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## STATUTORY INSTRUMENTS

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# 1999 No. 2789

## The Criminal Evidence (Northern Ireland) Order 1999

### PART II

#### SPECIAL MEASURES DIRECTIONS IN CASE OF VULNERABLE AND INTIMIDATED WITNESSES

##### *Preliminary*

##### **Witnesses eligible for assistance on grounds of fear or distress about testifying**

5.—(1) For the purposes of this Part a witness in criminal proceedings (other than the accused) is eligible for assistance by virtue of this paragraph if the court is satisfied that the quality of evidence given by the witness is likely to be diminished by reason of fear or distress on the part of the witness in connection with testifying in the proceedings.

(2) In determining whether a witness falls within paragraph (1) the court must take into account, in particular—

- (a) the nature and alleged circumstances of the offence to which the proceedings relate;
- (b) the age of the witness;
- (c) such of the following matters as appear to the court to be relevant, namely—
  - (i) the social and cultural background and ethnic origins of the witness,
  - (ii) the domestic and employment circumstances of the witness, and
  - (iii) any religious beliefs or political opinions of the witness;
- (d) any behaviour towards the witness on the part of—
  - (i) the accused,
  - (ii) members of the family or associates of the accused, or
  - (iii) any other person who is likely to be an accused or a witness in the proceedings.

(3) In determining that question the court must in addition consider any views expressed by the witness.

(4) Where the complainant in respect of [<sup>F1</sup>an offence listed in paragraph (5) ] is a witness in proceedings relating to that offence (or to that offence and any other offences), the witness is eligible for assistance in relation to those proceedings by virtue of this paragraph unless the witness has informed the court of the witness's wish not to be so eligible by virtue of this paragraph.

[<sup>F2</sup>(5) The offences are—

- (a) a sexual offence,
- (b) a slavery or human trafficking offence,
- (c) an offence involving domestic abuse (see Article 3A).]

[<sup>F3</sup>(d) an offence under section 1 of the Protection from Stalking Act (Northern Ireland) 2021.]

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**Changes to legislation:** *The Criminal Evidence (Northern Ireland) Order 1999, Section 5 is up to date with all changes known to be in force on or before 13 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) View outstanding changes*

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- F1** Words in art. 5(4) substituted (21.2.2022) by Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 (c. 2), s. 23(2)(a); S.R. 2022/57, art. 2(w)
- F2** Art. 5(5) inserted (21.2.2022) by Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 (c. 2), s. 23(2)(b); S.R. 2022/57, art. 2(w)
- F3** Art. 5(5)(d) inserted (27.4.2022) by Protection from Stalking Act (Northern Ireland) 2022 (c. 17), ss. 3(2), 22(1)

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- [art. 29\(3\)\(aa\)](#) inserted by [2015 c. 9 \(N.I.\) Sch. 2 para. 11](#)
- [art. 29\(3\)\(aa\)](#) words substituted in earlier affecting provision [2015 c. 9 \(N.I.\), Sch. 2 para. 11](#) by [2022 c. 4 \(N.I.\) s. 4\(9\)\(h\)](#)