STATUTORY RULES OF NORTHERN IRELAND

2006 No. 499

SUPREME COURT, NORTHERN IRELAND

PROCEDURE

The Crown Court (Amendment) Rules (Northern Ireland) 2006

Made - - - -	*5th December 2006*
To be laid before Parliament	
Coming into operation	*8th January 2007*

The Crown Court Rules Committee makes the following Rules in exercise of the powers conferred by section 52(1) and 53A of the Judicature (Northern Ireland) Act 1978(**1**), Article 80A(7) of the Police and Criminal Evidence (Northern Ireland) Order 1989(**2**), section 49 of the Criminal Justice Act 2003(**3**) and section 20 of the Domestic Violence, Crime and Victims Act 2004(**4**).

Citation and Commencement

1. These Rules may be cited as the Crown Court (Amendment) Rules (Northern Ireland) 2006 and shall come into operation on 8th January 2007.

Amendment to the Crown Court Rules (Northern Ireland) 1979(**5**)

2.—(1) For rule 20, there shall be substituted the following new rule—

"**Form of an indictment**

20.—(1) Subject to paragraph (2), an indictment shall be in Form 3 in the Schedule.

(2) Where the Court makes an order under section 17 of the Domestic Violence, Crime and Victims Act 2004 for a trial to take place on the basis that the trial of some, but not all, of the counts included in the indictment shall be conducted without a jury, an indictment shall be in Form 3A in the Schedule.".

(2) After rule 44A, there shall be inserted the following new rules—

(**1**) 1978 c. 23 to which the most recent relevant amendment was made by the Constitutional Reform Act 2005 (c. 4)
(**2**) S.I. 1989/1341 (N.I.12). Article 80A was inserted by Article 31 of the Criminal Justice (Northern Ireland) Order 2003 (S.I. 2003/1247 (N.I.13)) as amended by Article 24 of the Criminal Justice (Northern Ireland) Order 2005 (S.I. 2005/1965 (N.I.15))
(**3**) 2003 c. 44, as modified in its application to Northern Ireland by section 50 of that Act
(**4**) 2004 c. 28, as modified in its application to Northern Ireland by paragraph 6 of Schedule 1 to that Act
(**5**) **S.R. 1979 No. 90 to which the most recent relevant amendment was made by S.R. 2005 No. 80**

"**Trial without jury where danger of jury tampering**

44AA.—(1) An application by the prosecution for a trial to be conducted without a jury under section 44 of the Criminal Justice Act 2003 (*danger of jury tampering*) shall be made by giving notice in writing which shall be in Form 5 in the Schedule.

(2) The notice under paragraph (1) shall be served on the chief clerk and every other party to the proceedings within 28 days from the date—

(a) of the committal of the defendant; or

(b) on which Notice of Transfer under Article 3 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988(**6**) or under Article 4 of the Children's Evidence (Northern Ireland) Order 1995(**7**) was given; or

(c) on which leave to present an indictment under section 2(2)(e) of the Grand Jury (Abolition) Act (Northern Ireland) 1969(**8**) was given, or

(d) on which an order for retrial is made.

(3) Where the grounds for making an application under paragraph (1) do not arise until after the expiry of the time limit specified above, the prosecution shall make the application as soon as reasonably practicable.

(4) Any party who wishes to oppose the application under paragraph (1) shall, within 14 days of the date that notice of the application was served on him, notify the chief clerk and every other party to the proceedings, in writing, of his opposition giving reasons for it.

(5) An application under paragraph (1) shall be determined by a judge at a hearing on or after the arraignment of the accused and the chief clerk shall notify the parties of the time and place of any such hearing.

(6) A party notified in accordance with paragraph (5) may be present at the hearing and be heard.

(7) The chief clerk shall, as soon as reasonably practicable after the determination of an application under paragraph (1), notify all the parties of the decision in Form 5A in the Schedule.

(8) An application to the judge of the Crown Court for leave to appeal under section 47(1) of the Criminal Justice Act 2003 shall be made orally within two days of the making of the order or ruling to which it relates.

(9) Unless the application is made on the occasion of the order or ruling to which it relates, the appellant shall serve notice in writing thereof, specifying the grounds of the application on the chief clerk and on every other party to the proceedings directly affected by the order or ruling which is the subject of the application for leave to appeal.

(10) The Court may, if it considers that it is in the interests of justice to do so—

(a) allow a notice required under this rule to be given in a different form, or orally; or

(b) extend or abridge the time for service of a notice required under this rule, either before or after that period expires.

Trial by jury of sample counts only

44AB.—(1) An application under section 17 of the Domestic Violence, Crime and Victims Act 2004 *(application by prosecution for certain counts to be tried without a jury)* shall be made by giving notice in writing which shall be in Form 5B in the Schedule.

(**6**) S.I. 1988/1846 (N.I.16)
(**7**) S.I. 1995/757 (N.I.3)
(**8**) 1969 c. 15 (N.I.)

(2) The notice under paragraph (1) shall be accompanied by a copy of the indictment in Form 3A in the Schedule which it would be intended to present if the Court makes an order for the trial to take on the basis that the trial of some, but not all, of the counts included in the indictment may be conducted without a jury and shall be served on the chief clerk and every other party to the proceedings within 28 days from the date—

(a) of the committal of the defendant; or

(b) on which Notice of Transfer under Article 3 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 or under Article 4 of the Children's Evidence (Northern Ireland) Order 1995 was given; or

(c) on which leave to present an indictment under section 2(2)(e) of the Grand Jury (Abolition) Act (Northern Ireland) 1969 was given, or

(d) on which an order for retrial is made.

(3) Any party who wishes to oppose the application under paragraph (1) shall, within 14 days of the date that notice of the application was served on him, notify the chief clerk and every other party to the proceedings, in writing, of his opposition giving reasons for it.

(4) An application under paragraph (1) shall be determined by a judge at a hearing on or after the arraignment of the accused and the chief clerk shall notify the parties of the time and place of any such hearing.

(5) A party notified in accordance with paragraph (4) may be present at the hearing and be heard.

(6) The chief clerk shall, as soon as reasonably practicable after the determination of an application under paragraph (1), notify all the parties of the decision in Form 5C in the Schedule.

(7) An application to the judge of the Crown Court for leave to appeal under section 18A(1) of the Domestic Violence, Crime and Victims Act 2004 shall be made orally within two days of the making of the order or ruling to which it relates.

(8) Unless the application is made on the occasion of the order or ruling to which it relates, the appellant shall serve notice in writing thereof, specifying the grounds of the application, on the chief clerk and on every other party to the proceedings directly affected by the order or ruling which is the subject of the application for leave to appeal.

(9) The Court may, if it considers that it is in the interests of justice to do so—

(a) allow a notice required under this rule to be given in a different form, or orally; or

(b) extend the time for service of a notice required under this rule, either before or after that period expires.".

(3) After rule 44O, there shall be inserted the following new rule—

"**Evidence by live link where witness is outside the United Kingdom**

44P.—(1) An application for leave under Article 80A(3) of the Police and Criminal Evidence (Northern Ireland) Order 1989 for a witness (other than the accused) who is outside the United Kingdom to give evidence through a live link shall be made by giving notice in writing which shall be in Form 7J in the Schedule.

(2) The notice under paragraph (1) shall be served on the chief clerk and every other party to the proceedings within 28 days from the date—

(a) of the committal of the defendant; or

(b) on which Notice of Transfer under Article 3 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988(**9**) or under Article 4 of the Children's Evidence (Northern Ireland) Order 1995(**10**) was given; or

(c) on which leave to present an indictment under section 2(2)(e) of the Grand Jury (Abolition) Act (Northern Ireland) 1969(**11**) was given, or

(d) on which an order for retrial is made.

(3) Any party who wishes to oppose the application under paragraph (1) shall, within 14 days of the date on which notice of the application was served on him, notify the chief clerk and every other party to the proceedings in writing, of his opposition giving reasons for it.

(4) Except where notice is received in accordance with paragraph (3), the Court may—

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

(b) direct a hearing.

(5) Where a party to the proceedings notifies the chief clerk in accordance with paragraph (3) of his opposition to the application, the Court shall direct a hearing of the application.

(6) Where a hearing is to take place in accordance with paragraphs (4) or (5), the chief clerk shall notify each party to the proceedings of the time and place of the hearing.

(7) A party notified in accordance with paragraph (6) may be present at the hearing and be heard.

(8) The chief clerk shall, as soon as reasonably practicable after determination of an application under paragraph (1), notify all parties of the decision of the court in Form 7K and, where leave is granted, the notification shall state—

(a) the country in which the witness will give evidence;

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

(c) where the witness is to give evidence on behalf of the prosecutor or where the disclosure is required by section 5(7) of the Criminal Procedure and Investigations Act 1996(**12**) (alibi), the name of the witness;

(d) the location of the Court at which the trial will be held; and

(e) any conditions specified by the Court in accordance with paragraph (9).

(9) In determining an application under paragraph (1), the Court may specify that as a condition of the grant of leave 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.

(10) The Court may, if it considers that it is in the interests of justice to do so—

(a) allow a notice required under this rule to be given in a different form, or orally; or

(b) abridge or extend the time for service of a notice required under this rule, either before or after that period expires.".

(4) The Schedule shall be amended as follows—

(a) by inserting after Form 3, the new Form 3A in the Schedule to these Rules;

(**9**) S.I. 1988/1846 (N.I.16)
(**10**) S.I. 1995/757 (N.I.13)
(**11**) 1969 c. 15 (N.I.)
(**12**) 1996 c. 25

(b) by inserting after Form 4, the new Forms 5 to 5C in the Schedule to these Rules;

(c) by inserting after Form 7I, the new forms 7J and 7K in the Schedule to these Rules.

Brian Kerr
T A Burgess
Corinne E Philpott
Eilis McDermott
Cathal McCorry
Dated 23rd November 2006 *Barra McGrory*

Signed by the authority of the Lord Chancellor
In exercise of the powers conferred by section 53A(3) of the Judicature (Northern Ireland) Act 1978, I allow these Rules.

Bridget Prentice
Parliamentary Under Secretary of State
Dated 5th December 2006 Department for Constitutional Affairs