STATUTORY RULES OF NORTHERN IRELAND

# 2000 No. 227

# SUPREME COURT, NORTHERN IRELAND
# CROWN COURT

## The Crown Court (Amendment) Rules (Northern Ireland) 2000

*To be laid before Parliament*

*Made - - - - 10th July 2000*

*Coming into operation in accordance with Rule 1*

We, the Crown Court Rules Committee, in exercise of the powers conferred upon us by section 51(5), 51A(7), (8) and (9), 51C(2) and (3), 51D(5), (6) and (7), 51F(3) and (4) and 52(1) of the Judicature (Northern Ireland) Act 1978(**1**), Articles 30(3) and 39(1) of the Criminal Evidence (Northern Ireland) Order 1999(**2**) and of 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) 2000 and except as provided by paragraph (2) shall come into operation on 21st August 2000.

(2) Rule 3 shall come into operation on the same day as Article 28 of the Criminal Evidence (Northern Ireland) Order 1999 comes into operation.

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

### Amendments to the principal Rules

**2.** The principal Rules shall be amended as follows—

(a) by inserting after paragraph (1) of rule 12 the following new paragraphs:

"(1A) A person specified in rule 11(1) before whom a recognizance may be entered into may require a person offering himself as surety to a recognizance to produce evidence as to his means and as to his identity and place of abode and to sign a certificate

(**1**) 1978 c. 23, sections 51A, 51C, 51D and 51F were inserted by section 66 of the Criminal Procedure and Investigations Act 1996 (c. 25), as modified in its application to Northern Ireland by Schedule 4 to that Act

(**2**) S.I. 1999/2789 (N.I. 8)

(**3**) S.R. 1979 No. 90; to which the most recent relevant amendments were made by S.R. 1999 No. 491

that he is possessed of sufficient means to pay the sum in which he is to be bound under the recognizance.

(1B) Such certificate shall be attached to or endorsed on the recognizance.".

(b) rules 66, 67, 68, 69, 70 and 71 shall be re-numbered rules 63, 64, 65, 66, 67 and 68, respectively.

(c) by substituting in Form 11 in the Schedule for the words "paragraph 7", the words "paragraph 33".

**Criminal Evidence (Northern Ireland) Order 1999**

**3.** After rule 44C, there shall be inserted the following new rule:

"**Procedure for applications in proceedings for sexual offences**

**44D.**—(1) Subject to paragraph (9), an application under Article 28(2) of the Criminal Evidence (Northern Ireland) Order 1999 (in this Rule referred to as the "1999 Order") is made by giving notice in writing to the chief clerk and shall—

(a) be received by the chief clerk within 21 days of the primary disclosure by the prosecutor, or

(b) be accompanied by a full written explanation specifying the reasons why the application could not have been made within the 21 days mentioned above.

(2) Such an application shall contain the following—

(a) a summary of the evidence it is proposed to adduce and of the questions it is proposed to put to any witness;

(b) a full explanation of the reasons why it is considered that the evidence and questions fall within Article 28(3) or (5) of the 1999 Order;

(c) a summary of any document or other evidence to be submitted in support of such evidence and questions;

(d) where it is proposed that a witness at the trial give evidence as to the complainant's sexual behaviour, the name and date of birth of any such witness.

(3) A copy of the notice of application must be sent to the prosecutor at the same time as it is sent to the chief clerk.

(4) The prosecutor must notify the applicant and the chief clerk, in writing—

(a) whether or not he opposes the application, giving reasons for any such opposition, and

(b) whether or not he wishes to be represented at the hearing of the application,

and where the notice of application is received by the prosecutor more than 14 days before the date set for the trial to begin, the notification must be issued within 14 days of his receipt of the notice.

(5) In considering any application under this rule, the court may request a party to the proceedings to provide the court with such information as it may specify and which the court considers would assist in determining the application.

(6) Where the court makes such a request, the person required to provide the information must do so within 14 days of the court making the request or by such time as the court considers appropriate in the circumstances of the case.

(7) An application under paragraph (1) shall be determined by a judge following a hearing.

(8) The date and time of the hearing must be—

(a) determined by the chief clerk after taking into consideration—

(i) any time which a party to the proceedings has been given to respond to a request for information; and

(ii) the date fixed for any other hearing relevant to the proceedings; and

(b) notified by the chief clerk to both the applicant and the prosecutor.

(9) An application under Article 28(2) of the 1999 Order may be made orally to the trial judge where the application is made after the trial has begun.

(10) The person making the application under paragraph (9) shall—

(a) give reasons why the applicant failed to make the application in writing in accordance with paragraph (1); and

(b) provide the court with the information set out in paragraph (2).

(11) The chief clerk shall, as soon as possible after the hearing of an application under paragraph (1), give notice of the decision by the judge to—

(a) the applicant or his legal representative; and

(b) the prosecution.

(12) In this Rule "primary disclosure" has the same meaning as in Part I of the Criminal Procedure and Investigations Act 1996(**4**).".

**Inserting new Part X into principal Rules**

**4.**—(1) This rule applies in relation to any proceedings for the purpose of which no summons requiring the attendance of a witness has been issued before 21st August 2000 and where this rule does not apply the law in operation immediately before this rule came into operation continues to have effect.

(2) The principal Rules shall be amended by adding after Part IX the new Part X set out in the Schedule to these Rules.

**Amendment to the Crown Court (Amendment No. 2) Rules (Northern Ireland) 1999**

**5.** In rule 2 of the Crown Court (Amendment No. 2) Rules (Northern Ireland) 1999(**5**) for the words "rule 65" there shall be substituted the words "rule 62".

*R. D. Carswell*
*J. M. Nicholson*
*J. Gillen*
*C. Adair*
*J. O. Brady*
*Francis Keenan*
*J. W. Wilson*
*A. R. Hart*
Dated 15th June 2000 *Paul G. Copeland*

(**4**) 1996 c. 25
(**5**) S.R. 1999 No. 491

I concur

Dated 10th July 2000 *Irvine of Lairg, C.*