STATUTORY RULES OF NORTHERN IRELAND

2018 No. 25

MAGISTRATES' COURTS

PROCEDURE

The Magistrates' Courts (Amendment) Rules (Northern Ireland) 2018

Made - - - - *29th January 2018*

Laid before Parliament *1st February 2018*

Coming into operation in accordance with Rule 1

The Magistrates' Courts Rules Committee makes the following Rules in exercise of the powers conferred by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981(**1**) and regulation 61 of the Criminal Justice (European Investigation Order) Regulations 2017(**2**).

Citation, commencement and interpretation

1. These Rules shall be cited as the Magistrates' Courts (Amendment) Rules (Northern Ireland) 2018 and shall come into operation on the twenty-first day after the date upon which this instrument is laid before Parliament.

2. In these Rules "the principal Rules" means the Magistrates' Courts Rules (Northern Ireland) 1984(**3**), and a reference to a rule is a reference to that rule so numbered in the principal Rules.

Amendment to the principal Rules

3. In the principal Rules, after Rule 52N, insert—

(**1**) S.I. 1981/1675 (N.I. 26), Article 13 was amended by paragraph 133 of Schedule 18 to the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976); paragraph 65 of Schedule 5 to the Constitutional Reform Act 2005 (c.4) and paragraph 4 of the Schedule to the Northern Ireland (Miscellaneous Provisions) Act 2014 (c.13)

(**2**) S.I. 2017/730

(**3**) S.R. 1984 No.225, to which the most recent relevant amendment was made by S.R. 2014 No. 221 and S.R. 2016 No. 304.

"L. THE CRIMINAL JUSTICE (EUROPEAN INVESTIGATION ORDER) REGULATIONS 2017

Interpretation

52O. In this Rule and Rules 52P and 52Q—

(a) "the Directive" means Directive 2014/41/EU of the European Parliament and of the Council regarding the European Investigation Order in criminal matters(**4**);

(b) "the Regulations" means the Criminal Justice (European Investigation Order) Regulations 2017, a reference to a regulation, Part or Schedule by number is a reference to the regulation, Part or Schedule so numbered in the Regulations; and

(c) expressions which are defined in the Regulations have the same meaning as in the Regulations.

Application for European investigation order

52P.—(1) An application under regulation 6 for a European investigation order shall, subject to paragraph (92), be made by giving notice in writing to the clerk of petty sessions and shall state—

(a) the particulars of the alleged offence or the grounds for suspecting that an offence has been committed;

(b) whether proceedings in respect of the alleged offence have been instituted or the alleged offence is being investigated;

(c) the investigative measure or measures in respect of which the order is sought;

(d) the participating State; and

(e) the grounds for the application including those which set out, in respect of each investigative measure sought,—

(i) why such measure is necessary and proportionate for the purposes of the investigation or proceedings in question; and

(ii) how such measure could lawfully be ordered or undertaken under the same conditions in a similar domestic case, having regard to regulation 11.

(2) The application shall be accompanied by a draft of the order sought in the form set out in Annex A to the Directive.

(3) The court may direct that paragraph (1) need not be complied with if it is satisfied that the applicant has good reason to make the application as soon as possible and that it is not practicable to comply with that paragraph.

(4) The court may deal with the application ex parte.

Variation or revocation of a European investigation order

52Q.—(1) An application under regulation 10 to vary or revoke a European investigation order shall be made in writing, giving full particulars of the matters relied upon in support of the application.

(2) The application shall be served by the applicant on the clerk of petty sessions and on each party to the proceedings.

(**4**) OJ No. L 130, 1.5. 2014, pl