
STATUTORY INSTRUMENTS

2022 No. 815

The Criminal Procedure (Amendment No. 2) Rules 2022

Amendments to the Criminal Procedure Rules

12. In Part 18 (Measures to help a witness or defendant to give evidence or otherwise participate)

- (a) in rule 18.1 (When this Part applies)—
- (i) for paragraph (c) substitute—

“(c) where the court can give, vary or discharge a direction (a ‘defendant’s evidence direction’) for a defendant to give evidence through an intermediary, under sections 33BA and 33BB of the 1999 Act(1);”
 - (ii) omit paragraph (e), and
 - (iii) renumber paragraphs (f) and (g) as (e) and (f) respectively;
- (b) for rule 18.2 (Meaning of ‘witness’) substitute—

“Meaning of ‘witness’ and ‘live link’

18.2. In this Part—

- (a) witness’ means anyone (other than a defendant) for whose benefit an application, direction or order is made; and
- (b) ‘live link’, in relation to a witness, means a live television link or other arrangement by which a witness who is absent from the courtroom or other place where the proceedings are being held is able to see and hear a person there and to be seen and heard by—
 - (i) the judge or justices (or both) and the jury (if there is one),
 - (ii) legal representatives acting in the proceedings, and
 - (iii) any interpreter or other person appointed (in pursuance of the direction or otherwise) to assist the witness.

[Note. See section 24(8) of the Youth Justice and Criminal Evidence Act 1999(2).]”;

- (c) in rule 18.3 (Meaning of ‘intermediary’ and ‘intermediary’s report’), in paragraph (b) for “rule 18.32” substitute “rule 18.28”;
- (d) in the note to rule 18.4 (Making an application for a direction or order)—
 - (i) for “rule 18.24 (Content of application for a live link direction) and rule 18.27” substitute “and rule 18.23”, and
 - (ii) for the second paragraph substitute—

(1) 1999 c. 23; sections 33BA and 33BB are inserted by section 104 of the Coroners and Justice Act 2009 (c. 25), with effect from a date to be appointed.

(2) 1999 c. 23.

“The Practice Direction sets out a form for use in connection with an application under rule 18.10 for a special measures direction.”];

- (e) in the note to rule 18.5 (Decisions and reasons) omit “, 33A(8)”;
- (f) in rule 18.15 (Content of application for a defendant’s evidence direction)—
 - (i) at the end of paragraph (a) insert “and”,
 - (ii) omit paragraph (b),
 - (iii) renumber paragraph (c) as (b), and
 - (iv) in the note to the rule for “sections 33A and” substitute “section”;
- (g) in rule 18.16 (Application to vary or discharge a defendant’s evidence direction)—
 - (i) omit paragraph (2)(a),
 - (ii) renumber paragraphs (2)(b), (c) and (d) as (2)(a), (b) and (c) respectively, and
 - (iii) in the note to the rule for “sections 33A(7) and” substitute “section”;
- (h) omit the section heading “Live link directions”, the note immediately beneath that heading and rules 18.23 to 18.26;
- (i) renumber rules 18.27 to 18.32 as 18.23 to 18.28 respectively;
- (j) in rule 18.24 as thus renumbered (Application to vary or discharge the appointment of an intermediary for a defendant) for “rule 18.27(6)” substitute “rule 18.23(6)”;
- (k) in the “Summary of eligibility for measures to which this Part applies” at the end of the Part—
 - (i) in the note beneath the heading “Special measures direction”, in sub-paragraph (b) of the second paragraph after “sexual offence” insert “or other offence specified by the Act” and, in the third paragraph, before “in force” insert “fully”,
 - (ii) for the note beneath the heading “Defendant’s evidence direction” substitute—

“When the Coroners and Justice Act 2009(3) comes into force, under section 33BA of the 1999 Act the court can allow a defendant to give evidence through an intermediary if—

 - (a) *the defendant—*
 - (i) *is under 18, and the defendant’s ability to participate effectively as a witness giving oral evidence is compromised by his or her level of intellectual ability or social functioning; or*
 - (ii) *suffers from a mental disorder or some other significant impairment of intelligence and social functioning and cannot participate effectively as a witness giving oral evidence for that reason; and*
 - (b) *the examination of the defendant through an intermediary is necessary to ensure that the defendant receives a fair trial.”, and*
 - (iii) omit the heading “Live link direction” and the note beneath that heading; and
- (l) amend the table of contents correspondingly.