STATUTORY RULES OF NORTHERN IRELAND

1999 No. 7

MAGISTRATES' COURTS

Magistrates' Courts (Criminal Justice (Children)) Rules (Northern Ireland) 1999

Made - - - -	*7th January 1999*
Coming into operation	*31st January 1999*

The Lord Chancellor, in exercise of the powers conferred on him by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981(**1**) 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:—

Part I

Citation, Commencement and Interpretation, etc

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Magistrates' Courts (Criminal Justice (Children)) Rules (Northern Ireland) 1999 and shall come into operation on 31st January 1999.

(2) In these Rules—

"court" means in Parts II, III and IV a youth court constituted in accordance with Schedule 2 of the Children and Young Persons Act (Northern Ireland) 1968(**2**), and in Part V a court of summary jurisdiction, whether a youth court or not;

"Order Book" means the Order Book kept for the youth court pursuant to Rule 17;

"the 1968 Act" means the Children and Young Persons Act (Northern Ireland) 1968;

"the Order" means the Criminal Justice (Children) (Northern Ireland) Order 1998(**3**);

"the principal Rules" means the Magistrates' Courts Rules (Northern Ireland) 1984(**4**);

(**1**) S.I. 1981/1675 (N.I. 26)
(**2**) 1968 c. 34 (N.I.)
(**3**) S.I. 1998/1504 (N.I. 9)
(**4**) S.R. 1984 No. 225
; to which the most recent relevant amendments have been made by
S.R. 1989 No. 422
,

(3) Expressions used in these Rules which are also used in the Order shall be construed in the same way as in that Order.

Revocation and transitional provisions

2.—(1) Subject to paragraph (2), the Rules specified in Schedule 2 are hereby revoked to the extent specified in the third column of that Schedule.

(2) The Rules specified in Schedule 2 shall continue to apply to any of the following orders made under the 1968 Act which are in force, in relation to any person, on the 31st January 1999—

(a) a supervision order;

(b) a training school order; or

(c) an order committing a person to the care of a fit person.

Part II

Proceedings in Criminal Matters

A.

General

Application of this Part

3.—(1) Subject to paragraphs (3) and (4), this Part applies where proceedings to which paragraph (2) applies are brought in a court in respect of a child.

(2) This paragraph applies to proceedings in which the child is charged with an offence, and, where he appears or is brought before the court, to proceedings under—

(a) Article 38 of the Order (discharge, revocation or variation of attendance centre orders);

(b) Article 41 of the Order (breach of supervision requirements of juvenile justice centre order);

(c) Schedule 2 to the Criminal Justice (Northern Ireland) Order 1996(**5**) (breaches of requirements of, revocation and amendment of, community orders);

(d) Article 54 of the Order (escapes from juvenile justice centres); or

(e) Paragraph 6 of Schedule 2 to the Order (transfer to young offenders centre).

(3) Where proceedings are of a kind mentioned in paragraph (2), Rules 6 and 12 shall not apply.

(4) Where the court is conducting a preliminary investigation or inquiry, only Rules 4, 5 and 7(3) shall apply.

Right of parent or guardian to conduct case

4.—(1) The court shall, except where the child is legally represented, allow his parent or guardian to assist him in conducting his defence, including the cross-examination of witnesses for the prosecution.

S.R. 1990 No. 426
,
S.R. 1994 No. 387
and
S.R. 1996 No. 126

(**5**) S.I. 1996/3160 (N.I. 24)

(2) Where the parent or guardian cannot be found or cannot in the opinion of the court reasonably be required to attend, the court may allow any relative or other responsible person to take the place of the parent or guardian for the purposes of this Part and any reference therein to the parent or guardian shall be taken as a reference to such person.

Explanation of proceedings in simple language

5.—(1) The court shall explain to the child the nature of the proceedings and, where he is charged with an offence, the substance of the charge.

(2) The explanation shall be given in simple language suitable to the child's age and understanding.

Taking plea

6. Subject to the provisions of Article 17 of the Order and to Rule 9, the court shall, after giving an explanation of the charge as required by Rule 4, ask the child whether he admits the charge and where he does so, the court at any time before recording a finding of guilt may allow or advise him to plead not guilty thereto.

Evidence in support of charge or application

7.—(1) Where—

(a) the child is charged with an offence and does not admit the charge; or

(b) the proceedings are of a kind mentioned in Rule 3(2),

the court shall hear the evidence of the witnesses in support of the charge or, as the case may be, the application.

(2) Except where—

(a) the proceedings are of a kind mentioned in Rule 3(2); and

(b) the child is the applicant,

each witness may at the close of his evidence-in-chief be cross-examined by or on behalf of the child.

(3) If in any case where the child is not legally represented or assisted in his defence as provided by Rule 4, the child, instead of asking questions by way of cross-examination, makes assertions, the court shall then put to the witness such questions as it thinks necessary on behalf of the child and may for this purpose question the child in order to bring out or clear up any point arising out of any such assertions.

Defendant to be told of right to give evidence and call witnesses

8. If it appears to the court, after hearing the evidence in support of the charge or application, that a prima facie case is made out, the child shall, if he is not the applicant and is not legally represented, be told that he may give evidence or address the court, and the evidence of any witnesses shall be heard.

B.

Summary Trial of Indictable Offences

Procedure for summary trial of indictable offences

9.—(1) Subject to paragraph (2) nothing in these Rules shall affect the provisions of Article 17(3), (4), (5) and (6) of the Order as to the procedure to be adopted where the court decides to deal summarily with an indictable offence under Article 17(1) of the Order.

(2) In order to ascertain that the prosecution consents in accordance with Article 17(1)(c) of the Order to the court's dealing summarily with the offence, the court shall ask the prosecution expressly whether it so consents before proceeding to comply with Article 17(3) and (4) of the Order.

(3) Paragraphs (1), (2) and (3) of Rule 45 of the principal Rules shall apply in relation to offences authorised to be dealt with summarily under Article 17(1) of the Order.
C.

Procedure after Finding

Procedure after finding against child

10.—(1) This Rule applies where—

(a) a court is dealing with a child found guilty of an offence, whether after a plea of guilty or otherwise, or whose case has been remitted to it under Article 32 of the Order; or

(b) in proceedings of a kind mentioned in Rule 3(2), the court is satisfied that the case for the applicant—

(i) if the child is not the applicant, has been made out; or

(ii) if the child is the applicant, has not been made out.

(2) Where this Rule applies—

(a) the court shall give the child and his parent or guardian, if present, an opportunity of making a statement;

(b) the court shall obtain such information as to the general conduct, home surroundings, school record and medical history of the child and, in particular, shall take into consideration such information as aforesaid which is provided in pursuance of Article 11 of the Order;

(c) if such information as aforesaid is not fully available, the court shall consider the desirability of adjourning the proceedings for such enquiry as may be necessary;

(d) any written report of a probation officer, appropriate authority, or registered medical practitioner may be received and considered by the court without being read aloud; but—

(i) the child shall be told the substance of any part of the report bearing on his character or conduct which the court considers to be material to the manner in which he should be dealt with;

(ii) the parent or guardian, if present, shall be told the substance of any part of the report which the court considers to be material as aforesaid and which has reference to the character or conduct of the parent or guardian, or the character, conduct, home surroundings, or health of the child; and

(iii) if the child or his parent or guardian, having been told the substance of any part of any such report, desires to produce evidence with reference thereto, the court, if it thinks that the evidence may be material, shall adjourn the proceedings for the production of further evidence, and shall, if necessary, require the attendance at the adjourned hearing of the person who made the report; and

(e) if the court considers it necessary in the interests of the child it may require the parent or guardian or the child, as the case may be, to withdraw from the court.

Duty of court to explain manner in which it proposes to deal with case and effect of order

11.—(1) The court shall, unless it thinks it undesirable to do so, inform the parent or guardian, if present, or any person assisting him in his case, of the manner in which it proposes to deal with the child and allow any of those persons so informed to make representations.

(2) On making any order, the court shall explain the general nature and effect of the order unless it thinks it undesirable to do so.

Notice to be given where remand is extended for information under Article 31 of the Order

12. Where a child has been remanded, and the period of remand is extended in his absence in accordance with Article 31 of the Order, notice in Form No. 10 in the Schedule shall be given to him, to his parent or guardian and his sureties (if any) of the date at which he will be required to appear before the court.

D.

Committal for Trial

Preliminary investigations or inquiries

13. Nothing in these Rules shall affect the provisions of Part V of the Magistrates' Courts (Northern Ireland) Order 1981 relating to the preliminary investigation or preliminary inquiry of an indictable offence and, accordingly, Rules 25-42 and Rule 51(2) of the principal Rules shall apply to such investigation or, as the case may be, to such inquiry conducted by a youth court.

E.

Election for Trial

Right to claim trial by jury for certain summary offences

14. Nothing in these Rules shall affect the right of a child apparently over the age of 14 to claim trial by jury under Article 29 of the Magistrates' Courts (Northern Ireland) Order 1981 and, accordingly, Rule 24 of the principal Rules shall apply where a child over the age of 14 is charged with an offence to which that Article applies.

Part III

Evidence-Television Links and Video Recording

Evidence through television link where witness will not give evidence otherwise through fear or is a child or is to be cross-examined after admission of video recording

15. Rule 149A of the principal Rules shall apply to any application made to the court under Article 81(2) of the Police and Criminal Evidence (Northern Ireland) Order 1989(**6**).

(**6**) S.I. 1989/1341 (N.I. 12)
; to which the most recent relevant amendments were made by
S.I. 1995/757 (N.I. 3)
and