

1989 No. 394**SUPREME COURT, NORTHERN IRELAND****CROWN COURT****The Crown Court (Advance Notice of Expert Evidence)
Rules (Northern Ireland) 1989**

Made 6th October 1989

Coming into operation 1st November 1989

To be laid before Parliament

We, the Crown Court Rules Committee, in exercise of the powers conferred upon us by section 52(1) of the Judicature (Northern Ireland) Act 1978(a) and Article 80 of the Police and Criminal Evidence (Northern Ireland) Order 1989(b), hereby with the concurrence of the Lord Chancellor make the following Rules:—

1. These Rules may be cited as the Crown Court (Advance Notice of Expert Evidence) Rules (Northern Ireland) 1989 and shall come into operation on 1st November 1989.

2. These Rules shall not have effect in relation to any proceedings in which—

- (a) a person has been committed for trial; or
- (b) an order for a retrial has been made; or
- (c) a Notice of Transfer has been given under Article 3 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988(c);

before 1st November 1989.

3.—(1) If any party to criminal proceedings before the court proposes to adduce expert evidence not already disclosed to the other party or parties (whether of fact or opinion) in the proceedings (otherwise than in relation to sentence) he shall—

- (a) furnish the other party or parties with a statement in writing of any finding or opinion which he proposes to adduce by way of such evidence as soon as practicable after it is received and in any event, not less than 28 days before the beginning of the trial unless the expert evidence he proposes to adduce is not available within that time, in which case the statement in writing shall be furnished as soon as practicable after it became available; and

(a) 1978 c. 23

(b) S.I. 1989/1341 (N.I. 12)

(c) S.I. 1988 No. 1846 (N.I. 16)

(b) where a request in writing is made to him in that behalf by any other party, provide that party, as soon as practicable following the written request, with a copy of (or if it appears to the party proposing to adduce the evidence to be more practicable, a reasonable opportunity to examine) the record of any observation, test, calculation or other procedure on which such finding or opinion is based and any document or other thing or substance in respect of which any such procedure has been carried out.

(2) A party may by notice in writing waive his right to be furnished with any of the matters mentioned in paragraph (1) above and, in particular, may agree that the statement mentioned in sub-paragraph (a) thereof may be furnished to him orally and not in writing.

(3) In paragraph (1) above, "document" has the same meaning as in Part I of the Civil Evidence Act (Northern Ireland) 1971(a).

(4) For the purposes of this Rule, a trial shall begin on the date on which a defendant is put in charge of the jury or, where the trial is conducted by a judge without a jury under the Northern Ireland Emergency Provisions Acts 1978 and 1987, upon the date on which Crown Counsel begins to open the Crown case to the judge.

4.—(1) If a party has reasonable grounds for believing that the disclosure of any evidence in compliance with the requirements imposed by rule 3 above might lead to the intimidation, or attempted intimidation, of any person on whose evidence he intends to rely in the proceedings, or otherwise to the course of justice being interfered with, he shall not be obliged to comply with those requirements in relation to that evidence.

(2) Where, in accordance with paragraph (1) above, a party considers that he is not obliged to comply with the requirements imposed by rule 3 above with regard to any evidence in relation to any other party, he shall give notice in writing to that party to the effect that the evidence is being withheld and the grounds therefor.

5. Except where the right to comply with any of the requirements of Rule 3 have been waived under Rule 3(2), a party who seeks to adduce expert evidence in any proceedings and who has not complied with rule 3 above shall not adduce that evidence in those proceedings without the leave of the court.

Dated 27th September 1989

Brian Hutton
Robert Porter
Vivian Care
Ronald Appleton
T. Brady
Francis Keenan

I concur,

Mackay of Clashfern, C.

Dated 6th October 1989

EXPLANATORY NOTE

(This note is not part of the Rules.)

These Rules provide for mutual disclosure of expert evidence between the parties to criminal proceedings in the Crown Court. Rule 3(1)(a) requires a party to disclose in the form of a written statement any expert evidence which he proposes to adduce in the proceedings as soon as practicable after it is received and not less than 28 days before the beginning of the trial or, if the expert evidence is not available within that time, as soon as practicable thereafter. Rule 3(1)(b) enables a party to examine the basis of any findings or opinions proposed to be adduced by way of expert evidence by another party. Rule 4 provides for a party to withhold any matter where he has reasonable grounds for suspecting that its disclosure might lead to intimidation or the course of justice being interfered with. In such a case the party is required to give to the other party notice in writing, which must include the grounds on which disclosure is being withheld. By rule 5 a party who has not complied with rule 3 in respect of any evidence may not adduce that evidence without the leave of the court.

The Rules, by virtue of rule 1, come into force on 1st November 1989 and, by virtue of rule 2, have effect only in relation to proceedings in which a person is committed for trial, an order for retrial made, or a Notice of Transfer has been given under Article 3 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 on or after that date.