

**CRIMINAL JUSTICE (EVIDENCE)
(NORTHERN IRELAND) ORDER 2004**

S.I. 2004 No. 1501 (N.I. 10)

EXPLANATORY MEMORANDUM

COMMENTARY ON ARTICLES

Repeals

64. **Article 38** repeals existing legislation which is spent or superceded by this Order.

Part IV: Other Evidence

Evidence by video recording

65. **Article 39** permits a video recording of an interview with a witness (other than the defendant), or a part of such a recording, to be admitted as evidence in chief of the witness in a wider range of circumstances than is presently the case.

66. The court can authorise this provided that:

- The person claims to be a witness to the offence (or part of it) or to events closely connected to the offence;
- The video recording of the statement was made at a time when events were fresh in the witness's memory; and
- The alleged offence can only be tried in a Crown Court or is an either-way offence prescribed by Order of the Secretary of State.

67. If these requirements are satisfied the court may admit the recording *provided* that:

- The witness's recollection of events is likely to be significantly better at the time he gave the recorded account than by the time of the trial; and
- It is in the interests of justice to admit it.