STATUTORY RULES OF NORTHERN IRELAND

2004 No. 463

COUNTY COURTS, NORTHERN IRELAND

County Court (Amendment No. 2) Rules (Northern Ireland) 2004

Made - - - - 3rd November 2004

Coming into operation in accordance with Rule 1

We, the County Court Rules Committee, appointed by the Lord Chancellor under Article 46 of the County Courts (Northern Ireland) Order 1980(**1**), in exercise of the powers conferred upon us by Article 47 of that Order, Articles 8(6) and 39(1) of the Criminal Evidence (Northern Ireland) Order 1999(**2**), paragraph (2) of Schedule 2 to the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985(**3**), paragraph (2) of Schedule 1 to the Licensing (Northern Ireland) Order 1996(**4**) and all other powers enabling us in that behalf, hereby make the following Rules:

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the County Court (Amendment No. 2) Rules (Northern Ireland) 2004.

(2) Subject to paragraphs (3) and (4), these Rules will come into operation on 29th November 2004.

(3) Sub-paragraphs (a), (b) and (d) of Rule 2(3) and Rule 2(4)(d) shall come into operation on the same day as Article 5(1) of, and Schedule 2 to, the Betting and Gaming (Northern Ireland) Order 2004(**5**) come into operation.

(4) Rule 2(3)(c) and sub-paragraphs (b) and (c) of Rule 2(4) shall come into operation on the same day as Article 4 of the Licensing (Indoor Arenas) (Northern Ireland) Order 2004(**6**) comes into operation.

(5) In these Rules, a reference to an Order, Part, Appendix or Form is a reference to that Order, Part, Appendix or Form as numbered in the County Court Rules (Northern Ireland) 1981(**7**).

(**1**) S.I. 1980/397 (N.I. 3)
(**2**) S.I. 1999/2789 (N.I. 8)
(**3**) S.I. 1985/1204 (N.I. 11) as amended by S.I. 2004/310 (N.I. 1)
(**4**) S.I. 1996/3158 (N.I. 22) as amended by S.I. 2004/1994 (N.I. 17)
(**5**) S.I. 2004/310 (N.I. 1)
(**6**) S.I. 2004/1994 (N.I. 17)
(**7**) S.R. 1981 No. 225; to which the most recent relevant amendments were made by S.R. 2003 No. 295; S.R. 2003 No. 485 and S.R. 2004 No. 216

Amendment to the principal Rules

2.—(1) Order 32 Part IIA shall be amended as follows –

(a) in Rule 6B(5), for the words "Article 4(1)(a)" there shall be substituted the words "Article 4 or 5";

(b) in Rule 6B(7)(a)(i), for the words "Article 4(1)(a)" there shall be substituted the words "Article 4 or 5";

(c) in Rule 6G(2), for the words "a witness", there shall be substituted the words "a child witness";

(d) in Rule 6G(3), for the words "a witness", there shall be substituted the words "a child witness";

(e) by adding after Rule 6N the following new Rules:

"**Application for reporting direction**

6NA.—(1) An application by a party to an appeal arising out of criminal proceedings in a magistrates' court for a reporting direction under section 46 of the 1999 Act in relation to a witness at that appeal may be made at any time after service of the notice of appeal by giving notice in Form 137J.

(2) The notice under paragraph (1) shall be served on the chief clerk, and at the same time a copy thereof shall be served, by the applicant, on every other party to the appeal.

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

(4) In order to comply with paragraph (3) a party shall state in the written notification whether he –

(a) disputes that the witness is eligible for protection under section 46 of the 1999 Act; and

(b) disputes that the granting of protection would be likely to improve the quality of evidence given by the witness or the level of co-operation given by the witness to any party to the proceedings in connection with the party's preparation of its case.

Application for excepting direction

6NB.—(1) An application for a direction under section 46(9) of the 1999 Act ("an excepting direction") may be made at any time after the hearing of the appeal has begun if a reporting direction has been given by the court in respect of a witness at that appeal.

(2) The application under paragraph (1) may be made by –

(a) any party to the appeal; or

(b) any person who, although not a party to the appeal, is directly affected by a reporting direction given in relation to a witness in that appeal or could be so affected if the court in determining an application gave a reporting direction.

(3) An application for an excepting direction may be made –

(a) orally at the time the reporting direction is given; or

(b) by giving notice in Form 137K.

(4) An applicant for an excepting direction shall state why, in his opinion –

(a) the effect of the restrictions imposed (or which the applicant for the reporting direction seeks to have imposed) places a substantial and unreasonable restriction on the reporting of the proceedings; and

(b) it is in the public interest to remove or relax those restrictions.

(5) Where the application for an excepting direction is made in writing, the notice under paragraph (3)(b) shall be served on the chief clerk, and at the same time a copy thereof shall be served, by the applicant, on every other party or, as the case may be, every party to the appeal.

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

Variation or revocation

6NC.—(1) An application to –

(a) revoke a reporting direction; or

(b) vary or revoke an excepting direction,

may be made at any time after the hearing of the appeal has begun.

(2) The application under paragraph (1) may be made by –

(a) any party to the appeal in which the direction was given; or

(b) any person who, although not a party to the appeal is, in the opinion of the court, directly affected by the direction.

(3) The application under paragraph (1) shall be made by giving notice in Form 137L which –

(a) shall specify the grounds upon which the applicant seeks to have the direction varied or, as the case may be, revoked; and

(b) shall be served, by the applicant, on the chief clerk and on every other party or, as the case may be, every party to the appeal.

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

Hearings

6ND.—(1) Subject to paragraph (2), the court may –

(a) determine any application made under Rule 6NA, 6NB or 6NC without a hearing; or

(b) direct a hearing of any such application.

(2) Where a party to the appeal notifies the chief clerk of his opposition to an application under Rule 6NA, 6NB or, as the case may be, 6NC, the court shall direct a hearing of that application.

(3) Where a hearing of an application is to take place in accordance with this Rule, the chief clerk shall notify each party to the appeal of the time and place of the hearing.

(4) A party notified in accordance with paragraph (3) may be present at the hearing and be heard.

(5) Before determining an application, the court may hear and take into account representations made to it by any person who in the court's opinion has a legitimate interest in the application before it.

(6) The chief clerk shall, as soon as reasonably practicable after the determination of an application under Rule 6NA, 6NB or 6NC, notify all the parties to the appeal of the decision of the court in Form 137M.

Notice required to accompany process served outside the United Kingdom

6NE.—(1) The notice which by virtue of section 3(4)(b) of the 2003 Act shall accompany any process served outside the United Kingdom shall give the information specified in paragraphs (2) and (4).

(2) The notice shall –

(a) state that the person required by the process to appear as a party or attend as a witness may obtain information about his rights in connection with such requirement from the relevant authority; and

(b) give the particulars specified in paragraph (4) about that authority.

(3) The "relevant authority" where the process is served –

(a) at the request of the prosecuting authority, is that prosecuting authority;

(b) at the request of the appellant, or of the prosecutor in the case of a private prosecution, is the court by which the process is served.

(4) The particulars referred to in paragraph (2) are –

(a) the name and address of the prosecuting authority or, as the case may be, the court, together with its telephone and fax numbers and e-mail address;

(b) the name of a person at the prosecuting authority or, as the case may be, the court who can provide the information referred to in paragraph (2)(a), together with his telephone and fax numbers and e-mail address.

(5) Where section 3(3) of the 2003 Act applies, the chief clerk shall require any process served outside the United Kingdom to be accompanied by –

(a) any translation which is provided under section 3(3)(b) of the 2003 Act; and

(b) any translation of the information required to be given by this Rule which is provided to him.

Proof of service outside the United Kingdom

6NF.—(1) The service on any person under section 4(1) of the 2003 Act of any process issued or made may be proved in any proceedings by a certificate given by or on behalf of the Secretary of State.

(2) A statement in any such certificate as is mentioned in paragraph (1) –

(a) that a process has been served;

(b) of the manner in which service was effected;

(c) of the date on which a process was served,

shall be admissible as evidence of any facts so stated.".

(2) In Order 32 Part III, Rule 7 shall be amended as follows –

(a) by inserting before the definition of "the 1999 Order", the following definitions:

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

""the 1999 Act" means the Youth Justice and Criminal Evidence Act 1999;".

(b) by inserting after the definition of "enactment", the following definition:

""process" has the same meaning as in section 51(3) of the 2003 Act;".

(3) Order 48 shall be amended as follows –

(a) for the title to Order 48 "Licensing and Registration of Clubs" there shall be substituted the following title –

"Licensing, Bookmaking Office Licences and Registration of Clubs";

(b) in Rule 1(1) before the definition of "the chief clerk" there shall be inserted the following definition –

"In Part VII, "the Betting, Gaming, Lotteries and Amusements Order" means the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 and expressions which are defined in that Order have the same meaning as in that Order";

(c) in Rule 3(3) after the words "any place of entertainment" there shall be inserted the words "or indoor arena".

(d) after Part VI there shall be added the new Part VII set out in Schedule 1 to these Rules.

(4) Appendix I shall be amended as follows –

(a) by inserting after Form 137I, the new Forms 137J to 137M in Schedule 2 to these Rules;

(b) by inserting after Form 200, the new Form 200A in Schedule 2 to these Rules;

(c) in Form 209 after "[(*j*)]" there shall be inserted "[(k)]"; and

(d) by inserting after Form 211, the new Forms 211A to 211D in Schedule 2 to these Rules.

We, the undersigned members of the County Court Rules Committee, having by virtue of the powers vested in us in this behalf made the foregoing Rules, do hereby certify the same under our hand and submit them to the Lord Chancellor accordingly.

T. A. Burgess
Barry Valentine
B. J. Stewart
Dated 12th October 2004 *Brian F. Walker*