

# CRIMINAL JUSTICE (NORTHERN IRELAND) ORDER 2004

S.I. 2004 No. 1500 (N.I. 9)

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## EXPLANATORY MEMORANDUM

### COMMENTARY ON ARTICLES

#### Part III - Live links in criminal proceedings

##### Live links in criminal proceedings

22. **Article 10** enables a court to authorise witnesses, other than the defendant, to give evidence through a live link in certain criminal proceedings. “Live link” is defined in Article 15(2) and will usually mean a television link, but could apply to any technology with the same effect such as video conferencing facilities or the internet. The criminal proceedings in which these may be authorised are broadly those proceedings in which there is the possibility of a witness giving contested evidence in respect of the facts of the offence.
23. Sub-paragraphs 4(a) and (b) provide that a court may only authorise the use of a live link if:
- It is in the interests of the efficient or effective administration of justice for the witness to give evidence by way of a live link (eg. from his place of work in a different part of the UK, rather than travelling to court); and
  - The court has been notified by the Secretary of State that suitable facilities are available in the area where the proceedings are to take place: this will allow for the phased implementation of the facilities required for live links.
24. The responsibility for ensuring that there are facilities in the remote location from which the witness intends to give evidence falls to the parties and is not covered by this Article.

##### Effect of, and rescission of, direction

25. **Article 11** provides that where a direction for a live link has been given, the witness must give all their evidence through a live link, making it clear that any cross-examination of the witness is also to be given by live link, although the court can rescind a direction if it seems to be in the interests of justice.
26. A party may only apply for the direction to be rescinded if there has been a material change in circumstances since the decision was made (for example if problems with the technology arise after a direction has been given).

##### Magistrates’ courts permitted to sit at other locations

27. Lack of facilities in particular areas or courts should, as far as possible, not frustrate the aims of this Part, therefore **Article 12** allows a magistrates’ court to move temporarily to a different location where the necessary live link facilities are available.

**Warning to jury**

28. **Article 13** allows the judge to give directions to the jury, if necessary, to ensure that they give the same weight to evidence given through a live link as they would, had the evidence been given by the witness in person in court.

**Rules of court**

29. **Article 14** provides for a rule making power which will enable rules of court to be made governing the procedure to be followed when an application is made for evidence to be given through a live link. Such rules may also make provision as to the arrangements which must be put in place in connection with the operation of live links.

**Interpretation of Part III**

30. **Article 15** makes clear that the provisions of this Part of the Order are not intended to effect the inherent discretion of the court to authorise evidence to be heard by live link in circumstances other than those covered by Article 10. Live links under this Part must be capable of being seen by the defendant, the judge and jury, legal representatives acting in the proceedings and any interpreter or other person appointed by the court to assist the witness.