1969. No. 221 **[C]**

MAGISTRATES' COURTS

Children and Young Persons Rules

RULES, DATED 15TH AUGUST 1969, MADE BY THE MINISTER OF HOME AFFAIRS UNDER SECTION 23 OF THE MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964.

I, the Right Honourable Robert Wilson Porter Q.C., Minister of Home Affairs for Northern Ireland, in exercise of the powers conferred on me by Section 23 of the Magistrates' Courts Act (Northern Ireland) 1964(a) and all other powers thereunto enabling, do hereby, upon the recommendation of the Magistrates' Courts Rules Committee and after consultation with the Lord Chief Justice, make the Rules hereinafter set forth.

Dated this 15th day of August 1969.

R. W. Porter,
Minister of Home Affairs

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PART I

CITATION, COMMENCEMENT AND INTERPRETATION

Citation

1. These Rules may be cited as the Magistrates' Courts (Children and Young Persons) Rules (Northern Ireland) 1969.

Commencement

2. These Rules shall come into operation on the 1st September 1969.

Interpretation

3. In these Rules the following expressions have the meanings hereby respectively assigned to them, that is to say—

"court" means in Parts II, III and IV a juvenile court constituted in accordance with the provisions of the Schedule 2 to the Children and Young Persons Act (Northern Ireland) 1968(**b**), and in Part V a court of summary jurisdiction, whether a juvenile court or not;

"Order Book" means the order book kept for the juvenile court pursuant to Rule 30 of these Rules;

"the Act" means the said Act of 1968.

Revocation

4. The Summary Jurisdiction (Children and Young Persons) Rules (Northern Ireland) 1950(**c**) are hereby revoked.

PART II

JUVENILE OFFENDERS

GENERAL

Application of this Part

5. This Part of these Rules shall apply in the case of a child or young person brought before a court charged with an offence and, so far as applicable, in the case of any child or young person dealt with in pursuance of Section 108 of the Act.

SUMMARY TRIAL

Right of parent or guardian to conduct case

6.—(1) The court shall, except where the child or young person is legally represented, allow his parent or guardian to assist him in conducting his defence, including the cross-examination of witnesses for the prosecution.

(2) Where the parent or guardian cannot be found or cannot in the opinion of the court reasonably be required to attend, the court may allow any relative or other responsible person to take the place of the parent or guardian for the purposes of this Part and any reference therein to the parent or guardian shall be taken as a reference to such person.

Explanation of charge in simple language

7. The court shall explain to the child or young person the substance of the charge in simple language suitable to his age and understanding.

(b) 1968. c. 34 (N.I.). (c) S.R. & O. (N.I.) 1950, No. 56.

Taking plea

8. Subject to the provisions of Section 79 of the Act and Rule 11, the court shall then ask the child or young person whether he admits the charge and where he does so, the court at any time before recording a finding of guilt may allow or advise him to plead not guilty thereto.

Where plea of not guilty entered

9.—(1) If the child or young person does not admit the charge, the court shall hear the evidence of the witnesses in support of the charge. At the close of the evidence-in-chief of each witness the witness may be cross-examined by or on behalf of the child or young person.

(2) If in any case where the child or young person is not legally represented or assisted in his defence as provided by Rule 6, the child or young person, instead of asking questions by way of cross-examination, makes assertions, the court shall then put to the witness such questions as it thinks necessary on behalf of the child or young person and may for this purpose question the child or young person in order to bring out or clear up any point arising out of any such assertions.

Defendant to be told of right to give evidence and call witnesses

10. If it appears to the court that a prima facie case is made out, the child or young person shall be told that he may give evidence and call witnesses, or make a statement and call witnesses, and his evidence and the evidence of any witnesses for the defence and any such statement shall be heard.

SUMMARY TRIAL OF INDICTABLE OFFENCES

Procedure for summary trial of indictable offences

11.—(1) Subject to paragraph (2) nothing in these Rules shall affect the provisions of Section 79(2), (3) and (4) of the Act as to the procedure to be adopted where the court decides to deal summarily with an indictable offence under Section 79(1) of the Act.

(2) In order to ascertain that the prosecutor consents in accordance with Section 79(1)(*c*) of the Act to the court's dealing summarily with the offence the court shall ask the prosecutor expressly whether he so consents before proceeding to comply with Section 79(2) of the Act.

(3) Paragraphs (1), (2) and (3) of Rule 32 of the Magistrates' Courts Rules (Northern Ireland) 1965(**d**) shall apply in relation to offences authorised to be dealt with summarily under Section 79(1) of the Act.

FINDING OF GUILT

Procedure after finding of guilt

12. Where a court is dealing with a child or young person who has been found guilty of an offence or whose case has been remitted to it under Section 77 of the Act—

(i) the court shall give the child or young person and his parent or guardian, if present, an opportunity of making a statement;

(ii) the court shall, except in cases which appear to it to be of a trivial nature, obtain such information as to the general conduct, home surroundings, school record and medical history of the child or young person as may enable it to deal with the case in his best interests, and shall if such information is not fully available consider the desirability of adjourning the proceedings and in so doing of remanding the child or young person for such enquiry as may be necessary;

(d) S.R. & O. (N.I.) 1965, No. 206.

(iii) the court shall take into consideration any report which may be furnished by a probation officer or by a welfare authority in pursuance of Section 53 of the Act;

(iv) any written report of a probation officer, welfare authority, or registered medical practitioner may be received and considered by the court without being read aloud: but—

(*a*) the child or young person shall be told the substance of any part of the report bearing on his character or conduct which the court considers to be material to the manner in which he should be dealt with;

(*b*) the parent or guardian, if present, shall be told the substance of any part of the report which the court considers to be material as aforesaid and which has reference to the character or conduct of the parent or guardian, or the character, conduct, home surroundings, or health of the child or young person; and

(*c*) if the child or young person or his parent or guardian, having been told the substance of any part of any such report, desires to produce evidence with reference thereto, the court, if it thinks that the evidence may be material, shall adjourn the proceedings for the production of further evidence, and shall, if necessary, require the attendance at the adjourned hearing of the person who made the report; and

(v) if the court considers it necessary in the interests of the child or young person it may require the parent or guardian or the child or young person, as the case may be, to withdraw from the court.

Parent or guardian to be informed of manner in which defendant to be dealt with

13. The court shall, unless it thinks it undesirable to do so, inform the parent or guardian, if present, of the manner in which it proposes to deal with the child or young person and allow the parent or guardian to make representations.

Defendant remanded for information under Section 67 of Act

14. Where a child or young person has been remanded, and the period of remand is extended in his absence in accordance with Section 67 of the Act, notice in Form No. 13 in the Schedule shall be given to him and his sureties (if any) of the date at which he will be required to appear before the court.

Committal for Trial

Preliminary investigations or enquiries

15. Nothing in these Rules shall affect the provisions of Part VI of the Magistrates' Courts Act (Northern Ireland) 1964 relating to the preliminary investigation of an indictable offence or of the Criminal Procedure (Committal for Trial) Act (Northern Ireland) 1968(**e**) relating to a preliminary enquiry into an indictable offence and, accordingly, Rules 24 to 29 of the Magistrates' Courts Rules (Northern Ireland) 1965 or the Magistrates' Courts (Preliminary Enquiry) Rules (Northern Ireland) 1969(**f**) shall apply to such investigation or, as the case may be, to such enquiry conducted by a juvenile court.

(**e**) 1968. c. 32 (N.I.). (**f**) S.R. & O. (N.I.) 1969, No. 69.