

---

STATUTORY INSTRUMENTS

---

**2004 No. 2991 (L. 18)**

**SUPREME COURT OF ENGLAND AND WALES**

**The Crown Court (Amendment No. 3) Rules 2004**

*Made - - - - 15th November 2004*

*Laid before Parliament 18th November 2004*

*Coming into force in accordance with article 1*

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(1) and section 111 of the Criminal Justice Act 2003(2) (“the 2003 Act”) hereby make the following Rules:

**Citation and commencement**

1. These Rules may be cited as the Crown Court (Amendment No. 3) Rules 2004 and shall come into force on 15th December 2004 or on the day that sections 98 to 110 of the 2003 Act (Evidence of Bad Character) come into force, whichever is later.

**The Crown Court Rules 1982**

2. The Crown Court Rules 1982(3) are amended as follows.
3. After rule 23D there is inserted—

**“Procedure for the admission of evidence of bad character**

**23E.**—(1) A party who wants to introduce evidence of a non-defendant’s bad character or who wants to cross-examine a witness with a view to eliciting that evidence, under section 100 of the Criminal Justice Act 2003 (“the 2003 Act”), must apply in Form BC1 and the application must be received by the appropriate officer of the Crown Court and all other parties to the proceedings—

- (a) not more than 14 days after the prosecutor has complied or purported to comply with section 3 of the Criminal Procedure and Investigation Act 1996(4) (disclosure by the prosecutor); or

---

(1) 1981 c. 54.

(2) 2003 c. 44.

(3) S.I. 1982/1109, to which there are amendments not relevant to these Rules.

(4) 1996 c. 25; section 3 was amended by section 82(1) of and paragraph 7(1) of Schedule 4 to the Regulation of Investigatory Powers Act 2000 (c. 23) and is prospectively amended by section 32 of the Criminal Justice Act 2003 (c. 44).

(b) as soon as reasonably practicable, where the application concerns a non-defendant who is to be invited to give (or has given) evidence for a defendant.

(2) A party who receives a copy of an application under paragraph (1) may oppose that application by giving notice in writing to the appropriate officer of the Crown Court and all other parties to the proceedings not more than 14 days after receiving that application.

(3) A prosecutor who wants to introduce evidence of a defendant's bad character or who wants to cross-examine a witness with a view to eliciting that evidence, under section 101 of the 2003 Act (defendant's bad character), must give notice in Form BC2 to the appropriate officer of the Crown Court and all other parties to the proceedings not more than 14 days after—

- (a) the committal of the defendant; or
- (b) the consent to the preferment of a bill of indictment in relation to the case; or
- (c) the service of notice of transfer under section 4(1) of the Criminal Justice Act 1987<sup>(5)</sup> (notices of transfer) or under section 53(1) of the Criminal Justice Act 1991<sup>(6)</sup> (notices of transfer in certain cases involving children); or
- (d) where a person is sent for trial under section 51 of the Crime and Disorder Act 1998<sup>(7)</sup> (sending cases to the Crown Court) the service of copies of the documents containing the evidence on which the charge or charges are based under paragraph 1 of Schedule 3 to that Act.

(4) A co-defendant who wants to introduce evidence of a defendant's bad character or who wants to cross-examine a witness with a view to eliciting that evidence under section 101 of the 2003 Act must give notice in Form BC2 to the appropriate officer of the Crown Court and all other parties to the proceedings not more than 14 days after the prosecutor has complied or purported to comply with section 3 of the Criminal Procedure and Investigations Act 1996.

(5) A defendant's application to exclude bad character evidence must be in Form BC3 and received by the appropriate officer of the Crown Court and all other parties to the proceedings not more than 7 days after receiving a notice given under paragraph (3) or (4).

(6) A defendant entitled to receive a notice under this rule may waive his entitlement by so informing the Crown Court and the party who would have given the notice.

(7) The Crown Court may—

- (a) allow a notice or application required under this rule to be given in a different form, or orally; or
- (b) shorten a time-limit under this rule or extend it even after it has expired,

if it is in the interests of justice to do so.

(8) Where this rule requires a notice or application to be given or sent it may, with the consent of the addressee, be sent by fax or other means of electronic communication.

(9) References in this rule to a form is a reference to a form set out in Schedule 14 or a form to the like effect.”.

4. There shall be inserted after Schedule 13 in the Crown Court Rules 1982, the Schedule set out in the Schedule to these Rules.

---

(5) 1987 c. 38; section 4 is prospectively repealed by sections 41 and 332 of; paragraph 58 of Part 2 of Schedule 3 and Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c. 44).

(6) 1991 c. 53; section 53 is prospectively repealed by section 332 of and Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c. 44).

(7) 1998 c. 37; section 51 is prospectively substituted by new section 51 inserted by section 41 of and paragraphs 15 to 18 of Part 1 of Schedule 3 to the Criminal Justice Act 2003 (c. 44).

*Falconer of Thoroton, C.  
Woolf, C.J.  
Master Venne Potter, L.J.  
C. Hagen, Q.C.  
D. Matheson,  
Q.C.  
P. Carter, Q.C.  
J. V. Pegden, Q.C.  
E. Barnett, J.P.  
G. White*

Dated 15th November 2004

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Rule 23E

SCHEDULE TO BE INSERTED IN THE CROWN COURT RULES 1982

“SCHEDULE 14

FORMS

**FORM BC1**

Application for leave to adduce non-defendant’s bad character  
(Section 100 of the Criminal Justice Act 2003)

<i>Details required</i>	<i>Notes</i>
-------------------------	--------------

**1. Details of applicant**

Name:

Address:

Name of prosecuting agency (if relevant):

**2. Case details**

Case reference numbers:

Name of judge:

Date the trial or proceedings is due to start or started:

Name of defendant(s):

Charges:

*Give brief details of those charges to which this application applies.*

**3. Details of this application**

Please provide the following details

- (a) the particulars of the bad character evidence including how it is to be introduced or elicited in the proceedings. This should also include the names of the relevant non-defendant and all other relevant witnesses; and *Section 100 of the 2003 Act.*
- (b) the grounds of admissibility under section 100 of the 2003 Act. *Please attach any relevant documentation.*

**4. Extension of time**

Are you applying for an extension of time for service? (yes/no).

If so please provide details.

Signed:

Dated:

## FORM BC2

Notice of intention to adduce bad character evidence  
(Section 101 of the Criminal Justice Act 2003)

<i>Details required</i>	<i>Notes</i>
-------------------------	--------------

### 1. Details of party giving notice

Name:

Address:

Name of prosecuting agency (if relevant):

### 2. Case details

Case reference numbers:

Date the trial or proceedings is due to start or started:

Name of defendant(s):

Charges:

*Give brief details of those charges to which this application applies.*

### 3. Details of this Notice

To the named defendant:

You are hereby given notice that bad character evidence, particulars of which are detailed below, is to be adduced or elicited in these proceedings.

The particulars of that bad character evidence are as follows:

*In this section state:*

- (a) *a description of the bad character evidence and how it is to be adduced or elicited in the proceedings (including the names of any relevant witnesses); and*
- (b) *the grounds for the admission of evidence of the defendant's bad character under section 101 of the 2003 Act;*
- (c) *why the admission of that evidence is in the interests of justice, where section 108 of the Act applies (evidence of conviction when under 14 used in proceedings for offence committed as an adult).*

*Please attach any relevant documentation.*

### 4. Extension of time

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<i>Details required</i>	<i>Notes</i>
Are you applying for an extension of time for service? (yes/no). If yes, state your reasons. Signed: Dated:	

**FORM BC3**

Application to exclude evidence of the defendant’s bad character  
(Sections 101 and 108(2) of the Criminal Justice Act 2003)

<i>Details required</i>	<i>Notes</i>
-------------------------	--------------

**1. Details of the defendant**

Name:  
Address:  
Date of Birth:  
If you are in custody, please give your Prison Index No. and address where detained:

**2. Case details**

Case reference numbers:  
Name of judge:  
Date the trial or proceedings is due to start or started:  
Charges:  
Date that you were served with the notice that bad character evidence is to be adduced in these proceedings:

**3. Details of the application**

Include the following information:

- (a) why the admission of bad character evidence would have such an adverse effect on the fairness of the proceedings that the court should not admit it; *Note that an application to exclude this evidence under section 101(3) of the 2003 Act can only be made if you have been notified of a party’s intention to adduce this evidence under subsection 101(1)(d) (it is relevant to an important matter in issue between the defendant and the prosecution) or subsection 101(1)(g) (that the defendant has made an attack on another person’s character).*
- (b) details as to the length of time between the matters to which the bad character evidence relates and the *Section 101(4) of the 2003 Act.*

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<i>Details required</i>	<i>Notes</i>
matters which form the subject of the offence charged;	
(c) if you are applying for the exclusion of this evidence on grounds other than section 101(3) of the 2003 Act, please set out such objections.	
<b>4. Offences committed by the defendant when a child</b>	
If you are applying to exclude evidence of a previous conviction for an offence when under the age of 14, state	<i>Section 108(2) of the 2003 Act.</i>
(a) whether the offence for which you received a conviction when under the age of 14 was an offence triable only on indictment; and	
(b) why it would not be in the interests of justice for that bad character evidence to be admitted.	
<b>5. Extension of time</b>	
Are you applying for an extension of time for service? (yes/no).	
If so, state your reasons.	
Signed:	
Dated:??	

## EXPLANATORY NOTE

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

These Rules insert a new rule into the Crown Court Rules 1982 to provide for the practice and procedure to be followed in the Crown Court in England and Wales in connection with the admission of bad character evidence under Part II Chapter 1 of the Criminal Justice Act 2003.