
STATUTORY INSTRUMENTS

2003 No. 421

**The Crown Court (Confiscation,
Restraint and Receivership) Rules 2003**

PART VII

GENERAL PROVISIONS

Statements of truth

54.—(1) Any witness statement required to be served by these Rules must be verified by a statement of truth contained in the witness statement.

(2) A statement of truth is a declaration by the person making the witness statement to the effect that the witness statement is true to the best of his knowledge and belief and that he made the statement knowing that, if it were tendered in evidence, he would be liable to prosecution if he wilfully stated in it anything which he knew to be false or did not believe to be true.

(3) The statement of truth must be signed by the person making the witness statement.

(4) If the person making the witness statement fails to verify the witness statement by a statement of truth, the Crown Court may direct that it shall not be admissible as evidence.

Use of witness statements for other purposes

55.—(1) Except as provided by this rule, a witness statement served in proceedings under Part 2 of the Act may be used only for the purpose of the proceedings in which it is served.

(2) Paragraph (1) does not apply if and to the extent that—

- (a) the witness gives consent in writing to some other use of it;
- (b) the Crown Court gives permission for some other use; or
- (c) the witness statement has been put in evidence at a hearing held in public.

Expert evidence

56.—(1) A party to proceedings under Part 2 of the Act who wishes to adduce expert evidence (whether of fact or opinion) in the proceedings must, as soon as practicable—

- (a) serve on the other parties a statement in writing of any finding or opinion which he proposes to adduce by way of such evidence; and
- (b) serve on any party who requests it in writing, a copy of (or if it appears to the party proposing to adduce the evidence to be more practicable, a reasonable opportunity to examine)—
 - (i) the record of any observation, test, calculation or other procedure on which the finding or opinion is based; and
 - (ii) any document or other thing or substance in respect of which the observation, test, calculation or other procedure mentioned in sub-paragraph (i) has been carried out.

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

(3) If a party who wishes to adduce expert evidence in proceedings under Part 2 of this Act fails to comply with this rule he may not adduce that evidence in those proceedings without the leave of the court, except where rule 57 applies.

Exceptions to procedure for expert evidence

57.—(1) If a party has reasonable grounds for believing that the disclosure of any evidence in compliance with rule 56 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, unless the Crown Court orders otherwise.

(2) Where, in accordance with paragraph (1), a party considers that he is not obliged to comply with the requirements imposed by rule 56 with regard to any evidence in relation to any other party, he must serve notice in writing on that party stating—

- (a) that the evidence is being withheld; and
- (b) the reasons for withholding the evidence.

Service of documents

58.—(1) Rules 28 and 30 of the Crown Court Rules 1982(1) shall not apply in restraint proceedings and receivership proceedings.

(2) Where these Rules require service of a document, then, unless the Crown Court directs otherwise, the document may be served by any of the following methods—

- (a) in all cases, by delivering the document personally to the party to be served;
- (b) if no solicitor is acting for the party to be served by delivering the document at, or by sending it by first-class post to, his residence or his last-known residence;
- (c) if a solicitor is acting for the party to be served—
 - (i) by delivering the document at, or sending it by first-class post to, the solicitor's business address; or
 - (ii) where the solicitor's business address includes a numbered box at a document exchange, by leaving the document at that document exchange or at a document exchange which transmits documents on every business day to that document exchange; or
 - (iii) if the solicitor has indicated that he is willing to accept service by facsimile transmission, by sending a legible copy of the document by facsimile transmission to the solicitor's office.

(3) A document shall, unless the contrary is proved, be deemed to have been served—

- (a) in the case of service by first-class post, on the second business day after posting;
- (b) in the case of service in accordance with paragraph (2)(c)(ii), on the second business day after the day on which it is left at the document exchange; and
- (c) in the case of service in accordance with paragraph (2)(c)(iii), where it is transmitted on a business day before 4 p.m., on that day and in any other case, on the next business day.

(4) An order made in restraint proceedings or receivership proceedings may be enforced against the defendant or any other person affected by it notwithstanding that service of a copy of the order has not been effected in accordance with this rule if the Crown Court is satisfied that the person had notice of the order by being present when the order was made.

Service by an alternative method

59.—(1) Where it appears to the Crown Court that there is a good reason to authorise service by a method not otherwise permitted by these Rules, the court may make an order permitting service by an alternative method.

(2) An application for an order permitting service by an alternative method—

- (a) must be supported by evidence;
- (b) may be made without notice.

(3) An order permitting service by an alternative method must specify—

- (a) the method of service; and
- (b) the date when the document will be deemed to be served.

Service outside the jurisdiction

60.—(1) Where these Rules require a document to be served on someone who is outside England and Wales, it may be served outside England and Wales with the permission of the Crown Court.

(2) Where a document is to be served outside England and Wales it may be served by any method permitted by the law of the country in which it is to be served.

(3) Nothing in this rule or in any court order shall authorise or require any person to do anything in the country where the document is to be served which is against the law of that country.

(4) Where these Rules require a document to be served a certain period of time before the date of a hearing and the recipient does not appear at the hearing, the hearing must not take place unless the Crown Court is satisfied that the document has been duly served.

Certificates of service

61.—(1) Where these Rules require that the applicant for an order in restraint proceedings or receivership proceedings serve a document on another person, the applicant must lodge a certificate of service with the Crown Court within 7 days of service of the document.

(2) The certificate must state—

- (a) the method of service;
- (b) the date of service; and
- (c) if the document is served under rule 59, such other information as the court may require when making the order permitting service by an alternative method.

(3) Where a document is to be served by the Crown Court in restraint proceedings and receivership proceedings and the court is unable to serve it, the court must send a notice of non-service stating the method attempted to the party who requested service.