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STATUTORY INSTRUMENTS

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**2004 No. 1501**

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

**PART II**

**EVIDENCE OF BAD CHARACTER**

*General*

**Assumption of truth in assessment of relevance or probative value**

**14.**—(1) Subject to paragraph (2), a reference in this Part to the relevance or probative value of evidence is a reference to its relevance or probative value on the assumption that it is true.

(2) In assessing the relevance or probative value of an item of evidence for any purpose of this Part, a court need not assume that the evidence is true if it appears, on the basis of any material before the court (including any evidence it decides to hear on the matter), that no court or jury could reasonably find it to be true.

**Court's duty to give reasons for rulings**

**15.**—(1) Where the court makes a relevant ruling—

- (a) it must state in open court (but in the absence of the jury, if there is one) its reasons for the ruling;
- (b) if it is a magistrates' court, it must cause the ruling and the reasons for it to be entered in the Order Book.

(2) In this Article “relevant ruling” means—

- (a) a ruling on whether an item of evidence is evidence of a person's bad character;
- (b) a ruling on whether an item of such evidence is admissible under Article 5 or 6 (including a ruling on an application under Article 6(3));
- (c) a ruling under Article 12.

**Rules of court**

**16.**—(1) Rules of court may make such provision as appears to the appropriate authority to be necessary or expedient for the purposes of this Order; and the appropriate authority is the authority entitled to make the rules.

(2) The rules may, and, where the party in question is the prosecution, must, contain provision requiring a party who—

- (a) proposes to adduce evidence of a defendant's bad character, or
- (b) proposes to cross-examine a witness with a view to eliciting such evidence,

to serve on the defendant such notice, and such particulars of or relating to the evidence, as may be prescribed.

(3) The rules may provide that the court or the defendant may, in such circumstances as may be prescribed, dispense with a requirement imposed by virtue of paragraph (2).

(4) In considering the exercise of its powers with respect to costs, the court may take into account any failure by a party to comply with a requirement imposed by virtue of paragraph (2) and not dispensed with by virtue of paragraph (3).

(5) Nothing in this Article prejudices the generality of any statutory provision conferring power to make rules of court; and no particular provision of this Article prejudices any general provision of it.

(6) In this Article—

“prescribed” means prescribed by rules of court;

“rules of court” means—

- (a) Crown Court rules;
- (b) rules of court made under section 55 of the Judicature (Northern Ireland) Act 1978 (c. 23);
- (c) county court rules; and
- (d) magistrates' courts rules.

## **Interpretation of Part II**

17.—(1) In this Part—

“bad character” is to be read in accordance with Article 3;

“criminal proceedings” means criminal proceedings in relation to which the strict rules of evidence apply;

“defendant”, in relation to criminal proceedings, means a person charged with an offence in those proceedings; and “co-defendant”, in relation to a defendant, means a person charged with an offence in the same proceedings;

“important matter” means a matter of substantial importance in the context of the case as a whole;

“misconduct” means the commission of an offence or other reprehensible behaviour;

“Order Book” means the Order Book required to be kept under rule 19 of the Magistrates' Courts Rules (Northern Ireland) 1984 (SR 1984 No. 225);

“probative value”, and “relevant” (in relation to an item of evidence), are to be read in accordance with Article 14;

“prosecution evidence” means evidence which is to be (or has been) adduced by the prosecution, or which a witness is to be invited to give (or has given) in cross-examination by the prosecution.

(2) Where a defendant is charged with two or more offences in the same criminal proceedings, this Part (except Article 6(3)) has effect as if each offence were charged in separate proceedings; and references to the offence with which the defendant is charged are to be read accordingly.

(3) Nothing in this Part affects the exclusion of evidence—

- (a) under the rule in section 3 of the Criminal Procedure Act 1865 (c. 18) against a party impeaching the credit of his own witness by general evidence of bad character,
- (b) under Article 28 of the Criminal Evidence (Northern Ireland) Order 1999 (NI 8) (restriction on evidence or questions about complainant's sexual history), or
- (c) on grounds other than the fact that it is evidence of a person's bad character.

**Changes to legislation:**

There are currently no known outstanding effects for the The Criminal Justice (Evidence) (Northern Ireland) Order 2004, Cross Heading: General.