EXPLANATORY MEMORANDUM TO THE

THE CROWN COURT (REPORTS RELATING TO ADULT WITNESSES) RULES 2004

2004 No. 2420 (L. 16)

1. This Explanatory Memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Description

The above Rules are made in exercise of the powers conferred under sections 84(1) and 86 of the Supreme Court Act 1981. The Rules specify the procedure for applications for reporting directions in respect of adult witnesses under section 46 of the Youth Justice and Criminal Evidence Act 1999. The Rules will come into force on 7 October 2004.

3. Matters of special interest to the Joint Committee on Statutory Instruments and the Select Committee on Statutory Instruments

None.

4. Legislative Background

Section 46 of the Youth Justice and Criminal Evidence Act 1999 allows courts to impose restrictions on reporting information leading to the identification of an adult witness involved in criminal proceedings. It will provide the court with a power to give a reporting direction in relation to any adult witness in criminal proceedings so long as that witness is eligible for protection and a direction will either (a) improve the quality of the evidence or (b) the level of co-operation given by the witness to any party to the proceedings in connection with the party's preparation of its case.

The test in section 46(3) of that Act requires the court to consider a range of factors including the nature and alleged circumstances of the offence to which the proceedings relate. The court must also consider any views expressed by the witness.

A court will be able to partially disapply the restrictions if they are satisfied that that is necessary in the interests of justice, or if the restrictions are substantial and unreasonable and it would be in the public interest to relax the restrictions. They will also be able to revoke a direction under this section.

5. Extent

This instrument applies to England and Wales.

6. Policy objectives

The Rules specify the information that must be contained in applications for a reporting direction and excepting direction. They also specify the procedure for opposing an application for a reporting direction and excepting direction and the procedure for applying for revocation or variation of a reporting direction. The Rules also specify the procedure in relation to urgent applications for reporting directions in exceptional circumstances.

7. Impact

A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8. Contact

Matthew Capper at the Office of Criminal Justice Reform can answer any queries regarding the instrument. His contact details are:

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