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Our ref: JCP\25\5

31 January 2025

Dear Kathy,

JUSTICE BILL: SHARING TEXT OF UPDATED DRAFT LIVE LINKS AMENDMENTS FOR CALL FOR EVIDENCE PURPOSES

Further to my letter of 16 January and following officials' recent appearance at the Committee on Thursday 23 January 2025 to discuss the planned Departmental amendments to the Justice Bill, I am pleased to share an updated version of the live links amendments with Committee members.

The provisions have been refined and the attached draft is provided for publication purposes as part of the Committee's Call for Evidence on the Bill, which I understand is due to launch in February.

I trust that this is helpful, and officials are happy to provide any further information that members may consider beneficial to their scrutiny of these additional provisions.


**DAVID GRAHAM
DALO**

Enc: Appendix A – Live Links Amendments

Directions for participation by live link

1.—(1) Where there are any proceedings before a court or statutory tribunal, the court or tribunal may give a live link direction for any person’s participation in the proceedings.

5 (2) A live link direction is a direction that permits or (where the court or tribunal has power to compel the person’s participation) requires the person to participate in the proceedings through a live link.

(3) For the purposes of this Chapter, “participation” in proceedings includes in particular participation—

- 10 (a) as a party to the proceedings,
- (b) as a witness,
- (c) as a judge or other member of the court or tribunal,
- (d) as a legal representative acting in the proceedings,
- 15 (e) as an interpreter or other person appointed by the court or tribunal to assist in the proceedings,
- (f) as the clerk to the court or tribunal, or
- (g) as a representative of the press.

(4) But a live link direction may not be given for a person’s participation in proceedings as a member of a jury.

20 (5) See—

- (a) section 4 for further provision about the effect of a live link direction;
- (b) sections 5 to 7 for provision about the giving of live link directions, and about varying or rescinding them.

Enabling the public to see and hear proceedings: limited transmission

2.—(1) Where—

(a) there are proceedings before a court or statutory tribunal, and

5 (b) the court or tribunal considers it appropriate to do so in order to enable persons who are not taking part in the proceedings to see and hear, or to hear, those proceedings,

the court or tribunal may make a limited transmission direction.

(2) A limited transmission direction is a direction that images and sounds of the proceedings, or sounds of them, are to be—

10 (a) transmitted to specified live-streaming premises, or

(b) broadcast by a transmission to which individuals are given access only having first identified themselves to the court (or to a person acting on behalf of the court).

15 (3) In subsection (2)(a), “specified live-streaming premises” means any premises, suitable for the purpose of enabling members of the public to watch or listen to the proceedings, that are specified in the direction.

(4) A limited transmission direction may include further provision about—

(a) the manner of transmission, or

20 (b) the persons who are to be able to watch or listen to the transmission (including provision making that ability subject to conditions, or aimed at preventing persons whom the court or tribunal intends should not watch or listen from being able to do so).

(5) A limited transmission direction may relate to the whole, or to part, of the proceedings concerned.

25 (6) See sections 5 and 7 for provision about the giving of limited transmission directions, and about varying or rescinding them.

Enabling the public to see and hear proceedings: broadcast

3.—(1) A court or statutory tribunal may give a direction under subsection (2) or (3) (a “broadcast direction”) if—

5 (a) proceedings before the court or tribunal are to be conducted wholly as video proceedings, or wholly as audio proceedings, and

(b) the court or tribunal considers that (whether because the public gallery in the courtroom is closed or otherwise unavailable, or for any other reason) the giving of the direction is necessary to ensure that there is a public hearing.

10 (2) If the proceedings are to be conducted wholly as video proceedings, the court or tribunal may direct that the proceedings are to be broadcast (in the manner specified in the direction) for the purpose of enabling members of the public to see and hear the proceedings.

15 (3) If the proceedings are to be conducted wholly as audio proceedings, the court or tribunal may direct that the proceedings are to be broadcast (in the manner specified in the direction) for the purpose of enabling members of the public to hear the proceedings.

(4) For the purposes of this section, proceedings are conducted wholly as video proceedings, or wholly as audio proceedings, if—

20 (a) directions have been given, under this Chapter or any other provision, for all the persons taking part in the proceedings to do so through a live video link or a live audio link (as the case may be), and

(b) all those persons take part in the proceedings in accordance with those directions.

25 (5) But the fact that any of the following persons are present at same location does not prevent the proceedings from being conducted “wholly” as video or audio proceedings—

(a) the judge and any other member of the court or tribunal;

(b) the clerk to, and any other member of staff of, the court or tribunal.

30 (6) A broadcast direction may relate to the whole, or to part, of the proceedings concerned.

(7) See sections 5 and 7 for provision about the giving of broadcast directions, and about varying or rescinding them.

Effect of live link direction

5 4.—(1) Where a court is sitting with a jury and a person gives evidence in accordance with a live link direction, the judge or coroner may give the jury such direction as the judge or coroner thinks necessary to ensure that the jury gives the same weight to the evidence as if it had been given in person.

(2) Where a person who is outside Northern Ireland—

(a) gives evidence in pursuance of a live link direction, and

(b) in that evidence, makes a statement on oath,

10 the statement is to be treated as having been made in Northern Ireland (and Article 3 of the Perjury (Northern Ireland) Order 1979 applies accordingly).

(3) Subsections (4) and (5) apply where a person who is being held in custody or detained in hospital (“P”) is participating in proceedings before a court in accordance with a live link direction and during a hearing—

15 (a) it falls to the court to determine whether P should continue to be held in custody or detained in hospital,

(b) it appears to the court that P is not able to see and hear the court or that P cannot be seen and heard by it, and

(c) it appears to the court that this cannot be immediately corrected.

20 (4) If the court is satisfied that it is not reasonably practicable to bring P to the court before P ceases to be held in custody or detained in hospital—

(a) the court may proceed with the hearing, and

(b) if it does so, it may not remand P in custody, or order that P be detained in hospital, for a period exceeding 8 days commencing on the day following the remand or order for detention.

25 (5) In any other case, the court must adjourn the hearing.

(6) In this section—

(a) references to a person being held in custody are references to the person's being held in custody in a prison, young offenders centre, juvenile justice centre or other institution;

30 (b) references to a person being detained in hospital are references to the person's being detained in a hospital under Part 2 or 10 of the Mental Capacity Act (Northern Ireland) 2016.

Giving a direction under this Chapter

- 5.—(1) This section applies to—
- (a) a live link direction for the participation of a person (“P”);
 - (b) a limited transmission direction;
 - 5 (c) a broadcast direction.
- (2) A court or tribunal may make a direction—
- (a) of its own motion,
 - (b) on the application of a party to the proceedings, or
 - (c) in the case of a live link direction, on the application of P.
- 10 (3) Before giving a direction, the court or tribunal must consider—
- (a) the views of the parties to the proceedings, and
 - (b) in the case of a live link direction, the views of P.
- (4) In deciding whether to give a direction, the court or tribunal must have regard to all the circumstances of the case, including in particular—
- 15 (a) in the case of a court, any guidance issued by the Lady Chief Justice or by the Presiding Coroner (as the case may be);
- (b) any matters set out for this purpose in regulations made by the Department of Justice.
- (5) A court or tribunal must not give a direction unless it is satisfied that it is in
20 the interests of justice to do so (but, in the case of a live link direction, see also section 6).
- (6) If the court or tribunal gives a direction, it may also direct that a recording of the proceedings (or of any transmission or broadcast of the proceedings) is to be made, in the manner specified in the direction, for the purpose of enabling the
25 court to keep a record of the proceedings.
- (7) Where a court or tribunal refuses an application for a direction, it must—
- (a) state openly its reasons for doing so, and
 - (b) if it is a magistrates’ court, cause the reasons to be entered in the Order Book.
- 30 (8) The Department may not make regulations under subsection (4)(b) unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.
- (9) The power of a court or tribunal to give a direction is additional to, and does not limit, any other power of the court or tribunal.

Presumption of giving evidence by live link in certain cases

6.—(1) A court or tribunal must give a live link direction, unless it is satisfied that it would be contrary to the interests of justice to do so, where—

- 5 (a) the participant is a public authority, or an officer or representative acting on behalf of a public authority, and the proceedings are single-participant proceedings (see subsection (2)), or
- (b) the participant is an expert witness of a class or description specified for the purposes of this paragraph (see subsection (4)).

(2) In subsection (1)(a)—

10 “public authority” means any person listed in Schedule 1;

“single-participant proceedings” means—

- (a) proceedings to which there is no respondent, or
- (b) proceedings on an application made without notice to the respondent (or respondents).

15 (3) The Department of Justice may by regulations amend Schedule 1.

(4) The Department of Justice may by regulations specify classes or descriptions of expert witnesses for the purposes of subsection (1)(b).

(5) The Department may not make regulations under subsection (3) or (4) unless a draft of the regulations has been laid before, and approved by a resolution of, the
20 Assembly.

Varying or rescinding a direction under this Chapter

7.—(1) This section applies to—

- (a) a live link direction for the participation of a person (“P”);
- (b) a limited transmission direction;
- 5 (c) a broadcast direction.

(2) A court or tribunal may vary or rescind a direction if it appears to the court or tribunal to be in the interests of justice to do so.

(3) The court or tribunal may do so—

- (a) of its own motion,
- 10 (b) on the application of a party to the proceedings, or
- (c) in the case of a live link direction, on the application of P.

(4) An application may not be made under subsection (3)(b) or (c) unless there has been a material change of circumstances since the direction was given.

15 (5) Before varying or rescinding a direction, the court or tribunal must consider—

- (a) the views of the parties to the proceedings, and
- (b) in the case of a live link direction, the views of P.

(6) Where a court or tribunal varies or rescinds a direction, or refuses an application to do so, it must—

- 20 (a) state openly its reasons for varying or rescinding the direction or refusing to do so, and
- (b) if it is a magistrates’ court, cause the reasons to be entered in the Order Book.

Offences in relation to participation through live link

8.—(1) It is an offence for a person to make—

- (a) an unauthorised recording, or
- (b) an unauthorised transmission,

5 of an image or sound which is being transmitted through a live link.

(2) Where a person (“A”) is participating in court or tribunal proceedings through a live link, it is an offence for any person (whether A or another) to make—

- (a) an unauthorised recording, or
- 10 (b) an unauthorised transmission,

of an image of, or sound made by, A.

(3) A recording or transmission is “unauthorised” unless it is authorised (generally or specifically) by the court or tribunal in which the proceedings are conducted.

15 (4) It does not matter whether the person making a recording or transmission intends the recording or transmission, or anything comprised in it, to be seen or heard by any other person.

(5) It is a defence for a person charged with an offence under this section to prove that, at the time of the recording or transmission, the person did not know, 20 and could not reasonably have known—

- (a) in case of an image or sound within subsection (1), that the image or sound was being transmitted through a live link, or
- (b) in case of an image or sound within subsection (2), that the image was of, or the sound was made by, a person while participating in court or tribunal 25 proceedings through a live link.

(6) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Offences in relation to limited transmission or broadcasting

9.—(1) It is an offence for a person to make—

- (a) an unauthorised recording, or
- (b) an unauthorised transmission,

5 of an image or sound which is being transmitted or broadcast in accordance with a limited transmission direction or a broadcast direction.

(2) Where a person (“A”) is viewing or listening to a transmission made in accordance with a limited transmission direction, it is an offence for any person (whether A or another) to make—

- 10 (a) an unauthorised recording, or
(b) an unauthorised transmission,

of an image of, or sound made by, A.

(3) A recording or transmission is “unauthorised” unless it is—

- 15 (a) authorised by a limited transmission direction or a broadcast direction, or
(b) otherwise authorised (generally or specifically) by the court or tribunal in which the proceedings concerned are conducted.

(4) It does not matter whether the person making a recording or transmission intends the recording or transmission, or anything comprised in it, to be seen or heard by any other person.

20 (5) It is a defence for a person charged with an offence under this section to prove that, at the time of the recording or transmission of the image or sound concerned, the person—

- (a) was not in specified live-streaming premises, and
- (b) did not know, and could not reasonably have known—

25 (i) in case of an image or sound within subsection (1), that the image or sound was being transmitted or broadcast in accordance with a limited transmission direction or a broadcast direction, or

30 (ii) in case of an image or sound within subsection (2), that the image was of, or the sound was made by, a person while viewing or listening to a transmission made in accordance with a limited transmission direction.

(6) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(7) In this section, “specified live-streaming premises” has the same meaning as in section 2.

Meaning of “live link” for the purposes of this Chapter

10.—(1) In this Chapter “live link” means a live video link or a live audio link.

(2) A “live video link”, in relation to a person (“P”) participating in proceedings, is a live television link or other arrangement which—

- 5 (a) enables P to see and hear all other persons taking part in the proceedings who are not in the same location as P, and
- (b) where P is a person mentioned in section 1(3)(a) to (f), enables all other persons who are taking part in the proceedings but are not in the same location as P, or who are attending the proceedings, to see and hear P.

10 (3) A “live audio link”, in relation to a person (“P”) participating in proceedings, is a live telephone link or other arrangement which—

- (a) enables P to hear all other persons taking part in the proceedings who are not in the same location as P, and
- 15 (b) where P is a person mentioned in section 1(3)(a) to (f), enables all other persons who are taking part in the proceedings but are not in the same location as P, or who are attending the proceedings, to hear P.

(4) The references in subsections (2) and (3) to persons taking part in proceedings are to—

- (a) any person mentioned in section 1(3)(a) to (f), and
- 20 (b) where the court is sitting with a jury, any member of the jury.

(5) The references in subsections (2)(b) and (3)(b) to persons attending the proceedings are to—

- (a) any other person participating in the proceedings by virtue of a live link, and
- 25 (b) any person present in the courtroom or other room (if any) in which a hearing of the proceedings is being held.

(6) Where a court or tribunal—

- (a) gives a live link direction, and
- 30 (b) has power to order or direct that measures be taken that prevent a participant in the proceedings from seeing and hearing, or from being seen and heard by, any other person,

the references in subsections (2) and (3) to enabling a person to see and hear, or to be seen and heard by, other persons are to be read as being subject to that power.

35 (7) The extent (if any) to which a person is unable to hear or see by reason of any impairment of hearing or eyesight is to be disregarded for the purposes of subsections (2) and (3).

Other definitions

- 11.—(1) This section has effect for the purposes of this Chapter.
- (2) “Court” means—
- (a) the Court of Appeal,
 - 5 (b) the High Court,
 - (c) the Crown Court,
 - (d) a county court,
 - (e) a magistrates’ court, and
 - (f) a coroner holding an inquest.
- 10 (3) “Statutory tribunal” means a tribunal (however named or described) established by or under a transferred provision, but does not include—
- (a) a court, or
 - (b) an industrial tribunal or the Fair Employment Tribunal.
- (4) For the purposes of subsection (3), a transferred provision is any statutory
- 15 provision which—
- (a) would, if included in an Act of the Assembly, be within the competence of the Assembly, and
 - (b) would not, if included in a Bill for an Act of the Assembly, result in the Bill requiring the consent of the Secretary of State.
- 20 (5) “Recording” means a recording on any medium—
- (a) of a single image, a moving image or any sound, or
 - (b) from which a single image, a moving image or any sound maybe produced or reproduced.
- (6) “Transmission” means any transmission by electronic means of a single
- 25 image, a moving image or any sound.
- (7) An image or sound—
- (a) is transmitted through a live video link if it is transmitted as part of a person’s participation in court or tribunal proceedings through a live video link;
 - 30 (b) is transmitted through a live audio link if it is transmitted as part of a person’s participation in court or tribunal proceedings through a live audio link.

Consequential amendments and transitional provisions

12. In Schedule 2—

- (a) Part 1 contains amendments and repeals that are consequential on this Chapter;
- (b) Part 2 contains transitional provision.

SCHEDULE 1

Section 6

PUBLIC AUTHORITIES FOR THE PURPOSES OF SECTION 6

- 5 1. A Northern Ireland department.
2. The First Minister, the deputy First Minister and a Northern Ireland Minister (within the meaning given by the Northern Ireland Act 1998).
3. A district council.
4. A constable.
- 10 5. The Police Service of Northern Ireland.
6. Any body of constables appointed under Article 19 of the Airports (Northern Ireland) Order 1994.
7. Any body of special constables appointed in Northern Ireland under section 79 of the Harbours, Docks, and Piers Clauses Act 1847 or section 57 of the Civil
15 Aviation Act 1982.
8. The Director of Public Prosecutions for Northern Ireland.
9. The Police Ombudsman for Northern Ireland.
10. The Probation Board for Northern Ireland.
11. A Health and Social Care trust.

SCHEDULE 2

Section 12

AMENDMENTS AND TRANSITIONAL PROVISIONS

PART 1

5 CONSEQUENTIAL AMENDMENTS AND REPEALS

Criminal Justice Act (Northern Ireland) 1945

1. In section 29 of the Criminal Justice Act (Northern Ireland) 1945 (prohibition on taking photographs, etc, in court), after subsection (1A) insert—

10 “(1B) Subsection (1) does not apply to anything done in accordance with a direction under Chapter 2 of Part 3 of the Justice Act (Northern Ireland) 2025 (live links, transmissions and broadcasts of court and tribunal proceedings).”.

Criminal Appeal (Northern Ireland) Act 1980

15 2.—(1) The Criminal Appeal (Northern Ireland) Act 1980 is amended as follows.

(2) In section 24 (right of appellant to be present)—

(a) omit subsections (2A) to (2D);

(b) after subsection (3) insert—

20 “(4) For the purposes of this section, an appellant who participates in the hearing of an appeal through a live link pursuant to a direction under section 1 of the Justice Act (Northern Ireland) 2025 is to be treated as present on the hearing of the appeal.”.

(3) In section 25 (evidence), omit subsection (4) (as inserted by Article 83(2) of the Criminal Justice (Northern Ireland) Order 2008).

25 (4) In section 45 (powers of court exercisable by single judge)—

(a) in subsection (2), omit paragraph (fa);

(b) after subsection (3E) insert—

30 “(3F) Subject to section 44(4), the powers of the Court of Appeal under Chapter 2 of Part 3 of the Justice Act (Northern Ireland) 2025 (live links, transmissions and broadcasts of court and tribunal proceedings) may be exercised by a single judge of the Court.”.

Contempt of Court Act 1981

3. In section 9 of the Contempt of Court Act 1981 (prohibition of tape recording etc), after subsection (4A) insert—

35 “(4B) This section does not apply to anything done in accordance with a direction under Chapter 2 of Part 3 of the Justice Act (Northern Ireland) 2025 (live links, transmissions and broadcasts of court and tribunal proceedings).”.

Police and Criminal Evidence (Northern Ireland) Order 1989

4. Omit Article 80A of the Police and Criminal Evidence (Northern Ireland) Order 1989 (evidence through live links).

Criminal Justice (Northern Ireland) Order 2003

5 5. Omit Article 31 of the Criminal Justice (Northern Ireland) Order 2003 (evidence through live links).

Crime (International Co-operation) Act 2003

6.—(1) The Crime (International Co-operation) Act 2003 (hearing witnesses abroad through video or audio links) is amended as follows.

10 (2) In section 29, omit subsection (3).

(3) In section 50 (subordinate legislation)—

(a) omit subsection (1A);

(b) in subsection (2), for “the Scottish Ministers or the Department of Justice” substitute “or the Scottish Ministers”;

15 (c) omit subsection (6).

Criminal Justice (Northern Ireland) Order 2004

7. Omit Part 3 of the Criminal Justice (Northern Ireland) Order 2004 (live links).

Constitutional Reform Act 2005

20 8. In Schedule 5 to the Constitutional Reform Act 2005 (amendments concerning evidence through television links), omit paragraph 78.

Criminal Justice (Northern Ireland) Order 2005

9. Omit Article 24 of the Criminal Justice (Northern Ireland) Order 2005 (evidence through live links).

25 *Criminal Justice (Northern Ireland) Order 2008*

10. In the Criminal Justice (Northern Ireland) Order 2008, omit the following—

(a) Articles 79 to 81 (live links in preliminary and sentencing hearings);

(b) Article 83 (live links in appeals under the Criminal Appeal Act).

Justice Act (Northern Ireland) 2011

30 11. Omit sections 15 to 18 of the Justice Act (Northern Ireland) 2011 (live links in specified proceedings).

Justice Act (Northern Ireland) 2015

12. In the Justice Act (Northern Ireland) 2015, omit the following—

(a) Part 7 (live links in criminal proceedings);

35 (b) in Schedule 1 (single jurisdiction amendments), paragraph 125;

(c) in Schedule 8 (transitional provisions and savings), paragraph 6 and the italic heading before it;

(d) in Schedule 9, Part 4 (repeal of live link provisions).

Coronavirus Act 2020

13. Omit section 57 of, and Schedule 27 to, the Coronavirus Act 2020 (use of live links in legal proceedings in Northern Ireland).

PART 2

5

TRANSITIONAL PROVISION

14.—(1) Sub-paragraph (2) applies where, on the day on which the repeal of any of the following provisions comes into operation, there is in force a direction (or the court has given leave) under that provision—

- (a) section 24(2A) of the Criminal Appeal (Northern Ireland) Act 1980;
- 10 (b) Article 80A of the Police and Criminal Evidence (Northern Ireland) Order 1989;
- (c) Article 10 or 11A of the Criminal Justice (Northern Ireland) Order 2004;
- (d) Article 80 or 81 of Criminal Justice (Northern Ireland) Order 2008;
- (e) section 16, 17 or 18 of the Justice Act (Northern Ireland) 2011;
- 15 (f) section 49, 50 or 51 of the Justice Act (Northern Ireland) 2015;
- (g) paragraph 2 of Schedule 27 to the Coronavirus Act 2020.

(2) The direction (or leave) has effect on and after that day as if it were a live link direction under section 1; but this is subject to any power of the court to vary or rescind that direction under section 7.

20 15.—(1) Sub-paragraph (2) applies where, on the day on which the repeal of section 102A(1)(a) or (2)(a) of the Judicature (Northern Ireland) Act 1978 comes into operation, there is in force a direction under that section.

25 (2) The direction has effect on and after that day as if it were a broadcast direction under section 3; but this is subject to any power of the court to vary or rescind that direction under section 7.

16. Until the coming into force of Parts 2 and 10 of the Mental Capacity Act (Northern Ireland) 2016, the references in section 4(6)(b) to those Parts are to be read as references to Parts 2 and 3 (respectively) of the Mental Health (Northern Ireland) Order 1986.