
STATUTORY INSTRUMENTS

2004 No. 1501

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

PART II

EVIDENCE OF BAD CHARACTER

Persons other than defendants

Non-defendant's bad character

5.—(1) In criminal proceedings evidence of the bad character of a person other than the defendant is admissible if and only if—

- (a) it is important explanatory evidence,
- (b) it has substantial probative value in relation to a matter which—
 - (i) is a matter in issue in the proceedings, and
 - (ii) is of substantial importance in the context of the case as a whole, or
- (c) all parties to the proceedings agree to the evidence being admissible.

(2) For the purposes of paragraph (1)(a) evidence is important explanatory evidence if—

- (a) without it, the court or jury would find it impossible or difficult properly to understand other evidence in the case, and
- (b) its value for understanding the case as a whole is substantial.

(3) In assessing the probative value of evidence for the purposes of paragraph (1)(b) the court must have regard to the following factors (and to any others it considers relevant)—

- (a) the nature and number of the events, or other things, to which the evidence relates;
- (b) when those events or things are alleged to have happened or existed;
- (c) where—
 - (i) the evidence is evidence of a person's misconduct, and
 - (ii) it is suggested that the evidence has probative value by reason of similarity between that misconduct and other alleged misconduct,

the nature and extent of the similarities and the dissimilarities between each of the alleged instances of misconduct;

- (d) where—
 - (i) the evidence is evidence of a person's misconduct,
 - (ii) it is suggested that that person is also responsible for the misconduct charged, and
 - (iii) the identity of the person responsible for the misconduct charged is disputed,the extent to which the evidence shows or tends to show that the same person was responsible each time.

(4) Except where paragraph (1)(c) applies, evidence of the bad character of a person other than the defendant must not be given without leave of the court.