STATUTORY RULES OF NORTHERN IRELAND

1999 No. 6

MAGISTRATES' COURTS

Magistrates' Courts (Amendment) Rules (Northern Ireland) 1999

Made - - - -	*7th January 1999*
Coming into operation	*31st January 1999*

The Lord Chancellor, in exercise of the powers conferred on him by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981(**1**) and Articles 81(5) and 81A(11) of the Police and Criminal Evidence (Northern Ireland) Order 1989(**2**) and of all other powers enabling him in that behalf, on the advice of the Magistrates' Courts Rules Committee and after consultation with the Lord Chief Justice, hereby makes the following Rules:—

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Magistrates' Courts (Amendment) Rules (Northern Ireland) 1999 and shall come into operation on 31st January 1999.

(2) In these Rules, the "principal Rules" means the Magistrates' Courts Rules (Northern Ireland) 1984(**3**) and a reference to a Rule or Form by number means the Rule or Form so numbered in the principal Rules.

Amendment to Rule 5 of the principal Rules

2. For Rule 5, there shall be substituted the following new Rule —

> "**5.** Subject to the Children and Young Persons Act (Northern Ireland) 1968(**4**) and the Criminal Justice (Children) (Northern Ireland) Order 1998(**5**), nothing in these Rules shall affect the operation of the Magistrates' Courts (Criminal Justice (Children)) Rules (Northern Ireland) 1999(**6**)."

(**1**) S.I. 1981/1675 (N.I. 26)
(**2**) S.I. 1989/1341 (N.I. 12); to which the most recent relevant amendments were made by S.I. 1995/757 (N.I. 3) and S.I. 1998/1504 (N.I. 9)
(**3**) S.R. 1984 No. 225; to which the most recent relevant amendments were made by S.R. 1996 No. 126 and S.R. 1997 No. 428
(**4**) 1968 c. 34 (N.I.)
(**5**) S.I. 1998/1504 (N.I. 9)
(**6**) S.R. 1999 No. 7

Evidence through television link where witness will not give evidence otherwise through fear or is a child or is to be cross-examined after admission of video recording

3. In Rule 149A paragraph (2) sub-paragraph (b), for the word "juvenile" there shall be substituted the word "magistrates"'.

Evidence

4. After Rule 149A, there shall be inserted the following new Rule 149AA—

"**Video recordings of testimony from a child**

149AA.—(1) In proceedings for an offence to which Article 81(3) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (in this Rule known as "the 1989 Order") applies, any party may apply to the court for leave under Article 81A(2) of the 1989 Order to tender in evidence a video recording of testimony if—

(a) in the case of an offence falling within Article 81(3)(a) or (b) of the 1989 Order, the witness is under the age of 14 or, if he was under 14 when the video recording was made, is under the age of 15; or

(b) in the case of an offence falling within Article 81(3)(c) of the 1989 Order, the witness is under the age of 17 or, if he was under 17 when the video recording was made, is under the age of 18; and

the video recording is of an interview conducted between an adult and a person coming within sub-paragraph (a) or (b) (not being the accused or one of the accused) which relates to any matter or issue in the proceedings.

(2) An application under paragraph (1) shall be made by giving notice in writing, which shall be in the form prescribed in Form 15B in Schedule 1. Such notice shall state the grounds of the application and shall be accompanied by the video recording which it is proposed to tender in evidence and shall include the following, namely—

(a) the name of the accused and the offence or offences charged;

(b) the name and date of birth of the witness in respect of whom the application is made;

(c) the date on which the video recording was made;

(d) a statement that in the opinion of the applicant the witness is willing and able to attend the trial for cross-examination;

(e) a statement of the circumstances in which the video recording was made which complies with paragraph (4); and

(f) the date on which the video recording was disclosed to the other party or parties.

(3) Where it is proposed to tender part only of a video recording of an interview with the witness, an application under paragraph (1) must specify that part and be accompanied by a video recording of the entire interview including those parts of the interview which it is not proposed to tender in evidence and by a statement of the circumstances in which the video recording of the entire interview was made which complies with paragraph (4).

(4) The statement of the circumstances in which the video recording was made referred to in paragraphs 2(e) and (3) shall include the following information, except insofar as it is contained in the recording itself, namely—

(a) the times at which the recording commenced and finished, including details of any interruptions;

(b) the location at which the recording was made and the usual function of the premises;

(c) the name, age and occupation of any person present at any point during the recording, the time for which he was present and his relationship (if any) to the witness and to the accused;

(d) a description of the equipment used, including the number of the cameras used and whether they were fixed or mobile, the number and location of microphones and the video format used and whether there were single or multiple recording facilities; and

(e) the location of the mastertape if the video recording is a copy and details of when and by whom the copy was made.

(5) An application under paragraph (1) shall be made not less than 14 days before the commencement of the proceedings to which the application relates.

(6) The period of 14 days under paragraph (5) may be abridged at any time by the court on an application made in writing, specifying the grounds of the application. The clerk of petty sessions shall notify all the parties of the decision of the court on the application for abridgement of time.

(7) The notice under paragraph (2) or (6) shall be served on the clerk of petty sessions and, at the same time, copies thereof shall be served by the applicant on every other party to the proceedings. Copies of any video recording required by paragraph (2) or (3) to accompany the notice shall at the same time be sent to the court and to any other party who has not already been served with a copy, or in the case of an accused acting in person, shall be made available for viewing by him.

(8) A party who receives a copy of a notice under paragraph (2) shall, within 7 days of service of the notice, notify the applicant and the clerk of petty sessions in writing—

(a) whether he objects to the admission of the video recording or recordings disclosed, giving his reasons why it would not be in the interests of justice for it to be admitted;

(b) whether he would agree to the admission of part of the video recording or recording disclosed and if so, which part; and

(c) whether he wishes to be represented at any hearing of the application.

(9) After the expiry of the period referred to in paragraph (8) the court shall determine whether an application under paragraph (1) is to be dealt with—

(a) without a hearing; or

(b) where any party notifies the clerk of petty sessions pursuant to paragraph (8) that he objects to the admission of any part of the video recording and that he wishes to be represented at any hearing, or in any other case where the court so directs, at a hearing at which the applicant and such other party or parties as the court may direct may be represented,

and the clerk of petty sessions shall notify the applicant and, where necessary, the other party or parties, of the time and place of any such hearing.

(10) The clerk of petty sessions shall within 3 working days of the decision of the court in relation to an application under paragraph (1) being made, notify all the parties of it in the form prescribed in Form 15C in Schedule 1, and, where leave is granted, the notification shall state whether the whole or specified parts only of the video recording or recordings disclosed are to be admitted in evidence.”.

Taking of Recognizances

5. In Rule 150 paragraph (2), for the words "training school or remand home" there shall be substituted the words "juvenile justice centre" and for the words "school or home", there shall be substituted the word "centre".

Forms

6. The forms set out in the Schedule shall be inserted in Schedule 1 to the principal Rules in the place appropriate to their number.

Dated 7th January 1999. *Irvine of Lairg, C.*