STATUTORY RULES OF NORTHERN IRELAND

2001 No. 65

MAGISTRATES' COURTS

Magistrates' Courts (Terrorism Act 2000) Rules (Northern Ireland) 2001

Made - - - -	*16th February 2001*
Coming into operation	*19th February 2001*

The Lord Chancellor, in exercise of the powers conferred on him by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981(**1**) and section 31 of the Terrorism Act 2000(**2**), 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 (Terrorism Act 2000) Rules (Northern Ireland) 2001 and shall come into operation on 19th February 2001.

Interpretation

2. In these Rules—

(a) "the Act" means the Terrorism Act 2000 and a reference to a section by number is a reference to that section as numbered in the Act and expressions used which are defined in the Act have the same meaning as in the Act; 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 Part III of the Act was made.

Application for continued detention of seized cash

3.—(1) An application under section 26(1) for an order for continued detention of cash seized under section 25 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;

(**1**) S.I.1981/1675 (N.I. 26)
(**2**) 2000 c. 11

to the person from whom the cash was seized.

(3) A magistrates' court considering an application under section 26(1) shall require the matters contained in it to be sworn by the applicant on oath, may require the applicant to answer any questions on oath, and may require any statement in response by the person from whom the cash was seized to be made on oath.

(4) The magistrates' 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 application, under paragraph (1).

Unattended parcels and other containers

4. In rules 3 and 7, 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 3(2).

Order and notice of order for continued detention of seized cash

5.—(1) An order made under section 26(1) shall be in Form 2.

(2) Notice of any order made under section 26(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.

Subsequent applications

6.—(1) An application under section 26(4) for a further order 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 application under section 26(1).

(3) An application under section 27(2) 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.

(4) 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.

(5) The requirements of paragraph (4) shall also apply to any application made in accordance with paragraph (3) and 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.

(6) At the hearing of an application received in accordance with paragraph (1) or (3), the magistrates' court shall require the matters contained in the application to be sworn by the applicant on oath, may require the applicant to answer any questions on oath, and may require any response from the respondent to the application to be made on oath.

(7) If the court is satisfied that a further order for continued detention of cash should be made under section 26(4), it shall endorse the order for continued detention accordingly, and a copy of the order so endorsed shall be given by the clerk of petty sessions to every person to whom notice of the order for continued detention has been given.

Order for release of cash

7. An order under section 27(3) 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 making of the order or such longer period as with the agreement of the person from whom the cash was seized may be specified in the order, except that the cash shall not be released while section 27(5) applies.

Forfeiture

8.—(1) An application under section 28 of the Act for the forfeiture of detained cash shall be made in writing in Form 6 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 application under section 26(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.

(4) At the hearing of an application received in accordance with paragraph (1), the magistrates' court shall require the matters contained in the application to be sworn by the applicant on oath, may require the applicant to answer any questions on oath, and may require any response from the respondent to the application and from any other party heard by the court in accordance with section 28(3) to be made on oath.

Order for forfeiture of detained cash

9. An order for the forfeiture of detained cash made by a magistrates' court under section 28 shall be in Form 7 and a copy of the order shall be given to every person to whom notice of the order for continued detention was given and to every party heard by the court in accordance with section 28(3) when considering the application.

Appeal against order forfeiting cash

10.—(1) Where an appeal against a forfeiture order is made to the county court under section 29(1) the appellant shall, within the period prescribed by section 29, serve on:

(a) every person to whom notice of the order for continued detention of cash was given; and

(b) every person heard by the magistrates' court in accordance with section 28(3) when the court considered the application for the forfeiture order which is subject of the appeal,

notice of his appeal in writing in Form 8 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 9 (“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 section 29(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 section 29 shall be in Form 10.

Application for release of cash for appeal

11.—(1) An application under section 29(3) for the release of cash to meet the appellant's legal expenses, in connection with his appeal under section 29(1), shall be made in writing to the magistrates' court which made the order for forfeiture under section 28 and shall contain the name and address of the solicitor instructed by the appellant and the amount requested to be released, together with any evidence in support of the application.

(2) The clerk of petty sessions who receives such an application shall fix a date for the hearing, shall notify the applicant thereof, and shall notify every person to whom notice of an order for forfeiture was given of the application and the date fixed for hearing.

(3) An order for the release of cash under section 29(3) shall be in Form 11.

Joinder

12. At any hearing of an application under section 26(1), 26(4), 27(2) or 28(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

13.—(1) Any notice, notification, copy of any order or any other document required to be given to any person under the provisions of rule 5(2), 6(4), (5) and (7), 8(3), 10(5)-(7), 11 or 12 may be given by ordinary first class post to his last known address.

(2) A notice under rule 10(1) shall be served in accordance with section 24(2) of the Interpretation Act (Northern Ireland) 1954(**3**).

Procedure at hearings

14. At the hearing of an application under section 26(1), 26(4), 27(2) or 28(1), 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 a further order should be made, an existing order should be discharged, or a forfeiture order should be made, as the case may be, but the fact that any such person does not attend shall not prevent the court from hearing the application.

(**3**) 1954 c. 33 (N.I.)

15. The Magistrates' Courts Rules (Northern Ireland) 1984(**4**) shall have effect subject to the provisions of these Rules.

Dated 16th February 2001 *Irvine of Lairg, C.*

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