

2006 No.

SUPREME COURT, NORTHERN IRELAND

PROCEDURE

The Crown Court (Amendment) Rules (Northern Ireland) 2006

Made - - - - - 2006
Coming into operation - 8th January 2007
To be laid before Parliament

The Crown Court Rules Committee makes the following Rules in exercise of the powers conferred by section 52(1) and 53A of the Judicature (Northern Ireland) Act 1978(a) and section 49 of the Criminal Justice Act 2003(b).

Citation and Commencement

1. These Rules may be cited as the Crown Court (Amendment) Rules (Northern Ireland) 2006 and shall come into operation on 8th January 2007.

Amendment to the Crown Court Rules (Northern Ireland) 1979(c)

2.—(1) After rule 44A, there shall be inserted the following new rule—

“Trial without jury where danger of jury tampering

44AA.—(1) An application by the prosecution for a trial to be conducted without a jury under section 44 of the Criminal Justice Act 2003 (*danger of jury tampering*) shall be made by giving notice in writing which shall be in Form 5 in the Schedule.

(2) The notice under paragraph (1) shall be served on the chief clerk and every other party to the proceedings within 28 days from the date—

- (a) of the committal of the defendant; or
- (b) on which Notice of Transfer under Article 3 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988(d) or under Article 4 of the Children’s Evidence (Northern Ireland) Order 1995(e) 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(f) was given, or

(a) 1978 c.23 to which the most recent relevant amendment was made by the Constitutional Reform Act 2005 (c.4)
(b) 2003 c.44, as modified in its application to Northern Ireland by section 50 of that Act
(c) S.R. 1979 No. 90 to which the most recent relevant amendment was made by S.R. 2005 No. 80
(d) S.I. 1988/1846 (N.I.16)
(e) S.I. 1995/757 (N.I.3)
(f) 1969 c.15 (N.I.)

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

(3) Where the grounds for making an application under paragraph (1) do not arise until after the expiry of the time limit specified above, the prosecution shall make the application as soon as reasonably practicable.

(4) Any party who wishes to oppose the application under paragraph (1) shall, within 14 days of the date that notice of the application was served on him, notify the chief clerk and every other party to the proceedings, in writing, of his opposition giving reasons for it.

(5) An application under paragraph (1) shall be determined by a judge at a hearing on or after the arraignment of the accused and the chief clerk shall notify the parties of the time and place of any such hearing.

(6) A party notified in accordance with paragraph (5) may be present at the hearing and be heard.

(7) The chief clerk shall, as soon as reasonably practicable after the determination of an application under paragraph (1), notify all the parties of the decision in Form 5A in the Schedule.

(8) An application to the judge of the Crown Court for leave to appeal under section 47(1) of the Criminal Justice Act 2003 shall be made orally within two days of the making of the order or ruling to which it relates.

(9) Unless the application is made on the occasion of the order or ruling to which it relates, the appellant shall serve notice in writing thereof, specifying the grounds of the application on the chief clerk and on every other party to the proceedings directly affected by the order or ruling which is the subject of the application for leave to appeal.

(10) The Court may, if it considers that it is in the interests of justice to do so—

(a) allow a notice required under this rule to be given in a different form, or orally; or

(b) extend or abridge the time for service of a notice required under this rule, either before or after that period expires.

(2) The Schedule shall be amended by inserting after Form 4, the new Forms 5 and 5A in the Schedule to these Rules.

Dated

[Rules Committee Members]

Signed by the authority of the Lord Chancellor

In exercise of the powers conferred by section 53A(3) of the Judicature (Northern Ireland) Act 1978, I allow these Rules.

Parliamentary Under Secretary of State
Department for Constitutional Affairs

Dated

SCHEDULE

Rule 2(2)

FORMS TO BE INSERTED INTO THE CROWN COURT RULES (NORTHERN IRELAND) 1979

Form 5

Rule 44AA(1)

IN THE CROWN COURT IN NORTHERN IRELAND

Form of application for a trial without jury under section 44 of the Criminal Justice Act 2003 (jury tampering)

An application should be made within 28 days from—

- (a) the date of the committal of the defendant; or
- (b) the date on which Notice of Transfer under Article 3 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 or under Article 4 of the Children's Evidence (Northern Ireland) Order 1995 was given; or
- (c) the date on which leave to present an indictment under section 2(2)(e) of the Grand Jury Abolition) Act (Northern Ireland) 1969 was given; or
- (d) the date on which an order for retrial is made.

This Form may be used where the reasons for making the application do not arise until after the time limits outlined above have expired.

This Form may also be used where an extension of time has been granted for the making of this application.

This Form should be served on the chief clerk, and at the same time a copy thereof shall be served on every other party to the proceedings.

<i>Details Required</i>	<i>Notes</i>
Details of Applicant PPS Office: PPS Reference Number:	
Case Details The Crown Court at: Crown Court Bill Number:	

IN THE CROWN COURT IN NORTHERN IRELAND

Notice of decision of application for trial without jury under section 44 of the Criminal Justice Act 2003 (Jury Tampering)

<p>Case Details</p> <p>The Crown Court at:</p> <p>Crown Court Bill number:</p> <p>Name of Defendant(s):</p> <p>Defendant's Solicitor:</p>	
<p>Application made by:</p> <p>PPS Office:</p> <p>PPS Reference:</p> <p>Date of Application:</p>	

Result

An application for trial without jury under section 44 of the Criminal Justice Act 2003 is granted*/refused*.

The Court is satisfied*/not satisfied* that there is evidence of a real and present danger that jury tampering would take place.

The Court is satisfied*/not satisfied* that notwithstanding any steps which might reasonably be taken to prevent jury tampering, the likelihood that jury tampering would take place is so substantial as to make it necessary in the interests of justice for the trial to be conducted without a jury.

* Delete as appropriate

Dated this day of 20 .

Chief Clerk

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Crown Court Rules (Northern Ireland) 1979 (“the principal Rules”) to prescribe the procedure relating to applications for trial without a jury under section 44 of the Criminal Justice Act 2003

Section 44 of the Criminal Justice Act 2003 provides for a trial to be conducted without a jury where the judge is satisfied that there is a real and present danger of jury tampering.

Rule 2(1) inserts a new rule 44AA into the principal Rules. New rule 44AA(1) provides that an application for trial without jury shall be made by giving notice in the prescribed form. New rule 44AA(2) sets out the time limits for making such an application. New rule 44AA(3) provides that, where the grounds for making the application do not arise until after the expiry of the prescribed time limit, the prosecution shall make the application as soon as reasonably practicable.

New rule 44AA(4) sets out the procedure to be followed by any party who wishes to oppose the application. The chief clerk shall notify the parties of the time and place for the hearing of an application (new rule 44AA(5)) and a party notified may be present at the hearing and be heard (new rule 44AA(6)). New rule 44AA(7) provides that the chief clerk shall notify the parties of the decision of the Court.

New rule 44AA(8) provides that an application for leave to appeal shall be made orally within two days of the making of the order or ruling which is to be appealed in accordance with the procedure set out in new rule 44AA(9).

New rule 44AA(10) provides that the Court may extend or abridge the time for service of any notice under that rule and may allow notice to be given in a different form or orally.

Rule 2(2) amends the Schedule to the principal Rules by inserting new Forms 5 and 5A for use in connection with applications prescribed by these Rules.