
STATUTORY INSTRUMENTS

1999 No. 2789

The Criminal Evidence (Northern Ireland) Order 1999

PART II

SPECIAL MEASURES DIRECTIONS IN CASE OF VULNERABLE AND INTIMIDATED WITNESSES

Special measures

Video recorded cross-examination or re-examination

16.—(1) Where a special measures direction provides for a video recording to be admitted under Article 15 as evidence in chief of the witness, the direction may also provide—

- (a) for any cross-examination of the witness, and any re-examination, to be recorded by means of a video recording; and
- (b) for such a recording to be admitted, so far as it relates to any such cross-examination or re-examination, as evidence of the witness under cross-examination or on re-examination, as the case may be.

(2) Such a recording must be made in the presence of such persons as rules of court or the direction may provide and in the absence of the accused, but in circumstances in which—

- (a) the judge and legal representatives acting in the proceedings are able to see and hear the examination of the witness and to communicate with the persons in whose presence the recording is being made, and
- (b) the accused is able to see and hear any such examination and to communicate with any legal representative acting for him.

(3) Where two or more legal representatives are acting for a party to the proceedings, paragraph (2)(a) and (b) are to be regarded as satisfied in relation to those representatives if at all material times they are satisfied in relation to at least one of them.

(4) Where a special measures direction provides for a recording to be admitted under this Article, the court may nevertheless subsequently direct that it is not to be so admitted if any requirement of paragraph (2) or rules of court or the direction has not been complied with to the satisfaction of the court.

(5) Where in pursuance of paragraph (1) a recording has been made of any examination of the witness, the witness may not be subsequently cross-examined or re-examined in respect of any evidence given by the witness in the proceedings (whether in any recording admissible under Article 15 or this Article or otherwise than in such a recording) unless the court gives a further special measures direction making such provision as is mentioned in paragraph (1)(a) and (b) in relation to any subsequent cross-examination, and re-examination, of the witness.

(6) The court may only give such a further direction if it appears to the court—

- (a) that the proposed cross-examination is sought by a party to the proceedings as a result of that party having become aware, since the time when the original recording was made

Changes to legislation: *The Criminal Evidence (Northern Ireland) Order 1999, Section 16 is up to date with all changes known to be in force on or before 21 April 2024. 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*

in pursuance of paragraph (1), of a matter which that party could not with reasonable diligence have ascertained by then, or

(b) that for any other reason it is in the interests of justice to give the further direction.

(7) Nothing in this Article shall be read as applying in relation to any cross-examination of the witness by the accused in person (in a case where the accused is to be able to conduct any such cross-examination).

Commencement Information

II [Art. 16](#) in operation at 3.4.2017 for specified purposes by [S.R. 2017/5](#), [art. 2\(a\)](#)

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Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- art. 29(3)(aa) inserted by [2015 c. 9 \(N.I.\) Sch. 2 para. 11](#)
- art. 29(3)(aa) words substituted in earlier affecting provision [2015 c. 9 \(N.I.\), Sch. 2 para. 11](#) by [2022 c. 4 \(N.I.\) s. 4\(9\)\(h\)](#)