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STATUTORY RULES OF NORTHERN IRELAND

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2001 No. 253

SUPREME COURT, NORTHERN IRELAND

CROWN COURT

**The Crown Court (Amendment) Rules (Northern Ireland) 2001**

*Made . . . . . 23rd June 2001*

*Coming into operation in accordance with Rule 1*

*To be laid before Parliament*

We, the Crown Court Rules Committee, in exercise of the powers conferred upon us by sections 52(1) of the Judicature (Northern Ireland) Act 1978(a), Articles 26(6) and (7) and 39(1) of the Criminal Evidence (Northern Ireland) Order 1999(b) and of all other powers enabling us in that behalf, hereby with the concurrence of the Lord Chancellor make the following Rules:—

*Citation, commencement and interpretation*

**1.**—(1) These Rules may be cited as the Crown Court (Amendment) Rules (Northern Ireland) 2001.

(2) Rule 2(a) shall come into operation on the same day as Article 26 of the Criminal Evidence (Northern Ireland) Order 1999 comes into operation.

(3) Rule 2(b) shall come into operation on the same day as Article 4 of the Financial Investigations (Northern Ireland) Order 2001(c) comes into operation.

(4) In these Rules, “the principal Rules” shall mean the Crown Court Rules (Northern Ireland) 1979(d) and a reference to a rule by number shall mean a rule so numbered in the principal Rules.

*Amendment to the principal Rules*

**2.** The principal Rules shall be amended by—

(a) adding after rule 44D, the following new rules:

*“Restrictions on cross-examination of witness*

**44E.**—(1) This rule and rules 44F and 44G apply where a defendant is prevented from cross-examining a witness in person by virtue of Article 22 or 23 of the 1999 Order.

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(a) 1978 c. 23  
(b) S.I. 1999 No. 2789 (N.I. 8)  
(c) S.I. 2001 No. 1866(N.I. 1)  
(d) S.R. 1979 No. 90; to which the most recent relevant amendments were made by S.R. 1996 No. 71, S.R. 1996 No. 281 and S.R. 2000 No. 227

(2) The Court shall as early in the proceedings and is reasonably practicable—

(a) explain to the defendant that he is prevented from cross-examining a witness in person; and

(b) invite him to arrange for a legal representative to act for him for the purpose of cross-examining the witness.

(3) The defendant shall within 7 days of the Court giving its explanation, or within such other period as the Court may in any particular case allow, give notice to the chief clerk as to whether or not he has arranged for a legal representative to act on his behalf.

(4) Where the defendant has arranged for a legal representative to act for him, notice under paragraph (3) above shall include details of the name and address of the representative.

(5) The chief clerk shall notify all other parties to the proceedings of the name and address of any person appointed by the defendant to act on his behalf.

(6) Where the Court gives its explanation under paragraph (2) above to the defendant—

(a) within 7 days of the date set for the commencement of any hearing at which a witness in respect of whom a prohibition under Article 22 or 23 of the 1999 Order applies may be cross-examined, or

(b) after such a hearing has commenced;

the period of 7 days within which the defendant is required to give notice under paragraph (3) above shall be reduced in accordance with any direction issued by the Court.

(7) Where at the end of the period of 7 days or such other period as the Court has allowed, the Court has not received notice from the defendant under paragraph (3) above, it may grant the defendant an extension of time, whether of its own motion or on the application of the defendant.

(8) Before granting an extension of time, the Court may hold a hearing at which all the parties to the proceedings may attend and be heard.

(9) Any extension of time shall be for such period as the Court considers appropriate in the circumstances of the case.

(10) The decision of the Court as to whether to grant the defendant an extension of time shall be notified to all parties to the proceedings by the chief clerk.

#### *Appointment by the Court*

**44F.**—(1) Where the Court decides, in accordance with Article 26(4) of the 1999 Order, to appoint a qualified legal representative, the chief clerk shall notify all parties to the proceedings of the name and address of that representative.

(2) An appointment made by the Court under Articles 26(4) of the 1999 Order shall, except to such extent as the Court may in any particular case determine, terminate at the conclusion of the cross-examination of any witness in respect of whom a prohibition under Article 22 or 23 of the 1999 Order applies.

*Appointment arranged by the defendant*

**44G.**—(1) The defendant may arrange for the qualified legal representative, appointed by the Court under Article 26(4) of the 1999 Order, to be appointed to act for him for the purpose of cross-examining any witness in respect of whom a prohibition under Article 22 or 23 of the 1999 Order applies.

(2) Where such an appointment is made—

(a) both the defendant and the qualified legal representative appointed shall notify the Court of the appointment; and

(b) the qualified legal representative shall, from the time of his appointment, act for the defendant as though the arrangement had been made under Article 26(2)(a) of the 1999 Order and shall cease to be the representative of the Court under Article 26(4) of the 1999 Order.

(3) Where the Court receives notification of the appointment either from the qualified legal representative or from the defendant but not from both, the Court shall investigate whether the appointment has been made, and if it concludes that the appointment has not been made, paragraph (2)(b) above shall not apply.

(4) The defendant may, notwithstanding an appointment by the Court under Article 26(4) of the 1999 Order, arrange for a legal representative to act for him for the purpose of cross-examining any witness in respect of whom a prohibition under Article 22 or 23 applies.

(5) Where the defendant arranges for, or informs the Court of his intention to arrange for a legal representative to act for him, he shall notify the Court, within such a period as the Court may allow, of the name and address of any person appointed to act for him.

(6) Where the Court is notified within the time allowed that such an appointment has been made, any qualified legal representative appointed by the Court in accordance with Article 26(4) of the 1999 Order shall be discharged.

(7) The chief clerk shall as soon as reasonably practicable after notification is received by the Court, or where paragraph (3) above applies, after the Court is satisfied that the appointment has been made, notify all the parties to the proceedings that—

(a) the appointment has been made;

(b) where paragraph (4) above applies, of the name and address of the person appointed; and

(c) that the person appointed by the Court under Article 26(4) of the 1999 Order has been discharged or has ceased to act for the Court.

(8) In rules 44E, 44F and this rule, “the 1999 Order” shall mean the Criminal Evidence (Northern Ireland) Order 1999.”;

(b) inserting in rule 54(2)(b) after the words “the constable”, the words “or the financial investigator”.

Dated 17th May 2001

*R. D. Carswell*

*A. R. Hart*

*J. Brady*

*F. Keenan*

*P. Lynch*

I concur

*Irvine of Lairg, C.*

Dated 23rd June 2001

## EXPLANATORY NOTE

*(This note is not part of the Rules.)*

These Rules amend the Crown Court Rules (Northern Ireland) 1979 to—

- (a) prescribe the time when, and the manner in which, a legal representative is to be appointed to act for the defendant for the purpose of cross-examining any witness which the defendant is prevented from cross-examining in person by virtue of Article 22 or Article 23 of the Criminal Evidence (Northern Ireland) Order 1999;
- (b) provide for the appointment by the Court of a qualified legal representative where the defendant fails to appoint a legal representative to act for him;
- (c) make a minor amendment to rule 54(2)(b) to take account of the additional powers conferred on financial investigators by the Financial Investigations (Northern Ireland) Order 2001.

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