
STATUTORY RULES OF NORTHERN IRELAND

2013 No. 82

The Crown Court (Amendment) Rules (Northern Ireland) 2013

Amendment to the Crown Court Rules (Northern Ireland) 1979

2. The Crown Court Rules (Northern Ireland) 1979(1) are amended as follows—

- (1) In Rule 3(1), omit “under these Rules”;
- (2) In Rule 44B, after paragraph (2)(b), insert —
 - “(c) enabling an examination of a witness to be conducted through an intermediary—
 - (i) the information sought in Part 4 of Form 6; and
 - (ii) any relevant report, including an intermediary’s assessment, shall be provided.”;
- (3) In Rule 44CE, after paragraph (4)(c)(iii) insert —
 - “(iv) whether or not the person present was there to act as an intermediary for a witness, and, if so, whether an application under Article 17 of the 1999 Order for the use of an intermediary has been made or will be made, and whether the intermediary made the declaration as set out in Form 7Q before acting.”;
- (4) After Rule 44T, insert —

“Application by the accused for a direction allowing the examination of the accused through an intermediary

44U.—(1) An application by the accused for direction allowing the accused to be examined through an intermediary under Article 21BA of the 1999 Order shall be made in Form 7N and shall include –

- (a) the information sought in Part C of Form 7N; and
 - (b) any relevant report, including an intermediary’s assessment.
- (2) The application under paragraph (1) shall be made within 28 days from the date—
- (a) of the committal of the defendant; or
 - (b) on which the Notice of Transfer under Article 3 of the Criminal Justice (Serious Fraud)(Northern Ireland) Order 1988 or under Article 4 of the Children’s Evidence (Northern Ireland) Order 1995 was given; or
 - (c) on which leave to present an indictment under section 2(2)(e) of the Grand Jury (Abolition) Act (Northern Ireland) 1969 was given; or
 - (d) on which an order for retrial is made.
- (3) The notice under paragraph (1) shall be served on the chief clerk and at the same time a copy thereof shall be served on every other party to the proceedings.

(4) Any party on whom a copy of the notice of the application under paragraph (1) is served may oppose the application for a direction allowing the use of an intermediary, whether or not the question of the conditions set out in Article 21BA (5) or (6) of the 1999 Order for the use of an intermediary is in issue.

(5) Any party who wishes to oppose the application shall, within 14 days of the date the notice under paragraph (1) was served on him, notify the applicant and the chief clerk in writing of his opposition and give reasons for it.

(6) In order to comply with paragraph (5), a party shall state in the written notification whether he disputes that –

- (a) the accused is eligible for a direction allowing the use of an intermediary by virtue of Article 21BA (5) or (6) of the 1999 Order as appropriate; and
- (b) allowing the accused to be examined through an intermediary is necessary in order to ensure that the accused receives a fair trial.

(7) Except where notice is received in accordance with paragraph (5), the Court may —

- (a) determine the application in favour of the applicant without a hearing; or
- (b) direct a hearing.

(8) Where a party to the proceedings notifies the chief clerk in accordance with paragraph (5) of his opposition to the application, the Court shall direct a hearing of the application.

(9) Where a hearing of the application is to take place in accordance with paragraph (7) or (8), the chief clerk shall notify each party to the proceedings of the time and place of the hearing.

(10) A party notified in accordance with paragraph (9) may be present at the hearing and be heard.

(11) The chief clerk shall, as soon as practicable, after the determination of an application under paragraph (1), notify all the parties of the decision in Form 7P.

(12) The Court may, if it considers that it is in the interests of justice to do so —

- (a) allow a notice or application required under this Rule to be given in a different form, or orally; or
- (b) abridge or extend the time for service of a notice or application required under this Rule, either before or after that period expires.

Discharge or variation of a direction allowing the examination of accused by an intermediary

44V.—(1) Subject to paragraph (3), an application to discharge or vary a direction allowing the examination of the accused by an intermediary shall be made in writing.

(2) Any application under paragraph (1) shall be served on the chief clerk and on each party to the proceedings as soon as reasonably practicable.

(3) Paragraphs (4) to (12) of Rule 44U shall apply to an application to discharge or vary a direction allowing the examination of the accused by an intermediary as they apply to an application for such a direction.

Declaration by an intermediary acting for either a witness or an accused

44W.—(1) The declaration required to be taken by an intermediary under Article 17(5) or 21BA (9) of the 1999 Order shall be as set out in Form 7Q.

- (2) A copy of the declaration made by the intermediary shall be served on the chief clerk and on each party to the proceedings at the time an application for the use of an intermediary under rule 44B or rule 44U is being made, or as soon as reasonably practicable thereafter.”;
- (5) Omit Rule 48; and
- (6) In the Schedule —
- (a) in Form 6 —
- (i) in Part 3, in the section entitled “Details of those present while recording made”, insert at the end of that section —
- “Was an intermediary used during the video-recording? If yes, please complete Part 4 of this form, providing details of the intermediary. Please indicate whether the intermediary made the necessary declaration as set out in Form 7Q before acting.
- Has the Court already approved the use of an intermediary under Article 17 of the 1999 Order? If not, will an application be made?”; and
- (ii) after Part 3, insert Part 4 as set out in Schedule 1 to these Rules;
- (b) in Form 7, after “Special Measures direction under Article [11] [12] [13] [14] [15]”, insert “[17]”;
- (c) for Form 7N, substitute the new Form 7N as set out in Schedule 2 to these Rules; and
- (d) after Form 7O, insert Forms 7P and 7Q as set out in Schedule 3 to these Rules.