2006 No. 2636 (L. 9)

SUPREME COURT OF ENGLAND AND WALES MAGISTRATES' COURTS, ENGLAND AND WALES

The Criminal Procedure (Amendment No. 2) Rules 2006

Made - - - - -	*3rd October 2006*
Laid before Parliament	*4th October 2006*
Coming into force - -	*6th November 2006*

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 and interpretation

1. These Rules may be cited as the Criminal Procedure (Amendment No. 2) Rules 2006 and shall come into force on 6th November 2006.

2. 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 2005(**b**).

Amendments to the Criminal Procedure Rules 2005

3. In rule 2.1 (When the Rules apply), at the end of paragraph (3), insert—

"(4) The rules in Part 33 apply in all cases in which the defendant is charged on or after 6 November 2006 and in other cases if the court so orders.".

4. In Part 4 (Service of documents)—

(a) in the table of contents, in the entry for rule 4.1, for "Summons issued by a magistrates' court", substitute "Service of summons, requisition etc.";

(b) in the heading to rule 4.1 (Service of summons, etc issued by a magistrates' court), for "etc issued by a magistrates' court", substitute "requisition etc.";

(c) in rule 4.1—

(i) in paragraph (1), after "justice of the peace", insert "or service of a requisition by a public prosecutor",

(ii) in paragraph (2), for "for the purposes of the Magistrates' Courts Act 1980(**c**) of a summons issued by a justice of the peace", substitute "of such a summons or requisition", and

(iii) in paragraphs (4) and (6), after "summons", wherever that word occurs, insert ", requisition";

(**a**) 2003 c. 39.
(**b**) S.I. 2005/384; amended by S.I. 2006/353.
(**c**) 1980 c. 43.

(d) in the note after rule 4.1—

(i) for "Formerly", substitute "Section 1 of the Magistrates' Courts Act 1980(**a**) provides for the issue of a summons by a justice of the peace. Section 29 of the Criminal Justice Act 2003(**b**) provides for the issue of a written charge and requisition by a public prosecutor. These rules derive in part from", and

(ii) after "form of a summons", insert "or requisition"; and

(e) in rule 4.2(1)—

(i) after "summons, process, notice", insert ", requisition", and

(ii) after "summons, notice, process", insert ", requisition".

5. In Part 7 (Commencing proceedings in magistrates' courts), in the table of contents—

(a) in the entry for rule 7.3, after "Information", insert "or written charge"; and

(b) in the entry for rule 7.7, after "summons", insert "or requisition".

6. In rule 7.2(1) (Statement of offence), for the words from "information laid in" to "made by,", substitute "written charge issued by a public prosecutor and every information, summons or warrant laid in or issued by".

7. In the note after rule 7.2, for "Formerly", substitute "Section 1 of the Magistrates' Courts Act 1980 provides for the laying of an information in a magistrates' court. Section 29 of the Criminal Justice Act 2003 provides for the issue of a written charge and requisition by a public prosecutor. These rules derive in part from".

8. In the heading to rule 7.3 (Information to be for one offence only), after "Information", insert "or written charge".

9. In rule 7.3—

(a) in paragraphs (1), (3), (4) and (5), after "information", wherever that word occurs, insert "or written charge"; and

(b) in paragraph (2), after "informations", insert "or written charges".

10. In the heading to rule 7.7 (Form of summons), after "summons", insert "or requisition".

11. In rule 7.7—

(a) for paragraph (1), substitute—

"(1) A summons or requisition must state the name of the justice or public prosecutor responsible for issuing it.";

(b) in paragraphs (2) and (3)—

(i) after "summons", wherever that word occurs, insert "or requisition", and

(ii) after "information", wherever that word occurs, insert ", written charge"; and

(c) in paragraph (3)—

(i) after "summonses", insert "or requisitions", and

(ii) after "informations", insert ", written charges".

12. In the note after rule 7.7, after "summons", insert "or a requisition".

13. In Part 15 (Preparatory hearings in cases of serious fraud and other complex or lengthy cases in the Crown Court)—

(a) for rule 15.1(2), substitute—

"(2) A prosecutor who wants the court to order that—

(a) the trial will be conducted without a jury under section 43 or section 44 of the Criminal Justice Act 2003(**c**); or

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(**a**) 1980 c. 43; section 1 was amended by section 331 of, and paragraphs 7 and 8 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44). Section 1(1) was substituted by section 43(1) of the Courts Act 2003 (c. 39).

(**b**) 2003 c. 44; section 29 will take effect from a date to be appointed. Section 29(5)(ca) was inserted by section 50(6) of, and paragraph 130 of Schedule 4 to, the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 29(5)(cb) was inserted by section 59 of, and paragraph 196 of Schedule 4 to, the Serious Organised Crime and Police Act 2005 (c. 15).

(**c**) 2003 c. 44; sections 43 and 44 will take effect from a date to be appointed.

(b) the trial of some of the counts included in the indictment will be conducted without a jury under section 17 of the Domestic Violence, Crime and Victims Act 2004(**a**),

must apply under this rule for a preparatory hearing, whether or not the defendant has applied for one."; and

(b) in rule 15.4(1), omit "for the purpose of determining whether to make an order that the trial will be conducted without a jury under section 43 or section 44 of the Criminal Justice Act 2003".

14. In rule 24.1(1)(i) (Requirement to disclose expert evidence)—

(a) after "parties", insert "and the court"; and

(b) after "evidence,", insert "and notify the expert of this disclosure,".

15. In the note after rule 24.1 (Requirement to disclose expert evidence), at the end, insert "Part 33 contains rules about the duties of an expert and the content of an expert's report.".

16. In the note after rule 29.3 (Late applications), at the end, insert "An application to make or vary a special measures direction also may be made in the time allowed under rule 36.6.".

17. In rule 29.8(a) (Expert evidence in connection with special measures directions)—

(a) for "to those proceedings", substitute "and the court"; and

(b) for "; and", substitute "and notify the expert of this disclosure; and".

18. In the note after rule 29.8, at the end, insert "Part 33 contains rules about the duties of an expert and the content of an expert's report.".

19. For Part 33 (Expert evidence), substitute the Part as set out in Schedule 1 to these Rules.

20. For Part 36 (Evidence about a complainant's sexual behaviour), substitute the Part as set out in Schedule 2 to these Rules.

21. In the heading to Part 68, for "or sentence", substitute ", sentence or sentence review decision".

22. In rule 68.3 (Notice of appeal and application for extension of time)—

(a) after paragraph (1A), insert—

"(1B) Notice of an application for leave to appeal under section 74(8) of the Serious Organised Crime and Police Act 2005(**b**) shall be given by completing the form set out in the Practice Direction and serving it on a Crown Court officer.";

(b) in paragraph (7)—

(i) in sub-paragraph (a), omit "or", and

(ii) at the end of sub-paragraph (b), insert—

"or

(c) article 5 of the Serious Organised Crime and Police Act 2005 (Appeals under section 74) Order 2006(**c**),"; and

(c) in paragraph (8)—

(i) in sub-paragraph (a), omit "or", and

(ii) at the end of sub-paragraph (b), insert—

"or

(c) article 5 of the 2006 Order,".

23. In rule 68.5 (Exercise of court's powers to give leave to appeal, etc: general rules)—

(a) in paragraph (1)(a)—

(i) for "or", substitute ",", and

(ii) after "2005", insert "or article 11 of the Serious Organised Crime and Police Act 2005 (Appeals under section 74) Order 2006";

(b) in paragraph (1)(b)—

(i) for "or", substitute ",", and

(ii) after "the 2005 Order", insert "or article 12 of the 2006 Order";

(**a**) 2004 c. 28; section 17 will take effect from a date to be appointed.
(**b**) 2005 c. 15.
(**c**) S.I. 2006/2135.

(c) in paragraph (1)(c)—
  (i) or the first "or", substitute ",", and
  (ii) after "the 2005 Order", insert "or article 13 of the 2006 Order";
(d) in paragraph (1)(d)—
  (i) for "or", substitute ",", and
  (ii) after "the 2005 Order", insert "or article 14 of the 2006 Order"; and
(e) in paragraph (4), after "1968 Act", insert "or the 2006 Order".

24. In rule 68.6 (Further applications to a judge or to the court: additional rules)—
(a) in paragraph (1)(a)—
  (i) for the first "or", substitute ",", and
  (ii) after "2005", insert "or article 11 of the Serious Organised Crime and Police Act 2005 (Appeals under section 74) Order 2006";
(b) in paragraph (1)(b)—
  (i) for "or by", substitute ",", and
  (ii) after "the 2005 Order", insert "or article 12 of the 2006 Order";
(c) in paragraph (1)(c)—
  (i) for "or", substitute ",", and
  (ii) after "the 2005 Order", insert "or article 14 of the 2006 Order"; and
(d) in paragraph (2)(a)—
  (i) for "or", substitute ",", and
  (ii) after "the 2005 Order", insert "or article 11 of the 2006 Order".

25. In rule 68.8 (Bail with condition of surety)—
(a) in paragraph (1), after "appellant", insert "or, in an appeal brought by a specified prosecutor under section 74(8) of the Serious Organised Crime and Police Act 2005, to the offender";
(b) in paragraph (5), for "appellant's", substitute "appellant or offender's";
(c) in paragraph (8)—
  (i) for "appellant's", substitute "appellant or offender's", and
  (ii) after "appellant", wherever that word occurs, insert "or offender"; and
(d) in paragraph (10), after "appellant", insert "or offender".

26. In rule 68.9(1) (Forfeiture of recognizances in respect of person bailed to appear), after "appellant", insert "or, in an appeal brought by a specified prosecutor under section 74(8) of the Serious Organised Crime and Police Act 2005, in respect of an offender,".

27. In rule 68.11 (Supply of documentary and other exhibits), for "The Registrar", wherever those words occur, substitute "Unless the court otherwise directs, the Registrar".

28. In rule 68.13(1) (Transcripts)—
(a) in sub-paragraph (a), omit "or any interested party"; and
(b) in sub-paragraph (b)—
  (i) for "may", where it first appears, substitute "shall", and
  (ii) after "Treasury", insert ", unless the court otherwise directs".

29. In rule 68.15(1) (Application for a witness order and for evidence to be received), after "appellant", insert ", or, in an appeal brought by a specified prosecutor under section 74(8) of the Serious Organised Crime and Police Act 2005, by the appellant or the offender".

30. In rule 68.17(2)(a) (Vulnerable witness giving video recorded testimony), after "appellant", insert "or, in an appeal brought by a specified prosecutor under section 74(8) of the Serious Organised Crime and Police Act 2005, the name of the offender,".

31. In rule 68.21(a) (Procedure for the admission of evidence of bad character), for "appellant,", substitute "appellant or, where the appeal is brought by a specified prosecutor under section 74(8) of the Serious Organised Crime and Police Act 2005, as a reference to an offender".

32. In rule 68.22 (Abandonment of proceedings)—

(a) in paragraph (1)—

(i) after "1968", for "or", substitute ",", and

(ii) after "2003", insert "or under section 74(8) of the Serious Organised Crime and Police Act 2005"; and

(b) in paragraph (3), for "court of trial", substitute "Crown Court".

33. In rule 68.23(1) (The Registrar), for "court of trial", substitute "Crown Court".

34. In rule 68.29 (Notice of determination of court)—

(a) in paragraph (1)—

(i) in the opening words, for the second "or", substitute ",",

(ii) after "2005", insert "or under article 11 of the Serious Organised Crime and Police Act 2005 (Appeals under section 74) Order 2006",

(iii) in sub-paragraph (d), omit "and", and

(iv) at the end of sub-paragraph (e), insert—

"; and

(f) in the case of an appeal under section 74(8) of the Serious Organised Crime and Police Act 2005, on the specified prosecutor and on the offender."; and

(b) for paragraph (2), substitute—

"(2) The Registrar shall, as soon as practicable serve notice of the order of the court disposing of an appeal or application for leave to appeal on a court officer of the Crown Court.".

35. In rule 68.30(1) (Enforcement of fines), after "appellant,", insert "or, in an appeal brought by a specified prosecutor under section 74(8) of the Serious Organised Crime and Police Act 2005, on the offender,".

Phillips of Worth Matravers, C.J.
Sir Igor Judge
Openshaw, J.
Charles Wide
Roderick Denyer
Anthony Evans
Brenda Large
Kenneth Macdonald
Andrew Mimmack
David Fisher
Tom Little
Graham White
Martin Baker
Mark Harris
James Riches

I allow these Rules, which shall come into force on 6th November, 2006.

Falconer of Thoroton, C.

31st July 2006

I concur

John Reid
One of Her Majesty's Principal Secretaries of State

3rd October 2006

"PART 33

Expert evidence

Contents of this Part

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[Note. See rule 2.1(4) for the application of the rules in this Part. Part 24 contains rules about the disclosure of the substance of expert evidence. For the use of an expert report as evidence, see section 30 of the Criminal Justice Act 1988(**a**)*.]*

Reference to expert

33.1. A reference to an 'expert' in this Part is a reference to a person who is required to give or prepare expert evidence for the purpose of criminal proceedings, including evidence required to determine fitness to plead or for the purpose of sentencing.

[Note. Expert medical evidence may be required to determine fitness to plead under section 4 of the Criminal Procedure (Insanity) Act 1964(**b**)*. It may be required also under section 11 of the Powers of Criminal Courts (Sentencing) Act 2000*(**c**)*, under Part III of the Mental Health Act 1983*(**d**) *or under Part 12 of the Criminal Justice Act 2003*(**e**)*. Those Acts contain requirements about the qualification of medical experts.]*

Expert's duty to the court

33.2.—(1) An expert must help the court to achieve the overriding objective by giving objective, unbiased opinion on matters within his expertise.

(2) This duty overrides any obligation to the person from whom he receives instructions or by whom he is paid.

(3) This duty includes an obligation to inform all parties and the court if the expert's opinion changes from that contained in a report served as evidence or given in a statement under Part 24 or Part 29.

Content of expert's report

33.3.—(1) An expert's report must—

(a) give details of the expert's qualifications, relevant experience and accreditation;

(b) give details of any literature or other information which the expert has relied on in making the report;

(c) contain a statement setting out the substance of all facts given to the expert which are material to the opinions expressed in the report or upon which those opinions are based;

(d) make clear which of the facts stated in the report are within the expert's own knowledge;

(e) say who carried out any examination, measurement, test or experiment which the expert has used for the report and—

(i) give the qualifications, relevant experience and accreditation of that person,

(ii) say whether or not the examination, measurement, test or experiment was carried out under the expert's supervision, and

(iii) summarise the findings on which the expert relies;

(**a**) 1988 c. 33; section 30(4A) was inserted by section 47 of, and paragraph 32 of Schedule 1 to, the Criminal Procedure and Investigations Act 1996 (c. 25) and is repealed by section 41 to, and paragraph 60(1) and (6) of Schedule 3 and Schedule 37 to, the Criminal Justice Act 2003, with effect from a date to be appointed.

(**b**) 1964 c. 84; section 4 was amended by section 2 of the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25) and section 22(1),(2) and (3) of the Domestic Violence, Crime and Victims Act 2004 (c. 28).

(**c**) 2000 c. 6.

(**d**) 1983 c. 20.

(**e**) 2003 c. 44.

(f) where there is a range of opinion on the matters dealt with in the report—

(i) summarise the range of opinion, and

(ii) give reasons for his own opinion;

(g) if the expert is not able to give his opinion without qualification, state the qualification;

(h) contain a summary of the conclusions reached;

(i) contain a statement that the expert understands his duty to the court, and has complied and will continue to comply with that duty; and

(j) contain the same declaration of truth as a witness statement.

(2) Only sub-paragraphs (i) and (j) of rule 33.3(1) apply to a summary by an expert of his conclusions served in advance of that expert's report.

[Note. Part 24 contains rules about the disclosure of the substance of expert evidence. Part 27 contains rules about witness statements. Declarations of truth in witness statements are required by section 9 of the Criminal Justice Act 1967(**a**) *and section 5B of the Magistrates' Courts Act 1980*(**b**)*. A party who accepts another party's expert's conclusions may admit them as facts under section 10 of the Criminal Justice Act 1967*(**c**)*. Evidence of examinations etc. on which an expert relies may be admissible under section 127 of the Criminal Justice Act 2003*(**d**)*.]*

Expert to be informed of service of report

33.4. A party who serves on another party or on the court a report by an expert must, at once, inform that expert of that fact.

Pre-hearing discussion of expert evidence

33.5.—(1) This rule applies where more than one party wants to introduce expert evidence.

(2) The court may direct the experts to—

(a) discuss the expert issues in the proceedings; and

(b) prepare a statement for the court of the matters on which they agree and disagree, giving their reasons.

(3) Except for that statement, the content of that discussion must not be referred to without the court's permission.

Failure to comply with directions

33.6. A party may not introduce expert evidence without the court's permission if the expert has not complied with a direction under rule 33.5.

[Note. At a pre-trial hearing a court may make binding rulings about the admissibility of evidence and about questions of law under section 7 of the Criminal Justice Act 1987(**e**)*; sections 31 and 40 of the Criminal Procedure and Investigations Act 1996*(**f**)*; and section 45 of the Courts Act 2003*(**g**)*.]*

Court's power to direct that evidence is to be given by a single joint expert

33.7.—(1) Where more than one defendant wants to introduce expert evidence on an issue at trial, the court may direct that the evidence on that issue is to be given by one expert only.

(2) Where the co-defendants cannot agree who should be the expert, the court may—

(a) select the expert from a list prepared or identified by them; or

(b) direct that the expert be selected in such other manner as the court may direct.

(**a**) 1967 c. 80; section 9 is amended by section 72(3) of, and paragraph 55 of Schedule 5 to, the Children and Young Persons Act 1969 (c. 54) and sections 41 and 332 of, and paragraph 43(1) and (2) of Schedule 3 and Schedule 37 to, the Criminal Justice Act 2003 (c. 44), with effect from dates to be appointed.

(**b**) 1980 c. 43; section 5B was inserted by section 47 of, and paragraph 3 of Schedule 1 to, the Criminal Procedure and Investigations Act 1996 (c. 25) and is amended by section 72(3) of, and paragraph 55 of Schedule 5 to, the Children and Young Persons Act 1969 (c. 54), with effect from a date to be appointed. It is repealed by sections 41 and 332 of, and paragraph 51(1) and (3) of Schedule 3 and Schedule 37 to, the Criminal Justice Act 2003 (c. 44), with effect from a date to be appointed.

(**c**) 1967 c. 80.

(**d**) 2003 c. 44; section 127 was amended by article 3 of, and paragraphs 45 and 50 of the Schedule to, S.I. 2004/2035.

(**e**) 1987 c. 38; section 7 was amended by section 168(1) of, and paragraph 30 of Schedule 9 to, the Criminal Justice and Public Order Act 1994 (c. 33) and section 310(1) of the Criminal Justice Act 2003 (c. 44) and is further amended by sections 45 and 331 of, and paragraphs 52 and 53 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44), with effect from dates to be appointed. Section 7(3),(4) and (5) was repealed by sections 72 and 80 of, and paragraph 2 of Schedule 3 and Schedule 5 to, the Criminal Procedure and Investigations Act 1996 (c. 25).

(**f**) 1996 c. 25; section 31 is amended by sections 310(5), 331 and 332 of, and paragraphs 20, 36, 65 and 67 of Schedule 36 and Schedule 37 to, the Criminal Justice Act 2003 (c. 44), with effect from dates to be appointed.

(**g**) 2003 c. 39.

Instructions to a single joint expert

33.8.—(1) Where the court gives a direction under rule 33.7 for a single joint expert to be used, each of the co-defendants may give instructions to the expert.

(2) When a co-defendant gives instructions to the expert he must, at the same time, send a copy of the instructions to the other co-defendant(s).

(3) The court may give directions about—

(a) the payment of the expert's fees and expenses; and

(b) any examination, measurement, test or experiment which the expert wishes to carry out.

(4) The court may, before an expert is instructed, limit the amount that can be paid by way of fees and expenses to the expert.

(5) Unless the court otherwise directs, the instructing co-defendants are jointly and severally liable for the payment of the expert's fees and expenses."

SCHEDULE 2

Rule 20

"PART 36

Evidence about a complainant's sexual behaviour

Contents of this Part

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Application for permission to introduce evidence or cross-examine	rule 36.2
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Service of application	rule 36.4
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Application for special measures	rule 36.6
Court's power to vary requirements under this Part	rule 36.7

[Note. The rules in this Part derive in part from rule 23D of the Crown Court Rules 1982(**a**)*.*

Section 41 of the Youth Justice and Criminal Evidence Act 1999(**b**) *prohibits evidence or cross-examination about the sexual behaviour of a complainant of a sexual offence, subject to exceptions.*

See also:

section 42 of the 1999 Act(**c**)*, which among other things defines 'sexual behaviour' and 'sexual offence';*

section 43(**d**)*, which among other things, requires—*

an application under section 41 to be heard in private and in the absence of the complainant,

the reasons for the court's decision on an application to be given in open court,

the court to state in open court the extent to which evidence may be introduced or questions asked;

section 34, which prohibits cross-examination by a defendant in person of the complainant of a sexual offence.]

When this Part applies

36.1. This Part applies in magistrates' courts and in the Crown Court where a defendant wants to—

(a) introduce evidence; or

(b) cross-examine a witness

about a complainant's sexual behaviour despite the prohibition in section 41 of the Youth Justice and Criminal Evidence Act 1999.

Application for permission to introduce evidence or cross-examine

36.2. The defendant must apply for permission to do so—

(a) in writing; and

(**a**) S.I. 1982/1109; amended by S.I. 2000/2987; there are other amending instruments, but none is relevant.

(**b**) 1999 c. 23.

(**c**) Section 42(3)(c) was amended by section 41 of, and paragraph 73(1) and (3)(b) of Schedule 3 to, the Criminal Justice Act 2003 (c. 44). Section 42(3)(a) and (b) is repealed by section 41 of, and paragraph 73(1) and (3)(a) of Schedule 3 and Schedule 37 to, the Criminal Justice Act 2003 (c. 44), with effect from a date to be appointed.

(**d**) Section 43(3) was amended by section 109(1) of, and paragraph 384(g) of Schedule 8 to, the Courts Act 2003 (c. 39).

(b) not more than 28 days after the prosecutor has complied or purported to comply with section 3 of the Criminal Procedure and Investigations Act 1996(**a**) (disclosure by prosecutor).

[Note. See Part 3 for the court's general powers to consider an application with or without a hearing and to give directions.

At a pre-trial hearing a court may make binding rulings about the admissibility of evidence and about questions of law under section 7 of the Criminal Justice Act 1987(**b**)*; sections 31 and 40 of the Criminal Procedure and Investigations Act 1996*(**c**)*; and section 45 of the Courts Act 2003*(**d**)*.]*

Content of application

36.3. The application must—

(a) identify the issue to which the defendant says the complainant's sexual behaviour is relevant;

(b) give particulars of—

(i) any evidence that the defendant wants to introduce, and

(ii) any questions that the defendant wants to ask;

(c) identify the exception to the prohibition in section 41 of the Youth Justice and Criminal Evidence Act 1999 on which the defendant relies; and

(d) give the name and date of birth of any witness whose evidence about the complainant's sexual behaviour the defendant wants to introduce.

Service of application

36.4. The defendant must serve the application on the court officer and all other parties.

Reply to application

36.5. A party who wants to make representations about an application under rule 36.2 must—

(a) do so in writing not more than 14 days after receiving it; and

(b) serve those representations on the court officer and all other parties.

Application for special measures

36.6. If the court allows an application under rule 36.2 then—

(a) a party may apply not more than 14 days later for a special measures direction or for the variation of an existing special measures direction; and

(b) the court may shorten the time for opposing that application.

[Note. Special measures to improve the quality of evidence given by certain witnesses may be directed by the court under section 19 of the Youth Justice and Criminal Evidence Act 1999 and varied under section 20(**e**)*. An application for a special measures direction may be made by a party under Part 29 or the court may make a direction on its own initiative. Rule 29.1(6) sets the usual time limit (14 days) for opposing a special measures application.]*

Court's power to vary requirements under this Part

36.7. The court may shorten or extend (even after it has expired) a time limit under this Part."

(**a**) 1996 c. 25; section 3 was amended by section 82(1) of, and paragraph 7(1) of Schedule 4 to, the Regulation of Investigatory Powers Act 2000 (c. 23) and sections 32 and 331 of, and paragraphs 20 and 21 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44).

(**b**) 1987 c. 38; section 7 was amended by section 168(1) of, and paragraph 30 of Schedule 9 to, the Criminal Justice and Public Order Act 1994 (c. 33) and section 310(1) of the Criminal Justice Act 2003 (c. 44) and is further amended by sections 45 and 331 of, and paragraphs 52 and 53 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44), with effect from dates to be appointed. Section 7(3),(4) and (5) was repealed by sections 72 and 80 of, and paragraph 2 of Schedule 3 and Schedule 5 to, the Criminal Procedure and Investigations Act 1996 (c. 25).

(**c**) 1996 c. 25; section 31 is amended by sections 310(5), 331 and 332 of, and paragraphs 20, 36, 65 and 67 of Schedule 36 and Schedule 37 to, the Criminal Justice Act 2003 (c. 44), with effect from dates to be appointed.

(**d**) 2003 c. 39.

(**e**) Section 20(6) is amended by paragraph 384(a) of Schedule 8 to the Courts Act 2003 (c. 39).

EXPLANATORY NOTE

(This note is not part of the Order)

These Rules add the following new provisions to the Criminal Procedure Rules 2005 ("the Rules"):

- A new Part 33 (expert evidence), in substitution for the existing Part 33, which sets out the duty of an expert to the court and the content of an expert's report. It allows the court to direct that defence evidence will be given by a single joint expert.
- A new Part 36 (evidence about a complainant's sexual behaviour), in substitution for the existing Part 36, which revises and simplifies the rules about applications under section 41 of the Youth Justice and Criminal Evidence Act 1999.
- A new rule 2.1 (when the Rules apply) explains when the new expert evidence rules in Part 33 will apply.

In addition, the following amendments are made:

- Part 4 (service of documents) is extended to govern the service of a requisition issued by a public prosecutor under section 29 of the Criminal Justice Act 2003.
- Part 7 (commencing proceedings in magistrates' courts) is extended to govern the form and content of a requisition and written charge issued by a public prosecutor under section 29 of the Criminal Justice Act 2003. The amended Rules require that a summons or requisition must state the name of the justice or public prosecutor responsible for issuing it.
- Part 15 (preparatory hearings in cases of serious fraud and other complex or lengthy cases in the Crown Court) is extended to govern applications under section 17 of the Domestic Violence, Crime and Victims Act 2004 for trial of some of the counts in an indictment without a jury.
- Part 68 (appeal to the Court of Appeal against conviction or sentence) is extended to govern the procedure on an appeal to the Court of Appeal under section 74(8) of the Serious Organised Crime and Police Act 2005 against a sentence review decision.
- Rule 24.1 (requirement to disclose expert evidence) is amended to require that an expert whose findings are disclosed under the rule is made aware of that disclosure, which is relevant to the expert's duty to the court under Part 33. The amended rule requires service on the court of a statement provided to another party under that rule.
- Rule 29.8 (expert evidence in connection with special measures directions) is amended to require that an expert whose findings are disclosed under the rule is made aware of that disclosure, which is relevant to the expert's duty to the court under Part 33. The amended rule requires service on the court of a statement provided to another party under that rule.

STATUTORY INSTRUMENTS

2006 No. 2636 (L. 9)

SUPREME COURT OF ENGLAND AND WALES
MAGISTRATES' COURTS, ENGLAND AND WALES

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