STATUTORY RULES OF NORTHERN IRELAND

2011 No. 59

MAGISTRATES' COURTS

The Magistrates' Courts (Amendment) Rules (Northern Ireland) 2011

Made - - - -	*1st March 2011*
Coming into operation	*25th March 2011*

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 and commencement

1. These Rules may be cited as the Magistrates' Courts (Amendment) Rules (Northern Ireland) 2011 and shall come into operation on 25th March 2011.

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

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

(1) in rule 10 —

(a) for paragraph (1), substitute —

2.—"(1) Where it is intended to make the procedure of pleading guilty by post under Article 24(1A) of the Order available to the defendant, the summons shall be accompanied by Form 3 together with —

(a) Form 4 or copies of the witness statement(s); and

(b) Form 6 or Form 6A,

as appropriate.";

(2) for rule 12A(4), substitute—

(**1**) S.I.1981/1675 (N.I.26); Article 13 was amended by paragraph 133 of Part 2 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**) S.R. 1984 No.225; to which the most recent relevant amendments were made by S.R. 2009 No.47, S.R. 2009 No.310 and S.R. 2010 No. 12.

2.—"(4) If the person summoned fails to appear in answer to a summons served in the manner authorised by paragraph (2), such service shall not be deemed valid unless an acknowledgment of service in—

(a) Form 110B; or

(b) in cases where the procedure of pleading guilty by post under Article 24(1A) of the Order is available to the defendant, in Form 6 or Form 6A as appropriate

appearing to be signed by the defendant or his solicitor is produced to the court.";

(3) after rule 164 insert—

"**Interpretation of Rules 166 to 170—**

165. In rules 166 to 170—

(a) "the Act" means the Coroners and Justice Act 2009(**3**);

(b) "clerk of petty sessions" means the clerk of petty sessions for the petty sessions district in which the application for an investigation anonymity order is made;

(c) a section referred to by number means the section so numbered in the Act; and

(d) expressions which are defined in the Act have the same meaning in these Rules as they have in the Act.

Application for an investigation anonymity order

166.—(1) An application for an investigation anonymity order shall—

(a) be made in writing setting out how the conditions specified in section 78(3) to (8) of the Act are satisfied;

(b) identify the person to be specified in the order, unless the court otherwise directs; and

(c) attach any material on which the applicant intends to rely.

(2) The applicant shall indicate if he or she intends to appeal a refusal to make an investigation anonymity order—

(a) in the application for the order; or

(b) if there is a hearing of the application, at the hearing.

(3) The applicant shall serve a copy of the application under paragraph (1) on the clerk of petty sessions.

(4) Where a hearing is directed, the clerk of petty sessions shall fix a date for the hearing of the application and notify the applicant of the time and place of hearing.

(5) At a hearing of an application under paragraph (1), the applicant shall, if he or she has not already done so, inform the court of the identity of the person to be specified in the order, unless the court otherwise directs.

(6) The clerk of petty sessions shall, as soon as practicable, after the determination of an application under paragraph (1), notify the applicant of the decision in Form 126.

Appeal against refusal to make an investigation anonymity order

167.—(1) A notice of appeal against a refusal of an application made under section 77, shall—

(a) be made in writing, setting out the grounds of appeal; and

(**3**) 2009 c.25; sections 76 and 85 were commenced by S.I. 2010/816.

(b) be lodged with the clerk of petty sessions within 14 days of the date on which the decision which is the subject of the appeal was made.

(2) The appellant shall inform the court of the identity of the person to be specified in the order, if he or she has not already done so—

(a) in the notice of appeal; or

(b) at the hearing of the appeal,

unless the court otherwise directs.

Application to discharge an investigation anonymity order

168.—(1) An application to discharge an investigation anonymity order under section 80 shall—

(a) be made in writing;

(b) set out the material change of circumstances since the order was made, or since any previous application was made to discharge it, explaining why it is appropriate for the order to be discharged;

(c) inform the court if the applicant intends to appeal against a decision of the court regarding the discharge of the order; and

(d) attach a copy of the original order along with any material on which the applicant intends to rely.

(2) A copy of an application under paragraph (1) shall be served, by the applicant, as soon as reasonably practicable on the clerk of petty sessions, and where not the applicant, on—

(a) the person on whose application the relevant investigation anonymity order was made; or

(b) the specified person.

(3) The clerk of petty sessions shall fix a date for the hearing of the application and shall notify the applicant and any other person to whom notice of the application has been given, of the time and placing of hearing.

(4) The clerk of petty sessions shall, as soon as practicable, after the determination of an application under paragraph (1), notify the parties of the decision in Form 126.

Appeal against decision to discharge an investigation anonymity order

169.—(1) A notice of appeal against the decision of the court in respect of an application under section 80 shall—

(a) be made in writing, setting out the grounds of appeal; and

(b) be lodged with the clerk of petty sessions within 14 days of the date on which the decision which is the subject of the appeal was made.

(2) The appellant shall serve a copy of the notice under paragraph (1) on any party notified of the application to discharge under rule 168(2).

Hearings

170. A hearing under section 77 or an appeal under sections 79 and 80(6) shall be in private, unless the court otherwise directs.”; and

(4) in Schedule 1—

(a) in Form 1 and Form 1A —

(i) for "[on oath]" substitute "[on oath*]"; and

(ii) at the end of both forms insert "*delete as appropriate";

(b) in Form 1A, for "[and sworn]" substitute "[and sworn*]";

(c) for Form 3, substitute new Form 3;

(d) for Form 4, substitute new Form 4;

(e) for Form 5, substitute new Form 5;

(f) for Form 6, substitute new Form 6;

(g) for Form 6A substitute new Form 6A; and

(h) after Form 125, insert new Form 126.

Liam McNally
Peter Luney
John Rea
Dated 1st March 2011 *Nigel Broderick*

SCHEDULE Rule 2(4)(c)

"FORM 3

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981
(Article 24(1A)(a); Rule 10)

Notice to Defendant: Plea of Guilty by post
[*Title as in Form 1*]

The purpose of this notice is to inform you that if, on the hearing of the complaint(s) referred to in the summons(es) served herewith, you wish to enter a plea of guilty, you or your solicitor may, at least three days before the date fixed for the hearing, notify the clerk of petty sessions for the above mentioned district in writing to that effect in Form 6 or Form 6A; copy attached. It will not then be necessary for you to appear before the court as required by the said summons(es). You may also include in the said Form 6 or Form 6A in the space provided such statement in mitigation as you desire.

The evidence to be given at the hearing is that contained in Form 4/ the witness statement(s)*, a copy of which is attached for your information. The facts therein contained, and those facts only, will be read to the court. Where copies of witness statements have been served, those statements will be read to the court, either in full or in part, as the court may direct. Your statement of mitigation will also be read to the court which may then deal with the case in your absence.

If your plea of guilty is accepted the court will not, unless it adjourns the case after convicting you and before sentencing you, permit any other statement to be made by or on behalf of the complainant with respect to any fact relating to the charge.

The court may decide not to proceed in your absence and, if so, it will adjourn the hearing. You will be notified of the time and place of the adjourned hearing and, in such a case, the trial will proceed at the adjourned hearing as if you had not entered a written plea of guilty.

You may at any time before the date of the hearing or the adjourned hearing of any case withdraw your plea of guilty by writing to the clerk of petty sessions to that effect. Failure to do so immediately may result in delay and expense if the case has to be adjourned to allow the prosecution to bring its witness(es) to court.

Neither this notice nor any reply you may send in answer to it limits your right to appear before the court at the time fixed for the hearing, either in person or by counsel or a solicitor, and to plead guilty or not guilty as you may desire. If you adopt this course the trial will proceed as though you had not already entered a written plea of guilty.

Dated this day of 20 .

Complainant
[On behalf of the Complainant].

*delete as appropriate.