STATUTORY INSTRUMENTS

2014 No. 1610

The Criminal Procedure Rules 2014

PART 62

CONTEMPT OF COURT

SECTION 3: CONTEMPT OF COURT BY FAILURE TO COMPLY WITH COURT ORDER, ETC.

Initial procedure on failure to comply with court order, etc.

62.9.—(1) This rule applies where—

(a) a party, or other person directly affected, alleges—

(i) in the Crown Court, a failure to comply with an order to which rule 6.13 or 6.22 (certain investigation orders), or 59.6 (restraint order or ancillary order), applies,

(ii) in the Court of Appeal or the Crown Court, any other conduct with which that court can deal as a civil contempt of court, or

(iii) in the Crown Court or a magistrates' court, unauthorised use of disclosed prosecution material under section 17 of the Criminal Procedure and Investigations Act 1996(**1**);

(b) the court deals on its own initiative with conduct to which paragraph (1)(a) applies.

(2) Such a party or person must—

(a) apply in writing and serve the application on the court officer; and

(b) serve on the respondent—

(i) the application, and

(ii) notice of where and when the court will consider the allegation (not less than 14 days after service).

(3) The application must—

(a) identify the respondent;

(b) explain that it is an application for the respondent to be dealt with for contempt of court;

(c) contain such particulars of the conduct in question as to make clear what is alleged against the respondent; and

(d) include a notice warning the respondent that the court—

(i) can impose imprisonment, or a fine, or both, for contempt of court, and

(ii) may deal with the application in the respondent's absence, if the respondent does not attend the hearing.

(4) A court which acts on its own initiative under paragraph (1)(b) must—

(**1**) 1996 c. 25; section 17 was amended by section 331 of, and paragraphs 20 and 33 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44).

(a) arrange for the preparation of a written statement containing the same information as an application; and

(b) arrange for the service on the respondent of—

(i) that written statement, and

(ii) notice of where and when the court will consider the allegation (not less than 14 days after service).

[Note. The conduct to which this rule applies is sometimes described as 'civil' contempt of court.

By reason of section 45 of the Senior Courts Act 1981(**2**)*, the Crown Court has an inherent power to imprison (for a maximum of 2 years), or fine (to an unlimited amount), or both, a respondent for conduct in contempt of court by failing to comply with a court order or an undertaking given to the court.*

Under section 18 of the Criminal Procedure and Investigations Act 1996(**3**)—

(a) *the Crown Court can imprison (for a maximum of 2 years), or fine (to an unlimited amount), or both;*

(b) *a magistrates' court can imprison (for a maximum of 6 months), or fine (to a maximum of £5,000), or both,*

a person who uses disclosed prosecution material in contravention of section 17 of that Act. See also rule 22.8.

Under section 89 of the Powers of Criminal Courts (Sentencing) Act 2000, no respondent who is under 21 may be imprisoned for contempt of court. Under section 108 of that Act, a respondent who is at least 18 but under 21 may be detained if the court is of the opinion that no other method of dealing with him or her is appropriate. Under section 14(2A) of the Contempt of Court Act 1981, a respondent who is under 17 may not be ordered to attend an attendance centre.

Under section 258 of the Criminal Justice Act 2003, a respondent who is imprisoned for contempt of court must be released unconditionally after serving half the term.

The Practice Direction sets out a form of application for use in connection with this rule.

The rules in Part 4 require that an application under this rule must be served by handing it to the person accused of contempt of court unless the court otherwise directs.]

Procedure on hearing

62.10.—(1) At the hearing of an allegation under rule 62.9, the court must—

(a) ensure that the respondent understands (with help, if necessary) what is alleged;

(b) explain what the procedure at the hearing will be; and

(c) ask whether the respondent admits the conduct in question.

(2) If the respondent admits the conduct, the court need not receive evidence.

(3) If the respondent does not admit the conduct, the court must consider—

(a) the application or written statement served under rule 62.9;

(b) any other evidence of the conduct;

(c) any evidence introduced by the respondent; and

(d) any representations by the respondent about the conduct.

(**2**) 1981 c. 54.
(**3**) 1996 c. 25.

(4) If the respondent admits the conduct, or the court finds it proved, the court must—

(a) before imposing any punishment for contempt of court, give the respondent an opportunity to make representations relevant to punishment;

(b) explain, in terms the respondent can understand (with help, if necessary)—

(i) the reasons for its decision, including its findings of fact, and

(ii) the punishment it imposes, and its effect; and

(c) in a magistrates' court, arrange for the preparation of a written record of those findings.

Introduction of written witness statement or other hearsay

62.11.—(1) Where rule 62.9 applies, an applicant or respondent who wants to introduce in evidence the written statement of a witness, or other hearsay, must—

(a) serve a copy of the statement, or notice of other hearsay, on—

(i) the court officer, and

(ii) the other party; and

(b) serve the copy or notice—

(i) when serving the application under rule 62.9, in the case of an applicant, or

(ii) not more than 7 days after service of that application or of the court's written statement, in the case of the respondent.

(2) Such service is notice of that party's intention to introduce in evidence that written witness statement, or other hearsay, unless that party otherwise indicates when serving it.

(3) A party entitled to receive such notice may waive that entitlement.

[Note. On an application under rule 62.9, hearsay evidence is admissible under the Civil Evidence Act 1995. Section 1(2) of the 1995 Act(**4**) *defines hearsay as meaning 'a statement made otherwise than by a person while giving oral evidence in the proceedings which is tendered as evidence of the matters stated'. Section 13 of the Act*(**5**) *defines a statement as meaning 'any representation of fact or opinion, however made'.*

Under section 2 of the 1995 Act(**6**)*, a party who wants to introduce hearsay in evidence must give reasonable and practicable notice, in accordance with procedure rules, unless the recipient waives that requirement.]*

Content of written witness statement

62.12.—(1) This rule applies to a written witness statement served under rule 62.11.

(2) Such a written witness statement must contain a declaration by the person making it that it is true to the best of that person's knowledge and belief.

[Note. By reason of sections 15 and 45 of the Senior Courts Act 1981(**7**)*, the Court of Appeal and the Crown Court each has an inherent power to imprison (for a maximum of 2 years), or fine (to an unlimited amount), or both, for contempt of court a person who, in a written witness statement to which this rule applies, makes, or causes to be made, a false statement without an honest belief in its truth. See also section 14 of the Contempt of Court Act 1981*(**8**)*.]*

(**4**) 1995 c. 38.
(**5**) 1995 c. 38.
(**6**) 1995 c. 38.
(**7**) 1981 c. 54.
(**8**) 1981 c. 49; section 14 was amended by section 65(1) of, and paragraphs 59 and 60 of Schedule 3 to, the Mental Health (Amendment) Act 1982 (c. 51), section 148 of, and paragraph 57 of Schedule 4 to, the Mental Health Act 1983 (c. 20),

Content of notice of other hearsay

62.13.—(1) This rule applies to a notice of hearsay, other than a written witness statement, served under rule 62.11.

(2) Such a notice must—

(a) set out the evidence, or attach the document that contains it; and

(b) identify the person who made the statement that is hearsay.

Cross-examination of maker of written witness statement or other hearsay

62.14.—(1) This rule applies where a party wants the court's permission to cross-examine a person who made a statement which another party wants to introduce as hearsay.

(2) The party who wants to cross-examine that person must—

(a) apply in writing, with reasons; and

(b) serve the application on—

(i) the court officer, and

(ii) the party who served the hearsay.

(3) A respondent who wants to cross-examine such a person must apply to do so not more than 7 days after service of the hearsay by the applicant.

(4) An applicant who wants to cross-examine such a person must apply to do so not more than 3 days after service of the hearsay by the respondent.

(5) The court—

(a) may decide an application under this rule without a hearing; but

(b) must not dismiss such an application unless the person making it has had an opportunity to make representations at a hearing.

[Note. See also section 3 of the Civil Evidence Act 1995(**9**)*.]*

Credibility and consistency of maker of written witness statement or other hearsay

62.15.—(1) This rule applies where a party wants to challenge the credibility or consistency of a person who made a statement which another party wants to introduce as hearsay.

(2) The party who wants to challenge the credibility or consistency of that person must—

(a) serve a written notice of intention to do so on—

(i) the court officer, and

(ii) the party who served the hearsay; and

(b) in it, identify any statement or other material on which that party relies.

(3) A respondent who wants to challenge such a person's credibility or consistency must serve such a notice not more than 7 days after service of the hearsay by the applicant.

(4) An applicant who wants to challenge such a person's credibility or consistency must serve such a notice not more than 3 days after service of the hearsay by the respondent.

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section 17(3) of, and Parts 1 and V of Schedule 4 to, the Criminal Justice Act 1991 (c. 53), section 65(3) and (4) of, and paragraph 6(5) of Schedule 3 to, the Criminal Justice Act 1993 (c. 36), section 165(1) of, and paragraph 84 of Schedule 9 to, the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), section 1(4) of, and paragraph 19 of Schedule 1 to, the Mental Health Act 2007 (c. 12) and section 17 of, and paragraph 52 of Schedule 9 and paragraph 53 of Schedule 10 to, the Crime and Courts Act 2013 (c. 22). It is further amended by sections 6(2) and 149 of, and paragraph 25 of Schedule 4 and Part 1 of Schedule 28 to, the Criminal Justice and Immigration Act 2008 (c. 4), with effect from a date to be appointed.

(**9**) 1995 c. 38.

(5) The party who served the hearsay—

(a) may call that person to give oral evidence instead; and

(b) if so, must serve a notice of intention to do so on—

(i) the court officer, and

(ii) the other party

as soon as practicable after service of the notice under paragraph (2).

[Note. Section 5(2) of the Civil Evidence Act 1995(**10**) *describes the procedure for challenging the credibility of the maker of a statement of which hearsay evidence is introduced. See also section 6 of that Act*(**11**)*.*

The 1995 Act does not allow the introduction of evidence of a previous inconsistent statement otherwise than in accordance with sections 5, 6 and 7 of the Criminal Procedure Act 1865(**12**)*.]*

Magistrates' courts' powers to adjourn, etc.

62.16.—(1) This rule applies where a magistrates' court deals with unauthorised disclosure of prosecution material under sections 17 and 18 of the Criminal Procedure and Investigations Act 1996(**13**).

(2) The sections of the Magistrates' Courts Act 1980 listed in paragraph (3) apply as if in those sections—

(a) 'complaint' and 'summons' each referred to an application or written statement under rule 62.9;

(b) 'complainant' meant an applicant; and

(c) 'defendant' meant the respondent.

(3) Those sections are—

(a) section 51(**14**) (issue of summons on complaint);

(b) section 54(**15**) (adjournment);

(c) section 55(**16**) (non-appearance of defendant);

(d) section 97(1)(**17**) (summons to witness);

(e) section 121(1)(**18**) (constitution and place of sitting of court);

(f) section 123(**19**) (defect in process).

(4) Section 127 of the 1980 Act(**20**) (limitation of time) does not apply.

(**10**) 1995 c. 38.
(**11**) 1995 c. 38.
(**12**) 1865 c. 18; section 6 was amended by section 10 of the Decimal Currency Act 1969 (c. 19), section 90 of, and paragraph 3 of Schedule 13 to, the Access to Justice Act 1999 (c. 22), section 109 of, and paragraph 47 of Schedule 8 to, the Courts Act 2003 (c. 39) and sections 331 and 332 of, and paragraph 79 of Schedule 36 to, and Schedule 37 to, the Criminal Justice Act 2003 (c. 44). It is further amended by section 119 of, and Schedule 7 to, the Police and Criminal Evidence Act 1984 (c. 60) and article 90 of, and Schedule 7 to, S.I. 1989/1342, with effect from a date to be appointed.
(**13**) 1996 c. 25; section 17 was amended by section 331 of, and paragraphs 20 and 33 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44).
(**14**) 1980 c. 43; section 51 was substituted by section 47(1) of the Courts Act 2003 (c. 39).
(**15**) 1980 c. 43.
(**16**) 1980 c. 43.
(**17**) 1980 c. 43; section 97(1) was substituted by section 169(2) of the Serious Organised Crime and Police Act 2005 (c. 15).
(**18**) 1980 c. 43.
(**19**) 1980 c. 43.
(**20**) 1980 c. 43.

[Note. Under section 19(3) of the Criminal Procedure and Investigations Act 1996(**21**)*, Criminal Procedure Rules may contain provisions equivalent to those contained in Schedule 3 to the Contempt of Court Act 1981*(**22**) *(which allows magistrates' courts in cases of contempt of court to use certain powers such courts possess in other cases).]*

Court's power to vary requirements under Section 3

62.17.—(1) The court may shorten or extend (even after it has expired) a time limit under rule 62.11, 62.14 or 62.15.

(2) A person who wants an extension of time must—

(a) apply when serving the statement, notice or application for which it is needed; and

(b) explain the delay.

(**21**) 1996 c. 25; section 19(3) was amended by section 109 of, and paragraph 377 of Schedule 8 to, the Courts Act 2003 (c. 39) and section 15 of, and paragraph 251 of Schedule 4 to, the Constitutional Reform Act 2005 (c. 4).

(**22**) 1981 c. 49; Schedule 3 has been amended but the amendment is not relevant to this rule.