
STATUTORY INSTRUMENTS

2008 No. 1216

The Criminal Justice (Northern Ireland) Order 2008

PART 5

MISCELLANEOUS AND SUPPLEMENTARY

Live links

Evidence of vulnerable accused

- 82.**—(1) The [Criminal Evidence \(Northern Ireland\) Order 1999 \(NI 8\)](#) is amended as follows.
(2) After Article 21 (interpretation etc of Part 2) insert—

“PART 2A

USE OF LIVE LINK FOR EVIDENCE OF CERTAIN ACCUSED PERSONS

Live link directions

21A.—(1) This Article applies to any proceedings (whether in a magistrates' court or before the Crown Court) against a person for an offence.

(2) The court may, on the application of the accused, give a live link direction if it is satisfied—

- (a) that the conditions in paragraph (4) or, as the case may be, paragraph (5) are met in relation to the accused; and
- (b) that it is in the interests of justice for the accused to give evidence through a live link.

(3) A live link direction is a direction that any oral evidence to be given before the court by the accused is to be given through a live link.

(4) Where the accused is aged under 18 when the application is made, the conditions are that—

- (a) his ability to participate effectively in the proceedings as a witness giving oral evidence in court is compromised by his level of intellectual ability or social functioning; and
- (b) use of a live link would enable him to participate more effectively in the proceedings as a witness (whether by improving the quality of his evidence or otherwise).

(5) Where the accused has attained the age of 18 at that time, the conditions are that—

- (a) he suffers from a mental disorder (within the meaning of the [Mental Health \(Northern Ireland\) Order 1986 \(NI 4\)](#)) or otherwise has a significant impairment of intelligence and social function;

(b) he is for that reason unable to participate effectively in the proceedings as a witness giving oral evidence in court; and

(c) use of a live link would enable him to participate more effectively in the proceedings as a witness (whether by improving the quality of his evidence or otherwise).

(6) While a live link direction has effect the accused may not give oral evidence before the court in the proceedings otherwise than through a live link.

(7) The court may discharge a live link direction at any time before or during any hearing to which it applies if it appears to the court to be in the interests of justice to do so (but this does not affect the power to give a further live link direction in relation to the accused).

The court may exercise this power of its own motion or on an application by a party.

(8) The court must state in open court its reasons for—

(a) giving or discharging a live link direction, o

(b) refusing an application for or for the discharge of a live link direction,

and, if it is a magistrates' court, it must cause those reasons to be entered in the Order Book.

Meaning and effect of live link.

21B.—(1) In Article 21A “live link” means an arrangement by which the accused, while absent from the place where the proceedings are being held, is able—

(a) to see and hear a person there; and

(b) to be seen and heard by the persons mentioned in paragraph (2);

and for this purpose any impairment of eyesight or hearing is to be disregarded.

(2) The persons are—

(a) the judge and the jury (if there is one);

(b) where there are two or more accused in the proceedings, each of the other accused;

(c) legal representatives acting in the proceedings; and

(d) any interpreter or other person appointed by the court to assist the accused.

Saving

21C. Nothing in this Part affects—

(a) any power of a court to make an order, give directions or give leave of any description in relation to any witness (including an accused), or

(b) the operation of any rule of law relating to evidence in criminal proceedings.”.

(3) In Article 2(2) (interpretation) in the definition of “judge” at the end add “and (in the case of a youth court) any lay magistrate”.