STATUTORY RULES OF NORTHERN IRELAND

1997 No. 529

MAGISTRATES' COURTS

Magistrates' Courts (Amendment No. 2) Rules (Northern Ireland) 1997

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

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:—

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Magistrates' Courts (Amendment No. 2) Rules (Northern Ireland) 1997 and shall come into operation on 1st January 1998.

(2) In these Rules, the "principal Rules" means the Magistrates' Courts Rules (Northern Ireland) 1984(**2**) and a reference to a Rule, Form or Schedule by number means the Rule, Form or Schedule so numbered in the principal Rules.

Separate Warrants to be issued for each sentence imposed

2.—(1) In Rule 15 paragraph (5), after the words "Treatment of Offenders (Northern Ireland) Order 1976(**3**)" there shall be inserted the words "or Article 28 of the Criminal Justice (Northern Ireland) Order 1996(**4**)".

(2) In Rule 15 paragraph (6), for the words "that Article" there shall be substituted the words "either of the Articles referred to in paragraph (5)".

Endorsement of warrants of commitment as to release on bail

3. In Rule 16 after paragraph (1), there shall be inserted the following new paragraph—

"(1A) Where under Article 5(5)(*a*) or Article 28(2)(*b*) of, or Schedule 2 to, the Criminal Justice (Northern Ireland) Order 1996, the court commits an offender in custody until he

(**1**) S.I. 1981/1675 (N.I. 26)
(**2**) S.R. 1984 No. 225
(**3**) S.I. 1976/226 (N.I. 4)
(**4**) S.I. 1996/3160 (N.I. 24)

can be brought or appear before the Crown Court, it may certify its consent to bail by endorsement on the warrant of commitment in Form 11A and the certificate of such consent may be signed on behalf of the court by the clerk of petty sessions.".

Section F in Part VII of the principal Rules

4. In Part VII of the principal Rules, for Section F there shall be substituted the following new Section—

"F

Criminal Justice (Northern Ireland) Order 1996

Interpretation of Section F

124. In this Section—

(a) "the 1996 Order" means the Criminal Justice (Northern Ireland) Order 1996;

(b) "pre-sentence report"; "community order"; "custodial sentence"; "custody probation order"; and "mentally disordered" have the meanings assigned to them by Article 2(2) of the 1996 Order;

(c) "medical report" has the meaning assigned to it by Article 22(5) of the 1996 Order;

(d) "the appropriate county court division" means, except where it appears in Rule 126B, the county court division in which is located the place at which the Crown Court sat when the community order was made.

Order for Absolute or Conditional Discharge

125.—(1) Where the court makes an order for absolute or conditional discharge, it shall cause an entry to that effect to be made in the Order Book and, in the case of an order for conditional discharge, that entry shall also specify the duration of the order.

(2) Where a magistrates' court makes an order under Article 5(6) or (8), or the Crown Court makes an order under Article 5(7), of the 1996 Order, the clerk of petty sessions for the petty sessions district in which the order for conditional discharge was made shall make a note of the order under the said Article 5, opposite the entry in the Order Book relating to the making of the order of conditional discharge.

(3) Where a magistrates' court deals with a person under Article 5(8) of the 1996 Order in relation to an order for conditional discharge which was not made by that court, the clerk of petty sessions shall give a copy of the relevant entry in the Order Book to the clerk of petty sessions for the district in which the order was made.

(4) Where a magistrates' court convicts a person of an offence committed during the period of conditional discharge, the clerk of petty sessions shall, if the court which made the order for conditional discharge was the Crown Court, give a copy of the relevant entry in the Order Book to the chief clerk for the appropriate county court division.

(5) Where a magistrates' court makes an order under Article 12 of the 1996 Order substituting an order for conditional discharge for a probation order which was not made by that court, the clerk of petty sessions shall—

(a) cause an entry to that effect to be made in the Order Book; and

(b) give notice of the substitution to the clerk of petty sessions for the petty sessions district in which the probation order was made.

(6) The clerk of petty sessions to whom notice under paragraph (5) is given shall note the substitution of an order for conditional discharge for a probation order opposite the entry in the Order Book relating to the making of the probation order.

Entry in Order Book

125A. Where a magistrates' court makes a statement under Article 9(4); 20(3)(*a*); 21(2); 24(4) or (5) or 33(2) of the 1996 Order, it shall cause that statement to be entered in the Order Book.

Community Order

126.—(1) Where a magistrates' court makes a community order, any entry in the Order Book required to be made under Rule 19(1) shall include details of the following—

(a) the duration of the order;

(b) any conditions and requirements of the order;

(c) the petty sessions district in which the offender resides or will reside.

(2) Where a court of summary jurisdiction amends or revokes a community order, it shall cause an entry to that effect to be made in the Order Book, opposite the entry relating to the making of the relevant order.

(3) Where a court of summary jurisdiction amends or revokes a community order which was not made by that court, the clerk of petty sessions shall—

(a) if the community order was made by another magistrates' court, send a copy of the relevant entry in the Order Book to the clerk of petty sessions for that district; or

(b) if the community order was made by the Crown Court, send a copy of the relevant entry in the Order Book to the chief clerk for the appropriate county court division.

(4) The clerk of petty sessions to whom notice under paragraph (3) is given, shall note the details given in the Order Book, opposite the entry relating to the making of the relevant community order.

(5) Any complaint made in respect of a breach of a requirement of a community order, and any application to revoke or amend a community order under Schedule 2 to the 1996 Order, shall be accompanied by a copy of the community order, to which the complaint or the application relates.

Committal to Crown Court

126A. Where a court of summary jurisdiction commits an offender to the Crown Court under paragraph 3(3), paragraph 7(2)(*b*) or paragraph 9(2)(*b*) of Schedule 2 to the 1996 Order, the clerk of petty sessions shall (in addition to complying with paragraph 3(4) of Schedule 2 where it applies) notify the chief clerk for the appropriate county court division by sending to him—

(a) where an offender is released on bail, a copy of any recognizance entered into; and

(b) a certificate of the conviction or order made by the court of summary jurisdiction.

Release on Licence

126B.—(1) Where a court of summary jurisdiction orders that Article 26 of the 1996 Order shall apply, the court shall cause a note to that effect to be entered in the Order Book and in the warrant of commitment.

(2) Where a court of summary jurisdiction commits an offender to the Crown Court under Article 28(2)(*b*) of the 1996 Order, the clerk of petty sessions shall send to the chief clerk for the appropriate county court division—

(a) a certificate of the conviction by the court of summary jurisdiction;

(b) a copy of any written statement which was tendered in evidence at the hearing;

(c) where available, a copy of any report relating to the offender which was considered by the court of summary jurisdiction;

(d) a copy of any recognizance entered into.

(3) For the purposes of this Rule "the appropriate county court division" means—

(a) where the order that Article 26 of the 1996 Order shall apply was made by the Crown Court, the county court division in which is located the place at which the Crown Court sat when that order was made;

(b) where the order that Article 26 of the 1996 Order shall apply was made by a court of summary jurisdiction, the county court division in which the offender resides.".

Notification of conviction before expiration of period of deferment

5. In Rule 127 paragraph (1) for the words "Article 14 of the Treatment of Offenders (Northern Ireland) Order 1976" there shall be substituted the words "Article 3 of the Criminal Justice (Northern Ireland) Order 1996".

New Section L in Part VII of the principal Rules

6. In Part VII of the principal Rules after Section "K", there shall be added the following new Section—

"L

*Mental Health (Northern Ireland) Order 1986(**5**)*

Supervision and Treatment Order

147A.—(1) In this Rule—

(a) "the 1986 Order" means the Mental Health (Northern Ireland) Order 1986;

(b) "the petty sessions district concerned" has the meaning assigned to it by paragraph 3(4) of Schedule 2A to the 1986 Order;

(c) "supervision and treatment order" means a supervision and treatment order under Schedule 2A to the 1986 Order;

(d) "supervised person" and "supervising officer" have the meanings assigned to them by paragraph 1(1) of Schedule 2A to the 1986 Order;

(2) An application to a court of summary jurisdiction under paragraph 7(2) or 8(1) of Schedule 2A to the 1986 Order shall be in Form 124 and shall be served on the clerk of petty sessions for the petty sessions district concerned at least 14 days before the hearing of the application and shall be accompanied by a copy of the supervision and treatment Order, to which the application relates.

(3) A copy of Form 124 and of the supervision and treatment order referred to in paragraph (2) shall also be served on the respondent.

(4) The respondent to the application shall be either the supervised person, if the applicant is the supervising officer or the supervising officer, if the applicant is the supervised person.

(5) If the applicant or the respondent fails to appear or to be represented at the hearing of the application without reasonable excuse, the court may adjourn the hearing or may decide the application in his absence.".

Documents to be sent to the chief clerk and to the parties to the Appeal

7. Rule 155 shall be amended as follows:

(a) by deleting in paragraph (1)(*c*) the word "and";

(b) by inserting in paragraph (1)(*d*), after the words "Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968(**6**)" the words "and any pre-sentence report or medical report, within the meaning of the Criminal Justice (Northern Ireland) Order 1996, which was considered at the trial of the appellant), and";

(c) by inserting in paragraph (1), after sub-paragraph (*d*) the following new sub-paragraph—

"(e) a copy of any entry in the Order Book made in pursuance of Article 10(7); 13(9); 15(4) or 19(5) of the 1996 Order, or under Rule 125A.".

Amendments to Schedule 1

8. Schedule 1 shall be amended as follows:

(a) by substituting for Form 14, the new Form 14 set out in Schedule 1 to these Rules;

(b) by substituting in Form 87, for the number "21" each time it appears, the number "18";

(c) by inserting, in the place appropriate to its number, each new Form set out in Schedule 2 to these Rules.

Dated 9th December 1997. *Irvine of Lairg,* C.

(**6**) 1968 c. 29 (N.I.)