



2021 CHAPTER 2

PART 1

Domestic abuse: offence and aggravation

CHAPTER 3

Miscellaneous provision

Criminal cases involving domestic abuse

No right to claim trial by jury

22. In Article 29(1) of the Magistrates' Courts (Northern Ireland) Order 1981 (right to claim trial by jury for certain summary offences), after subparagraph (p) insert—

“(q) section 1 of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 (the domestic abuse offence).”

Special measures directions

23.—(1) The Criminal Evidence (Northern Ireland) Order 1999 is amended as follows.

(2) In Article 5 (witnesses eligible for assistance on grounds of fear or distress about testifying)—

(a) in paragraph (4), for “a sexual offence or a slavery or human trafficking offence” substitute “an offence listed in paragraph (5)”,

(b) after paragraph (4) insert—

“(5) The offences are—

- (a) a sexual offence,
- (b) a slavery or human trafficking offence,
- (c) an offence involving domestic abuse (see Article 3A).”.

(3) In Article 13(4)(a) (evidence given in private), for “a sexual offence or a slavery or human trafficking offence” substitute “an offence listed in Article 5(5)”.

Prohibition of cross-examination in person

24.—(1) The Criminal Evidence (Northern Ireland) Order 1999 is amended as follows.

(2) After Article 22 insert—

“Complainants in proceedings involving domestic abuse

22A. No person charged with an offence involving domestic abuse (see Article 3A) may in any criminal proceedings cross-examine in person a witness who is the complainant, either—

- (a) in connection with that offence, or
- (b) in connection with any other offence (of whatever nature) with which that person is charged in the proceedings.”.

(3) In Article 23 (child complainants and other child witnesses)—

(a) in paragraph (3), after sub-paragraph (cc) insert—

“(cd) an offence involving domestic abuse (see Article 3A);”.

(b) in paragraph (4)(a), for “or (cc)” substitute “, (cc) or (cd)”.

(4) In Article 24 (direction prohibiting accused from cross-examining particular witness)—

(a) in paragraph (1), for “neither of Articles 22 and 23” substitute “none of Articles 22, 22A and 23”,

(b) in paragraph (3)(e)—

(i) after “Article”, where it first occurs, insert “22A or”, and

(ii) after “22” insert “, 22A”.

(5) In Article 26(1) (defence representation for purposes of cross-examination), after “22,” insert “22A,”.

(6) In Article 27(1) (warning to jury), after “22,” insert “22A,”.

Meaning of offence involving domestic abuse etc.

25.—(1) The Criminal Evidence (Northern Ireland) Order 1999 is amended as follows (in connection with sections 23 and 24).

(2) In Article 2(2) (interpretation), in the definition of “the complainant”, after “committed” insert “(but see also Article 3A(2) to (5))”.

(3) After Article 3 insert—

“Meaning of “offence involving domestic abuse” etc.

3A.—(1) In this Order, “offence involving domestic abuse” means—

- (a) an offence under section 1 of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 (the domestic abuse offence),
- (b) an offence of any kind in respect of which there is specification in accordance with section 15 of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 that the offence is aggravated by reason of involving domestic abuse.

(2) In this Order, “the complainant”, in relation to an offence (or alleged offence) falling within paragraph (1)(b) means a person in respect of whom the prosecutor gives notice to the court asserting that—

- (a) the offence is so aggravated in relation to the person, and
- (b) the accused was personally connected to the person at the time.

(3) A reference to a person in paragraph (2) is not limited to someone against or in relation to whom the offence was (or is alleged to have been) committed.

(4) Paragraph (2) does not, where in any case—

- (a) notice as referred to in that paragraph is given, and
- (b) the offence is also mentioned in Article 3,

prevent someone else from additionally being the complainant in relation to the offence within the meaning of Article 2(2).

(5) Article 2(2), but not paragraph (2), determines who the complainant is in relation to the offence where no notice as referred to in that paragraph is given in the case.”.