

**CRIMINAL JUSTICE (EVIDENCE)  
(NORTHERN IRELAND) ORDER 2004**

**S.I. 2004 No. 1501 (N.I. 10)**

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**EXPLANATORY MEMORANDUM**

**COMMENTARY ON ARTICLES**

*Evidence at retrial*

60. **Article 34** provides that if a retrial is ordered by the Court of Appeal, evidence must be given orally if it was given that way at the original trial, except in certain defined situations, in which case a transcript of the original evidence may be used. The exceptions are:
- That all parties agree to the evidence being admitted;
  - That a witness is unavailable to give evidence in accordance with Article 20; or
  - That a witness is unavailable to give evidence for a reason other than those listed in Article 20 and his evidence is admitted under the residual discretion in Article 18(1)(d).