
STATUTORY INSTRUMENTS

2010 No. 60

The Criminal Procedure Rules 2010

PART 35

EVIDENCE OF BAD CHARACTER

Notice to introduce evidence of a defendant's bad character

35.4.—(1) This rule applies where a party wants to introduce evidence of a defendant's bad character.

(2) That party must serve notice on—

- (a) the court officer; and
- (b) each other party.

(3) A prosecutor who wants to introduce such evidence must serve the notice not more than 14 days after the defendant pleads not guilty.

(4) A co-defendant who wants to introduce such evidence must serve the notice—

- (a) as soon as reasonably practicable; and in any event
- (b) not more than 14 days after the prosecutor discloses material on which the notice is based.

(5) A party who objects to the introduction of the evidence must—

- (a) apply to the court to determine the objection;
- (b) serve the application on—

- (i) the court officer, and
- (ii) each other party

not more than 14 days after service of the notice; and

(c) in the application explain, as applicable—

- (i) which, if any, facts of the misconduct set out in the notice that party disputes,
- (ii) what, if any, facts of the misconduct that party admits instead,
- (iii) why the evidence is not admissible,
- (iv) why it would be unfair to admit the evidence, and
- (v) any other objection to the notice.

(6) The court—

(a) may determine an application—

- (i) at a hearing, in public or in private, or
- (ii) without a hearing;

(b) must not determine the application unless the party who served the notice—

- (i) is present, or

- (ii) has had a reasonable opportunity to respond;
- (c) may adjourn the application; and
- (d) may discharge or vary a determination where it can do so under—
 - (i) section 8B of the Magistrates' Courts Act 1980 (ruling at pre-trial hearing in a magistrates' court), or
 - (ii) section 9 of the Criminal Justice Act 1987, or section 31 or 40 of the Criminal Procedure and Investigations Act 1996 (ruling at preparatory or other pre-trial hearing in the Crown Court).
- (7) A party entitled to receive a notice may waive that entitlement by so informing—
 - (a) the party who would have served it; and
 - (b) the court.

[Note. The Practice Direction sets out a form of application for use in connection with this rule.

See also rule 35.6 (reasons for decisions must be given in public).

If notice is not given as this rule requires, then under section 111(4) of the Criminal Justice Act 2003 the court may take the failure into account in exercising its powers to order costs.]