
STATUTORY INSTRUMENTS

2004 No. 1500

The Criminal Justice (Northern Ireland) Order 2004

PART III

LIVE LINKS

Live links in criminal proceedings

10.—(1) A witness (other than the defendant) may, if the court so directs, give evidence through a live link in the following criminal proceedings.

(2) They are—

- (a) a summary trial;
- (b) an appeal to a county court arising out of such a trial;
- (c) a preliminary investigation or preliminary inquiry into an indictable offence;
- (d) a trial on indictment;
- (e) an appeal to the Court of Appeal;
- (f) the hearing of a reference under section 10 or 12 of the Criminal Appeal Act 1995 (c. 35);
- (g) a hearing before a magistrates' court or the Crown Court which is held after the defendant has entered a plea of guilty; and
- (h) a hearing before the Court of Appeal under section 80 of the Criminal Justice Act 2003 (c. 44).

(3) A direction may be given under this Article—

- (a) on an application by a party to the proceedings; or
- (b) of the court's own motion.

(4) But a direction may not be given under this Article unless—

- (a) the court is satisfied that it is in the interests of the efficient or effective administration of justice for the person concerned to give evidence in the proceedings through a live link;
- (b) it has been notified by the Secretary of State that suitable facilities for receiving evidence through a live link are available in the county court division in which it appears to the court that the proceedings will take place; and
- (c) that notification has not been withdrawn.

(5) The withdrawal of such a notification is not to affect a direction given under this Article before that withdrawal.

(6) In deciding whether to give a direction under this Article the court must consider all the circumstances of the case.

(7) Those circumstances include in particular—

- (a) the availability of the witness;
- (b) the need for the witness to attend in person;

- (c) the importance of the witness's evidence to the proceedings;
- (d) the views of the witness;
- (e) the suitability of the facilities at the place where the witness would give evidence through a live link;
- (f) whether a direction might tend to inhibit any party to the proceedings from effectively testing the witness's evidence.

(8) The court must state in open court its reasons for refusing an application for a direction under this Article and, if it is a magistrates' court, must cause them to be entered in the Order Book.

Effect of, and rescission of, direction

11.—(1) Paragraph (2) applies where the court gives a direction under Article 10 for a person to give evidence through a live link in particular proceedings.

(2) The person concerned may not give evidence in those proceedings after the direction is given otherwise than through a live link (but this is subject to the following provisions of this Article).

(3) The court may rescind a direction under Article 10 if it appears to the court to be in the interests of justice to do so.

(4) Where it does so, the person concerned shall cease to be able to give evidence in the proceedings through a live link, but this does not prevent the court from giving a further direction under Article 10 in relation to him.

(5) A direction under Article 10 may be rescinded under paragraph (3)—

- (a) on an application by a party to the proceedings; or
- (b) of the court's own motion.

(6) But an application may not be made under paragraph (5)(a) unless there has been a material change of circumstances since the direction was given.

(7) The court must state in open court its reasons—

- (a) for rescinding a direction under Article 10; or
- (b) for refusing an application to rescind such a direction,

and, if it is a magistrates' court, must cause them to be entered in the Order Book.

Magistrates' courts permitted to sit at other locations

12.—(1) This Article applies where—

- (a) a magistrates' court is minded to give a direction under Article 10 for evidence to be given through a live link in proceedings before the court; and
- (b) suitable facilities for receiving such evidence are not available at any court-house in which the court can (apart from paragraph (2)) lawfully sit.

(2) The court may sit for the purposes of the whole or any part of the proceedings at any place at which such facilities are available and which has been appointed for the purposes of this Article by the Secretary of State.

Warning to jury

13.—(1) This Article applies where, as a result of a direction under Article 10, evidence has been given through a live link in proceedings before the Crown Court.

(2) The judge may give the jury (if there is one) such direction as he thinks necessary to ensure that the jury gives the same weight to the evidence as if it had been given by the witness in the courtroom or other place where the proceedings are held.

Rules of court

14.—(1) Rules of court may make such provision as appears to the authority making them to be necessary or expedient for the purposes of this Part.

(2) Rules of court may in particular make provision—

- (a) as to the procedure to be followed in connection with applications under Article 10 or 11; and
- (b) as to the arrangements or safeguards to be put in place in connection with the operation of live links.

(3) The provision which may be made by virtue of paragraph (2)(a) includes provision—

- (a) for uncontested applications to be determined by the court without a hearing;
- (b) for preventing the renewal of an unsuccessful application under Article 10 unless there has been a material change of circumstances;
- (c) for the manner in which confidential or sensitive information is to be treated in connection with an application under Article 10 or 11 and in particular as to its being disclosed to, or withheld from, a party to the proceedings.

(4) Nothing in this Article is to be taken as affecting the generality of any statutory provision conferring power to make rules of court.

Interpretation of Part III

15.—(1) In this Part—

“judge” includes, in relation to a magistrates' court, resident magistrate;

“Order Book” means the Order Book required to be kept under rule 19 of the [Magistrates' Courts Rules \(Northern Ireland\) 1984 \(SR 1984 No. 225\)](#);

“rules of court” means—

- (a) magistrates' court rules;
- (b) county court rules;
- (c) Crown Court rules; and
- (d) rules made under section 55 of the Judicature (Northern Ireland) Act [1978 \(c. 23\)](#);

“witness”, in relation to any criminal proceedings, means a person called or proposed to be called, to give evidence in the proceedings.

(2) In this Part “live link” means a live television link or other arrangement by which a witness, while at a place in the United Kingdom which is outside the building where the proceedings are being held, is able to see and hear a person at the place where the proceedings are being held and to be seen and heard by the following persons.

(3) They are—

- (a) the defendant or defendants;
- (b) the judge and the jury (if there is one);
- (c) legal representatives acting in the proceedings; and
- (d) any interpreter or other person appointed by the court to assist the witness.

(4) The extent (if any) to which a person is unable to see or hear by reason of any impairment of eyesight or hearing is to be disregarded for the purposes of paragraph (2).

(5) Nothing in this Part is to be regarded as affecting any power of a court—

(a) to make an order, give directions or give leave of any description in relation to any witness (including the defendant or defendants); or

(b) to exclude evidence at its discretion (whether by preventing questions being put or otherwise).