STATUTORY RULES OF NORTHERN IRELAND

2016 No. 93

MAGISTRATES' COURTS

PROCEDURE

The Magistrates' Courts (Amendment) Rules (Northern Ireland) 2016

Made - - - - 1st March 2016

Coming into operation in accordance with Rule 1

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(**1**) and section 94 of the Justice Act (Northern Ireland) 2015(**2**).

Citation and commencement

1.—(1) These Rules may be cited as the Magistrates' Courts (Amendment) Rules (Northern Ireland) 2016.

(2) Rules 2(1) and 2(2)(b) shall come into operation on 1st April 2016.

(3) Rule 2(2)(a) shall come into operation on the same date as section 93 of the Justice Act (Northern Ireland) 2015.

Amendment to the Magistrates' Courts Rules (Northern Ireland) 1984

2. The Magistrates' Courts Rules (Northern Ireland) 1984(**3**) are amended as follows—

(1) After Rule 173, insert—

"**Application for access to premises under section 94(1) of the Justice Act (Northern Ireland) 2015**

174.—(1) In this rule—

(**1**) 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).

(**2**) 2015 c.9 (N.I.).

(**3**) S.R. 1984 No. 225; to which the most recent relevant amendments were made by S.R. 2012 No. 415, S.R. 2013 No. 89, S.R 2014 No. 12 and S.R. 2014 No. 221.

"applicant" means a person making an application under section 94(1) of the Justice Act (Northern Ireland) 2015 and "application" shall be construed accordingly;

"interested person" means any person other than the occupier appearing to the court to have an interest in an application made under section 94(1) of the Justice Act (Northern Ireland) 2015; and

"PPS" means the Public Prosecution Service for Northern Ireland.

(2) An application under section 94(1) of the Justice Act (Northern Ireland) 2015 shall be made by serving notice in Form 128 on the clerk of petty sessions and at the same time, the applicant shall serve a copy thereof on—

(a) the occupier of the premises; and

(b) the PPS.

(3) Where it appears to the court that there is an interested person, unless the court directs otherwise, that person shall be served forthwith by the applicant with notice of the application.

(4) Where—

(a) an occupier or an interested person wishes to make representations to the court as to the conditions to be imposed under section 94(7); or

(b) the PPS wishes to oppose an application,

notice in writing, giving reasons, shall be given to the clerk of the petty sessions and the applicant within 7 days of service of the notice under paragraph (2).

(5) Except where notice is received in accordance with paragraph (4), the court may—

(a) determine the application in favour of the applicant without a hearing; or

(b) direct a hearing.

(6) Where notice is received in accordance with paragraph (4), the clerk of petty sessions shall fix a date for hearing of the application.

(7) Where a hearing of the application is to take place in accordance with paragraphs (5) or (6), the clerk of petty sessions shall notify the applicant and every person served under paragraphs (2) and (3) of the time and place of the hearing.

(8) The clerk of petty sessions shall, as soon as reasonably practicable after the determination of an application, serve a copy of the order on the applicant and every person served under paragraphs (2) and (3).

(9) The court may, if it considers that it is in the interests of justice to do so—

(a) allow a notice required by this rule to be given orally;

(b) abridge or extend the time for service of a notice required by this rule, either before or after that time expires; or

(c) dispense with the requirement for service of a notice required by this rule."

(2) In Schedule 1—

(a) for Form 2, substitute amended Form 2 as set out in Schedule 1 to these Rules; and

(b) after Form 127, insert new Form 128 as set out in Schedule 2 to these Rules.

William A McNally
Marc Little
Peter Luney
Eoghan McKenna
Cathy Hughes

Dated this 1st day of March 2016

In exercise of the powers conferred upon me by Article 13 of the Magistrates' Courts (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 1st March 2016

L.S.

David Ford
Minister of Justice