

JU301\*

The Criminal Code  
Sentencing Act 1995

## Criminal Procedure Amendment Rules 2002

Made by the Judges of the Supreme Court.

### 1. Citation

These rules may be cited as the *Criminal Procedure Amendment Rules 2002*.

### 2. The rules amended

The amendments in these rules are to the *Criminal Procedure Rules 2000*\*.

[\* *Published in Gazette 2 January 2001 p. 1-75.*  
*For amendments to 6 February 2002 see Gazette*  
*17 August 2001.*]

### 3. Rule 21 amended

Rule 21(2) is amended by deleting “subrule (2).” and inserting instead —

“ subrule (3). ”.

### 4. Rule 30 amended

- (1) Rule 30(1) is repealed and the following subrule is inserted instead —

“

- (1) If a party or other person wants a court to issue a subpoena to a person (the “**witness**”), he or she must file a request in the form of Form 7 to which is attached a draft subpoena, or draft subpoenas, for one or both of the following, as the case requires —

- (a) a subpoena to give oral evidence in the form of Form 8;
- (b) a subpoena to produce a record or thing in the form of Form 9.

”.

- (2) Rule 30(7) is amended after “hearing” by inserting —

“  
or, if it is not practicable to do so, of another  
proceeding at which a judge is presiding  
”.

**5. Rule 33 amended**

Rule 33(1) and (2) are amended after “pre-trial hearing” by inserting —

“ or other proceeding ”.

**6. Rule 39 amended**

Rule 39 is amended as follows:

- (a) by deleting “rule 38” and inserting instead —

“ rule 37 or 38, or both those rules, ”;

- (b) after “that rule” by inserting —

“ , or both those rules, ”;

- (c) after “with it” by inserting —

“ or them ”.

**7. Rule 50 amended**

- (1) Rule 50(1) is amended by deleting the definition of “stay order” and inserting the following definition instead —

“  
**“stay order”** means an order made by a court on the conviction of a person that stays the operation of—  
(a) section 24(1) of *The Sale of Goods Act 1895* (the **“relevant statutory provision”**) in relation to the reversioning of the property in stolen goods;  
(b) an order for the restitution or delivery of any thing;  
(c) an order for the forfeiture, disposal or destruction of any thing;  
(d) a community order within the meaning of the *Sentencing Act 1995*;  
(e) an order imposing a fine or for the payment of compensation or another sum of money;  
or  
(f) an order imposing a disqualification on that person.  
”.

- (2) Rule 50(2) is amended by deleting “a party or any other person with a sufficient interest” and inserting instead —

“  
the person convicted or sentenced, the DPP or any other person who is, or is to be, affected by the

operation of the relevant statutory provision or the order in relation to which the stay order is sought

”.

(3) Rule 50(3) is amended by deleting “commenced” and inserting instead —

“ finally determined ”.

(4) Rule 50(4), (5) and (6) are repealed and the following subrules are inserted instead —

“

(4) A court may make a stay order on any terms and conditions that it thinks fit, including terms and conditions for the purpose of —

- (a) ensuring that an appeal is prosecuted without delay;
- (b) securing the safe custody of any record or thing during the period that the order has effect;
- (c) requiring security to be given in relation to an order imposing a fine or for the payment of compensation or another sum of money.

(5) A court may make an order varying or revoking a stay order.

(6) The operation of a stay order is subject to section 694 of the Code.

”.

**8. Schedule 1 amended**

Schedule 1 is amended by deleting Form 6 and inserting the following form instead —

“

**6. Request that person in custody be present to give evidence (r. 29)**

<i>The Criminal Code</i> <i>Criminal Procedure Rules 2000</i> <b>Request that person in custody be present to give evidence</b>		<input type="checkbox"/> Court of Criminal Appeal <input type="checkbox"/> Supreme Court <input type="checkbox"/> District Court At: Number:
Matter	[Names of all parties]	
Applicant	[Name of the party requesting]	
Request	The applicant requests the Court to require the following person(s) to be present on [Date] at [Place] to give evidence on behalf of the above applicant in this matter.	
	Full name of person in custody	Place of custody (if known)
Signature of applicant or lawyer	..... Applicant/Applicant's lawyer	Date:

”.

Dated: 20 February 2002.

DAVID K. MALCOLM,  
Chief Justice's signature

H. A. WALLWORK

M. J. MURRAY

G. F. SCOTT

C. D. STEYTLER

K. H. PARKER

A. J. TEMPLEMAN

G. P. MILLER

N. P. HASLUCK

L. W. ROBERTS-SMITH

C. J. McLURE

C. J. L. PULLIN

C. A. WHEELER

Judges' signatures