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STATUTORY INSTRUMENTS

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**2010 No. 60**

**The Criminal Procedure Rules 2010**

**PART 4**

**SERVICE OF DOCUMENTS**

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**When this Part applies**

**4.1.** The rules in this Part apply to the service of every document in a case to which these Rules apply, subject to any special rules in other legislation (including other Parts of these Rules) or in the Practice Direction.

**Methods of service**

**4.2.** A document may be served by any of the methods described in rules 4.3 to 4.6 (subject to rule 4.7), or in rule 4.8.

**Service by handing over a document**

- 4.3.—(1)** A document may be served on—
- (a) an individual by handing it to him or her;

- (b) a corporation by handing it to a person holding a senior position in that corporation;
- (c) an individual or corporation who is legally represented in the case by handing it to that representative;
- (d) the prosecution by handing it to the prosecutor or to the prosecution representative;
- (e) the court officer by handing it to a court officer with authority to accept it at the relevant court office; and
- (f) the Registrar of Criminal Appeals by handing it to a court officer with authority to accept it at the Criminal Appeal Office.

(2) If an individual is 17 or under, a copy of a document served under paragraph (1)(a) must be handed to his or her parent, or another appropriate adult, unless no such person is readily available.

*[Note. Certain legislation treats a body that is not a corporation as if it were one for the purposes of rules about service of documents. See for example section 143 of the Adoption and Children Act 2002(1).]*

#### **Service by leaving or posting a document**

**4.4.**—(1) A document may be served by leaving it at the appropriate address for service under this rule or by sending it to that address by first class post or by the equivalent of first class post.

(2) The address for service under this rule on—

- (a) an individual is an address where it is reasonably believed that he or she will receive it;
- (b) a corporation is its principal office, and if there is no readily identifiable principal office then any place where it carries on its activities or business;
- (c) an individual or corporation who is legally represented in the case is that representative's office;
- (d) the prosecution is the prosecutor's office;
- (e) the court officer is the relevant court office; and
- (f) the Registrar of Criminal Appeals is the Criminal Appeal Office, Royal Courts of Justice, Strand, London, WC2A 2LL.

*[Note. In addition to service in England and Wales for which these rules provide, service outside England and Wales may be allowed under other legislation. See—*

- (a) *section 39 of the Criminal Law Act 1977(2) (service of summons, etc. in Scotland and Northern Ireland);*
- (b) *section 1139(4) of the Companies Act 2006(3) (service of copy summons, etc. on company's registered office in Scotland and Northern Ireland);*
- (c) *sections 3, 4, 4A and 4B of the Crime (International Co-operation) Act 2003(4) (service of summons, etc. outside the United Kingdom) and rules 32.1 and 32.2; and*
- (d) *section 1139(2) of the Companies Act 2006 (service on overseas company).]*

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(1) 2002 c. 38.

(2) 1977 c. 45; sub-section (1) was substituted by section 331 of, and paragraph 6 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44). Sub-section (3) was amended by section 83 of, and paragraph 79 of Schedule 7 to, the Criminal Justice (Scotland) Act 1980 (c. 62).

(3) 2006 (c. 46).

(4) 2003 (c. 32); sections 4A and 4B were inserted by section 331 of, and paragraph 16 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44).

### Service through a document exchange

- 4.5.** A document may be served by document exchange (DX) where—
- (a) the writing paper of the person to be served gives a DX box number; and
  - (b) that person has not refused to accept service by DX.

### Service by fax, e-mail or other electronic means

- 4.6.—**(1) A document may be served by fax, e-mail or other electronic means where—
- (a) the person to be served has given a fax, e-mail or other electronic address; and
  - (b) that person has not refused to accept service by that means.
- (2) Where a document is served under this rule the person serving it need not provide a paper copy as well.

### Documents that must be served only by handing them over, leaving or posting them

- 4.7.—**(1) The documents listed in paragraph (2) may be served—
- (a) on an individual, only under rule 4.3(1)(a) (handing over) or rule 4.4(1) and (2)(a) (leaving or posting); and
  - (b) on a corporation, only under rule 4.3(1)(b) (handing over) or rule 4.4(1) and (2)(b) (leaving or posting).
- (2) Those documents are—
- (a) a summons, requisition or witness summons;
  - (b) notice of an order under section 25 of the Road Traffic Offenders Act 1988<sup>(5)</sup>;
  - (c) a notice of registration under section 71(6) of that Act<sup>(6)</sup>;
  - (d) a notice of discontinuance under section 23(4) of the Prosecution of Offences Act 1985<sup>(7)</sup>;
  - (e) notice under rule 37.3(1) of the date, time and place to which the trial of an information has been adjourned, where it was adjourned in the defendant's absence;
  - (f) a notice of fine or forfeited recognizance required by rule 52.1(1);
  - (g) notice under section 86 of the Magistrates' Courts Act 1980<sup>(8)</sup> of a revised date to attend a means inquiry;
  - (h) notice of a hearing to review the postponement of the issue of a warrant of commitment under section 77(6) of the Magistrates' Courts Act 1980<sup>(9)</sup>;
  - (i) a copy of the minute of a magistrates' court order required by rule 52.7(1);
  - (j) an invitation to make observations or attend a hearing under rule 53.1(2) on the review of a compensation order under section 133 of the Powers of Criminal Courts (Sentencing) Act 2000<sup>(10)</sup>;
  - (k) any notice or document served under Part 19.
- (3) An application under rule 62.3 for the court to punish for contempt of court may be served—

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(5) 1988 c. 53; section 25 was amended by section 90 of, and paragraphs 140 and 142 of Schedule 13 to, the Access to Justice Act 1999 (c. 22), section 165 of, and paragraph 118 of Schedule 9 to, the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) and section 109 of, and paragraph 311 of Schedule 8 to, the Courts Act 2003 (c. 39).

(6) 1988 c. 53. Section 71(6) was amended by section 109 of, and paragraph 317 of Schedule 8 to, the Courts Act 2003 (c. 39).

(7) 1985 c. 23.

(8) 1980 c. 43; section 86 was amended by section 51(2) of the Criminal Justice Act 1982 (c. 48).

(9) 1980 c. 43; section 77(6) was substituted by section 109 of, and paragraph 218 of Schedule 8 to, the Courts Act 2003 (c. 39).

(10) 2000 c. 6. Section 133 was amended by section 456 of, and paragraphs 1 and 37 of Schedule 11 to, the Proceeds of Crime Act 2002 (c. 29).

- (a) on an individual, only under rule 4.3(1)(a) (by handing it to him or her);
- (b) on a corporation, only under rule 4.3(1)(b) (by handing it to a person holding a senior position in that corporation).

#### **Service by person in custody**

**4.8.**—(1) A person in custody may serve a document by handing it to the custodian addressed to the person to be served.

- (2) The custodian must—
  - (a) endorse it with the time and date of receipt;
  - (b) record its receipt; and
  - (c) forward it promptly to the addressee.

#### **Service by another method**

**4.9.**—(1) The court may allow service of a document by a method other than those described in rules 4.3 to 4.6 and in rule 4.8.

- (2) An order allowing service by another method must specify—
  - (a) the method to be used; and
  - (b) the date on which the document will be served.

#### **Date of service**

**4.10.**—(1) A document served under rule 4.3 or rule 4.8 is served on the day it is handed over.

(2) Unless something different is shown, a document served on a person by any other method is served—

- (a) in the case of a document left at an address, on the next business day after the day on which it was left;
- (b) in the case of a document sent by first class post or by the equivalent of first class post, on the second business day after the day on which it was posted or despatched;
- (c) in the case of a document served by document exchange, on the second business day after the day on which it was left at the addressee’s DX or at a correspondent DX;
- (d) in the case of a document transmitted by fax, e-mail or other electronic means, on the next business day after it was transmitted; and
- (e) in any case, on the day on which the addressee responds to it if that is earlier.

(3) Unless something different is shown, a document produced by a court computer system is to be taken as having been sent by first class post or by the equivalent of first class post to the addressee on the business day after the day on which it was produced.

(4) Where a document is served on or by the court officer, ‘business day’ does not include a day on which the court office is closed.

#### **Proof of service**

**4.11.** The person who serves a document may prove that by signing a certificate explaining how and when it was served.

### **Court's power to give directions about service**

- 4.12.**—(1) The court may specify the time as well as the date by which a document must be—
- (a) served under rule 4.3 or rule 4.8; or
  - (b) transmitted by fax, e-mail or other electronic means if it is served under rule 4.6.
- (2) The court may treat a document as served if the addressee responds to it even if it was not served in accordance with the rules in this Part.