STATUTORY RULES OF NORTHERN IRELAND

1997 No. 278

MAGISTRATES' COURTS

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

Made - - - -	*10th June 1997*
Coming into operation	*30th June 1997*

The Lord Chancellor, in exercise of the powers conferred upon him by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981(**1**) 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) (Tainted Acquittals) Rules (Northern Ireland) 1997 and shall come into operation on 30th June 1997.

(2) In these Rules—

"the Act" means the Criminal Procedure and Investigations Act 1996(**2**) and a reference to a section by number is a reference to the section so numbered in the Act;

"acquittal" means an acquittal (of a person of an offence) which is the subject of a certification made under section 54(2);

"Order Book" means the Order Book required to be kept under rule 19 of the Magistrates' Courts Rules (Northern Ireland) 1984(**3**).

Time of certification

2. Where a person is convicted before a court of summary jurisdiction of an offence as referred to in section 54(1)(*b*) and it appears to the court that the provisions of section 54(2) are satisfied, the court shall make the certification referred to in section 54(2) at any time following conviction, but no later than—

(a) immediately after the court sentences or otherwise deals with that person in respect of the offence, or

(**1**) S.I.1981/1675 (N.I. 26)
(**2**) 1996 c. 25; as modified in its application to Northern Ireland by 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

(b) where, in the case of a child or young person, the court remits him to a juvenile court to be dealt with in respect of the offence, immediately after he is so remitted, or

(c) where the court adjourns the case to a court of summary jurisdiction sitting for a different petty sessions district, immediately before the case is so adjourned.

Form of certification

3. Where a court of summary jurisdiction makes the certification referred to in section 54(2), the certification shall be drawn up in Form 1 set out in the Schedule to these Rules.

Service of a copy of Form 1

4.—(1) Where a court of summary jurisdiction makes a certification as referred to in section 54(2), the clerk of petty sessions shall, as soon as is practicable after the drawing up of Form 1, serve a copy of that Form on the acquitted person referred to in the certification, on the prosecution in the proceedings which led to the acquittal, and, where the acquittal has not taken place before a court of summary jurisdiction sitting for the same petty sessions district as the court which has made the certification, on—

(a) where the acquittal has taken place before a court of summary jurisdiction, the clerk of petty sessions for that court;

(b) where the acquittal has taken place before the Crown Court, the chief clerk of that Court at the place where the acquittal occurred.

(2) Service as referred to in paragraph (1) may be made by delivering the copy of Form 1 to the person to be served (where that person is an individual), or by sending it by post in a letter addressed to him at his usual or last known residence or place of business in Northern Ireland; in the case of a company, such a letter may also be addressed to the company at its registered office in Northern Ireland (if it has such a registered office).

(3) If the person to be served is acting by a solicitor, the copy of Form 1 may be served by delivering it, or by sending it by post, to the solicitor's address for service.

(4) In paragraph (3)—

(a) "solicitor" includes a body corporate which is recognized by the Council of Law Society of Northern Ireland under Article 26A of the Solicitors (Northern Ireland) Order 1976(**4**) (a recognized body); and

(b) in the case of a recognized body, the reference to the solicitor's address for service shall be construed as a reference to the address specified by the recognized body as its address for the purposes of the service of the copy of Form 1 (including, where the person to be served is a party to the proceedings which led to the conviction referred to in Form 1, an address specified for the general purposes of those proceedings), or, in the absence of such a specified address, to its registered office.

Entry in the Order Book in relation to the conviction which occasioned certification

5. Where a court of summary jurisdiction makes a certification under section 54(2), the clerk of petty sessions shall enter in the Order Book of the court in relation to the conviction which occasioned the certification—

(a) a note that certification has been made;

(b) the date of certification;

(c) the name of the acquitted person referred to in the certification;

(**4**) S.I. 1976/582 (N.I. 12); Article 26A was inserted by S.I. 1989/1343 (N.I. 14), Article 10(1)

(d) a description of the offence of which the acquitted person was acquitted;

(e) the date of the acquittal; and

(f) the name of the court before which the acquittal has taken place.

Entry in the Order Book — acquittal before a court of summary jurisdiction

6.—(1) Where an acquittal has taken place before a court of summary jurisdiction, the clerk of petty sessions shall—

(a) as soon as is practicable after receipt, from the court which has made the certification under section 54(2) relating to the acquittal, of a copy of a form recording the certification (being a copy of Form 1 where the certification has been made by a court of summary jurisdiction), or,

(b) where the court which made the certification under section 54(2) is a court of summary jurisdiction sitting for the same petty sessions district as the court before which the acquittal has taken place, as soon as is practicable after the making of the certification,

enter in the Order Book of the court in relation to the acquittal—

(i) a note that certification has been made;

(ii) the date of the certification;

(iii) the name of the court which has made the certification;

(iv) the name of the person whose conviction occasioned the making of the certification; and

(v) a description of the offence of which that person has been convicted.

(2) The entry in the Order Book required to be made in accordance with paragraph (1)(*a*) shall be signed by the clerk of petty sessions of the court before which the acquittal has taken place and rule 19(2) of the Magistrates' Courts Rules (Northern Ireland) 1984 shall not apply.

Display of copy certification form

7.—(1) Where a court of summary jurisdiction makes a certification as referred to in section 54(2), the clerk of petty sessions shall, as soon as is practicable after the drawing up of Form 1, display a copy of that Form at a prominent place within court premises to which the public has access.

(2) Where an acquittal has taken place before a court of summary jurisdiction and the court which has made the certification under section 54(2) in relation to the acquittal is not a court of summary jurisdiction sitting for the same petty sessions district as the court before which the acquittal has taken place, the clerk of petty sessions of the last mentioned court shall, as soon as is practicable after receipt from the court which has made the certification, of a copy of a form recording the certification (being Form 1 where the certification has been made by a court of summary jurisdiction), display a copy of that form at a prominent place within court premises to which place the public has access.

(3) The copy of Form 1 referred to in paragraph (1), or the copy form referred to in paragraph (2), shall continue to be displayed as referred to respectively in those paragraphs at least until the expiry of 28 days from,—

(a) in the case of paragraph (1), the day on which the certification was made; or

(b) in the case of paragraph (2), the day on which the copy form was received by the clerk of petty sessions.