STATUTORY RULES OF NORTHERN IRELAND

1996 No. 294

COUNTY COURTS

County Court (Amendment No. 2) Rules (Northern Ireland) 1996

Made - - - -	*10th July 1996*
Coming into operation	*2nd September 1996*

We, the County Court Rules Committee appointed by the Lord Chancellor under Article 46 of the County Courts (Northern Ireland) Order 1980(**1**), in exercise of the powers conferred on us by Article 47 of that Order and Articles 81(5) and 81A(11) of the Police and Criminal Evidence (Northern Ireland) Order 1989(**2**) and of all other powers enabling us in that behalf, hereby make the following Rules:—

Citation and interpretation

1.—(1) These Rules may be cited as the County Court (Amendment No. 2) Rules (Northern Ireland) 1996.

(2) In these Rules, a reference to an Order, Part, Appendix or Form is a reference to that Order, Part, Appendix or Form as numbered in the County Court Rules (Northern Ireland) 1981(**3**).

2. In Order 32 Part IIA, after Rule 6A there shall be inserted the following new Rules:—

"Evidence through television link

6B. Any party to an appeal arising out of proceedings in a juvenile court for an offence to which Article 81(3) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (in this Rule referred to as "the 1989 Order") applies, may apply for leave under Article 81(2) of the 1989 Order for evidence to be given through television link by a witness who is either—

(a) in the case of an offence falling within Article 81(3)(a) or (b) of the 1989 Order, under the age of 14; or

(b) in the case of an offence falling within Article 81(3)(c) of the 1989 Order, under the age of 17; or

(**1**) S.I.1980/397 (N.I. 3)
(**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)
(**3**) S.R. 1981 No. 225; to which the most recent relevant amendment was made by S.R. 1995 No. 282

(c) to be cross-examined following the admission under Article 81A of the 1989 Order of a video recording of testimony from him.

(2) An application under paragraph (1) shall be made by giving notice in writing which shall be in Form 137A.

(3) An 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 juvenile court.

(4) The notice under paragraph (2) 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.

(5) A party who receives a copy of a notice under paragraph (2) and who wishes to oppose the application shall within 7 days notify the applicant and the chief clerk, in writing, of his opposition, giving the reasons therefor.

(6) An application under paragraph (1) shall be determined by a judge who may direct a hearing and the chief clerk shall notify the parties of the time and place of any such hearing.

(7) The chief clerk shall notify all the parties of the decision of the judge in relation to an application under paragraph (1) and, where leave is granted the notification shall state—

(a) where the witness is to give evidence on behalf of the prosecution, the name of the witness, or (as the case may be) the letter under which he is designated in the proceedings and the name, occupation and relationship, (if any) to the witness of the person, (if known) who is to accompany the witness; and

(b) the location of the county court at which the hearing of the appeal should take place.

(8) Unless the judge otherwise directs, a witness shall, when giving evidence through a television link, be present in the building in which the court is sitting.

(9) When giving evidence through television link a witness shall be accompanied by a person acceptable to the judge and unless the judge otherwise directs, by no other person.

Video recordings of testimony from child witnesses

6C.—(1) Any party to an appeal arising out of proceedings in a juvenile court for an offence to which Article 81(3) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (in this Rule referred to as "the 1989 Order") applies, may apply for leave under Article 81A of the 1989 Order to tender in evidence a video recording of testimony from a witness where—

(a) in the case of an offence falling within Article 81(3)(a) or (b), the proposed 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;

(b) in the case of an offence falling within Article 81(3)(c), the proposed 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 in issue in the appeal.

(2) An application under paragraph (1) shall be made by giving notice in writing which shall be Form 137B. The application 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 defendant 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);

(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 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 in so far 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; his relationship (if any) to the witness and to the appellant;

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

(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 within 14 days from the date of the service of notice of appeal from a decision of a juvenile court.

(6) The notice under paragraph (2) shall be served on the chief clerk and at the same time, copies thereof shall be served by the applicant on every other party to the appeal. 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 appellant acting in person, shall be made available for viewing by him.

(7) 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 chief clerk in writing—

(a) whether he objects to the admission of any part 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; and

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

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

(8) After the expiry of the period referred to in paragraph (7), a judge shall determine whether an application under paragraph (1) is to be dealt with—

(a) without a hearing; or

(b) where any party notifies the chief clerk pursuant to paragraph (7) 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 judge so directs, at a hearing at which the applicant and such other party or parties as the judge may direct may be represented,

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

(9) The chief clerk shall within 3 days of the decision of the judge in relation to an application under paragraph (1) being made, notify all the parties of it in Form 137C 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.".

3. Appendix I shall be amended by inserting after Form 137 the new Forms set out in the Schedule.

We, the undersigned members of the County Court Rules Committee, having by virtue of the powers vested in us in this behalf made the foregoing Rules, do hereby certify the same under our hand and submit them to the Lord Chancellor accordingly

J. F. B. Russell
J. J. Curran
T. A. Burgess
James A. Agnew
Barry Valentine
H. McM. Keegan
Dated 25th June 1996. *G. H. Keatley*

After consultation with the Lord Chief Justice I allow these Rules which shall come into operation on 2nd September 1996

Dated 10th July 1996. *Mackay of Clashfern,* C.

SCHEDULE Rule 3

New Forms to be inserted in the County Court Rules (Northern Ireland) 1981

Form 137A**Application under Article 81(2) of the Police and Criminal Evidence (Northern Ireland) Order 1989 for leave to use television link where witness is a child or is to be cross-examined after admission of video recording**ORDER 32: PART IIA: RULE 6B

- An application should be made within 14 days from the date of service of notice of appeal
- This form may also be used where an extension of time has been granted for the making of this application
- A copy of this form must be served at the same time on every other party to the appeal.

Case Details

of Complainant
of Defendant
} Petty Sessions District of
} County Court Division of

Appeal No. (if known)

Date Notice of Appeal Served:

Application

Name of applicant:

Name of applicant's solicitor:

Address of solicitor:

Reference:

Give brief details of those charges to which this application relates

Charges

Note
An application by the defence for evidence to be given through live television link need not disclose who that witness is except to the extent that disclosure is required by section 1 Evidence of Alibi Act (Northern

Witness — Please read the Note beside this section before completing

Date of Birth:

If an application has been made to tender in evidence a video recording of testimony from the witness, state the date and (if known) result of that application.