STATUTORY RULES OF NORTHERN IRELAND

1999 No. 489

MAGISTRATES' COURTS

The Magistrates' Courts (Devolution Issues) Rules (Northern Ireland) 1999

Made - - - -	*10th December 1999*
Coming into operation	*17th January 2000*

The Lord Chancellor, in exercise of the powers conferred on him by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981(**1**), paragraph 38 of Schedule 10 to the Northern Ireland Act 1998(**2**) and all other powers enabling him in that behalf, 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 (Devolution Issues) Rules (Northern Ireland) 1999 and shall come into operation on 17th January 2000.

Interpretation

2.—(1) In these Rules—

"the appropriate Minister or department" means—

(a) the First Minister and Deputy First Minister acting jointly; or

(b) where they, acting jointly, determine under paragraph 36 of Schedule 10 that any power conferred on them by that Schedule in relation to any specified proceedings may be exercised by a specified Minister or Northern Ireland department, that Minister or Department; and for this purpose "specified" means specified in a determination under that paragraph;

"devolution issue" means a devolution issue within the meaning of Schedule 10;

"the Judicial Committee" means the Judicial Committee of the Privy Council;

"Schedule 10" means Schedule 10 to the Northern Ireland Act 1998.

(2) In these rules a reference to a form by number is a reference to the form of that number in the Schedule.

(**1**) S.I.1981/1675 (N.I. 26)
(**2**) 1998 c. 47

Raising of devolution issue

3.—(1) Where a party to any proceedings before a magistrates' court proposes to raise a devolution issue, he shall raise it either—

(a) in the summons or notice of application or appeal in relation to the proceedings before the court; or

(b) in a notice in Form 1, which shall be served by ordinary first class post on each of the other parties to the proceedings and on the clerk of petty sessions for the petty sessions district for which the court acts.

(2) Where a devolution issue has been raised in accordance with paragraph (1), the clerk of petty sessions shall as soon as is practicable cause the matter to be drawn to the attention of the court for the making of an order under paragraph 5 of Schedule 10 requiring notice of the devolution issue to be given to the Attorney General, the Attorney General for Northern Ireland and the appropriate Minister or department.

(3) The notice to the Attorney General, the Attorney General for Northern Ireland and the appropriate Minister or department shall be in Form 2.

(4) If the Attorney General, the Attorney General for Northern Ireland or the appropriate Minister or department wishes to become a party to the proceedings so far as they relate to the devolution issue, he or it shall within 14 days after receipt of the notice, or such longer period as a magistrates court may direct, give notice in Form 3 to the clerk of petty sessions; and a copy of such notice shall be served on each of the other parties.

Reference of devolution issue to Court of Appeal

4.—(1) Where a magistrates' court decides to refer a devolution issue to the Court of Appeal under paragraph 7 of Schedule 10, the court shall make an order so referring the issue.

(2) An order under paragraph (1) shall be in Form 4 and the court may give directions to the parties as to the manner and form of the schedule to that order, but it shall be settled by the court.

(3) The clerk of petty sessions shall send the order to the Master (Queen’s Bench and Appeals).

Reference of devolution issue to Judicial Committee

5.—(1) Where a magistrates' court is required by the Attorney General, the Attorney General for Northern Ireland or the appropriate Minister or department as mentioned in paragraph 33 of Schedule 10 to refer a devolution issue to the Judicial Committee, it shall make an order so referring the issue.

(2) An order under paragraph (1) shall be in Form 5 and the court may give directions to the parties as to the manner and form of the schedule to that order, but it shall be settled by the court.

(3) The clerk of petty sessions shall send the order to the Registrar of the Judicial Committee.

Adjournment of proceedings pending reference of devolution issue

6.—(1) The proceedings before a magistrates' court in which an order is made under rule 4 or 5 for the reference of a devolution issue shall be adjourned until the Court of Appeal or, as the case may be, the Judicial Committee, has determined the issue referred to it.

(2) Nothing in paragraph (1) shall be taken as preventing a magistrates' court from deciding any preliminary or incidental question which may arise in the proceedings after an order referring the devolution issue is made and before the court has received the determination of the Court of Appeal or, as the case may be, the Judicial Committee.

Procedure on receipt of determination of devolution issue

7. Where, on a reference of a devolution issue, the Court of Appeal or, as the case may be, the Judicial Committee, has determined the issue and the determination has been received by the Court, the clerk of petty sessions shall send a copy of the determination to each of the parties to the proceedings and the Court shall give directions as to further procedure.

Dated 10th December 1999 *Irvine of Lairg, C.*