

**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 20 of the Domestic Violence, Crime and Victims Act 2004(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 8<sup>th</sup> January 2007.

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

2.—(1) For rule 20, there shall be substituted the following new rule—

**“Form of an indictment**

**20.**—(1) Subject to paragraph (2), an indictment shall be in Form 3 in the Schedule.

(2) Where the Court makes an order under section 17 of the Domestic Violence, Crime and Victims Act 2004 for a trial to take place on the basis that the trial of some, but not all, of the counts included in the indictment shall be conducted without a jury, an indictment shall be in Form 3A in the Schedule.”

(2) After rule 44AA, there shall be inserted the following new rule—

**“Trial by jury of sample counts only**

**44AB.**—(1) An application under section 17 of the Domestic Violence, Crime and Victims Act 2004 (*application by prosecution for certain counts to be tried without a jury*) shall be made by giving notice in writing which shall be in Form 5B in the Schedule.

(2) The notice under paragraph (1) shall be accompanied by a copy of the indictment in Form 3A in the Schedule which it would be intended to present if the Court makes an order

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(a) 1978 c.23 to which the most recent relevant amendment was made by the Constitutional Reform Act 2005 (c.4)  
(b) 2004 c.28, as modified in its application to Northern Ireland by paragraph 6 of Schedule 1 to that Act  
(c) S.R. 1979 No. 90 to which the most recent relevant amendment was made by S.R. 2005 No. 80

for the trial to take on the basis that the trial of some, but not all, of the counts included in the indictment may be conducted without a jury and 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(a) or under Article 4 of the Children's Evidence (Northern Ireland) Order 1995(b) 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(c) was given, or
- (d) on which an order for retrial is made.

(3) 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.

(4) 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.

(5) A party notified in accordance with paragraph (4) may be present at the hearing and be heard.

(6) 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 5C in the Schedule.

(7) An application to the judge of the Crown court for leave to appeal under section 18A(1) of the Domestic Violence, Crime and Victims Act 2004 shall be made orally within two days of the making of the order or ruling to which it relates.

(8) 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.

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

(3) The Schedule shall be amended as follows—

- (a) by inserting after Form 3, the new Form 3A in the Schedule to these Rules; and
- (b) by inserting after Form 5A, the new Forms 5B and 5C in the Schedule to these Rules.

Dated

[Rules Committee Members]

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(a) S.I. 1988/1846 (N.I.16)  
(b) S.I. 1995/757 (N.I.3)  
(c) 1969 c.15 (N.I.)

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(3)

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

**Form 3A**

Rule 20(2)

IN THE CROWN COURT IN NORTHERN IRELAND

**Form of indictment for use where an application is to be made under section  
17(2) of the Domestic Violence, Crime and Victims Act 2004 for trial by jury of  
sample counts only**

**INDICTMENT**

The Queen v A.B.

COURT OF TRIAL: The Crown Court at

DATE: [i.e. date on which the indictment is to be presented.]

**CHARGE[S]:-**

A.B. is charged as follows:-

**PART 1**

Count 1

STATEMENT OF OFFENCE

PARTICULARS OF OFFENCE

Count 2

STATEMENT OF OFFENCE

PARTICULARS OF OFFENCE

[and so on, stating the offence and particulars thereof for each count charged in the indictment  
which is to be tried by a jury]

**PART 2**

Section 1: counts associated with Count 1 in Part 1 of this indictment.

Count 1.1

STATEMENT OF OFFENCE

PARTICULARS OF OFFENCE

Count 1.2

STATEMENT OF OFFENCE

PARTICULARS OF OFFENCE

[and so on, stating the offence and particulars thereof for each count associated with Count 1 in Part 1 of this indictment]

Section 2: counts associated with Count 2 in Part 1 of this indictment.

Count 2.1

STATEMENT OF OFFENCE

PARTICULARS OF OFFENCE

Count 2.2

STATEMENT OF OFFENCE

PARTICULARS OF OFFENCE

[and so on, stating the offence and particulars thereof for each count associated with Count 2 in Part 1 of this indictment]

## IN THE CROWN COURT IN NORTHERN IRELAND

**Form of application for a trial by jury of sample counts only under section 17 of the Domestic Violence, Crime and Victims Act 2004**

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 shall 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>
<p><b>Details of applicant:</b></p> <p>PPS Office:</p> <p>PPS Reference Number:</p>	
<p><b>Case Details</b></p> <p>The Crown Court at:</p> <p>Crown Court Bill Number:</p>	
<p>Date of—</p> <p>committal for trial*</p> <p>order for retrial*</p> <p>notice of transfer*</p>	*Delete as appropriate



## IN THE CROWN COURT IN NORTHERN IRELAND

**Notice of decision on an application for trial by jury of sample counts under section 17 of the Domestic Violence, Crime and Victims Act 2004**

<p><b>Case Details</b></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><b>Application made by:</b></p> <p>PPS Office:</p> <p>PPS Reference:</p> <p>Date of Application:</p>	

**Result:**

The application under section 17 of the Domestic Violence, Crime and Victims Act 2004 for a trial to take place on the basis that the trial of some, but not all, of the counts included in the indictment may be conducted without a jury is granted\*/refused\*.

The Court is satisfied\*/not satisfied\* that the following three conditions are fulfilled:

1. That the number of counts included in the indictment is likely to mean that a trial by jury involving all of those counts would be impracticable.
2. That each count or group of counts which is to be tried with a jury can be regarded as a sample of counts which are to be tried without a jury.
3. That it is in the interests of justice for an order under Article 17(2) of the Domestic Violence, Crime and Victims Act 2004 to be made.

\*Delete where 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 by jury of sample counts only under section 17 of the Domestic Violence, Crime and Victims Act 2004.

Section 17 of the 2004 Act provides for a trial by jury to proceed on sample counts only, where the judge is satisfied that each count can be regarded as a sample of counts which could accordingly be tried without a jury and that it would be impracticable to try all the counts by jury.

Rule 2(1) substitutes a new rule 20 into the principal Rules to provide that, where the Court makes an order for a trial to take place on the basis that the trial of some, but not all, of the counts included in the indictment shall be conducted without a jury, an indictment shall be in Form 3A in the Schedule.

Rule 2(2) inserts a new rule 44AB into the principal Rules. New rule 44AB(1) provides that an application for trial by jury of sample counts only shall be made by giving notice in the prescribed form. New rule 44AB(2) sets out the time limits for making such an application and provides that the notice shall be accompanied by a copy of the indictment in Form 3A.

New rule 44AB(3) 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 44AB(4)) and a party notified may be present at the hearing and be heard (new rule 44AB(5)). New rule 44AB(6) provides that the chief clerk shall notify the parties of the decision of the Court.

New rule 44AB(7) 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 44AB(8).

New rule 44AB(9) 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(3) amends the Schedule to the principal Rules by inserting new Forms 3A, 5B and 5C for use in connection with applications prescribed by these Rules.