

EXPLANATORY MEMORANDUM

THE CROWN COURT (AMENDMENT) RULES (NORTHERN IRELAND) 2004

1. Title of the instrument

- i). The Crown Court (Amendment) Rules (Northern Ireland) 2004. (SR 2004 No. 233)

Laying Authority and Purpose

- ii). This explanatory memorandum is laid before Parliament by Command of Her Majesty

Department responsible

- iii). Department for Constitutional Affairs (Northern Ireland Court Service).

2. Description

The instrument amends the Crown Court Rules (Northern Ireland) 1979 to take account of Part 1 of the Crime (International Co-operation) Act 2003 and section 46 of the Youth Justice and Criminal Evidence Act 1999.

Part 1 of the 2003 Act provides for mutual assistance between States in criminal matters. The Rules facilitate the implementation of this Part in Northern Ireland by prescribing –

- what information should accompany a summons or court order being sent for service outside the United Kingdom;
- the manner in which an application for assistance in obtaining evidence abroad should be made; and
- the manner in which hearings before a court nominated to receive evidence on behalf of an authority outside the United Kingdom should be conducted.

The Rules set out the manner in which an application may be made for a reporting direction under section 46 of the 1999 Act. A reporting direction prohibits the publication of information which might identify a witness in criminal proceedings. The Rules also set out the manner in which an application to the Crown Court may be made for an excepting direction, which would dispense with any or all conditions in the reporting direction.

3. Matters of special interest to the Joint Committee on Statutory Instruments/Select Committee on Statutory Instruments

The relevant provisions of the Crime (International Co-operation) Act 2003 came into force on 23rd April 2004. It is not anticipated that the delay between the commencement of the primary legislation and the coming into force of the Rules will be problematic.

It is intended that section 46 of the Youth Justice and Criminal Evidence Act 1999 will be brought into force, insofar as it relates to Northern Ireland, on 30th June 2004.

4. Legislative Background

The Crime (International Co-operation) Act 2003 implements an international agreement and provides for mutual assistance between States in criminal matters. The instrument facilitates the implementation of Part 1 of the 2003 Act in Northern Ireland which provides for the use of new technology in the giving of evidence.

Part II of the Youth Justice and Criminal Evidence Act 1999 contains a range of measures designed to help young, disabled, vulnerable or intimidated witnesses give evidence in criminal proceedings. The instrument facilitates the implementation of section 46 of the 1999 Act in Northern Ireland which provides for reporting restrictions to be made in respect of certain adult witnesses in criminal proceedings.

5. Extent

The instrument extends to Northern Ireland only.

6. European Convention on Human Rights

This instrument is subject to negative resolution and does not amend primary legislation. It is considered, however, that the provisions of this instrument are compatible with the European Convention on Human Rights.

7. Policy background

The Crime (International Co-operation) Act 2003 enables the United Kingdom to participate in the Convention on Mutual Assistance in Criminal Matters and the mutual legal assistance provisions of the Schengen Convention. Part 1 of the 2003 Act provides for mutual assistance between States in criminal matters.

The instrument facilitates implementation by making provision in relation to:

- the service of processes outside the United Kingdom;
- applications for assistance in obtaining evidence abroad; and
- hearings before a court nominated to receive evidence on behalf of an authority outside the United Kingdom.

Section 46 of the Youth Justice and Criminal Evidence Act 1999 provides for reporting restrictions to be made where it is considered that the quality of the evidence given by a witness in criminal proceedings would be diminished by reason of fear or distress of being identified as a witness by members of the public. The instrument provides for the making of an application in relation to proceedings in the Crown Court.

It is not considered that there is any significant public interest in this instrument, which is purely procedural. Nor is it considered that the instrument is politically or legally important.

8. Impact

It is not considered that the instrument will have any significant impact on business, charities, voluntary bodies or the Exchequer.

9. Contact

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Northern Ireland Court Service

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