

**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 Article 80A(7) of the Police and Criminal Evidence (Northern Ireland) Order 1989(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 44O, there shall be inserted the following new rule—

**“Evidence by live link where witness is outside the United Kingdom**

**44P.**—(1) An application for leave under Article 80A(3) of the Police and Criminal Evidence (Northern Ireland) Order 1989 for a witness (other than the accused) who is outside the United Kingdom to give evidence through a live link shall be made by giving notice in writing which shall be in Form 7J 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

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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) S.I. 1989/1341 (N.I.12). Article 80A was inserted by Article 31 of the Criminal Justice (Northern Ireland) Order 2003 (S.I. 2003/1247 (N.I.13)) as amended by Article 24 of the Criminal Justice (Northern Ireland) Order 2005 (S.I. 2005/1965 (N.I.15))  
(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.13)

- (c) on which leave to present an indictment under section 2(2)(e) of the Grand Jury (Abolition) Act (Northern Ireland) 1969(a) 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 on which 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) Except where notice is received in accordance with paragraph (3), the Court may—
- (a) determine the application in favour of the applicant without a hearing; or
  - (b) direct a hearing.

(5) Where a party to the proceedings notifies the chief clerk in accordance with paragraph (3) of his opposition to the application, the Court shall direct a hearing of the application.

(6) Where a hearing is to take place in accordance with paragraphs (4) or (5), the chief clerk shall notify each party to the proceedings of the time and place of the hearing.

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

(8) The chief clerk shall, as soon as reasonably practicable after determination of an application under paragraph (1), notify all parties of the decision of the court in Form 7K and, where leave is granted, the notification shall state—

- (a) the country in which the witness will give evidence;
- (b) if known, the place where the witness will give evidence;
- (c) where the witness is to give evidence on behalf of the prosecutor or where the disclosure is required by section 5(7) of the Criminal Procedure and Investigations Act 1996(b) (alibi), the name of the witness;
- (d) the location of the Court at which the trial will be held; and
- (e) any conditions specified by the Court in accordance with paragraph (9).

(9) In determining an application under paragraph (1), the Court may specify that as a condition of the grant of leave the witness should give evidence in the presence of a specified person who is able and willing to answer under oath or affirmation any questions the Court may put as to the circumstances in which the evidence is given, including questions about any persons who are present when the evidence is given and any matters which may affect the giving of the evidence.

- (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) abridge or extend 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 7I, the new forms 7J and 7K in the Schedule to these Rules.

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(a) 1969 c.15 (N.I.)  
(b) 1996 c.25

[Rules Committee Members]

Dated

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 7J

Rule 44 P(1)

IN THE CROWN COURT IN NORTHERN IRELAND

#### **APPLICATION FOR LEAVE FOR WITNESS (OTHER THAN THE ACCUSED) WHO IS OUTSIDE THE UNITED KINGDOM TO GIVE EVIDENCE THROUGH A LIVE LINK**

(Article 80A of the Police and Criminal Evidence (Northern Ireland) Order 1989)

An application should be made 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 or under Article 4 of the Children's Evidence (Northern Ireland) Order 1995 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 was given; or
- (d) on which an order for retrial is made.

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>
<b>Details of applicant</b>  Name:  Address:  <b>Case Details</b>  The Crown Court at:  Crown Court Bill Number:	

<p>Name of defendant(s):</p> <p>Charges:</p> <p>Date of— committal for trial*</p> <p>giving of notice of transfer*</p> <p>leave to present an indictment*</p> <p>order for retrial*</p> <p>next court appearance*</p>	<p>*Delete as appropriate</p>
<p><b>Details of Witness</b></p> <p>Name of witness:</p> <p>Date of Birth of Witness:</p>	<p>An application by the defence for evidence to be given by live link need not disclose who that witness is, except to the extent that the disclosure is required by section 5(7) of the Criminal Procedure and Investigations Act 1996 (alibi)</p>
<p><b>Details of Application</b></p> <p>State the reasons given by the application in support of this application:</p> <p>Country in which the witness will give evidence:</p> <p>Place from which the witness will give evidence (if known):</p>	
<p><b>Extension of time for service</b></p> <p>Please indicate whether you are applying for an extension of time for service.</p> <p>If the answer is yes, please state your reasons:</p>	

Dated this                      day of                      20                      .

Applicant  
[Solicitor for Applicant]

To the Chief Clerk of the Crown Court sitting at

And to

(insert names and addresses of each of the other parties to the proceedings)

**NOTES:**

The notice served on the Chief Clerk shall be endorsed with the date upon which and the manner in which notice was served on each of the other parties to the proceedings.

Any party who wishes to oppose the application shall, within 14 days of the date on which 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.

IN THE CROWN COURT IN NORTHERN IRELAND

**NOTICE OF DECISION ON APPLICATION FOR LEAVE FOR WITNESS  
(OTHER THAN THE ACCUSED) WHO IS OUTSIDE THE UNITED  
KINGDOM TO GIVE EVIDENCE THROUGH A LIVE LINK**

(Article 80A of the Police and Criminal Evidence (Northern Ireland) Order 1989)

**Case Details**

The Crown Court at:

Crown Court Bill Number:

Defendant(s): Surname:  
Forenames:

Upon hearing of an application by \_\_\_\_\_ (name of applicant), on  
\_\_\_\_\_ (date application heard) under Article 80A of the Police and Criminal  
Evidence (Northern Ireland) Order 1989 for leave for a witness outside the United Kingdom to  
give evidence through a live link, the court made an order to the following effect, viz—  
Leave granted\*/refused on the following grounds\*—

To be completed where leave is granted:

Country in which the witness will give evidence:

Place where the witness will give evidence (if known):

Where the witness is to give evidence on behalf of the prosecutor, or where disclosure is required  
by section 5(7) of the Criminal Procedure and Investigations Act 1996, the name of the witness:

The location of the Court at which the trial will be held:

Name of person specified by the Court under Rule 44P(9), in whose presence the witness shall  
give evidence (if applicable):

This \_\_\_\_\_ day of \_\_\_\_\_ 20 .

Chief Clerk of the Crown Court

\*Delete as appropriate

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

These Rules amend the Crown Court Rules (Northern Ireland) 1979 (“the principal Rules”) to prescribe the procedure relating to applications for leave for a witness (other than the accused) who is outside the United Kingdom to give evidence by live link.

Rule 2(1) inserts new rule 44P into the principal Rules. New rule 44P(1) provides that such an application shall be made by giving notice in the prescribed form. New rule 44P(2) sets out the time limits for making such an application. New rule 44P(3) sets out the procedure to be followed by any party who wishes to oppose the application.

New rules 44P(4) to (7) provide that the Court may direct a hearing of an application where notice of opposition is given or where the Court considers that it is appropriate to do so and provide that where no notice of opposition is received, the Court may determine the application in favour of the applicant without a hearing.

New rule 44P(8) provides that the chief clerk shall notify the parties of the decision of the Court and, where leave is granted, prescribes certain information which shall be set out in that notification.

New rule 44P(9) provides that when dealing with an application for a witness outside the United Kingdom to give evidence by live link, the Court may specify, as a condition of granting leave, that the witness should give evidence in the presence of a particular person who is able to answer under oath or affirmation any questions the Court may put as to the circumstances in which the evidence is given.

New rule 44P(10) provides that the Court may extend any time limit for the service of a notice required under the new Rule.

New rule 44P provides that the Court may abridge or extend 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 to insert new Forms 7J and 7K for use in connection with applications prescribed by these Rules.