

2005 No. 1534

DEFENCE

The Standing Civilian Courts (Amendment) Order 2005

Made - - - - *8 June 2005*

Laid before Parliament *10 June 2005*

Coming into force - *1 July 2005*

The Secretary of State, in exercise of the powers conferred upon him by paragraph 12 of Schedule 3 to the Armed Forces Act 1976(a), and sections 111 and 132 of the Criminal Justice Act 2003(b), hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Standing Civilian Courts (Amendment) Order 2005 and shall come into force on 1 July 2005.

Amendments to the Standing Civilian Courts Order 1997

2.—(1) The Standing Civilian Courts Order 1997(c) (“the 1997 Order”) is amended as follows.

(2) In article 2 after the definition of “the 1955 Act” there is inserted—

““the 2003 Act” means the Criminal Justice Act 2003;”.

(3) After article 26 there is inserted—

“Procedure for the admission of evidence of bad character

26A.—(1) Where a party to the proceedings wishes to obtain the leave of the court under section 100(4) of the 2003 Act to adduce evidence of the bad character of a person other than an accused, he shall apply in the form set out in Schedule 2 to this Order and the application must be received by the court administration officer and all other parties to the proceedings—

- (a) where that party is an accused or co-accused, not more than 14 days after service on him of the prosecution papers in accordance with article 10; or
- (b) where that party is the prosecuting authority, not more than 7 days after the preferment of a charge or charges pursuant to article 6; or

(a) 1976 c. 52; Schedule 3 was amended by section 5 of, and Schedule 1 to, the Armed Forces Act 1996 (c. 46).

(b) 2003 c. 44: by virtue of section 113 of, and paragraph 5 of Schedule 6 to, the Criminal Justice Act 2003 (“the 2003 Act”), section 111 has effect as if, in subsection (7), the definition of “rules of court” included rules regulating the practice and procedure of service courts. By virtue of section 135 of, and paragraph 2(6) of Schedule 7 to, the 2003 Act, section 132 is modified so that in its subsection (10), the definition of “rules of court” includes rules regulating the practice and procedure of service courts. By virtue of paragraph 6 of Schedule 6 and paragraph 8 of Schedule 7, “service court” includes a standing civilian court.

(c) S.I. 1997/172.

(c) where the application concerns a person other than an accused who is invited to give (or has given) evidence for an accused, as soon as reasonably practicable.

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

(3) Where a prosecutor wishes to adduce evidence of an accused's bad character he shall give notice in the form set out in Schedule 2 to this Order to the court administration officer and all other parties to the proceedings not more than 7 days after preferment of a charge or charges pursuant to article 6.

(4) Where a co-accused wishes to adduce evidence of an accused's bad character he shall give notice in the form set out in Schedule 2 to this Order to the court administration officer and all other parties to the proceedings not more than 14 days after service on him of the prosecution papers in accordance with article 10.

(5) Where an accused wishes to apply to exclude evidence of his bad character under section 101(3) of the 2003 Act he shall apply in the form set out in Schedule 2 to this Order and the application must be received by the court administration officer and all other parties to the proceedings not more than 14 days after the accused receives a notice under paragraph (3) or (4).

(6) An accused entitled to receive a notice under this rule may waive his entitlement by so informing the court administration officer and the party who would otherwise have given the notice.

(7) The magistrate may—

- (a) allow a notice or application required under this article to be given or made in a different form, or orally; or
- (b) reduce a time limit under this article, or extend it whether or not it has expired,

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

(8) Where this article requires a notice or application to be given or made it may be given or made by fax or other means of electronic communication.

Procedure for the admission of hearsay evidence

26B.—(1) Where a party to the proceedings wishes to adduce hearsay evidence on one or more of the grounds in section 114(1) of the 2003 Act, he shall give notice in the form set out in Schedule 2 to this Order and such notice must be received by the court administration officer and all other parties to the proceedings—

- (a) where that party is an accused or co-accused, not more than 14 days after service on him of the prosecution papers in accordance with article 10; or
- (b) where that party is the prosecuting authority, not more than 7 days after the preferment of a charge or charges pursuant to article 6.

(2) A party to the proceedings who receives a notice under paragraph (1) may oppose the admission of the hearsay evidence by giving notice in the form set out in Schedule 2 to this Order to the court administration officer and all other parties to the proceedings not more than 14 days after receiving that notice.

(3) A party entitled to receive a notice under this rule may waive his entitlement by so informing the court administration officer and the party who would otherwise have given the notice.

(4) The magistrate may—

- (a) dispense with the requirement to give notice of an intention to adduce hearsay evidence;
- (b) allow a notice required under this rule to be given in a different form, or orally; or

(c) reduce a time limit under this rule, or extend it whether or not it has expired, if it is in the interests of justice to do so.

(5) Where this rule requires a notice to be given or sent it may be sent by fax or other means of electronic communication.

Application of articles 26A and 26B

26C. Articles 26A and 26B shall only apply in relation to proceedings in which no charge has been preferred before 1 July 2005.”.

Forms relating to the admission of evidence of bad character

3.—(1) In Schedule 2 to the 1997 Order—

(a) after “Articles 10, 11, 26,” there is inserted “26A, 26B”; and

(b) after “Form 3—Form of witness summons” there is inserted—

“Form 3A—Form of application for leave to adduce evidence of the bad character of a person other than an accused

Form 3B—Form of notice of intention to adduce evidence of accused’s bad character

Form 3C—Form of application to exclude evidence of accused’s bad character

Form 3D—Form of notice of intention to adduce hearsay evidence

Form 3E—Form of notice of intention to oppose admission of hearsay evidence”.

(2) The forms set out in the Schedule to this Order are inserted after Form 3 in Schedule 2 to the 1997 Order.

8 June 2005

Don Touhig
Parliamentary Under Secretary of State
Ministry of Defence

SCHEDULE

Article 3

Form 3A	
FORM OF APPLICATION FOR LEAVE TO ADDUCE EVIDENCE OF THE BAD CHARACTER OF A PERSON OTHER THAN AN ACCUSED (Section 100(4) of the 2003 Act)	
<i>Details required</i>	<i>Notes</i>
<p>1. Details of applicant</p> <p>Name:</p> <p>Address:</p>	
<p>2. Case details</p> <p>Name of accused(s):</p> <p>Name of magistrate (where appointed):</p> <p>Date of hearing:</p> <p>Charges:</p>	<p><i>Give brief details of those charges to which this application applies.</i></p>
<p>3. Details of this application</p> <p>Please provide the following details</p> <p>(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-accused and all other relevant witnesses; and</p> <p>(b) the grounds of admissibility under section 100 of the 2003 Act.</p>	<p><i>Section 100 of the 2003 Act</i></p> <p><i>Please attach any relevant documentation.</i></p>
<p>4. Extension of time</p> <p>Are you applying for an extension of time for service? (yes/no)</p> <p>If so please provide details.</p>	
<p>Signed:</p> <p>Dated:</p>	

Form 3B	
FORM OF NOTICE OF INTENTION TO ADDUCE EVIDENCE OF ACCUSED'S BAD CHARACTER (Section 101(1) of the 2003 Act)	
<i>Details required</i>	<i>Notes</i>
<p>1. Details of party giving notice</p> <p>Name:</p> <p>Whether prosecuting authority or co-accused:</p>	
<p>2. Case details</p> <p>Name of accused(s):</p> <p>Name of magistrate (where appointed):</p> <p>Date of hearing:</p> <p>Charges:</p>	<p><i>Give brief details of those charges to which this application applies.</i></p>
<p>3. Details of this Notice</p> <p>To the named accused:</p> <p>You are hereby given notice that bad character evidence, particulars of which are detailed below, is to be adduced or elicited in these proceedings.</p> <p>The particulars of that bad character evidence are as follows.</p>	<p><i>In this section state:</i></p> <p><i>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</i></p> <p><i>b) the grounds for the admission of evidence of the accused's bad character under section 101 of the 2003 Act.</i></p> <p><i>Please attach any relevant documentation.</i></p>
<p>4. Extension of time</p> <p>Are you applying for an extension of time for service? (yes/no).</p> <p>If yes, state your reasons.</p>	
<p>Signed:</p> <p>Dated:</p>	

Form 3C

FORM OF APPLICATION TO EXCLUDE EVIDENCE OF ACCUSED'S BAD CHARACTER
(Section 101(3) of the 2003 Act)

<i>Details required</i>	<i>Notes</i>
<p>1. Details of the accused</p> <p>Name:</p> <p>Address</p> <p>Date of Birth:</p>	
<p>2. Case details</p> <p>Date of hearing:</p> <p>Charges:</p> <p>Date that you were served with the notice that bad character evidence is to be adduced in these proceedings:</p>	
<p>3. Details of the application</p> <p>Include the following information:</p> <p>(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;</p> <p>(b) details as to the length of time between the matters to which the bad character evidence relates and the matters which form the subject of the offence charged;</p> <p>(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.</p>	<p><i>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 accused and the prosecution) or subsection 101(1)(g) (that the accused has made an attack on another person's character).</i></p> <p><i>Section 101(4) of the 2003 Act.</i></p>
<p>4. Extension of time</p> <p>Are you applying for an extension of time for service (yes/no)</p> <p>If so, state your reasons</p>	
<p>Signed:</p> <p>Dated:</p>	

Form 3D	
FORM OF NOTICE OF INTENTION TO ADDUCE HEARSAY EVIDENCE (Section 114(1) of the 2003 Act)	
<i>Details required</i>	<i>Notes</i>
<p>1. Details of party giving notice</p> <p>Name:</p> <p>Whether prosecuting authority, accused or co-accused:</p>	
<p>2. Case details</p> <p>Name of accused(s):</p> <p>Name of magistrate (where appointed):</p> <p>Date of hearing:</p> <p>Charges:</p>	<p><i>Give brief details of those charges to which this application applies.</i></p>
<p>3. Details of this Notice</p> <p>Notice is hereby given of my intention to adduce hearsay evidence in these proceedings, particulars of which are detailed below.</p> <p>The particulars of the hearsay evidence are as follows.</p> <p>a. Details of hearsay evidence to be adduced.</p> <p>b. Specific grounds under s.114(1) of the 2003 Act relied upon.</p> <p>c. Further details of grounds (if appropriate).</p>	<p><i>In this section enter:</i></p> <p><i>a) a detailed description of the hearsay evidence to be adduced; and</i></p> <p><i>b) the grounds for the admission of hearsay evidence under section 114(1) of the 2003 Act.</i></p> <p><i>c) where the ground relied upon is that it is in the interests of justice for it to be admitted (s.114(1)(d)) the relevant factors to which the court must have regard in s.114(2) are to be set out.</i></p> <p><i>Please attach any relevant documentation.</i></p>
<p>4. Extension of time</p> <p>Are you applying for an extension of time for service? (yes/no).</p> <p>If yes, state your reasons.</p>	
<p>Signed:</p> <p>Dated:</p>	

Form 3E	
FORM OF NOTICE OF INTENTION TO OPPOSE ADMISSION OF HEARSAY EVIDENCE	
<i>Details required</i>	<i>Notes</i>
<p>1. Details of party opposing the admission of hearsay evidence</p> <p>Name:</p> <p>Whether prosecuting authority, accused or co-accused:</p>	
<p>2. Case details</p> <p>Date of hearing:</p> <p>Charges:</p> <p>Date that you were served with the notice of intention to adduce hearsay evidence:</p>	
<p>3. Details of this notice</p> <p>Include the following information:</p> <p>a. Details of the hearsay evidence that you want to exclude:</p> <p>b. Grounds for excluding the evidence:</p>	<p><i>Give a description of the hearsay evidence that you want to exclude from the proceedings. Specify whether you object to all or part of that evidence.</i></p> <p><i>Set out the grounds for excluding the hearsay evidence that you object to. Any relevant skeleton argument or case law that might bear on the issue may be attached to this notice.</i></p>
<p>4. Extension of time</p> <p>Are you applying for an extension of time within which to give notice (yes/no)</p> <p>If so, state your reasons</p>	
<p>Signed:</p> <p>Dated:</p>	

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Standing Civilian Courts Order 1997 (“the 1997 Order”). Article 2(3) inserts two new articles into the 1997 Order to provide for the procedure for the admission of evidence of bad character and hearsay evidence in the Standing Civilian Court under Chapters 1 and 2 of Part 11 of the Criminal Justice Act 2003. By virtue respectively of section 113 and Schedule 6, and section 135 and Schedule 7, of that Act, Chapters 1 and 2 have effect, subject to modification, in relation to proceedings before standing civilian courts. Article 3 of this Order inserts the forms relating to the admission of evidence of bad character and hearsay evidence into the 1997 Order. The new articles only apply to proceedings in relation to which the charge is preferred on or after 1 July 2005.

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The Standing Civilian Courts (Amendment) Order 2005

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