STATUTORY RULES OF NORTHERN IRELAND

2008 No. 251

MAGISTRATES' COURTS

The Magistrates' Courts (Amendment) Rules (Northern Ireland) 2008

Made - - - - 16th June 2008

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 Lord Chancellor and with the agreement of the Lord Chief Justice.

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Magistrates' Courts (Amendment) Rules (Northern Ireland) 2008 and, subject to paragraphs (2) to (8), shall come into operation on the 16th July 2008.

(2) Rules 2(8), (9) and (18)(k) shall come into operation on the same day as Article 45 of the Criminal Justice (Northern Ireland) Order 2008(**2**) comes into operation.

(3) Rules 2(10) to (12), (17) and (18)(d) shall come into operation on the same day as Article 9 of the Criminal Justice (Northern Ireland) Order 2008 comes into operation.

(4) Rules 2(13), (14), (18)(c) and 18(l) to (t) shall come into operation on the same day as Article 47 of the Criminal Justice (Northern Ireland) Order 2008 comes into operation.

(5) Rule 2(15) shall come into operation on the same day as Article 23 of the Criminal Justice (Northern Ireland) Order 2008 comes into operation.

(6) Rules 2(16) and (18)(u) shall come into operation on the same day as Article 87 of the Criminal Justice (Northern Ireland) Order 2008 comes into operation.

(7) Rules 2(18)(a) and (b) shall come into operation on the same day as Article 92 of the Criminal Justice (Northern Ireland) Order 2008 comes into operation.

(8) Rules 2(18)(e) and (f) shall come into operation on the same day as Article 34 of the Criminal Justice (Northern Ireland) Order 2008 comes into operation.

(**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**) S.I.2008/1216 (N.I. 1)

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

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

(1) Rule 2(3)(b) is omitted.

(2) In Rule 24—

(a) in paragraph (1), omit "(other than a scheduled offence)";

(b) in paragraph (1)(a), for "by jury" substitute "in the Crown Court sitting with a jury. In certain circumstances a trial in the Crown Court may be heard by a judge sitting without a jury";

(c) in paragraph (1)(c), for "by a jury" substitute "in the Crown Court";

(d) in paragraph (2)(a), for "by a jury" substitute "in the Crown Court sitting with a jury. In certain circumstances a trial in the Crown Court may be heard by a judge sitting without a jury";

(e) in paragraph 2(c), for "by a jury" substitute "in the Crown Court";

(f) in paragraph 2(d), for "by a jury" substitute "in the Crown Court"; and

(g) paragraph (3) is omitted.

(3) Rule 31(1)(c) is omitted.

(4) In Rule 32(2), for "section 1 of the Act of 1978" substitute "section 3 of the Justice and Security (Northern Ireland) Act 2007".

(5) In Rule 34, for "section 1 of the Act of 1978", in each place that it occurs, substitute "section 3 of the Justice and Security (Northern Ireland) Act 2007".

(6) In Rule 44(2), for "by a jury and appreciates the meaning of such right; or, in relation to a scheduled offence, the court is satisfied in accordance with Rule 45(6) and (7) that the accused understands that he has a right to be tried at the Crown Court sitting in Belfast without a jury, or, if the Attorney General certifies that the offence is not to be treated as a scheduled offence, at the Crown Court with a jury, and appreciates the meaning of such right" substitute "by a jury at the Crown Court and appreciates the meaning of such right including the circumstances in which a trial at the Crown Court may be heard by a judge sitting without a jury".

(7) In Rule 45—

(a) for paragraph (4), substitute—

"(4) The district judge (magistrates' courts) shall, after deciding that it is expedient to deal with the case summarily, cause the charge to be read to the accused and, if he considers it desirable, explain the meaning of the case being dealt with summarily and of committing an accused for trial by jury at the Crown Court. Such explanations shall include a statement as to the Crown Court at which the accused may be tried and the circumstances in which a trial at the Crown Court may be heard by a judge sitting without a jury.";

(b) for paragraph (5), substitute—

2.—"(5) The district judge (magistrate's courts) shall next address the accused as follows—

"Do you wish to be tried at the Crown Court, or do you consent to the case being dealt with summarily?

and if the accused consents to be dealt with summarily, the district judge (magistrate's court) shall ask him "Do you plead guilty or not guilty?";

(**3**) S.R.1984 No.225 to which the most recent relevant amendments were made by S.R.2006 No.413.

(c) paragraph (6) is omitted;

(d) paragraph (7) is omitted;

(e) in paragraph (8), for "paragraph (4) or (6)" substitute "paragraph (4)"; and

(f) in paragraph (8), for "paragraph (5) or (7)" substitute "paragraph (5)".

(8) In Rule 105—

(a) in paragraph (1), for "will result in" to the end, substitute—

"will result in the issue of—

(a) a warrant committing him to prison, and additional costs attendant upon such issue; or

(b) a supervised activity order requiring him to attend at a place of supervision for a period specified in the order and engage, during that period, in activities in accordance with instructions given by the supervising officer."; and

(b) In paragraph (2), after "or commitment", insert "or a supervised activity order".

(9) After Rule 105 insert—

"**Supervised activity orders**

105A.—(1) Where a magistrates' court makes a supervised activity order under Article 45 of the Criminal Justice (Northern Ireland) Order 2008, any entry in the Order Book required to be made under Rule 19(1) shall include details of the following—

(a) the duration of the order;

(b) any conditions and requirements of the order;

(c) the petty sessions district in which the offender resides or will reside.

(2) Where a magistrates' court amends, extends or revokes a supervised activity order, it shall cause an entry to that effect to be made in the Order Book, opposite the entry relating to the making of the order.

(3) Where a magistrates' court amends, extends or revokes a supervised activity order which was not made by that court, the clerk of petty sessions shall send a copy of the relevant entry of the Order Book to the clerk of petty sessions for the district in which the order was made.

(4) The clerk of petty sessions to whom notice under paragraph 3 is given, shall note the details given in the Order Book, opposite the entry relating to the making of the order.

(5) Any complaint made in respect of a breach of a requirement of a supervised activity order and any application to revoke, extend or amend a supervised activity order under Schedule 3 to the Criminal Justice (Northern Ireland) Order 2008, shall be accompanied by a copy of the order to which the complaint or the application relates.

Committal to Crown Court

105B. Where a magistrates' court commits an offender to the Crown Court under paragraph 5(3) of Schedule 3 to the Criminal Justice (Northern Ireland) Order 2008, the clerk of petty sessions shall notify the chief clerk for the appropriate county court division by sending to him—

(a) where an offender is released on bail, a copy of any recognizance entered into; and

(b) a certificate of the order made by the magistrates' court.".

(10) In the heading of Section F of Part VII after "CRIMINAL JUSTICE (NORTHERN IRELAND) ORDER 1996" insert "AND CRIMINAL JUSTICE (NORTHERN IRELAND) ORDER 2008".

(11) After Rule 124(a), insert—

"(aa) "the 2008 Order" means the Criminal Justice (Northern Ireland) Order 2008;".

(12) In Rule 125A—

(a) "20(3)(a); 21(2);" is omitted; and

(b) after "the 1996 Order", insert "or Article 9(3) of the 2008 Order".

(13) Rule 126(3)(b) is omitted.

(14) In Rule 126A, for "paragraph 3(3), paragraph 7(2)(b)" substitute "paragraph 2(4)".

(15) After Rule 126B, insert the following new Rules—

"**Recommended licence conditions for sentences of 12 months or more**

126C. Where a court, when passing a determinate custodial sentence of 12 months or more, recommends under Article 23(1) of the 2008 Order particular conditions which in its view should be included in any licence granted under Article 17 or 19 of the 2008 Order, it shall send notice of its order to the Secretary of State in Form 106.

Licence conditions for sentences of less than 12 months

126D. Where a court, when passing a determinate custodial sentence of less than 12 months, under Article 24(2)(a) of the 2008 Order requires particular conditions to be included in any licence granted under Article 17 or 19 of the 2008 Order, it shall send notice of its order to the Secretary of State in Form 106.

Conviction while licence remains in force

126E. Where it appears to the court by or before which a person is convicted of an offence that the offence was committed while the person was on licence and that the person has not been recalled to prison, the court shall inform the Secretary of State of the conviction in Form 106.".

(16) In Rule 153A(1), after "Article 132A of the Order" insert "or under Article 48(4) of the Police and Criminal Evidence (Northern Ireland) Order 1989".

(17) In Rule 155(1)(d), after "the Criminal Justice (Northern Ireland) Order 1996," insert "or the Criminal Justice (Northern Ireland) Order 2008".

(18) In Schedule 1—

(a) for Form 8, substitute the new Form 8 as set out in the Schedule to these Rules;

(b) after Form 8A, insert the new Form 8B as set out in the Schedule to these Rules;

(c) in the heading of Form 11A, for "paragraphs 3(3), 7(2)(b)" substitute "paragraphs 2(4)";

(d) after Form 14, insert the new Form 14ZA as set out in the Schedule to these Rules;

(e) in Form 14D—

(i) in the title, for "recalled" substitute "returned";

(ii) in the first paragraph, "[Crown Court]" is omitted; and

(iii) in the fifth paragraph, for "the licence be suspended and the defendant be recalled to prison [Young Offenders Centre] for (state period)" substitute—

"[the licence be revoked and the defendant be returned to prison/young offenders centre (delete as appropriate)]

[the licence be suspended and the defendant be returned to prison/young offenders centre (delete as appropriate) for (state period)]";

(f) after Form 14D, insert the new Form 14DA as set out in the Schedule to these Rules;

(g) in Form 21, for "NORTHERN IRELAND (EMERGENCY PROVISIONS) ACT 1978 (Section 1) substitute "JUSTICE AND SECURITY (NORTHERN IRELAND) ACT 2007 (Section 3)";

(h) Form 30A is omitted;

(i) Form 31A is omitted;

(j) Form 32A is omitted;

(k) after Form 62A, insert new Forms 62B – 62L as set out in the Schedule to these Rules;

(l) in Form 69D "[Crown Court]" is omitted;

(m) in Form 69E "[Crown Court]" is omitted;

(n) in Form 69F "[Crown Court]" is omitted;

(o) in Form 69G "[Crown Court]" is omitted;

(p) in Form 69H "[Crown Court]" is omitted;

(q) in Form 69I "[Crown Court]" is omitted;

(r) in Form 69J "[Crown Court]" is omitted;

(s) for Form 69N, substitute the new Form 69N as set out in the Schedule to these Rules;

(t) in Form 69O, in the heading, for "paragraphs 7(2)(b) and 9(2)(b)" substitute "paragraph 9(2)(b)"; and

(u) for Forms 91A and 91B substitute new Forms 91A and 91B as set out in the Schedule to these Rules.

Saving

3. Nothing in these Rules shall affect any proceedings which are pending immediately before these Rules come into operation and the Rules in operation before that date shall continue to apply to those proceedings.

George Conner
W A McNally
Nigel Broderick
John Rea
Dated 16th June 2008 *John P B Maxwell*