STATUTORY INSTRUMENTS

2004 No. 2992 (L. 19)

SUPREME COURT OF ENGLAND AND WALES

The Criminal Appeal (Amendment No. 2) Rules 2004

Made - - - -	*15th November 2004*
Laid before Parliament	*18th November 2004*
Coming into force in accordance with article 1	

We, the Crown Court Rule Committee, in exercise of the powers conferred upon us by sections 84(1) and 86 and 87(4) of the Supreme Court Act 1981(**a**) and section 111 of the Criminal Justice Act 2003(**b**) ("the 2003 Act") hereby make the following Rules:

Citation and commencement

1. These Rules may be cited as the Criminal Appeal (Amendment No. 2) Rules 2004 and shall come into force on 15th December 2004 or on the day that sections 98 to 110 of the 2003 Act (Evidence of Bad Character) come into force, whichever is later.

Criminal Appeal Rules 1968

2.—(1) The Criminal Appeal Rules 1968(**c**) shall be amended as follows.

(2) After rule 9C there is inserted–

"**Procedure for the admission of evidence of bad character**

9D.—(1) A party who wants to introduce evidence of a non-appellant's bad character or who wants to cross-examine a witness with a view to eliciting such evidence, under section 100 of the Criminal Justice Act 2003 ("the 2003 Act") must apply in Form 21 and the application must be received by the Registrar and all other parties to the proceedings not more than 28 days after leave to appeal is given, where leave is required, or after notice of appeal is given in any other case.

(2) A party who receives a copy of an application under paragraph (1) may oppose that application by giving notice in writing to the Registrar and all other parties to the proceedings not more than 14 days after receiving that application.

(3) A party who wants to introduce evidence of an appellant's bad character or who wants to cross-examine a witness with a view to eliciting that evidence, under section 101 of the 2003 Act (defendant's bad character) must give notice in Form 22 to the Registrar and all other parties to the proceedings not more than 28 days after leave to appeal is given, where leave is required, or after notice of appeal is given in any other case.

(**a**) 1981 c.54.
(**b**) 2003 c.44.
(**c**) S.I. 1968/1262, to which there are amendments not relevant to these Rules.

(4) An appellant's application to exclude bad character evidence must be in Form 23 and received by the Registrar and all other parties to the proceedings not more than 7 days after receiving a notice under paragraph (3).

(5) An appellant entitled to receive a notice under this rule may waive his entitlement by so informing the court and the party who would have given the notice.

(6) The court may–

(a) allow a notice or application required under this rule to be given in a different form, or orally; or

(b) shorten a time-limit under this rule or extend it even after it has expired,

if it is in the interests of justice to do so.

(7) Where this rule requires a notice or application to be given or sent it may, with the consent of the addressee, be sent by fax or other means of electronic communication.**"**.

3. There shall be inserted after Form 20 in the Criminal Appeal Rules 1968, Forms 21, 22 and 23 set out in the Schedule to these Rules.

Dated 15th November 2004

Falconer of Thoroton, C.
Woolf, C.J.
Master Venne
Potter, L.J.
C.Hagen, Q.C.
D. Matheson, Q.C.
P. Carter, Q.C.
*J.V. Pegden,*Q.C.
E. Barnett, J.P.
G. White

SCHEDULE

Rule 9D

Forms

FORM 21

Application for leave to adduce non-appellant's bad character

(Section 100 of the Criminal Justice Act 2003)

Details required	*Notes*
1. Details of applicant Name: Address:	
2. Case details Case reference numbers: Date leave to appeal was given, where leave is required, or after notice of appeal is given in any other case: Name of appellant(s): Charges:	
3. Details of this application Please provide the following details (a) the particulars of the bad character evidence including how it is to be adduced or elicited in the proceedings (including the names the relevant non-appellant and all other relevant witnesses); and (b) the grounds for the admission of evidence of a non-appellant's bad character under section 100 of the 2003 Act.	*Section 100 of the 2003 Act.* *Please attach any relevant documentation.*
4. Extension of time Are you applying for an extension of time for service? (yes/no) If so please provide details.	
Signed: Dated	

FORM 22

Notice of intention to adduce bad character evidence

(Section 101 of the Criminal Justice Act 2003)

Details required	*Notes*
1. Details of party giving notice Name: Address:	
2. Case details Case reference numbers: Date leave to appeal was given, where leave is required, or after notice of appeal is given in any other case: Name of appellant(s): Charges:	
3. Details of this Notice To the named appellant: You are hereby given notice that bad character evidence, particulars of which are detailed below, is to be adduced or elicited in these proceedings. The particulars of that bad character evidence are as follows:	*In this section include:* *a) a description of the bad character evidence and how it is to be adduced or elicited in the proceedings (including the names of any relevant witnesses);* *b) the grounds for the admission of evidence of the appellant's bad character under section 101 of the 2003 Act;* *c) why the admission of that evidence is in the interests of justice, where section 108 of the Act applies (evidence of conviction when under 14 used in proceedings for offence committed as an adult).* *Please attach any relevant documentation.*
4. Extension of time Are you applying for an extension of time for service? (yes/no). If yes, state your reasons.	

Signed: Dated:	

FORM 23

Application to exclude evidence of the appellant's bad character

(Sections 101 and 108(2) of the Criminal Justice Act 2003)

Details required	*Notes*
1. Details of the appellant Name: Address: Date of Birth: If you are in custody, please give your Prison Index No. and address where detained:	
2. Case details Case reference numbers: Date leave to appeal was given, where leave is required, or after notice of appeal is given in any other case: Charges: Date that you were served with the notice of the intention to adduce bad character evidence in these proceedings:	
3. Details of the application Include the following information: (a) why the admission of bad character evidence would have such an adverse effect on the fairness of the proceedings that the court should not admit it. (b) details as to the length of time between the matters to which the bad character evidence relates and the matters which form the subject of the offence charged. (c) if you are applying for the exclusion of this evidence on grounds other than section 101(3) of the 2003 Act, please set out such objections.	*Note that an application to exclude this evidence under section 101(3) of the 2003 Act can only be made if you have been notified of a party's intention to adduce this evidence under subsection 101(1)(d) (it is relevant to an important matter in issue between the appellant and the prosecution) or subsection 101(1)(g) (that the appellant has made an attack on another person's character).* *Section 101(4) of the 2003 Act.*

4. Offences committed by the appellant when a child If you are applying to exclude evidence of a previous conviction for an offence when under the age of 14, state (a) whether the offence for which you received a conviction when under the age of 14 was an offence triable only on indictment; and (b) why it would not be in the interests of justice for that evidence to be admitted.	*Section 108(2) of the 2003 Act.*
5. Extension of time Are you applying for an extension of time for service (yes/no) If so, state your reasons.	
Signed: Date	

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules insert a new rule into the Criminal Appeal Rules 1968 to provide for the practice and procedure to be followed in the criminal division of the Court of Appeal in connection with the admission of bad character evidence under Part II Chapter 1 of the Criminal Justice Act 2003.

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