STATUTORY RULES OF NORTHERN IRELAND

2014 No. 221

MAGISTRATES' COURTS

PROCEDURE

The Magistrates' Courts (Amendment No. 2) Rules (Northern Ireland) 2014

Made - - - -	*4th August 2014*
Coming into operation	*5th September 2014*

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**).

Citation and commencement

1. These Rules shall be cited as the Magistrates' Courts (Amendment No. 2) Rules (Northern Ireland) 2014 and shall come into operation on 5th September 2014.

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

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

(1) after Rule 52M insert—

"K. ASSISTANCE WITH COMMUNICATION

Assistance with communication for a defendant who does not speak English or who has a hearing or speech impediment

52N.—(1) In this Rule—

(a) references to a defendant who needs interpretation mean—

(i) a defendant who needs interpretation because he does not speak or understand English; or

(**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 No. 976) and paragraph 4 of the Schedule to the Northern Ireland (Miscellaneous Provisions) Act 2014 (c.13).

(**2**) S.R. 1984/225; to which the most recent relevant amendments were made by S.R. 2012 No. 189 and S.R. 2014 No. 12.

(ii) a defendant who needs assistance because he has a speech or hearing impediment;

(b) where a defendant has a hearing or speech impediment, references to an interpreter include a person appointed—

(i) to communicate to the defendant anything said at the hearing and explain it so far as is necessary for the defendant to understand it; or

(ii) to communicate any answers given by the defendant, and any other matters that the defendant seeks to convey, and explain them so far as is necessary to enable the court and others present at the hearing to understand them,

and references to interpretation shall be construed accordingly;

(c) references to acting at a hearing include assisting the defendant to communicate with his legal representative during the hearing and in relation to such assistance, paragraph (1)(b)(ii) has effect as if the reference to the court and others present at the hearing were to the legal representative.

(2) Where a defendant who needs interpretation is due to be present at a hearing, the clerk of petty sessions shall appoint an interpreter to act at the hearing unless another organisation is responsible for appointing an interpreter to act at that hearing.

(3) Before an interpreter begins to act at a hearing, an oath or affirmation shall be administered to the interpreter.

(4) Before an interpreter is sworn or makes his affirmation, the interpreter's name shall be read out and any party to the proceedings may object to the interpreter on any reasonable ground.

(5) If the court upholds an objection made under paragraph (4), the interpreter shall not be sworn or make his affirmation and the clerk of petty sessions shall appoint another interpreter.

(6) Where, on application or of its own motion, the court is satisfied that a document is essential, it shall order that a written translation of the document, or a relevant passage thereof, is provided to a defendant who needs interpretation unless –

(a) the defendant unequivocally and voluntarily waives his right to translation and has had legal advice or otherwise has full knowledge of the consequences of such a waiver; or

(b) provision of an oral translation or oral summary of the document, or the passage thereof, would not prejudice the fairness of the proceedings.

(7) On application, the court may give any direction which it considers appropriate where—

(a) no interpreter has been appointed;

(b) on a previous application under paragraph (6), the court determined that there was no need for translation of the document, or a passage thereof, specified in the application; or

(c) the defendant submits that the quality of interpretation or translation is not sufficient to safeguard the fairness of the proceedings.

(8) The clerk of petty sessions shall record—

(a) the identity of any interpreter appointed to act at a hearing;

(b) any decision to provide an oral translation or oral summary of an essential document or a passage thereof;

(c) any waiver by a defendant of his right to written translation; and

(d) any direction given under paragraph (7)."