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## EXPLANATORY NOTE

*(This note is not part of the Rules)*

These Rules amend the Crown Court Rules (Northern Ireland) 1979 (“the principal Rules”) to prescribe the procedure relating to—

- applications for trial without a jury under section 44 of the Criminal Justice Act 2003 where the judge is satisfied that there is a real and present danger of jury tampering;
- applications for trial by jury of sample counts only under section 17 of the Domestic Violence, Crime and Victims Act 2004, where the judge is satisfied that it would be impracticable to try all the counts by jury and that each count to be tried by the jury can be regarded as a sample of counts which could accordingly be tried without a jury.
- applications for leave for a witness (other than the accused) who is outside the United Kingdom to give evidence by live link.

*Rule 2(1)* substitutes a new rule 20 into the principal Rules to provide that, where the Court makes an order for a trial to take place on the basis that the trial of some, but not all, of the counts included in the indictment shall be conducted without a jury, an indictment shall be in Form 3A in the Schedule.

*Rule 2(2)* inserts a new rules 44AA and 44AB into the principal Rules. *New rule 44AA(1)* provides that an application for trial without jury shall be made by giving notice in the prescribed form. *New rule 44AA(2)* sets out the time limits for making such an application. *New rule 44AA(3)* provides that, where the grounds for making the application do not arise until after the expiry of the prescribed time limit, the prosecution shall make the application as soon as reasonably practicable.

*New rule 44AA(4)* sets out the procedure to be followed by any party who wishes to oppose the application. The chief clerk shall notify the parties of the time and place for the hearing of an application (*new rule 44AA(5)*) and a party notified may be present at the hearing and be heard (*new rule 44AA(6)*). *New rule 44AA(7)* provides that the chief clerk shall notify the parties of the decision of the Court.

*New rule 44AA(8)* provides that an application for leave to appeal shall be made orally within two days of the making of the order or ruling which is to be appealed in accordance with the procedure set out in *new rule 44AA(9)*.

*New rule 44AA(10)* provides that the Court may extend or abridge the time for service of any notice under that rule and may allow notice to be given in a different form or orally.

*New rule 44AB(1)* provides that an application for trial by jury of sample counts only shall be made by giving notice in the prescribed form. *New rule 44AB(2)* sets out the time limits for making such an application and provides that the notice shall be accompanied by a copy of the indictment in Form 3A.

*New rule 44AB(3)* sets out the procedure to be followed by any party who wishes to oppose the application. The chief clerk shall notify the parties of the time and place for the hearing of an application (*new rule 44AB(4)*) and a party notified may be present at the hearing and be heard (*new rule 44AB(5)*). *New rule 44AB(6)* provides that the chief clerk shall notify the parties of the decision of the Court.

*New rule 44AB(7)* provides that an application for leave to appeal shall be made orally within two days of the making of the order or ruling which is to be appealed in accordance with the procedure set out in *new rule 44AB(8)*.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

*New rule 44AB(9)* provides that the Court may extend or abridge the time for service of any notice under that rule and may allow notice to be given in a different form or orally.

*Rule 2(3)* inserts new rule 44P into the principal Rules. *New rule 44P(1)* provides that such an application shall be made by giving notice in the prescribed form. *New rule 44P(2)* sets out the time limits for making such an application. *New rule 44P(3)* sets out the procedure to be followed by any party who wishes to oppose the application.

*New rules 44P(4) to (7)* provide that the Court may direct a hearing of an application where notice of opposition is given or where the Court considers that it is appropriate to do so and provide that where no notice of opposition is received, the Court may determine the application in favour of the applicant without a hearing.

*New rule 44P(8)* provides that the chief clerk shall notify the parties of the decision of the Court and, where leave is granted, prescribes certain information which shall be set out in that notification.

*New rule 44P(9)* provides that when dealing with an application for a witness outside the United Kingdom to give evidence by live link, the Court may specify, as a condition of granting leave, that the witness should give evidence in the presence of a particular person who is able to answer under oath or affirmation any questions the Court may put as to the circumstances in which the evidence is given.

*New rule 44P(10)* provides that the Court may abridge or extend the time for service of any notice under that Rule and may allow notice to be given in a different form, or orally.

*Rule 2(4)* amends the Schedule to the principal Rules to insert new Forms 3A, 5 to 5C, 7J and 7K for use in connection with applications prescribed by these Rules.