

**2003 No. 477**

**MAGISTRATES' COURTS**

**The Magistrates' Courts (Amendment No. 2) Rules  
(Northern Ireland) 2003**

*Made - - - - - 12th November 2003*

*Coming into operation 1st December 2003*

The Lord Chancellor, in exercise of the powers conferred upon him by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981<sup>(a)</sup> and Articles 8(6), 25(5), 26(6), 30(3) and 39(1) of the Criminal Evidence (Northern Ireland) Order 1999<sup>(b)</sup>, on the advice of the Magistrates' Courts Rules Committee and after consultation with the Lord Chief Justice, hereby makes the following Rules:

**Citation, commencement and interpretation**

**1.**—(1) These Rules may be cited as the Magistrates' Courts (Amendment No. 2) Rules (Northern Ireland) 2003 and shall come into operation on 1st December 2003.

(2) In these Rules, a reference to a Rule, a Schedule or a Form by number means the Rule, Schedule or Form so numbered in the Magistrates' Courts Rules (Northern Ireland) 1984<sup>(c)</sup>.

**Amendment to the principal Rules**

**2.**—(1) In Rule 11, for paragraph (1) there shall be substituted the following new paragraph –

“(1) Subject to Rule 12 and Rule 12A, in the case of an offence prosecuted by a member of the Police Service of Northern Ireland or by the Director of Public Prosecutions a summons shall be served by a member of the Police Service of Northern Ireland who is not in charge of the investigation or prosecution of the offence.”

(2) For the heading to Rule 12A, there shall be substituted the following new heading –

“Postal Service of Summons for offences prosecuted by the Police Service of Northern Ireland or the Director of Public Prosecutions”.

(3) In Rule 12A, for paragraph (1) there shall be substituted the following new paragraph –

“(1) Subject to paragraph (6), in cases of summary offences prosecuted by a member of the Police Service of Northern Ireland or by the Director of Public Prosecutions, service of the summons may be effected by post in accordance with paragraph (2).”

(4) For the heading to Rule 13, there shall be substituted the following new heading –

“Postal Service of Summons other than for offences prosecuted by the Police Service of Northern Ireland or the Director of Public Prosecutions”.

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(a) S.I. 1981/1675 (N.I. 26)

(b) S.I. 1999/2789 (N.I. 8)

(c) S.R. 1984 No. 225; to which the most recent relevant amendments were made by S.R. 2003 No. 296

- (5) Rule 149A shall be revoked.
- (6) Rule 149AA shall be amended as follows –
  - (a) in paragraph (5), for the words “Article 4(1)(a)” there shall be substituted the words “Article 4 or 5”; and
  - (b) in paragraph (7), for sub-paragraph (a) there shall be substituted the following new sub-paragraph –
    - “(a) a party shall state in the written notification whether he –
      - (i) disputes that the witness is eligible for assistance by virtue of Article 4 or 5 of the 1999 Order;
      - (ii) disputes that any of the special measures available would be likely to improve the quality of evidence given by the witness or that such measures (or a combination of them) would be likely to maximise the quality of that evidence; and
      - (iii) opposes the granting of a special measures direction; and”.
- (7) Rule 149AC(3) shall be amended by substituting for the word “application”, the word “question”.
- (8) Rule 149AF shall be amended as follows –
  - (a) in paragraph (2), for the words “a witness”, there shall be substituted the words “a child witness”; and
  - (b) in paragraph (3), for the words “a witness”, there shall be substituted the words “a child witness”.
- (9) After Rule 149AG(4)(c), there shall be inserted the following new sub-paragraph –
  - “(ca) in relation to each person present at any point during the recording, a statement confirming that the said person when present is visible in the recording;”.
- (10) After Rule 149AH, there shall be inserted the following new Rules:

**“Prohibition on cross-examination of particular witness**

**149AI.**—(1) An application by the prosecutor for a direction under Article 24 of the 1999 Order in relation to any witness shall be made by giving notice in Form 15D to the clerk of petty sessions and at the same time the applicant shall serve a copy thereof on every other party to the proceedings.

- (2) In an application under paragraph (1), the prosecutor shall state why, in his opinion –
  - (a) the evidence given by the witness is likely to be diminished if cross-examination is undertaken by the defendant in person;
  - (b) the evidence would be improved if a direction were given under Article 24(2) of the 1999 Order; and
  - (c) it would not be contrary to the interests of justice to give such a direction.
- (3) On receipt of the application, the clerk of petty sessions shall refer it –
  - (a) if the proceedings to which the application relates have commenced, to the resident magistrate hearing those proceedings;
  - (b) if the proceedings to which the application relates have not commenced when the application is received, to a resident magistrate sitting in the petty sessions district in which the proceedings are to be heard.
- (4) Where a copy of a notice under paragraph (1) is served on a party to the proceedings more than 14 days before the date set for the commencement of the proceedings to which the application relates, that party may, within 14 days, make observations in writing in relation to the application to the clerk of petty sessions and shall serve a copy of such observations on every other party to the proceedings.
- (5) A party on whom a copy of the notice is served in accordance with paragraph (1) may notify the clerk of petty sessions and every other party to the proceedings, in writing, of his opposition to the application and give reasons for it.
- (6) Those reasons shall be notified –

- (a) within 14 days of the date a copy of the notice was served on him, if that date is more than 14 days before the date set for commencement of the proceedings to which the application relates;
- (b) if the proceedings to which the application relates have commenced, in accordance with any directions issued by the resident magistrate hearing those proceedings; or
- (c) if neither sub-paragraph (a) nor sub-paragraph (b) apply, before the date set for the commencement of the proceedings to which the application relates.

(7) Where the application made in accordance with paragraph (1) is made before the date set for the commencement of the proceedings to which the application relates and the application –

- (a) is not contested by any party to the proceedings, the court may determine the application without a hearing;
- (b) is contested by a party to the proceedings, the court shall direct a hearing of the application.

(8) Where the application is made after the commencement of the proceedings to which the application relates –

- (a) the application may be made orally; and
- (b) the resident magistrate hearing those proceedings may give such directions as he considers appropriate in order to deal with the application.

(9) Where a hearing of the application is to take place, the clerk of petty sessions shall notify each party to the proceedings of the time and place of the hearing.

(10) A party notified in accordance with paragraph (9) may be present at the hearing and be heard.

(11) The clerk of petty sessions shall, as soon as reasonably practicable after the determination of an application made in accordance with paragraph (1), notify all the parties to the proceedings of the decision and the reasons for it.

(12) A person making an oral application under paragraph (8)(a) shall –

- (a) give reasons why the application was not made before the commencement of the proceedings to which the application relates; and
- (b) provide the court with the information set out in paragraph (2).

#### **Restrictions on cross-examination of witness by the accused person**

**149AJ.**—(1) This Rule and Rules 149AK and 149AL apply where a defendant is prevented from cross-examining a witness in person by virtue of Article 22, 23 or 24 of the 1999 Order.

(2) The court shall as early in the proceedings as is reasonably practicable –

- (a) explain to the defendant that he is prevented from cross-examining a witness in person; and
- (b) invite him to arrange for a legal representative to act for him for the purpose of cross-examining the witness.

(3) The defendant shall within 7 days of the court giving its explanation, or within such other period as the court may in any particular case allow, give notice to the clerk of petty sessions in Form 15E or otherwise in writing as to whether or not he has arranged for a legal representative to act on his behalf.

(4) Where the defendant has arranged for a legal representative to act for him, the notice under paragraph (3) shall include details of the name and address of the representative.

(5) The clerk of petty sessions shall notify all other parties to the proceedings of the name and address of any person appointed by the defendant to act on his behalf.

(6) Where the court gives its explanation under paragraph (2) to the defendant –

- (a) within 7 days of the date set for the commencement of any hearing at which a witness in respect of whom a prohibition under Article 22, 23 or 24 of the 1999 Order applies may be cross-examined, or

(b) after such a hearing has commenced,

the period of 7 days within which the defendant is required to give notice under paragraph (3) shall be reduced in accordance with any direction issued by the court.

(7) Where at the end of the period of 7 days or such other period as the court has allowed, the court has not received notice from the defendant under paragraph (3), it may grant the defendant an extension of time, whether of its own motion or on the application of the defendant.

(8) Before granting an extension of time, the court may direct a hearing at which all parties to the proceedings may attend and be heard.

(9) Any extension of time shall be for such period as the court considers appropriate in the circumstances of the case.

(10) The decision of the court as to whether or not to grant the defendant an extension of time shall be notified to all parties to the proceedings by the clerk of petty sessions in Form 15F.

#### **Appointment by the court**

**149AK.**—(1) Where the court decides, in accordance with Article 26(4) of the 1999 Order, to appoint a qualified legal representative, the clerk of petty sessions shall notify all parties to the proceedings of the name and address of that representative.

(2) An appointment made by the court under Article 26(4) of the 1999 Order shall, except to such extent as the court may in any particular case determine, terminate at the conclusion of the cross-examination of any witness in respect of whom a prohibition under Article 22, 23 or 24 of the 1999 Order applies.

#### **Appointment arranged by the defendant**

**149AL.**—(1) The defendant may arrange for the qualified legal representative, appointed by the court under Article 26(4) of the 1999 Order, to be appointed to act for him for the purpose of cross-examining any witness in respect of whom a prohibition under Article 22, 23 or 24 of the 1999 Order applies.

(2) Where such an appointment is made –

(a) the defendant shall notify the court of the appointment in Form 15E;

(b) the qualified legal representative shall notify the court of the appointment in Form 15G; and

(c) the qualified legal representative shall, from the time of his appointment, act for the defendant as though the arrangement had been made under Article 26(2)(a) of the 1999 Order and shall cease to be the representative of the court under Article 26(4) of the 1999 Order.

(3) Where the court receives notification of the appointment either from the qualified legal representative or from the defendant but not from both, the court shall investigate whether the appointment has been made, and if it concludes that the appointment has not been made, paragraph (2)(c) shall not apply.

(4) The defendant may, notwithstanding an appointment by the court under Article 26(4) of the 1999 Order, arrange for a legal representative to act for him for the purpose of cross-examining any witness in respect of whom a prohibition under Article 22, 23 or 24 applies.

(5) Where the defendant arranges for, or informs the court of his intention to arrange for a legal representative to act for him, he shall notify the court within such period as the court may allow, of the name and address of any person appointed to act for him.

(6) Where the court is notified within the time allowed that such an appointment has been made, any qualified legal representative appointed by the court in accordance with Article 26(4) of the 1999 Order shall be discharged.

(7) The clerk of petty sessions shall as soon as reasonably practicable after notification is received by the court, or where paragraph (3) applies, after the court is satisfied that the appointment has been made, notify all the parties to the proceedings in Form 15H –

- (a) that the appointment has been made;
- (b) where paragraph (4) applies, of the name and address of the person appointed;
- (c) that the person appointed by the court under Article 26(4) of the 1999 Order has been discharged or has ceased to act for the court.

**Procedure for applications in proceedings for sexual offences**

**149AM.**—(1) Application under Article 28(2) of the 1999 Order for leave to adduce evidence of, or ask questions about, any sexual behaviour of a complainant shall be made by giving notice in Form 15I to the clerk of petty sessions and shall, subject to paragraph (10) –

- (a) be served on the clerk of petty sessions not less than 14 days before the day fixed for the commencement of the proceedings to which the application relates; or
- (b) be accompanied by a full written explanation specifying the reasons why the application could not have been served in accordance with sub-paragraph (a).

(2) An application under paragraph (1) shall contain the following –

- (a) a summary of the evidence it is proposed to adduce and of the questions it is proposed to put to any witness;
- (b) a full explanation of the reasons why it is considered that the evidence and questions fall within paragraphs (3) or (5) of Article 28 of the 1999 Order;
- (c) a summary of any document or other evidence to be submitted in support of such evidence and questions;
- (d) where it is proposed that a witness give evidence as to the complainant’s sexual behaviour, the name and date of birth of any such witness.

(3) A copy of the application under paragraph (1) shall be served, by the applicant, on every other party to the proceedings at the same time as it is served on the clerk of petty sessions.

(4) The prosecutor shall notify the clerk of petty sessions and the other parties to the proceedings in Form 15J –

- (a) whether or not he opposes the application, giving reasons for any such opposition, and
- (b) whether or not he wishes to be represented at any hearing of the application,

and where the notice of application is received by the prosecutor more than 14 days before the date set for commencement of the proceedings to which the application relates, the notification must be served by the prosecutor within 14 days of receipt.

(5) Where a copy of the application is received by a party to the proceedings other than the prosecutor more than 14 days before the date set for the commencement of the proceedings to which the application relates, that party may, within 14 days, make observations in writing in relation to the application to the clerk of petty sessions and shall serve a copy of such observations on every other party to the proceedings.

(6) In considering any application under this Rule, the court may request a party to the proceedings to provide the court with such information as it may specify in Form 15K and which the court considers would assist in determining the application.

(7) Where the court makes such a request, the person required to provide the information shall do so within 14 days of the court making the request or by such time as the court considers appropriate in the circumstances of the case.

(8) An application under paragraph (1) shall be determined by a resident magistrate following a hearing.

- (9) The date and time of the hearing shall be –
  - (a) determined by the clerk of petty sessions after taking into consideration –

- (i) any time which a party to the proceedings has been given to respond to a request for information; and
  - (ii) the date fixed for any other hearing relevant to the proceedings; and
- (b) notified by the clerk of petty sessions to both the applicant and the prosecutor.

(10) An application under Article 28(2) of the 1999 Order may be made orally to the court where the application is made after the proceedings to which the application relates have begun.

- (11) The person making the application under paragraph (10) shall –
- (a) give reasons why the applicant failed to make the application in accordance with paragraph (1); and
  - (b) provide the court with the information set out in paragraph (2).

(12) The clerk of petty sessions shall, as soon as reasonably practicable after the hearing of an application under paragraph (1), notify all the parties to the proceedings of the decision of the court in Form 15L.”.

(11) Schedule 1 shall be amended as follows:

- (a) Form 15A shall be deleted;
- (b) for Form 15B, there shall be substituted the new Form 15B in the Schedule to these Rules;
- (c) after Form 15C, there shall be inserted the new Forms 15D to 15L in the Schedule to these Rules; and
- (d) for Form 93, there shall be substituted the new Form 93 in the Schedule to these Rules.

Signed by the authority of the Lord Chancellor

*Lord Filkin*

Parliamentary Under Secretary of State, Department for Constitutional Affairs

Dated 12th November 2003

FORMS TO BE SUBSTITUTED OR INSERTED IN THE MAGISTRATES COURTS RULES  
(NORTHERN IRELAND) 1984

FORM 15B

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981  
(Rule 149AA)

CRIMINAL EVIDENCE (NORTHERN IRELAND) ORDER 1999  
(Article 7)

FORM OF APPLICATION FOR A SPECIAL MEASURES DIRECTION UNDER ARTICLE 7 OF THE CRIMINAL  
EVIDENCE (NORTHERN IRELAND) ORDER 1999

An application shall be made:

- (a) subject to paragraph (b), not less than 14 days before the day fixed for the commencement of the proceedings to which the application relates.
- (b) in the application of sub-paragraph (a) to preliminary investigations, “the proceedings” does not include the taking of a deposition relating to the arrest, or where directed by the court, the remand of the defendant.

A copy of this form shall be given at the same time to the other party or parties to the case.

PART 1  
TO BE COMPLETED BY ALL APPLICANTS

<i>Details required</i>	<i>Notes</i>
<b>Case details</b>	
Complainant: <div><div>Petty Sessions</div><div>District of:</div></div>	
Defendant: <div><div>County Court</div><div>Division of:</div></div>	
The name of the defendant to whom this application relates:	
Court venue:	The venue of the court hearing the case.
Date of next court appearance:	
Charges:	Give brief details (including date and location of offence) of those charges to which this application applies.
Name of PSNI Central Process Office:	
Central Process Office or District Command Unit reference number:	
DPP reference number:	

<i>Details required</i>	<i>Notes</i>
<b>Details of witness</b>  Name of witness  Date of birth of witness  If an application has been made to tender in evidence a video recording of testimony from the witness, give the date and (if known) result of that application.  If the applicant is the prosecutor, give the name of the witness (otherwise leave blank).	An application by the defence for evidence to be given through a live link or by means of a video recording 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).
<b>Details of application</b>  Specify the special measures being sought.  State the grounds on which the witness relies in support of the application for a special measures direction.          Give a description of evidence submitted in support of this application.	The statement should make clear whether the applicant seeks automatic eligibility or whether the applicant alleges that the quality of the evidence will be reduced unless a direction is given. In the latter case, the grounds on which the applicant alleges that the quality of the witness's evidence is likely to be diminished in terms of completeness, coherence and accuracy should be clearly stated.  This requirement is optional. Examples of evidence might be: birth certificate; medical report; expert evidence; police report.
<b>Arrangements available</b>  Give a description of the arrangements relevant to the measures applied for, which may be made available in the area in which it is likely the hearing will take place.	
<b>Reasons for application</b>  Give the grounds for believing the special measures being sought in this application will increase the quality of the witness's evidence.  Give the views of the witness as to why the measures sought in this application are required.	
<b>Material change of circumstances</b>  Give a description of any material change of circumstances relied upon to support this application.	This requirement applies only where – (a) a special measures direction is already in force and application is being made to discharge or vary the direction, or  (b) a previous application for a special measures direction was refused and this application seeks to reverse that decision.

PART 2

TO BE COMPLETED IF THE APPLICATION IS FOR EVIDENCE TO BE GIVEN THROUGH A LIVE LINK

<i>Details required</i>	<i>Notes</i>
<b>Details of application</b> Give – (a) the address of any venue from which the witness will give evidence if the court’s own live link is not used: (b) the name of the person who it is proposed will accompany the witness: (c) the occupation of this person: (d) the relationship (if any) of this person to the witness:	An application by the defence need not disclose the name of the person proposed to accompany the witness if disclosure could lead to the identification of the witness.
<b>Grounds</b> State why it is believed that this person should accompany the witness:	

PART 3

TO BE COMPLETED IF THE APPLICATION IS TO TENDER IN EVIDENCE A VIDEO RECORDING UNDER ARTICLE 15 OF THE CRIMINAL EVIDENCE (NORTHERN IRELAND) ORDER 1999

<i>Details required</i>	<i>Notes</i>
<b>Video recording(s)</b> Statement as to circumstances in which video recording made:  Date(s) of video recording(s):  Time(s) of video recording(s):  Location and normal function of premises where video recording made:  Statement as to whether, and if so at what point in the video recording, an oath was administered to, or a solemn declaration made by, the witness:	These details need to be completed only to the extent that the information is not contained in the video recording itself.  Give the times at which recording began and finished, including details of any interruptions.  Give address of premises where recording made and state the usual function of those premises.
<b>Details of those present while recording made</b> Give details of each person present at any point during the recording:  In relation to each person present at any point during the recording, a statement confirming that the person when present is visible in the recording.	Include name, age and occupation of anyone present; time for which present; relationship (if any) to witness and to the defendant.



FORM 15D

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981  
(Rule 149A1)

CRIMINAL EVIDENCE (NORTHERN IRELAND) ORDER 1999  
(Article 24)

**Application by Prosecutor for a Direction Under Article 24 of the Criminal Evidence (Northern Ireland) Order 1999 Prohibiting the Defendant from Cross-examining a particular witness**

of

Complainant

of

Defendant

Petty Sessions District of

County Court Division of

Take notice that I, the undersigned, intend to apply for a direction under Article 24 of the Criminal Evidence (Northern Ireland) Order 1999 prohibiting the defendant from cross-examining a particular witness, namely: *(specify name of witness).*

*State why the evidence given by the witness is likely to be diminished if cross-examination is undertaken by the defendant in person:*

*State why the evidence would be improved if a direction were given under Article 24(2) of the 1999 Order:*

*State why it would not be contrary to the interests of justice to give such a direction:*

The date fixed for commencement of proceedings to which the application relates is: *(specify date).*

Dated this       day of       20       .

Signature of Prosecutor

To the clerk of petty sessions for the petty sessions district of       .

And to

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

**Note:**

The notice served on the clerk of petty sessions 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.

FORM 15E

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981  
(Rules 149AJ and 149AL)

CRIMINAL EVIDENCE (NORTHERN IRELAND) ORDER 1999  
(Article 26)

**Notice to the Clerk of Petty Sessions of an appointment by the  
Defendant of a Legal Representative**

of

Complainant

of

Defendant



Petty Sessions District of

County Court Division of

TAKE NOTICE that I, the defendant, [have appointed],\* [do not intend to appoint],\* a legal representative to act on my behalf.

[Name and address of legal representative: ]\*

Dated this      day of      20      .

Signature of Defendant

[Signature of legal representative]

**Note:**

Where a legal representative has been appointed by the defendant, a copy of this form shall, on receipt by the clerk of petty sessions, be sent by him to each other party to the proceedings.

\* Delete as appropriate

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981  
(Rule 149AJ)

NOTICE BY CLERK OF PETTY SESSIONS OF A DECISION OF THE COURT [ON APPLICATION BY THE DEFENDANT]\* FOR AN EXTENSION OF TIME TO APPOINT A LEGAL REPRESENTATIVE

Defendant

County Court Division of

[Extension of time is refused on the following grounds (state reasons)]\*

\* Delete as appropriate

FORM 15G

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981  
(Rule 149AL)

CRIMINAL EVIDENCE (NORTHERN IRELAND) ORDER 1999  
(Article 26)

**Notice to the Clerk of Petty Sessions by a qualified legal representative (Appointed by the Court)  
that he has now been appointed by the Defendant**

of

Complainant

of

Defendant



Petty Sessions District of

County Court Division of

Take notice that I (insert name), who was appointed by the court under Article 26(4) of the Criminal Evidence (Northern Ireland) Order 1999 as the defendant's qualified legal representative, have now been appointed by him.

Dated this      day of      20      .

[Signature of legal  
representative]

To the clerk of petty sessions for the petty sessions district of      .

FORM 15H

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981  
(Rule 149AL)

CRIMINAL EVIDENCE (NORTHERN IRELAND) ORDER 1999  
(Article 26)

Notice by the Clerk of Petty Sessions of the discharge of the person appointed by the Court

of

Complainant

of

Defendant

Petty Sessions District of

County Court Division of

TAKE NOTICE that the person appointed by the court under Article 26(4) of the Criminal Evidence (Northern Ireland) Order 1999 has [been discharged]\* [ceased to act for the court]\*.  
[The following legal representative has been appointed by the defendant, namely:  
*(insert name and address of legal representative)*]\*

Dated this       day of       20       .  
Clerk of Petty Sessions

**Note:**  
A copy of this notice is to be sent to each party to the proceedings.  
\*Delete as appropriate

FORM 15I

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981  
(Rule 149AM)

CRIMINAL EVIDENCE (NORTHERN IRELAND) ORDER 1999  
(Article 28(2))

NOTICE TO THE CLERK OF PETTY SESSIONS OF AN APPLICATION FOR LEAVE TO  
ADDUCE EVIDENCE UNDER ARTICLE 28(2) OF THE CRIMINAL EVIDENCE  
(NORTHERN IRELAND) ORDER 1999

of

Complainant

of

Defendant



Petty Sessions District of

County Court Division of

TAKE NOTICE that I, the undersigned, intend to apply for leave to adduce evidence under Article 28(2) of the Criminal Evidence (Northern Ireland) Order 1999.

The date fixed for commencement of [preliminary investigation] [preliminary inquiry] [proceedings]\*  
to which the application relates is: (specify date).

**Evidence:**

*(Give summary of the evidence the applicant proposes to adduce and of the questions the applicant proposes to put to any witness)*

**Explanation:**

*(Explain in full why it is considered that the evidence and questions fall within Article 28(3) or (5) of the 1999 Order)*

**List of documents:**

*(Give summary of any document or other evidence to be submitted in support of such evidence and questions)*

**Details of witness:**

*(Give the name, address and date of birth of any witness who it is proposed to call to give evidence as to the complainant's sexual behaviour)*

Dated this       day of       20       .

Applicant  
[Solicitor for Applicant]

To the clerk of petty sessions for the petty sessions district of       .

And to

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

**Notes to applicant:**

The notice served on the clerk of petty sessions 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.

An application under Rule 149AM should be served on the clerk of petty sessions not less than 14 days before the day fixed for the commencement of the proceedings to which the application relates or be accompanied by a full explanation specifying the reasons why the application could not have been made within that time.

**Note to Prosecutor:**

You are required to notify the clerk of petty sessions and each of the other parties to the proceedings in Form 15J whether or not you oppose the application made under Article 28(2) of the Criminal Evidence (Northern Ireland) Order 1999.

FORM 15J

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981  
(Rule 149AM)

CRIMINAL EVIDENCE (NORTHERN IRELAND) ORDER 1999  
(Article 28(2))

NOTICE TO THE CLERK OF PETTY SESSIONS WHETHER OR NOT THE PROSECUTOR  
OPPOSES THE APPLICATION MADE UNDER ARTICLE 28(2) OF THE CRIMINAL EVIDENCE  
(NORTHERN IRELAND) ORDER 1999

of	{	
Complainant		Petty Sessions District of
of	{	
Defendant		County Court Division of

The purpose of this Notice is to inform you that I, the prosecutor [oppose]\* [do not oppose]\* the application made by the defendant under Article 28(2) of the Criminal Evidence (Northern Ireland) Order 1999 and as set out in Form 15I [for the following reasons: (state reasons)]\*

AND TAKE NOTICE that I [wish] [do not wish]\* to be represented at any hearing of the application.

This       day of       20       .

Prosecutor

To the clerk of petty sessions for the petty sessions district of       .

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

\*Delete as appropriate

FORM 15K

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981  
(Rule 149AM)

CRIMINAL EVIDENCE (NORTHERN IRELAND) ORDER 1999  
(Article 28(2) and 30(3))

**Request by the Court for a Party to the Proceedings to provide information in relation to an application for leave to adduce evidence under Article 28(2)**

of	{	Petty Sessions District of
Complainant		
of	{	County Court Division of
Defendant		

The court hereby requests that you, *(insert name of the party to whom the request is made)*, being a party to the above proceedings, provide the court with the information detailed below, which the court considers will assist it in determining the application to adduce evidence under Article 28(2) of the Criminal Evidence (Northern Ireland) Order 1999.

Details of the information which the court requires to assist in determining the application:

Dated this      day of              20      .

Clerk of Petty Sessions

**Note:**

The information requested shall be furnished to the court within 14 days.

FORM 15L

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981  
(Rule 149AM)

CRIMINAL EVIDENCE (NORTHERN IRELAND) ORDER 1999  
(Article 28(2) and 30(3))

**Notice of the decision of the Court on an application for leave to  
adduce evidence under Article 28(2)**

of

Complainant

of

Defendant

Petty Sessions District of

County Court Division of

Upon the hearing of an application by (name of applicant), on (date application heard) for leave to adduce evidence under Article 28(2) of the Criminal Evidence (Northern Ireland) Order 1999, the court made an order to the following effect, viz: –

Leave in relation to evidence or questions on an application made in Form 15I is:  
[refused for the following reasons (state reasons) ]\*  
[granted for the following reasons and, subject to the following restrictions (state reasons and the extent to which evidence may be adduced or questions asked in pursuance of leave) ]\*

Dated this      day of      20      .

Clerk of Petty Sessions

**Note:**  
A copy of this notice is to be sent to each party to the proceedings.  
\* Delete as appropriate

FORM 93

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981  
(Article 127; Rules 150 and 151)

**Recognizance to keep the Peace [and] [or] to be of Good Behaviour**

[Title as in Form 1]

WHEREAS a complaint was made that

AND IT WAS ORDERED by the magistrates’ court at that the said defendant should be bound by recognizance [to keep the peace] [and] [be of good behaviour, in particular the defendant shall not (specify types of behaviour from which the defendant must refrain)] for the period of .

The undersigned (name) of

, the principal party to this recognizance, hereby binds himself to perform the following obligation, viz., [to keep the peace] [and] [be of good behaviour, in particular the defendant shall not (specify types of behaviour from which the defendant must refrain)] for the period of , and the said principal party [together with (name) of , and (name) , the undersigned suret ] hereby acknowledge(s) bound to forfeit to the Crown the sum(s) following, viz: –

The principal party the sum of £ [the first-named surety the sum of £ and the second-named surety the sum of £ ] in case the said principal party fails to perform the above obligation.

} Principal Party  
  
} Suret

Taken before me this day of 20 .

Clerk of Petty Sessions

## EXPLANATORY NOTE

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

These Rules amend the Magistrates' Courts Rules (Northern Ireland) 1984 ("the principal Rules") to:

- provide for the service of a summons in cases prosecuted by the Director of Public Prosecutions (Rule 2(1) to (4)); and
- substitute a new Form of recognizance to keep the peace and / or be of good behaviour. The new form details the particular behaviours from which the party to the recognizance is to refrain (Rule 2(11)).

These Rules also make provision relating to Part II (Special measures directions in case of vulnerable and intimidated witnesses), Part III (Protection of witnesses from cross-examination by accused in person) and Part IV (Protection of complainants in proceedings for sexual offences) of the Criminal Evidence (Northern Ireland) Order 1999 ("the 1999 Order"); and

Rule 2(5) revokes Rule 149A of the principal Rules, which is no longer required as an application to use television links where a witness will not give evidence otherwise through fear will be dealt with as an application for a special measures direction, the procedure for which is prescribed in Rule 149AA.

Paragraphs (6) to (9) of Rule 2 make a number of minor amendments to the principal Rules to take account of the extension of Part 2 of the 1999 Order to vulnerable and intimidated adult witnesses in committal proceedings before magistrates' courts.

Rule 2(10) inserts new Rules 149AI to 149AM into the principal Rules.

New Rule 149AI provides for an application by a prosecutor for a direction under Article 24 of the 1999 Order preventing a defendant from cross-examining a witness in person.

New Rule 149AJ prescribes the time when, and the manner in which, a legal representative is to be appointed to act for the defendant for the purpose of cross-examining any witness whom the defendant is prevented from cross-examining in person by virtue of Article 22, 23 or 24 of the 1999 Order.

New Rule 149AK provides for the procedure to be followed when the court appoints a qualified legal representative where the defendant fails to appoint a legal representative to act for him. New Rule 149AL details the procedures where the defendant subsequently arranges for a legal representative to act for him.

New Rule 149AM provides for the procedure to be followed on an application for leave under Article 28(2) of the 1999 Order, to introduce evidence or to ask questions in cross-examination about the sexual behaviour of the complainant, in criminal proceedings relating to a person charged with a sexual offence.

Rule 2(11) amends Schedule 1 to the principal Rules, by:

- deleting Form 15A;
- substituting for Form 15B, the new Form 15B in the Schedule to these Rules;
- inserting after Form 15C, the new Forms 15D to 15L in the Schedule to these Rules; and
- substituting for Form 93, the new Form 93 in the Schedule to these Rules.

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