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STATUTORY INSTRUMENTS

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**2004 No. 1501**

**The Criminal Justice (Evidence) (Northern Ireland) Order 2004**

**PART III**

**HEARSAY EVIDENCE**

*General*

**Rules of court**

**35.**—(1) Rules of court may make such provision as appears to the appropriate authority to be necessary or expedient for the purposes of this Part; and the appropriate authority is the authority entitled to make the rules.

(2) The rules may make provision about the procedure to be followed and other conditions to be fulfilled by a party proposing to tender a statement in evidence under any provision of this Part.

(3) The rules may require a party proposing to tender the evidence to serve on each party to the proceedings such notice, and such particulars of or relating to the evidence, as may be prescribed.

(4) The rules may provide that the evidence is to be treated as admissible by agreement of the parties if—

- (a) a notice has been served in accordance with provision made under paragraph (3), and
- (b) no counter-notice in the prescribed form objecting to the admission of the evidence has been served by a party.

(5) If a party proposing to tender evidence fails to comply with a prescribed requirement applicable to it—

- (a) the evidence is not admissible except with the court's leave;
- (b) where leave is given the court or jury may draw such inferences from the failure as appear proper;
- (c) the failure may be taken into account by the court in considering the exercise of its powers with respect to costs.

(6) In considering whether or how to exercise any of its powers under paragraph (5) the court shall have regard to whether there is any justification for the failure to comply with the requirement.

(7) A person shall not be convicted of an offence solely on an inference drawn under paragraph (5) (b).

(8) Nothing in this Article prejudices the generality of any statutory provision conferring power to make rules of court; and no particular provision of this Article prejudices any general provision of it.

(9) In this Article—

“prescribed” means prescribed by rules of court;

“rules of court” means—

- (a) Crown Court rules;

- (b) rules of court made under section 55 of the Judicature (Northern Ireland) Act 1978 (c. 23);
- (c) county court rules; and
- (d) magistrates' courts rules.

### **Proof of statements in documents**

36. Where a statement in a document is admissible as evidence in criminal proceedings, the statement may be proved by producing either—

- (a) the document, or
- (b) (whether or not the document exists) a copy of the document or of the material part of it, authenticated in whatever way the court may approve.

### **Interpretation of Part III**

37.—(1) In this Part—

“copy”, in relation to a document, means anything on to which information recorded in the document has been copied, by whatever means and whether directly or indirectly;

“criminal proceedings” means criminal proceedings in relation to which the strict rules of evidence apply;

“defendant”, in relation to criminal proceedings, means a person charged with an offence in those proceedings;

“document” means anything in which information of any description is recorded;

“oral evidence” includes evidence which, by reason of any disability, disorder or other impairment, a person called as a witness gives in writing or by signs or by way of any device.

(2) Article 19 (statements and matters stated) contains other general interpretative provisions.

(3) Where a defendant is charged with two or more offences in the same criminal proceedings, this Part has effect as if each offence were charged in separate proceedings.

### **Repeals**

38. In the [Criminal Justice \(Evidence, Etc.\) \(Northern Ireland\) Order 1988 \(NI 17\)](#) the following provisions (which relate to documentary evidence and are to some extent superseded by provisions of this Part) are repealed—

- (a) Part II;
- (b) Schedule 1.