
STATUTORY INSTRUMENTS

2004 No. 1501

The Criminal Justice (Evidence) (Northern Ireland) Order 2004

PART II

EVIDENCE OF BAD CHARACTER

Defendants

“Matter in issue between the defendant and the prosecution”

8.—(1) For the purposes of Article 6(1)(d) the matters in issue between the defendant and the prosecution include—

- (a) the question whether the defendant has a propensity to commit offences of the kind with which he is charged, except where his having such a propensity makes it no more likely that he is guilty of the offence;
- (b) the question whether the defendant has a propensity to be untruthful, except where it is not suggested that the defendant’s case is untruthful in any respect.

(2) Where paragraph (1)(a) applies, a defendant’s propensity to commit offences of the kind with which he is charged may (without prejudice to any other way of doing so) be established by evidence that he has been convicted of—

- (a) an offence of the same description as the one with which he is charged, or
- (b) an offence of the same category as the one with which he is charged.

(3) Paragraph (2) does not apply in the case of a particular defendant if the court is satisfied, by reason of the length of time since the conviction or for any other reason, that it would be unjust for it to apply in his case.

(4) For the purposes of paragraph (2)—

- (a) two offences are of the same description as each other if the statement of the offence in a complaint or indictment would, in each case, be in the same terms;
- (b) two offences are of the same category as each other if they belong to the same category of offences prescribed for the purposes of this Article by an order made by the Secretary of State.

(5) A category prescribed by an order under paragraph (4)(b) must consist of offences of the same type.

(6) Only prosecution evidence is admissible under Article 6(1)(d).