STATUTORY RULES OF NORTHERN IRELAND

2009 No. 19

COUNTY COURTS

The County Court (Amendment) Rules (Northern Ireland) 2009

Made - - - -	*16th January 2009*
Coming into operation	*9th February 2009*

The County Court Rules Committee makes the following Rules in exercise of the powers conferred by Article 47 of the County Courts (Northern Ireland) Order 1980(**1**), and Article 14 of the Criminal Justice (Northern Ireland) Order 2004(**2**).

Citation and commencement

1. These Rules may be cited as the County Court (Amendment) Rules (Northern Ireland) 2009 and shall come into operation on 9th February 2009.

Amendments

2. In Order 30 of the County Court Rules (Northern Ireland) 1981(**3**) ("the principal Rules")—

(a) in rule 3(3), for "section 129(1)(b)", substitute "section 129(1)(b) or (ba)";

(b) in rule 12(1), for "section 129(1)(b)", substitute "section 129(1)(b) or (ba)"; and

(c) add after rule 12(2)—

"(3) An applicant who is a debtor or hirer making an application for an order under section 129(1)(ba) must attach to the notice of application, a copy of the notice served on the creditor or owner under section 129A(1)(a).".

3. In Order 32, rule 1 of the principal Rules—

(a) in paragraph (4), for "(4A) and (4B)", substitute "(4A) to (4D)"; and

(b) add after paragraph (4B)—

"(4C) If the appeal is brought under section 11 of the UK Borders Act 2007(**4**) (in this rule referred to as "the 2007 Act") against a decision of the Secretary of State to impose a penalty under section 9(1) of the 2007 Act, the appeal notice must, subject to

(**1**) S.I. 1980/397 (N.I.3) to which the most recent relevant amendment was made by the Constitutional Reform Act 2005 (c.4).
(**2**) S.I. 2004/1500 (N.I. 9).
(**3**) S.R. 1981 No. 225 to which the most relevant amendments were made by S.R. 2008 No. 199.
(**4**) 2007 (c.30).

paragraph (4D), be served within twenty-one days from the date on which the penalty notice was received.

(4D) If notice of objection has been given to the Secretary of State under section 10 of the 2007 Act within the time prescribed for doing so, the appeal notice must be served within twenty-one days from the date on which the notice of the Secretary of State's decision in response to the notice of objection was received.".

4. In Order 32 of the principal Rules, after rule 6I, insert the following new Rules—

"**Evidence by live link by witness (other than the defendant)**

6IA.—(1) An application for a direction under Article 10 of the Criminal Justice (Northern Ireland) Order 2004 for a witness (other than the defendant) to give evidence through a live link shall be made by giving notice in writing which shall be in Form 137T.

(2) The application under paragraph (1) shall be made within 14 days from the date of the service of notice of appeal from a decision of a magistrates' court.

(3) The notice under paragraph (1) shall be served on the chief clerk of the appropriate county court division, and at the same time a copy thereof shall be served by the applicant on every other party to the appeal.

(4) Any party who wishes to oppose the application shall, within 7 days of the date that notice under paragraph (1) was served on him, notify the applicant and the chief clerk, in writing, of his opposition and give reasons for it.

(5) Except where notice is received in accordance with paragraph (4), the court may—

(a) determine the application in favour of the applicant without a hearing; or

(b) direct a hearing.

(6) Where a party to the appeal notifies the chief clerk in accordance with paragraph (4) of his opposition to the application, the court shall direct a hearing of the application.

(7) Where a hearing is to take place in accordance with paragraphs (5) or (6), the chief clerk shall notify each party to the appeal of the time and place of the hearing.

(8) A party notified in accordance with paragraph (7) may be present at the hearing and be heard.

(9) The chief clerk shall, as soon as reasonably practicable, notify all the parties of the decision in Form 137U, and, where a direction is given, the notification shall state—

(a) if known, the place where the witness will give evidence;

(b) where the witness is to give evidence on behalf of the prosecutor or where disclosure is required by section 6A(2) of the Criminal Procedure and Investigations Act 1996, the name of witness;

(c) the location of the court at which the appeal will be held; and

(d) any conditions specified by the court in accordance with paragraph (10).

(10) In determining an application under paragraph (1), the court may specify that as a condition of the direction, the witness should give evidence in the presence of a specified person who is able and willing to answer under oath or affirmation any questions the court may put as to the circumstances in which the evidence is given, including questions about any persons who are present when the evidence is given and any matters which may affect the giving of the evidence.

Application for rescission of a direction

6IB.—(1) An application to rescind a direction for a witness to give evidence through a live link under Article 11(5)(a) of Criminal Justice (Northern Ireland) Order 2004 shall be made in writing and shall specify each material change of circumstances which the applicant alleges has occurred since the direction was made.

(2) An application under paragraph (1) shall be served on the chief clerk and on every other party to the appeal as soon as is reasonably practicable after the change in circumstances occurs.

(3) Any party on whom a copy of the notice under paragraph (2) is served may oppose the application on the ground that it discloses no material change of circumstances.

(4) Paragraphs (4) to (9) of Rule 6IA shall apply to an application to rescind a live link direction as they apply to an application for a live link direction.".

5. In Appendix 1 to the principal Rules—

(a) after Form 137S, insert Forms 137T and 137U set out in the Schedule to these Rules; and

(b) in Form 284, for "section 129(1)(b)" substitute "section 129(1)(b) or (ba)" in both instances.

The undersigned members of the County Court Rules Committee certify these Rules and submit them to the Lord Chancellor.

T.A. Burgess
C.E. Philpott
Hilary Keegan
Barry Valentine
Nigel McCombe
Brian F. Walker
Brian J. Stewart
Philip Babington
Nigel Elliott

Dated 16th December 2008

In exercise of the powers conferred by Article 47(4) of the County Courts (Northern Ireland) Order 1980 and after consultation with the Lord Chief Justice, I allow these Rules which shall come into operation on 9th February 2009.
Signed by the authority of the Lord Chancellor

BridgetPrentice
Parliamentary Under-Secretary of State
Ministry of Justice

Dated 16th January 2009