STATUTORY RULES OF NORTHERN IRELAND

2010 No. 12

MAGISTRATES' COURTS

The Magistrates' Courts (Amendment) Rules (Northern Ireland) 2010

Made - - - -	*26th January 2010*
Coming into operation	*1st March 2010*

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**), and section 49 of the Crime (International Co-operation) Act 2003(**2**) and after consultation with the Lord Chancellor 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) 2010 and shall come into operation on 1st March 2010.

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

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

(1) in rule 11(5), for "Subject to paragraph 3A and paragraph 3B", substitute "Subject to paragraph 3A, paragraph 3B and Rule 12A";

(2) after rule 14(6) insert—

"(7) Where no other form of warrant of arrest is prescribed, either by these Rules or by any other statutory provision, the warrant in Form 8C shall be used.";

(3) for rule 52D, substitute —

"**Applications and procedures under the Crime (International Co-operation) Act 2003**

52D. In this rule and rules 52E to 52M—

(a) "the Act" means the Crime (International Co-operation) Act 2003;

(b) "process" has the same meaning as in section 51(3) of the Act;

(**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).
(**2**) 2003 C.32; section 49 is implemented by paragraph 4 of Schedule 1 and paragraphs 8,10 and 17 of Schedule 2 to the 2003 Act.
(**3**) S.R. 1984 No.225 to which the most recent relevant amendments were made by S.R. 2009 No. 310, S.R. 2008 No. 251, S.R. 2006 No.413, S.R. 2006 No.414 and S.R. 2004 No. 204.

(c) "relevant proceedings" means proceedings under Part 1 or Part 2 of Schedule 2 to the Act; and

(d) "external court" or "external authority" means the court or authority from which a request under section 30 or 31 of the Act is received.";

(4) after rule 52F, insert—

"**Notice of application for request for assistance**

52G.—(1) An application under section 7(1) of the Act (requests for assistance in obtaining evidence abroad) shall, subject to paragraph (2), be made by giving notice in writing to the clerk of petty sessions and shall—

(a) state the particulars of the offence which it is alleged has been committed or the grounds upon which it is suspected that an offence has been committed;

(b) state whether proceedings in respect of the offence have been instituted or the offence is being investigated; and

(c) include particulars of the assistance requested in the form of a draft request for assistance.

(2) The court may direct that paragraph (1) need not be complied with if it is satisfied that the applicant has good reason to make the application as soon as possible and it is not practicable to comply with that paragraph.

Proceedings before a nominated court

52H. In proceedings before a nominated court pursuant to a notice under section 15(1) of the Act, the court may—

(a) determine who may appear or take part in the proceedings under Schedule 1 of the Act and whether a party to the proceedings is entitled to be legally represented; and

(b) if it thinks it necessary to do so in the interests of justice, direct that all or any persons not being members or officers of the court or parties to the proceedings, their solicitors or counsel, or other persons directly connected with proceedings, be excluded from the court during the proceedings.

Record of proceedings before a nominated court

52I.—(1) In proceedings before a court nominated pursuant to a notice under section 15(1) of the Act, the court shall make a record of the evidence received by the court and the information prescribed in paragraph (2).

(2) The information referred to in paragraph (1) is—

(a) details of the request in respect of which the notice under section 15(1) was given;

(b) the date on which, and place at which, the proceedings under Schedule 1 in respect of that request took place;

(c) the name of any witness who gave evidence at the proceedings in question;

(d) the name of any person who took part in the proceedings as a legal representative or as an interpreter;

(e) whether a witness was required to give evidence on oath or after making a solemn affirmation; and

(f) whether the opportunity to cross-examine any witness was refused.

(3) When, under paragraph 6(1) of Schedule 1 to the Act, the court sends the evidence received by it to the court or authority that made the request, or to the territorial authority for forwarding to the court or authority that made the request, the clerk of petty sessions shall send to the court, authority or, as the case may be, territorial authority a copy of an extract of so much of the record as relates to the proceedings in respect of the request.

(4) Proceedings before a court nominated pursuant to a notice under section 15(1) shall be heard at an appropriately equipped venue to allow for the recording of evidence.

Interpreter for the purposes of proceedings involving a television or telephone link

52J.—(1) This rule applies where the court nominated under section 30(3) (hearing witnesses in the UK through television links) or section 31(4) (hearing witnesses in the UK by telephone) is a magistrates' court.

(2) Where it appears to the clerk of petty sessions that the witness to be heard in the relevant proceedings is likely to give evidence in a language other than English, he shall make arrangements for an interpreter to be present at the relevant proceedings to translate what is said into English.

(3) Where it appears to the clerk of petty sessions that the witness to be heard in the relevant proceedings is likely to give evidence in a language other than that in which the external court will be conducted, he shall make arrangements for an interpreter to be present at the relevant proceedings to translate what is said into the language in which the proceedings of the external court will be conducted.

(4) Where the evidence in the relevant proceedings is given in a language other than English and is not translated into English by an interpreter, the court shall adjourn the proceedings until such time as an interpreter can be present to provide a translation into English.

Record of proceedings by television link before a nominated court

52K.—(1) In proceedings before a court nominated pursuant to a notice under section 30(3), the court shall make a record of the evidence given in the presence of the court and the information prescribed in paragraph (2).

(2) The information referred to in paragraph (1) is—

(a) details of the request in respect of which the notice under section 30(3) was given;

(b) the date on which, and the place at which the proceedings under Part 1 of Schedule 2 in respect of the request took place;

(c) the technical conditions, such as the type of equipment used, under which the proceedings took place;

(d) the name of the witness who gave evidence;

(e) the name of any person who took part in the proceedings as a legal representative or as an interpreter; and

(f) the language in which the evidence was given.

(3) As soon as is reasonably practicable after the proceedings under Part 1 of Schedule 2, the clerk of petty sessions shall send to the external authority that made the request a copy of an extract of so much of the record as relates to the proceedings in respect of that request.

(4) Proceedings before a court nominated pursuant to a notice under section 30(3) shall be heard at an appropriately equipped venue to allow for the recording of evidence.

Record of proceedings by telephone link before a nominated court

52L.—(1) In proceedings before a court nominated pursuant to a notice under section 31(4), the court shall make a record of the evidence given in the presence of the court and the information prescribed in paragraph (2).

(2) The information referred to in paragraph (1) is—

(a) details of the request in respect of which the notice under section 31(4) was given;

(b) the date on which, and place at which, the proceedings under Part 2 of Schedule 2 took place;

(c) the names of the witnesses who gave evidence;

(d) the name of any person who took part in the proceedings as a legal representative or as an interpreter; and

(e) the language in which the evidence was given.

(3) As soon as is reasonably practicable after the proceedings under Part 2 of Schedule 2, the clerk of petty sessions shall send to the external authority that made the request a copy of an extract of so much of the record as relates to the proceedings in respect of that request.

(4) Proceedings before a court nominated pursuant to a notice under section 31(4) shall be heard at an appropriately equipped venue to allow for the recording of evidence.

Restriction on access to records kept under Rules 52I, 52K and 52L

52M.—(1) The records kept under Rules 52I, 52K and 52L shall not be open to inspection by any person except —

(a) as authorised by the Secretary of State; or

(b) with the leave of the court.";

(5) after rule 97, insert —

"**Appeal against recognition of foreign driving disqualification in UK**

97A.—(1) Where notice under Part VII of the Order is given of intention to appeal a decision under section 57 of the Crime (International Co-operation) Act 2003, the appellant shall—

(a) serve with that notice a copy of the notice of intention to appeal given to the appropriate Minister in accordance with section 59(1) of that Act;

(b) specify in that notice whether or not he or she intends to apply to the court to suspend the recognition of the disqualification under section 62(2) of that Act; and

(c) state the grounds on which the appeal is made.

(2) An application under paragraph (1) shall be made in accordance with the time limit set under section 59(3) of the Crime (International Co-operation) Act 2003.";

(6) after rule 109, insert—

"CA. CRIMINAL JUSTICE AND IMMIGRATION ACT 2008(**4**)

(**4**) 2008 c.4