

**2022 No. 255**

**MAGISTRATES' COURTS**

**The Magistrates' Courts (Domestic Proceedings) (Amendment)  
Rules (Northern Ireland) 2022**

*Made* - - - - *13th October 2022*

*Coming into operation in accordance with rule 1*

The Magistrates' Courts Rules Committee makes the following Rules in exercise of the powers conferred by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981(a).

**Citation and commencement**

1. These Rules may be cited as the Magistrates' Courts (Domestic Proceedings) (Amendment) Rules (Northern Ireland) 2022 and shall come into operation on the day on which section 37 of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021(b) comes into operation.

**Amendment to the Magistrates' Courts (Domestic Proceedings) Rules (Northern Ireland) 1996**

2. The Magistrates' Courts (Domestic Proceedings) Rules (Northern Ireland) 1996(c) are amended as follows.

3. After rule 15A insert—

*“Special measures direction relating to a person who is, or is at risk of, being subjected to abusive behaviour*

**15B.**—(1) The domestic proceedings to which this rule applies are proceedings under one or more of the following:

- (a) the Order;
- (b) Article 31B of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989;
- (c) the Children (Northern Ireland) Order 1995;
- (d) the Order of 1998; and
- (e) Schedule 16 to the Act of 2004.

(2) (a) In this rule—

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(a) S.I. 1981/1675 (N.I. 26); Article 13 was amended by paragraph 65 of Schedule 5 to the Constitutional Reform Act 2005 (c.4), paragraph 133 of Schedule 18 to the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976) and paragraph 4 of the Schedule to the Northern Ireland (Miscellaneous Provisions) Act 2014 (c.13).  
(b) 2021 c.2. (N.I.)  
(c) S.R. 1996 No.324 as amended by S.R. 2007 No.398 and other statutory rules which are not relevant.

“the Act of 2021” means the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021;

“abusive behaviour” has the same meaning as in section 2 (as read with section 3(2)) and section 4 of the Act of 2021;

“live link” means a live television link or other arrangement whereby a party or witness is able to see and hear all other persons participating in the proceedings who are in a different location, and to be seen and heard by the judge, legal representatives acting in the proceedings and other persons appointed to assist a party or witness;

“parties” includes the guardian ad litem in proceedings under the Children (Northern Ireland) Order 1995;

“personally connected” has the same meaning as in section 5 of the Act of 2021;

“relative” has the same meaning as in Article 2(2) of the Order of 1998.

(b) A reference in this rule to “quality of evidence” is to its quality in terms of completeness, coherence and accuracy; and for this purpose “coherence” refers to a party’s or a witness’s ability in giving evidence to give answers which address the questions put to the party or the witness and can be understood both individually and collectively.

(3) The court may make a direction that a person (P), who is a party or witness in the proceedings, shall have the assistance of a measure specified in paragraph (5), where it is stated that—

(a) P is, or is at risk of, being subjected to abusive behaviour by a person who is—

- (i) a party to the proceedings,
- (ii) a relative of a party to the proceedings (other than P), or
- (iii) a witness in the proceedings, and

(b) P and that person are personally connected.

(4) When deciding whether to make a direction under paragraph (3) the court shall have regard in particular to—

- (a) any views expressed by P;
- (b) any views expressed by a party other than P;
- (c) the nature and extent of the information before the court;
- (d) the issues arising in the proceedings;
- (e) whether any of the measures specified in paragraph (5) would, in its opinion, be likely to improve the quality of evidence given by P, or their participation in the proceedings; and
- (f) the availability of the measure to the court.

(5) The measures which may be directed by the court under this rule are those which—

- (a) prevent P from seeing another party or witness; or
- (b) allow P to participate in the proceedings and give evidence by live link.

(6) The court shall consider whether to make a direction under paragraph (3) either—

- (a) on the written request in Form SM of a party, at the commencement of the proceedings or as soon as practicable after, filed and served on the other parties; or
- (b) of its own motion having given the parties notice of its intention to do so and an opportunity to attend and be heard, or to make written representations.

(7) In an urgent case, a request under paragraph 6(a) may, with the leave of the court, be made orally.

(8) Subject to paragraph (7), on receipt of a written request under paragraph 6(a) the clerk of petty sessions shall fix a date for the hearing of the request and give not less than 2 days’ notice to the parties of the date so fixed.

(9) Where every other party has given their consent in writing to the direction which is sought, the court may grant the request without a hearing and the clerk of petty sessions shall inform the parties of the decision.

(10) The court may vary or revoke a direction made under paragraph (3).

(11) A direction made under paragraph (3) which is still in force immediately prior to the transfer of proceedings to another court shall continue to apply following the transfer subject to any changes of terminology which are required to apply the direction to the court to which the proceedings are transferred, unless varied or discharged.

(12) The court shall take a note of the making, variation or revocation of a direction under this rule and serve, as soon as practicable, a copy of the note on any party who was not present at the making, variation or revocation.”

**4.** In Schedule 1 (Forms) after Form D13 insert the new Form SM set out in the Schedule.

*Nigel Broderick  
Eoghan McKenna  
Debbie Maclam  
Tracey McCloskey*

Dated 13th October 2022

In exercise of the power conferred by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981 and after consultation with the Lady Chief Justice, I allow these Rules.

Sealed with the Official Seal of the Department of Justice on 20th October 2022



*Naomi R Long*  
Minister for Justice

## SCHEDULE

Rule 4

### Form SM – Rule 15B(6)(a)

#### APPLICATION FOR SPECIAL MEASURES DIRECTION (VICTIM OF ABUSIVE BEHAVIOUR) UNDER RULE 15B

##### PART 1

##### **1. About you (the person making the application)**

*State:*

- *your title, full name, address, telephone number, date of birth*
- *which party you are to the case eg. applicant, respondent*
- *your solicitor's name, address, reference, telephone, email and DX number*

##### **2. Details of witness in respect of whom the application is made (if not the person making the application)**

*State:*

- *title, full name and date of birth (if known)*

##### **3. Case details**

*State:*

- *the type of proceedings*
- *ICOS number if known*
- *court venue*
- *date of next court appearance if known*

##### **4. Specify the special measure being sought:**

**5. Reasons for applying**

*State briefly the reasons for applying*

**6. Persons to be served with this application**

*For each respondent to this application state the title, full name and address*

PART 2

To be completed if the application is for evidence to be given through a live link.

**Give the address of any venue from which the witness will give evidence.**

The name of the person who it is proposed will accompany the witness, their occupation and their relationship (if any) to the witness.

Signed  
(Applicant)

Date

## **EXPLANATORY NOTE**

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

These Rules amend the Magistrates' Courts (Domestic Proceedings) Rules (Northern Ireland) 1996 (S.R. 1996 No. 324) to make provision for a court to make a special measures direction for a party or witness who is stated to be a victim of domestic abuse and to prescribe the procedure.

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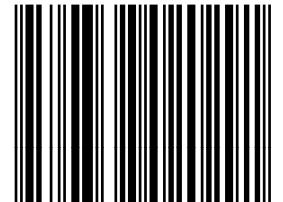
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