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## STATUTORY INSTRUMENTS

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# 1999 No. 2789

## The Criminal Evidence (Northern Ireland) Order 1999

### PART II **N.I.**

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

##### *Supplementary*

#### **Status of evidence given under this Part **N.I.****

19.—(1) Paragraphs (2) to (4) apply to a statement made by a witness in criminal proceedings which, in accordance with a special measures direction, is not made by the witness in direct oral testimony in court but forms part of the witness's evidence in those proceedings.

(2) The statement shall be treated as if made by the witness in direct oral testimony in court; and accordingly—

- (a) it is admissible evidence of any fact of which such testimony from the witness would be admissible;
- (b) it is not capable of corroborating any other evidence given by the witness.

(3) Paragraph (2) applies to a statement admitted under Article 15 or 16 which is not made by the witness on oath even though it would have been required to be made on oath if made by the witness in direct oral testimony in court.

(4) In estimating the weight (if any) to be attached to the statement, the court must have regard to all the circumstances from which an inference can reasonably be drawn (as to the accuracy of the statement or otherwise).

(5) Nothing in this Part (apart from paragraph (3)) affects the operation of any rule of law relating to evidence in criminal proceedings.

(6) Where any statement made by a person on oath in any proceeding which is not a judicial proceeding for the purposes of Article 3 of the Perjury (Northern Ireland) Order 1979 (perjury) is received in evidence in pursuance of a special measures direction, that proceeding shall be taken for the purposes of that Article to be part of the judicial proceeding in which the statement is so received in evidence.

(7) Where in any proceeding which is not a judicial proceeding for the purposes of that Order—

- (a) a person wilfully makes a false statement otherwise than on oath which is subsequently received in evidence in pursuance of a special measures direction, and
- (b) the statement is made in such circumstances that had it been given on oath in any such judicial proceeding that person would have been guilty of perjury,

he shall be guilty of an offence and liable to any punishment which might be imposed on conviction of an offence under Article 35(2) (giving of false unsworn evidence in criminal proceedings).

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**Changes to legislation:** *The Criminal Evidence (Northern Ireland) Order 1999, Cross Heading: Supplementary is up to date with all changes known to be in force on or before 15 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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(8) In this Article “statement” includes any representation of fact, whether made in words or otherwise.

### **Warning to jury** **N.I.**

**20.** Where on a trial on indictment evidence has been given in accordance with a special measures direction, the judge must give the jury (if there is one) such warning (if any) as the judge considers necessary to ensure that the fact that the direction was given in relation to the witness does not prejudice the accused.

### **Interpretation etc. of Part II** **N.I.**

**21.**—(1) In this Part—

“eligible witness” means a witness eligible for assistance by virtue of Article 4 or 5;

“live link” has the meaning given by Article 12(6);

“quality”, in relation to the evidence of a witness, shall be construed in accordance with Article 4(5);

“special measures direction” means (in accordance with Article 7(5)) a direction under Article 7.

(2) In this Part references to the special measures available in relation to a witness shall be construed in accordance with Article 6.

(3) In this Part references to a person being able to see or hear, or be seen or heard by, another person are to be read as not applying to the extent that either of them is unable to see or hear by reason of any impairment of eyesight or hearing.

(4) In the case of any proceedings in which there is more than one accused—

(a) any reference to the accused in Articles 11 to 16 may be taken by a court, in connection with the giving of a special measures direction, as a reference to all or any of the accused, as the court may determine, and

(b) any such direction may be given on the basis of any such determination.

[<sup>F1</sup>(5) For the purposes of this Part as it applies in relation to a witness who is the complainant in respect of a slavery or human trafficking offence, where the age of the witness is uncertain and there are reasons to believe that the witness is under the age of 18, that witness is presumed to be under the age of 18.]

**F1** Art. 21(5) inserted (14.1.2015) by [Human Trafficking and Exploitation \(Criminal Justice and Support for Victims\) Act \(Northern Ireland\) 2015 \(c. 2\)](#), **ss. 24(5)**, 28(2)

**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\(9\)\(h\)](#)