
STATUTORY INSTRUMENTS

1999 No. 2789

The Criminal Evidence (Northern Ireland) Order 1999

PART IV

**PROTECTION OF COMPLAINANTS IN
PROCEEDINGS FOR SEXUAL OFFENCES**

Interpretation and application of Article 28

29.—(1) In Article 28—

- (a) “relevant issue in the case” means any issue falling to be proved by the prosecution or defence in the trial of the accused;
- (b) “issue of consent” means any issue whether the complainant in fact consented to the conduct constituting the offence with which the accused is charged (and accordingly does not include any issue as to the belief of the accused that the complainant so consented);
- (c) “sexual behaviour” means any sexual behaviour or other sexual experience, whether or not involving any accused or other person, but excluding (except in Article 28(3)(c)(i) and (5)(a)) anything alleged to have taken place as part of the event which is the subject matter of the charge against the accused; and
- (d) subject to any order made under paragraph (2), “sexual offence” shall be construed in accordance with Article 3.

(2) The Secretary of State may by order make such provision as he considers appropriate for adding or removing, for the purposes of Article 28, any offence to or from the offences which are sexual offences for the purposes of this Order by virtue of Article 3.

(3) Article 28 applies in relation to the following proceedings as it applies to a trial, namely—

- (a) proceedings before a magistrates' court conducting a preliminary investigation or preliminary inquiry into an offence,
- (b) the hearing of an application under paragraph 4(1) of Schedule 1 to the Children's Evidence (Northern Ireland) Order 1995 (application to dismiss charge following notice of transfer of case to Crown Court),
- (c) any hearing held, between conviction and sentencing, for the purpose of determining matters relevant to the court's decision as to how the accused is to be dealt with, and
- (d) the hearing of an appeal,

and references (in Article 28 or this Article) to a person charged with an offence accordingly include a person convicted of an offence.