STATUTORY RULES OF NORTHERN IRELAND

1997 No. 531

MAGISTRATES' COURTS

The Magistrates' Courts (Criminal Procedure and Investigations Act 1996) (Disclosure) Rules (Northern Ireland) 1997

Made - - - -	*9th December 1997*
Coming into operation	*1st January 1998*

The Lord Chancellor, in exercise of the powers conferred upon him by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981(**1**) and section 19 of the Criminal Procedure and Investigations Act 1996(**2**) and of 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, commencement and interpretation

1.—(1) These Rules may be cited as the Magistrates' Courts (Criminal Procedure and Investigations Act 1996) (Disclosure) Rules (Northern Ireland) 1997 and shall come into operation on 1st January 1998.

(2) In these Rules—

"the Act" means the Criminal Procedure and Investigations Act 1996 and a reference to a section or Part by number is a reference to the section or Part so numbered in that Act;

"clerk of petty sessions" means the clerk of petty sessions for the petty sessions district for which the court of summary jurisdiction which is trying or is to try the offence referred to in section 1(1), and includes such other member of the Northern Ireland Court Service as may be authorised to act on his behalf for the purpose in question;

"the Order Book" means the Order Book required to be kept under Rule 19 of the principal Rules;

"the principal Rules" means the Magistrates' Courts Rules (Northern Ireland) 1984(**3**).

(**1**) S.I. 1981/1675 (N.I. 26)
(**2**) 1996 c. 25
; section 19 is modified in its application to Northern Ireland by paragraph 12 of Schedule 4 to the Act
(**3**) S.R. 1984 No. 225
; to which the most recent relevant amendment was made by
S.R. 1994 No. 387

Public interest: application by the prosecutor

2.—(1) This Rule applies to the making of an application by the prosecutor under section 3(6), 7(5), 8(5) or 9(8) where Part I applies by virtue of section 1(1) (summary trial).

(2) The prosecutor shall serve notice of an application to which this Rule applies on the clerk of petty sessions and shall specify the nature of the material to which the application relates.

(3) Subject to paragraphs (4) and (5) the prosecutor shall serve a copy of the notice of application on the accused.

(4) Where the prosecutor has reason to believe that to reveal to the accused the nature of the material to which the application relates would have the effect of disclosing that which the prosecutor contends should not in the public interest be disclosed, paragraph (3) shall not apply but the prosecutor shall notify the accused that an application to which this Rule applies has been made.

(5) Where the prosecutor has reason to believe that to reveal to the accused the fact that the application is being made would have the effect of disclosing that which the prosecutor contends should not in the public interest be disclosed, paragraph (3) shall not apply.

Public interest: hearing of application by the prosecutor

3.—(1) This Rule applies to the hearing of an application by the prosecutor under section 3(6), 7(5), 8(5) or 9(8) where Part I applies by virtue of section 1(1).

(2) Subject to Rule 6(4), where a copy of the notice of application has been served on the accused in accordance with Rule 2(3)—

(a) the clerk of petty sessions shall give notice to—

(i) the prosecutor;

(ii) the accused;

(iii) any person claiming to have an interest in the material to which the application relates who has applied under section 16(*b*) to be heard by the court,

of the date and time when and the place where, the hearing will take place and, unless the court orders otherwise, such notice shall be given in writing;

(b) the hearing shall be *inter partes*; and

(c) the prosecutor and the accused shall be entitled to make representations to the court.

(3) Where the prosecutor applies to the court for leave to make representations in the absence of the accused, the court may for that purpose sit in the absence of the accused and any legal representative of his.

(4) Where a copy of the notice of application has not been served on the accused in accordance with Rule 2(3), the clerk of petty sessions shall give notice to—

(a) the prosecutor;

(b) any person claiming to have an interest in the material to which the application relates who has applied under section 16(6) to be heard by the court,

of the date and time when, and the place where, the hearing will take place and unless the court orders otherwise, such notice shall be given in writing;

(c) the hearing shall be *ex parte*;

(d) subject to Rule 6(4) only the prosecutor shall be entitled to make representations to the court.

Public interest: non-disclosure order

4.—(1) This Rule applies to an order under section 3(6), 7(5), 8(5) or 9(8).

(2) On making an order to which this Rule applies, the court shall state its reasons for doing so and, subject to paragraph (3), record shall be made of that statement.

(3) Where a copy of a notice of application for an order to which this Rule applies has not been served on the accused in accordance with Rule 2(3)—

(a) the clerk of petty sessions shall record the court's statement of reasons under paragraph (2) in a register which is to be kept separately from the Order Book of the court;

(b) such entry shall be signed by the resident magistratae who determined the application,

and Rules 19 and 20 of the principal Rules shall not apply.

(4) In a case where such an order is made following—

(a) an application to which Rule 2(4) applies; or

(b) an application notice of which has been served on the accused in accordance with Rule 2(3) but the accused has not appeared or been represented at the hearing of that application,

the clerk of petty sessions shall notify the accused that an order has been made.

Review of non-disclosure order: application by accused

5.—(1) This Rule applies to an application by the accused under section 14(2).

(2) An application to which this Rule applies shall be made by notice in writing to the clerk of petty sessions and shall specify the reason why the accused believes the court should review the question mentioned in section 14(2).

(3) The accused shall serve a copy of the notice of application on the prosecutor at the same time as it is sent to the clerk of petty sessions.

(4) On receipt of an application to which this Rule applies the clerk of petty sessions shall take such steps as he thinks fit to ensure that the court determining the application has before it any document or other material which was available to the court which made the order mentioned in section 14(2).

(5) Subject to paragraphs (6) to (8) and to Rule 6(4), the hearing of an application to which this Rule applies shall be *inter partes* and the accused and the prosecutor shall be entitled to make representations to the court.

(6) Where the court considers that there are no grounds on which it might conclude that it is in the public interest to disclose material to any extent it may determine the application without hearing representations from the accused, the prosecutor or any person claiming to have an interest in the material to which the application relates.

(7) Where after hearing the accused's representations, the prosecutor applies to the court for leave to make representations in the absence of the accused, the court may for that purpose sit in the absence of the accused and any legal representative of his.

(8) Subject to Rule 6(4), where the order to which the application relates was made following an application of which the accused was not notified under Rule 2(3) or (4), the hearing shall be *ex parte* and only the prosecutor shall be entitled to make representations to the court.

(9) The clerk of petty sessions shall give notice in writing to—

(a) the prosecutor;

(b) except where a hearing takes place in accordance with paragraph (8), the accused; and

(c) any person claiming to have an interest in the material to which the application relates who has applied under section 16(*b*) to be heard by the court,