STATUTORY RULES OF NORTHERN IRELAND

2006 No. 413

MAGISTRATES' COURTS

The Magistrates' Courts (Amendment) Rules (Northern Ireland) 2006

Made - - - - 17th October 2006

Coming into operation in accordance with Rule 1

The Magistrates' Court 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 Article 80A(7) of the Police and Criminal Evidence (Northern Ireland) Order 1989(**2**) 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) 2006 and shall come into operation on the same day as Article 80A of the Police and Criminal Evidence (Northern Ireland) Order 1989 comes into operation.

Amendment to the Magistrates' Courts Rules (Northern Ireland) 1984(3)

2.—(1) After Rule 149B, there shall be inserted the following new Rules:—

"**Evidence by live link where witness is outside the United Kingdom**

149C.—(1) An application for leave under Article 80A(3) of the Police and Criminal Evidence (Northern Ireland) Order 1989 for a witness (other than the accused) who is outside the United Kingdom to give evidence through a live link shall be made by giving notice in Form 88G.

(2) The notice under paragraph (1) shall be served on the clerk of petty sessions and every other party to the proceedings not less than 14 days before the day fixed for commencement of the preliminary investigation or preliminary inquiry.

(**1**) S.I. 1981/1675 (N.I. 26) to which the most recent relevant amendments were made by paragraph 65 of Schedule 5 to the Constitutional Reform Act 2005 (c.4).
(**2**) S.I. 1989/1341 (N.I. 12). Article 80A was inserted by Article 31 of the Criminal Justice (Northern Ireland) Order 2003 (S.I. 2003/1247 (N.I. 13)) as amended by Article 24 of the Criminal Justice (Northern Ireland) Order 2005 (S.I. 2005/1965 (N.I.15)).
(**3**) **S.R. 1984 No. 225 to which the most recent amendments were made by S.R. 2005 No. 162.**

(3) Any party who wishes to oppose the application shall, within 7 days of the date that notice was served on him, notify the applicant and the clerk of petty sessions, in writing, of his opposition giving reasons for it.

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

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

(b) direct a hearing.

(5) Where a party to the proceedings notifies the clerk of petty sessions in accordance with paragraph (3) of his opposition to the application, the clerk of petty sessions shall fix a date for the hearing of the application.

(6) Where a hearing is to take place in accordance with paragraphs (4) or (5), the clerk of petty sessions shall notify each party to the proceedings of the time and place of the hearing.

(7) A party notified in accordance with paragraph (6) may be present at the hearing and be heard.

(8) The clerk of petty sessions shall, as soon as reasonably practicable after determination of an application under paragraph (1), notify all the parties of the decision of the court in Form 88H and, where leave is granted, the notification shall state—

(a) the country in which the witness will give evidence;

(b) if known, the place where the witness will give evidence;

(c) where the witness is to give evidence on behalf of the prosecutor or where disclosure is required by section 5(7) of the Criminal Procedure and Investigations Act 1996 (alibi), the name of the witness;

(d) the location of the court at which the preliminary investigation or preliminary inquiry will be held; and

(e) any conditions specified by the Court in accordance with paragraph (9).

(9) In determining an application under paragraph (1), the court may specify that as a condition of the grant of leave the witness should give evidence in the presence of a specified person who is able and willing to answer under oath or affirmation any questions the court may put as to the circumstances in which the evidence is given, including questions about any persons who are present when the evidence is given and any matters which may affect the giving of the evidence.

(10) The court may, if it considers that it is in the interests of justice to do so, extend the time for service of a notice required under this Rule, either before or after that period expires.

Application for an abridgement of time

149D.—(1) The period specified in Rule 149C(2) may be abridged at any time by the court on an application made in writing, specifying why the applicant is or was unable to make the application within that period.

(2) The application shall be served, by the applicant, on the clerk of petty sessions and on every other party to the proceedings.

(3) An application for an abridgement of time under this Rule shall be determined by a resident magistrate without a hearing unless the resident magistrate otherwise directs.

(4) Where the resident magistrate abridges the period of 14 days under Rule 149C(2), he shall also specify the period within which any other party to the proceedings may give notice of opposition in writing under Rule 149C(3).

(5) The clerk of petty sessions shall notify all the parties of the resident magistrate's decision, and (as the case may be) the period specified by the resident magistrate for the giving of notice of opposition in writing under Rule 149C(3).

Form of notice

149E. The court may, if it considers that it is in the interests of justice to do so, allow a notice required under Rules 149C or 149D to be given in a different form, or orally.".

(2) Schedule 1 shall be amended by inserting after Form 88F, the new Forms 88G and 88H in the Schedule to these Rules.

George Conner
Nigel Broderick
John Rea
Sean McCann
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Dated 17th October 2006

SCHEDULE Rule 2(2)

FORMS TO BE INSERTED INTO THE MAGISTRATES' COURT RULES (NORTHERN IRELAND) 1984

Form 88G

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981
(Rule 149C)

POLICE AND CRIMINAL EVIDENCE (NORTHERN IRELAND) ORDER 1989
(Article 80A)

APPLICATION FOR LEAVE FOR WITNESS (OTHER THAN THE ACCUSED) WHO IS OUTSIDE THE UNITED KINGDOM TO GIVE EVIDENCE THROUGH A LIVE LINK

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

Details required	*Notes*
Case details	
Court venue:	The venue of the court hearing the case.
Date of next court appearance:	
Charges:	Give brief details (including date and location of offence) of those charges to which this application applies.
Name of PSNI Central Process Office:	
Central Process Office or District Command Unit reference number:	
PPSNI reference number:	