STATUTORY RULES OF NORTHERN IRELAND

2005 No. 80

SUPREME COURT, NORTHERN IRELAND

The Crown Court (Amendment) Rules (Northern Ireland) 2005

Made - - - -	*8th March 2005*
To be laid before Parliament	
Coming into operation	*18th April 2005*

We, the Crown Court Rules Committee, in exercise of the powers conferred upon us by section 52(1) of the Judicature (Northern Ireland) Act 1978(**1**), Articles 16 and 35 of the Criminal Justice (Evidence) (Northern Ireland) Order 2004(**2**), and all other powers enabling us in that behalf, hereby with the concurrence of the Lord Chancellor make the following Rules:

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Crown Court (Amendment) Rules (Northern Ireland) 2005 and shall come into operation on 18th April 2005.

(2) In these Rules, "the principal Rules" shall mean the Crown Court Rules (Northern Ireland) 1979(**3**), and a reference to a rule or a Form by number means the rule or Form so numbered in the principal Rules.

Amendment to the principal Rules

2.—(1) Rule 2(1) shall be amended by inserting after the definition of "the 1999 Order", the following definition:

""the 2004 Order" means the Criminal Justice (Evidence) (Northern Ireland) Order 2004;".

(2) After rule 44M there shall be inserted the following new rules –

"**Procedure for the admission of evidence of bad character**

44N.—(1) A party who wants to adduce evidence of a non-defendant's bad character or to cross examine a witness with a view to eliciting such evidence, under Article 5 of the 2004 Order shall give notice in writing which shall be in Form 7E in the Schedule.

(**1**) 1978 c. 23
(**2**) S.I. 2004/1501 (N.I. 10)
(**3**) S.R. 1979 No. 90; to which the most recent relevant amendment was made by S.R. 2004 No. 233

(2) Notice under paragraph (1) shall be served on the chief clerk and every other party to the proceedings –

(a) within 14 days from the date on which the prosecutor has complied or purported to comply with section 3 of the Criminal Procedure and Investigations Act 1996(**4**) (disclosure by the prosecutor); or

(b) as soon as is reasonably practicable, where the application concerns a non-defendant who is to be invited to give, or has given, evidence for a defendant.

(3) Any party who wishes to oppose the application under paragraph (1) shall, within 14 days of the date on which the 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) A prosecutor who wants to adduce evidence of a defendant's bad character or to cross examine a witness with a view to eliciting such evidence, under Article 6 of the 2004 Order, shall give notice in writing which shall be in Form 7F in the Schedule.

(5) Notice under paragraph (4) shall be served on the chief clerk and every other party to the proceedings within 14 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(**5**) or under Article 4 of the Children's Evidence (Northern Ireland) Order 1995(**6**) 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(**7**) was given, or

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

(6) A co-defendant who wants to adduce evidence of a defendant's bad character or to cross examine a witness with a view to eliciting such evidence, under Article 6 of the 2004 Order shall give notice in writing which shall be in Form 7F in the Schedule.

(7) Notice under paragraph (6) shall be served on the chief clerk and every other party to the proceedings within 14 days from the date on which the prosecutor has complied or purported to comply with section 3 of the Criminal Procedure and Investigations Act 1996 (disclosure by the prosecutor).

(8) An application by a defendant to exclude bad character evidence shall be by notice in writing which shall be in Form 7G in the Schedule and shall be served on the chief clerk and on every other party to the proceedings within 7 days of the date that notice under paragraph (4) or paragraph (6) was served on him.

(9) A defendant who is entitled to have notice served on him under this rule may waive his entitlement by so informing the Court and the party who would have served the notice.

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

(a) allow notice or application 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 or application required under this rule, either before or after that period expires.

(**4**) 1996 c. 25; section 3 was amended by section 82(1) of and paragraph 7(1) of Schedule 4 to the Regulation of Investigatory Powers Act 2000 (c. 23) and is prospectively amended by section 32 of the Criminal Justice Act 2003 (c. 44)
(**5**) S.I. 1988/1846 (N.I. 16)
(**6**) S.I. 1995/757 (N.I. 3)
(**7**) 1969 c. 15 (N.I.)

Procedure for the admission of hearsay evidence

44O.—(1) This rule shall apply where a party wishes to adduce evidence on one or more of the grounds set out in Article 18(1)(a) to (d) of the 2004 Order and in this rule, such evidence is referred to as "hearsay evidence".

(2) A prosecutor who wants to adduce hearsay evidence shall give notice in writing which shall be in Form 7H in the Schedule.

(3) Notice under paragraph (2) shall be served on the chief clerk and every other party to the proceedings within 14 days from the date of –

(a) the committal of the defendant;

(b) service of a notice of transfer under Article 3 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988(**8**) (serious fraud cases) or under Article 4 of the Children's Evidence (Northern Ireland) Order 1995(**9**) (certain cases involving children); or

(c) the grant of leave to present an indictment under section 2(2)(e) of the Grand Jury (Abolition) Act (Northern Ireland) 1969(**10**); or

(d) the making of an order for retrial.

(4) A defendant who wants to adduce hearsay evidence shall give notice in writing which shall be in Form 7H in the Schedule.

(5) Notice under paragraph (4) shall be served on the chief clerk and every other party to the proceedings within 14 days from the date on which the prosecutor has complied with or purported to comply with section 3 of the Criminal Procedure and Investigations Act 1996(**11**) (disclosure by prosecutor).

(6) Any party who wishes to oppose the application under paragraph (2) or (4) shall, within 14 days of the date the notice of the application was served on him, notify the chief clerk and every other party to the proceedings, in writing in Form 7I in the Schedule, of his opposition.

(7) A party who is entitled to have notice served on him under this rule may waive his entitlement by so informing the Court and the party who would have served the notice.

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

(a) dispense with the requirement to give notice of intention to adduce hearsay evidence;

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

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

(3) The Schedule to the principal Rules shall be amended by inserting after Form 7D, the new Forms 7E to 7I in the Schedule to these Rules.

(**8**) S.I. 1988/1846 (N.I. 16)
(**9**) S.I. 1995/757 (N.I. 3)
(**10**) 1969 c. 15 (N.I.)
(**11**) 1996 c. 25

Brian Kerr
J. M. Nicholson
J. Gillen
Gordon Kerr
Corinne E. Philpott
J. Wilson
Paul G. Copeland
Barra McGrory

Dated 3rd March 2005

Signed by authority of the Lord Chancellor
I concur

Baroness Ashton of Upholland
Parliamentary Under-Secretary of State,
Department for Constitutional Affairs

Dated 8th March 2005

SCHEDULE Rule 2(3)

FORMS TO BE INSERTED IN THE CROWN COURT RULES (NORTHERN IRELAND) 1979
FORM 7EIN THE CROWN COURT IN NORTHERN IRELAND**Application for leave to adduce evidence of non-defendant's bad character**(Article 5 of the Criminal Justice (Evidence) (Northern Ireland) Order 2004)