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STATUTORY INSTRUMENTS

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**2005 No. 384**

**The Criminal Procedure Rules 2005**

**PART 32**

**INTERNATIONAL CO-OPERATION**

**Contents of this Part**

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Notice required to accompany overseas process and translations	rule 32.1
Proof of service outside the United Kingdom	rule 32.2
Supply of copy of notice of request for assistance abroad	rule 32.3
Persons entitled to appear and exclusion of the public	rule 32.4
Record of proceedings to hear evidence before a nominated court	rule 32.5
Interpreter for the purposes of a television or telephone link hearing	rule 32.6
Record of a television link hearing before a nominated court	rule 32.7
Record of a telephone link hearing before a nominated court	rule 32.8
Overseas record	rule 32.9

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**Notice required to accompany process served outside the United Kingdom and translations**

**32.1.**—(1) The notice which by virtue of section 3(4)(b) of the Crime (International Co-operation) Act 2003<sup>(1)</sup> (general requirements for service of process) must accompany any process served outside the United Kingdom must give the information specified in paragraphs (2) and (4) below.

(2) The notice must—

- (a) state that the person required by the process to appear as a party or attend as a witness can obtain information about his rights in connection therewith from the relevant authority; and
- (b) give the particulars specified in paragraph (4) about that authority.

(3) The relevant authority where the process is served—

- (a) at the request of the prosecuting authority, is that authority; or

- (b) at the request of the defendant or the prosecutor in the case of a private prosecution, is the court by which the process is served.
- (4) The particulars referred to in paragraph (2) are—
  - (a) the name and address of the relevant authority, together with its telephone and fax numbers and e-mail address; and
  - (b) the name of a person at the relevant authority who can provide the information referred to in paragraph (2)(a), together with his telephone and fax numbers and e-mail address.
- (5) The justices' clerk or Crown Court officer must send, together with any process served outside the United Kingdom—
  - (a) any translation which is provided under section 3(3)(b) of the 2003 Act; and
  - (b) any translation of the information required to be given by this rule which is provided to him.
- (6) In this rule “process” has the same meaning as in section 51(3) of the 2003 Act.

*[Note. Formerly rule 3 of the Magistrates' Courts (Crime (International Co-operation)) Rules 2004(2) and rule 30 of the Crown Court Rules 1982(3).]*

#### **Proof of service outside the United Kingdom**

- 32.2.**—(1) A statement in a certificate given by or on behalf of the Secretary of State—
- (a) that process has been served on any person under section 4(1) of the Crime (International Co-operation) Act 2003 (service of process otherwise than by post);
  - (b) of the manner in which service was effected; and
  - (c) of the date on which process was served;

shall be admissible as evidence of any facts so stated.

- (2) In this rule “process” has the same meaning as in section 51(3) of the 2003 Act.

*[Note. Formerly rule 4 of the Magistrates' Courts (Crime (International Co-operation)) Rules 2004 and rule 31 of the Crown Court Rules 1982.]*

#### **Supply of copy of notice of request for assistance abroad**

**32.3.** Where a request for assistance under section 7 of the Crime (International Co-operation) Act 2003 is made by a justice of the peace or a judge exercising the jurisdiction of the Crown Court and is sent in accordance with section 8(1) of the 2003 Act, the justices' clerk or the Crown Court officer shall send a copy of the letter of request to the Secretary of State as soon as practicable after the request has been made.

*[Note. Formerly rule 5 of the Magistrates' Courts (Crime (International Co-operation)) Rules 2004 and rule 32 of the Crown Court Rules 1982.]*

#### **Persons entitled to appear and take part in proceedings before a nominated court and exclusion of public**

**32.4.** A court nominated under section 15(1) of the Crime (International Co-operation) Act 2003 (nominating a court to receive evidence) may—

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(2) [S.I. 2004/1048](#).

(3) [S.I. 1982/1109](#); amending instruments relevant to this Part are [S.I. 1991/1288](#) and [2004/1047](#).

- (a) determine who may appear or take part in the proceedings under Schedule 1 to the 2003 Act before the court and whether a party to the proceedings is entitled to be legally represented; and
- (b) direct that the public be excluded from those proceedings if it thinks it necessary to do so in the interests of justice.

*[Note. Formerly rule 6 of the Magistrates' Courts (Crime (International Co-operation)) Rules 2004 and rule 32A of the Crown Court Rules 1982.]*

### **Record of proceedings to receive evidence before a nominated court**

**32.5.**—(1) Where a court is nominated under section 15(1) of the Crime (International Co-operation) Act 2003 the justices' clerk or Crown Court officer shall enter in an overseas record—

- (a) details of the request in respect of which the notice under section 15(1) of the 2003 Act was given;
- (b) the date on which, and place at which, the proceedings under Schedule 1 to the 2003 Act in respect of that request took place;
- (c) the name of any witness who gave evidence at the proceedings in question;
- (d) the name of any person who took part in the proceedings as a legal representative or an interpreter;
- (e) whether a witness was required to give evidence on oath or (by virtue of section 5 of the Oaths Act 1978<sup>(4)</sup>) after making a solemn affirmation; and
- (f) whether the opportunity to cross-examine any witness was refused.

(2) When the court gives the evidence received by it under paragraph 6(1) of Schedule 1 to the 2003 Act to the court or authority that made the request or to the territorial authority for forwarding to the court or authority that made the request, the justices' clerk or Crown Court officer shall send to the court, authority or territorial authority (as the case may be) a copy of an extract of so much of the overseas record as relates to the proceedings in respect of that request.

*[Note. Formerly rule 7 of the Magistrates' Courts (Crime (International Co-operation)) Rules 2004 and rule 32B of the Crown Court Rules 1982. As to the keeping of an overseas record see rule 32.9.]*

### **Interpreter for the purposes of proceedings involving a television or telephone link**

**32.6.**—(1) This rule applies where a court is nominated under section 30(3) (hearing witnesses in the UK through television links) or section 31(4) (hearing witnesses in the UK by telephone) of the Crime (International Co-operation) Act 2003.

(2) Where it appears to the justices' clerk or the Crown Court officer that the witness to be heard in the proceedings under Part 1 or 2 of Schedule 2 to the 2003 Act (“the relevant proceedings”) is likely to give evidence in a language other than English, he shall make arrangements for an interpreter to be present at the proceedings to translate what is said into English.

(3) Where it appears to the justices' clerk or the Crown Court officer that the witness to be heard in the relevant proceedings is likely to give evidence in a language other than that in which the proceedings of the court referred to in section 30(1) or, as the case may be, 31(1) of the 2003 Act (“the external court”) will be conducted, he shall make arrangements for an interpreter to be present at the relevant proceedings to translate what is said into the language in which the proceedings of the external court will be conducted.

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(4) 1978 c. 19.

(4) Where the evidence in the relevant proceedings is either given in a language other than English or is not translated into English by an interpreter, the court shall adjourn the proceedings until such time as an interpreter can be present to provide a translation into English.

(5) Where a court in Wales understands Welsh—

- (a) paragraph (2) does not apply where it appears to the justices' clerk or Crown Court officer that the witness in question is likely to give evidence in Welsh;
- (b) paragraph (4) does not apply where the evidence is given in Welsh; and
- (c) any translation which is provided pursuant to paragraph (2) or (4) may be into Welsh instead of English.

*[Note. Formerly rule 8 of the Magistrates' Courts (Crime (International Co-operation)) Rules 2004 and rule 32C of the Crown Court Rules 1982.]*

### **Record of television link hearing before a nominated court**

**32.7.**—(1) This rule applies where a court is nominated under section 30(3) of the Crime (International Co-operation) Act 2003.

(2) The justices' clerk or Crown Court officer shall enter in an overseas record—

- (a) details of the request in respect of which the notice under section 30(3) of the 2003 Act was given;
- (b) the date on which, and place at which, the proceedings under Part 1 of Schedule 2 to that Act in respect of that request took place;
- (c) the technical conditions, such as the type of equipment used, under which the proceedings took place;
- (d) the name of the witness who gave evidence;
- (e) the name of any person who took part in the proceedings as a legal representative or an interpreter; and
- (f) the language in which the evidence was given.

(3) As soon as practicable after the proceedings under Part 1 of Schedule 2 to the 2003 Act took place, the justices' clerk or Crown Court officer shall send to the external authority that made the request a copy of an extract of so much of the overseas record as relates to the proceedings in respect of that request.

*[Note. Formerly rule 9 of the Magistrates' Courts (Crime (International Co-operation)) Rules 2004 and rule 32D of the Crown Court Rules 1982. As to the keeping of an overseas record see rule 32.9.]*

### **Record of telephone link hearing before a nominated court**

**32.8.**—(1) This rule applies where a court is nominated under section 31(4) of the Crime (International Co-operation) Act 2003.

(2) The justices' clerk or Crown Court officer shall enter in an overseas record—

- (a) details of the request in respect of which the notice under section 31(4) of the 2003 Act was given;
- (b) the date, time and place at which the proceedings under Part 2 of Schedule 2 to the 2003 Act took place;
- (c) the name of the witness who gave evidence;
- (d) the name of any interpreter who acted at the proceedings; and

- (e) the language in which the evidence was given.

*[Note. Formerly rule 10 of the Magistrates' Courts (Crime (International Co-operation)) Rules 2004 and rule 32E of the Crown Court Rules 1982. As to the keeping of an overseas record see rule 32.9.]*

### **Overseas record**

**32.9.**—(1) The overseas records of a magistrates' court shall be part of the register (within the meaning of section 150(1) of the Magistrates' Courts Act 1980<sup>(5)</sup>) and shall be kept in a separate book.

- (2) The overseas records of any court shall not be open to inspection by any person except—
- (a) as authorised by the Secretary of State; or
  - (b) with the leave of the court.

*[Note. Formerly rule 11 of the Magistrates' Courts (Crime (International Co-operation)) Rules 2004 and rule 32F of the Crown Court Rules 1982. As to the keeping of a register by a magistrates' court see rule 6.1.]*

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(5) 1980 c. 43; a relevant amendment was made to section 150(1) by the Courts Act 2003 (c. 39), Schedule 8, paragraphs 250(1), (2) and Schedule 10.