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STATUTORY RULES OF NORTHERN IRELAND

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**2013 No. 89**

**The Magistrates' Courts (Amendment)  
Rules (Northern Ireland) 2013**

**Citation and Commencement**

1. These Rules shall be cited as the Magistrates' Courts (Amendment) Rules (Northern Ireland) 2013 and shall come into operation on the day after Articles 17, 21BA and 21BB of the Criminal Evidence (Northern Ireland) Order 1999 come into operation.

**Amendment to the Magistrates' Courts Rules (Northern Ireland) 1984**

2. The Magistrates' Courts Rules (Northern Ireland) 1984(1) are amended as follows —

(1) In Rule 149AA, after paragraph (2)(b), insert —

- “(c) enabling an examination of a witness to be conducted through an intermediary —
- (i) the information sought in Part 4 of Form 15B; and
  - (ii) any relevant report, including an intermediary's assessment, shall be provided.”;

(2) In Rule 149AG, after paragraph (4)(c)(iii) insert —

- “(iv) whether or not the person present was there to act as an intermediary for a witness, and, if so, whether an application under Article 17 of the 1999 Order for the use of an intermediary has been made or will be made, and whether the intermediary made the declaration as set out in Form 88N before acting.”;

(3) After Rule 149N, insert —

**“Application by the accused for a direction allowing the examination of the accused through an intermediary**

**149O.**—(1) An application by the accused for direction allowing the accused to be examined through an intermediary under Article 21BA of the 1999 Order shall be made in Form 88K and shall include —

- (a) the information sought in Part C of Form 88K; and
  - (b) any relevant report, including an intermediary's assessment.
- (a) (2) Subject to sub-paragraph (b), an application under paragraph (1) shall be made not less than 14 days before the date 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 accused.

(3) The notice under paragraph (1) shall be served on the clerk of petty sessions and at the same time a copy thereof shall be served by the applicant on every other party to the proceedings.

(4) Any party on whom a copy of the notice of the application under paragraph (1) is served may oppose the application for a direction allowing the use of an intermediary, whether or not the question of the conditions set out in Article 21BA (5) or (6) of the 1999 Order for the use of an intermediary is in issue.

(5) Any party who wishes to oppose the application shall, within 7 days of the date the notice under paragraph (1) was served on him, notify the applicant and the clerk of petty sessions in writing of his opposition and give reasons for it.

(6) In order to comply with paragraph (5), a party shall state in the written notification whether he disputes that –

- (a) the accused is eligible for a direction allowing the use of an intermediary by virtue of Article 21BA (5) or (6) of the 1999 Order as appropriate; and
- (b) allowing the accused to be examined through an intermediary is necessary in order to ensure that the accused receives a fair trial.

(7) Except where notice is received in accordance with paragraph (5), the court may —

- (a) determine the application in favour of the applicant without a hearing; or
- (b) direct a hearing.

(8) Where a party to the proceedings notifies the clerk of petty sessions in accordance with paragraph (5) of his opposition to the application, the clerk of petty sessions shall fix a date for the hearing of the application.

(9) Where a hearing of the application is to take place in accordance with paragraph (7) or (8), 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 under paragraph (1), notify all the parties of the decision in Form 88M.

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

- (a) allow a notice or application 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 or application required under this rule, either before or after that period expires.

### **Discharge or variation of a direction allowing the examination of accused by an intermediary**

**149P.**—(1) Subject to paragraph (3), an application to discharge or vary a direction allowing the examination of the accused by an intermediary shall be made in writing.

(2) Any application under paragraph (1) shall be served on the clerk of petty sessions and on each party to the proceedings as soon as reasonably practicable.

(3) Paragraphs (4) to (12) of Rule 149O shall apply to an application to discharge or vary a direction allowing the examination of the accused by an intermediary as they apply to an application for such a direction.

**Declaration by an intermediary acting for either a witness or an accused**

**149Q.**—(1) The declaration required to be taken by an intermediary under Article 17(5) or 21BA (9) of the 1999 Order shall be as set out in Form 88N.

(2) A copy of the declaration made by the intermediary shall be served on the clerk of petty sessions and on each party to the proceedings at the time an application for the use of an intermediary under rule 149AA or rule 149O is being made, or as soon as reasonably practicable thereafter.”; and

(4) In the Schedule —

(a) in Form 15B —

(i) in Part 3, in the section entitled “Details of those present while recording made”, insert at the end of that section —

“Was an intermediary used during the video-recording? If yes, please complete Part 4 of this form, providing details of the intermediary. Please indicate whether the intermediary made the necessary declaration as set out in Form 88N before acting.

Has the Court already approved the use of an intermediary under Article 17 of the 1999 Order? If not, will an application be made?”; and

(ii) after Part 3, insert Part 4 as set out in Schedule 1 to these Rules;

(b) in Form 15C, after “Special Measures direction under Article [11] [12] [13] [14] [15]”, insert “[17]”;

(c) for Form 88K substitute the new Form 88K as set out in Schedule 2 to these Rules; and

(d) after Form 88L, insert Forms 88M and 88N as set out in Schedule 3 to these Rules.

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Dated 25th March 2013