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STATUTORY INSTRUMENTS

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**2005 No. 384**

**The Criminal Procedure Rules 2005**

**PART 27**

**WITNESS STATEMENTS**

**Contents of this Part**

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Witness statements in magistrates' courts	rule 27.1
Right to object to evidence being read in Crown Court trial	rule 27.2

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**Witness statements in magistrates' courts**

**27.1.**—(1) Written statements to be tendered in evidence in accordance with section 5B of the Magistrates' Courts Act 1980(1) or section 9 of the Criminal Justice Act 1967(2) shall be in the form set out in the Practice Direction.

(2) When a copy of any of the following evidence, namely—

- (a) evidence tendered in accordance with section 5A of the 1980 Act (committal for trial)(3); or
- (b) a written statement tendered in evidence under section 9 of the 1967 Act (proceedings other than committal for trial),

is given to or served on any party to the proceedings a copy of the evidence in question shall be given to the court officer as soon as practicable thereafter, and where a copy of any such statement as is referred to in sub-paragraph (b) is given or served by or on behalf of the prosecutor, the accused shall be given notice by or on behalf of the prosecutor of his right to object to the statement being tendered in evidence.

(3) Where—

- (a) a statement or deposition to be tendered in evidence in accordance with section 5A of the 1980 Act; or
- (b) a written statement to be tendered in evidence under section 9 of the 1967 Act,

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- (1) 1980 c. 43; section 5B was inserted by the Criminal Procedure and Investigations Act 1996 (c. 25), Schedule 1, Part 1, paragraph 3 and amended by the Children and Young Persons Act 1969 (c. 54), Schedule 5, paragraph 55 (as amended by the Criminal Procedure and Investigations Act 1996, Schedule 1, paragraph 21). It is repealed by the Criminal Justice Act 2003 (c. 44), Schedule 3, Part 2, paragraph 51(1) and (3) and Schedule 37, Part 4, with effect from a date to be appointed.
- (2) 1967 c. 80; section 9 was amended by the Children and Young Persons Act 1969 (c. 54), Schedule 5, paragraph 55, the Courts Act 1971 (c. 23), Schedule 8, Part 2, paragraph 49, the Criminal Justice and Public Order Act 1994 (c. 33), Schedule 9, paragraph 6(1), the Criminal Procedure and Investigations Act 1996 (c. 25) section 69(1) and S.I. 2001/1090. It is further amended by the Courts Act 2003 (c. 39), Schedule 4, paragraph 1 and the Criminal Justice Act 2003 (c. 44), Schedule 3, Part 2, paragraph 43(1), (2) and Schedule 37, Part 4, with effect from dates to be appointed.
- (3) Section 5A was inserted by the Criminal Procedure and Investigations Act 1996 (c. 25), Schedule 1, Part 1, paragraph 3. It is repealed by the Criminal Justice Act 2003 (c. 44), Schedule 3, Part 2, paragraph 51(1) and (3) and Schedule 37, Part 4, with effect from a date to be appointed.

refers to any document or object as an exhibit, that document or object shall wherever possible be identified by means of a label or other mark of identification signed by the maker of the statement or deposition, and before a magistrates' court treats any document or object referred to as an exhibit in such a statement or deposition as an exhibit produced and identified in court by the maker of the statement or deposition, the court shall be satisfied that the document or object is sufficiently described in the statement or deposition for it to be identified.

(4) If it appears to a magistrates' court that any part of any evidence tendered in accordance with section 5A of the 1980 Act or a written statement tendered in evidence under section 9 of the 1967 Act is inadmissible there shall be written against that part—

- (a) in the case of any evidence tendered in accordance with section 5A of the 1980 Act, but subject to paragraph (5) of this rule, the words “Treated as inadmissible” together with the signature and name of the examining justice or, where there is more than one examining justice, the signature and name of one of the examining justices by whom the evidence is so treated;
- (b) in the case of a written statement tendered in evidence under section 9 of the 1967 Act the words “Ruled inadmissible” together with the signature and name of one of the justices who ruled the statement to be inadmissible.

(5) Where the nature of the evidence referred to in paragraph (4)(a) is such that it is not possible to write on it, the words set out in that sub-paragraph shall instead be written on a label or other mark of identification which clearly identifies the part of the evidence to which the words relate and contains the signature and name of an examining justice in accordance with that sub-paragraph.

(6) Where, before a magistrates' court—

- (a) a statement or deposition is tendered in evidence in accordance with section 5A of the 1980 Act; or
- (b) a written statement is tendered in accordance with section 9 of the 1967 Act,

the name of the maker of the statement or deposition shall be read aloud unless the court otherwise directs.

(7) Where—

- (a) under section 5B(4), 5C(4), 5D(5) or 5E(3) of the 1980 Act<sup>(4)</sup>; or
- (b) under section 9(6) of the 1967 Act,

in any proceedings before a magistrates' court any part of the evidence has to be read out aloud, or an account has to be given orally of so much of any evidence as is not read out aloud, the evidence shall be read or the account given by or on behalf of the party which has tendered the evidence.

(8) Statements and depositions tendered in evidence in accordance with section 5A of the 1980 Act before a magistrates' court acting as examining justices shall be authenticated by a certificate signed by one of the examining justices.

(9) Where, before a magistrates' court—

- (a) evidence is tendered as indicated in paragraph (2)(a) of this rule, retained by the court, and not sent to the Crown Court under rule 10.5; or
- (b) a written statement is tendered in evidence as indicated in paragraph (2)(b) of this rule and not sent to the Crown Court under rule 43.1 or 43.2,

all such evidence shall, subject to any direction of the court in respect of non-documentary exhibits falling within paragraph (9)(a), be preserved for a period of three years by the magistrates' court officer for the magistrates' court.

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(4) Sections 5B(4), 5C(4), 5D(5) and 5E(3) were inserted by the Criminal Procedure and Investigations Act 1996 (c. 25), Schedule 1, paragraph 3. These sections are repealed by the Criminal Justice Act 2003 (c. 44), Schedule 3, Part 2, paragraph 51(1), (3) and Schedule 37, Part 4, with effect from a date to be appointed.

*[Note. Formerly rule 70 of the Magistrates' Courts Rules 1981(5). See also section 9 of the Criminal Justice Act 1967 and section 5A of the Magistrates' Courts Act 1980. On the editing of witness statements, see also direction III.24 in the Practice Direction.]*

### **Right to object to evidence being read in Crown Court trial**

**27.2.**—(1) The prosecutor shall, when he serves on any other party a copy of the evidence to be tendered in committal proceedings, notify that party that if he is committed for trial he has the right to object, by written notification to the prosecutor and the Crown Court within 14 days of being so committed unless the court in its discretion permits such an objection to be made outside that period, to a statement or deposition being read as evidence at the trial without oral evidence being given by the person who made the statement or deposition and without the opportunity to cross-examine that person.

(2) The prosecutor shall, on notifying a party as indicated in paragraph (1), send a copy of such notification to the magistrates' court officer.

(3) Any objection under paragraph 1(3)(c) or paragraph 2(3)(c) of Schedule 2 to the Criminal Procedure and Investigations Act 1996(6) to the reading out at the trial of a statement or deposition without further evidence shall be made in writing to the prosecutor and the Crown Court within 14 days of the accused being committed for trial unless the court at its discretion permits such an objection to be made outside that period.

*[Note. Formerly rule 4B of the Magistrates' Courts Rules 1981 and rule 22 of the Crown Court Rules 1982(7). On the coming into force of Schedule 3 to the Criminal Justice Act 2003(8) committal for trial will be abolished and cases will be sent for trial under sections 51 and 51A of the Crime and Disorder Act 1998(9).]*

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(5) S.I. 1981/552; amending instruments relevant to this Part are S.I. 1983/523, 1997/706 and 2001/610.

(6) 1996 c. 25; Schedule 2 is repealed by the Criminal Justice Act 2003 (c. 44), Schedule 3, Part 2, paragraph 66(1), (8) and Schedule 37, Part 4, with effect from a date to be appointed.

(7) S.I. 1982/1109; amended by S.I. 1997/701; there are other amending instruments but none is relevant.

(8) 2003 c. 44.

(9) 1998 c. 37.