STATUTORY INSTRUMENTS

1999 No. 2789

The Criminal Evidence (Northern Ireland) Order 1999

PART II

SPECIAL MEASURES DIRECTIONS IN CASE OF VULNERABLE AND INTIMIDATED WITNESSES

Special measures

Video recorded evidence in chief

15.—(1) A special measures direction may provide for a video recording of an interview of the witness to be admitted as evidence in chief of the witness.

(2) A special measures direction may, however, not provide for a video recording, or a part of such a recording, to be admitted under this Article if the court is of the opinion, having regard to all the circumstances of the case, that in the interests of justice the recording, or that part of it, should not be so admitted.

(3) In considering for the purposes of paragraph (2) whether any part of a recording should not be admitted under this Article, the court must consider whether any prejudice to the accused which might result from that part being so admitted is outweighed by the desirability of showing the whole, or substantially the whole, of the recorded interview.

(4) Where a special measures direction provides for a recording to be admitted under this Article, the court may nevertheless subsequently direct that it is not to be so admitted if—

(a) it appears to the court that—

(i) the witness will not be available for cross-examination (whether conducted in the ordinary way or in accordance with any such direction), and

(ii) the parties to the proceedings have not agreed that there is no need for the witness to be so available; or

(b) any rules of court requiring disclosure of the circumstances in which the recording was made have not been complied with to the satisfaction of the court.

(5) Where a recording is admitted under this Article—

(a) the witness must be called by the party tendering it in evidence, unless—

(i) a special measures direction provides for the witness's evidence on cross-examination to be given **[**[F1]in any recording admissible under Article 16**]**, or

(ii) the parties to the proceedings have agreed as mentioned in paragraph (4)(a)(ii); and

[[F2](b) the witness may not without the permission of the court give evidence in chief otherwise than by means of the recording as to any matter which, in the opinion of the court, is dealt with in the witness's recorded testimony.**]**

(6) Where in accordance with paragraph (2) a special measures direction provides for part only of a recording to be admitted under this Article, references in paragraphs (4) and (5) to the recording or to the witness's recorded testimony are references to the part of the recording or testimony which is to be so admitted.

(7) The court may give permission for the purposes of **[**[F3]paragraph (5)(b)**]** if it appears to the court to be in the interests of justice to do so,and may do so either—

(a) on an application by a party to the proceedings, [F4]. . . or

(b) of its own motion.

(8) [F5]. . . . . .

(9) The court may, in giving permission for the purposes of **[**[F6]paragraph (5)(b)**]**, direct that the evidence in question is to be given by the witness by means of a live link; [F7]. . .

[[F8](9A) If the court directs under paragraph (9) that evidence is to be given by live link, it may also make such provision in that direction as it could make under Article 12(1A) in a special measures direction.**]**

[F9](10) . . . . . .

(11) Nothing in this Article affects the admissibility of any video recording which would be admissible apart from this Article.

F1 Words in art. 15(5)(a)(i) substituted (1.1.2012) by Justice Act (Northern Ireland) 2011 (c. 24), ss. 110(1), 111(3), **Sch. 7 para. 7** (with s. 106(4)); S.R. 2011/370, **art. 3(g)(h)**

F2 Art. 15(5)(b) substituted (1.1.2012) by Justice Act (Northern Ireland) 2011 (c. 24), **ss. 11(2)**, 111(3) (with s. 106(4), Sch. 6 para. 2); S.R. 2011/370, **art. 3(a)**

F3 Words in art. 15(7) substituted (1.1.2012) by Justice Act (Northern Ireland) 2011 (c. 24), **ss. 11(3)(a)**, 111(3) (with s. 106(4), Sch. 6 para. 2); S.R. 2011/370, **art. 3(a)**

F4 Words in art. 15(7)(a) repealed (1.1.2012) by Justice Act (Northern Ireland) 2011 (c. 24), ss. 11(3)(b), 110(2), 111(3), **Sch. 8 Pt. 1** (with s. 106(4), Sch. 6 para. 2); S.R. 2011/370, **art. 3(a)(g)(i)**

F5 Art. 15(8) repealed (1.1.2012) by Justice Act (Northern Ireland) 2011 (c. 24), ss. 11(4), 110(2), 111(3), **Sch. 8 Pt. 1** (with s. 106(4), Sch. 6 para. 2); S.R. 2011/370, **art. 3(a)(g)(i)**

F6 Words in art. 15(9) substituted (1.1.2012) by Justice Act (Northern Ireland) 2011 (c. 24), **ss. 11(5)**, 111(3) (with s. 106(4), Sch. 6 para. 2); S.R. 2011/370, **art. 3(a)**

F7 Words in art. 15(9) repealed (1.1.2012) by virtue of Justice Act (Northern Ireland) 2011 (c. 24), ss. 110(2), 111(3), **Sch. 8 Pt. 1** (with s. 106(4)); S.R. 2011/370, **art. 3(g)(i)**

F8 Art. 15(9A) inserted (1.1.2012) by Justice Act (Northern Ireland) 2011 (c. 24), **ss. 10(2)**, 111(3) (with s. 106(4), Sch. 6 para. 2); S.R. 2011/370, **art. 3(a)**

F9 Art. 15(10) repealed (17.10.2022) by Criminal Justice (Committal Reform) Act (Northern Ireland) 2022 (c. 4), s. 5(2), **Sch. para. 15(a)**; S.R. 2022/221, art. 2(d)

Commencement Information

I1 Art. 15 partly in operation; art. 15 not in operation at date of making see art. 1(2); art. 15 in operation for certain purposes at 1.6.2000 by S.R. 2000/211, art. 2; art. 15 in operation for certain purposes at 30.6.2003 by S.R. 2003/323, art. 2, Sch.; art. 15 in operation for certain purposes at 1.12.2003 by S.R. 2003/476, art. 2; art. 15 in operation for certain purposes at 1.8.2009 by S.R. 2009/275, **art. 2**

Changes to legislation:
The Criminal Evidence (Northern Ireland) Order 1999, Section 15 is up to date with all changes known to be in force on or before 26 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.
View outstanding changes

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:
Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- art. 29(3)(aa) inserted by 2015 c. 9 (N.I.) Sch. 2 para. 11
- art. 29(3)(aa) words substituted in earlier affecting provision 2015 c. 9 (N.I.), Sch. 2 para. 11 by 2022 c. 4 (N.I.) s. 4(9)(h)