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STATUTORY INSTRUMENTS

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**2005 No. 384**

The Criminal Procedure Rules 2005

PART 34

HEARSAY EVIDENCE

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**When this Part applies**

**34.1.** This Part applies in a magistrates' court and in the Crown Court where a party wants to introduce evidence on one or more of the grounds set out in section 114(1)(a) to (d) of the Criminal Justice Act 2003(1), and in this Part that evidence is called "hearsay evidence".

*[Note. Section 114 of the 2003 Act provides that a statement not made in oral evidence in criminal proceedings is admissible as evidence of any matter stated only on certain conditions. The meaning of "statements" and "matter stated" is explained in section 115 of the 2003 Act. "Oral evidence" is defined in section 134(1) of that Act. For the introduction of hearsay evidence in the Court of Appeal, see rule 68.20.]*

**Notice of hearsay evidence**

**34.2.** The party who wants to introduce hearsay evidence must give notice in the form set out in the Practice Direction to the court officer and all other parties.

### **When the prosecutor must give notice of hearsay evidence**

**34.3.** The prosecutor must give notice of hearsay evidence—

- (a) in a magistrates' court, at the same time as he complies or purports to comply with section 3 of the Criminal Procedure and Investigations Act 1996(2) (disclosure by prosecutor); or
- (b) in the Crown Court, not more than 14 days after—
  - (i) the committal of the defendant, or
  - (ii) the consent to the preferment of a bill of indictment in relation to the case, or
  - (iii) the service of a notice of transfer under section 4 of the Criminal Justice Act 1987(3) (serious fraud cases) or under section 53 of the Criminal Justice Act 1991(4) (certain cases involving children), or
  - (iv) where a person is sent for trial under section 51 of the Crime and Disorder Act 1998(5) (indictable-only offences sent for trial), 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 the 1998 Act.

### **When a defendant must give notice of hearsay evidence**

**34.4.** A defendant must give notice of hearsay evidence not more than 14 days after the prosecutor has complied with or purported to comply with section 3 of the Criminal Procedure and Investigations Act 1996 (disclosure by prosecutor).

### **Opposing the introduction of hearsay evidence**

**34.5.** A party who receives a notice of hearsay evidence may oppose it by giving notice within 14 days in the form set out in the Practice Direction to the court officer and all other parties.

### **Methods of giving notice**

**34.6.** Where this Part requires a notice to be given it may, with the consent of the addressee, be sent by fax or other means of electronic communication.

### **Court's power to vary requirements under this Part**

**34.7.** The court may—

- (a) dispense with the requirement to give notice of hearsay evidence;
- (b) allow notice to be given in a different form, or orally; or
- (c) shorten a time limit or extend it (even after it has expired).

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- (2) 1996 c. 25; section 3 is amended the Regulation of Investigatory Powers Act 2000 (c. 23), Schedule 4, paragraph 7(1). It is further amended by the Criminal Justice Act 2003 (c. 44), section 32 and Schedule 36, Part 3, paragraphs 20 and 21, with effect from a date to be appointed.
  - (3) 1987 c. 38; section 4 was amended by the Criminal Justice Act 1988 (c. 33), section 144(1) and (2), the Legal Aid Act 1988 (c. 34), Schedule 5, paragraph 22, the Criminal Justice and Public Order Act 1994 (c. 33), Schedule 9, paragraph 29, the Crime and Disorder Act 1998 (c. 37), Schedule 8, paragraph 65 and the Access to Justice Act 1999 (c. 22), Schedule 4, paragraphs 38 and 39. Section 4 is repealed by the Criminal Justice Act 2003 (c. 44), section 41 and Schedule 3, Part 2, paragraph 58(1), (2) and Schedule 37, Part 4, with effect from a date to be appointed.
  - (4) 1991 c. 53; section 53 was amended by the Criminal Justice and Public Order Act 1994 (c. 33), Schedule 9, paragraph 49, the Crime and Disorder Act 1998 (c. 37), Schedule 8, paragraph 93 and the Access to Justice Act 1999 (c. 22), Schedule 4, paragraph 47. Section 53 is repealed by the Criminal Justice Act 2003 (c. 44), Schedule 37, Part 4, with effect from a date to be appointed.
  - (5) 1998 c. 37; section 51 is substituted, together with new sections 51A to 51E, by the Criminal Justice Act 2003 (c. 44), Schedule 3, Part 1, paragraphs 14 and 18, with effect from a date to be appointed. Paragraph 1 of Schedule 3 was amended by the Access to Justice Act 1999 (c. 22), section 67(1) and Schedule 15, Part 3; it is further amended by the Criminal Justice Act 2003 (c. 44), Schedule 3, Part 1, paragraphs 14, 20(1) and (2), with effect from a date to be appointed.

### **Waiving the requirement to give a notice of hearsay evidence**

**34.8.** A party entitled to receive a notice of hearsay evidence may waive his entitlement by so informing the court and the party who would have given the notice.