1989 No. 393

SUPREME COURT, NORTHERN IRELAND

CROWN COURT

The Crown Court (Amendment No. 2) Rules (Northern Ireland) 1989

Made . . . . . *6th October 1989*

Coming into operation . . *1st November 1989*

To be laid before Parliament

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(**a**) and Article 81(5) of the Police and Criminal Evidence (Northern Ireland) Order 1989(**b**), hereby with the concurrence of the Lord Chancellor make the following Rules:—

1. These Rules may be cited as the Crown Court (Amendment No. 2) Rules (Northern Ireland) 1989 and shall come into operation on 1st November 1989.

2. The Crown Court Rules (Northern Ireland) 1979(**c**) shall be amended by inserting after rule 44A the following rule:—

"*Evidence through television link where witness is under 14 or will not give evidence otherwise through fear*

44B.—(1) Any party may apply for leave under Article 81(2) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (in this Rule referred to as the "1989 Order") for evidence to be given through a live television link by a witness who:—

(*a*) will not give evidence otherwise through fear; or

(*b*) is under the age of 14 and the offence charged is specified in Article 81(3) of the 1989 Order

(2) An application under paragraph (1) shall be made by giving notice in writing which shall be in Form 5 in the Schedule.

(3) An application under paragraph (1) shall be made within 28 days from the date:—

(*a*) of the committal of the defendant; or

(a) 1978 c. 23
(b) S.I. 1989/1341 (N.I. 12)
(c) S.R. 1979 No. 90; Rule 44A was inserted by S.R. 1989 No. 296. There are other amendments to S.R. 1979 No. 90 not relevant to these Rules

(*b*) on which Notice of Transfer under Article 3 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988(**a**) 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(**b**) is given; or

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

(4) The notice under paragraph (2) shall be served on the chief clerk and at the same time a copy thereof shall be served by the applicant on every other party to the proceedings.

(5) A party who receives a copy of a notice under paragraph (2) and who wishes to oppose the application shall within 14 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 prosecutor, the name of the witness, or (as the case may be) the letter under which he is designated in the proceedings, and, in the case of a witness under the age of 14, 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 Crown Court at which the trial should take place.

(8) The period of 28 days in paragraph (3) or the period of 14 days in paragraph (5) may be extended, either before or after it expires, on an application made in writing specifying the grounds of the application and served on the chief clerk and a copy of the application shall be served by the applicant on every other party to the proceedings.

(9) An application for extension of time under paragraph (8) 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.

(10) The chief clerk shall notify all parties of the decision of the court on the application for extension of time.

(11) 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.

(12) When giving evidence through a television link—

(**a**) S.I. 1988 No. 1846 (N.I. 16)
(**b**) 1969 c. 15 (N.I.)

(*a*) a witness who is under the age of 14, shall be accompanied by a person acceptable to a judge and, unless the judge otherwise directs, by no other person;

(*b*) any other witness shall not be accompanied by any other person unless the judge otherwise directs.''.

3. The Crown Court Rules (Northern Ireland) 1979 shall be further amended by inserting, after Form 4 in Schedule 1, the form set out in the Schedule to these Rules.

Dated 27th September 1989

Brian Hutton
Robert Porter
Vivian Care
Ronald Appleton
T. Brady
Francis Keenan

I concur, *Mackay of Clashfern*, C.

Dated 6th October 1989