
STATUTORY INSTRUMENTS

1997 No. 705 (L. 11)

**MAGISTRATES' COURTS
PROCEDURE**

**The Magistrates' Courts (Advance
Notice of Expert Evidence) Rules 1997**

<i>Made</i>	- - - -	<i>10th March 1997</i>
<i>Laid before Parliament</i>		<i>11th March 1997</i>
<i>Coming into force</i>	- -	<i>1st April 1997</i>

The Lord Chancellor, in exercise of the powers conferred upon him by section 144 of the Magistrates' Courts Act 1980(1) and section 20(3) and (4) of the Criminal Procedure and Investigations Act 1996(2), and after consultation with the Rule Committee appointed under the said section 144, hereby makes the following Rules:

1. These Rules may be cited as the Magistrates' Courts (Advance Notice of Expert Evidence) Rules 1997 and shall come into force on 1st April 1997.

2. These Rules shall not have effect in relation to any proceedings which relate to an alleged offence into which a criminal investigation has begun before 1st April 1997.

3.—(1) Where a magistrates' court proceeds to summary trial in respect of an alleged offence and the person charged with that offence pleads not guilty in respect of it, if any party to the proceedings proposes to adduce expert evidence (whether of fact or opinion) in the proceedings (otherwise than in relation to sentence) he shall as soon as practicable after the person charged has so pleaded, unless in relation to the evidence in question he has already done so—

- (a) furnish the other party or parties with a statement in writing of any finding or opinion which he proposes to adduce by way of such evidence; and
- (b) where a request in writing is made to him in that behalf by any other party, provide that party also with a copy of (or if it appears to the party proposing to adduce the evidence to be more practicable, a reasonable opportunity to examine) the record of any observation, test, calculation or other procedure on which such finding or opinion is based and any document or other thing or substance in respect of which any such procedure has been carried out.

(1) 1980 c. 43; section 144 was extended by section 145 of that Act (to which there are amendments not relevant to these Rules) and amended by paragraph 25(1) and (7) of Schedule 18 to the Courts and Legal Services Act 1990 (c. 41).
(2) 1996 c. 25.

(2) A party may by notice in writing waive his right to be furnished with any of the matters mentioned in paragraph (1) above and, in particular, may agree that the statement mentioned in subparagraph (a) thereof may be furnished to him orally and not in writing.

(3) In paragraph (1) above, “document” means anything in which information of any description is recorded.

4.—(1) If a party has reasonable grounds for believing that the disclosure of any evidence in compliance with the requirements imposed by rule 3 above might lead to the intimidation, or attempted intimidation, of any person on whose evidence he intends to rely in the proceedings, or otherwise to the course of justice being interfered with, he shall not be obliged to comply with those requirements in relation to that evidence.

(2) Where, in accordance with paragraph (1) above, a party considers that he is not obliged to comply with the requirements imposed by rule 3 above with regard to any evidence in relation to any other party, he shall give notice in writing to that party to the effect that the evidence is being withheld and the grounds therefor.

5. A party who seeks to adduce expert evidence in any proceedings and who fails to comply with rule 3 above shall not adduce that evidence in those proceedings without the leave of the court.

Dated 10th March 1997

Mackay of Clashfern, C.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules provide for mutual disclosure of expert evidence between parties to proceedings for the summary trial of an offence where the person charged with the offence pleads not guilty.

Rule 3 requires a party to disclose any expert evidence which he proposes to adduce as soon as practicable after the plea is taken. Rule 3(1)(b) enables a party to examine the basis of any findings or opinions proposed to be adduced by way of expert evidence by another party. Rule 4 provides for a party to withhold any matter where he has reasonable grounds for suspecting that its disclosure might lead to intimidation or the course of justice being interfered with. In such a case the party is required to give to the other party notice in writing, which must include the grounds on which disclosure is being withheld. By rule 5 a party who fails to comply with rule 3 in respect of any evidence may not adduce that evidence without the leave of the court.

The Rules, by virtue of rule 1, come into force on 1st April 1997 and, by virtue of rule 2, have effect in relation to proceedings for an offence into which no criminal investigation has begun before that date.