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DRAFT STATUTORY INSTRUMENTS

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**1998 No.**

**Criminal Justice (Children) (Northern Ireland) Order 1998**

**PART IV**

**CRIMINAL PROCEEDINGS**

**Evidence of child in committal proceedings for violent or sexual offence**

**23.**—(1) In any proceedings before a magistrates' court conducting a preliminary investigation into a violent or sexual offence—

- (a) a child shall not be called as a witness for the prosecution; but
- (b) any statement made by or taken from a child shall be admissible in evidence of any matter of which his oral testimony would be admissible,

except in a case where the application of this paragraph is excluded under paragraph (3).

(2) In this Article—

- (a) “child”, in relation to a violent offence, means a child under the age of 14; and
- (b) any reference to a violent or sexual offence includes a reference to an offence which consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, a violent or sexual offence.

(3) Paragraph (1) does not apply—

- (a) where the prosecution requires the attendance of a child for the purpose of establishing the identity of any person; or
- (b) where the court is satisfied that it has not been possible to obtain from the child a statement that may be given in evidence under this Article; or
- (c) where the investigation into the offence takes place after the court has discontinued to try it summarily and the child has given evidence in the summary trial.

(4) Where in the course of a preliminary investigation into a violent or sexual offence, a resident magistrate decides under Article 45 of the Magistrates' Courts (Northern Ireland) Order 1981 to deal with the offence summarily, a statement admitted in pursuance of this Article shall not be deemed to be evidence of the matters to which it relates.

(5) Nothing in Article 33 of the Magistrates' Courts (Northern Ireland) Order 1981 shall apply to a statement to which this Article applies.