STATUTORY RULES OF NORTHERN IRELAND

2011 No. 417

MAGISTRATES' COURTS

The Magistrates' Courts (Banning Orders) Rules (Northern Ireland) 2011

Made - - - - 9th December 2011

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**), after consultation with the Department of Justice and with the agreement of the Lord Chief Justice.

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Magistrates' Courts (Banning Orders) Rules (Northern Ireland) 2011 and shall come into operation on the same day as Part 4, Chapter 4 of the Justice Act (Northern Ireland) 2011(**2**) comes into operation.

(2) In these Rules—

(a) "the 2011 Act" means the Justice Act (Northern Ireland) 2011 and expressions used in these Rules and in the 2011 Act have the same meaning as in the 2011 Act;

(b) "P" means the person who is subject to the banning order; and

(c) 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.

Forms

2.—(1) A banning order under section 41 of the 2011 Act shall be in Form 1.

(2) An order terminating a banning order under section 47 of the 2011 Act shall be in Form 2.

(3) An order varying a banning order under section 46 of the 2011 Act shall be in Form 3.

Application to vary or terminate a banning order

3.—(1) An application to—

(**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 No.976); and paragraph 65 of Schedule 5 to the Constitutional Reform Act 2005 (c.4)

(**2**) 2011 c. 24 (N.I.)

(a) vary a banning order under section 46 of the 2011 Act; or

(b) terminate a banning order under section 47 of the 2011 Act,

shall be in Form 4.

(2) An application under paragraph (1) shall be served by the applicant on—

(a) the clerk of petty sessions for the district in which the order was made;

(b) the respondent; and

(c) the Chief Constable.

(3) The respondent shall, within seven days of the date the notice was served on him, notify the applicant and the clerk of petty sessions, in writing, of his opposition and give reasons for it.

(4) Except where notice is received in accordance with paragraph (3), a magistrates' court may—

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

(b) direct a hearing.

(5) Where a hearing is directed, the clerk of petty sessions shall notify each party to the proceedings of the time and place of the hearing.

(6) Without prejudice to the foregoing provisions of this rule the court may direct that a copy of the notice be served upon any person whom the court may consider a proper person to be served.

(7) In this rule "respondent" means either P or the prosecution.

Service of orders

4.—(1) As soon as reasonably practicable after:

(a) the making of a banning order under section 41 of the 2011 Act;

(b) the variation of a banning order under section 46 of the 2011 Act; or

(c) the termination of a banning under section 47 of the 2011 Act,

the clerk of petty sessions shall serve a copy of that order on the parties set out in paragraph (2).

(2) An order under paragraph (1) shall be served on:

(a) P;

(b) the Chief Constable;

(c) the prosecution;

(d) the police station (addressed to the officer responsible for the police station) at which P is to report under section 42(3) of the 2011 Act;

(e) (in a case where P is detained in legal custody) the person in whose custody P is detained; and

(f) any prescribed person.

(3) An order under paragraph (1) shall be served on:

(a) P,

(i) if present in court, in person if practicable; or

(ii) otherwise by sending it by ordinary first class post to P 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 P proves that he did not receive it); and

(b) all other parties by ordinary first class post.

Appeal by the prosecution

5.—(1) An appeal by the prosecution, against a failure by the court to make a banning order under section 43 of the 2011 Act, shall be in Form 5.

(2) A notice of appeal in Form 5 shall, within 14 days commencing on the day on which the decision of the magistrates' court was made,

(a) be served personally on the offender; and

(b) a copy of the notice lodged with the clerk of petty sessions for the court which failed to make the order, endorsed with the date upon which and the manner in which it was served on the offender.

(3) The clerk of petty sessions shall, as soon as practicable, send to the chief clerk for the county court division in which the appeal will be heard—

(a) the copy of the notice of appeal;

(b) all other proceedings in the case (including any written statements admitted in evidence under section 1 of the Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968 and any pre-sentence report or medical report, within the meaning of the Criminal Justice (Northern Ireland) Order 1996 or the Criminal Justice (Northern Ireland) Order 2008 which was considered at the trial of the offender).

(4) After the county court has decided the appeal, the chief clerk for the county court division for which that county court is held, shall within seven days of such decision certify the decision.

W.A. McNally
Peter Luney
John Rea
Stewart Ballentine
Sharon Hughes

Dated 9th December 2011

SCHEDULE

Rule 2(1)

Form 1

THE MAGISTRATES' COURTS (BANNING ORDERS) RULES (NORTHERN IRELAND) 2011
(Rule 2)

JUSTICE ACT (NORTHERN IRELAND) 2011
(Sections 41 and 48)

Banning Order

	]	
of	]	
	]	Petty Sessions District of
	]	
	]	
Complainant	]	
	]	County Court Division of
of	]	
Defendant	]	

WHEREAS at [*venue*] magistrates' court on [date]

THE DEFENDANT having been convicted of an offence to which section 41(4) of the Justice Act (Northern Ireland) 2011 applies; and

THE COURT BEING SATISFIED that there are reasonable grounds to believe that making a banning order would help to prevent violence or disorder at or in connection with any regulated matches.

IT IS HEREBY ORDERED that the defendant is prohibited from entering any premises for the purpose of attending regulated matches

AND IT IS FURTHER ORDERED THAT the defendant must comply with the requirements in section 42 of the Justice Act (Northern Ireland) 2011 and any additional requirements:

(*details of additional requirement(s)*)

THIS ORDER SHALL TAKE EFFECT FORTHWITH and shall expire on (*date between 3 and 5 years from date of order or between 6 and 10 years if sentenced to immediate imprisonment*).

The specified police station is _____

[Pursuant to section 42(7) of the Justice Act (Northern Ireland) 2011 it is further ordered that the requirement to report at a police station is suspended until the defendant's release from custody.]

This day of 20 .

District Judge (Magistrates' Courts)

[Clerk of Petty Sessions]

Note:
The requirement of a banning order is that you (the defendant) are prohibited from entering any premises for the purpose of attending regulated matches, will be subject to the requirements of section 42 of the Justice Act (Northern Ireland) 2011 and any additional requirements outlined above. The requirements of that Act include an obligation on you to report to the police station specified above within 5 days of the order being made. Thereafter you must notify the Chief Constable of the following events (within 7 days of its occurrence):

- a change of any of your names;
- the first use by you after the making of the order of a name for you that you did not disclose at the time of the making of the order;
- a change in your home address;
- your acquisition of a temporary address;
- a change of your temporary address or your ceasing to have one;
- an appeal made by you in relation to the order; and
- an application made by you under section 47(1) of the 2011 Act for the termination of the order.

When changing your name, address or acquiring a temporary address you must specify the new name or address. When you first use a previously undisclosed name, you must specify that name.

Where you are detained in legal custody, the requirement to report at a police station is suspended until your release from custody.

If, without reasonable excuse, you (the defendant) fail to comply with any requirement imposed by the order, you shall be liable on conviction to imprisonment for a term not exceeding 6 months, or to a fine not exceeding level 5 on the standard scale, or to both.

You may apply to the court to vary the additional requirements or terminate this order. You should consult a solicitor or the court office to find out how to do this.