

DOMESTIC VIOLENCE, CRIME AND VICTIMS ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Criminal Justice

Section 21: Applications of sections 17 to 20 to Northern Ireland

83. This section provides that in their application to Northern Ireland *sections 17 to 20* have effect subject to the modifications in *Schedule 1*. Under *Section 18(1)* (as modified by *Schedule 1*), an application under *Section 17* must be determined at a preparatory hearing within the meaning of the Criminal Justice (Serious Fraud)(Northern Ireland) Order 1988 (this is the Northern Ireland equivalent of a preparatory hearing under the Criminal Justice Act 1987) or a hearing specified in, or for which provision is made by Crown Court rules. The reference to Crown Court rules is necessary as Part III of the Criminal Procedure and Investigations Act 1996 (“the 1996 Act”) does not extend to Northern Ireland.
84. *Section 18A* (as substituted by *Schedule 1*) makes provision for appeals in respect of hearings under Crown Court rules. *Section 18B* (as substituted by *Schedule 1*), which deals with reporting restrictions, applies sections 41 and 42 of the 1996 Act to hearings and appeals under Crown Court rules.
85. *Subsection (2)* provides that sections 17 to 20 do not apply in relation to trials to which section 75 of the Terrorism Act 2000 applies. Section 75 applies only to Northern Ireland and provides for mode of trial on indictment of scheduled offences to be a court sitting without a jury. These are commonly known as “Diplock Courts” after the Diplock Commission which found that the jury system as a means of trying terrorist crime was under strain and highlighted the danger of perverse acquittals or intimidation of jurors. Scheduled offences are defined in section 65 of and Schedule 9 to the Terrorism Act 2000 as being offences which qualify for special treatment because they are terrorist offences related to the special situation in Northern Ireland.