
STATUTORY INSTRUMENTS

1997 No. 706

The Magistrates' Courts (Amendment) Rules 1997

Amendment of Magistrates' Courts Rules 1981

3. After rule 4 (information and complaint) there shall be inserted—

“Deposition etc. of reluctant witness

4A.—(1) Where a person attends before a justice of the peace in pursuance of section 97A of the Act of 1980 the justice shall—

- (a) where that person attends for the purpose of giving evidence, cause his evidence to be put in writing;
- (b) where that person attends for the purpose of producing a document or other exhibit, cause the document or exhibit to be handed over for examination and any evidence given by that person in respect of it to be put in writing;
- (c) where that person refuses to have his evidence taken or to produce the document or other exhibit, as the case may be, explain to him the consequences of so refusing without just excuse, and ask him to explain why he has so refused; and
- (d) cause a record of any such refusal to be made in writing.

(2) As soon as practicable after the examination by the prosecutor of a witness whose evidence is put in writing the justice shall cause his deposition to be read to him, and shall require the witness to sign the deposition.

(3) Any such deposition shall be authenticated by a certificate signed by the justice.

(4) Subject to rule 11 the clerk of the justice concerned, on sending a copy of any deposition or documentary exhibit to the prosecutor under section 97A(9) or (10) of the Act of 1980, as the case may be—

- (a) shall retain the original deposition or documentary exhibit, and
- (b) may retain any other exhibit produced in pursuance of that section.

Prosecutor's notice to other party: right to object to written evidence being read at trial without further evidence.

4B.—(1) The prosecutor shall, when he serves on any other party a copy of the evidence to be tendered in committal proceedings, notify that party that if he is committed for trial he has the right to object, by written notification to the prosecutor and the Crown Court within 14 days of being so committed unless the court in its discretion permits such an objection to be made outside that period, to a statement or deposition being read as evidence at the trial without oral evidence being given by the person who made the statement or deposition and without the opportunity to cross-examine that person.

(2) The prosecutor shall, on notifying a party as indicated in paragraph (1) above, send a copy of such notification to the clerk of the magistrates' court.”.