STATUTORY RULES OF NORTHERN IRELAND

# 2016 No. 94

# MAGISTRATES' COURTS

PROCEDURE

# The Magistrates' Courts (Violent Offences Prevention Orders) Rules (Northern Ireland) 2016

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| *Made - - - -* | *2nd March 2016* |
| *Coming into operation* | *1st June 2016* |

The Magistrates' Courts Rules Committee makes and the Department of Justice, after consultation with the Lord Chief Justice, allows the following Rules in exercise of the powers conferred by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981 [F1] and sections 58 and 60 of the Justice Act (Northern Ireland) 2015 [F2].

**F1** S.I. 1981/1675 (N.I. 26); Article 13 was amended by paragraph 65 of Schedule 5 to the Constitutional Reform Act 2005 (c.4); paragraph 133 of Schedule 18 to the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976); and paragraph 4 of the Schedule to the Northern Ireland (Miscellaneous Provisions) Act 2014 (c.13).

**F2** 2015 c.9 (N.I.).

**Citation, commencement and interpretation**

**1.**—(1) These Rules may be cited as the Magistrates' Courts (Violent Offences Prevention Orders) Rules (Northern Ireland) 2016 and shall come into operation on 1st June 2016.

(2) In these Rules—

(a) "the Act" means the Justice Act (Northern Ireland) 2015 and a reference to a section by number means the section so numbered in the Act and expressions used have the same meaning as in the Act; and

(b) a reference to a Form by number means the Form so numbered in the Schedule to these Rules or a form to the like effect.

**Violent offences prevention orders and interim violent offences prevention orders**

**2.**—(1) A summons issued on foot of a complaint for—

(a) a violent offences prevention order under section 57 of the Act; or

(b) an interim violent offences prevention order under section 61 of the Act.

shall be in Form 1.

(2) If a defendant wishes to dispute that an offence referred to in the summons under paragraph (1) is a relevant offence he shall, not less than 3 days before the date of the hearing, serve notice under section 58(6) of the Act on the Chief Constable and, at the same time, he shall serve a copy on the clerk of petty sessions.

(3) A violent offences prevention order shall be in Form 2.

(4) An interim violent offences prevention order shall be in Form 3.

**Application for variation, renewal or discharge**

**3.** A summons issued on foot of a complaint for—

(a) the variation, renewal or discharge of a violent offences prevention order under section 60 of the Act; or

(b) the variation or discharge of an interim violent offences prevention order under sections 60 and 61(7) of the Act;

shall be made in Form 4, and such proceedings shall be in a court of summary jurisdiction.

**Service of documents**

**4.**—(1) Subject to paragraph (2), service of a summons under these Rules may be effected—

(a) by a member of the Police Service of Northern Ireland serving a copy of the summons on the defendant in person; or

(b) by sending a copy of the summons by ordinary post to the defendant at his last-known address (in which cases the summons shall be deemed to have been received by him in the ordinary course of post, unless the defendant proves that he did not receive it).

(2) In the case of a summons on foot of a complaint for the variation, renewal or discharge of an order specified in Rule 3 issued by the defendant mentioned in that order, service shall be effected in accordance with paragraphs (2), (6) and (7) of Rule 11 of the Magistrates' Courts Rules (Northern Ireland) 1984 [F3] by delivering a copy of the summons to any police station [F4]... and leaving a copy with the officer in charge or any other constable.

(3) Where the court makes a violent offences prevention order or an interim violent offences prevention order, the clerk of petty sessions shall serve a copy of that order on the defendant—

(a) where the defendant is present, in person if practicable; or

(b) by sending it by ordinary post to the defendant at his last-known address (in which case the order shall be deemed to have been received by him in the ordinary course of post unless the defendant proves that he did not receive it).

(4) Where the court makes an order varying, renewing or discharging an order specified in Rule 3, the clerk of petty sessions shall serve on the defendant a copy of the order as it has been varied, renewed or discharged—

(a) where the defendant is present, in person if practicable; or

(b) by sending it by ordinary post to the defendant at either his last known address or any address which is currently notified by him under Part 8 of the Act (in which cases the order shall be deemed to have been received by him in the ordinary course of post unless the defendant proves that he did not receive it).

(5) In paragraph (4), a reference to the defendant is a reference to the defendant in the proceedings in which the order was originally made.

**F3** S.R. 1984 No. 225; to which the most recent relevant amendments are S.R. 2009 No. 12, S.R. 2009 No. 310, S.R. 2011 No. 59, S.R. 2011 No. 418, S.R. 2012 No. 189, S.R. 2012 No. 415, S.R. 2013 No. 89, S.R. 2014 No. 12, S.R. 2014 No. 221.

**F4** Words in rule 4(2) omitted (coming into operation in accordance with rule 2) by virtue of The Magistrates' Courts (Miscellaneous Amendments) Rules (Northern Ireland) 2016 (S.R. 2016/303), **rules 2**, 37; S.R. 2016/387, **art. 2(a)** (with art. 3)

*William A McNally*
*Marc Little*
*Peter Luney*
*Eoghan McKenna*
*Cathy Hughes*

In exercise of the powers conferred upon me in Article 13 of the Magistrates' Court (Northern Ireland) Order 1981 and after consultation with the Lord Chief Justice, I allow these Rules.
Sealed with the Official Seal of the Department of Justice on 2nd March 2016

L.S.

*David Ford*
Minister of Justice

# SCHEDULE

Rule 2(1)

"Form 1

JUSTICE ACT (NORTHERN IRELAND) 2015

THE MAGISTRATES' COURTS (VIOLENT OFFENCES PREVENTION ORDERS) RULES (NORTHERN IRELAND) 2016

(Sections 57 and 61, Rule 2(1))

**Summons on foot of complaint for [violent offences prevention order] [and] [interim violent offences prevention order]**

of

Petty Sessions District of

Complainant

of

County Court Division of

Defendant

Whereas a complaint has been made before me in respect of an application for [a violent offences prevention order] [and] [an interim violent offences prevention order] to the following effect, viz –

That you, the above-named defendant are a qualifying offender by virtue of the following facts –

Details of offence:

If committed abroad, the corresponding offence this would have constituted if the act had been done in the United Kingdom is:

Date of [conviction] [finding] [caution]:

Details of court/police station:

And it is alleged that you have since the date of the above conviction, finding or caution, acted in such a way as to give reasonable cause to believe that a violent offences prevention order under section 57 of the Justice Act (Northern Ireland) 2015 is necessary to protect the public from the risk of serious violent harm caused by you.

Short description of acts, including date(s) and further comments:

[Additional information relating to an application for an interim violent offences order: ]

Accordingly, application is made for a [violent offences prevention order] [and] [an interim violent offences prevention order] containing the following requirements and prohibition(s), namely:

THIS IS TO COMMAND YOU to appear as a defendant at the hearing of the said application at (place) on (date) at (time) before a court of summary jurisdiction.

This day of 20 .

Lay Magistrate

[District Judge (Magistrates' Courts)]

To the said defendant

Note:

Where the court is satisfied that this summons was served on you within what appears to the court to be reasonable time before the hearing or adjourned hearing, it may proceed in your absence.

If you wish to dispute that the offence referred to in this summons is a 'relevant offence' within the meaning of the Justice Act (Northern Ireland) 2015, you must, not less than 3 days before the date on which the matter is to be heard serve notice under section 58(6) of the Act on the complainant, and at the same time, serve a copy thereof on the clerk of petty sessions.

Should a violent offences prevention order or an interim violent offences prevention order be made against you, you would be subject to the prohibitions and/or requirements made in it. You would be subject also to the notification requirements of Part 8 of the Justice Act (Northern Ireland) 2015 which would mean that you must report to a prescribed police station within three days of service on you of the violent offences prevention order or interim violent offences prevention order and notify the police of your name(s), date of birth, national insurance number, home address and any other address in the UK where you regularly reside [together with (insert details of any further notification requirements prescribed by regulations made by the Department of Justice under Part 8 of the Justice Act (Northern Ireland) 2015 or otherwise)]. Thereafter if you are the subject of a violent offences prevention order, you would be required to notify the police of this information on a yearly basis regardless of whether or not your circumstances have changed.

If you do not have a sole or main residence in the United Kingdom, you would be required to notify the police of one or any addresses or locations in the United Kingdom where you can regularly be found and thereafter to notify the police of this information [(insert details of how often this is required if so prescribed, in regulations made by the Department of Justice under Part 8 of the Justice Act (Northern Ireland) 2015 or otherwise)].

You would also be required to notify the police of, within 3 days:

- any changes to the information you provided at initial notification, including use by you of a name not previously notified to the police or a change of your home address;