

**2003 No. 279**

**SUPREME COURT, NORTHERN IRELAND**

**The Crown Court (Amendment No. 2) Rules  
(Northern Ireland) 2003**

*Made* - - - - - *29th May 2003*

*Coming into operation* *30th June 2003*

*To be laid before Parliament*

We, the Crown Court Rules Committee, in exercise of the powers conferred upon us by section 52(1) of the Judicature (Northern Ireland) Act 1978(a), Articles 8(6) and 39(1) of the Criminal Evidence (Northern Ireland) Order 1999(b), and 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 No. 2) Rules (Northern Ireland) 2003 and shall come into operation on 30th June 2003.

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

**Amendment to the principal Rules**

**2.—**(1) Rule 2(1) shall be amended by inserting after the definition of the “Taxing Master”, the following definition:

“ “the 1999 Order” means the Criminal Evidence (Northern Ireland) Order 1999.”.

(2) Rule 36(8)(a) shall be amended by substituting for the words “shall not be in open court”, the words “may take place in private”.

(3) Rule 44B shall be amended as follows –

(a) in paragraph (1), sub-paragraph (b) shall be revoked;

(b) in paragraph (7)(a), the words “, and in the case of a witness coming within paragraph (1)(b), the name, occupation and relationship, (if any) to the witness of the person, (if known) who is to accompany the witness” shall be deleted; and

(c) in paragraph (12), sub-paragraph (a) shall be revoked.

(4) After rule 44B, there shall be inserted the following new rule:

**“Application for special measures directions**

**44BA.—**(1) An application for a special measures direction under Article 7 of the 1999 Order shall be made by giving notice in writing which shall be in Form 6 in the Schedule.

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(a) 1978 c.23

(b) S.I.1999 / 2789 (N.I. 8)

(c) S.R. 1979 No. 90; to which the most recent relevant amendments were made by S.R. 1996 No. 71 and S.R. 2003 No. 71

- (2) If the application is for a special measures direction –
- (a) enabling a witness to give evidence by means of a live link, the information sought in Part 2 of Form 6 shall be provided;
  - (b) enabling a video recording of an interview of a witness to be admitted as evidence in chief of the witness, the information sought in Part 3 of Form 6 shall be provided.
- (3) The application under paragraph (1) shall be made within 28 days from the date –
- (a) of the committal of the defendant; or
  - (b) on which Notice of Transfer under Article 3 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988(a) or under Article 4 of the Children’s Evidence (Northern Ireland) Order 1995(b) was given; or
  - (c) on which leave to present an indictment under section 2(2)(e) of the Grand Jury (Abolition) Act (Northern Ireland) 1969(c) was given, or
  - (d) on which an order for retrial is made.

(4) The notice under paragraph (1) shall be served on the chief clerk, and at the same time a copy thereof shall be served, by the applicant, on every other party to the proceedings.

(5) Any party on whom a copy of a notice of the application under paragraph (1) is served may oppose the application for a special measures direction in respect of any measure available in relation to the witness, whether or not the question of whether the witness is eligible for assistance by virtue of Article 4(1)(a) of the 1999 Order is in issue.

(6) Any party who wishes to oppose the application shall, within 14 days of the date notice of the application was served on him, notify the applicant and the chief clerk, in writing, of his opposition and give reasons for it.

- (7) In order to comply with paragraph (6) –
- (a) a party shall state in the written notification whether he –
    - (i) disputes that the witness is eligible for assistance by virtue of Article 4(1)(a) of the 1999 Order; and
    - (ii) opposes the granting of a special measures direction; and
  - (b) where the application relates to the admission of a copy of a video recording, a party who receives a recording shall provide the information required by rule 44CE(5).

- (8) Except where notice is received in accordance with paragraph (6), the Court may –
- (a) determine the application in favour of the applicant without a hearing; or
  - (b) direct a hearing.

(9) Where a party to the proceedings notifies the chief clerk in accordance with paragraph (6) of his opposition to the application, the Court shall direct a hearing of the application.

(10) Where a hearing of the application is to take place in accordance with paragraphs (8) or (9), the chief clerk shall notify each party to the proceedings of the time and place of the hearing.

(11) A party notified in accordance with paragraph (10) may be present at the hearing and be heard.

(12) The chief clerk shall, as soon as reasonably practicable after the determination of an application under paragraph (1), notify all the parties of the decision in Form 7 in the Schedule, and if the application was made for a direction enabling a video recording of an interview of a witness to be admitted as evidence in chief of that witness, the notification must state whether the whole or specified parts only of the video recording or recordings disclosed are to be admitted in evidence.”

(5) For rule 44C, there shall be substituted the following new rule:

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(a) S.I. 1988 / 1846 (N.I. 16)  
(b) S.I. 1995 / 757 (N.I. 3)  
(c) 1969 c. 15 (N.I.)

### **“Application for an extension of time**

**44C.**—(1) An application may be made in writing for the period of 28 days specified in rule 44BA(3) to be extended.

(2) The application may be made either before or after that period has expired.

(3) The application shall be accompanied by a statement setting out the reasons why the applicant is or was unable to make the application within that period, and the application and the statement shall be served by the applicant on the chief clerk and on every other party to the proceedings.

(4) An application for an extension of time under this rule shall be determined by a judge without a hearing unless the judge otherwise directs.

(5) The chief clerk shall notify all the parties of the judge’s decision.”.

(6) After rule 44C, there shall be inserted the following new rules:

### **“Late applications**

**44CA.**—(1) Notwithstanding the requirements of rule 44BA –

- (a) an application may be made for a special measures direction orally at the trial; or
- (b) the Court may of its own motion raise the issue whether a special measures direction should be given.

(2) Where an application is made in accordance with paragraph (1)(a) –

- (a) the applicant must state the reasons for the late application; and
- (b) the Court must be satisfied that the applicant was unable to make the application in accordance with rule 44BA.

(3) The Court shall determine before making a special measures direction –

- (a) whether to allow other parties to the proceedings to make representations on the question;
- (b) the time allowed for making such representations (if any); and
- (c) whether the question should be determined following a hearing at which the parties to the proceedings may be heard.

### **Discharge or variation of a special measures direction**

**44CB.**—(1) An application to discharge or vary a special measures direction under Article 8(2) of the 1999 Order shall be made in writing and shall specify each material change of circumstances which the applicant alleges has occurred since the direction was made.

(2) An application under paragraph (1) shall be served, by the applicant, on the chief clerk and on each party to the proceedings as soon as reasonably practicable after the change of circumstances occurs.

(3) Any party on whom an application is served in accordance with paragraph (2) may oppose the application on the ground that it discloses no material change of circumstances.

(4) Paragraphs (6) to (12) of rule 44BA shall apply to an application to discharge or vary a special measures direction as they apply to an application for a direction.

### **Renewal application following a material change of circumstances**

**44CC.**—(1) Where an application for a special measures direction has been refused by the Court, the application may only be renewed (“renewal application”) where there has been a material change of circumstances since the Court refused the application.

(2) The applicant shall –

- (a) specify in the renewal application each material change of circumstances which is alleged to have occurred; and
- (b) serve the renewal application on the chief clerk, and on each party to the proceedings, as soon as reasonably practicable after the change occurs.

(3) Any party on whom the application is served in accordance with paragraph (2)(b) may oppose the application on the ground that it discloses no material change of circumstances.

(4) Paragraphs (6) to (12) of rule 44BA and rules 44CD and 44CE shall apply to a renewal application as they apply to the application which was refused.

**Application for special measures direction for witness to give evidence by means of a live link**

**44CD.**—(1) Where the application for a special measures direction is made in accordance with rule 44BA(2)(a), for a witness to give evidence by means of a live link, the following provisions of this rule shall also apply.

(2) Subject to paragraph (3), a party who seeks to oppose an application for a witness to give evidence by means of a live link must, in order to comply with rule 44BA(6), state why in his view the giving of a special measures direction would not be likely to maximise the quality of the witness's evidence.

(3) Paragraph (2) does not apply in relation to a witness in need of special protection within the meaning of Article 9(1)(b) of the 1999 Order.

(4) Where a special measures direction is made enabling a witness to give evidence by means of a live link, that witness shall be accompanied at the live link only by persons acceptable to a judge of the Crown Court.

**Video recording of testimony from witnesses**

**44CE.**—(1) Where an application is made for a special measures direction enabling a video recording of an interview of a witness to be admitted as evidence in chief of the witness, the following provisions of this rule shall also apply.

(2) Notice of the application made in accordance with rule 44BA(1) shall be accompanied by the video recording (or, as the case may be, a copy of the video recording) which it is proposed to tender in evidence and shall include –

- (a) the name of the defendant and the offence to be charged;
- (b) the name and date of birth of the witness in respect of whom the application is made;
- (c) the date on which the video recording was made;
- (d) a statement as to whether, and if so at what point in the video recording, an oath was administered to, or a solemn declaration made by, the witness;
- (e) a statement that, in the opinion of the applicant, either –
  - (i) the witness is available for cross-examination; or
  - (ii) the witness is not available for cross-examination and the parties have agreed that there is no need for the witness to be so available;
- (f) a statement of the circumstances in which the video recording was made which complies with paragraph (4); and
- (g) the date on which the video recording was disclosed to the other party or parties.

(3) Where it is proposed to tender part only of a video recording of an interview with the witness, the application must specify that part and be accompanied by a video recording of the entire interview, including those parts which it is not proposed to tender in evidence, and by a statement of the circumstances in which the video recording of the entire interview was made which complies with paragraph (4).

(4) The statement of the circumstances in which the video recording was made referred to in paragraphs (2)(f) and (3) shall include the following information, except in so far as it is contained in the recording itself: –

- (a) the times at which the recording commenced and finished, including details of interruptions;
- (b) the location at which the recording was made and the usual function of the premises;
- (c) in relation to each person present at any point during, or immediately before, the recording –

- (i) their name, age and occupation;
- (ii) the time for which each person was present; and
- (iii) the relationship, if any, of each person to the witness and to the defendant;
- (d) in relation to the equipment used for the recording –
  - (i) a description of the equipment;
  - (ii) the number of cameras used;
  - (iii) whether the cameras were fixed or mobile;
  - (iv) the number and location of the microphones;
  - (v) the video format used; and
  - (vi) whether it offered single or multiple recording facilities and, if so, which were used; and
- (e) the location of the mastertape if the video recording is a copy and details of when and by whom the copy was made.

(5) A party who receives a copy of a recording under paragraph (2) shall within 14 days of the date on which it was served on him, notify the applicant and the chief clerk, in writing –

- (a) whether he objects to the admission under Article 15 of the 1999 Order of any part of the video recording or recordings disclosed, giving his reasons why it would not be in the interests of justice for the recording or any part of it to be admitted;
- (b) whether he would agree to the admission of part of the video recording or recordings and if so, which part or parts; and
- (c) whether he wishes to be represented at any hearing of the application.

(6) Notwithstanding the provisions of rule 44BA and this rule, a copy of any video recording which the defendant proposes to tender in evidence need not be sent to the prosecution until the close of the prosecution case at the trial.

(7) The Court may determine an application by the defendant to tender in evidence a video recording even though a copy of the recording has not, in accordance with paragraph (6), been served upon the prosecution.

(8) Where a copy of a video recording which is the subject of a special measures direction is sent to the prosecution after the direction has been made, the prosecutor may apply to the Court for the direction to be varied or discharged.

(9) An application under paragraph (8) may be made orally to the Court.

(10) A prosecutor who makes an application under paragraph (8) shall state –

- (a) why he objects to the admission under Article 15 of the 1999 Order of any part of the video recording or recordings disclosed, giving his reasons why it would not be in the interests of justice for the recording or any part of it to be admitted; and
- (b) whether he would agree to the admission of part of the video recording or recordings and if so, which part or parts.

(11) The Court shall, before determining the application: –

- (a) direct a hearing of the application; and
- (b) allow all the parties to the proceedings to be present and be heard on the application.

(12) The chief clerk shall notify all parties to the proceedings of the decision of the Court as soon as reasonably practicable after the decision is given.

(13) Any decision varying a special measures direction must state whether the whole or specified parts of the video recording or recordings subject to the application are to be admitted in evidence.

### **Expert Evidence**

**44CF.** Any party to the proceedings who proposes to adduce expert evidence (whether of fact or opinion) in connection with an application or renewal application for, or an

application to vary or discharge, a special measures direction shall, not less than 14 days before the date set for the trial to begin –

- (a) serve the other party or parties to those proceedings with a statement in writing of any finding or opinion which he proposes to adduce by way of such evidence; and
- (b) where a request is made to him in that behalf by any other party to those proceedings, provide that party also with a copy of (or if it appears to the party proposing to adduce the evidence to be more practicable, a reasonable opportunity to examine) the record of any observation, test, calculation or other procedure on which such finding or opinion is based and any document or other thing or substance in respect of which any such procedure has been carried out.”.

(7) The title to Part XI shall be amended by inserting after the words “Act 2000” the words “, the Criminal Justice and Police Act 2001”.

(8) After rule 104, there shall be inserted the following new rule:

**“Criminal Justice and Police Act 2001**

**105.**—(1) In this rule –

“the 2001 Act” means the Criminal Justice and Police Act 2001(a); a reference to a section by number is a reference to the section so numbered in the 2001 Act; and expressions which are defined in the 2001 Act shall have the same meaning as in the 2001 Act; and

“chief clerk” means the chief clerk for the county court division in which the property was seized and includes any other member of the Court Service as may be authorised to act on his behalf for the purpose in question.

(2) Notice of an application under section 59 shall be made in writing to the chief clerk and shall –

- (a) where the application is made under section 59(2), specify upon which of the grounds in section 59(3) the application is made and –
  - (i) where the application is made under section 59(3)(a), specify why the applicant considers there was no power to make the seizure;
  - (ii) where the application is made under section 59(3)(b), (c) or (d), describe the property and specify why the applicant considers it should be returned;
- (b) where the application is made to authorise the retention of property by a person for the time being in possession of the property, specify upon which of the grounds in section 59(7) the application is made.

(3) Where the applicant is a person with a relevant interest, the applicant shall, at the same time as the notice is given to the chief clerk, serve a copy on –

- (a) the person for the time being in possession of the property;
- (b) the person, if any, identified as being the person to whom notice of such an application should be given by a notice served under section 52 when the property was seized; and
- (c) any other person appearing to have a relevant interest in the property.

(4) Where the applicant is a person for the time being in possession of the property, the applicant shall, at the same time as the notice is given to the chief clerk, serve a copy on –

- (a) the person from whom the property was seized; and
- (b) any other person appearing to have a relevant interest in the property.

(5) Any person served with a copy of a notice under paragraph (3) or (4) shall within seven days –

- (a) notify the chief clerk in writing whether or not he wishes to make representations concerning the application and appear at the hearing of the application; and
- (b) if he wishes to make representations, serve on the applicant and the chief clerk a written statement setting out such representations.

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(a) 2001 c. 16

(6) The chief clerk shall –

- (a) fix a date and place for the hearing of the application; and
- (b) notify the applicant and any person who wishes to make representations at the hearing of the date and place of such hearing.

(7) The hearing of an application under section 59 may be in private, if the judge thinks necessary in the interests of justice.”

(9) The Schedule to the principal Rules shall be amended by substituting for Forms 5 to 7, the new Forms 5 to 7 in the Schedule to these Rules.

Dated 14th May 2003.

*R. D. Carswell*

*J. M. Nicholson*

*J. Gillen*

*P. Copeland*

*J. Wilson*

*C. Adair*

I concur

*Irvine of Lairg, C.*

Dated 29th May 2003.

SCHEDULE

Rule 2(9)

FORMS TO BE SUBSTITUTED IN THE CROWN COURT RULES (NORTHERN IRELAND) 1979

FORM 5

Rule 44B

IN THE CROWN COURT IN NORTHERN IRELAND

APPLICATION UNDER ARTICLE 81(2) OF THE POLICE AND CRIMINAL EVIDENCE  
(NORTHERN IRELAND) ORDER 1989 FOR LEAVE TO USE TELEVISION LINK WHERE  
WITNESS WILL NOT GIVE EVIDENCE OTHERWISE THROUGH FEAR

An application should be made within 28 days from –

- (a) the date of the committal of the defendant; or
- (b) the date on which Notice of Transfer under Article 3 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 or under Article 4 of the Children’s Evidence (Northern Ireland) Order 1995 was given; or
- (c) the date on which leave to present an indictment under section 2(2)(e) of the Grand Jury (Abolition) Act (Northern Ireland) 1969 was given; or
- (d) the date on which an order for retrial is made.

This form may also be used where an extension of time has been granted for the making of this application.

A copy of this form must be served at the same time on the other party to the proceedings.

<i>Details required</i>	<i>Notes</i>
<p><b>Case details</b></p> <p>The Crown Court at:</p> <p>Crown Court Case Number:</p> <p>Date of – committal for trial* giving of Notice of Transfer* leave given to present indictment* order for retrial*</p> <p>Defendant(s):</p>	<p>* Delete as appropriate</p> <p>State the names of the defendant(s) to whom this application relates</p>
<p><b>Application</b></p> <p>Name of applicant:</p> <p>Name of applicant’s solicitor:</p> <p>Address of solicitor:</p> <p>Reference:</p>	
<p><b>Charges</b></p>	<p>Give brief details of those charges to which this application relates</p>
<p><b>Details of witness</b></p> <p>Name of Witness:</p> <p>Date of birth of witness:</p> <p>If the applicant is the prosecutor, give the name of the witness or (as the case may be) the letter under which he is designated: If the applicant is the defendant, enter name of witness (but only if disclosure is already required by section 5(7) of the Criminal Procedure and Investigations Act 1996):</p>	<p>An application by the defence for evidence to be given through a live link or by means of a video recording need not disclose who that witness is, except to the extent that the disclosure is required by section 5(7) of the Criminal Procedure and Investigations Act 1996.</p>



Dated this     day of                   20     .

Applicant  
[Solicitor for Applicant]

To the Chief Clerk of the Crown Court sitting at

And to

(insert names and addresses of each of the other parties to the proceedings)

**NOTE:**

The notice served on the Chief Clerk shall be endorsed with the date upon which and the manner in which notice was served on each of the other parties to the proceedings.

**NOTE to party who receives a copy of this notice:**

If you wish to oppose this application you are required within 14 days to notify the applicant and the chief clerk in writing of your opposition stating the reasons for such.

## IN THE CROWN COURT IN NORTHERN IRELAND

FORM OF APPLICATION FOR A SPECIAL MEASURES DIRECTION UNDER ARTICLE 7 OF  
THE CRIMINAL EVIDENCE (NORTHERN IRELAND) ORDER 1999

An application should be made within 28 days from –

- (a) the date of the committal of the defendant; or
- (b) the date on which Notice of Transfer under Article 3 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 or under Article 4 of the Children's Evidence (Northern Ireland) Order 1995 was given; or
- (c) the date on which leave to present an indictment under section 2(2)(e) of the Grand Jury (Abolition) Act (Northern Ireland) 1969 was given; or
- (d) the date on which an order for retrial is made.

This form may also be used where an extension of time has been granted for the making of this application.

A copy of this form must be given at the same time to the other party or parties to the case.

## PART 1

## TO BE COMPLETED BY ALL APPLICANTS

<i>Details required</i>	<i>Notes</i>
<p><b>Details of witness</b></p> <p>Name of Witness:</p> <p>Date of birth of witness:</p> <p>If an application has been made to tender in evidence a video recording of testimony from the witness, give the date and (if known) the result of that application:</p> <p>If the applicant is the prosecutor, give the name of the witness (otherwise leave blank):</p>	<p>An application by the defence for evidence to be given through a live link or by means of a video recording need not disclose who that witness is, except to the extent that the disclosure is required by section 5(7) of the Criminal Procedure and Investigations Act 1996.</p>
<p><b>Case details</b></p> <p>Name of PSNI Central Process Office:</p> <p>Central Process Office or District Command Unit reference number:</p> <p>DPP reference number:</p> <p>Defendant(s): Surname:</p> <p style="padding-left: 40px;">Forenames:</p> <p>Court venue:</p> <p>Date of next court appearance:</p> <p>Charges:</p>	<p>The venue of the court hearing the case.</p> <p>Give brief details (including date and location of offence) of those charges to which this application applies.</p>
<p><b>Details of application</b></p> <p>Specify the special measures being sought:</p> <p>State the grounds on which the witness relies in support of the application for a special measures direction:</p>	

<i>Details required</i>	<i>Notes</i>
Give a description of evidence submitted in support of this application:	This requirement is optional. Examples of evidence might be: birth certificate; medical report; expert evidence; police report.
<b>Arrangements which may be available</b> Give a description of the arrangements relevant to the measures applied for, which may be made available in the area in which it is likely the hearing will take place:	
<b>Reasons for application</b> Give the grounds for believing the special measures being sought in this application will increase the quality of the witness's evidence:  Give the views of the witness as to why the measures sought in this application are required:	
<b>Material change of circumstances</b> Give a description of any material change of circumstances relied upon to support this application:	This requirement applies only where –  (a) a special measures direction is already in force and application is being made to discharge or vary the direction, or  (b) a previous application for a special measures direction was refused and this application seeks to reverse that decision.

PART 2

TO BE COMPLETED IF THE APPLICATION IS FOR EVIDENCE TO BE GIVEN THROUGH A LIVE LINK

<i>Details required</i>	<i>Notes</i>
<b>Details of application</b> Give – (a) the address of any venue from which the witness will give evidence if the court's own live link is not used; (b) the name of the person who it is proposed will accompany the witness; (c) the occupation of this person; (d) the relationship (if any) of this person to the witness:	An application by the defence need not disclose the name of the person proposed to accompany the witness if disclosure could lead to the identification of the witness.
<b>Grounds</b> State why it is believed that this person should accompany the witness:	

PART 3

TO BE COMPLETED IF THE APPLICATION IS TO TENDER IN EVIDENCE A VIDEO RECORDING UNDER  
ARTICLE 15 OF THE CRIMINAL EVIDENCE (NORTHERN IRELAND) ORDER 1999

<i>Details required</i>	<i>Notes</i>
<p><b>Video recording(s)</b></p> <p>Statement as to circumstances in which video recording made:</p> <p>Date(s) of video recording(s):</p> <p>Time(s) of video recording(s):</p> <p>Location and normal function of premises where video recording made:</p>	<p>These details need to be completed only to the extent that the information is not contained in the video recording itself.</p> <p>Give the times at which recording began and finished, including details of any interruptions.</p> <p>Give address of premises where recording made and state the usual function of those premises.</p>
<p><b>Details of those present while recording made</b></p> <p>Give details of each person present at any point during the recording:</p>	<p>Include name, age and occupation of anyone present; time for which present; relationship (if any) to witness and to the defendant.</p>
<p><b>Equipment used</b></p> <p>Give a description of the equipment used for the recording:</p>	<p>The description must include the following information – number and type of cameras used (fixed or mobile); the number and location of microphones; the video format used; and whether it offered single or multiple recording facilities and if it did which were used.</p>
<p><b>Recordings of part only of an interview</b></p> <p>State whether the video recording contains part only of the interview with the witness:</p>	<p>A copy of any video recordings of other parts of the interview with the witness which it is not proposed to tender in evidence must also be provided to the court and the other parties. The details of each such recording must be given as above. Use separate sheets where necessary.</p>
<p><b>Details of copy</b></p> <p>State in respect of each video recording whether it is a copy, and give the following details in respect of each copy –</p> <p>Name and address of person who has the mastertape:</p> <p>When, and by whom , the copy was made:</p>	

<i>Details required</i>	<i>Notes</i>
<p><b>Attendance and supply of copies</b></p> <p>Is the witness willing and able to attend the trial for cross-examination?</p> <p>Have copies of the video recording(s) to which this application relates been disclosed to the other parties?</p> <p>Has a copy of this notice and the video recording(s) to which it relates been served on each party to the proceedings?</p> <p>Has the agreement of the other parties to the video recording(s) being tendered as evidence been sought?</p>	<p>Where the application is by the defendant, the video recording(s) do not have to be served on the prosecution until the close of the prosecution case at the trial.</p>

Dated this      day of                      20      .

Applicant  
[Solicitor for Applicant]

To the Chief Clerk of the Crown Court sitting at

And to

(insert names and addresses of each of the other parties to the proceedings)

NOTE:

The notice served on the Chief Clerk shall be endorsed with the date upon which and the manner in which notice was served on each of the other parties to the proceedings.

## IN THE CROWN COURT IN NORTHERN IRELAND

NOTICE OF DECISION ON APPLICATION FOR A SPECIAL MEASURES DIRECTION UNDER  
ARTICLE 7 OF THE CRIMINAL EVIDENCE (NORTHERN IRELAND) ORDER 1999

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**Case Details**

The Crown Court at:

Crown Court Case Number:

Defendant(s): Surname:

Forenames:

**Application**

Name of applicant:

Name of applicant's Solicitor:

Address of Solicitor:

Reference:

Date of Application:

Name of Witness:

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**Result**

Special measures direction under Article [11] [12] [13] [14] [15] [18] granted\*/granted subject to the following conditions\*/refused on the following grounds –

Dated this        day of        20    .

Chief Clerk

## EXPLANATORY NOTE

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

These Rules amend the Crown Court Rules (Northern Ireland) 1979 (“the principal Rules”) to prescribe:

- that, in applications for leave to present a voluntary bill of indictment under section 2(2)(e) of the Grand Jury (Abolition) Act (Northern Ireland) 1969, appearances before the judge may be in private; and
- the procedure relating to applications under the Criminal Evidence (Northern Ireland) Order 1999 for a special measures direction in the case of witnesses who require assistance on the grounds of age; and
- the procedure relating to applications under section 59 of the Criminal Justice and Police Act 2001 for the return of seized material and for directions as to the examination, retention, separation or return of seized property.

Rule 2(1) inserts a reference to the Criminal Evidence (Northern Ireland) Order 1999 into the interpretation provisions in the principal Rules.

Rule 2(2) amends *rule 36(8)(a)* of the principal Rules to provide that, in applications for leave to present a voluntary bill of indictment, appearances before the judge may take place in private.

Rule 2(3) amends *rule 44B* of the principal Rules by revoking paragraph (1)(b), and making some further minor consequential amendments.

Rule 2(4) inserts a *new rule 44BA*, which provides for an application for a special measures direction to be made in the form specified in the Schedule to the Rules. An application for a direction to give evidence by means of a live link or by means of a video recording of the witness’s testimony must also contain the additional information specified in Part 2 or Part 3 of the form.

Rule 2(5) substitutes a *new rule 44C* which provides for extending the time for making an application for a special measures direction.

Rule 2(6) inserts new rules 44CA – 44CF. *New rule 44CA* provides for late applications. *New rule 44CB* provides for an application to be made to vary or discharge a special measures direction which has already been made. *New rule 44CC* provides for renewal applications where a material change of circumstances has occurred since an application was refused.

*New rule 44CD* imposes additional requirements where the application relates to the giving of evidence by means of a live link.

*New rule 44CE* imposes additional requirements where the application relates to the admission of a video recording of an interview of the witness as evidence in chief of the witness.

*New rule 44CF* provides for the mutual disclosure between the parties of expert evidence to be adduced in connection with the application for the special measures direction.

Rule 2(7) makes a minor consequential amendment to the title of Part XI of the principal Rules.

Rule 2(8) inserts *new rule 105* to provide the procedure for applications under section 59 of the Criminal Justice and Police Act 2001.

Rule 2(9) amends the Schedule to the principal Rules by substituting new Form 5 (Form of application for leave to use television link under Article 81(2) of the Police and Criminal Evidence (Northern Ireland) Order 1989); Form 6 (Form of application for a special measures direction) and Form 7 (Notice of decision on an application for a special measures direction).

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