
STATUTORY INSTRUMENTS

2020 No. 759

The Criminal Procedure Rules 2020

PART 18

MEASURES TO ASSIST A WITNESS OR DEFENDANT TO GIVE EVIDENCE

SPECIAL MEASURES DIRECTIONS

Representations in response

- 18.13.**—(1) This rule applies where a party wants to make representations about—
- (a) an application for a special measures direction;
 - (b) an application for the variation or discharge of such a direction; or
 - (c) a direction, variation or discharge that the court proposes on its own initiative.
- (2) Such a party must—
- (a) serve the representations on—
 - (i) the court officer, and
 - (ii) each other party;
 - (b) do so not more than 10 business days after, as applicable—
 - (i) service of the application, or
 - (ii) notice of the direction, variation or discharge that the court proposes; and
 - (c) ask for a hearing, if that party wants one, and explain why it is needed.
- (3) Where representations include information that the person making them thinks ought not be revealed to another party, that person must—
- (a) omit that information from the representations served on that other party;
 - (b) mark the information to show that, unless the court otherwise directs, it is only for the court; and
 - (c) with that information include an explanation of why it has been withheld from that other party.
- (4) Representations against a special measures direction must explain, as appropriate—
- (a) why the witness is not eligible for assistance;
 - (b) if the witness is eligible for assistance, why—
 - (i) no special measure would be likely to improve the quality of the witness' evidence,
 - (ii) the proposed measure or measures would not be likely to maximise, so far as practicable, the quality of the witness' evidence, or
 - (iii) the proposed measure or measures might tend to inhibit the effective testing of that evidence; and

(c) in a case in which the admission of video recorded evidence is proposed, why it would not be in the interests of justice for the recording, or part of it, to be admitted as evidence.

(5) Representations against the variation or discharge of a special measures direction must explain why it should not be varied or discharged.

[Note. Under sections 21 and 22 of the Youth Justice and Criminal Evidence Act 1999, where the witness is a child witness or a qualifying witness the special measures that the court usually must direct must be treated as likely to maximise, so far as practicable, the quality of the witness' evidence, irrespective of representations to the contrary.]