Changes to legislation: *Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988 is up to date with all changes known to be in force on or before 31 March 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

1988 No. 1847 (N.I. 17)

Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988

- - - - - - *26th October 1988*

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988.

(2) The following provisions, namely—

(a) Articles 12 to 15;

(b) Article 16, in so far as it relates to the provisions mentioned in sub#paragraph (*c*); and

(c) paragraph 1 of Schedule 2 and Part I of Schedule 3,

shall come into operation on the expiration of 2 months from the day on which this Order is made.

(3) The other provisions of this Order shall come into operation on such day as the Secretary of State may by order appoint[F1].

F1 partly exercised by SR 1989/329; SR 1990/296

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954[F2] shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order "statutory provision" has the meaning given in section 1(*f*) of the Interpretation Act (Northern Ireland) 1954.

F2 1954 c. 33 (NI)

Part II (Arts. 3—8) rep. by 2004 NI 10

PART III

OTHER PROVISIONS ABOUT EVIDENCE IN CRIMINAL PROCEEDINGS

Art. 9 rep. by 1990 c. 5

Expert reports

10.—(1) An expert report shall be admissible as evidence in criminal proceedings, whether or not the person making it attends to give oral evidence in those proceedings.

(2) If it is proposed that the person making the report shall not give oral evidence, the report shall only be admissible with the leave of the court.

(3) For the purpose of determining whether to give leave the court shall have regard—

(a) to the contents of the report;

(b) to the reasons why it is proposed that the person making the report shall not give oral evidence;

(c) to any risk, having regard in particular to whether it is likely to be possible to controvert statements in the report if the person making it does not attend to give oral evidence in the proceedings, that its admission or exclusion will result in unfairness to the accused or, if there is more than one, to any of them; and

(d) to any other circumstances that appear to the court to be relevant.

(4) An expert report, when admitted, shall be evidence of any fact or opinion of which the person making it could have given oral evidence.

(5) In this Article "expert report" means a written report by a person dealing wholly or mainly with matters on which he is (or would if living be) qualified to give expert evidence.

Form of evidence and glossaries

11. For the purpose of helping members of juries to understand complicated issues of fact or technical terms Crown Court rules may make provision—

(a) as to the furnishing of evidence in any form, notwithstanding the existence of admissible material from which the evidence to be given in that form would be derived; and

(b) as to the furnishing of glossaries for such purposes as may be specified;

in any case where the court gives leave for, or requires, evidence or a glossary to be so furnished.

Art. 12 rep. by 1998 NI 9

Abolition of requirement of corroboration for unsworn evidence of children

Para. (1) rep. by 1995 NI 3

(2) Any requirement whereby at a trial on indictment it is obligatory for the court to give the jury a warning about convicting the accused on the uncorroborated evidence of a child is abrogated[F3]. . .

(3) Unsworn evidence admitted by virtue of**[**[F4] Article 34 of the Criminal Evidence (Northern Ireland) Order 1999**]** may corroborate evidence (sworn or unsworn) given by any other person.

F3 1996 NI 24
F4 1999 NI 8

PART IV

MISCELLANEOUS AND SUPPLEMENTARY

Corruption

14. [F5]. . . . . .

F5 Art. 14 repealed (1.7.2011) by Bribery Act 2010 (c. 23), ss. 17(3), 19(1), **Sch. 2** (with ss. 16, 19(5)); S.I. 2011/1418, **art. 2**

[F6Possession of indecent photograph of child]

15.—(1) **[**F7Subject to Article 15A**]** it is an offence for a person to have any indecent photograph**[**F8 or pseudo#photograph**]** of a child[F8]. . . in his possession.

(2) Where a person is charged with an offence under paragraph (1), it shall be a defence for him to prove—

(a) that he had a legitimate reason for having the photograph**[**F9 or pseudo#photograph**]** in his possession; or

(b) that he had not himself seen the photograph**[**F9 or pseudo#photograph**]** and did not know, nor had any cause to suspect, it to be indecent; or

(c) that the photograph**[**F9 or pseudo#photograph**]** was sent to him without any prior request made by him or on his behalf and that he did not keep it for an unreasonable time.

[F10(2A) A person shall be liable on conviction on indictment of an offence under paragraph (1) to imprisonment for a term not exceeding five years or a fine, or both.**]**

(3) A person shall be liable on summary conviction of an offence under paragraph (1) to**[**F11 imprisonment for a term not exceeding 6 months or**]** a fine not exceeding level 5 on the standard scale**[**F11, or both**]**.

(4) Proceedings for an offence under paragraph (1) shall not be instituted except by or with the consent of the Director of Public Prosecutions for Northern Ireland.

(5) Articles 2(2) **[**F12, (2A)**]** and (3), 7(1) and 8 of the Protection of Children (Northern Ireland) Order 1978[F13] shall have effect as if any reference in them to that Order included a reference to this Article.

(6) Possession before this Article comes into operation is not an offence.

F6 2000 c.43
F7 Words in art. 15(1) inserted (2.2.2009) by Sexual Offences (Northern Ireland) Order 2008 (S.I. 2008/1769 (N.I. 2)), arts. 1(3), **42(7)**; S.R. 2008/510, **art. 2**
F8 1994 c.33
F9 1994 c.33
F10 2000 c.43
F11 1994 c.33
F12 Words in art. 15(5) inserted (8.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 148(1), 153(2)(c), **Sch. 26 para. 25**
F13 1978 NI 17