
STATUTORY INSTRUMENTS

2010 No. 60

The Criminal Procedure Rules 2010

PART 34

HEARSAY EVIDENCE

Notice to introduce hearsay evidence

34.2.—(1) This rule applies where a party wants to introduce hearsay evidence for admission under any of the following sections of the Criminal Justice Act 2003—

- (a) section 114(1)(d) (evidence admissible in the interests of justice);
- (b) section 116 (evidence where a witness is unavailable);
- (c) section 121 (multiple hearsay).

(2) That party must—

(a) serve notice on—

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

(b) in the notice—

- (i) identify the evidence that is hearsay,
- (ii) set out any facts on which that party relies to make the evidence admissible,
- (iii) explain how that party will prove those facts if another party disputes them, and
- (iv) explain why the evidence is admissible; and

(c) attach to the notice any statement or other document containing the evidence that has not already been served.

(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 defendant who wants to introduce such evidence must serve the notice as soon as reasonably practicable.

(5) A party entitled to receive a notice under this rule 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 notice for use in connection with this rule.

The sections of the Criminal Justice Act 2003 listed in this rule set out the conditions on which hearsay evidence may be admitted under them.

If notice is not given as this rule requires, then under section 132(5) of the 2003 Act—

- (a) *the evidence is not admissible without the court's permission;*

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- (b) *if the court gives permission, it may draw such inferences as appear proper from the failure to give notice; and*
- (c) *the court may take the failure into account in exercising its powers to order costs.*

This rule does not require notice of hearsay evidence that is admissible under any of the following sections of the 2003 Act—

- (a) *section 117 (business and other documents);*
- (b) *section 118 (preservation of certain common law categories of admissibility);*
- (c) *section 119 (inconsistent statements);*
- (d) *section 120 (other previous statements of witness); or*
- (e) *section 127(1) (expert evidence: preparatory work): but see Part 33 for the procedure where a party wants to introduce such evidence.]*

(1) 2003 c. 44; section 127 was amended by article 3 of, and paragraphs 45 and 50 of the Schedule to, S.I. 2004/2035.