

Regulations made by the Lord Chancellor, laid before Parliament under section 202(3) of the Police, Crime, Sentencing and Courts Act 2022, for approval by resolution of each House of Parliament within 28 days beginning with the day on which the Regulations were made, subject to extensions for periods of dissolution, prorogation or adjournment for more than four days.

S T A T U T O R Y I N S T R U M E N T S

2022 No. 705

CIVIL PROCEEDINGS

CORONERS

CRIMINAL PROCEDURE

FAMILY PROCEEDINGS

TRIBUNALS AND INQUIRIES

**The Remote Observation and Recording (Courts and Tribunals)
Regulations 2022**

Made - - - - at 10.05 a.m. on 27th June 2022

Laid before Parliament at 5.00 p.m. on 27th June 2022

Coming into force - - 28th June 2022

The Lord Chancellor, with the concurrence of the Lord Chief Justice and the Senior President of Tribunals as required by section 85A(10) of the Courts Act 2003^(a) (the Lord Chancellor having determined under section 85A(9) of that Act that the function of giving or withholding concurrence would most appropriately be performed by both of them), makes the following Regulations under section 85A(8) and (11) of that Act.

Citation, commencement, interpretation and extent

1.—(1) These Regulations may be cited as the Remote Observation and Recording (Courts and Tribunals) Regulations 2022 and come into force on 28th June 2022.

(2) In these Regulations, “section 85A” means section 85A of the Courts Act 2003.

(3) These Regulations extend to England and Wales, Scotland and Northern Ireland.

^(a) 2003 c. 39. Section 85A was inserted by section 198 of the Police, Crime, Sentencing and Courts Act 2022 (c. 32).

Specified proceedings

2. Directions under section 85A(2) may be given in relation to proceedings, of any type and in any court to which section 85A applies, which are—

- (a) in public; or
- (b) proceedings at which the general public is not entitled to be present but specific categories of person, or specific individuals, who are not taking part in the proceedings are entitled to be present by virtue of provision made by or under any enactment or of being authorised by the court.

Matters of which the court must be satisfied

3. Before making a direction under section 85A(2), the court must be satisfied that—

- (a) it would be in the interests of justice to make the direction; and
- (b) there is capacity and technological capability to enable transmission, and giving effect to the direction would not create an unreasonable administrative burden.

Matters that the court must take into account

4. Before deciding whether, and on what terms, to make a direction under section 85A(2), the court must take into account—

- (a) the need for the administration of justice to be, as far as possible, open and transparent;
- (b) the timing of any request or application to the court or tribunal to make a direction, and its impact on the business of the court or tribunal;
- (c) the extent to which the technical, human and other resources necessary to facilitate effective remote observation are or can be made available;
- (d) any limitation imposed by or under any enactment on the persons who are entitled to be present at the proceedings;
- (e) any issues which might arise if persons who are outside the United Kingdom are among those watching or listening to the transmission;
- (f) any impact which the making or withholding of such a direction, or the terms of the direction, might have upon—
 - (i) the content or quality of the evidence to be put before the court or tribunal;
 - (ii) public understanding of the law and the administration of justice;
 - (iii) the ability of the public, including the media, to observe and scrutinise the proceedings;
 - (iv) the safety and right to privacy of any person involved with the proceedings.

Provision which must be included in a direction

5.—(1) A direction under section 85A(2) made in relation to proceedings specified in regulation 2(b) must include provision which has the effect of—

- (a) prohibiting any person other than a person entitled to be present at those proceedings from watching or listening to the transmission; and
- (b) requiring any person so entitled to demonstrate, in such manner as specified in the direction, the capacity in which that person is so entitled.

(2) A direction under section 85A(2) made in relation to any proceedings must, except where the direction is for transmission to designated live-streaming premises, include provision which has the effect—

- (a) that no person will be able to watch or listen to the transmission without first, when identifying themselves to the court, providing their full name and their email address, unless the court dispenses with this requirement;

- (b) of requiring as a condition of continued access that any person given access will during the transmission conduct themselves appropriately and in particular in accordance with any requirements of the direction or instructions of the judge for persons observing the proceedings.

At 10.05 a.m. on 27th June 2022

James Cartridge
Parliamentary Under Secretary of State
Ministry of Justice

I concur

20th June 2022

Burnett of Maldon, C.J.
Lord Chief Justice

20th June 2022

Keith Lindblom
Senior President of Tribunals

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision to give effect to sections 85A and 85B of the Courts Act 2003 (which enable a court – defined by section 85A(1) in wide terms which include a tribunal – in specified proceedings to make a direction for the proceedings to be transmitted for the purpose of enabling persons to watch and listen to them remotely).

Regulation 2 specifies the proceedings in respect of which such a direction may be made.

Regulation 3 prescribes certain matters of which the court must be satisfied before it can make a direction.

Regulation 4 prescribes matters which the court must take into account in deciding whether to make a direction and the terms of any such direction.

Regulation 5 specifies provision which must be included in any direction which is made.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

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