

*These notes refer to the Justice Act (Northern Ireland)
2011 (c.24) which received Royal Assent on 4 May 2011*

Justice Act (Northern Ireland) 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Live Links

This Part provides an expansion in court services by extending the range of matters that can be dealt with by way of “live link”.

The Act extends the conditions for a vulnerable accused live link direction to include those of any age who have a physical disability or suffer from a physical disorder. This is consistent with the eligibility criteria applied to witnesses. The Act improves the services for mentally disordered offenders by allowing live link connections between courts and psychiatric hospitals.

A number of technical improvements are also made to fill gaps in existing law.

The provisions do not change a patient’s or defendant’s entitlement to be present at a hearing nor do they alter the right to consult privately with their legal representative before during or after a live link.

Section 14: Live links for patients detained in hospital

This section provides for the use of live links between courts and psychiatric units for patients detained in hospitals under Part 3 of the Mental Health (Northern Ireland) Order 1986.

Section 15: Live links at preliminary hearings in the High Court

This section provides for the use of live links at preliminary hearings in the High Court. Previously accessible by live link by way of the court’s inherent jurisdiction, the Act puts this on a statutory footing.

Section 16: Live links at preliminary hearing on appeals to the county court

This section extends the use of live links to preliminary hearings in connection with appeals to the county court where the appellant is likely to be held in custody during the hearing. The court will not give or rescind a live link direction unless the parties to the proceedings have been given the opportunity to make representations.

Section 17: Live link in sentencing hearing on appeals to the county court

This section allows for the use of live links in relation to sentencing hearings in connection with appeals to a county court where the appellant is likely to be held in custody during the hearing. A live link direction may be given by the court with the appellant's consent or on an application by a party.

Section 18: Live links in the Court of Appeal

This section extends the use of live links in the Court of Appeal in relation to certain specified criminal appeal proceedings if a party to those proceedings is expected to be in custody. The Court of Appeal would only issue a live link direction with the consent of the party whose sentencing is the subject of the appeal and after the other parties to the proceedings have had the opportunity to make representations.

Section 19: Live link direction for vulnerable accused or appellant

This section provides for an accused person of any age who has a physical disability or suffers from a physical disorder to make an application to the court to give oral evidence through a live link. The court must be satisfied that the accused person suffers from the said disability or disorder; use of a live link would enable them to participate more effectively in the proceedings; and that it is in the interests of justice for them to give evidence through a live link. This is in any proceedings in a magistrates' court or before the Crown Court for an offence and to any proceedings in a county court on an appeal.