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STATUTORY INSTRUMENTS

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**2020 No. 759**

The Criminal Procedure Rules 2020

PART 49

INTERNATIONAL CO-OPERATION

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

**49.1.**—(1) The notice which by virtue of section 3(4)(b) of the Crime (International Co-operation) Act 2003(1) (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 magistrates’ court 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.

**Commencement Information**

**II** Rule 49.1 in force at 5.10.2020, see Preamble

**Proof of service outside the United Kingdom**

**49.2.**—(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;

(1) 2003 c. 32.

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.

**Commencement Information**

**I2** Rule 49.2 in force at 5.10.2020, see Preamble

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

**49.3.** 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 magistrates’ court or 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.

**Commencement Information**

**I3** Rule 49.3 in force at 5.10.2020, see Preamble

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

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

- (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.

**Commencement Information**

**I4** Rule 49.4 in force at 5.10.2020, see Preamble

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

**49.5.—(1)** Where a court is nominated under section 15(1) of the Crime (International Co-operation) Act 2003 the magistrates’ court 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(2)) 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 magistrates' court 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. As to the keeping of an overseas record, see rule 49.9.]*

#### Commencement Information

**I5** Rule 49.5 in force at 5.10.2020, see Preamble

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

**49.6.**—(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' legal adviser 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' legal adviser 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.

(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' legal adviser 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.

#### Commencement Information

**I6** Rule 49.6 in force at 5.10.2020, see Preamble

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

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

- (2) The magistrates' court 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 magistrates' court 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. As to the keeping of an overseas record, see rule 49.9.]*

#### **Commencement Information**

**I7** Rule 49.7 in force at 5.10.2020, see Preamble

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

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

- (2) The magistrates' court 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. As to the keeping of an overseas record, see rule 49.9.]*

#### **Commencement Information**

**I8** Rule 49.8 in force at 5.10.2020, see Preamble

## Overseas record

**49.9.**—(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>(3)</sup>).

- (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. As to the making of court records, see rule 5.4.]*

### Commencement Information

**19** Rule 49.9 in force at 5.10.2020, see Preamble

## Overseas freezing orders

**49.10.**—(1) This rule applies where a court is nominated under section 21(1) of the Crime (International Co-operation) Act 2003<sup>(4)</sup> to give effect to an overseas freezing order.

- (2) Where the Secretary of State serves a copy of such an order on the court officer—
- (a) the general rule is that the court must consider the order no later than the next business day; but
  - (b) exceptionally, the court may consider the order later than that, though not more than 5 business days after service.
- (3) The court must not consider the order unless—
- (a) it is satisfied that the chief officer of police for the area in which the evidence is situated has had notice of the order; and
  - (b) that chief officer of police has had an opportunity to make representations, at a hearing if that officer wants.
- (4) The court may consider the order—
- (a) without a hearing; or
  - (b) at a hearing, in public or in private.

*[Note. Under sections 20, 21 and 22 of the Crime (International Co-operation) Act 2003, a court nominated by the Secretary of State must consider an order, made by a court or other authority in a country outside the United Kingdom, the purpose of which is to protect evidence in the United Kingdom which may be used in proceedings or an investigation in that other country pending the transfer of that evidence to that country. The court may decide not to give effect to such an order only if—*

- (a) *were the person whose conduct is in question to be charged with the offence to which the order relates, a previous conviction or acquittal would entitle that person to be discharged; or*
- (b) *giving effect to the order would be incompatible with a Convention right, within the meaning of the Human Rights Act 1998.]*

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(3) 1980 c. 43; a relevant amendment was made to section 150(1) by paragraph 250 of Schedule 8, and Schedule 10 to, the Courts Act 2003 (c. 39).

(4) 2003 c. 32.

**Commencement Information**

**I10** Rule 49.10 in force at 5.10.2020, see Preamble

**Overseas forfeiture orders**

**49.11.**—(1) This rule applies where—

(a) the Crown Court can—

- (i) make a restraint order under article 5 of the Criminal Justice (International Co-operation) Act 1990 (Enforcement of Overseas Forfeiture Orders) Order 2005(5), or
- (ii) give effect to an external forfeiture order under article 19 of that Order;

(b) the Director of Public Prosecutions or the Director of the Serious Fraud Office receives—

- (i) a request for the restraint of property to which article 3 of the 2005 Order applies, or
- (ii) a request to give effect to an external forfeiture order to which article 15 of the Order applies; and

(c) the Director wants the Crown Court to—

- (i) make such a restraint order, or
- (ii) give effect to such a forfeiture order.

(2) The Director must—

- (a) apply in writing;
- (b) serve the application on the court officer; and
- (c) serve the application on the defendant and on any other person affected by the order, unless the court is satisfied that—
  - (i) the application is urgent, or
  - (ii) there are reasonable grounds for believing that to give notice of the application would cause the dissipation of the property which is the subject of the application.

(3) The application must—

- (a) identify the property the subject of the application;
- (b) identify the person who is or who may become the subject of such a forfeiture order;
- (c) explain how the requirements of the 2005 Order are satisfied, as the case may be—
  - (i) for making a restraint order, or
  - (ii) for giving effect to a forfeiture order;
- (d) where the application is to give effect to a forfeiture order, include an application to appoint the Director as the enforcement authority; and
- (e) propose the terms of the Crown Court order.

(4) If the court allows the application, it must—

- (a) where it decides to make a restraint order—
  - (i) specify the property the subject of the order,
  - (ii) specify the person or persons who are prohibited from dealing with that property,
  - (iii) specify any exception to that prohibition, and

- (iv) include any ancillary order that the court believes is appropriate to ensure that the restraint order is effective; and
  - (b) where it decides to give effect to a forfeiture order, exercise its power to—
    - (i) direct the registration of the order as an order of the Crown Court,
    - (ii) give directions for notice of the order to be given to any person affected by it, and
    - (iii) appoint the applicant Director as the enforcement authority.
- (5) Paragraph (6) applies where a person affected by an order, or the Director, wants the court to vary or discharge a restraint order or cancel the registration of a forfeiture order.
- (6) Such a person must—
- (a) apply in writing as soon as practicable after becoming aware of the grounds for doing so;
  - (b) serve the application on the court officer and, as applicable—
    - (i) the other party, and
    - (ii) any other person who will or may be affected;
  - (c) explain why it is appropriate, as the case may be—
    - (i) for the restraint order to be varied or discharged, or
    - (ii) for the registration of the forfeiture order to be cancelled;
  - (d) propose the terms of any variation; and
  - (e) ask for a hearing, if one is wanted, and explain why it is needed.
- (7) The court may—
- (a) consider an application
    - (i) at a hearing, which must be in private unless the court otherwise directs, or
    - (ii) without a hearing; and
  - (b) allow an application to be made orally.

*[Note. Under article 19 of the Criminal Justice (International Co-operation) Act 1990 (Enforcement of Overseas Forfeiture Orders) Order 2005, on the application of the Director of Public Prosecutions or the Director of the Serious Fraud Office the Crown Court may give effect to an order made by a court in a country outside the United Kingdom for the forfeiture and destruction, or other disposal, of any property in respect of which an offence has been committed in that country, or which was used or intended for use in connection with the commission of such an offence (described in the Order as an 'external forfeiture order').*

*Under article 5 of the 2005 Order, on the application of the Director of Public Prosecutions or the Director of the Serious Fraud Office the Crown Court may make a restraint order prohibiting any specified person from dealing with property, for the purpose of facilitating the enforcement of such a forfeiture order which has yet to be made.]*

**Commencement Information**  
**I11** Rule 49.11 in force at 5.10.2020, see Preamble

**Overseas restraint orders**

**F2**49.12. ....



**F2** Rule 49.12 omitted (8.2.2021) by virtue of [The Criminal Procedure \(Amendment\) Rules 2021 \(S.I. 2021/40\)](#), [rules 2, 28\(a\)](#) (with [rule 3](#))

### **Overseas confiscation orders**

**F3** **49.13.** . . . . .

**F3** Rule 49.13 omitted (8.2.2021) by virtue of [The Criminal Procedure \(Amendment\) Rules 2021 \(S.I. 2021/40\)](#), [rules 2, 28\(a\)](#) (with [rule 3](#))

### **Giving effect to a European investigation order for the receipt of oral evidence**

**F4** **49.14.** . . . . .

**F4** Rules 49.14 - 49.17 omitted (8.2.2021) by virtue of [The Criminal Procedure \(Amendment\) Rules 2021 \(S.I. 2021/40\)](#), [rules 2, 28\(b\)](#) (with [rule 3](#))

### **Giving effect to a European investigation order for hearing a person by live link**

**F4** **49.15.** . . . . .

**F4** Rules 49.14 - 49.17 omitted (8.2.2021) by virtue of [The Criminal Procedure \(Amendment\) Rules 2021 \(S.I. 2021/40\)](#), [rules 2, 28\(b\)](#) (with [rule 3](#))

### **Giving effect to a European investigation order by issuing a search warrant or production, etc. order**

**F4** **49.16.** . . . . .

**F4** Rules 49.14 - 49.17 omitted (8.2.2021) by virtue of [The Criminal Procedure \(Amendment\) Rules 2021 \(S.I. 2021/40\)](#), [rules 2, 28\(b\)](#) (with [rule 3](#))

### **Application to vary or revoke a search warrant or production etc. order issued to give effect to a European investigation order**

**F4** **49.17.** . . . . .

**F4** Rules 49.14 - 49.17 omitted (8.2.2021) by virtue of [The Criminal Procedure \(Amendment\) Rules 2021 \(S.I. 2021/40\)](#), [rules 2, 28\(b\)](#) (with [rule 3](#))

**Changes to legislation:**

There are currently no known outstanding effects for the The Criminal Procedure Rules 2020, PART 49.