1974. No. 44

MAGISTRATES' COURTS

Magistrates' Courts (Amendment) Rules (Northern Ireland) 1974

Made . . . . . *13th March* 1974

Coming into operation . . . . . *1st May* 1974

To be laid before Parliament

RULES, DATED 13TH MARCH 1974, MADE BY THE SECRETARY OF STATE UNDER SECTION 23 OF THE MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964.

In pursuance of section 23 of the Magistrates' Courts Act (Northern Ireland) 1964(a), on the recommendation of the Magistrates' Courts Rules Committee and after consultation with the Lord Chief Justice, I hereby make the following Rules:—

Citation and commencement

1. These Rules may be cited as the Magistrates' Courts (Amendment) Rules (Northern Ireland) 1974 and shall come into operation on 1st May 1974.

Amendment of Rule 22 of Principal Rules

2. At the end of Rule 22 of the Magistrates' Courts Rules (Northern Ireland) 1965(b) (hereinafter referred to as "the Principal Rules") there shall be added the following paragraphs—

"(2) Where the Court convicts the accused, the prosecutor shall, subject to paragraph (4), hand to the Court and, where the accused appears in person or by counsel or solicitor, to the accused or his counsel or solicitor a written statement of any previous conviction of the accused.

(3) The Court—

(*a*) where the accused appears in person or by counsel or solicitor, shall ask the accused or his counsel or solicitor if he agrees with the statement and, if he does so agree; or

(*b*) where the accused does not appear in person or by counsel or solicitor,

shall not in making any order upon the conviction make any oral reference to any previous conviction of the accused which it has not taken into consideration in making such order and which in the opinion of the Court is not relevant to the order so made.

(4) Where a written statement such as is referred to in paragraph (2) is not available and the Court considers it expedient so to do, it may ask the prosecutor to refer orally only to any previous conviction to which he considers the Court ought to have regard because of its date or nature or it may adjourn proceedings in accordance with section 57 of the Act to enable paragraph (2) to be complied with.

(a) 1964. c. 21 (N.I.). (b) S.R. & O. (N.I.) 1965, No. 206.

(5) The failure of the prosecutor to comply or adequately to comply with the provisions of paragraphs (2) to (4) shall not affect the validity of any conviction of or of any sentence passed on the accused."

List of remand dates to be sent to court of trial

3.—(1) Included with the documents required under Rule 26 of the Principal Rules or Rule 14 of the Magistrates' Courts (Preliminary Enquiry) Rules (Northern Ireland) 1969(**c**) to be sent to the clerk of the Crown and peace of the court to which an accused person is committed for trial, there shall be a statement in the Form prescribed in the Schedule to these Rules of the dates on which that person was remanded by the Magistrates' Court in connection with the proceedings in which the preliminary investigation or, as the case may be, preliminary enquiry was conducted and whether he was remanded in custody or on bail.

(2) Unless the court otherwise directs, a deposition solely relating to an application for the remand of the accused is not required.

Amendment of Rules as to affidavits of service

4. After Rule 114(1) of the Principal Rules there shall be inserted the following paragraph:—

"(1A) Without prejudice to paragraph (1), any such affidavit of service as is referred to in section 127(1) of the Act may be sworn before the clerk of petty sessions."

Forms

5. There shall be inserted in Forms 3 and 7 in the Schedule to the Magistrates' Courts (Preliminary Enquiry) Rules (Northern Ireland) 1969 immediately below the headings the title which appears in the other forms in that Schedule.

M. Rees,
One of Her Majesty's
Principal Secretaries of State.

Northern Ireland Office
13*th March* 1974

(c) S.R. & O. (N.I.) 1969, No. 69.