EXPLANATORY MEMORANDUM TO

The Coronavirus Act 2020 (Extension of Provisions Relating to Live Links for Courts and Tribunals) (No.2) Order (Northern Ireland) 2026

S.R. 2026 No. 161

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department of Justice to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under the powers conferred by section 90(2) of the Coronavirus Act 2020 ("the 2020 Act" and is subject to the confirmatory resolution procedure.

2. Purpose

2.1. The Statutory Rule further extends the relevant provisions of the 2020 Act for six months, provided it is approved by resolution of the Northern Ireland Assembly within the period specified in section 96(7) of that Act. The provisions allow courts and statutory tribunals in Northern Ireland to conduct their business, wholly or in part, through audio or video conferencing systems, commonly referred to as live links.

3. Background

3.1. Section 57 and Schedule 27 of the 2020 Act introduced provisions that enabled the justice system to continue progressing cases in the courts, including the coroner's court, and in tribunals while complying with COVID-19 regulations and guidance. Their aim was to maintain case throughput while minimising the risk of exposure to ill health for all users.

3.2. Although these provisions were introduced in response to the public health emergency, the 2020 Act included a specific order-making power that allowed them to be extended beyond the initial two-year period specified in the Act. Part 2 of the Act allows each of the Devolved Authorities to make secondary legislation extending provisions within its remit that do not require the consent of the relevant Secretary of State.

3.3. The regulation-making powers in the Coronavirus Act were designed to allow decisions to be made quickly and approved later by resolution of the Assembly. The Act anticipated that the Devolved Authorities might have different requirements or needs as they recovered from the effects of the pandemic.

3.4. Part 1 of Schedule 27 of the 2020 Act enables any court or tribunal in this jurisdiction to allow a hearing to proceed by live link if it considers this fit or necessary. It may do so only if satisfied that this is in the interests of justice. Part 2 of Schedule 27 permits a court or tribunal to arrange for a hearing conducted wholly by video or audio live link, or any part of such a hearing, to be broadcast or recorded. It also provides for the punishment of any unlawful recording or transmission of proceedings conducted through live links. Schedule 27 includes additional safeguards to maintain

compliance with domestic and international obligations, including the European Convention on Human Rights. In accordance with section 6 of the Human Rights Act 1998, the court or tribunal must ensure that the parties receive a fair hearing that meets the requirements of Articles 5, 6 and 7 of the Convention.

3.5. These powers would otherwise have expired automatically on 24 March 2022 under section 89(1) of the Coronavirus Act 2020. They were instead extended under section 90 of the Act, in particular subsections (2), (11), (13) and (15). Statutory Rule SR 2022 No.24, made on 27 January 2022, extended the provisions from 25 March 2022 for a period just short of the six-month maximum permitted by the 2020 Act. The Committee raised no objection to that Rule, and the Northern Ireland Assembly approved it on 1 March 2022. The first extension was due to expire on 24 September 2022.

3.6. Further sequential extensions of the provisions were provided by SR 2022 No.227, made on 23 September 2022, and SR 2023 No.46, made on 21 March 2023. SR 2023 No.138, made on 21 September 2023, and SR 2024 No.72, made on 21 March 2024, provided further extensions. Further extensions were provided by SR 2024 No.173, made on 20 September 2024; SR 2025 No.61, made on 19 March 2025; and SR 2025 No.151, made on 22 September 2025. The Statutory Rule immediately preceding this one, SR 2026 No.55, was made on 16 March 2026. It allows the arrangements introduced under the Act to continue until 24 September 2026.

3.7. Since the pandemic, Northern Ireland, like other jurisdictions in the United Kingdom, has experienced a persistent backlog in the criminal courts. Criminal cases were particularly affected by the need to balance the Article 6 right to a fair trial with measures protecting public health and public safety, including the safety of those working in courts and tribunals. During the pandemic, the criminal courts received more cases than they disposed of, increasing the number of outstanding cases.

3.8. The Department's analysis of live case numbers at any stage, and of processing times for cases completed at court, indicates that the pandemic had, and continues to have, an impact. From the point at which a person is charged or informed, the number of live Crown Court cases rose from 940 on 1 March 2020 to 2,348 on 1 June 2026. This was an increase of 149.8%. On the same basis, the number of adult magistrates' court cases rose from 25,604 on 1 March 2020 to 30,843 on 1 June 2026, an increase of 20.5%.

3.9. The median time taken to complete a case across all courts, measured from the date an offence was reported until it was dealt with, was 209 days in 2025/26. This was 40.3% higher than the 149-day median in 2019/20. The median reached a high of 226 days for cases dealt with in 2021/22.

3.10. The most recent management information, from June 2026, records 12,656 defendants' cases at the court stage of the criminal justice system, compared with 7,269 in March 2020. Both the magistrates' courts and the Crown Court depend on the system's continuing ability to conduct remote hearings.

3.11. Similar effects have been reported in England and Wales and in Scotland. In England and Wales, there were 80,061 open Crown Court cases in the three months to 31 March 2026. In October 2024, the Cabinet Secretary for Justice and Home Affairs reported the continuing effect of the pandemic on criminal court backlogs. Although progress was being made, modelling by the Scottish Courts and Tribunals Service predicted that the backlog of solemn trials would remain above the target baseline until 2026-27. Scotland invested £180 million in post-pandemic recovery.

3.12. The number of Crown Court cases that had been in the court system for more than three years reduced from its peak following the pandemic but remains above pre-COVID levels. Case age is measured from the first court date following a PPS decision to prosecute. While there has been some improvement in overall case progression, significant delays persist across the Crown Court and the adult and youth magistrates' courts, with a substantial number of cases continuing to take more than three years to conclude. The Department considers that the pandemic remains a significant contributing factor to these delays, although it is not the sole cause. Wider system pressures, limitations on capacity across justice organisations have also impacted the pace at which cases can progress through the courts. Current performance data shows Crown Court end-to-end case processing times remain significantly higher than pre-pandemic levels, and recovery timelines continue to be affected by ongoing pressures on the justice system.

3.13. Maintaining access to these wider provisions has been identified as an essential part of the toolkit for addressing the caseload backlog, particularly in the criminal courts. It also continues to assist the efficient management of court time. The transition from SightLink to the Justice Video Platform (JVP) began in September 2025 and was completed in mid-November 2025. JVP is hosted in a Webex environment and provides an enhanced video-conferencing service. It has replaced SightLink and allows hybrid and remote hearings to continue, with additional security, functionality and accessibility features.

3.14. Each courtroom has its own Webex link. Participants attending remotely connect to the link for the relevant court, as they did under SightLink. A key difference is that all attendees are now placed automatically in a lobby and must wait for the court clerk to admit them to the hearing. This feature enhances the security of the online hearing. The Northern Ireland Courts and Tribunals Service reports an average of approximately 14,000 video-conferencing connections each month.

3.15. The Department considers that this further extension remains an appropriate legislative response to the ongoing pressures within the criminal justice system. While the pandemic is no longer the sole driver of delay, it continues to be regarded as a significant contributing factor to the backlog of cases that accumulated during that period. Although progress is being made, including recent reductions in Crown Court case processing times, a substantial number of cases remain within the system and further time, and resources will be required to support sustained recovery.

4. Consultation

4.1. No public consultation took place before the Coronavirus Act 2020 because it was enacted at Westminster in response to a public health emergency. A separate consultation on this instrument was not considered necessary. Several consultations and targeted engagement exercises had already examined the use of section 90(2) of the 2020 Act to retain the wider provisions for conducting hearings and other court or tribunal business remotely, pending new primary legislation. The Department's public consultation, "Audio and Video Links (Live Links) for Northern Ireland Court and Tribunal Hearings: A Public Consultation", began in July 2022 and closed on 30 September 2022. A report summarising the responses was published on 13 March 2023 and is available in the Publications section of the Department's website. Thirty-eight responses were received, with significant support (89%) for the continued wider use of live links. Thirty-four respondents favoured the judiciary continuing to determine whether the use of live links was in the interests of justice for a particular case or participant. The outcome of the consultation is reflected in the September 2024 "Way Forward" report, which is also available on the Department's website. It is also reflected in the proposed live-links clauses for courts and tribunals in the Justice Bill. The Bill was introduced in the Northern Ireland Assembly on 17 September 2024, completed Consideration Stage on 30 June 2026 and is awaiting Further Consideration Stage.

4.2. There have been two engagement exercises with the main users of live links: the first in November 2021 and the more recent exercise in June 2023. The 2023 exercise sought views on whether the Department should make further extension orders. Ninety-seven per cent of respondents supported the September 2023 extension order. The responses also recognised the need to retain the provisions to support the justice system's recovery. Many respondents supported extending the provisions beyond March 2024 to retain the perceived benefits of wider remote access to court. A report on the 2023 responses was published in November 2023 and is available on the Department's website.

4.3. The primary aim of this Statutory Rule is to retain the wider availability offered by the Coronavirus Act 2020 provisions while the backlog of cases that accrued during and since the pandemic is addressed. The provisions support remote evidence and allow other court business to be conducted remotely, including mentions, hearings, first appearances in the criminal courts and bail applications. The Statutory Rule will help the judiciary to address the backlog in the courts and tribunals while alternative legislative provisions for live links progress through the Northern Ireland Assembly. It will also support the sustainable, effective and efficient delivery of public services while meeting the needs of victims and witnesses.

5. Equality Impact

5.1. The Department had the opportunity to contribute to the equality analysis undertaken by Whitehall departments during the development of the 2020 Act. That analysis concluded that these provisions were not expected to have any adverse equality impacts.

5.2. The provisions of the Statutory Rule are technical and have not been identified as requiring an equality impact assessment. No new policy is being implemented. The Department has reviewed its equality and rural impact screenings each time an extension has been considered or made. Each updated equality screening draws on feedback from operational colleagues and responses from the main users of live links. An Equality Impact Screening was also conducted for the July 2022 public consultation and referred to the September 2022 Statutory Rule. Updated screenings were conducted for SR 2023 No.138, made in September 2023; SR 2024 No.72, made in March 2024; and SR 2024 No.173, made in September 2024. Further updated screenings were conducted for SR 2025 No.61, made on 19 March 2025; SR 2025 No.151, made on 22 September 2025; and SR 2026 No.55, made on 16 March 2026. Each screening concluded that extending the legislative provisions would not have a significant differential effect on the needs, experiences or priorities of any relevant category. No adverse impact has been identified or reported since those screenings. The Department nevertheless conducted an updated screening for this Statutory Rule, which concluded that no changes were required.

5.3. The Department considers that these provisions will not directly or indirectly discriminate against court users with protected characteristics. It recognises, however, that they could affect some such groups more than the general population because those groups are over-represented in the court system. The relevant legislative provisions include safeguards. In particular, they require the judiciary to be satisfied in each case that receiving evidence by live link is "in the interests of justice". This allows the court or tribunal to make any adjustment relevant to an individual participant's circumstances or needs, or to those of a party to the proceedings, when live links are proposed. The relevant judge is already required to be satisfied that a fair hearing can be provided. The legislation is permissive, and its use remains under the control of the judiciary, which takes account of the revised guidance issued by the Lady Chief Justice on 20 October 2025. The October 2025 "Guidance on Physical (In-Person), Remote & Hybrid Attendance" identifies substantive hearings in civil and criminal courts, and disputed bail applications in the High Court, as requiring in-person attendance. It states that a range of interlocutory hearings may be more appropriate for remote attendance with the permission of the judiciary.

5.4. The Department has noted equality concerns raised or suggested in surveys conducted outside Northern Ireland. It considers that the concerns highlighted by research and judicial experience are reflected in, or addressed by, the October 2025 guidance issued by the Lady Chief Justice. It states that "the guidance reflects the recognition that there are matters where the interests of justice determine that physical attendance is necessary unless otherwise directed." At the request of the Northern Ireland Courts and Tribunals Service (NICTS), the Northern Ireland Statistics and Research Agency (NISRA) conducted an independent review in 2022. This resulted in the report "A qualitative analysis of Remote and Hybrid Hearings". The report found that vulnerable people, and people with a disability, may find it easier and more comfortable to

participate from a familiar environment or a solicitor's office. It also identified potential difficulties with travelling to a court building, finding parking and attending court for face-to-face hearings. The report recorded comments that people with caring responsibilities should be considered for remote attendance, so that they can access justice in the way that best suits their needs.

5.5. To date, no adverse impact has been identified on any of the nine categories in section 75 of the Northern Ireland Act 1998. NICTS has not identified any such impact through its data-collection methods or assessments of the use and impact of audio and visual links in the courts. The provisions are permissive. Where a language or other barrier, such as a visual or hearing impairment or a learning difficulty, requires specific support, the legislation allows the judge to consider whether a live link is suitable for that person. This may include the need for an interpreter or other support. These needs have always existed within the justice system. Arrangements are in place for interpreting services, registered intermediaries and reasonable adjustments when such needs are brought to the attention of the judiciary or Tribunal Chair. The legislation recognises that live-link technology may not be suitable for everyone. It allows a person's views to be heard and taken into account when deciding whether live links should be used.

5.6. The Department remains of the view, supported by the NISRA report, that the safeguards allowing adjustments to be made 'in the interests of justice' appropriately address participants' needs and any concerns. Through its operational colleagues in NICTS, the Department continues to keep these areas of concern under review..

6. Regulatory Impact

6.1. A Regulatory Impact Assessment is not considered necessary. There will be no impact on businesses, charities or voluntary bodies.

7. Financial Implications

7.1. None

8. Section 24 of the Northern Ireland Act 1998

8.1. The Department has considered its obligations under section 24 of the Northern Ireland Act 1998 and is satisfied that the Statutory Rule is not incompatible with the Convention rights, is not incompatible with Article 2(1) of the Protocol on Ireland/ Northern Ireland in the EU withdrawal agreement (rights of individuals); does not discriminate against a person or class of person on the grounds of religious belief or political opinion; and does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

9.1. None.

10. Parity or Replicatory Measure

10.1. The live-links provisions in section 57 and Parts 1 and 2 of Schedule 27 of the 2020 Act, and the Statutory Rule, are not necessary for parity

elsewhere. They are, however, modelled on similar arrangements in England, Wales and Scotland. Through primary legislation, England and Wales have replaced the provisions initially created in 2020 in response to the pandemic. Scotland initially extended certain temporary justice-system measures, including equivalent live-links provisions, through the Coronavirus (Recovery and Reform) (Scotland) Act 2022 and subsequent extension regulations. It has since enacted the Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews (Scotland) Act 2025.

11. Additional Information

11.1. The Police, Crime, Sentencing and Courts Act 2022 introduced provisions allowing the criminal courts in England and Wales to work remotely when the relevant judicial post-holder is satisfied that this is required in the interests of justice. The Act sets out the 'matters to have regard to' when deciding whether the use of live links is 'in the interests of justice'. This reflects earlier provisions for remote hearings in the civil and family courts in that jurisdiction. The 2020 Act provisions were extended once, in March 2022, to cover the limited period until the relevant provisions of the Police, Crime, Sentencing and Courts Act 2022 could be commenced. The 2022 Act also includes provisions on the use of live links in certain courts or tribunals operating in Northern Ireland when dealing with 'excepted' matters, as defined in Schedule 3 to the Northern Ireland Act 1998.

11.2. The Scottish Government considered that there was a case for a longer extension of the temporary justice-system measures introduced for its courts. It retained those measures to address backlogs in the Scottish justice system. The temporary measures, including the equivalent live-links provisions for remote hearings, were initially provided by the Coronavirus (Extension and Expiry) (Scotland) Act 2021 and then by the Coronavirus (Recovery and Reform) (Scotland) Act 2022. There were two extensions under the 2022 Act: Scottish Statutory Instrument (SSI) 2023 No 172 and SSI 2024 No 322. Together, they extended until November 2025 the temporary justice provisions in Part 5 of the 2022 Act and its related Schedule that were identified in the instruments.

11.3. For remote attendance in the civil courts, other provisions have been made through court rules. These regulate modes of attendance in proceedings in the Court of Session and the sheriff court. A public consultation on making permanent several temporary justice measures in the Coronavirus (Recovery and Reform) (Scotland) Act 2022 ended in February 2024. The Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews (Scotland) Act 2025 was introduced as a Bill in the Scottish Parliament in late 2024. It was passed on 7 October 2025 and received Royal Assent on 19 November 2025.