

**2004 No. 1047 (L. 4)**

**SUPREME COURT OF ENGLAND AND WALES**

**The Crown Court (Amendment) Rules 2004**

*Made* - - - - *5th April 2004*

*Laid before Parliament* *5th April 2004*

*Coming into force* -- *26th April 2004*

We, the Crown Court Rule Committee, in exercise of the powers conferred upon us by sections 84(1) and 86 of the Supreme Court Act 1981(a), section 10 of the Criminal Justice (International Co-operation) Act 1990(b) and section 49 of the Crime (International Co-operation) Act 2003(c), hereby make the following Rules:

1.—(1) These Rules may be cited as the Crown Court (Amendment) Rules 2004.

(2) These Rules shall come into force on 26th April 2004.

(3) The coming into force of the Schedule to these Rules shall not affect the operation of rules 30 to 32 of the Crown Court Rules 1982(d), as inserted by the Crown Court (Amendment) Rules 1991(e), in respect of —

- (a) any summons or order to which section 2 of the Criminal Justice (International Co-operation) Act 1990 (“the 1990 Act”) applies and which is issued or made prior to 26th April 2004;
- (b) any letter of request or corresponding document issued under section 3 of the 1990 Act prior to 26th April 2004;
- (c) any nomination made by the Secretary of State under section 4(2) of the 1990 Act prior to 26th April 2004.

2. The Schedule to these Rules substitutes rules in the Crown Court Rules 1982.

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(a) 1981 c.54.

(b) 1990 c.5.

(c) 2003 c.32; section 49 is supplemented by section 3(4)(b) of, and paragraph 4 of Schedule 1, and paragraphs 8, 10 and 17 of Schedule 2 to, the 2003 Act.

(d) S.I. 1982/1109.

(e) S.I. 1991/1288 (L.13).

3. At the end of Part III of Schedule 3 to the Crown Court Rule 1982 (enactments relating to appeals to Crown Court: appeals in which notice of appeal is to state grounds of appeal) add —  
“2003 c.44 The Criminal Justice Act 2003 section 16”.

Dated 5th April 2004

*Falconer of Thoroton, C.*  
*Kay, L.J.*  
*C. Hagen, Q.C.*  
*J.V. Pegden, Q.C.*  
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*E. Smith*

RULES TO BE SUBSTITUTED FOR RULES 30 TO 32 OF THE CROWN COURT RULES  
1982

For rules 30 to 32 of the Crown Court Rules 1982 substitute:

**“Notice required to accompany process served outside the United Kingdom and translations**

**30.** –(1) The notice which by virtue of section 3(4)(b) of the Crime (International Co-operation) Act 2003 (general requirements for service of process) must accompany any process served outside the United Kingdom must give the information specified in paragraphs (2) and (4) below.

(2) The notice must —

- (a) state that the person required by the process to appear as a party or attend as a witness can obtain information about his rights in connection therewith from the relevant authority, and
- (b) give the particulars specified in paragraph (4) about that authority.

(3) The relevant authority where the process is served —

- (a) at the request of the prosecuting authority, is that authority;
- (b) at the request of the defendant or the prosecutor in the case of a private prosecution, is the court by which the process is served.

(4) The particulars referred to in paragraph (2) are —

- (a) name and address of the relevant authority, together with its telephone and fax numbers and e-mail address;
- (b) the name of a person at the relevant authority who can provide the information referred to in paragraph (2)(a), together with his telephone and fax numbers and e-mail address.

(5) The appropriate officer of the Crown Court must send, together with any process served outside the United Kingdom —

- (a) any translation which is provided under section 3(3)(b) of the Crime (International Co-operation) Act 2003, and
- (b) any translation of the information required to be given by this rule which is provided to him.

(6) In this rule and rule 31 “process” has the same meaning as in section 51(3) of the Crime (International Co-operation) Act 2003.

**Proof of service outside the United Kingdom**

**31.** A statement in a certificate given by or on behalf of the Secretary of State —

- (a) that process has been served on any person under section 4(1) of the Crime (International Co-operation) Act 2003 (service of process otherwise than by post),
- (b) of the manner in which service was effected,
- (c) of the date on which process was served,

shall be admissible as evidence of any facts so stated.

### **Supply of copy of notice of request for assistance abroad**

**32.** Where a request for assistance under section 7 of the Crime (International Co-operation) Act 2003 is made by a judge exercising the jurisdiction of the Crown Court and is sent in accordance with section 8(1) of that Act, the appropriate officer of the Crown Court shall send a copy of the letter of request to the Secretary of State as soon as practicable after the request has been made.

### **Persons entitled to appear and take part in proceedings before a nominated court and exclusion of public**

**32A.** Where the court nominated under section 15(1) of the Crime (International Co-operation) Act 2003 (nominating a court to receive evidence) is the Crown Court, the court may —

- (a) determine who may appear or take part in the proceedings under Schedule 1 to that Act before the court and whether a party to the proceedings is entitled to be legally represented; and
- (b) direct that the public be excluded from those proceedings if it thinks it necessary to do so in the interests of justice.

### **Record of proceedings to receive evidence before a nominated court**

**32B.** —(1) This rule applies where the court nominated under section 15(1) of the Crime (International Co-operation) Act 2003 (“the 2003 Act”) is the Crown Court.

(2) The appropriate officer of the Crown Court shall enter in a record —

- (a) details of the request in respect of which the notice under section 15(1) of the 2003 Act was given;
- (b) the date on which, and place at which, the proceedings under Schedule 1 to the 2003 Act in respect of that request took place;
- (c) the name of any witness who gave evidence at the proceedings in question;
- (d) the name of any person who took part in the proceedings as a legal representative or as an interpreter;
- (e) whether a witness was required to give evidence on oath or (by virtue of section 5 of the Oaths Act 1978<sup>(a)</sup>) after making a solemn affirmation; and
- (f) whether the opportunity to cross-examine any witness was refused.

(2) When the court gives the evidence received by it under paragraph 6(1) of Schedule 1 to the 2003 Act to the court or authority that made the request or to the territorial authority for forwarding to the court or authority that made the request, the appropriate officer of the Crown Court shall send to the court, authority or territorial authority (as the case may be) a copy of an extract of so much of the record as relates to the proceedings in respect of that request.

### **Interpreter for the purposes of proceedings involving a television or telephone link**

**32C.** —(1) This rule applies where the court nominated under section 30(3) (hearing witnesses in the UK through television links) or section 31(4) (hearing witnesses in the UK by telephone) of the Crime (International Co-operation) Act 2003 is the Crown Court.

(2) Where it appears to the appropriate officer of the Crown Court that the witness to be heard in the proceedings under Part 1 or 2 of Schedule 2 to that Act (“the relevant proceedings”) is likely to give evidence in a language other than English, he shall make arrangements for an interpreter to be present at the proceedings to translate what is said into English.

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<sup>(a)</sup> 1978 c.19.

(3) Where it appears to the appropriate officer of the Crown Court that the witness to be heard in the relevant proceedings is likely to give evidence in a language other than that in which the proceedings of the court referred to in section 30(1) or, as the case may be, 31(1) of that Act (“the external court”) will be conducted, he shall make arrangements for an interpreter to be present at the relevant proceedings to translate what is said into the language in which the proceedings of the external court will be conducted.

(4) Where the evidence in the relevant proceedings is either given in a language other than English or is not translated into English by an interpreter, the Crown Court shall adjourn the proceedings until such time as an interpreter can be present to provide a translation into English.

(5) Where a Crown Court in Wales understands Welsh —

- (a) paragraph (2) does not apply where it appears to the appropriate officer of the Crown Court that the witness in question is likely to give evidence in Welsh;
- (b) paragraph (4) does not apply where the evidence is given in Welsh; and
- (c) any translation which is provided pursuant to paragraph (2) or (4) may be into Welsh instead of English.

#### **Record of television link before a nominated court**

**32D.**—(1) This rule applies where the court nominated under section 30(3) of the Crime (International Co-operation) Act 2003 is a Crown Court.

(2) The appropriate officer of the Crown Court shall enter in a record —

- (a) details of the request in respect of which the notice under section 30(3) of that Act was given;
- (b) the date on which, and place at which, the proceedings under Part 1 of Schedule 2 to that Act in respect of that request took place;
- (c) the technical conditions, such as the type of equipment used, under which the proceedings took place;
- (d) the name of the witness who gave evidence;
- (e) the name of any person who took part in the proceedings as a legal representative or as an interpreter; and
- (f) the language in which the evidence was given.

(3) As soon as practicable after the proceedings under Part 1 of Schedule 2 to that Act took place, the appropriate officer of the Crown Court shall send to the external authority that made the request a copy of an extract of so much of the record as relates to the proceedings in respect of that request.

#### **Record of telephone link before a nominated court**

**32E.**—(1) This rule applies where the court nominated under section 31(4) of the Crime (International Co-operation) Act 2003 is a Crown Court.

(2) The appropriate officer of the Crown Court shall enter in a record —

- (a) details of the request in respect of which the notice under section 31(4) of that Act was given;
- (b) the date, time and place at which the proceedings under Part 2 of Schedule 2 to that Act took place;
- (c) the name of the witness who gave evidence;
- (d) the name of any interpreter who acted at the proceedings;
- (e) the language in which the evidence was given.

**Restriction on access to records kept under rules 32B, 32D and 32E**

**32F.** The records kept under rules 32B, 32D and 32E shall not be open to inspection by any person except —

- (a) as authorised by the Secretary of State, or
- (b) with leave of the court.”.

## **EXPLANATORY NOTE**

*(This note is not part of the Rules)*

These Rules amend the Crown Court Rules 1982 (“the 1982 Rules”) to provide for the practice and procedure to be followed in the Crown Court in England and Wales in connection with proceedings under Part 1 of the Crime (International Co-operation) Act 2003 (“the 2003 Act”).

The rules in the Schedule to these Rules replace, subject to the savings in rule 1(3), rules 30 to 32 of the 1982 Rules, as inserted by the Crown Court (Amendment) Rules 1991. The rules which have been replaced concern provisions in the Criminal Justice (International Co-operation) Act 1990 that have been replaced by sections 3, 4, 7 and 15 of the 2003 Act.

Rule 3 of these Rules makes an unconnected change to Part III of Schedule 3 to the 1982 Rules. That Part lists those appeals to the Crown Court in which the notice of appeal must state the grounds of the appeal. Section 16 of the Criminal Justice Act 2003 which is added to that list confers a right of appeal against conditions in bail.

References below to numbered rules are to rules of that number as substituted by the Schedule to these Rules.

Section 3(4) of the 2003 Act requires that process served outside the United Kingdom requiring a person to appear as a party or attend as a witness must be accompanied by a notice giving certain information. Rule 30 specifies what that information is to be.

Rule 31 provides for the proof of service where this is done, in pursuance of section 4 of the 2003 Act, in accordance with arrangements made by the Secretary of State.

Rule 32 requires a copy of a request which is sent directly abroad to be sent to the Secretary of State.

Section 15(1) of the 2003 Act enables the Secretary of State to nominate a court to receive evidence in respect of a request for assistance from overseas falling within section 13 of that Act. The proceedings before a nominated court take place under Schedule 1 to that Act and rules 32A and 32B provide for procedural matters in connection with those proceedings and the contents of a record of them.

Sections 30 and 31 of the 2003 Act concern the giving of evidence before a nominated court in the United Kingdom to a court abroad by a television link or by telephone, respectively. Rule 32C provides for the use of interpreters for these hearings and rules 32D and 32E provide for the contents of the record of them.

Rule 32F restricts access to the records kept under rules 32B, 32D and 32E.

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STATUTORY INSTRUMENTS

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