
STATUTORY INSTRUMENTS

2004 No. 1501

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

**PART IV
OTHER EVIDENCE**

Video Recording

Evidence by video recording

39.—(1) This Article applies where—

- (a) a person is called as a witness in proceedings for —
 - (i) an offence triable only on indictment, or
 - (ii) a prescribed relevant offence,
- (b) the person claims to have witnessed (whether visually or in any other way)—
 - (i) events alleged by the prosecution to include conduct constituting the offence or part of the offence, or
 - (ii) events closely connected with such events,
- (c) he has previously given an account of the events in question (whether in response to questions asked or otherwise),
- (d) the account was given at a time when those events were fresh in the person's memory (or would have been, assuming the truth of the claim mentioned in sub-paragraph (b)),
- (e) a video recording was made of the account,
- (f) the court has made a direction that the recording should be admitted as evidence in chief of the witness, and the direction has not been rescinded, and
- (g) the recording is played in the proceedings in accordance with the direction.

(2) If, or to the extent that, the witness in his oral evidence in the proceedings asserts the truth of the statements made by him in the recorded account, they shall be treated as if made by him in that evidence.

(3) A direction under paragraph (1)(f)—

- (a) may not be made in relation to a recorded account given by the defendant;
- (b) may be made only if it appears to the court that—
 - (i) the witness's recollection of the events in question is likely to have been significantly better when he gave the recorded account than it will be when he gives oral evidence in the proceedings, and
 - (ii) it is in the interests of justice for the recording to be admitted, having regard in particular to the matters mentioned in paragraph (4).

(4) Those matters are—

- (a) the interval between the time of the events in question and the time when the recorded account was made;
 - (b) any other factors that might affect the reliability of what the witness said in that account;
 - (c) the quality of the recording;
 - (d) any views of the witness as to whether his evidence in chief should be given orally or by means of the recording.
- (5) For the purposes of paragraph (2) it does not matter if the statements in the recorded account were not made on oath.
- (6) In this Article—
- “prescribed” means of a description specified in an order made by the Secretary of State;
 - “relevant offence” means an offence—
 - (a) to which paragraph (1)(a)(i) does not apply, and
 - (b) which is triable on indictment.