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STATUTORY INSTRUMENTS

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**2012 No. 1726**

**The Criminal Procedure Rules 2012**

**PART 57**

**PROCEEDS OF CRIME ACT 2002: RULES  
APPLICABLE TO ALL PROCEEDINGS**

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**Contents of this Part**

Interpretation	rule 57.1
Calculation of time	rule 57.2
Court office closed	rule 57.3
Application for registration of Scottish or Northern Ireland order	rule 57.4
Application to vary or set aside registration	rule 57.5
Register of orders	rule 57.6
Statements of truth	rule 57.7
Use of witness statements for other purposes	rule 57.8
Expert evidence	rule 57.9
Exceptions to procedure for expert evidence	rule 57.10
Service of documents	rule 57.11
Service outside the jurisdiction	rule 57.12
Certificates of service	rule 57.13
External requests and orders	rule 57.14

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**Interpretation**

**57.1.** In this Part and in Parts 58, 59, 60 and 61:

‘document’ means anything in which information of any description is recorded;

‘hearsay evidence’ means evidence consisting of hearsay within the meaning of section 1(2) of the Civil Evidence Act 1995(1);

‘restraint proceedings’ means proceedings under sections 42 and 58(2) and (3) of the Proceeds of Crime Act 2002(2);

‘receivership proceedings’ means proceedings under sections 48, 49, 50, 51, 54(4), 59(2) and (3), 62 and 63 of the 2002 Act(3);

‘witness statement’ means a written statement signed by a person which contains the evidence, and only that evidence, which that person would be allowed to give orally; and

words and expressions used have the same meaning as in Part 2 of the 2002 Act.

### Calculation of time

**57.2.**—(1) This rule shows how to calculate any period of time for doing any act which is specified by this Part and Parts 58, 59, 60 and 61 for the purposes of any proceedings under Part 2 of the Proceeds of Crime Act 2002 or by an order of the Crown Court in restraint proceedings or receivership proceedings.

(2) A period of time expressed as a number of days shall be computed as clear days.

(3) In this rule ‘clear days’ means that in computing the number of days—

(a) the day on which the period begins; and

(b) if the end of the period is defined by reference to an event, the day on which that event occurs,

are not included.

(4) Where the specified period is five days or less and includes a day which is not a business day that day does not count.

### Court office closed

**57.3.** When the period specified by this Part or Parts 58, 59, 60 and 61, or by an order of the Crown Court under Part 2 of the Proceeds of Crime Act 2002, for doing any act at the court office falls on a day on which the office is closed, that act shall be in time if done on the next day on which the court office is open.

### Application for registration of Scottish or Northern Ireland order

**57.4.**—(1) This rule applies to an application for registration of an order under article 6 of the Proceeds of Crime Act 2002 (Enforcement in different parts of the United Kingdom) Order 2002(4).

(2) The application may be made without notice.

(3) The application must be in writing and may be supported by a witness statement which must—

(a) exhibit the order or a certified copy of the order; and

(b) to the best of the witness’s ability, give full details of the realisable property located in England and Wales in respect of which the order was made and specify the person holding that realisable property.

(4) If the court registers the order, the applicant must serve notice of the registration on—

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(2) [2002 c. 29](#); section 42 was amended by sections 74(2) and 92 of, and paragraphs 1 and 23 of Schedule 8, and Schedule 14 to, the Serious Crime Act 2007 ([c. 27](#)); section 58(2) is amended by section 62 of, and paragraphs 142 and 143 of Schedule 13 of the Tribunals, Courts and Enforcement Act 2007 ([c. 15](#)), with effect from a date to be appointed.

(3) [2002 c. 29](#); section 49 was amended by section 82(1) of the Serious Crime Act ([c. 27](#)); section 59(2) is amended by section 62 of, and paragraphs 142 and 144 of Schedule 13 of the Tribunals, Courts and Enforcement Act 2007 ([c. 15](#)), with effect from a date to be appointed. Section 62 was amended by section 74 of, and paragraphs 1 and 29 of Schedule 8 to, the Serious Crime Act 2007 ([c. 27](#)) and section 63 was amended by section 74 of, and paragraphs 1 and 30 of Schedule 8 to, the Serious Crime Act 2007 ([c. 27](#)).

(4) [S.I. 2002/3133](#).

- (a) any person who holds realisable property to which the order applies; and
  - (b) any other person whom the applicant knows to be affected by the order.
- (5) The permission of the Crown Court under rule 57.13 is not required to serve the notice outside England and Wales.

#### **Application to vary or set aside registration**

**57.5.**—(1) An application to vary or set aside registration of an order under article 6 of the Proceeds of Crime Act 2002 (Enforcement in different parts of the United Kingdom) Order 2002 may be made to the Crown Court by—

- (a) any person who holds realisable property to which the order applies; and
  - (b) any other person affected by the order.
- (2) The application must be in writing and may be supported by a witness statement.
- (3) The application and any witness statement must be lodged with the Crown Court.
- (4) The application must be served on the person who applied for registration at least seven days before the date fixed by the court for hearing the application, unless the Crown Court specifies a shorter period.
- (5) No property in England and Wales may be realised in pursuance of the order before the Crown Court has decided the application.

#### **Register of orders**

**57.6.**—(1) The Crown Court must keep, under the direction of the Lord Chancellor, a register of the orders registered under article 6 of the Proceeds of Crime Act 2002 (Enforcement in different parts of the United Kingdom) Order 2002.

(2) The register must include details of any variation or setting aside of a registration under rule 57.5 and of any execution issued on a registered order.

(3) If the person who applied for registration of an order which is subsequently registered notifies the Crown Court that the court which made the order has varied or discharged the order, details of the variation or discharge, as the case may be, must be entered in the register.

#### **Statements of truth**

**57.7.**—(1) Any witness statement required to be served by this Part or by Parts 58, 59, 60 or 61 must be verified by a statement of truth contained in the witness statement.

(2) A statement of truth is a declaration by the person making the witness statement to the effect that the witness statement is true to the best of his knowledge and belief and that he made the statement knowing that, if it were tendered in evidence, he would be liable to prosecution if he wilfully stated in it anything which he knew to be false or did not believe to be true.

(3) The statement of truth must be signed by the person making the witness statement.

(4) If the person making the witness statement fails to verify the witness statement by a statement of truth, the Crown Court may direct that it shall not be admissible as evidence.

#### **Use of witness statements for other purposes**

**57.8.**—(1) Except as provided by this rule, a witness statement served in proceedings under Part 2 of the Proceeds of Crime Act 2002 may be used only for the purpose of the proceedings in which it is served.

(2) Paragraph (1) does not apply if and to the extent that—

- (a) the witness gives consent in writing to some other use of it;
- (b) the Crown Court gives permission for some other use; or
- (c) the witness statement has been put in evidence at a hearing held in public.

### **Expert evidence**

**57.9.**—(1) A party to proceedings under Part 2 of the Proceeds of Crime Act 2002 who wishes to adduce expert evidence (whether of fact or opinion) in the proceedings must, as soon as practicable—

- (a) serve on the other parties a statement in writing of any finding or opinion which he proposes to adduce by way of such evidence; and
- (b) serve on any party who requests it in writing, a copy of (or if it appears to the party proposing to adduce the evidence to be more practicable, give the requesting party a reasonable opportunity to examine)—
  - (i) the record of any observation, test, calculation or other procedure on which the finding or opinion is based, and
  - (ii) any document or other thing or substance in respect of which the observation, test, calculation or other procedure mentioned in paragraph (1)(b)(i) has been carried out.

(2) A party may serve notice in writing waiving his right to be served with or given any of the matters mentioned in paragraph (1) and, in particular, may agree that the statement mentioned in paragraph (1)(a) may be given to him orally and not served in writing.

(3) If a party who wishes to adduce expert evidence in proceedings under Part 2 of the 2002 Act fails to comply with this rule he may not adduce that evidence in those proceedings without the leave of the court, except where rule 57.10 applies.

### **Exceptions to procedure for expert evidence**

**57.10.**—(1) If a party has reasonable grounds for believing that the disclosure of any evidence in compliance with rule 57.9 might lead to the intimidation, or attempted intimidation, of any person on whose evidence he intends to rely in the proceedings, or otherwise to the course of justice being interfered with, he shall not be obliged to comply with those requirements in relation to that evidence, unless the Crown Court orders otherwise.

(2) Where, in accordance with paragraph (1), a party considers that he is not obliged to comply with the requirements imposed by rule 57.9 with regard to any evidence in relation to any other party, he must serve notice in writing on that party stating—

- (a) that the evidence is being withheld; and
- (b) the reasons for withholding the evidence.

### **Service of documents**

**57.11.**—(1) Rule 32.1 (notice required to accompany process served outside the United Kingdom and translations) shall not apply in restraint proceedings and receivership proceedings.

(2) An order made in restraint proceedings or receivership proceedings may be enforced against the defendant or any other person affected by it notwithstanding that service of a copy of the order has not been effected in accordance with Part 4 of these Rules if the Crown Court is satisfied that the person had notice of the order by being present when the order was made.

### Service outside the jurisdiction

**57.12.**—(1) Where this Part requires a document to be served on someone who is outside England and Wales, it may be served outside England and Wales with the permission of the Crown Court.

(2) Where a document is to be served outside England and Wales it may be served by any method permitted by the law of the country in which it is to be served.

(3) Nothing in this rule or in any court order shall authorise or require any person to do anything in the country where the document is to be served which is against the law of that country.

(4) Where this Part requires a document to be served a certain period of time before the date of a hearing and the recipient does not appear at the hearing, the hearing must not take place unless the Crown Court is satisfied that the document has been duly served.

### Certificates of service

**57.13.**—(1) Where this Part requires that the applicant for an order in restraint proceedings or receivership proceedings serve a document on another person, the applicant must lodge a certificate of service with the Crown Court within seven days of service of the document.

(2) The certificate must state—

(a) the method of service;

(b) the date of service; and

(c) if the document is served under rule 4.9, such other information as the court may require when making the order permitting service by an alternative method.

(3) Where a document is to be served by the Crown Court in restraint proceedings and receivership proceedings and the court is unable to serve it, the court must send a notice of non-service stating the method attempted to the party who requested service.

### External requests and orders

**57.14.**—(1) The rules in this Part and in Parts 59 to 61 and 71 to 73 apply with the necessary modifications to proceedings under The Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005<sup>(5)</sup> in the same way that they apply to corresponding proceedings under Part 2 of the Proceeds of Crime Act 2002<sup>(6)</sup>.

(2) This table shows how provisions of the 2005 Order correspond with provisions of the 2002 Act.

<i>Article of The Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005</i>	<i>Section of the Proceeds of Crime Act 2002</i>
8	41
9	42
10	43
11	44
15	48
16	49
17	58

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<sup>(5)</sup> S.I. 2005/3181.

<sup>(6)</sup> 2002 c. 29.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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<i>Article of The Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005</i>	<i>Section of the Proceeds of Crime Act 2002</i>
23	31
27	50
28	51
41	62
42	63
44	65
45	66

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