
STATUTORY INSTRUMENTS

2024 No. 62

The Criminal Procedure (Amendment) Rules 2024

Amendments to the Criminal Procedure Rules

7. In Part 15 (Disclosure)—

(a) for rule 15.1 (When this Part applies) substitute—

“**15.1.** This Part applies in a magistrates’ court and in the Crown Court—

- (a) where Parts I and II of the Criminal Procedure and Investigations Act 1996(1) apply; and
- (b) where any comparable disclosure obligation applies otherwise than under the 1996 Act.

[Note. The Criminal Procedure and Investigations Act 1996 came into force on 1st April, 1997. It does not apply where the investigation began before that date. With effect from 4th April, 2005, the Criminal Justice Act 2003 made changes to the 1996 Act that do not apply to investigations begun earlier. In some circumstances, the prosecutor may be required to disclose material to which the 1996 Act does not apply: see sections 1 and 2I(2).

Part I of the 1996 Act contains sections 1 to 21A. Part II, which contains sections 22 to 27, requires an investigator to record information relevant to an investigation that is obtained during its course. See also the Criminal Procedure and Investigations Act 1996 (Code of Practice) Order 2015(3) issued under sections 23 to 25 of the 1996 Act.]”;

(b) for rule 15.2 (Prosecution disclosure) substitute—

“**Prosecution disclosure and disclosure management**

15.2.—(1) This rule applies where any of the following occurs—

- (a) under section 3 of the Criminal Procedure and Investigations Act 1996(4) (Initial duty of prosecutor to disclose), or under any comparable obligation that applies where that section does not, the prosecutor—
 - (i) discloses to the defendant any prosecution material that might reasonably be considered capable of undermining the case for the prosecution against the defendant or of assisting the case for the defendant (in this rule, “gives initial disclosure”), or

(1) 1996 c. 25.

(2) 1996 c. 25; section 1 was amended by section 119 of, and paragraph 125 of Schedule 8 to, the Crime and Disorder Act 1998 (c. 37), paragraph 66 of Schedule 3 and Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c. 44) and paragraph 37 of Schedule 17 to the Crime and Courts Act 2013 (c. 22). It was amended in respect of certain proceedings only by section 119 of, and paragraph 125(a) of Schedule 8 to, the Crime and Disorder Act 1998 (c. 37). It is further amended by section 9 of the Sexual Offences (Protected Material) Act 1997 (c. 39), with effect from a date to be appointed. Section 21 was amended by paragraph 66 of Schedule 3 to the Criminal Justice Act 2003 (c. 44).

(3) S.I. 2015/861.

(4) 1996 c. 25; section 3 was amended by section 82 of, and paragraph 7 of Schedule 4 to, the Regulation of Investigatory Powers Act 2000 (c. 23), section 32 and section 331 of, and paragraphs 20 and 21 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44) and section 272 of, and paragraph 39 of Schedule 10 to, the Investigatory Powers Act 2016 (c. 25).

- (ii) gives the defendant a statement that there is no such material;
- (b) under section 7A of the 1996 Act⁽⁵⁾ (Continuing duty of prosecutor to disclose), or under any comparable obligation that applies where that section does not, the prosecutor discloses any further such material; or
- (c) the prosecutor serves a document (in this rule, a “disclosure management document”) prepared by the prosecutor that—
 - (i) describes the prosecutor’s approach to discharging the prosecution obligations to which this Part applies; and
 - (ii) gives the reasons for that approach.
- (2) The prosecutor must discharge the prosecution obligations to which this Part applies as soon as is reasonably practicable.
- (3) At the same time as the prosecutor discloses material to which this rule refers, or gives the defendant a statement that there is no, or no further, such material, the prosecutor must serve on the court officer notice to that effect.
- (4) At the same time as the prosecutor serves on the defendant a disclosure management document, or revised such document, the prosecutor must serve that document on the court officer.
- (5) As soon as is reasonably practicable after the prosecutor serves a disclosure management document, or revised such document, the defendant must—
 - (a) make such observations on the content of that document as the defendant wants the court to take into account when giving directions for the preparation of the case for trial; and
 - (b) serve any such observations on—
 - (i) the prosecutor, and
 - (ii) the court officer.

[Note. See—

- (a) *sections 2 and 3 of the Criminal Procedure and Investigations Act 1996, which define material and prescribe how and in what circumstances it must be disclosed; and*
- (b) *sections 12 and 13 of the 1996 Act⁽⁶⁾, and paragraph 10 of the Code of Practice accompanying the Criminal Procedure and Investigations Act 1996 (Code of Practice) Order 2015⁽⁷⁾, which provide for the time limits for prosecution disclosure.*

See also—

- (a) *rule 3.19 (preparation for trial in the Crown Court, service of prosecution evidence). In some circumstances in the Crown Court the time limit for the prosecutor to give initial disclosure begins when the prosecution evidence is served. Under regulation 2 of the Crime and Disorder Act 1998 (Service of Prosecution Evidence) Regulations 2005 the time for service of the prosecution evidence in the Crown Court is—*

(5) 1996 c. 25; section 7A was inserted by section 37 of the Criminal Justice Act 2003 (c. 44).

(6) 1996 c. 25; section 12 was amended by sections 331 and 336 of, and paragraph 28 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44). Section 13 was amended by section 119 of, and paragraph 127 of Schedule 8 to, the Crime and Disorder Act 1998 (c. 37), section 67 of the Access to Justice Act 1999 (c. 22) and sections 331 and 336 of, and paragraph 66 of Schedule 3, paragraph 29 of Schedule 36 and Part 4 of Schedule 37 to, the Criminal Justice Act 2003 (c. 44).

(7) S.I. 2015/861.

(i) not more than 50 days after sending for trial, where the defendant is in custody, and

(ii) not more than 70 days after sending for trial, where the defendant is on bail.

(b) rule 15.4 (Defence disclosure).

In some circumstances disclosure is prohibited by section 56 of the Investigatory Powers Act 2016(8).J”;

(c) in rule 15.3 (Prosecutor’s application for public interest ruling), for the first paragraph of the note to the rule substitute—

“Note. The prosecutor must not disclose material that the court orders it would not be in the public interest to disclose: see sections 3(6) and 7A(8) of the Criminal Procedure and Investigations Act 1996.”;

(d) for rule 15.4 (Defence disclosure) substitute—

“Defence disclosure

15.4.—(1) This rule applies where the defendant pleads not guilty and—

(a) may give a defence statement in a magistrates’ court under section 6 of the Criminal Procedure and Investigations Act 1996(9); or

(b) must give—

(i) a defence statement in the Crown Court under section 5 of the 1996 Act(10); or

(ii) a defence witness notice in either court under section 6C of the 1996 Act(11).

(2) In a magistrates’ court a defendant who wants to give a defence statement must do so not more than 14 days after the prosecutor gives initial disclosure under rule 15.2 (Prosecution disclosure and disclosure management) or gives the defendant a statement that there is no such material.

(3) In the Crown Court the defendant must give a defence statement—

(a) if the prosecutor has served on the defendant under rule 3.19 (Service of prosecution evidence) copies of the documents containing the evidence on which the prosecution case relies; and

(b) not more than 28 days after the prosecutor gives initial disclosure under rule 15.2 or gives the defendant a statement that there is no such material.

(4) In either court the defendant must give a defence witness notice—

(a) within the time for giving a defence statement in that court; and

(b) whether the defendant gives a defence statement or not.

(5) If the time for giving a defence statement expires on a day that is not a business day then the time expires on the next business day.

(6) A defendant gives a defence statement or defence witness notice by serving it on—

(a) the court officer; and

(8) 2016 c. 25; section 56 was amended by section 24 of, and paragraph 44 of Schedule 5 to, the Armed Forces Act 2021 (c. 35).

(9) 1996 c. 25; section 6 was amended by section 332 of, and Part 3 of Schedule 37 to, the Criminal Justice Act 2003 (c. 44).

(10) 1996 c. 25; section 5 was amended by section 119 of, and paragraph 126 of Schedule 8 to, the Crime and Disorder Act 1998 (c. 37) and paragraph 66 of Schedule 3, and Part 4 of Schedule 37, to the Criminal Justice Act 2003 (c. 44).

(11) 1996 c. 25; section 6C was inserted by section 34 of the Criminal Justice Act 2003 (c. 44).

- (b) the prosecutor.

[Note. Under section 6A of the Criminal Procedure and Investigations Act 1996(12) a defence statement must—

- (a) *set out the nature of the defence, including any particular defences on which the defendant intends to rely;*
- (b) *indicate the matters of fact on which the defendant takes issue with the prosecutor, and, in respect of each, explain why;*
- (c) *set out particulars of the matters of fact on which the defendant intends to rely for the purposes of the defence;*
- (d) *indicate any point of law that the defendant wants to raise, including any point about the admissibility of evidence or about abuse of process, and any authority relied on; and*
- (e) *if the defence statement discloses an alibi, give particulars, including—*
 - (i) *the name, address and date of birth of any witness whom the defendant believes can give evidence in support (that is, evidence that the defendant was in a place, at a time, inconsistent with having committed the offence),*
 - (ii) *where the defendant does not know any of those details, any information that might help identify or find that witness.*

Under section 6C of the 1996 Act a defence witness notice that identifies any proposed defence witness (other than the defendant) must—

- (a) *give the name, address and date of birth of each such witness, or as many of those details as are known to the defendant when the notice is given;*
- (b) *provide any information in the defendant's possession which might be of material assistance in identifying or finding any such witness in whose case any of the details mentioned in paragraph (a) are not known to the defendant when the notice is given; and*
- (c) *amend any earlier such notice, if the defendant —*
 - (i) *decides to call a person not included in an earlier notice as a proposed witness,*
 - (ii) *decides not to call a person so included, or*
 - (iii) *discovers any information which the defendant would have had to include in an earlier notice, if then aware of it.*

The time for giving a defence statement and a defence witness notice to which this rule refers is prescribed by section 12 of the 1996 Act(13)and by the Criminal Procedure and Investigations Act 1996 (Defence Disclosure Time Limits) Regulations 2011(14).

Under section 11 of the 1996 Act(15), if a defendant—

- (a) *fails to disclose what the Act requires;*
- (b) *fails to do so within the time prescribed;*
- (c) *at trial, relies on a defence, or facts, not mentioned in the defence statement;*

(12) 1996 c. 25; section 6A was inserted by section 33 of the Criminal Justice Act 2003 (c. 44) and amended by section 60 of the Criminal Justice and Immigration Act 2008 (c. 4).

(13) 1996 c. 25; section 12 was amended by section 331 of, and paragraph 28 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44).

(14) S.I. 2011/209.

(15) 1996 c. 25; section 11 was substituted by section 39 of the Criminal Justice Act 2003 (c. 44) and amended by section 60 of the Criminal Justice and Immigration Act 2008 (c. 4).

(d) *at trial, introduces alibi evidence without having given in the defence statement—*

(i) *particulars of the alibi, or*

(ii) *the details of the alibi witness, or witnesses, required by the Act; or*

(e) *at trial, calls a witness not identified in a defence witness notice,*

then the court or another party at trial may comment on that, and the court may draw such inferences as appear proper in deciding whether the defendant is guilty.

Under section 6E(2) of the 1996 Act(16), if before trial in the Crown Court it seems to the court that section 11 may apply then the court must warn the defendant.]”;

(e) in rule 15.5 (Defendant’s application for prosecution disclosure) for paragraph (1)(a) substitute—

“(a) has given a defence statement under rule 15.4 (Defence disclosure); and”;

(f) in rule 15.9 (Court’s power to vary requirements under this Part)—

(i) in paragraph (a) for “under” substitute “set by”,

(ii) renumber paragraphs (b) to (d) as (c) to (e), and

(iii) after paragraph (a) insert—

“(b) extend (before it expires) a time limit to which rule 15.4 (Defence disclosure) refers, under regulation 3 of the Criminal Procedure and Investigations Act 1996 (Defence Disclosure Time Limits) Regulations 2011(17);”;

(g) omit the notes headed “Summary of disclosure requirements of Criminal Procedure and Investigations Act 1996”, “Prosecution disclosure” and “Defence disclosure” that follow rule 15.9; and

(h) amend the table of contents correspondingly.

(16) 1996 c. 25; section 6E was inserted by section 33 of the Criminal Justice Act 2003 (c. 44).

(17) S.I. 2011/209.