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S T A T U T O R Y I N S T R U M E N T S

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**2020 No. 417 (L. 12)**

**SENIOR COURTS OF ENGLAND AND WALES**

**MAGISTRATES' COURTS, ENGLAND AND WALES**

**The Criminal Procedure (Amendment No. 2) (Coronavirus)  
Rules 2020**

*Made* - - - - - *8th April 2020*

*Laid before Parliament* *9th April 2020*

*Coming into force* - - - *14th April 2020*

The Criminal Procedure Rule Committee makes the following Rules under section 69 of the Courts Act 2003(a), after consulting in accordance with section 72(1)(a) of that Act.

**Citation, commencement, cessation and interpretation**

**1.** These Rules may be cited as the Criminal Procedure (Amendment No. 2) (Coronavirus) Rules 2020 and shall come into force on 14th April 2020.

**2.** Rules 5, 6(a) and (b), 7, 8, 9, 10, 11, 13 and 14 cease to have effect when section 53 (and Schedule 23), section 54 (and Schedule 24) and section 55 (and Schedule 25) of the Coronavirus Act 2020(b) expire.

**3.** Rules 6(c) and 12 cease to have effect when paragraph 6 of Schedule 8 to the Coronavirus Act 2020 expires.

**4.** In these Rules a reference to a Part or rule by number alone means the Part or rule so numbered in the Criminal Procedure Rules 2015(c).

**Amendments to the Criminal Procedure Rules**

**5.** In Part 2 (Understanding and applying the Rules)—

(a) in rule 2.2 (Definitions), for the definition of live link substitute—

“‘live link’ means a live video link or a live audio link and:

(i) ‘live video link’ means a live television link or other arrangement by which a person taking part in a hearing can see and hear, and be seen and heard by, everyone else who is taking part and who is not in the same place as that person,

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(a) 2003 c. 39; section 69 was amended by sections 15(1) and 146 of, and paragraphs 308 and 332 of Schedule 4 and Part 2 of Schedule 18 to, the Constitutional Reform Act 2005 (c. 4).

(b) 2020 c. 7.

(c) S.I. 2015/1490; amended by S.I. 2016/120, 2016/705, 2017/144, 2017/282, 2017/755, 2017/915, 2018/132, 2018/847, 2019/143, 2019/908, 2019/1119, 2020/32.

- (b) *the circumstances in which the court may receive evidence and conduct a hearing by live link.]*;
- (c) at the end of rule 18.2 (Meaning of ‘witness’) omit the note to the rule;
- (d) in rule 18.4 (Decisions and reasons)—
  - (i) for paragraph (3) substitute—
    - “(3) Where the court can give, make, vary or discharge a special measures direction, a defendant’s evidence direction or a witness anonymity order the court must—
      - (a) announce the reasons for a decision to do so or not to do so; and
      - (b) in the case of a special measures direction, make that announcement at a hearing in public before the witness who is the subject of that direction gives evidence.
    - (4) Where the court can give, vary or rescind a live link direction the court must—
      - (a) announce the reasons for a decision not to give such a direction; and
      - (b) in the case of a live link direction for a sentencing hearing, announce the reasons for a decision to rescind that direction.
    - (5) Where the court gives a direction for everyone taking part in a hearing to do so by live link the court must announce the reasons for a decision—
      - (a) not to direct that the proceedings are to be broadcast, within the meaning of section 85A of the Courts Act 2003(a) (Enabling the public to see and hear proceedings); or
      - (b) not to direct that a recording of the proceedings is to be made, within the meaning of that section of that Act.”,
  - (ii) for the first paragraph of the note to the rule substitute—
    - “*[Note. See sections 20(5), 33A(8) and 33BB(4) of the Youth Justice and Criminal Evidence Act 1999(b), sections 57B(6), 57E(8) and 57F(9) of the Crime and Disorder Act 1998 and section 51(8) of the Criminal Justice Act 2003.*”, and
  - (iii) after the second paragraph of the note to the rule insert—
    - “*Under section 85A of the Courts Act 2003, if the court directs that proceedings are to be conducted wholly by live video or live audio link the court may direct (i) that the proceedings are to be broadcast for the purpose of enabling members of the public to see and hear, or to hear, those proceedings (as the case may be), and (ii) that a recording of the proceedings is to be made for the purpose of enabling the court to keep an audio-visual, or audio, record of the proceedings (as the case may be).*”;
- (e) for rule 18.23 (Exercise of court’s powers) substitute—
  - “**18.23.**—(1) The court may exercise its power to give, vary or rescind a live link direction—
    - (a) at a hearing, in public or in private, or without a hearing; and
    - (b) without requiring an application under rule 18.24 (Content of application for a live link direction).
  - (2) Whether it acts on an application or on its own initiative, the court must not—
    - (a) give or vary such a direction in contravention of a prohibition or limitation imposed by the Crime and Disorder Act 1998 or the Criminal Justice Act 2003; or
    - (b) give, vary or rescind such a direction—

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(a) 2003 c. 39; section 85A was inserted as a modification by section 55 of, and paragraph 1 of Schedule 25 to, the Coronavirus Act 2020 (c. 7).  
 (b) 1999 c. 23; section 20 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 of the Coroners and Justice Act 2009 (c. 25), with effect from a date to be appointed.

- (i) in the absence of any party and (if applicable) any representative of the youth offending team whose functions are exercisable in relation to a defendant unless the absentee has had an opportunity to make representations, and
- (ii) without first satisfying itself that the requirements of the Crime and Disorder Act 1998 or the Criminal Justice Act 2003 which apply are met.

(3) Where the court gives a direction for everyone taking part in a hearing to do so by live link the court may exercise its power under section 85A of the Courts Act 2003 (Enabling the public to see and hear proceedings) to direct that—

- (a) the proceedings are to be broadcast, within the meaning of that section of that Act; and
- (b) a recording of the proceedings is to be made, within the meaning of that section.

*[Note. The summary at the end of this Part lists the prohibitions and limitations imposed on the use of live links by the Crime and Disorder Act 1998 and the Criminal Justice Act 2003. The requirements for giving, varying and rescinding a live link direction are contained in sections 57B (preliminary hearings), 57E (sentencing hearings) and 57F (enforcement hearings) of the Crime and Disorder Act 1998(a) and in section 51 of the Criminal Justice Act 2003(b) ('eligible criminal proceedings', as defined by that section, including trials and appeals). Those requirements are reflected in the requirements of this rule and in the information required of an applicant for a live link direction by rule 18.24(1)(f), (g), (h).]'*

- (f) in rule 18.24 (Content of application for a live link direction)—
  - (i) for paragraph (1) substitute—
 

"(1) An applicant for a live link direction must—

    - (a) identify the power that the applicant wants the court to exercise;
    - (b) specify the hearing or hearings in respect of which the applicant wants the direction to apply;
    - (c) identify each person to whom the applicant wants the direction to apply and specify—
      - (i) each one whom the applicant wants to give evidence by live link, and
      - (ii) each one whom the applicant wants to take part by live link without giving evidence;
    - (d) in respect of each such person, specify the type of live link proposed (either video or audio);
    - (e) unless the court otherwise directs, identify the place from which each such person will take part if the direction is given;
    - (f) identify any material circumstances relating to—
      - (i) the availability of the proposed participant by live link,
      - (ii) any potential need for that participant to attend in person, not by live link,
      - (iii) any views which that participant may have expressed,
      - (iv) the suitability of the facilities at the place from which that participant would take part by live link if the direction were given, and
      - (v) that participant's ability to take part effectively if the direction were given, including in particular, if that participant is the defendant, whether he or she

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(a) 1998 c. 37; sections 57A to 57E were substituted for section 57 as originally enacted by section 45 of the Police and Justice Act 2006 (c. 48). Section 57B was amended by section 106 of the Coroners and Justice Act 2009 (c. 25) and is modified by section 54 of, and paragraphs 1 and 3 of Schedule 24 to, the Coronavirus Act 2020 (c. 7). Section 57E was amended by sections 106 and 178 of, and Schedule 3 to, the Coroners and Justice Act 2009 (c. 25) and is modified by section 54 of, and paragraphs 1 and 4 of Schedule 24 to, the Coronavirus Act 2020 (c. 7). Section 57F was inserted by section 109 of the Coroners and Justice Act 2009 (c. 25) and is modified by section 54 of, and paragraphs 1 and 5 of Schedule 24 to, the Coronavirus Act 2020 (c. 7).

(b) 2003 c. 44; section 51 is modified by section 53 of, and Part 1 of Schedule 23 to, the Coronavirus Act 2020 (c. 7).

- (2) A person other than the defendant may not take part by live audio link unless—
- they do so only to give evidence;
  - there are no suitable arrangements for that person to give evidence by live video link; and
  - the parties agree.

**C. Enforcement hearings**

- (1) The defendant may not give evidence by live audio link.
- (2) A person other than the defendant may not give evidence by live audio link unless—
- there are no suitable arrangements for that person to give evidence by live video link; and
  - the parties agree.
- (3) Where the court is minded to imprison or detain the defendant for default in payment—
- the defendant may not take part by live audio link;
  - a person other than the defendant may not take part by live audio link unless—
    - they do so only to give evidence,
    - there are no suitable arrangements for that person to give evidence by live video link, and
    - the parties agree.
- (4) Where the court deals with someone for contempt of court—
- the defendant may not take part by live audio link;
  - a person other than the defendant may not take part by live audio link unless—
    - they do so only to give evidence,
    - there are no suitable arrangements for that person to give evidence by live video link, and
    - the parties agree.
- (5) Where a person takes part in an enforcement hearing by live audio link then, unless they do so only to give evidence, the court may not—
- imprison or detain the defendant for default in payment; or
  - deal with anyone for contempt of court.

Under section 51 of the Criminal Justice Act 2003 the court may permit a participant to take part by live link in (i) a trial, (ii) an appeal or (iii) one of the other hearings listed in section 51(2) of the 2003 Act and may require a participant who gives evidence at such a hearing to do so by live link. A direction may apply to any or all of the participants (except a juror), including the court itself. A hearing may be conducted wholly as a video or audio hearing (but that is subject to the prohibitions and limitations listed beneath). A participant by live link may take part from any place in England and Wales or beyond.

Under section 51(1B), (10) and (12) of, and under Schedule 3A to, the 2003 Act, the following prohibitions and limitations apply—

- No juror may participate by live link.
- The following hearings may be conducted wholly as video hearings—
  - a trial in a magistrates' court where—
    - rule 24.9 applies (Written procedure case: special rules), and
    - the parties agree;
  - a hearing of an application to which applies—
    - rule 24.18 (Setting aside a conviction or varying a costs, etc. order), or

*Fulford, L.J.  
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William Davis, J.  
Martin Picton  
Martin Edmunds  
Michael Snow  
Louise Bryant  
Alison Pople  
Paul Jarvis  
Edmund Smyth  
Nicholas Ephgrave  
David Kenyon*

I allow these Rules, which shall come into force on 14th April 2020.

8th April 2020

*Robert Buckland  
Lord Chancellor*

## **EXPLANATORY NOTE**

*(This note is not part of the Rules)*

In consequence of modifications to statutory provisions made by the Coronavirus Act 2020 (c. 7), until those modifications expire these Rules make the following temporary amendments to the Criminal Procedure Rules 2015, S.I. 2015/1490:

<i>Rule</i>	<i>Amendment</i>
Part 2	Rule 2.2 is amended by substituting definitions of live link consistent with the definitions contained in the modified Crime and Disorder Act 1998, Criminal Justice Act 2003 and Extradition Act 2003. Rules 2.7 and 2.8 are amended consequentially on modifications to the Crime and Disorder Act 1998.
Part 3	Rules 3.2 and 3.9 are amended to impose on the court a duty to conduct hearings by live link in terms consistent with the modified Crime and Disorder Act 1998 and Criminal Justice Act 2003. Rules 3.3 and 3.5 are amended consequentially on the substituted definition of live link. The note to rule 3.28 is amended to accommodate modifications to the Mental Health Act 1983.
Part 5	Rule 5.4 is amended to impose on the court officer a duty to record the identity of those who take part in a hearing by live link.
Part 14	Rule 14.20 is amended consequentially on the substituted definition of live link.
Part 18	Rules 18.1, 18.4, 18.23, 18.25 and 18.26 and the note at the end of Part 18 all are amended to accommodate the modifications to the Crime and Disorder Act 1998, the Criminal Justice Act 2003 and the Courts Act 2003. Rule 18.2, the table of contents of Part 18, and the table of contents of the Criminal Procedure Rules 2015 are amended consequentially.
Part 24	The note to rule 24.11 is amended consequentially on modifications to the Crime and Disorder Act 1998.
Part 25	The note to rule 25.16 is amended consequentially on modifications to the Crime and Disorder Act 1998.
Part 28	The note to rule 28.8 is amended to accommodate modifications to the Mental Health Act 1983.
Part 47	Rules 47.5, 47.25, 47.36, 47.55, 47.60, 47.63 and 47.67 are amended consequentially on the substituted definition of live link.
Part 50	Rule 50.3 is amended to accommodate modifications to the Extradition Act 2003. Rule 50.17 is amended consequentially on the substituted definition of live link.

These Rules come into force on 14th April 2020.



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