



## 2011 CHAPTER 24

### PART 2

#### LIVE LINKS

##### **Live link in sentencing hearing on appeals to the county court**

**17.—**(1) This section applies in relation to a sentencing hearing in connection with an appeal to the county court under Article 140 of the [Magistrates' Courts \(Northern Ireland\) Order 1981 \(NI 26\)](#).

(2) Where it appears to the county court before which the sentencing hearing is to take place that the appellant is likely to be held in custody during the hearing, the court may give a live link direction under this section in relation to the attendance of the appellant at the hearing.

(3) A live link direction under this section is a direction requiring the appellant, if being held in custody during the hearing, to attend it through a live link from the place at which the appellant is being held.

(4) The appellant is to be treated as present in court when, by virtue of a live link direction, the appellant attends a hearing through a live link.

(5) A live link direction under this section—

- (a) may be given by the court of its own motion or on an application by a party; and
- (b) may be given in relation to all subsequent sentencing hearings before the court or to such sentencing hearing or hearings as may be specified or described in the direction.

(6) The court may not give a live link direction under this section unless—

- (a) the appellant has consented to the direction; and

- (b) the court is satisfied that it is not contrary to the interests of justice to give the direction.

(7) The court may rescind a live link direction given under this section at any time before or during a sentencing hearing to which it relates if it appears to the court to be in the interests of justice to do so (but this does not affect the court's power to give a further live link direction under this section in relation to the appellant).

The court may exercise this power of its own motion or on an application by a party.

(8) The appellant may not give oral evidence while attending a sentencing hearing through a live link by virtue of this section unless—

- (a) the appellant consents to give evidence in that way; and
- (b) the court is satisfied that it is not contrary to the interests of justice for the appellant to give it in that way.

(9) The court must state in open court its reasons for refusing an application for, or for the rescission of, a live link direction under this section.

(10) A court shall not give a live link direction under this section unless—

- (a) it has been notified by the Department that a live link is available between the court and the institution in which the appellant is or is to be held in custody; and
- (b) the notice has not been withdrawn.

(11) In this section—

- (a) references to a person being held in custody are references to the person's being held in custody in a prison, young offenders centre, juvenile justice centre or other institution or detained in a hospital under Part 3 of the [Mental Health \(Northern Ireland\) Order 1986 \(NI 4\)](#);
- (b) "live link" means an arrangement by which a person (when not in the place where the hearing is being held) is able to see and hear, and to be seen and heard by, the court during the hearing (and for this purpose any impairment of eyesight or hearing is to be disregarded);
- (c) "sentencing hearing", in connection with an appeal, means any hearing following the determination of the appeal which is held for the purpose of—
  - (i) proceedings relating to the giving or rescinding of a live link direction;
  - (ii) sentencing the offender or determining how the court should deal with the offender in respect of the offence.