

Reprint
as at 12 June 2009

**Criminal Proceedings (Search of
Court Records) Rules 1974**

(SR 1974/58)

Criminal Proceedings (Search of Court Records) Rules 1974: revoked, on 12 June 2009, by rule 17(1) of the Criminal Proceedings (Access to Court Documents) Rules 2009 (SR 2009/134).

PURSUANT to the Crimes Act 1961 and the Judicature Act 1908, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, and with the concurrence of the Right Honourable the Chief Justice and at least two of the other members of the Rules Committee constituted under the Judicature Amendment Act 1930, as amended by section 2 of the Judicature Amendment Act (No 2) 1968 (of whom at least one was a judge of the Supreme Court), hereby makes the following rules.

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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this eprint.

A general outline of these changes is set out in the notes at the end of this eprint, together with other explanatory material about this eprint.

These rules are administered in the Department of Justice.

1 Title and commencement

- (1) These rules may be cited as the Criminal Proceedings (Search of Court Records) Rules 1974.
- (2) These rules shall come into force on the 14th day after the date of their notification in the *Gazette*.

2 Search of Court records

- (1) Any person shall on payment of the prescribed fee, be entitled during office hours to search, inspect, and take or be issued with a copy of any of the following, namely—
 - (a) The register of persons committed for trial and sentence, the register commonly known as the Return of Prisoners Tried and Sentenced, and the indexes to those registers:
 - (b) Any document on any file relating to criminal proceedings in any office of the Court if—
 - (i) A right of search or inspection of that document is given by any Act; or
 - (ii) That document constitutes notice of its contents to the public.
- (2) Subject to subclauses (3) and (4) of this rule, a person who is a party to any criminal proceeding or is the solicitor acting for a party therein shall have the right, without payment of fee, to search, inspect, and take or be issued with a copy of the file pertaining to that cause or matter.
- (3) Where there is more than one defendant to any criminal proceeding documents on the file relating to that proceeding may be searched, inspected, or copied by or on behalf of a defendant, or a copy issued to the defendant or his or her solicitor, only with the leave of a Judge and subject to such conditions as the Judge may impose:

Provided that during the absence of a Judge or the inability of a Judge to act, a Registrar (but not a Deputy Registrar) shall have the powers of a Judge under this subclause.
- (4) No document shall be searched, inspected, or copied, and no copy shall be issued of a document, which a Judge has at any time directed shall not be inspected without leave save in accordance with the direction.

- (5) Except as expressly provided in subclauses (1) to (3) of this rule, no person may search, inspect, or copy, or be issued with a copy of,—
 - (a) The Crown Book without the leave of a Judge or a Registrar (but not a Deputy Registrar) and subject to such conditions as the Judge or the Registrar may impose:
 - (b) Any file, or part of a file, or document relating to a criminal proceeding without the leave of a Judge and subject to such conditions as the Judge may impose.
- (6) An application for leave under subclause (3) or subclause (5) of this rule may be made on an informal basis.
- (7) If an application for leave under subclause (3) or paragraph (a) of subclause (5) of this rule is refused by a Registrar the applicant may appeal to a Judge against such refusal.
- (8) Notwithstanding anything in the foregoing provisions of this rule any person shall, on payment of the prescribed fee, if any, be entitled during office hours to search, inspect, and take or be issued with a copy of any document or record filed or lodged in the Court more than 60 years before.
- (9) For the purposes of this rule **document** includes:
 - (a) The record made of oral evidence given at any hearing but shall not include any notes made personally by the judge:
 - (b) All exhibits produced in evidence:
 - (c) The record made of the reasons given by the judge for his judgment but shall not include any notes made thereof personally by the judge.
- (10) These rules shall apply *mutatis mutandis* to proceedings in the Court of Appeal and to proceedings in the Supreme Court.
- (11) Nothing in this rule shall affect any Act, regulations, or rules which contain express provisions of any kind in relation to the search of Court records, and this rule shall be subject to those provisions.
- (12) Nothing in this rule shall limit the provisions of any order made under any of the provisions of sections 138 to 140 of the Criminal Justice Act 1985 or any other enactment restrict-

ing the publication, in any report relating to any proceedings in respect of any offence, of the name of any person.

Subclauses (1), (2) and (8) were amended, as from 1 June 1988, by rule 2(1) Criminal Proceedings (Search of Court Records) Rules 1974, Amendment No 1 (SR 1988/82) by inserting the words “or be issued with” in each case.

Subclause (3) was amended, as from 1 June 1988, by rule 2(2) Criminal Proceedings (Search of Court Records) Rules 1974, Amendment No 1 (SR 1988/82) by inserting the words “, or a copy issued to the defendant or his or her solicitor,”.

Subclause (4) was amended, as from 1 June 1988, by rule 2(3) Criminal Proceedings (Search of Court Records) Rules 1974, Amendment No 1 (SR 1988/82) by inserting the words “, and no copy shall be issued of a document,”.

Subclause (5) was amended, as from 1 June 1988, by rule 2(4) Criminal Proceedings (Search of Court Records) Rules 1974, Amendment No 1 (SR 1988/82) by inserting the words “, or be issued with a copy of,”.

Subclause (10) was amended, as from 1 April 2004, by rule 3 Criminal Proceedings (Search of Court Records) Amendment Rules 2004 (SR 2004/30) by adding the words “and to proceedings in the Supreme Court”.

Subclause (12) was amended, as from 1 June 1988, by rule 2(5) Criminal Proceedings (Search of Court Records) Rules 1974, Amendment No 1 (SR 1988/82) by substituting the words “any of the provisions of sections 138 to 140 of the Criminal Justice Act 1985 or any other enactment” for the words “section 46 of the Criminal Justice Act 1946”.

P G MILLEN,
Clerk of the Executive Council.

Explanatory note

This note is not part of the rules, but is intended to indicate their general effect

These rules set out the circumstances in which records and documents relating to criminal proceedings may be searched. The new rules do not override express provisions in Acts, regulations, and rules.

Issued under the authority of the Regulations Act 1936.
Date of notification in *Gazette*: 21 March 1974.

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Notes

1 *General*

This is an eprint of the Criminal Proceedings (Search of Court Records) Rules 1974. It incorporates all the amendments to the rules as at 12 June 2009. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 3 September 2007. Relevant provisions of any amending enactments that contain transitional, savings, or application provisions are also included, after the Principal enactment, in chronological order.

2 *About this eprint*

This eprint has not been officialised. For more information about officialisation, please see “Making online legislation official” under “Status of legislation on this site” in the About section of this website.

3 *List of amendments incorporated in this eprint (most recent first)*

Criminal Proceedings (Access to Court Documents) Rules 2009 (SR 2009/134): rule 17(1)
