STATUTORY RULES OF NORTHERN IRELAND

2014 No. 219

COURT OF JUDICATURE, NORTHERN IRELAND

PROCEDURE

The Crown Court (Amendment) Rules (Northern Ireland) 2014

Made - - - -	*4th August 2014*
Coming into operation -	*5th September 2014*

The Crown Court Rules Committee makes the following Rules in exercise of the powers conferred by sections 52(1) and 53A of the Judicature (Northern Ireland) Act 1978(**a**).

Citation, commencement and interpretation

1. These Rules shall be cited as the Crown Court (Amendment) Rules (Northern Ireland) 2014 and shall come into operation on 5th September 2014.

Amendment to the Crown Court Rules (Northern Ireland) 1979

2. After Rule 47A of the Crown Court Rules (Northern Ireland) 1979(**b**), there shall be inserted the following new rule—

"**Assistance with communication for a defendant who does not speak English or who has a hearing or speech impediment**

47B—(1) In this Rule—

(a) references to a defendant who needs interpretation mean—

(i) a defendant who needs interpretation because he does not speak or understand English; or

(ii) a defendant who needs assistance because he has a speech or hearing impediment;

(b) where a defendant has a hearing or speech impediment, references to an interpreter include a person appointed—

(i) to communicate to the defendant anything said at the hearing and explain it so far as is necessary for the defendant to understand it; or

(ii) to communicate any answers given by the defendant, and any other matters that the defendant seeks to convey, and explain them so far as is necessary to enable the court and others present at the hearing to understand them,

(**a**) 1978 c.23; to which the most recent relevant amendments were made by the Constitutional Reform Act 2005 (c.4); and paragraph 6 of Schedule 17 to, and paragraphs 14 and 26 of Schedule 18 to, the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010 No. 976).

(**b**) S.R. 1979 No. 90; to which the most recent relevant amendments were made by S.R. 2013 No. 82.

and references to interpretation shall be construed accordingly;

(c) references to acting at a hearing include assisting the defendant to communicate with his legal representative during the hearing and in relation to such assistance, paragraph (1)(b)(ii) has effect as if the reference to the court and others present at the hearing were to the legal representative.

(2) Where a defendant who needs interpretation is due to be present at a hearing, the chief clerk shall appoint an interpreter to act at the hearing.

(3) Before an interpreter begins to act at a hearing, an oath or affirmation shall be administered to the interpreter.

(4) Before an interpreter is sworn or makes his affirmation, the interpreter's name shall be read out, and any party to the proceedings may object to the interpreter on any reasonable ground.

(5) If the court upholds an objection made under paragraph (4), the interpreter shall not be sworn or make his affirmation and the chief clerk shall appoint another interpreter.

(6) Where, on application or of its own motion, the court is satisfied that a document is essential, it shall order that a written translation of the document, or a relevant passage thereof, is provided to a defendant who needs interpretation unless –

(a) the defendant unequivocally and voluntarily waives his right to translation and has had legal advice or otherwise has full knowledge of the consequences of such a waiver; or

(b) provision of an oral translation or oral summary of the document, or the passage thereof, would not prejudice the fairness of the proceedings.

(7) On application, the court may give any direction which it considers appropriate where—

(a) no interpreter has been appointed by the chief clerk;

(b) on a previous application under paragraph (6), the court determined that there was no need for translation of the document, or a passage thereof, specified in the application; or

(c) a defendant who needs interpretation submits that the quality of interpretation or translation is not sufficient to safeguard the fairness of the proceedings.

(8) The chief clerk shall record—

(a) the identity of any interpreter appointed to act at a hearing;

(b) any decision to provide an oral translation or oral summary of an essential document or a passage thereof;

(c) any waiver by a defendant who needs interpretation of his right to translation; and

(d) any direction given under paragraph (7)."

Declan Morgan
M J Higgins
David K McFarland
Corinne Philpott
C J McCorry
M J Finegan

Dated 1st July 2014

In exercise of the powers conferred upon me by section 53A of the Judicature (Northern Ireland) Act 1978, I allow these Rules.

Sealed with the Official Seal of the Department of Justice on 4th August 2014



David Ford
Minister of Justice

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Crown Court Rules (Northern Ireland) 1979 (S.R. 1979 No. 90) to give effect to Directive 2010/64/EU of the European Parliament and of the Council of 20th October 2010 on the right to interpretation and translation in criminal proceedings. They make provision for interpretation and translation services for defendants, including defendants with hearing or speech impediments.

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