

EXPLANATORY MEMORANDUM TO
THE CROWN COURT (AMENDMENT) RULES (NORTHERN IRELAND)
2008

2008 No. 505

1. 1.1 This explanatory memorandum has been prepared by the Ministry of Justice (Northern Ireland Court Service) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This instrument amends the Crown Court Rules (Northern Ireland) 1979 (S.R.1979 No.90) (“the principal Rules”) to prescribe the procedure relating to applications for:

- directions for a witness (other than the defendant) to give evidence by live link under Part III of the Criminal Justice (Northern Ireland) Order 2004 (“the 2004 Order”) (*live links*);
- directions under Part 2A of the Criminal Evidence (Northern Ireland) Order 1999 (“the 1999 Order”) (*use of live link for evidence of certain accused persons*).

3. Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None

4. Legislative Context

4.1 Existing provisions which have already been implemented in Northern Ireland allow the use of live links as a special measure for vulnerable witnesses, and for witnesses (other than the defendant) to give evidence from outside the United Kingdom.

4.2 Provision to allow witnesses (other than the defendant) within the United Kingdom to use live links is included in Part III of the 2004 Order. The Northern Ireland Office has now also brought forward legislation to amend the 1999 Order to provide for a vulnerable accused to give evidence by live link when it is in the interests of justice to do so. These provisions largely replicate equivalent provisions applying in England and Wales which are found in the Criminal Justice Act 2003 and the Police and Justice Act 2006 respectively.

4.3 This instrument amends the principal rules to prescribe the procedures to be followed when making an application under the said provisions for a witness or vulnerable accused to give evidence by live link in the Crown Court in Northern Ireland. Similar provision has been made for other court tiers.

4.4 The instrument is being made so that its commencement will coincide with the coming into force of the provisions of the 2004 Order and the 1999 Order on 2 February 2009.

5. Territorial Extent and Application

5.1 This instrument applies to Northern Ireland.

6. European Convention on Human Rights

6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The instrument will prescribe the procedures to be followed in connection with the making of live link directions under Part III of the 2004 Order and Part 2A of the 1999 Order. Permitting witnesses to give evidence by live link will help create more efficiency in the criminal justice system. The policy purpose behind permitting a vulnerable accused to avail of these facilities is to enable those persons to participate more effectively in the proceedings.

8. Consultation outcome

8.1 No consultation on these Rules was necessary.

9. Guidance

9.1 These rules will be published on the Northern Ireland Court Service website.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 These rules will form part of the Crown Court Rules (Northern Ireland) 1979 which are kept under review by the Crown Court Rules Committee. Any subsequent amendment to these rules will be made by the Crown Court Rules Committee with the agreement of the Lord Chancellor.

13. Contact

- 13.1 Angela Bell at the Northern Ireland Court Service Tel: 028 9041 2201 or email: angelabell@courtsni.gsi.gov.uk can answer any queries regarding the instrument.