice Act 2003 (c. 44).
 - (h) 1988 c. 53; section 57(3) and (4) was amended by regulation 2(2) and (3) of, and paragraph 17 of Schedule 2 to, S.I. 1990/144 and section 5 of, and paragraphs 1 and 5 of Schedule 1 to, the Road Safety Act 2006 (c. 49); section 57A was added by section 9 of the Road Safety Act 2006 (c. 49), and is amended by section 10 of that Act with effect from a date to be appointed; and section 71 was amended by section 63 of, and paragraph 25(1) of Schedule 3 to, the Vehicle Excise and Registration Act 1994 (c. 22), sections 90(1) and 106 of, and paragraphs 140 and 150(1) and (2) of Schedule 13, and table 7 of Schedule 15 to, the Access to Justice Act 1999 (c. 22), section 109(1) of, and paragraph 317(1) and (2) of Schedule 8 to, the Courts Act 2003 (c. 39) and section 9(6) of, and paragraphs 2 and 22 of Schedule 2 to, the Road Safety Act 2006 (c. 49).

Recording and transcription of proceedings in the Crown Court

- 5.5.**—(1) Where someone may appeal to the Court of Appeal, the court officer must—
- (a) arrange for the recording of the proceedings in the Crown Court, unless the court otherwise directs; and
 - (b) arrange for the transcription of such a recording if—
 - (i) the Registrar wants such a transcript, or
 - (ii) anyone else wants such a transcript (but that is subject to the restrictions in paragraph (2)).
- (2) Unless the court otherwise directs, a person who transcribes a recording of proceedings under such arrangements—
- (a) must not supply anyone other than the Registrar with a transcript of a recording of—
 - (i) a hearing in private, or
 - (ii) information to which reporting restrictions apply;
 - (b) subject to that, must supply any person with any transcript for which that person asks—
 - (i) in accordance with the transcription arrangements made by the court officer, and
 - (ii) on payment by that person of any fee prescribed.
- (3) A party who wants to hear a recording of proceedings must—
- (a) apply—
 - (i) in writing to the Registrar, if an appeal notice has been served where Part 36 applies (Appeal to the Court of Appeal: general rules), or
 - (ii) orally or in writing to the Crown Court officer;
 - (b) explain the reasons for the request; and
 - (c) pay any fee prescribed.
- (4) If the Crown Court or the Registrar so directs, the Crown Court officer must allow that party to hear a recording of—
- (a) a hearing in public;
 - (b) a hearing in private, if the applicant was present at that hearing.

[Note. See also section 32 of the Criminal Appeal Act 1968(a).]

Custody of case materials

- 5.6.** Unless the court otherwise directs, in respect of each case the court officer may—
- (a) keep any evidence, application, representation or other material served by the parties; or
 - (b) arrange for the whole or any part to be kept by some other appropriate person, subject to—
 - (i) any condition imposed by the court, and
 - (ii) the rules in Part 34 (Appeal to the Crown Court) and Part 36 (Appeal to the Court of Appeal: general rules) about keeping exhibits pending any appeal.

Supply to a party of information or documents from records or case materials

- 5.7.**—(1) This rule applies where—
- (a) a party wants information, or a copy of a document, from records or case materials kept by the court officer (for example, in case of loss, or to establish what is retained); or

(a) 1968 c. 19.

- (b) a person affected by an order made, or warrant issued, by the court wants such information or such a copy.
- (2) Such a party or person must—
 - (a) apply to the court officer;
 - (b) specify the information or document required; and
 - (c) pay any fee prescribed.
- (3) The application—
 - (a) may be made orally, giving no reasons, if paragraph (4) requires the court officer to supply the information or document requested;
 - (b) must be in writing, unless the court otherwise permits, and must explain for what purpose the information is required, in any other case.
- (4) The court officer must supply to the applicant party or person—
 - (a) a copy of any document served by, or on, that party or person (but not of any document not so served);
 - (b) by word of mouth, or in writing, as requested—
 - (i) information that was received from that party or person in the first place,
 - (ii) information about the terms of any direction or order directed to that party or person, or made on an application by that party or person, or at a hearing in public,
 - (iii) information about the outcome of the case.
- (5) If the court so directs, the court officer must supply to the applicant party or person, by word of mouth or in writing, as requested, information that paragraph (4) does not require the court officer to supply.
- (6) Where the information requested is about the grounds on which an order was made, or a warrant was issued, in the absence of the party or person applying for that information—
 - (a) that party or person must also serve the request on the person who applied for the order or warrant;
 - (b) if the person who applied for the order or warrant objects to the supply of the information requested, that objector must—
 - (i) give notice of the objection not more than 14 days after service of the request (or within any longer period allowed by the court),
 - (ii) serve that notice on the court officer and on the party or person requesting the information, and
 - (iii) if the objector wants a hearing, explain why one is needed;
 - (c) the court may determine the application for information at a hearing (which must be in private unless the court otherwise directs), or without a hearing;
 - (d) the court must not permit the information requested to be supplied unless the person who applied for the order or warrant has had at least 14 days (or any longer period allowed by the court) in which to make representations.
- (7) A notice of objection under paragraph (6) must explain—
 - (a) whether the objection is to the supply of any part of the information requested, or only to the supply of a specified part, or parts, of it;
 - (b) whether the objection is to the supply of the information at any time, or only to its supply before a date or event specified by the objector; and
 - (c) the grounds of the objection.
- (8) Where a notice of objection under paragraph (6) includes material that the objector thinks ought not be revealed to the party or person applying for information, the objector must—
 - (a) omit that material from the notice served on that party or person;
 - (b) mark the material to show that it is only for the court; and

- (c) with that material include an explanation of why it has been withheld.
- (9) Where paragraph (8) applies—
 - (a) a hearing of the application may take place, wholly or in part, in the absence of the party or person applying for information;
 - (b) at any such hearing, the general rule is that the court must consider, in the following sequence—
 - (i) representations first by the party or person applying for information and then by the objector, in the presence of both, and then
 - (ii) further representations by the objector, in the absence of that party or person but the court may direct other arrangements for the hearing.

Supply to the public, including reporters, of information about cases

- 5.8.**—(1) This rule—
- (a) applies where a member of the public, including a reporter, wants information about a case from the court officer;
 - (b) requires the court officer to publish information about cases due to be heard.
- (2) A person who wants information about a case from the court officer must—
- (a) apply to the court officer;
 - (b) specify the information requested; and
 - (c) pay any fee prescribed.
- (3) The application—
- (a) may be made orally, giving no reasons, if paragraph (4) requires the court officer to supply the information requested;
 - (b) must be in writing, unless the court otherwise permits, and must explain for what purpose the information is required, in any other case.
- (4) The court officer must supply to the applicant—
- (a) any information listed in paragraph (6), if—
 - (i) the information is available to the court officer,
 - (ii) the supply of the information is not prohibited by a reporting restriction, and
 - (iii) the trial has not yet concluded, or the verdict was not more than 6 months ago; and
 - (b) details of any reporting or access restriction ordered by the court.
- (5) The court officer must supply that information—
- (a) by word of mouth; or
 - (b) by such other arrangements as the Lord Chancellor directs.
- (6) The information that paragraph (4) requires the court officer to supply is—
- (a) the date of any hearing in public, unless any party has yet to be notified of that date;
 - (b) each alleged offence and any plea entered;
 - (c) the court’s decision at any hearing in public, including any decision about—
 - (i) bail, or
 - (ii) the committal, sending or transfer of the case to another court;
 - (d) whether the case is under appeal;
 - (e) the outcome of any trial and any appeal; and
 - (f) the identity of—
 - (i) the prosecutor,
 - (ii) the defendant,

- (iii) the parties' representatives, including their addresses, and
 - (iv) the judge, magistrate or magistrates, or justices' legal adviser by whom a decision at a hearing in public was made.
- (7) If the court so directs, the court officer must—
- (a) supply to the applicant, by word of mouth, other information about the case; or
 - (b) allow the applicant to inspect or copy a document, or part of a document, containing information about the case.
- (8) The court may determine an application to which paragraph (7) applies—
- (a) at a hearing, in public or in private; or
 - (b) without a hearing.
- (9) The court officer must publish the information listed in paragraph (11) if—
- (a) the information is available to the court officer;
 - (b) the hearing to which the information relates is due to take place in public; and
 - (c) the publication of the information is not prohibited by a reporting restriction.
- (10) The court officer must publish that information—
- (a) by notice displayed somewhere prominent in the vicinity of the court room in which the hearing is due to take place;
 - (b) by such other arrangements as the Lord Chancellor directs, including arrangements for publication by electronic means; and
 - (c) for no longer than 2 business days.
- (11) The information that paragraph (9) requires the court officer to publish is—
- (a) the date, time and place of the hearing;
 - (b) the identity of the defendant; and
 - (c) such other information as it may be practicable to publish concerning—
 - (i) the type of hearing,
 - (ii) the identity of the court,
 - (iii) the offence or offences alleged, and
 - (iv) whether any reporting restriction applies.

[Note. Rule 5.8(4) requires the court officer to supply on request the information to which that paragraph refers. On an application for other information about a case, rule 5.8(3)(b), (7) and (8) apply and the court's decision on such an application may be affected by—

- (a) *any reporting restriction imposed by legislation or by the court (Part 6 lists the reporting restrictions that might apply);*
- (b) *Articles 6, 8 and 10 of the European Convention on Human Rights, and the court's duty to have regard to the importance of—*
 - (i) *dealing with criminal cases in public, and*
 - (ii) *allowing a public hearing to be reported to the public;*
- (c) *the Rehabilitation of Offenders Act 1974(a) (section 5 of the Act(b) lists sentences and rehabilitation periods);*
- (d) *section 18 of the Criminal Procedure and Investigations Act 1996(c), which affects the supply of information about material, other than evidence, disclosed by the prosecutor;*

(a) 1974 c. 53.

(b) 1974 c. 53; section 5 was amended by section 15 of, and paragraphs 77 and 78 of Schedule 4 to, the Constitutional Reform Act 2005 (c. 4) and by sections 126 and 139 of, and paragraph 2 of Schedule 21 to, the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).

(c) 1996 c. 25.

- (e) *the Data Protection Act 1998(a) (sections 34 and 35 of the Act contain relevant exemptions from prohibitions against disclosure that usually apply); and*
- (f) *sections 33, 34 and 35 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(b), which affect the supply of information about applications for legal aid.]*

Supply of written certificate or extract from records

5.9.—(1) This rule applies where legislation—

- (a) allows a certificate of conviction or acquittal, or an extract from records kept by the court officer, to be introduced in evidence in criminal proceedings; or
- (b) requires such a certificate or extract to be supplied by the court officer to a specified person for a specified purpose.

(2) A person who wants such a certificate or extract must—

- (a) apply in writing to the court officer;
- (b) specify the certificate or extract required;
- (c) explain under what legislation and for what purpose it is required; and
- (d) pay any fee prescribed.

(3) If the application satisfies the requirements of that legislation, the court officer must supply the certificate or extract requested—

- (a) to a party;
- (b) unless the court otherwise directs, to any other applicant.

[Note. Under sections 73 to 75 of the Police and Criminal Evidence Act 1984(c), a certificate of conviction or acquittal, and certain other details from records to which this Part applies, may be admitted in evidence in criminal proceedings.

Under section 115 of the Crime and Disorder Act 1998(d), information from records to which this Part applies may be obtained by specified authorities for the purposes of that Act.

A certificate of conviction or acquittal, and certain other information, required for other purposes, may be obtained from the Secretary of State under sections 112, 113A and 113B of the Police Act 1997(e).]

(a) 1998 c. 29.

(b) 2012 c. 10.

(c) 1984 c. 60; section 73 was amended by section 90(1) of, and paragraphs 125 and 128 of Schedule 13 to, the Access to Justice Act 1999 (c. 22), paragraph 285 of Schedule 8 to the Courts Act 2003 (c. 39) and paragraph 13 of Schedule 17 to the Coroners and Justice Act 2009 (c. 25); and section 74 was amended by paragraph 85 of Schedule 36, and Part 5 of Schedule 37, to the Criminal Justice Act 2003 (c. 44) and paragraph 14 of Schedule 17 to the Coroners and Justice Act 2009 (c. 25).

(d) 1998 c. 37; section 115 was amended by paragraphs 150 and 151 of Schedule 7 to the Criminal Justice and Court Services Act 2000 (c. 43), paragraph 35 of Schedule 1 to S.I. 2000/90, section 97 of the Police Reform Act 2002 (c. 30), paragraph 25 of Schedule 1 to S.I. 2002/2469, section 219 of the Housing Act 2004 (c. 34), section 22 of, and paragraphs 1 and 7 of Schedule 9 to, the Police and Justice Act 2006 (c. 48), paragraph 29 of the Schedule to S.I. 2007/961, section 29 of the Transport for London Act 2008 (c. i), paragraph 13 of Schedule 2 to S.I. 2008/912, paragraphs 109 and 111 of Schedule 2 to S.I. 2010/866 and paragraphs 83 and 90 of Schedule 5 to the Health and Social Care Act 2012 (c. 7).

(e) 1997 c. 50; section 112 was amended by section 50 of the Criminal Justice and Immigration Act 2008 (c. 4), sections 93, 97 and 112 of, and Part 8 of Schedule 8 to, the Policing and Crime Act 2009 (c. 26) and sections 80 and 84 of the Protection of Freedoms Act 2012 (c. 9). Section 113A was added by section 163(2) of the Serious Organised Crime and Police Act 2005 (c. 15), modified by regulation 4 of S.I. 2010/1146, and amended by paragraph 14 of Schedule 9 to the Safeguarding Vulnerable Groups Act 2006 (c. 47), section 50 of the Criminal Justice and Immigration Act 2008 (c. 4), sections 97 and 112 of, and Part 8 of Schedule 8 to, the Policing and Crime Act 2009 (c. 26), sections 80 and 115 of, and paragraphs 35 and 36 of Schedule 9 and Part 5 of Schedule 10 to, the Protection of Freedoms Act 2012 (c. 9), articles 2 and 3 of S.I. 2009/203 and articles 36 and 37 of S.I. 2012/3006. Section 113B was added by section 163(2) of the Serious Organised Crime and Police Act 2005 (c. 15), modified by regulations 5 to 7 of S.I. 2010/1146, and amended by paragraph 14 of Schedule 9 to the Safeguarding Vulnerable Groups Act 2006 (c. 47), paragraph 149 of Schedule 16 to the Armed Forces Act 2006 (c. 52), section 50 of the Criminal Justice and Immigration Act 2008 (c. 4), sections 97 and 112 of, and Part 8 of Schedule 8 to, the Policing and Crime Act 2009 (c. 26), sections 79, 80, 82 and 115 of, and paragraphs 35 and 37 of Schedule 9 and Parts 5 and 6 of Schedule 10 to, the Protection of Freedoms Act 2012 (c. 9), articles 2 and 4 of S.I. 2009/203, regulation 8 of S.I. 2010/1146 and articles 36, 37 and 39 of S.I. 2012/3006.