STATUTORY RULES OF NORTHERN IRELAND

2002 No. 12

MAGISTRATES' COURTS

Magistrates' Courts (Detention and Forfeiture of Terrorist Cash) Rules (Northern Ireland) 2002

Made - - - -	*19th January 2002*
Coming into operation	*11th February 2002*

The Lord Chancellor, in exercise of the powers conferred on him by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981(**1**), on the advice of the Magistrates' Courts Rules Committee and after consultation with the Lord Chief Justice, hereby makes the following Rules:—

Citation and commencement

1. These Rules may be cited as the Magistrates' Courts (Detention and Forfeiture of Terrorist Cash) Rules (Northern Ireland) 2002 and shall come into operation on 11th February 2002.

Revocation

2. The Magistrates' Courts (Terrorism Act 2000) Rules (Northern Ireland) 2001(**2**) are hereby revoked.

Interpretation

3. In these Rules—

(a) "the Act" means the Anti-terrorism, Crime and Security Act 2001(**3**) and a reference to a Schedule by number alone is a reference to the Schedule so numbered in the Act and expressions used have the same meaning as in Schedule 1; and

(b) any reference to the clerk of petty sessions is a reference to the clerk of petty sessions for the petty sessions district in which the seizure of cash under Schedule 1 was made.

(**1**) S.I. 1981/1675 (N.I. 26)
(**2**) S.R. 2001 No. 65
(**3**) 2001 c. 24

Application for continued detention of seized cash

4.—(1) A first application under paragraph 3(5) of Schedule 1 for an order under paragraph 3(2) of Schedule 1 for continued detention of cash seized under paragraph 2 of Schedule 1 shall be made to a magistrates' court in writing in Form 1.

(2) The applicant shall give—

(a) a copy of the application under paragraph (1); and

(b) notification of the hearing of the application;

to the person from whom the cash was seized.

Unattended parcels and other containers

5. In rules 4, 7 and 8, references to the person from whom the cash was seized include references to the sender and the intended recipient, where this is known, of a letter, parcel, container or other means of unattended dispatch, but a magistrates' court shall not decline to hear an application in such a case solely on the ground that it has not been proved that the sender or intended recipient has received a copy of the application and notification of hearing under rule 4(2).

Order and notice of order for continued detention of seized cash

6.—(1) An order made under paragraph 3(2) of Schedule 1 shall be in Form 2.

(2) Notice of any order made under paragraph 3(2) of Schedule 1 shall be given forthwith by the court to the person from whom the cash was seized and to any other person who is affected by, and specified in, the said order. Notice shall be in Form 3 and shall be accompanied by a copy of the order.

Further applications for continued detention of seized cash

7.—(1) An application under paragraph 3(5) of Schedule 1 for a further order under paragraph 3(2) of Schedule 1 for the continued detention of cash shall be made in writing in Form 4 and shall be lodged with the clerk of petty sessions and shall be accompanied by a copy of the relevant order for continued detention.

(2) A copy of the application under paragraph (1) shall be given by the applicant to the person from whom cash was seized and to any other person affected by, and specified in, the order made in relation to the previous application under paragraph 3(5) of Schedule 1.

(3) The clerk of petty sessions who receives an application in accordance with paragraph (1) shall fix a date for the hearing of the application, shall notify the applicant and every person to whom notice of the order for continued detention has been given of the date fixed for the hearing which, unless the clerk of petty sessions directs otherwise in any particular case, shall not be within seven days of the date on which the application is received.

(4) A further order for continued detention of cash made under paragraph 3(2) of Schedule 1 shall be in Form 2 and shall be given by the clerk of petty sessions to every person to whom the notice of the order for continued detention has been given.

Applications for release of detained cash

8.—(1) An application under paragraph 5(2) or paragraph 9(1) of Schedule 1 for the release of detained cash shall be made in writing, shall state the grounds on which it is made, and shall be lodged with the clerk of petty sessions.

(2) The clerk of petty sessions who receives an application in accordance with paragraph (1) shall fix a date for the hearing of the application, shall notify the applicant and every person to whom notice of the order for continued detention has been given of the date fixed for the hearing which,

unless the clerk of petty sessions directs otherwise in any particular case, shall not be within seven days of the date on which the application is received.

(3) The clerk of petty sessions shall in addition give a copy of the written application to every person, other than the applicant, to whom notice of the order for continued detention has been given.

(4) A direction under paragraph 5(2) of Schedule 1 for the release of detained cash shall be in Form 5, and shall provide for the release of the cash within seven days of the date of the direction, or such longer period as with the agreement of the person from whom the cash was seized may be specified in the direction, except that the cash shall not be released while paragraph 5(4) of Schedule 1 applies.

(5) An order under paragraph 9(3) of Schedule 1 for the release of detained cash shall be in Form 6, and shall provide for the release of the cash within seven days of the date of the making of the order or such longer period as with the agreement of the applicant may be specified in the order.

Forfeiture

9.—(1) An application under paragraph 6(1) of Schedule 1 for the forfeiture of detained cash shall be made in writing in Form 7 and shall be lodged with the clerk of petty sessions.

(2) A copy of the application under paragraph (1) shall be given by the applicant to the person from whom cash was seized and to any other person affected by, and specified in, the order made in relation to the previous application under paragraph 3(5) of Schedule 1.

(3) The clerk of petty sessions who receives such an application shall fix a date for the hearing, shall notify the applicant and every person to whom notice of an order for continued detention has been given of the hearing date. Unless the clerk of petty sessions directs otherwise in any particular case, the date for hearing shall not be within seven days of the date on which the application is received.

Order for forfeiture of detained cash

10. An order for the forfeiture of detained cash made by a magistrates' court under paragraph 6(2) of Schedule 1 shall be in Form 8 and a copy of the order shall be given to every person to whom notice of the order for continued detention was given.

Appeal against order forfeiting cash

11.—(1) Where an appeal against a forfeiture order is made to a county court under paragraph 7(1) of Schedule 1 the appellant shall, within the period prescribed by paragraph 7 of Schedule 1, serve on every person to whom notice of the order for continued detention of the cash was given notice of his appeal in writing in Form 9 and shall within the said period serve a copy of such notice on the clerk of petty sessions.

(2) The notice of appeal to be served on the parties and the copy of the notice to be served on the clerk of petty sessions under paragraph (1) shall be prepared and signed by the appellant or by his solicitor or other duly authorised agent and shall contain his address or that of his solicitor or other duly authorised agent.

(3) The copy of the notice served on the clerk of petty sessions shall be endorsed with the date upon which and the manner in which the notice was served.

(4) As soon as practicable after the clerk of petty sessions has received the notice of appeal, the resident magistrate or justice of the peace from whose order the appeal is to be brought or the clerk of petty sessions shall in Form 10 (“the form of appeal”) set out the terms of the order appealed against and that form shall include a certificate signed by the clerk of petty sessions to the effect that notice of appeal has been given.

(5) As soon as practicable after complying with the above paragraphs, the clerk of petty sessions shall—

(a) send to the chief clerk for the county court division in which the appeal will be heard, the copy of the notice of appeal and the form of appeal duly completed; and

(b) send to the appellant and to the respondent a copy of the form of appeal.

(6) After the county court has decided an appeal under paragraph 7(1) of Schedule 1, the chief clerk for the county court division for which that county court is held shall, within seven days of that decision, certify the decision at the foot of the form of appeal and shall transmit the form of appeal to the clerk of petty sessions, who shall enter the decision in his Order Book.

(7) Any notice of abandonment of an appeal under paragraph 7(1) of Schedule 1 shall be in Form 11.

Application for compensation

12.—(1) An application under paragraph 10(1) of Schedule 1 for compensation shall be made in writing and shall be lodged with the clerk of petty sessions and shall specify the grounds on which it is made.

(2) The clerk of petty sessions shall send a copy of the application to—

(a) the Commissioners for Customs and Excise, if the cash which is the subject of the application was seized by a customs officer;

(b) the Chief Constable, if the cash which is the subject of the application was seized by a constable;

(c) the Secretary of State, if the cash which is the subject of the application was seized by an immigration officer.

(3) The clerk of petty sessions who receives an application in accordance with paragraph (1) shall fix a date for the hearing of the application and shall notify the applicant and the person referred to in paragraph (2) of the date fixed for the hearing which, unless the clerk of petty sessions directs otherwise in any particular case, shall not be within seven days of the date on which the application is received.

Joinder

13. At any hearing of an application under paragraph 3(5), paragraph 5(2), paragraph 6(1) or paragraph 9(1) of Schedule 1, or on the application of any person affected by an order for continued or further detention, the court may, if it thinks fit, order that such a person be joined as a party to the proceedings and, if the court so orders, otherwise than at such a hearing, the clerk of petty sessions shall give notice to the other parties of the joinder.

Notice

14.—(1) Any notice, notification, copy of any order or any other document required to be given to any person under the provisions of rule 6(2), 7(3) and (4), 8(2) and (3), 9(3), 11(5)-(7), 12 or 13 may be given by ordinary first class post to his last known address.

(2) A notice under rule 11(1) shall be served in accordance with section 24(2) of the Interpretation Act (Northern Ireland) 1954(**4**).

(**4**) 1954 c. 33 (N.I.)

Procedure at hearings

15.—(1) At the hearing of an application under Schedule 1 to the Act any person to whom notice of the application has been given, or should have been given, may attend and be heard on the question whether the application should be granted, but the fact that any such person does not attend shall not prevent the court from hearing the application.

(2) At the hearing of an application under Schedule 1 to the Act, the court shall require the matters contained in the application to be sworn by the applicant under oath, may require the applicant to answer any questions under oath and may require any response from the respondent to the application to be made under oath.

(3) The court shall record or cause to be recorded in writing the substance of any statements made under oath which are not already recorded in the written application.

16. The Magistrates' Courts Rules (Northern Ireland) 1984(**5**) shall have have effect subject to the provisions of these Rules.

Dated 19th January 2002. *Irvine of Lairg,* C.

(**5**) S.R. 1984 No. 225