
STATUTORY INSTRUMENTS

1999 No. 2789

The Criminal Evidence (Northern Ireland) Order 1999

PART III

**PROTECTION OF WITNESSES FROM CROSS-
EXAMINATION BY ACCUSED IN PERSON**

Cross-examination on behalf of accused

Defence representation for purposes of cross-examination

26.—(1) This Article applies where an accused is prevented from cross-examining a witness in person by virtue of Article 22, [F122A,][F222B,] 23 or 24.

- (2) Where it appears to the court that this Article applies, it must—
- (a) invite the accused to arrange for a legal representative to act for him for the purpose of cross-examining the witness; and
 - (b) require the accused to notify the court, by the end of such period as it may specify, whether a legal representative is to act for him for that purpose.
- (3) If by the end of the period mentioned in paragraph (2)(b) either—
- (a) the accused has notified the court that no legal representative is to act for him for the purpose of cross-examining the witness, or
 - (b) no notification has been received by the court and it appears to the court that no legal representative is to so act,

the court must consider whether it is necessary in the interests of justice for the witness to be cross-examined by a legal representative appointed to represent the interests of the accused.

(4) If the court decides that it is necessary in the interests of justice for the witness to be so cross-examined, the court must appoint a qualified legal representative (chosen by the court) to cross-examine the witness in the interests of the accused.

(5) A person so appointed shall not be responsible to the accused.

[F3(5A) The Secretary of State shall pay such amount as appears to him to be reasonable in respect of—

- (a) costs of any person so appointed (including a fee); and
 - (b) any expenses properly incurred in providing him with evidence or other material in connection with his appointment.]
- (6) Rules of court may make provision—
- (a) as to the time when, and the manner in which, paragraph (2) is to be complied with;
 - (b) in connection with the appointment of a legal representative under paragraph (4), and in particular for securing that a person so appointed is provided with evidence or other material relating to the proceedings.

Status: Point in time view as at 27/04/2022.

Changes to legislation: The Criminal Evidence (Northern Ireland) Order 1999, Section 26 is up to date with all changes known to be in force on or before 06 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(7) Rules made in pursuance of paragraph (6)(b) may make provision for the application, with such modifications as are specified in the rules, of any of the provisions of Part I of the Criminal Procedure and Investigations Act 1996 (disclosure of material in connection with criminal proceedings).

(8) For the purposes of this Article—

- (a) any reference to cross-examination includes (in a case where a direction is given under Article 24 after the accused has begun cross-examining the witness) a reference to further cross-examination;
- (b) “qualified legal representative” means a legal representative who has a right of audience in relation to the proceedings before the court.

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| <p>F1 Word in art. 26(1) inserted (21.2.2022) by Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 (c. 2), s. 24(5); S.R. 2022/57, art. 2(x)</p> <p>F2 Word in art. 26(1) inserted (27.4.2022) by Protection from Stalking Act (Northern Ireland) 2022 (c. 17), ss. 3(6), 22(1)</p> <p>F3 2003 NI 13</p> |
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