STATUTORY RULES OF NORTHERN IRELAND

1997 No. 428

MAGISTRATES' COURTS

Magistrates' Courts (Amendment) Rules (Northern Ireland) 1997

Made - - - -	*22nd September 1997*
Coming into operation	*14th October 1997*

The Lord Chancellor, in exercise of the powers conferred on him by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981(**1**), Article 16(5) of the Road Traffic Offenders (Northern Ireland) Order 1996(**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, commencement and interpretation

1.—(1) These Rules may be cited as the Magistrates' Courts (Amendment) Rules (Northern Ireland) 1997 and shall come into operation on 14th October 1997.

(2) In these Rules the "principal Rules" means the Magistrates' Courts Rules (Northern Ireland) 1984(**3**) and a reference to a Rule or Form by number means the Rule or Form so numbered in the principal Rules.

Form of summons

2. In Rule 8 after paragraph (6), the following new paragraph shall be added—

"(7) A summons issued in respect of an offence involving obligatory or discretionary disqualification within the meaning of Article 4 of the Road Traffic Offenders (Northern Ireland) Order 1996 shall bear an endorsement in Form 2B.".

Plea of guilty by post

3.—(1) In Rule 10 paragraph (1) for the words "by Forms 3, 4 and 6" substitute the words "by Forms 3 and 4 and Form 6 or 6A as appropriate.".

(**1**) S.I. 1981/1675 (N.I. 26)
(**2**) S.I. 1996/1320 (N.I. 10)
(**3**) S.R. 1984 No. 225. The relevant amendments are S.R. 1985 No. 269, S.R. 1986 No. 175 and S.R. 1992 No. 541 and S.R. 1996 No. 126

(2) In Rule 10 paragraph (3) after the words "in Form 6" insert the words "or Form 6A as appropriate.".

(3) In Form 3 after the words "in Form 6" insert the words "or Form 6A as appropriate" in both places where they occur.

Service of summons

4.—(1) Rule 11 shall be amended in accordance with this Rule.

(2) In paragraph (2) after the words "subject to" insert the words "paragraph (3A) and".

(3) In paragraphs (3) and (5) at the beginning insert the words "Subject to paragraph (3A)".

(4) After paragraph (3) insert the following new paragraph—

"(3A) A Service of a summons under the Road Traffic Fixed Penalties (Enforcement of Fines) Regulations (Northern Ireland) 1997(**4**) may be effected by a member of the Northern Ireland Court Service or a member of the Royal Ulster Constabulary—

(a) by delivering a copy to the person to whom it is directed or by leaving it for him with some person apparently over the age of sixteen years at his usual or last known place of abode or at his place of business;

(b) by sending a copy of the summons by ordinary post in an envelope addressed to the person to be served at his last known place of abode.".

(5) In paragraph (4) after the words "Subject to" insert the words "paragraph (3A),".

(6) In paragraph (7) after the words "certificate of service in" insert the words "Form 109A or".

Receipt of certificates in evidence

5.—(1) In Rule 12B after the words "as a certificate in" insert the words "Form 109A, Form 109B, Form 109C, or".

(2) After Rule 12B insert the following new Rules—

"**Proof of service of notice of registration under the Road Traffic Offenders (Northern Ireland) Order 1996**

12C. Service of notice of registration under Article 76(2) of the Road Traffic Offenders (Northern Ireland) Order 1996 may be proved in any proceedings by a certificate of service in Form 109B.

Proof of service of a requirement to identify driver of vehicle under Article 15 of the Road Traffic Offenders (Northern Ireland) Order 1996

12D. Service of a requirement under Article 177 of the Road Traffic (Northern Ireland) Order 1981, to give information as to the identity of the driver of a vehicle may be proved in any proceedings by a certificate of service in Form 109C.".

Statutory Declarations

6. After Rule 13A insert the following new Rule 13B—

(**4**) S.R. 1997 No. 344

"**Declarations under the Road Traffic Offenders (Northern Ireland) Order 1996**

13B.—(1) A declaration under Article 77 or 78 of the Road Traffic Offenders (Northern Ireland) Order 1996 shall be made in Form 110D.

(2) Where the clerk of petty sessions or the court accepts service of such a declaration the clerk of petty sessions shall—

(a) record the receipt of the statutory declaration in the Order Book against the relevant entry of registration of the sum as a fine; and

(b) notify the Chief Constable in writing that the statutory declaration has been received.".

Warrants

7.—(1) Rule 14 shall be amended in accordance with this Rule.

(2) In paragraph (1) for the words "paragraph (2)" substitute the words "paragraphs (2) and (2A)";

(3) After paragraph (2) insert the following new paragraph (2A)—

"(2A) A warrant issued under the Road Traffic Fixed Penalties (Enforcement of Fines) Regulations (Northern Ireland) 1997 shall be signed by a resident magistrate or justice of the peace but shall not in any case be signed by the clerk of petty sessions.";

(4) After paragraph (5) insert the following new paragraph—

"(6) Where—

(a) a warrant for the arrest of a defendant is issued under Regulation 4(2)(*b*) or 5(5) of the Road Traffic Fixed Penalties (Enforcement of Fines) Regulations (Northern Ireland) 1997; and

(b) the court before which the defendant is brought is not acting for the same petty sessions district as the court in which the sum is registered as a fine;

the clerk of petty sessions for the court before which the defendant is brought shall forward a copy of any order made by that court to the clerk of petty sessions for the court in which the sum is registered as a fine.".

New Section I in Part III of the principal Rules

8. In Part III of the principal Rules after section "H" there shall be added the following new section—

"I

Road Traffic Offenders (Northern Ireland) Order 1996

Applications under Article 37(6) and (7) of the Road Traffic Offenders (Northern Ireland) Order 1996

52A.—(1) In this rule and Rules 52B and 52C—

(a) "the Offenders Order" means the Road Traffic Offenders (Northern Ireland) Order 1996;

(b) "course organiser" and "supervising court" have the meanings assigned to them by Article 38(2) of the Offenders Order.

(2) An application to the supervising court under Article 37(6) or (7) of the Offenders Order shall be made in Form 122 within 28 days of the date specified in the order under Article 36(2) of the Offenders Order in respect of the applicant's period of disqualification.

(3) The application shall be served on the clerk of petty sessions and on the course organiser and in the case of an application under Article 37(6) of the Offenders Order shall be accompanied by the notice under Article 37(5) of the Offenders Order.

(4) On being served with such an application, the clerk of petty sessions shall fix a date and time for the hearing of the application and nofity the applicant and course organiser of the date and time so fixed.

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

Notice of order under Article 27 of the Offenders Order

52B. Where the court makes an order under Article 27 of the Offenders Order that a defendant shall inform the court of his date of birth or sex or both and the defendant is not present in court, the clerk of petty sessions shall serve notice of that order on the defendant in Form 123.

Application for removal of disqualification

52C.—(1) Part VII of the Order and Part V of these Rules shall apply to an application under Article 47 of the Offenders Order for an order removing a disqualification for holding or obtaining a licence.".

Notice of order of court

9.—(1) Rule 105 shall be amended in accordance with this Rule.

(2) In paragraph (1) at the beginning insert the words "Subject to paragraph (2A)".

(3) After paragraph (2) insert the following new paragraph—

"(2A) Paragraphs (1) and (2) shall not apply to a sum adjudged to be paid by a conviction of a magistrates' court by virtue of Article 76 of the Road Traffic Offenders (Northern Ireland) Order 1996.

(2B) Where a court makes an order under Article 91 or 92 of the Order with respect to the enforcement of a sum registered for enforcement as a fine under Article 76 of the Road Traffic Offenders (Northern Ireland) Order 1996 the clerk of petty sessions shall unless the court otherwise directs serve on the person against whom that sum is registered notice in writing of the order of the court.".

(4) In paragraph (3) after the word "offender" insert the words "or person against whom a sum has been registered for enforcement as a fine under Article 76 of the Road Traffic Offenders (Northern Ireland) Order 1996.".

Evidence

10. After Rule 149A insert the following new Rule 149B—

"**Admissibility of records as evidence under Article 16(5) of the Road Traffic Offenders (Northern Ireland) Order 1996**

149B.—(1) For the purposes of Article 16 of the Road Traffic Offenders (Northern Ireland) Order 1996 the matters described in paragraph (2) shall be admissible as evidence of any fact stated therein to the same extent as oral evidence if that fact is admissible in those proceedings.

(2) The matters described are—

(a) a document being, of forming part of, or submitted in connection with an application for—

(i) an appointment for a test of competence to drive under Part II of the Order of 1981(**5**);

(ii) an appointment for an extended driving test under Article 41 of the Offenders Order;

(iii) a driving licence and its counterpart granted under Part II of the Order of 1981;

(iv) a provisional driving licence and its counterpart granted under Part II of the Order of 1981;

(v) a test certificate under Article 61(2) of the Order of 1995(**6**);

(vi) a goods vehicle test certificate under Article 65(2) of the Order of 1995;

(vii) a public service vehicle licence under Article 61 of the Order of 1981;

(viii) an approved driving instructor's certificate of registration or a licence under Article 132(2)(*b*) or 135 of the Order of 1981.

(b) evidence of the result of—

(i) a test of competence to drive under Part II of the Order of 1981 or,

(ii) an extended driving test under Article 41 of the Offenders Order;

(c) a driving licence and its counterpart granted under Part II of the Order of 1981;

(d) a provisional driving licence and its counterpart granted under Part II of the Order of 1981;

(e) a test certificate issued under Article 61(2) of the Order of 1995;

(f) a goods vehicle test certificate under Article 65(2) of the Order of 1995;

(g) a public service vehicle licence granted under Article 61 of the Order of 1981;

(h) a public service vehicle disc issued under regulation 7 of the Public Service Vehicles Regulations (Northern Ireland) 1985(**7**);

(i) a notification of refusal to issue or grant a certificate or licence under—

(i) Article 61(4) of the Order of 1995;

(ii) regulation 5(1) of the Goods Vehicles (Certification) Regulations (Northern Ireland) 1990(**8**);

(iii) regulation 8(3) of the Public Service Vehicles Regulations (Northern Ireland) 1985; or

(iv) regulation 17 of the Motor Cars (Driving Instruction) Regulations (Northern Ireland) 1991(**9**).

(j) an approved driving instructor's certificate under Article 132(2)(*g*) or licence under Article 135 of the Order of 1981;

(k) a notice of intention to revoke a licence under Article 10 of the Order of 1981;

(**5**) S.I. 1981/154 (N.I. 1)
(**6**) S.I. 1995/2994 (N.I. 6)
(**7**) S.R. 1985 No. 123
(**8**) S.R. 1990 No. 224
(**9**) S.R. 1991 No. 373