

**# Magistrates' Courts Rules (Northern Ireland) 1984**

**SR 1984/225.**

**Up-dated to 1 Jan 2017**

**In compiling the version of the Rules the compiler has sought to correct errors in the loose leaf published version, and errors in the Rules themselves, and to up-date statutory references, noting where a statutory provision has been repealed and, where appropriate, by inserting in square brackets a reference to the corresponding provision of the statute which replaces it and which has effect by virtue of the Interpretation Act 1978 section 17(2) and the Interpretation Act (NI) 1954 section 29.**

**This version sets out the Rules as amended to the present date: only those amendments which are recent or are otherwise important are noted. For the source of all amendments since 1980 see the HMSO loose-leaf version.**

**At this stage the text of only certain forms is given in full.**

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The Lord Chancellor [Department of Justice], in exercise of the powers conferred on him by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981 Art.13, hereby on the advice of the Magistrates' Courts Rules Committee and after consultation with the Lord Chief Justice, hereby makes the following Rules:

[For 'resident magistrate' in the original rules read 'district judge (magistrates' court)' (not to be confused with 'district judge' *simpliciter*, who is a civil judge of the county court.)]

The text tries to give effect to the transfer of functions of a justice of the peace to the lay magistrate, but the position is not always clear. See Justice (NI) Act 2002 (c.26) s.9, 2002 (c.26) s.10 (transfer of functions to lay magistrates), Magistrates' Courts (NI) Order 1981 (NI 26) Art.3-4 and Sch.1

[am. SR (NI) 2009/310 on 30 Sept 2009 as to service of documents]

[am. SR (NI) 2016/304 upon abolition of county court divisions and petty sessions districts]

## PART I

### CITATION, INTERPRETATION AND COMMENCEMENT, ETC.

#### 1. (Citation)

#### *Interpretation*

2.- (1) In these Rules "the Order" means the Magistrates' Courts (Northern Ireland) Order 1981.

(2) Any reference in these Rules to members of the [Police Service of NI] shall include a reference to members of the [Police Service of NI] Reserve on duty with the [Police Service of NI].

(3) In these Rules:-

"administrative court division" means such division specified under section 2 of the Justice Act (Northern Ireland) 2015 for any purposes of a county court;

(a) "a chief clerk" has the meaning assigned to it by Article 2(2) of the County Courts (Northern Ireland) Order 1980; and

(aa) "criminal justice organisation" means any one of the following organisations—

(i) [Northern Ireland Courts and Tribunals Service within the Department of Justice??];

(ii) Police Service of Northern Ireland; or

(iii) Public Prosecution Service for Northern Ireland;

(ab) "data sharing mechanism" is an electronic mechanism which allows criminal justice organisations to share information with each other electronically;

(ac) "electronic report" means a report generated by the computer system of a criminal justice organisation which is shared with other criminal justice organisations through a data sharing mechanism and which shall contain information as prescribed in Rule 11(7A)(b);

(c) "the 1999 Order" means the Criminal Evidence (Northern Ireland) Order 1999

(d) "the 1999 Act" means the Youth Justice and Criminal Evidence Act 1999

(e) "the 2004 Order" means the Criminal Justice (Evidence) (Northern Ireland) Order 2004;.

(4) Any reference in the Rules to a Form by number is a reference to that Form so numbered in Schedule 1.

[County court divisions and petty sessions districts are replaced by administrative court divisions as set out in LORD CHIEF JUSTICE'S DIRECTIONS: court business in the magistrates' courts and county courts No. 5/16]

3. (Commencement)

4. (Revocation of existing rules)

*Saving for the [Magistrates' Courts (Criminal Justice(Children)) Rules (Northern Ireland) 1999]*

5. Subject to the Children and Young Persons Act (Northern Ireland) 1968 and the Criminal Justice (Children) (Northern Ireland) Order 1998, nothing in these Rules shall affect the operation of the Magistrates' Courts (Criminal Justice (Children)) Rules (Northern Ireland) SR (NI) 1999/7.

Magistrates' Courts Rules (NI) SR (NI) 1984/225

## PART II

### **DOCUMENTS [r.6-]**

*Wording, etc., of documents*

6.- (1) Every complaint, summons, warrant or other document made or issued for the purpose of, or in connection with, any proceedings before a magistrates' court for an offence shall be sufficient if it describes the specific offence with which the accused is charged, or of which he is convicted, in ordinary language avoiding as far as possible the use of technical terms, and gives such particulars as may be necessary for giving reasonable information as to the nature of the charge.

(2) Every complaint, summons, warrant or other document in proceedings upon complaint in a civil matter shall be sufficient if it describes the cause of complaint in ordinary language without necessarily stating all the facts upon which the complaint is founded and gives such particulars as may be necessary for giving reasonable information as to the nature of the complaint.

(3) If the offence charged or cause of complaint is one created by or under any statutory provision, the description of the defence or cause of complaint shall contain a reference to the section of the Act, or, as the case may be, the rule, order, regulation, bye-law or other instrument giving rise to the offence or the cause of complaint unless such reference appears elsewhere on the face of any summons or warrant issued in respect thereof.

(4) Subject to the foregoing paragraphs, the forms set out in Schedule 1 or forms to the like effect shall, where appropriate, be used in connection with proceedings to which the Rules relate.

*Form of complaint*

7.- (1) A complaint may be made by the complainant in person or by his solicitor or by any other person authorised in that behalf.

(2) Subject to any enactment, where it is intended that a summons only shall issue to require the attendance of any person, the complaint may be made either upon or

without oath, and either in writing or not, as the justice of the peace [now lay magistrate] receiving the complaint thinks fit.

(3) Where a complaint is in writing it shall be signed by the person making it and by the justice receiving it.

(4) Where it is intended that a warrant shall issue for the arrest of any person, the complaint shall be in writing and on oath of the complainant or of his solicitor or of any other person authorised in that behalf.

(5) Any person against whom a complaint has been made in writing or his counsel or solicitor shall be entitled on request to receive from the clerk of petty sessions a copy of such complaint.

(6) The original complaint shall be deposited with and, except as provided by Rule 28(2), Rule 42(1) or Rule 155(1), retained by the clerk of petty sessions.

(7) In describing the property mentioned in any complaint -

(a) where the property belongs to or is in the possession of partners, trustees, joint tenants, coparceners, or tenants in common, it is sufficient to refer to such property as that of any such persons who are named and of another or others, as the case may be, without naming them; or

(b) where the property is that of a local or public authority, commissioners, directors, trustees, a body corporate or persons known by any other general designation it shall be sufficient to refer to it as the property of such persons without naming them individually.

(8) It shall not be necessary in a complaint to specify or negative an exception, exemption, proviso, excuse or qualification, whether or not it accompanies the description of the offence or cause of complaint contained in the statutory provision giving rise to the offence or on which the complaint is founded.

#### *Form of summons*

8.- (1) Every summons shall be signed by the person who issues it.

(2) No summons shall be signed in blank.

(3) Where there is more than one defendant a separate summons shall be issued in respect of each defendant.

(4) Every summons shall state shortly the offence or cause of complaint and shall state the time and place at which the person summoned is required to appear.

(5) A single summons may be issued against a person in respect of several complaints but the summons shall state each offence or cause of complaint separately and shall have effect (except for the purposes of an order made under section 116 of the Judicature (Northern Ireland) Act 1978) as several summonses, each issued in respect of one complaint.

(6) The name and address of the complainant and the name and, where possible, the usual or last-known address of the person summoned shall be stated in the summons.

(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.

*Preparation of summons*

9.- (1) Subject to paragraph (2), the complainant or, where the summons is a witness summons, the person applying for the issue of the summons shall be responsible for the preparation of any necessary summons.

(2) Where the complainant or the person applying for the issue of a witness summons is not a solicitor the justice of the peace [now lay magistrate] receiving the complaint or granting the application may direct the clerk of petty sessions to assist in the preparation of a summons.

(3) References in this Rule to a summons include any copy thereof for service.

*Plea of guilty by post* [am 9 March 2009] [am. 25 March 2011]

10. - (1) Where it is intended to make the procedure of pleading guilty by post under Article 24(1A) of the Order available to the defendant, the summons shall be accompanied by Form 3 together with –

- (a) Form 4 or copies of the witness statement(s); and
- (b) Form 6 or Form 6A,

as appropriate.

(2) Notice in writing of the service of such a summons shall be given by or on behalf of the complainant to the clerk of petty sessions pursuant to Article 24(1) of the Order and shall be in Form 5.

(3) Where the defendant elects to enter a plea of guilty in writing pursuant to Article 24(2) of the Order he shall do so in Form 6 or Form 6A as appropriate.

(4) Where a person has been convicted upon his written plea of guilty and the Court decides to adjourn the hearing before passing sentence, the clerk of petty sessions shall give to the defendant notice in writing of the time and place of the adjourned hearing and shall specify the reason for the adjournment.

*Service of summons* [am. from 1 Dec 2003] [am. SR (NI) 2009/310, SR (NI) 2014/12]

11.- (1) Subject to Rule 12 and Rule 12A, in the case of an offence prosecuted by the Director of Public Prosecutions a summons shall be served by a member of the Police Service of Northern Ireland who is not in charge of the investigation of the offence.

(2) In other cases, the summons shall, subject to paragraph (3A) , paragraph (3B) and Rule 12 be served by-

- (a) the summons server of the administrative court division in which the proceedings are brought or in which the defendant or witness resides; or
- (b) any person who has received permission from a resident magistrate or other justice of the peace [now lay magistrate] or from the clerk of petty sessions to serve the summons;

and any such permission shall be endorsed on the original summons and signed by the person giving it.

(3) Subject to paragraph (3A) and paragraph (3B), in no case shall a summons be served by the complainant, or a director, partner or employee of the complainant.

(3A) Service of a summons under the Road Traffic Fixed Penalties (Enforcement of Fines) Regulations (Northern Ireland) SR (NI) 1997/344 may be effected by a civil servant in the Department of Justice or a member of the [Police Service of NI] -

- (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;
- (c) by sending a copy of the summons by registered post or by the recorded delivery service in an envelope addressed to the person to be served at his usual or last known place of abode.

(3B) Service of a summons under Article 138(2A)(b) of the Order [to a surety] may be effected by a civil servant in the Department of Justice sending a copy of the summons in Form 95 and of Form 95B, by ordinary post in an envelope addressed to the person to be served at his or her last known place of abode.

(4) Subject to paragraph (3A), paragraph (3B), Rule 12A and Rule 13 every summons shall be served upon the person to whom it is directed by delivering to him a copy of such summons, or, where he is a [child within the meaning of the Criminal Justice (Children) (Northern Ireland) Order 1998] or a parent of such [child] summoned in connection with proceedings against such [child] or where the summons alleges a summary offence or is issued upon complaint in a civil matter or is a witness summons, 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.

(5) Subject to paragraph 3A, paragraph 3B and Rule 12A, in the case of a corporate body, a summons shall be served by delivering a copy to the secretary or clerk of the body or by leaving a copy for him with some person apparently over the age of sixteen years at its registered or principal office or at any place of business maintained by such body in Northern Ireland, or by sending a copy by registered post or by the recorded delivery service (using the advice of delivery form) in an envelope addressed to such corporate body at such office or place of business.

Notwithstanding anything in paragraph (2), in a case where service is effected by registered post or by the recorded delivery service, the envelope containing the copy summons may be posted by any person other than the complainant.

(6) Every summons shall be served a reasonable time before the hearing of the complaint.

(7) Subject to paragraph 7A and paragraph 7C, in every case the person who serves a summons shall endorse on the original the date, place and manner of service and, unless service may be proved by an affidavit or a certificate of service in Form 109A, Form 109B, Form 109C or Form 110A shall attend at the hearing of the complaint to depose, if necessary, to such service and in the case of service by registered post or the recorded delivery service there shall be attached to the affidavit or certificate of service or be produced in court the certificate of posting and, subject to Rule 13(2)(a), the advice of delivery issued by the Post Office.

(7A) [added 10 April 2009] Where a member of the Police Service of Northern Ireland serves a summons and the accompanying documents, service may be proved—

- (a) by an affidavit or certificate of service in Form 110A; or
- (b) by an electronic report which shall contain the following information:—
  - (i) the name and the police service number of the person who served the summons;
  - (ii) the date of service;
  - (iii) the place of service; and
  - (iv) the manner of service.

(7B) Where service is to be proved by an affidavit or certificate of service or by an electronic report the court may require the person who served the summons and any accompanying documents to attend court at the hearing of the complaint and depose, if necessary, to such service.

(7C) Where a summons is to be served in accordance with paragraph (3B), the person posting the envelope containing the copy of the summons shall endorse on the original summons his name, description and the date and place of posting of the envelope and shall complete and sign a certificate of service in Form 95A.

(7D) If a surety fails to appear in answer to a summons served in accordance with paragraph (3B), such service shall not be deemed valid unless an acknowledgment of service in Form 95B appearing to be signed by the surety or his or her solicitor is produced to the court.

(7E) Unless the contrary is proved, where a summons is served in accordance with paragraph (3B),—

- (i) the signed acknowledgment of service shall be taken as proof of service; and
- (ii) the document shall be deemed to have been served at the time at which the envelope containing it would have been delivered in the ordinary course of post.

(8) Nothing in this Rule shall affect the provisions of any statutory provision dealing with the time and manner of service and the person who may serve summonses in particular cases.

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##### *Service of a summons in England and Wales or Scotland*

12.- (1) A summons requiring a person in England and Wales or Scotland charged with an offence to appear before a magistrates' court in Northern Ireland may, subject to paragraph (4), be served by any member of a home police force within the meaning of the Police Act 1969 or by a person employed by the chief officer of police or the police authority for the area in which the summons is to be served who is authorised by the chief officer of police to serve summonses.

(2) Service of the summons may be proved by an affidavit in Form 109 sworn in England and Wales before a justice of the peace [lay magistrate] or clerk to the justices or in Scotland before a sheriff, justice of the peace [lay magistrate] or sheriff clerk or by a certificate of service in Form 110A.

(3) The summons shall be served by delivering a copy to the person charged at least 14 days before the date of the hearing.

(4) Where the summons is to be served on a corporate body in England and Wales or Scotland, paragraph (5) of Rule 11 shall have effect as if the words "in Northern Ireland" were omitted.



(5) Paragraphs (4) and (6) of Rule 11 shall not apply to the service of a summons under this Rule.

*Postal Service of Summons for offences prosecuted by the Director of Public Prosecutions*

12A.- (1) Subject to paragraph (6), in cases of offences prosecuted by the Director of Public Prosecutions, service of the summons may be effected by post in accordance with paragraph (2). [from 30 Sept 2009 no longer confined to summary offences]

(2) Service of a summons under this Rule shall be effected by sending a copy of the summons by ordinary post in an envelope addressed to the person to be served at his usual or last known place of abode or at his place of business.

(3) Where a summons is to be served in accordance with paragraph (2) the person posting the envelope containing the copy of the summons shall endorse on the original summons his name or description and the date and place of posting of the envelope and shall complete and sign a certificate of service in Form 110A.

(4) If the person summoned fails to appear in answer to a summons served in the manner authorised by paragraph (2), such service shall not be deemed valid unless an acknowledgment of service in—

(a) Form 110B; or

(b) in cases where the procedure of pleading guilty by post under Article 24(1A) of the Order is available to the defendant, in Form 6 or Form 6A as appropriate, [para.(4)(b) added 25 March 2011]

appearing to be signed by the defendant or his solicitor is produced to the court.

(5) Unless the contrary is proved—

(a) the signed acknowledgement shall be taken as proof of service; and

(b) the document shall be deemed to have been served at the time at which the envelope containing it would have been delivered in the ordinary course of post.

(6) This Rule shall not apply to summonses which, under any statutory provision, require personal service upon the person to be served.

[From 30 Sept 2009 the rule applies to summonses for offences to which Art.29 and Art.45 apply (offences triable on indictment); service of a summons on a corporate body; summonses for offences alleged against a child]

(7) Nothing in this Rule shall prevent the service of a summons by any other method allowed for under these Rules.

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*Receipt of certificate or electronic report in evidence* [subst. 10 April 2009]

12B. Any document purporting to be given as a certificate in Form 109A, Form 109B, Form 109C or Form 110A, or any information or documentation provided by means of an electronic report, shall be received in evidence and shall be deemed to be duly made until the contrary is shown.

*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.

*Proof of service of notice of registration under the Justice Act (Northern Ireland) 2011 [added SR (NI) 2012/189]*

12E. Service of notice of registration under section 67(2) of the Justice Act (Northern Ireland) 2011 may be proved in any proceedings by a certificate of service in Form 109E.

*Postal Service of Summons other than for offences prosecuted by the Director of Public Prosecutions [am. from 1 Dec 2003]*

13.- (1) Where a resident magistrate or the clerk of petty sessions is satisfied that it is not reasonably practicable to serve a summons to which paragraph (2) of Rule 11 applies in accordance with that Rule, the resident magistrate or clerk of petty sessions may give permission by an endorsement signed by him on the original summons for service to be effected by post in accordance with paragraph (2)(a).

(2) The summons server of the administrative court division in which the proceedings are brought shall-

(a) send by registered post or by the first-class postal recorded delivery service (using the advice of delivery form, save where the resident magistrate in exceptional circumstances dispenses with this requirement) a copy of the summons in an envelope addressed to the person to be served at his usual or last-known place of abode or at his place of business; and

(b) endorse on the original summons the name of the summons server, the date on which it was posted and the serial number on the envelope and on the Post Office receipt of postage.

(3) Unless service shall be proved by affidavit or a certificate of service in Form 110A the person who serves the summons shall attend at the hearing of the complaint to depose, if necessary, to such service and shall produce to the court, or, as the case may be, attach to the affidavit or certificate of service the following documents:-

(a) the original summons endorsed by him with the particulars referred to in paragraph (2)(b);

(b) the Post Office receipt of postage;

(c) subject to paragraph (2)(a), the relevant Post Office advice of delivery.

(4) Subject to paragraph (2)(a) a summons proved to have been posted and delivered as aforesaid shall, unless the contrary is shown, be deemed to have been served on the person to whom the envelope containing it was addressed at the time stated in the Post Office advice of delivery.

(5) Nothing in this Rule shall derogate from the provisions of any enactment within the meaning of section 1 of the Interpretation Act (Northern Ireland) 1954 (other

than Rule 11) under which proof of personal service of a summons upon the person to be served is required.

(6) Where the summons server informs the clerk of petty sessions that the envelope containing a copy of a summons, postal service of which has been permitted under paragraph (1), has been returned by the Post Office on the ground that delivery of the envelope was not accepted by anyone at the address of the person to be served, the clerk shall forthwith give notice thereof in writing to the complainant named in the summons or to his solicitor and transmit to the complainant or, as the case may be, his solicitor the documents listed in paragraph (8)(a), (b), (c) and (d).

(7) The complainant or his solicitor may thereupon either verbally or in writing request a resident magistrate to grant permission for the summons to be served by ordinary post.

(8) A resident magistrate may grant such permission upon production of-

- (a) the original summons endorsed under paragraph (2)(b);
- (b) the Post Office receipt of postage;
- (c) the copy of the summons enclosed in the envelope containing it returned by the Post Office as undelivered;
- (d) the form of advice of the Post Office that the envelope containing such copy could not be delivered according to the practice of the Post Office as to delivery by registered post or, as the case may be, by the recorded delivery service because delivery of the envelope was not accepted by anyone at the address of the person to be served;
- (e) a certificate in Form 117 signed by the complainant or his solicitor or other person authorised to do so on his behalf that, having regard to the reason given by the Post Office for non-delivery of the envelope containing the copy summons addressed to the person to be served stated in the form of advice referred to in sub-paragraph (d), to the best of his knowledge or belief a copy of the summons is sent by ordinary post to the person to be served at the address stated in the summons will, for the reason stated by the complainant in the certificate, come to the notice of that person a reasonable time before the date on which he is summoned to appear before the court:

and shall endorse such permission on the original summons.

(9) Where such permission is granted the summons server shall-

- (a) send the copy of the summons by ordinary post in an envelope addressed to the person to be served at his usual or last known place of abode or at his place of business; and
- (b) endorse on the original summons the place and date of posting of such copy to the person to be served.

(10) Subject to paragraph (11) the summons server shall attend at the hearing of the complaint stated in the summons to depose as to compliance with this Rule.

(11) Where proof of such compliance is given on affidavit or by a certificate of service in Form 110A in accordance with Article 126 of the Order the documents referred to in paragraph (8)(a) to (e) shall be attached to the affidavit or to the certificate of service.

(12) The copy of the summons posted in accordance with this Rule shall, unless the contrary is proved, be deemed to have been served at the time at which the envelope containing it would have been delivered in the ordinary course of post.

(13) In this Rule a reference to the summons server includes any person who has under Rule 11(2)(b) received the permission of a resident magistrate, justice of the peace [now lay magistrate] or clerk of petty sessions to serve a summons.

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*Declaration under Article 25A of the Order*

13A.- (1) A statutory declaration in accordance with Article 25A of the Order shall be made in Form 110C.

(2) Where the clerk of petty sessions receives a statutory declaration which complies with Article 25A of the Order he shall:

- (a) record the receipt of the declaration in the Order Book against the relevant entry; and
- (b) notify in writing the prosecutor.

*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 or registration of the sum as a fine; and
- (b) notify the Chief Constable in writing that the statutory declaration has been received.

*Declarations under the Justice Act (Northern Ireland) 2011 [added SR (NI) 2012/189]*

13C.—(1) A statutory declaration under section 68 of the Justice Act (Northern Ireland) 2011 shall be made in Form 110E.

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

- (a) record the receipt of the statutory declaration in the Order Book against the relevant entry or registration of the sum as a fine; and
- (b) notify the Chief Constable that the statutory declaration has been received.

*Form of warrant or order*

14.- (1) Subject to paragraphs (2), (2A) and (2B);, a warrant or form of order issued to give effect to the order of a magistrates' court shall be signed by the resident magistrate or justice of the peace [or lay magistrate] who made the order or by the clerk of petty sessions.

(2) A warrant to arrest or warrant to search must be signed by a resident magistrate or justice of the peace [or lay magistrate].

(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 [now lay magistrate] but shall not in any case be signed by the clerk of petty sessions.

(2B) A warrant issued under the Penalty Notices (Justice Act (Northern Ireland) 2011) (Enforcement of Fines) Regulations (Northern Ireland) SR (NI) 2012/188 shall be signed by a district judge (magistrates' courts) or a lay magistrate but shall not in any case be signed by the clerk of petty sessions.

(3) No warrant shall be signed in blank.

(4) Every warrant shall state shortly the offence charged in the complaint or the grounds on which the warrant is issued.

(5) A warrant shall name in full or otherwise describe the person against whom it is issued.

(7) Where no other form of warrant of arrest is prescribed, either by these Rules or by any other statutory provision, the warrant in Form 8C shall be used. [added SR (NI) 2010/12]

*Separate warrants to be issued for each sentence imposed*

15.- (1) Subject to paragraphs (2) and (3), where a magistrates' court imposes more than one sentence upon a person convicted of more than one offence a separate warrant of distress or commitment shall be issued for the purpose of giving effect to each sentence.

(2) Where the court in imposing more than one sentence of imprisonment upon any person orders that the sentences are to run concurrently-

(a) a warrant of commitment need not, unless under special circumstances the governor of the prison to which such person is committed otherwise requests, be issued in respect of a sentence which will expire before or on the expiration of any such sentence in respect of which a warrant of commitment has been issued; and

(b) where only one warrant of commitment is issued under this paragraph the clerk of petty sessions shall send to the said governor, together with the warrant, particulars of the sentences which are not specified in the warrant.

(3) Where the court orders a person convicted of more than one offence at the same time to be sent for a period of detention in a young offenders centre or to a training school or commits a child or young person to a remand home in accordance with section 74 of the Children and Young Persons Act (Northern Ireland) 1968 only one warrant need be issued for the purpose of giving effect to such order and the clerk of petty sessions shall send particulars of any conviction and order not specified in the warrant to the person in charge of the young offenders centre, training school or remand home, as the case may be.

[.Note: For "training school" read now "juvenile justice centre under Article 30 of the Criminal Justice (Children) (NI) Order 1998" and the words "commits a child or young person to a remand home in accordance with section 74 of the Children and Young Persons Act (Northern Ireland) 1968" are obsolete.]

(4) Where a sentence of imprisonment is imposed to run concurrently with or consecutively to another sentence of imprisonment, the fact shall be stated on the warrant of commitment.

(5) Where a sentence of imprisonment is imposed to run concurrently with or consecutively to a period for which a person is ordered to be returned to prison

under Article 3 of the Treatment of Offenders (Northern Ireland) Order 1976 or Article 28 of the Criminal Justice (Northern Ireland) Order 1996 the fact shall be stated on the warrant of commitment.

[Article 28 of the Criminal Justice (Northern Ireland) Order 1996 repealed by Criminal Justice (Northern Ireland) Order 2008 re offence committed since 1 April 2009: see now rough equivalent 2008 (NI 1) Art.28]

(6) Where the court makes an order for the return of a person to prison under either of the Articles referred to in paragraph (5) a warrant of commitment shall in every case be issued in pursuance of the order.

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*Endorsement of warrants of commitment as to release on bail*

16.- (1) Where a magistrates' court commits an accused for trial in custody in accordance with Article 37 of the Order or remands an accused in custody in accordance with Article 47 of the Order it may certify its consent to bail either on a separate form or by endorsement on the warrant of commitment and the certificate of such consent may be signed on behalf of the court by the clerk of petty sessions.

(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 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.

[Article 28 of the Criminal Justice (Northern Ireland) Order 1996 repealed by Criminal Justice (Northern Ireland) Order 2008 re offence committed since 1 April 2009: see now rough equivalent 2008 (NI 1) Art.28]

(2) The certificate, in addition to specifying the amount of the recognizance to be entered into by the accused, shall also specify the amount of the recognizance to be entered into by any surety required by the court under Article 136 of the Order or the amount of any sum of money or valuable security to be deposited under Article 137 of the Order in lieu of sureties.

(3) Where an accused is remanded in custody or is committed for trial in custody and is subsequently granted bail before the expiration of the period for which he was originally remanded or before the sitting of the court to which he is committed for trial, upon an application by or on behalf of the accused to the court, the court shall issue a warrant for his discharge from prison to take effect from the completion of the necessary recognizance.

*Binding over complainant to prosecute or give evidence upon issue of warrant*

17.- (1) When a resident magistrate or justice of the peace [now lay magistrate] issues a warrant for the arrest of any person he may bind the person making the complaint by recognizance to appear at the court where such person is to be tried to prosecute or to give evidence, as the case may be.

(2) The recognizance may either be in a separate form or at the foot of the complaint.

*Withdrawal of warrants*

18. A resident magistrate or justice of the peace [or lay magistrate] who order the withdrawal of a warrant under Article 158 of the Order shall endorse his reasons for such withdrawal upon the warrant.

*The Order Book*

19.- (1) in every proceedings (other than one to which Part VI of the Order applies) the clerk of petty sessions shall enter the particulars of the proceedings and the substance of the decision upon it in a book to be known as the "Order Book" and such particulars may, subject to any directions given by the [Department of Justice] or a resident magistrate, be entered by reference to any other proceedings, particulars of which have previously been fully so entered.

(2) Subject to paragraph (3) such entry shall be signed by the resident magistrate or justice of the peace [or lay magistrate] who determined the proceeding or, where he is unavailable, by the clerk of petty sessions, and after such signature shall be deemed a conviction or order, as the case may be.

(3) Where a page of the Order Book contains more than one consecutive complete entry relating to proceedings determined by the same resident magistrate or justice of the peace [or lay magistrate] on the same date, it shall be sufficient compliance with paragraph (2) as regards each entry if the appropriate resident magistrate or justice of the peace [or lay magistrate] or, where he is unavailable, the clerk of petty sessions, signs all the end of the last such entry.

(4) Where a resident magistrate or justice of the peace has made a conviction or order out of petty sessions he shall, if an Order Book is not signed, sign and forward a certificate of the proceedings to the clerk of petty sessions, which certificate when signed shall be deemed a conviction or order, as the case may be.

(5) Upon the receipt of the certificate referred to in paragraph (4) the clerk of petty sessions shall enter the particulars on the certificate in the Order Book and shall submit the entry to the resident magistrate or justice of the peace who signed the certificate for his signature or, where he is unavailable, the clerk of petty sessions shall sign the entry himself.

(6) [spent]

(7) Where at the hearing of a complaint charging a summary offence or where at the summary trial of an indictable offence the accused pleads guilty, the court shall cause the plea to be entered in the Order Book as part of the order.

(8) Where a court-

(a) tries summarily any offence for which the accused appearing in person is entitled in accordance with Article 29 of the Order to claim to be tried by a jury;  
or

(b) deals summarily under Article 45 of the Order with any person charged with an indictable offence specified in Schedule 2 to the Order upon his consent to be so dealt with;

the court shall cause to be entered in the Order Book as part of the order his election to be tried summarily or as the case may be.

(9) Where a magistrates' court adjourns a case under Article 50 or Article 51 of the Order the court shall explain to the accused the reasons for the adjournment and shall cause a note of those reasons to be entered in the Order Book as part of the order.

(10) Where an application is made to a magistrates' court for the grant of a civil magistrates' aid certificate or a criminal aid certificate, the court shall cause a note of the grant or refusal thereof to be entered in the Order Book.

(11) Where the sitting of a magistrates' court is adjourned by a clerk of petty sessions under Article 161(5) of the Order shall make a note of such adjournment in the Order Book.

(12) No erasure shall be made of the particulars entered upon the Order Book.

(13) Every interlineation or other alteration in the Order Book shall be initiated by the resident magistrate, justice of the peace [or lay magistrate] or clerk of petty sessions signing the entry of the conviction or order.

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*Certificate of conviction or order*

20. - (1) At the request of any person with a bona fide interest in any proceedings a resident magistrate, justice of the peace or clerk of petty sessions shall grant a certificate of the conviction or order made in such proceedings.

(2) The certificate shall be signed by a district judge (magistrates’ courts), a lay magistrate or by the clerk of petty sessions.

(3) A certificate under this Rule shall be prima facie evidence of the conviction or order an, except where it is proved that such a certificate purporting to be signed by a resident magistrate or justice of the peace [lay magistrate] or clerk of petty sessions was not in fact so signed, the certificate shall operate as a valid form of conviction or order for any purpose whatsoever.

*Documents taken by or made before resident magistrates or justice of the peace sitting out of petty sessions*

21. Every complaint, deposition, recognizance of other document taken by or made before a resident magistrate or justice of the peace [or lay magistrate] sitting out of petty sessions shall as soon as practicable be forwarded or delivered to the clerk of petty sessions.

*Signing of documents on behalf of clerk of petty sessions*

22. Where these Rules provide that a document shall or may be signed by the clerk of petty sessions of that an affidavit or statutory declaration may be sworn or made before or recognizance may be taken by the clerk of petty sessions, that document may be signed by, or, as the case may be, that affidavit or declaration may be &worn or made before or that recognizance may be taken by a person holding a rank not lower than executive officer, grade two duly authorised by the clerk of petty sessions or by a resident magistrate to do so.

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PART III

**CRIMINAL PROCEEDINGS**

**A. SUMMARY TRIAL (r.23)**

**Order of proceedings on the hearing of a complaint charging a summary offence**



23. - (1) The procedure for hearing a complaint charging a summary offence shall be as follows:-

- (a) The substance of the complaint shall be stated to the accused and, if necessary, explained to him before a plea is taken;
- (b) Where the accused pleads guilty to the complaint the court shall, if it sees no reason to the contrary, convict or make an order against him accordingly but before making such conviction or order the court shall allow the prosecutor or his counsel or solicitor and then the accused or his counsel or solicitor to address the court;
- (c) Where the accused does not plead guilty, the prosecutor or his counsel or solicitor shall call the evidence for the prosecution and before doing so may address the court;
- (d) At the conclusion of the evidence for the prosecution, the accused or his counsel or solicitor may address the court, whether or not he afterward calls evidence;
- (c) At the conclusion of the evidence, if any, for the defence, the prosecutor or his counsel or solicitor may, with the leave of the court, call evidence to rebut that evidence;
- (f) At the conclusion of the evidence, if any, for the defence and the evidence, if any, in rebuttal as aforesaid, the accused or his counsel or solicitor may address the court-
  - (i) if he has not previously done so; [or]
  - (ii) with the leave of the court, if the accused and another witness have been called on the part of the accused;
- (g) If the court convicts the accused he or his counsel or solicitor may address the court in mitigation of sentence.

Provided always that, notwithstanding anything in the previous provisions of this Rule, the court may permit or invite the accused or the prosecutor or his counsel or solicitor to make a submission on a point of law arising at any stage of the proceedings, and in that event the court shall permit the prosecutor or the accused or his counsel or solicitor, as the case may be, to reply.

(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 in 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 Article 50 of the Order to enable paragraph (2) to be complied with.

(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.

(6) A notice of intention to cite previous convictions in Form 7 shall be served on the defendant not less than seven days before the date fixed for hearing and such service may be effected by ordinary post.

## **B. RIGHT TO CLAIM TRIAL BY JURY FOR CERTAIN SUMMARY OFFENCES**

### **(r.24)**

*Procedure in relation to certain offences to which Article 29 of the Order applies [am. SR (NI) 2008/251 re abolition of scheduled offences]*

24. - (1) Where the accused appearing in person is charged with an offence to which paragraph (1) of Article 29 of the Order applies, after the substance of the complaint is stated to the accused and before he pleads thereto, the court shall, subject to paragraphs (2) and (3)-

(a) address the accused as follows: -

"For the offence with which you are charged you may be tried summarily but you have a right to claim to be tried in the Crown Court sitting with a jury. In certain circumstances a trial in the Crown Court may be heard by a judge sitting without a jury";

(b) if desirable, give to the accused any information as to the court to which he may be committed for trial and any explanation as to the meaning of being tried summarily;

(c) address the accused as follows: -

"Instead of being tried summarily do you wish to claim your right to be tried in the Crown Court?".

(2) Where the accused appearing in person with an offence to which Article 29(4) of the Order applies, after the substance of the complaint is stated to the accused and before he pleads thereto, the court shall-

(a) address the accused as follows: -

"For the offence with which you are charged you may be tried summarily but if you have previously been convicted of a like offence, but not otherwise, you may have the right to be tried in the Crown Court sitting with a jury. In certain circumstances a trial in the Crown Court may be heard by a judge sitting without a jury";

(b) if desirable, give the accused any information as to the court to which he may be committed for trial and any explanation as to the meaning of being tried summarily;

(c) address the accused as follows: -

"If you have the right to be tried in the Crown Court, do you wish to claim it or do you wish to be tried summarily?";

(d) if the accused in answer to the last question claims to be tried in the Crown Court, inquire into the record of the accused for the purpose of verifying his claim but such inquiry shall be confined to matters necessary for such verification.

(4) It shall be sufficient compliance with this Rule requiring the court to address the accused for the presiding resident magistrate to cause the accused to be addressed in the appropriate manner by an official of the court.

**C. PRELIMINARY INVESTIGATIONS (rr.25-30)**

*Service of statement of complaint before preliminary investigation*

25.- (1) The prosecutor shall a reasonable time before the day fixed for the taking of a deposition in a preliminary investigation (other than a deposition relating to the arrest or, where directed by the court, the remand of the accused), cause to be served on the accused a written statement setting out each complaint in numerical order (in these Rules referred to as "the statement of complaint") and shall at the same time serve a copy thereof on the clerk of petty sessions.

(2) The statement of complaint shall be served on the accused in the same manner as a summons upon complaint for an indictable offence is required to be served under Rule 11.

*Proceedings at a preliminary investigation*

26.- (1) At a preliminary investigation evidence relating to the arrest of the defendant shall be given and a deposition thereof shall be taken.

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

(3) A magistrates' court conducting a preliminary investigation shall cause the charge to be read to the accused and shall, if necessary, explain its nature in ordinary language.

(4) Where there is more than one charge and the court is satisfied that the accused can read and will not be prejudiced, the court may instead of causing each charge to be read to the accused, draw the attention of the accused to the statement of complaint and then-

(a) the clerk shall make public the nature of the charges by reading aloud and in full at least one charge in each category of the offence charged;

(b) each of the other charges relating to the same category of offence may then be put to the accused by referring to the number of the charge and adding such other particulars as, without a full reading, may enable the accused to understand the charge and follow it on the statement of complaint.

The presiding resident magistrate or justice of the peace [lay magistrate] may at any time cause any charge to be read or read again to the accused.

(5) Before any evidence is taken the prosecutor or his counsel or solicitor may address the court.

(6) The court shall cause the evidence of each witness, including the evidence of the accused, to be put into writing.

(7) After the examination of each witness the court shall cause his deposition to be read to him in the presence and hearing of the accused and shall cause the witness to sign the deposition.

(8) The presiding resident magistrate or justice of the peace [lay magistrate] shall sign the deposition.

(9) After the evidence for the prosecution has been given, the charge shall, unless the court has decided not to commit the accused for trial, be again read to the accused or, as the case may be, be drawn to the attention of the accused by reference to the charges as numbered in the statement of complaint, and the court shall inform him that he has the right, if he so desires, to give evidence on his own behalf and call witnesses.

(10) Next the Court shall address the accused to the following effect:-

“You are not obliged to say anything in answer to the charge(s) unless you desire to do so, but whatever you say will be taken down in writing and may be given in evidence upon your trial. Do you wish to say anything in answer to the charge(s)?”.

(11) Whatever the accused says in answer to the charge or charges shall be taken down in writing, read over to him and signed by the presiding resident magistrate or justice of the peace [lay magistrate] and, if the accused wishes, by him.

(12) Immediately after complying with the requirements of this Rule relating to the statement of the accused, and whether or not the accused has made a statement, the court shall ask him whether he wishes to give evidence himself and call witnesses and shall, before doing so, explain that he is not obliged to give evidence or to call witnesses and that anyone giving evidence is liable to be cross-examined.

(13) If the accused in answer to the question states that he wishes to give evidence or to call witnesses, or both to give evidence and to call witnesses, the court shall proceed to take the evidence of the accused if the accused wishes to give evidence himself, and of any witnesses called by the accused who are able to give any relevant evidence of behalf of the accused.

(14) Where the accused is represented by counsel or a solicitor, his counsel or solicitor shall be heard on his behalf, at his discretion, and may, if the accused gives evidence himself and calls witnesses, be heard on his behalf both before and after such evidence is taken.

(15) The court may, notwithstanding anything in this Rule, permit or invite the accused or the prosecutor or counsel or the solicitor for the accused or for the prosecutor to make a submission on a point of law arising at any stage of the proceedings but, where it does so, it shall permit the prosecutor or the accused. or counsel or the solicitor for the prosecutor or for the accused to reply.

(16) Nothing in this Rule shall prevent the prosecutor in any case from giving in evidence at the trial any admission or confession or other statement of the accused made at any time which is by law admissible as evidence against the accused.

(17) Where the court commits the accused for trial upon a charge other than a charge specified in the statement of complaint, the court shall cause that charge to be put into writing and read to the accused and inform him that he is so committed,

(18) It shall be sufficient compliance with the provision of this Rule requiring the court to address the accused (whether in reading the charge, asking any questions, giving information, administering a warning or otherwise) for the presiding resident magistrate or justice of the peace [lay magistrate] to cause the accused to be addressed in the appropriate manner by an official of the court.

(19) Any reference to an accused shall, where the accused is a corporation, be construed as a reference to the representative of the corporation within the meaning of Schedule 4 to the Order.

*Procedure for binding witnesses and prosecutor over to attend trial*

27.- (1) The court shall bind over a witness as required by Article 39 of the Order as soon as practicable after his deposition has been taken.

(2) Every recognizance under Article 39 of the Order shall be acknowledged and signed by the person entering into the recognizance and signed by the presiding resident magistrate or justice of the peace [lay magistrate].

(3) The recognizance may be on a separate form or at the foot of the deposition at the discretion of the court.

*Documents and exhibits to be sent to the court of trial*

28.- (1) The clerk of petty sessions, unless the court committing the accused orders otherwise, shall forward to the chief clerk, together with the documents and exhibits specified in paragraph (2), any documents or exhibits produced before the court by a witness whom it has bound over, or directed to be treated as bound over, to attend the trial conditionally.

(2) Within seven days after the close of a preliminary investigation at which any person is committed for trial, and in any case before the date on which he is to be arraigned, the clerk of petty sessions shall send to the chief clerk the following original documents-

- (a) the complaint, if it is in writing;
  - (b) the statement of complaint;
  - (c) where the charge or charges upon which the accused is committed for trial differ from the charge or charges in the complaint or complaints set out in the statement of complaint first read or put to the accused under Rule 26(2) or (3), a statement of the charges upon which the accused was committed for trial;
  - (d) the depositions;
  - (e) any formal admission of facts made under section 2 of the Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968 for the purpose of the investigation;
  - (f) the recognizances of the prosecutor and witnesses (if separate from depositions);
  - (g) all statements made by the accused before the magistrates' court;
  - (h) if the accused is committed for trial on bail, the recognizance of the accused;
  - (i) any recognizance entered into by any person as surety for the accused;
  - (j) a certificate of the names of the witnesses who have been, or are treated as having been, bound over to attend the trial conditionally;
  - (k) such of the documents and exhibits produced in evidence before the court as have been retained by him; and
- (1) a statement of the dates on which the defendant was remanded before completion of the preliminary investigation.

(3) Paragraph (2) of this Rule shall apply to the committal for trial of persons under Article 40 of the Order as if paragraphs (a) to (g) and (j) and (k) were omitted.

*Supply of depositions and complaint to accused*

29. The person having custody of the depositions on which any person has been committed for trial shall, as soon as practicable after application is made to him by or on behalf of the accused, supply to the accused one copy of the depositions and, if the complaint is in writing, of the complaint.

30. *Adjourned preliminary investigation [rev. 31 Oct 2016]*

**D. PRELIMINARY INQUIRIES (rr.31-42)**

[..Still habitually called "preliminary enquiries" ('PE').]

**Interpretation of Rules 32 to 42**

31. - (1) In Rules 32 to 42-

(a) "extra-territorial offence" has the meaning assigned to it by section 1(3) of the Criminal Jurisdiction Act 1975;

(b) "the Act of 1975" means the Criminal Jurisdiction Act 1975.

(2) The following provisions shall apply to a preliminary inquiry :

(b) Rule 27; and

(c) Rules 29 and 30 in any case where depositions are taken.

*Service on clerk of petty sessions of notice of intention by prosecutor to request court to hold preliminary enquiry*

32. - (1) A notice under Article 32(1)(a) of the Order of intention by the complainant or prosecutor on his behalf to request a magistrates' court to hold a preliminary inquiry shall, except in relation to proceedings for an extra-territorial offence, be in Form 20.

(2) In relation to proceedings to which section 3 of the Justice and Security (Northern Ireland) Act 2007 [certificate for trial without jury] applies the notice referred to in paragraph (1) of this Rule shall be in Form 21.

(3) In relation to proceedings for an extra-territorial offence the notice referred to in paragraph (1) shall be in Form 22.

(4) The list of witnesses referred to in Forms 20, 21 and 22 giving the number of pages in each written statement of evidence shall be in Form 23.

(5) The statement of complaint referred to in Article 32(1)(i) of the Order shall be in Form 15 and the list of exhibits referred to in Article 32(1)(b)(ii) of the Order shall be in Form 24.

(6) Where the statement of complaint relates to more than one charge, it shall set out each charge in numerical order

(7) The notice, lists and copies of the documents referred to in Article 32(1) of the Order and in paragraph (4) of this Rule shall be furnished to the clerk of petty sessions in accordance with Article 32(1) of the Order-

(a) by serving them upon him personally at his office or upon a responsible member of his staff thereat; or

- (b) by enclosing them in an envelope and sending it addressed to him at his office by registered post or by the recorded delivery service.

*Service on accused of copy of notice and of documents referred to in Article 32(1) of the Order*

33. The copy of the said notice, lists and documents referred to in Article 32(1) of the Order and in paragraph (4) of Rule 32 shall be served on the accused in the same manner as a summons upon complaint for an indictable offence is required to be served under paragraphs (1), (2), (4), (5) and (6) of Rule 11 and proof of such service shall be given in accordance with paragraph (7) of that Rule.

*Objection to preliminary enquiry*

34. - (1) Without prejudice to Article 32(4) of the Order, the court shall, except in relation to proceedings for an extra-territorial offence, ascertain that the accused or each of them has received a copy of the notice and of the documents required to be served on him under Article 32(1) thereof and Rule 33 and unless the accused is or, if there is more than one accused before the court, all of the accused are legally represented, shall explain generally the purpose of a preliminary inquiry and of a preliminary investigation and the difference in procedure between such inquiry and such investigation.

(2) In relation to proceedings for an extra-territorial offence the court shall, without prejudice to Article 32(4) of the Order, ascertain that the accused or each of them has received a copy of the notice and of the documents required to be served on him under Article 32(1) thereof and Rule 33 and unless the accused is or, if there is more than one accused before the court, all of the accused are legally represented, shall explain generally the purpose of a preliminary inquiry.

(3) Except in relation to proceedings to which section 3 of the Justice and Security (Northern Ireland) Act 2007 [certificate for trial without jury] applies, or proceedings for an extra-territorial offence, after the charge or charges as set out in the complaint or complaints is or are read aloud and, if necessary, explained in ordinary language the court shall then ascertain that the accused understands, or all of them understand, the nature of the complaint or complaints and ask him or each of them separately whether he objects to a preliminary inquiry into the charge or any of the charges against him.

(4) In relation to proceedings to which section 3 of the Justice and Security (Northern Ireland) Act 2007 applies after the charge or charges as set out in the complaint or complaints, is or are read aloud and, if necessary, explained in ordinary language the court shall ask the accused or each of them if he has any submission to make that the holding of a preliminary inquiry would be contrary to the interest of justice and the court shall consider any such submission before deciding to hold a preliminary enquiry.

(5) In relation to proceedings for an extra-territorial offence after the charge or charges as set-out in the complaint or complaints is or are read aloud and, if necessary, explained in ordinary language the court shall then ascertain that the accused understands, or all of them understand, the nature of the complaint or complaints.

(6) Where there is more than one charge against an accused, instead of all the charges being read to that accused, if the court is satisfied that the accused is able to read and will not be prejudiced, the court may proceed as follows: -

- (a) the clerk shall make public the nature of the charges by reading aloud and in full at least one charge in each category of the offence charged;
- (b) each of the other charges relating to the same category of offence may then be put to the accused by referring to the number of the charge and adding such other particulars as, without a full reading, may enable the accused to understand the charge and follow it on the copy of the statement of complaint.

The presiding resident magistrate or justice of the peace [lay magistrate] may at any time cause any charge to be read or read again to the accused.

(7) Where two or more persons are charged together with an offence (other than an offence to which section 3 of the Justice and Security (Northern Ireland) Act 2007 applies or an extra-territorial offence) and one or more than one of them or his or their legal representative objects to a preliminary inquiry into that offence, he shall be asked, or each of them separately shall be asked, whether he objects to a preliminary inquiry into that offence in respect of any person or persons who do not - so object and if he objects to such inquiry to explain the grounds for such objection.

(8) In order to consider the grounds for such objection and in order to be satisfied in accordance with Article 31(3) of the Order that the interests of any person charged with an offence together with another or others would not be unduly or unreasonably prejudiced by conducting a preliminary inquiry into that charge in respect of that other or others, the court shall read the statements of the evidence relevant to that particular charge and hear any submission by or on behalf of the other or others so charged.

(9) In relation to proceedings to which section 3 of the Justice and Security (Northern Ireland) Act 2007 applies where two or more persons are charged together with an offence and one or more than one of them or his or their legal representative successfully objects to a preliminary inquiry into that offence, he shall be asked, or each of them separately shall be asked, whether he objects to a preliminary inquiry into that offence in respect of any person or persons who do not so object and if he objects to, such inquiry to explain the grounds for such objection.

(10) In relation to proceedings to which section 3 of the Justice and Security (Northern Ireland) Act 2007 applies in order to consider the grounds or such objection the court shall read the statements of the evidence relevant to that particular charge and hear any submission by or on behalf of the other or others so charged.

#### *Conduct of preliminary inquiry*

35.- (1) The court in proceeding to conduct a preliminary inquiry may require the prosecutor to make an opening statement on behalf of the prosecution for the purpose of presenting the written statements of the witnesses upon whose evidence the complaint or complaints are based before the court further proceeds in accordance with Article 34(1) of the Order to consider such statements and any exhibits or to read aloud the contents of such statements or purport thereof or before proceeding to consider any submissions (other than submissions under Rule 34) made by the prosecutor or by or on behalf of the accused.

(2) Where at any stage of the inquiry a written statement is admitted in evidence in accordance with Article 33 of the Order the name of the maker of the statement shall be read aloud unless the court in the interests of justice otherwise directs.

(3) Where a person is required under Article 34(2) of the Order to give evidence for the prosecution on oath and such evidence is recorded as a written deposition, the



court shall where any accused is not legally represented explain to that accused that he has the right to cross-examine the witness and that the prosecutor may re-examine him.

(4) After the court has considered the written statements and admitted as evidence such of them (in whole or in part) as it considers proper and any depositions of witnesses for the prosecution, the charge or charges shall, unless the court has decided not to commit the accused for trial, be again read to the accused or, as the case may be, be drawn to the attention of the accused by reference to the charges as numbered in the statement-of-complaint and the court shall inform the accused that he has the right, if he so desires, to give evidence on his own behalf and to require the attendance of witnesses and to call witnesses and to tender any written statement of a witness which complies with Article 33 of the Order.

(5) Next the court shall address the accused to the following effect-

“You are not obliged to say anything in answer to the charge(s) unless you desire to do so, but whatever you say will be taken down in writing and may be given in evidence at your trial. Do you wish to say anything in answer to the charge(s)?”.

(6) Whatever the accused says in answer to the charge or charges shall be taken down in writing on Form 25, read over to him and signed by the presiding resident magistrate or justice of the peace [lay magistrate] and, if the accused so wishes, by him.

(7) Immediately after complying with the requirements of this Rule relating to the statement of the accused, and whether or not the accused has made a statement, the court shall ask him whether he wishes to give evidence himself, require the attendance of witnesses and call witnesses and shall before doing so explain that he is not obliged to give evidence or to call witnesses and that anyone giving evidence is liable to be cross-examined.

(8) The court shall also ask the accused whether he wishes instead of calling witnesses to tender any written statement of evidence on his behalf which complies with Article 33 of the Order.

(9) If the accused in answer thereto states that he wishes to give evidence or to call witnesses or both give evidence and call witnesses, the court shall proceed to take the evidence of the accused on oath if the accused wishes to give evidence himself and to record it as a deposition and to take the evidence on oath of any witness called by the accused who is able to give relevant evidence on behalf of the accused and that evidence shall also be recorded as a deposition.

(10) Where the accused is legally represented, his counsel or solicitor may, if the accused gives evidence himself and calls witnesses, be heard on his behalf both before and after such evidence is taken.

(11) Where the court commits the accused for trial upon a charge other than a charge specified in the statement of complaint, the court shall cause that charge to be put into writing and read to him and inform him that he is so committed.

*Modification of Rules where accused is a corporation*

36. Any reference in these Rules to an accused shall where the accused is a corporation be construed as a reference to the representative of the corporation within the meaning of Schedule 4 to the Order.

*Court may address accused through court official*

37. It shall be sufficient compliance with the provisions of these Rules relating to a preliminary inquiry requiring the court to address the accused (whether in reading the charge, any written statement, asking any questions, giving information, administering a warning or otherwise) for the presiding resident magistrate or justice of the peace [lay magistrate] to cause the accused to be addressed in the appropriate manner by an official of the court.

*Proof by formal admission*

38. Where under section 2 of the Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968 a fact is admitted orally in court by or on behalf of the complainant or any accused for the purpose of a preliminary inquiry the court shall cause the admission to be written down and signed by or on behalf of the party making the admission.

*Written statement of evidence to be in prescribed form and exhibits to be properly identified*

39. - (1) Written statements of the evidence of a witness tendered in evidence to a magistrates' court at a preliminary inquiry shall be in Form 26.

(2) Where such statement refers to any document or object as an exhibit, that document or object shall, wherever possible, be identified by means of a label or other mark of identification signed by the maker of the statement and before the court treats any document or object referred to as an exhibit in such a written statement as an exhibit produced and identified in court by the maker of the statement, the court shall be satisfied that the document or object is sufficiently described in the statement for it to be identified.

*Procedure where court decides not to admit statement or part thereof as evidence*

40. Where the court decides not to admit as evidence any written statement or part thereof tendered in evidence at the preliminary inquiry into any charge against the accused, the presiding resident magistrate or justice of the peace [lay magistrate] shall announce such decision forthwith and shall thereupon delete such statement or part thereof, and shall write or cause to be written upon such statement or, as the case may be, against that part the words "This statement is not admitted as evidence" or alternatively "The part of this statement herewith deleted is not admitted as evidence" and in either case he shall subscribe his name thereto.

*Authentication of statements, depositions or admissions*

41. The clerk of petty sessions shall authenticate by certificate in Form 27 the written statements admitted in evidence, the depositions and any formal admission made for the purpose of the inquiry.

*Documents and exhibits referred to, etc., at preliminary inquiry to be sent to the court of trial*

42. - (1) Within seven days after the close of a preliminary inquiry at which any person is committed for trial, and in any case before the date on which he is to be arraigned, the clerk of petty sessions shall send to the chief clerk the following original documents-

- (a) the complaint if it is in writing;
- (b) the statement of complaint;
- (c) where the charge or charges upon which the accused is committed for trial differ from the charge or charges in the complaint or complaints set out in the

statement of complaint first read or put to the accused under Rule 34(3), (4) or (5), a statement of the charges upon which the accused was committed for trial;

- (d) the written statements admitted in evidence at and any depositions taken at the preliminary inquiry;
- (e) any formal admission of facts made under section 2 of the Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968 for the purpose of the inquiry;
- (f) the certificate in Form 27 of the clerk of petty sessions authenticating those statements, depositions or such admissions;
- (g) the recognizances of the prosecutor and witnesses (if separate from depositions);
- (h) all statements made by the accused before the magistrates' court;
- (i) if the accused is committed for trial on bail, the recognizance of the accused;
- (j) any recognizance entered into by any person as surety for the accused;
- (k) a certificate of the names of the witnesses who have been, or are treated as having been, bound over to attend the trial conditionally;
- (l) subject to paragraph (2), a list in Form 24 of the exhibits, documentary or otherwise, produced or referred to in evidence at the inquiry;
- (m) every exhibit lodged in court;
- (n) any other relevant document; and
- (o) a statement of the dates on which the defendant was remanded before completion of the preliminary inquiry.

(2) Where during the course of a preliminary inquiry the list of exhibits in Form 24 is altered by the addition or omission of any exhibit the clerk of petty sessions shall forward such list with any alterations initialled by him.

(3) Paragraph (1) shall apply to the committal for trial of persons under Article 40 of the Order as if paragraphs (a) to (h) and (1) and (m) were omitted.

(4) Where after a preliminary inquiry the accused is not committed for trial the written statement of the evidence of the witnesses tendered at the inquiry shall be preserved for a period of three years by the clerk of petty sessions.

(5) The court may direct that the written statements required to be read aloud under Article 37(6) of the Order shall be so read by the clerk of petty sessions or other court official.

#### **E. INDICTABLE OFFENCES DEALT WITH SUMMARILY (rr.43-47)**

*Conditions to be complied with before preliminary investigation or inquiry*

43. Where an adult is charged with an indictable offence specified in Schedule 2 to the Order, a justice of the peace [lay magistrate] (other than a resident magistrate) shall not proceed to conduct a preliminary investigation or preliminary inquiry unless he is informed that-

- (a) the prosecutor will not in any event consent to summary trial of the charge under Article 45 of the Order; or

- (b) a resident magistrate has decided that it is not expedient to deal with the charge summarily.

*Written notice under Article 45(1) of the Order*

44. - (1) The written notice to be given to the accused under Article 45(1) of the Order may be served on him together with or contained in a summons alleging the offence or, if he is arrested, given to him as soon as practicable after he is formally charged with the offence after arrest.

(2) Where the prosecutor informs the court that he does not object to the charge being dealt with summarily, the court shall not deal summarily with any offence specified in Schedule 2 to the Order until the expiration of twenty-four hours after the notice under Article 45(1) of the Order is given to the accused, unless a written waiver such as is referred to in the said Article 45(1) of the Order waiving the requirement of the twenty-four hours' notice under the said Article 45(1) has been signed by the accused and handed to the court and the court is satisfied in accordance with Rule 45(4) and (5) that the accused understands that he has the right to be tried by a jury at the Crown Court and appreciates the meaning of such right including the circumstances in which a trial at the Crown Court may be heard by a judge sitting without a jury. [am. SR (NI) 2008/251]

(3) Where the prosecutor informs a resident magistrate or a justice of the peace [lay magistrate] having jurisdiction to conduct a preliminary investigation or preliminary inquiry that the proceedings against the accused are to be taken on indictment, nothing in this Rule or Rule 43 shall operate so as to require proof that the said notice has been given to the accused.

*Procedure where court decides to deal with an indictable offence summarily under Article 45 of the Order* [am. SR (NI) 2008/251]

45.- (1) The procedure shall, until the resident magistrate assumes the power to deal with the offence summarily, be the same in all respects as if the offence were to be dealt with, throughout as an indictable offence.

(2) The evidence of any witness (other than a witness whose written statement has been admitted in evidence at a preliminary inquiry under Article 33 of the Order) taken before the resident magistrate assumed such power need not be taken again, but every such witness shall, if the accused or the prosecutor or his counsel or solicitor so require, be recalled for the purpose of cross-examination.

(3) From and after the time when the resident magistrate assumes the power to deal with the offences summarily (subject to the remaining provisions of this Rule) the procedure before and powers exercisable by the resident magistrate shall be the same as in the hearing of a complaint charging a summary offence.

(4) The district judge (magistrates' court) shall, after deciding that it is expedient to deal with the case summarily, cause the charge to be read to the accused and, if he considers it desirable, explain the meaning of the case being dealt with summarily and of committing an accused for trial by jury at the Crown Court. Such explanations shall include a statement as to the Crown Court at which the accused may be tried and the circumstances in which a trial at the Crown Court may be heard by a judge sitting without a jury.

(5) The district judge (magistrate's court) shall next address the accused as follows—

"Do you wish to be tried at the Crown Court, or do you consent to the case being dealt with summarily?"

and if the accused consents to be dealt with summarily, the district judge (magistrate’s court) shall ask him “Do you plead guilty or not guilty?”.

(8) The resident magistrate may instead of giving the explanation required by paragraph (4) or addressing the accused, as would otherwise be required by paragraph (5), cause such explanation to be given or the accused to be addressed in open court in the appropriate manner by an official of the court and that course shall be sufficient compliance with this Rule.

*Conviction of offence other than that charged where indictable offence dealt with summarily*

46. Where a resident magistrate in exercise of the power conferred by Article 46(3) of the Order, having dealt summarily with a charge for an indictable offence, convicts the accused of an offence in the alternative to that charged, an entry to that effect shall be made in the Order Book and specifying the alternative offence of which he was convicted.

*Preservation of depositions where indictable offence is dealt with summarily*

47. Where a person charged with an indictable offence has been tried summarily under Article 45 of the Order by a district judge (magistrates’ courts), the clerk of petty sessions shall preserve for a period of at least three years such depositions as have been taken.

## **F. DEPOSITIONS OF SICK OR DYING PERSONS (r.48)**

*Taking of depositions under Article 28 or 41 of the Order*

48. - (1) Where an application for the taking of the deposition of a person under Article 28 or Article 41 of the Order is granted by a resident magistrate or justice of the peace [lay magistrate], such resident magistrate or justice of the peace [lay magistrate] shall cause to be served in such manner as he may direct on the accused and the prosecutor a notice in writing specifying where and when the deposition is to be taken.

(2) Where a person in prison custody has received a notice under paragraph (1) the governor of the prison in which the person is confined shall cause him to be conveyed to the place mentioned in the notice for the purpose of being present at the taking of the deposition and sub-section (3) of section 16 of the Prison Act (Northern Ireland) 1953 shall apply to a person who is so conveyed as though the Secretary of State had made a direction under sub-section (1) of that section.

(3) The resident magistrate or justice of the peace [lay magistrate] taking the deposition shall sign it and attach thereto a statement of his reason for taking it and of the day when and the place where it was taken and of the names of the persons, if any, present at the taking thereof.

(4) The resident magistrate or justice of the peace [lay magistrate] taking the deposition shall cause it to be transmitted with his statement under paragraph (3)-

(a) if the deposition is taken under Article 41 of the Order and relates to an offence for which the accused is already committed for trial, to the chief clerk;  
or

(b) in any other case, to the clerk of petty sessions.

## **G. REMANDS (rr.49-51)**

*Remand for inquiry into physical or mental condition*

49. On exercising the powers conferred by Article 51 of the Order in remanding a person for a report on his mental or physical condition a magistrates' court shall-

- (a) where the person is remanded. in custody, send to the place to which he is committed; and
- (b) where the person is released on bail, send to the hospital or place at which, or the person by whom, he is to be examined,

a statement of the reasons for which the court is of opinion that an inquiry ought to be made into his physical or mental condition, and any information before the court about his physical or mental condition.

...

*Remand on bail under Article 47(4) of the Order for longer than eight or, as the case may be, [twenty-eight] days where sureties have not entered recognizances*

50. Where the court, with a view to a person's being remanded on bail under Article 47(4) of the Order for a period exceeding eight days or, where Article 47(3) of the Order applies, [28 days], has fixed the amount of the recognizances to be taken for that purpose but commits that person to custody because the recognizances of the sureties have not yet been taken, the warrant of commitment shall direct that such person be brought before the court at the end of the period or at such earlier time as may be specified in the warrant, unless in the meantime the sureties have entered into their recognizances.

[Rule wrongly continues to refer to 14 days]

*Accused to be told of his right to apply to High Court or Crown Court for bail*

51.- ( 1) Where a magistrates' court remands a person in custody it shall inform him of his right (where such right exists) to apply for bail to the High Court.

(2) Where a magistrates' court commits a person for trial in custody it shall inform him of his right (where such right exists) to apply for bail to the Crown Court or the High Court.

## **H. FORMAL ADMISSIONS (r.52)**

*Formal admissions under section 2 of the Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968*

52. Without prejudice to Rule 38 where under section 2 of the Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968 a fact is admitted orally in court by or on behalf of the prosecutor or the accused for the purposes of any criminal proceedings before a magistrates' court, the court shall cause the admission to be written down and signed by or on behalf of the party making the admission.

## **[ I]. ROAD TRAFFIC OFFENDERS (NORTHERN IRELAND) ORDER 1996 (rr.52A-52C)**

*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 organised" 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 notify the applicant and course organiser of the date and time so fixed.

(5) If the applicant or the course organiser fails to appeal 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.

**J. CRIME (INTERNATIONAL CO-OPERATION) ACT 2003 [rr.52D-52M]**

[added SR (NI) 2004/204 on 17 May 2004]

*Applications and procedures under the Crime (International Co-operation) Act 2003*  
[am SR (NI) 2010/12]

52D. In this rule and rules 52E to 52M—

- (a) "the Act" means the Crime (International Co-operation) Act 2003;
- (b) "process" has the same meaning as in section 51(3) of the Act;
- (c) "relevant proceedings" means proceedings under Part 1 or Part 2 of Schedule 2 to the Act; and
- (d) "external court" or "external authority" means the court or authority from which a request under section 30 or 31 of the Act is received.

*Notice required to accompany process served outside the United Kingdom*

52E. - (1) The notice which by virtue of section 3(4)(b) of the Act shall accompany any process served outside the United Kingdom shall give the information specified in paragraphs (2) and (4).

(2) The notice shall-

- (a) state that the person required by the process to appear as a party or attend as a witness may obtain information about his rights in connection with such requirement from the relevant authority; and

- (b) give the particulars specified in paragraph (4) about that authority.
- (3) The "relevant authority" where the process is served-
  - (a) at the request of the prosecuting authority, is that prosecuting authority;
  - (b) at the request of the defendant, or of the prosecutor in the case of a private prosecution, is the court by which the process is served.
- (4) The particulars referred to in paragraph (2) are-
  - (a) the name and address of the prosecuting authority or, as the case may be, the court, together with its telephone and fax numbers and e-mail address;
  - (b) the name of a person at the prosecuting authority or, as the case may be, the court who can provide the information referred to in paragraph (2)(a), together with his telephone and fax numbers and e-mail address.
- (5) Where section 3(3) of the Act applies, the clerk of petty sessions shall require any process served outside the United Kingdom to be accompanied by-
  - (a) any translation which is provided under section 3(3)(b) of the Act; and
  - (b) any translation of the information required to be given by this Rule which is provided to him.

*Proof of service outside the United Kingdom*

52F. - (1) The service on any person under section 4(1) of the Act of any process issued or made may be proved in any proceedings by a certificate given by or on behalf of the Secretary of State.

- (2) A statement in any such certificate as is mentioned in paragraph (1)-
  - (a) that a process has been served;
  - (b) of the manner in which service was effected;
  - (c) of the date on which a process was served,

shall be admissible as evidence of any facts so stated.

*Notice of application for request for assistance [52G-52M added SR (NI) 2010/12]*

52G.—(1) An application under section 7(1) of the Act (requests for assistance in obtaining evidence abroad) shall, subject to paragraph (2), be made by giving notice in writing to the clerk of petty sessions and shall—

- (a) state the particulars of the offence which it is alleged has been committed or the grounds upon which it is suspected that an offence has been committed;
- (b) state whether proceedings in respect of the offence have been instituted or the offence is being investigated; and
- (c) include particulars of the assistance requested in the form of a draft request for assistance.

(2) The court may direct that paragraph (1) need not be complied with if it is satisfied that the applicant has good reason to make the application as soon as possible and it is not practicable to comply with that paragraph.

*Notice of application for a domestic freezing order [52GA-52GB added SR (NI) 2011/418]*



52GA.—(1) An application under section 10(1) of the Act (domestic freezing orders) shall be made by giving notice in writing to the clerk of petty sessions and shall be accompanied by –

- (a) the certificate, referred to in section 11 of the Act, prepared by the applicant ;  
and
- (b) either the request made under section 7 of the Act, or an indication of when such a request will be made.

(2) Where the court makes a domestic freezing order under section 10(1) the clerk of petty sessions shall, within 14 days of the date the order was made, send to the Secretary of State –

- (a) the domestic freezing order;
- (b) the certificate prepared by the applicant and signed by the district judge (magistrates’ courts); and
- (c) either the request under section 7 of the Act, or an indication of when such a request will be made.

*Variation or revocation of a domestic freezing order*

52GB.—(1) An application to vary or revoke a domestic freezing order under section 12 of the Act shall be made in writing and shall specify each material change of circumstances which the applicant alleges has occurred since the order was made.

(2) An application under paragraph (1) shall be served, by the applicant, on the clerk of petty sessions and on each party to the proceedings as soon as reasonably practicable after the change in circumstances occurs.

(3) Any party who wishes to oppose the application shall, within 7 days of the date notice of application was served on him, notify the applicant and the clerk of petty sessions, in writing, of his opposition and give reasons for it.

(4) Except where notice is received in accordance with paragraph (3), the court may –

- (a) determine the application in favour of the applicant without a hearing; or
- (b) direct a hearing.

(5) Where a party to the proceedings notifies the clerk of petty sessions in accordance with paragraph (3) of his opposition to the application, the court may direct a hearing of the application.

(6) Where a hearing of the application is to take place in accordance with paragraphs (4) or (5) the clerk of petty sessions shall notify each party to the proceedings of the time and place of the hearing.

(7) A party notified in accordance with paragraph (6) may be present at the hearing and be heard.

(8) The clerk of petty sessions shall, as soon as reasonably practicable after the determination of an application under paragraph (1), notify all the parties of the decision

(9) Where the court makes an order to vary or revoke a freezing order under section 12 of the Act, the clerk of petty sessions shall, as soon as reasonably practicable, send a copy of that order to the Secretary of State.

*Proceedings before a nominated court*

52H. In proceedings before a nominated court pursuant to a notice under section 15(1) of the Act, the court may—

- (a) determine who may appear or take part in the proceedings under Schedule 1 of the Act and whether a party to the proceedings is entitled to be legally represented; and
- (b) if it thinks it necessary to do so in the interests of justice, direct that all or any persons not being members or officers of the court or parties to the proceedings, their solicitors or counsel, or other persons directly connected with proceedings, be excluded from the court during the proceedings.

*Record of proceedings before a nominated court*

52I.—(1) In proceedings before a court nominated pursuant to a notice under section 15(1) of the Act, the court shall make a record of the evidence received by the court and the information prescribed in paragraph (2).

(2) The information referred to in paragraph (1) is—

- (a) details of the request in respect of which the notice under section 15(1) was given;
- (b) the date on which, and place at which, the proceedings under Schedule 1 in respect of that request took place;
- (c) the name of any witness who gave evidence at the proceedings in question;
- (d) the name of any person who took part in the proceedings as a legal representative or as an interpreter;
- (e) whether a witness was required to give evidence on oath or after making a solemn affirmation; and
- (f) whether the opportunity to cross-examine any witness was refused.

(3) When, under paragraph 6(1) of Schedule 1 to the Act, the court sends the evidence received by it to the court or authority that made the request, or to the territorial authority for forwarding to the court or authority that made the request, the clerk of petty sessions shall send to the court, authority or, as the case may be, territorial authority a copy of an extract of so much of the record as relates to the proceedings in respect of the request.

(4) Proceedings before a court nominated pursuant to a notice under section 15(1) shall be heard at an appropriately equipped venue to allow for the recording of evidence.

*Consideration of an overseas freezing order [added SR (NI) 2011/418]*

52IA.—(1) In proceedings before a court nominated under section 21 of the Act, the court shall consider whether to give effect to the freezing order—

- (a) save in exceptional circumstances, on the next business day after receipt of a copy of the order from the Secretary of State; and
- (b) in any event within 5 business days of receipt of the order.

(2) The court shall not consider an overseas freezing order unless it is satisfied that the Chief Constable has -

- (a) been given notice of the order; and

- (b) had an opportunity to be heard.
- (3) The court may consider an overseas freezing order-
  - (a) without a hearing; or
  - (b) at a hearing in private or public.
- (4) The clerk of petty sessions shall, as soon as reasonably practicable, give notice of any decision of the court in respect of an overseas freezing order to the Secretary of State.
- (5) In this rule “business day” means any day other than a Saturday, Sunday, Christmas Day, Good Friday or a bank holiday.
- (6) In paragraph (5) “bank holiday” means a day which is, or is to be observed as, a bank holiday in Northern Ireland under the Banking and Financial Dealings Act 1971.

*Release of evidence subject to an overseas freezing order* [added SR (NI) 2011/418]

- 52IB.—(1) An application under section 25 of the Act for the release of evidence which is subject to an overseas freezing order shall be made by giving notice in writing and shall state the reasons why the evidence should be released.
- (2) An application under paragraph (1) shall be served on the clerk of petty sessions, and on each of the parties to the proceedings, as soon as reasonably practicable, after the reasons for making the application occur.
  - (3) Any party who wishes to oppose the application shall, within 7 days of the date notice of the application was served on him, notify the applicant and the clerk of petty sessions in writing of his opposition and give reasons for it.
  - (4) Except where notice is received in accordance with paragraph (3), the court may -
    - (a) determine the application in favour of the applicant without a hearing; or
    - (b) direct a hearing.
  - (5) Where a party to the proceedings notifies the clerk of petty sessions in accordance with paragraph (3) of his opposition to the application, the court may direct a hearing of the application.
  - (6) Where a hearing of the application is to take place in accordance with paragraphs (4) or (5) the clerk of petty sessions shall notify each party to the proceedings of the time and place of the hearing.
  - (7) A party notified in accordance with paragraph (6) may be present at the hearing and be heard.
  - (8) The clerk of petty sessions shall, as soon as reasonably practicable after the determination of an application under paragraph (1), notify all the parties of the decision.
  - (9) Where the court makes an order under section 25 of the Act the clerk of petty sessions shall, as soon as reasonably practicable, give notice of that order to the Secretary of State.

*Interpreter for the purposes of proceedings involving a television or telephone link*

- 52J.—(1) This rule applies where the court nominated under section 30(3) (hearing witnesses in the UK through television links) or section 31(4) (hearing witnesses in the UK by telephone) is a magistrates’ court.

(2) Where it appears to the clerk of petty sessions that the witness to be heard in the relevant proceedings is likely to give evidence in a language other than English, he shall make arrangements for an interpreter to be present at the relevant proceedings to translate what is said into English.

(3) Where it appears to the clerk of petty sessions that the witness to be heard in the relevant proceedings is likely to give evidence in a language other than that in which the external court will be conducted, he shall make arrangements for an interpreter to be present at the relevant proceedings to translate what is said into the language in which the proceedings of the external court will be conducted.

(4) Where the evidence in the relevant proceedings is given in a language other than English and is not translated into English by an interpreter, the court shall adjourn the proceedings until such time as an interpreter can be present to provide a translation into English.

*Record of proceedings by television link before a nominated court*

52K.—(1) In proceedings before a court nominated pursuant to a notice under section 30(3), the court shall make a record of the evidence given in the presence of the court and the information prescribed in paragraph (2).

(2) The information referred to in paragraph (1) is—

- (a) details of the request in respect of which the notice under section 30(3) was given;
- (b) the date on which, and the place at which the proceedings under Part 1 of Schedule 2 in respect of the request took place;
- (c) the technical conditions, such as the type of equipment used, under which the proceedings took place;
- (d) the name of the witness who gave evidence;
- (e) the name of any person who took part in the proceedings as a legal representative or as an interpreter; and
- (f) the language in which the evidence was given.

(3) As soon as is reasonably practicable after the proceedings under Part 1 of Schedule 2, the clerk of petty sessions shall send to the external authority that made the request a copy of an extract of so much of the record as relates to the proceedings in respect of that request.

(4) Proceedings before a court nominated pursuant to a notice under section 30(3) shall be heard at an appropriately equipped venue to allow for the recording of evidence.

*Record of proceedings by telephone link before a nominated court*

52L.—(1) In proceedings before a court nominated pursuant to a notice under section 31(4), the court shall make a record of the evidence given in the presence of the court and the information prescribed in paragraph (2).

(2) The information referred to in paragraph (1) is—

- (a) details of the request in respect of which the notice under section 31(4) was given;
- (b) the date on which, and place at which, the proceedings under Part 2 of Schedule 2 took place;

- (c) the names of the witnesses who gave evidence;
- (d) the name of any person who took part in the proceedings as a legal representative or as an interpreter; and
- (e) the language in which the evidence was given.

(3) As soon as is reasonably practicable after the proceedings under Part 2 of Schedule 2, the clerk of petty sessions shall send to the external authority that made the request a copy of an extract of so much of the record as relates to the proceedings in respect of that request.

(4) Proceedings before a court nominated pursuant to a notice under section 31(4) shall be heard at an appropriately equipped venue to allow for the recording of evidence.

*Restriction on access to records kept under Rules 52I, 52K and 52L*

52M.—(1) The records kept under Rules 52I, 52K and 52L shall not be open to inspection by any person except —

- (a) as authorised by the Secretary of State; or
- (b) with the leave of the court.

K. ASSISTANCE WITH COMMUNICATION [added SR (NI) 2014/221]

*Assistance with communication for a defendant who does not speak English or who has a hearing or speech impediment*

52N. (1) In this Rule—

- (a) references to a defendant who needs interpretation mean—
  - (i) a defendant who needs interpretation because he does not speak or understand English; or
  - (ii) a defendant who needs assistance because he has a speech or hearing impediment;
- (b) where a defendant has a hearing or speech impediment, references to an interpreter include a person appointed—
  - (i) to communicate to the defendant anything said at the hearing and explain it so far as is necessary for the defendant to understand it; or
  - (ii) to communicate any answers given by the defendant, and any other matters that the defendant seeks to convey, and explain them so far as is necessary to enable the court and others present at the hearing to understand them, and references to interpretation shall be construed accordingly;
- (c) references to acting at a hearing include assisting the defendant to communicate with his legal representative during the hearing and in relation to such assistance, paragraph (1)(b)(ii) has effect as if the reference to the court and others present at the hearing were to the legal representative.

(2) Where a defendant who needs interpretation is due to be present at a hearing, the clerk of petty sessions shall appoint an interpreter to act at the hearing unless another organisation is responsible for appointing an interpreter to act at that hearing.

(3) Before an interpreter begins to act at a hearing, an oath or affirmation shall be administered to the interpreter.

(4) Before an interpreter is sworn or makes his affirmation, the interpreter’s name shall be read out and any party to the proceedings may object to the interpreter on any reasonable ground.

(5) If the court upholds an objection made under paragraph (4), the interpreter shall not be sworn or make his affirmation and the clerk of petty sessions shall appoint another interpreter.

(6) Where, on application or of its own motion, the court is satisfied that a document is essential, it shall order that a written translation of the document, or a relevant passage thereof, is provided to a defendant who needs interpretation unless –

(a) the defendant unequivocally and voluntarily waives his right to translation and has had legal advice or otherwise has full knowledge of the consequences of such a waiver; or

(b) provision of an oral translation or oral summary of the document, or the passage thereof, would not prejudice the fairness of the proceedings.

(7) On application, the court may give any direction which it considers appropriate where—

(a) no interpreter has been appointed;

(b) on a previous application under paragraph (6), the court determined that there was no need for translation of the document, or a passage thereof, specified in the application; or

(c) the defendant submits that the quality of interpretation or translation is not sufficient to safeguard the fairness of the proceedings.

(8) The clerk of petty sessions shall record—

(a) the identity of any interpreter appointed to act at a hearing;

(b) any decision to provide an oral translation or oral summary of an essential document or a passage thereof;

(c) any waiver by a defendant of his right to written translation; and

(d) any direction given under paragraph (7).

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#### PART IV

### **DEBT AND EJECTMENT PROCEEDINGS [r.53-96]**

#### A. RULES APPLICABLE TO BOTH DEBT AND EJECTMENT PROCEEDINGS

##### *Definitions*

53. In these Rules the following expressions have the meanings hereby assigned to them:-

“Debt proceedings” or “Ejectment proceedings”, where necessary, include proceedings for the enforcement of orders made in such proceedings;

“formal order” refers to the document issued by the court and includes a decree, a dismiss, an order under Article 107 of the Judgments Enforcement (Northern

Ireland) Order 1981 and an attachment of earnings order under Article 99 of the said Order;

"process" includes an application for a duplicate of an order, and (save as expressly accepted by Rules 58 and 60) an enforcement or committal process under Articles 106 to 110 of the said Order of 1981.

*Time and issue of process*

54. A process shall be deemed to have been issued when it has been stamped, signed, and handed or sent by post to a summons server or to such other person as may be authorised to serve it, or to the clerk of petty sessions for delivery to a summons server or when service is effected in accordance with Rule 60.

*Signature on process*

55. Every process and every copy thereof for service shall be signed by the plaintiff or by his solicitor or firm of solicitors, or in the name of such solicitor by some person duly authorised to sign.

*Times of hearing of processes*

56. Processes shall be issued for hearing at such sittings of the court of summary jurisdiction as may from time to time be directed by the resident magistrate.

*Costs of process to be stated*

57. - (1) The amount of the costs of a process payable by the defendant if the claim is paid or, if possession of the premises the recovery of which is sought is surrendered before entry day as provided by Rule 66, shall be stated on the face of the process. If the amount of the claim is paid or if possession is surrendered and such costs are so paid before entry day the proceeding shall be stayed.

(2) The amount of the costs payable where the claim is paid or possession is surrendered of both, as the case may be, before entry day in accordance with this Rule shall be either fifty per centum of the solicitor's costs in column (2) in Table 1 of Schedule 2 or of the solicitor's costs in column (1) in Table 1 of Schedule 3, as appropriate, together with the plaintiff's outlay properly incurred to date of settlement.

(3) Where proceedings for arrears of rent or for sums due under Article 69 of the Order are joined with a claim for the recovery of the premises, the appropriate Table is that applicable to ejectment proceedings.

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*Modes of service of process*

58. - (1) Except where otherwise provided by these Rules service of a process shall be effected-

(a) by delivering to the defendant personally a true copy thereof, or

(b) subject to paragraph (2), by leaving a true copy thereof for the defendant at his usual or last known place of abode or at his place of business with some person apparently over the age of sixteen years.

(2) Sub-paragraph (b) of paragraph (1) shall not apply to the service of an enforcement process or a committal process.

(3) Without prejudice to paragraph (1), a process in ejectment proceedings may be served on the tenant and on any person in actual possession or occupation of the land or premises.

(4) If for any reason service of a process issued in ejectment proceedings cannot be effected in accordance with paragraph (1) or (3), such process may be deemed to be served if a true copy thereof is affixed to some conspicuous part of the premises.

(5) The provisions of this Rule shall be in addition to and not in derogation of the provisions of any enactment authorising the service of documents in any proceedings upon any person or body.

*Persons entitled to serve processes*

59. - (1) Subject to paragraph (2) and to Rules 60 and 130(2) no person other than a summons server for the administrative court division in which proceedings are brought or in which the defendant resides shall have authority to serve a process.

(2) Where in any such division a summons server is absent or unable to carry out his duties through illness or other cause, or when the office of summons server is vacant, a process may be served by some other person, if permission for such other person to serve the process has been given by a resident magistrate or by the clerk of petty sessions and has been endorsed or signed by him on the original process.

(3) Nothing in this Rule shall affect the provision of section 60 of the Miscellaneous Transferred Excise Duties Act (Northern Ireland) 1972.

*Special mode of service*

60. - (1) Notwithstanding anything in Rules 58 and 59 where-

(a) it is made to appear to a resident magistrate or clerk of petty sessions that a process cannot be served because the defendant is evading service or admission cannot be gained to his residence or business premises or it is not reasonably practicable to serve the process otherwise, he may give permission by an endorsement signed by him on the original process for service to be effected by registered post or by the recorded delivery service or in such other manner as may seem to him appropriate or sufficient and such service shall be deemed to be sufficient service; or

(b) a solicitor represents that he is authorised to accept service of a process on behalf of any defendant, such service may be effected by the delivery by any person of a copy of the process to that solicitor provided that the solicitor endorses and signs on the original a memorandum stating that he is so authorised as aforesaid and that he accepts service accordingly.

(2) This Rule shall not apply to the service of an enforcement process or a committal process.

*Time for service*

61. In all cases service of a process shall be effected at least ten days before the date of hearing.

*Summons server's Process Book*

62.- (1) A summons server shall keep a book (called a Process Book) in which he shall enter the names of the parties to any process handed to him for service, with the date on which he receives it and the date and place of service and the manner in which he has served it.



(2) In any case in which a process has not been duly served, the summons server shall enter the cause of non-service in the Process Book.

(3) The summons server shall endorse upon the original of each process he has served the date, place and manner of service, and sign the endorsement.

(4) The summons server shall lodge his Process Book with the clerk of petty sessions and, except where the court allows proof of the service of a process by affidavit or certificate in [Form 111A] in accordance with Article 126 of the Order or where a resident magistrate otherwise directs, shall attend at each sitting of a court of summary jurisdiction for the hearing of processes served by him and produce his Process Book or give evidence as to service, as may be directed by the court.

(5) In the case of the death, illness, or unavoidable absence of a summons server from a sitting of a court at which he would otherwise be required to attend, his Process Book, if produced to the court and verified on oath as to his handwriting by some creditable person, shall be prima facie evidence of any matter entered therein.

*Person other than summons server to prove service*

63. In any case where a process is served by a person other than summons server, except as provided by Rule 60(1)(b), that person shall endorse upon the original the date, place and manner of service and affix his signature thereto and shall also, unless proof of service is given by affidavit or certificate in Form 111A in accordance with Article 126 of the Order, attend the sitting of the court at which the process is to be heard, and give such evidence as to the date, place and manner of service as the court may require.

*Receipt of certificate of service of process in evidence*

63A. Any document purporting to be given as a certificate in Form 111A shall be received in evidence and shall be deemed to be duly made until the contrary is shown.

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*Service deemed good*

64. A resident magistrate may in any case declare the service of a process however effected sufficient.

*Process Register and extract therefrom*

65.- (1) The clerk of petty sessions shall keep a register (to be called the Process Register) in which he shall make the entries relating to each proceeding as specified by the headings to the columns in the register.

(2) Separate Process Registers shall be kept for debt and ejectment proceedings and are referred to in these Rules as “The Debt Process Register” or “The Ejectment Process Register”, respectively.

(3) The Process Register shall be signed at the foot of each page by the resident magistrate who had adjudicated upon the proceedings entered thereon or, where he is unavailable, by the clerk of petty sessions, provided that:

(a) where a page contain records of proceedings heard on more than one date it shall be signed either by the appropriate resident magistrate or, where he is unavailable, by the clerk of petty sessions at the last entry on each date; or.

(b) where a page contains records of proceedings heard by more than one resident magistrate it shall be signed either by the appropriate resident

magistrate at the last entry of any proceedings heard by him or, where he is unavailable, by the clerk of petty sessions.

(4) Any person who satisfies a resident magistrate or a clerk of petty sessions that he has a bona fide interest in the matter may obtain from the clerk of petty sessions, upon payment of the prescribed fee, a memorandum of a proceeding entered in the Process Register.

*Entry of process*

66. – (1) When it is desired to enter or re-enter a process for hearing, the plaintiff or his solicitor shall lodge the original with the clerk of petty sessions on or before the entry day and details of such process shall be entered into the Process Register and where the hearing is adjourned or after the court has made an order in favour of the plaintiff the process shall be returned to the plaintiff or his solicitor.

(2) For the purposes of Rule 57 and of this Rule the entry day shall be the fourth day before the hearing; but when such day is a Saturday, Sunday or a public holiday, the entry shall be made on the previous week-day other than Saturday.

*Re-entry of process where hearing adjourned*

67.- (1) Where the hearing of a debt or ejectment proceeding is adjourned the court shall not continue with the proceeding until the process is re-entered in accordance with Rule 66.

(2) Where the court in the absence of the defendant or his solicitor adjourns the proceedings, the plaintiff or his solicitor shall notify the defendant or his solicitor of the fact that the process has been re-entered and of the time and place of the adjourned hearing.

*Striking out of proceeding*

68. The entry of the words “Struck Out” in the Process Register shall be a sufficient record of the striking out of a proceeding under Article 73(3) of the Order.

*Withdrawal of proceeding*

69. Where the court acting under Article 73(4) of the Order allows a proceeding to be withdrawn the word “Withdrawn” shall be entered in the appropriate column of the Process Register.

*Order on consent where defendant appears*

70. – (1) In a proceeding in which a defendant appears and admits that the amount stated in the process is due by him, or agrees to surrender possession of the premises sought to be recovered by plaintiff and to pay rent or arrears of rent which may be due to the plaintiff, the court may without hearing evidence make an order against him for the amount or for recovery of possession with costs and in doing so may postpone the issue of the decree in accordance with Article 116 of the Order for such period and upon such terms as it thinks fit.

(2) Where the plaintiff does not appear before the court in person an order shall be made under this Rule only where the plaintiff's solicitor or counsel is present and applies for it to be made.

*Order on written consent*

71. If a defendant in the presence of a solicitor or his apprentice or clerk has signed a document consenting to an order, other than a committal order, being made

against him, the court may make such order with costs upon such proof of the defendant's signature to the consent as the court may require.

*Undefended proceedings*

72. For the purposes of these Rules a claim in debt or ejectment proceedings shall be treated as undefended where-

- (a) the defendant fails to appear and the court, after proof of service of the process, makes an order against him; or
- (b) where an order is made on the consent of the defendant; or
- (c) the court so directs.

*Order where more than one defendant*

73. – (1) In a proceeding in which two or more persons are named as defendants in a process, the court may make an order for payment of the amount claimed or for the recovery of possession of premises sought to be recovered against one or more of these persons, and strike out or dismiss, or allow to be withdrawn the proceeding against the remainder.

(2) Where, a proceeding is dismissed under this Rule, the court may order that any costs awarded on the dismiss, and which the plaintiff is liable to pay, shall be recovered by way of recoupment by the plaintiff from the defendant or defendants against whom an order is made, in addition to the plaintiff's costs of the order.

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*Dismiss*

74. Where the court dismisses a claim upon the merits or without prejudice to a further claim in the same matter, the court shall so state by its formal order and the entry of the words "Dismissed on the Merits" or, as the case may be, "Dismissed Without Prejudice" in the appropriate Process Register shall be a sufficient record of the order.

*Procedure where previous dismiss is produced*

75. Where in a proceeding a defendant produces a dismiss without prejudice obtained by him against the plaintiff for the same cause of action, the plaintiff shall not be at liberty to proceed until he has paid to, or satisfied the defendant for the amount for costs shown in such dismiss.

*Where process not entered by plaintiff it may be entered on application of defendant*

76. – (1) Where a process which has been duly served has not been entered or re-entered for hearing by the plaintiff or his solicitor, the defendant or his solicitor may, on the day of the hearing, lodge in court the copy served on the defendant and apply to have it entered or re-entered as the case may be.

(2) Upon such an application the court may order the process to be entered or re-entered and dismiss the claim without prejudice to a further claim in the same matter, with costs.

*Preparation of forms in debt or ejectment proceedings*

77. – (1) The party who brings the proceedings, or his solicitor, shall be responsible for the preparation of the process and all copies required for service.

(2) The party in whose favour an order is made in a proceeding, or his solicitor, shall be responsible for the preparation of the formal order to be issued by the court.

(3) The proper officer for the purposes of Article 116(3) of the Judgments Enforcement (Northern Ireland) Order 1981 shall be the clerk of petty sessions and, when an attachment of earnings order under Article 99 or an enforcement order or a committal order under Article 107 of that Order is lodged with the clerk, a duplicate of the formal order shall be attached thereto which, when signed in accordance with Rule 79(1), shall be transmitted to the Enforcement of Judgments Office in accordance with the said Article 116(3).

*Disposal of process*

78. – (1) A plaintiff in whose favour an order has been made shall lodge the original process with the clerk of petty sessions when the form of the formal order is handed to the clerk who shall return the process to the plaintiff or his solicitor together with the formal order.

(2) Where a process has been entered or re-entered by the plaintiff for hearing and upon the hearing the court orders a dismiss, the defendant or his solicitor shall lodge the copy of the process served on him with the clerk of petty sessions when the form of the formal order is handed to the clerk who shall return it to the defendant or his solicitor together with the formal order.

(3) A copy process entered or re-entered by the defendant or his solicitor in accordance with Rule 76 and in respect of which a dismiss without prejudice with costs has been obtained, may be returned to the defendant or his solicitor for the purpose of preparing the formal order and shall otherwise be dealt with as an original process under paragraph (1).

*Signing of formal orders in debt or ejectment proceedings*

79. – (1) A formal order issued by the court shall be signed by the resident magistrate who made the order or by some other resident magistrate or by the clerk of petty sessions.

(2) A formal order shall be deemed to be issued on the earliest day it may lawfully be issued whether or not in fact it is actually issued on that day and such day shall be entered on the formal order as the date of issue.

*Transfer of proceedings to county court*

80. Where the court orders proceedings to be transferred to the county court under Article 75 of the Order it shall cause the clerk of petty sessions to transmit forthwith the original process and any notice of set-off or counterclaim or other document lodged in court in relation to the matter, together with a statement of the reasons for the transfer, to the county court, and, at the same time, to send all parties to the proceeding notice in writing of the transfer.

*Enlargement or abridgement of times*

81. The court may, upon such terms as it thinks fit, enlarge or abridge any of the times fixed by these Rules for taking any step or doing an act in debt or ejectment proceedings, or declare any step taken or act done to be sufficient even though not taken or done within the time or manner prescribed by the Rules.

*Effect of non-compliance with Rules*

82. – (1) Non-compliance with any of the Rules in this Part shall not render any proceeding void, but, in case of such non-compliance, the court may direct that the

proceeding be treated as void, or that it may be set aside in part as irregular, or that it be amended or otherwise dealt with. in such manner or upon such terms as the court thinks fit.

(2) The clerk of petty sessions shall make a note of any ruling under paragraph (1) in the appropriate Process Register.

(3) When the court directs that the proceeding be treated as void, it shall have power to award, if it thinks fit, such costs as it could-have awarded if it had dismissed the proceeding.

*Claims for rent joined under Article 72(3) of the Order with claims in ejectment*

83. In a proceeding in which a claim for rent or sums due under Article 69 of the Order is joined to a claim for the recovery of premises in accordance with Article 72(3) of the Order so much of Rules 85 to 90 as is applicable shall have effect in relation to the proceeding.

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**B. RULES APPLICABLE TO DEBT PROCEEDINGS [r.84-94]**

*Contents of process in debt proceedings*

84. – (1) A process issued in debt proceedings shall set forth the full name and address of the plaintiff and of the defendant, the nature and amount of the claim and reasonable particulars thereof.

(2) Where an amount is abandoned under Article 64 of the Order in order to brine the sum claimed within the jurisdiction of a court of summary jurisdiction, there shall be inserted in the process a statement of the fact of such abandonment after the particulars of claim.

(3) Two or more causes of action may be joined in the same process, provided that the amount claimed in respect of each such cause be stated in the particulars of claim and, except in cases to which Article 62(2) of the Order applies, the total amount does not exceed £100.

(4) In a proceeding brought for a sum exceeding £100 the process shall state the enactment declaring such sum to be a debt or civil debt recoverable summarily.

(5) In a proceeding on a bill of exchange, promissory note, or other security for money, the process shall state the date of such security, the sum for which it was given, the parties thereto, the sums claimed to be due thereon for principal and interest respectively, and the times at which such sums respectively became due and payable.

(6) In a proceeding for rent, or for use and occupation, the process shall state the amount claimed, the time up to which the amount is alleged to be due and the situation of the lands or premises in respect of which the claim is made, and when brought upon a lease or other instrument, the date thereof and the parties thereto respectively.

(7) In a proceeding brought by an assignee of a debt, the process shall state the name and the description of the assignor, and the nature and date of the assignment.

(8) In a proceeding brought upon any written document not mentioned before in this Rule, the process shall state the date and nature of the document, and the parties thereto.

*Set-off or counterclaim*

85. – (1) Where a defendant desires to set-off any sum,, or to make any counterclaim, he shall give to the Plaintiff notice in writing specifying the amount of the set-off or counterclaim and giving reasonable particulars thereof it least six days before the hearing, and shall also at least two days before the hearing lodge a copy of such notice with the clerk of petty sessions.

(2) Where an amount is abandoned under Article 64 of the Order in order to bring the sum specified in the notice of set-off or counterclaim within the jurisdiction of a court of summary jurisdiction there shall be inserted in the said notice a statement of the fact of such abandonment after the particulars of the set-off or counterclaim.

*Details of claim, set-off or counterclaim may be demanded*

86. – (1) A defendant who desires to be supplied with further or detailed particulars of a claim made against him in a process or a plaintiff who desires similar particulars of a set-off or counterclaim may give written notice demanding such particulars.

(2) A notice under this Rule shall be given at least four days before the date of hearing.

(3) Where particulars have not been furnished in compliance with this Rule the court may either proceed with the hearing or may, upon such terms as it thinks fit, adjourn the case and order such particulars to be delivered.

*Order where debt paid before hearing*

87. – (1) Where a defendant has paid the amount claimed in a process before the date of hearing, but has not paid the appropriate costs up till the date of payment, the court may make an order for the payment of the amount in the process with the costs, and that credit be given to the defendant for the amount paid.

(2) Where a claim in debt proceedings is not defended, evidence by the solicitor for the plaintiff that the full amount claimed has been received from the defendant after the issue of the process may be accepted as evidence that the amount claimed was due from the defendant at the time the process was issued.

*Order where payments made on account before hearing*

88. Where a defendant, subsequent to the issue of a process but before the hearing, makes any payment on account of the amount claimed which would have the effect of reducing it to an amount which would carry a smaller sum for costs than the amount claimed, the court may, upon proof of the date of such payment, make an order for the payment of the amount proved to be due at the issue of the process, with the appropriate costs, and direct that credit be given to the defendant for any sum paid.

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*Dismiss on proof of set-off or counterclaim*

89. Where a dismiss is given by reason of the defendant establishing a set-off or counterclaim, that reason shall be stated on the dismiss.

*Tender*

90. – (1) Where the defence is a tender before action brought, such defence shall not be available unless the defendant lodges with the clerk of petty sessions, at least two days before the hearing, the amount alleged to have been tendered and serves notice of such lodgment on the plaintiff.

(2) At the time of the making of an order in a proceeding where the amount of the tender has been lodged with the clerk, the court shall in addition order that the amount lodged be paid out to the parties upon such conditions and in such manner as it may think fit.

*Issue of decree after postponement subject to payment by instalments*

91. Where the court has postponed the issue of a decree subject to terms imposed under Article 116 of the Order, whether as to payment of sums periodically or otherwise, the decree shall not issue until there has been default in compliance with such terms (which includes in relation to such payment, default in payment of an instalment) and an affidavit or statutory declaration setting out particulars of the default has been lodged with the clerk of petty sessions.

*Costs in debt proceedings*

92. – (1) Costs of the amount set forth in the appropriate scale in Schedule 2 shall be recovered by a successful party in debt proceedings who has been represented by a solicitor or by a solicitor who is a successful party.

(2) An amount corresponding to the fixed value of stamps upon documents issued on behalf of a successful party in debt proceedings, together with any witnesses' expenses and any fixed fee paid by him to a summons server or other person for the service of a process shall be added to the costs awarded to him under paragraph (1) and shall form part of his costs in the proceedings.

(3) The court shall award by way of costs to a successful party who has not been represented by a solicitor, in addition to any witnesses' expenses, any fee paid or to be paid by him, but no other costs.

(4) Subject to paragraph (6) in addition to the costs, fees and expenses referred to in this Rule, a successful party may recover a sum equivalent to the value added tax at the appropriate rate on so much of the amount of those costs, fees and expenses as were incurred in respect of any taxable supply of goods or services within the meaning of the Value Added Tax Act 1983; but only in so far as the tax is not deductible as input tax by the successful party.

(5) Subject to paragraph (6), in a decree there shall be added after the words "witnesses' expenses" the words "and, in addition, any sum for value added tax recoverable by the plaintiff [or (in the case of a dismiss) defendant]".

(6) Paragraph (5) shall not apply to a decree in undefended proceedings within the meaning of Rule 72 or where value added tax is not recoverable by the successful party under paragraph (4).

(7) In this Rule "fixed" means fixed by an order made under section 116 of the Judicature (Northern Ireland) Act 1978.

*Interest on amount awarded*

93. The amount awarded by a decree (including any interest and costs thereby awarded) or the amount of costs ordered to be paid by a dismiss shall, subject to any direction by the court, carry interest at seven per cent per annum.

*Postponement of issue of decree to be stay of enforcement for purposes of Article 116(3) of the Judgments Enforcement (Northern Ireland) Order 1981*

94. – (1) Postponement of the issue of a decree subject to payment by instalments shall be treated as a stay of enforcement on the ground of the debtor's inability to

pay for the purposes of Article 116(3) of the Judgments Enforcement (Northern Ireland) Order 1981.

(2) Where the court makes such an order the clerk of petty sessions shall enter the order in the Debt Process Register in the column headed “Minute of Adjudication” and shall transmit a memorandum thereof to the Enforcement of Judgments Office.

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### **C. RULES APPLICABLE TO EJECTMENT PROCEEDINGS [rr.95-96]**

#### *Contents of process in ejectment proceedings*

95. – (1) Every process issued in ejectment proceedings shall set forth the statement identifying the premises possession of which is sought to be recovered in the proceedings and the grounds on which possession is claimed.

(2) In a case to which sub-paragraph (a) of Article 67(1) of the Order applies the period and rent for which the premises were let, the date on which the interest of the tenant in the premises ended or, as the case, may be, the date on which the notice to quit which determined the tenancy expired and the date on which such notice was served shall be stated in the process.

(3) In a case to which sub-paragraph (b) of Article 67(1) of the Order applies the capacity in which the defendant was put into possession and the date on which the demand for possession was made shall be stated in the process.

(4) In a case to which sub-paragraph (c) of Article 67(1) of the Order applies the process shall refer to the enactment under the provisions of which possession of the premises is obtainable or recoverable summarily and, if relevant, contain the particulars specified in paragraph (2).

(5) Where a claim for the recovery of rent or for any sum for which the defendant is liable under Article 69 of the Order in respect of the period during which he has overheld the premises is joined in the same process as a claim for recovery of possession of those premises the provisions of paragraph (6) of Rule 84 shall apply to such process.

#### *Costs in ejectment proceedings*

96. – (1) Costs of the amount set forth in the appropriate scale in Schedule 3 shall be recovered by a successful party in ejectment proceedings who has been represented by a solicitor or by a solicitor who is a successful party.

(2) An amount corresponding to the fixed value of stamps upon documents issued on behalf of a successful party in ejectment proceedings, together with any witnesses' expenses and any fixed fee paid by him to a summons server or other person for the service of a process shall be added to the costs awarded to him under paragraph (1) and shall form part of his costs in the proceedings.

(3) The court shall award by way of costs to a successful party who has not been represented by a solicitor, in addition to any witnesses' expenses, any fees paid or to be paid by him, but no other costs.

(4) Paragraphs (4) to (6) of Rule 92 apply to ejectment proceedings as they apply to debt proceedings.

(5) In this Rule “fixed” means fixed by an order made under section 116 of the Judicature (Northern Ireland) Act 1978.

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PART V

**APPEALS OR APPLICATIONS COMMENCED BY NOTICE UNDER PART VII OF THE ORDER [rr.97-101]**

*Signature on notice*

97. A notice under Part VII of the Order shall be signed by the appellant or applicant or by his solicitor or firm of solicitors, or in the name of the appellant or applicant or of such solicitor or firm of solicitors by some person duly authorised so to sign.

*Appeal against recognition of foreign driving disqualification in UK [added SR (NI) 2010/12]*

97A.—(1) Where notice under Part VII of the Order is given of intention to appeal a decision under section 57 of the Crime (International Co-operation) Act 2003, the appellant shall—

- (a) serve with that notice a copy of the notice of intention to appeal given to the appropriate Minister in accordance with section 59(1) of that Act;
- (b) specify in that notice whether or not he or she intends to apply to the court to suspend the recognition of the disqualification under section 62(2) of that Act; and
- (c) state the grounds on which the appeal is made.

(2) An application under paragraph (1) shall be made in accordance with the time limit set under section 59(3) of the Crime (International Co-operation) Act 2003.

*Time of service of notice*

98.- (1) Subject to Article 76(5) of the Order, a notice under Part VII thereof shall be served on the other party to the proceedings at least fourteen days and on the clerk of petty sessions at least seven days before the hearing of the appeal or application.

(2) The notice served on the clerk of petty sessions shall be endorsed with the date upon which and the manner in which notice was served on the other party to the proceedings.

(3) Without prejudice to the provisions of any enactment providing for the time within which an appeal may be made to a court of summary jurisdiction the court shall not hear and determine such appeal unless a notice under Part VII of the Order is served under paragraph (1) upon the other party to the proceedings from which the appeal is brought within three months after the making of the decision or determination appealed from has been notified to the appellant.

*Copy of decision or determination appealed from to be lodged*

99. A copy of the decision or determination from which an appeal is brought shall be lodged with the clerk of petty sessions by the appellant at least seven days before the hearing of the appeal.

*Manner of service of notice*

100. A notice under Part VII of the Order may be served by the appellant or applicant or any person authorised by him to serve such notice in accordance with section 24(2) of the Interpretation Act (Northern Ireland) 1954.

*Times of hearing of appeals or applications*

101. – (1) The hearing of appeals or applications shall be at such sittings of the court as from time to time may be directed by a district judge (magistrates' courts).

(2) The court may, notwithstanding that Rule 98(1) or 99 has not been complied with, order, upon such terms as it thinks fit, that the appeal or application shall be heard.

[r.101 is missing from HMSO hard copy version]

Magistrates' Courts Rules (NI) SR (NI) 1984/225 r.102-104

PART VI

**PROCEEDINGS UPON A COMPLAINT IN A CIVIL MATTER [rr.102-104]**

*Order of Proceedings at the hearing of a complaint in a civil matter*

102. The procedure upon the hearing of a complaint in a civil matter shall be as follows:-

- (a) the substance of the complaint shall be stated to the defendant and, if necessary, explained to him; whereupon, unless precluded from making an order without hearing evidence, the court shall ask him whether or not he admits the truth of the complaint;
- (b) where the defendant admits the truth of the complaint or consents to the making of an order against him under Article 80(3) of the Order, the court may be addressed first by the complainant or his counsel or solicitor and then by the defendant or his counsel or solicitor;
- (c) where the defendant does not admit the truth of the complaint or consent to the making of an order against him, the complainant or his counsel or solicitor shall call his evidence and before doing so may address the court;
- (d) at the conclusion of the evidence for the complainant, the defendant or his counsel or solicitor may address the court whether or not he afterwards calls evidence;
- (e) at the conclusion of the evidence, if any, for the defence, the complainant or his counsel or solicitor may, with the leave of the court, call evidence to rebut that evidence;
- (f) at the conclusion of the evidence, if any, for the defence and the evidence in rebuttal as aforesaid, the defendant or his counsel or solicitor may address the court-
  - (i) if he has not previously done so; or
  - (ii) with the leave of the court, if the defendant and any other witness have been called on the part of the defendant.

Provided always that notwithstanding anything in the previous provisions of this Rule, the court may permit or invite the defendant or complainant or his counsel or solicitor to make a submission on a point of law arising at any stage of the proceedings and in that event shall permit the complainant or defendant or his counsel or solicitor, as the case may be, to reply.

*Entries in Order Book*

103. – (1) Where the defendant or his representative on his behalf admits the truth of the complaint or consents to the making of an order under Article 80(3) of the Order, an entry to that effect shall be made in the Order Book as part of the order.

(2) Where the court under Article 84 of the Order dismisses a complaint in a civil matter without prejudice to a further complaint alleging the same cause of complaint or upon the merits, the entry of the words “Dismissed without prejudice” or, as the case may be, “Dismissed on the merits” in the Order Book shall be a sufficient record of the order.

*Method of making periodical payments*

104. – (1) A court of summary jurisdiction ordering periodical payments to be made through a collecting officer under Article 85 of the Order shall notify both parties of the times at which, and the place at which, payments are to be made and received.

(2) A collecting officer may send by post any periodical payments to the person entitled to them at the request, and at the risk, of that person.

(3) If a person makes any periodical payments to a collecting officer by post, he shall do so at his own risk and expense.

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PART VII

**SATISFACTION AND ENFORCEMENT OF ORDERS [rr.107-147A]**

A. SUMS ADJUDGED TO BE PAYABLE

*Notice to defendant of sum adjudged to be payable by a conviction* [am. SR (NI) 2008/251, SR (NI) 2012/189, SR (NI) 2014/12]

105. – (1) Subject to paragraph (2A) where a person has been adjudged by a conviction to pay a sum the clerk of petty sessions shall serve upon such person notice in writing stating the amount of the sum, the date on which it is to be paid and the manner in which payment is to be made. Such notice shall further advise the defendant that he may, within the time allowed, apply to the court in writing for further time to pay or for an order for payment by instalments or for variation of any order for payment by instalments.

Such notice shall further warn the defendant that failure to pay or to make the appropriate application within the time allowed may result in a Fine Default Hearing at which the court will consider enforcement of the sum under Article 92 of the Order.

(2) Where a person has defaulted in paying a sum adjudged to be paid by conviction or any instalment or part of such sum, the clerk of petty sessions may apply to a district judge (magistrates’ courts) for the issue of a notice in Form 60C to the defendant notifying him of the date, time and place of the Fine Default Hearing and advising him of his right to attend the hearing, to make representations and to apply for legal aid.

(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 or section 67 of the Justice Act (Northern Ireland) 2011.

(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 or section 67 of the Justice Act (Northern Ireland) 2011 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.

(3) A notice under paragraph (1) and paragraph (2B) shall be served by delivering it to the defendant 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 or section 67 of the Justice Act (Northern Ireland) 2011 or by sending it to him by ordinary post in an envelope addressed to him at his last known or usual place of abode.

(4) A district judge (magistrates’ courts) may direct that a notice under paragraph (2) may be served by–

- (a) delivering a copy to the defendant 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 his place of business;
- (b) sending a copy of the notice by ordinary post in an envelope addressed to the defendant at his usual or last known place of abode; or
- (c) sending a copy of the notice by registered post or the recorded delivery service in an envelope addressed to the defendant at his usual or last known place of abode.

(5) A notice under paragraph (2) shall be served a reasonable time before the Fine Default Hearing.

(6) The person who serves the notice under paragraph (2) shall complete and sign the certificate of service on the original notice.

(7) If the defendant fails to appear in person or by his legal representative in response to a notice of a Fine Default Hearing served under sub-paragraph 4(b) or (c), such service shall not be valid unless an acknowledgement of service appearing to be signed by the defendant or his solicitor is produced to the court.

(8) Unless the contrary is proved, the signed acknowledgement of service shall be taken as proof of service and the notice shall be deemed to have been served at the time at which the envelope containing it would have been delivered in the ordinary course of post.

*Supervised activity orders* [added SR (NI) 2008/251]

105A.—(1) Where a magistrates’ court makes a supervised activity order under Article 45 of the Criminal Justice (Northern Ireland) Order 2008, 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.

(2) Where a magistrates’ court amends, extends or revokes a supervised activity 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 order.

(5) Any complaint made in respect of a breach of a requirement of a supervised activity order and any application to revoke, extend or amend a supervised activity order under Schedule 3 to the Criminal Justice (Northern Ireland) Order 2008, shall be accompanied by a copy of the order to which the complaint or the application relates.

*Committal to Crown Court* [added SR (NI) 2008/251]

105B. Where a magistrates’ court commits an offender to the Crown Court under paragraph 5(3) of Schedule 3 to the Criminal Justice (Northern Ireland) Order 2008, the clerk of petty sessions shall notify the chief clerk 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 order made by the magistrates’ court.

*Orders for supervision*

106. - (1) Unless an order under Article 94 of the Order is made in the offender's presence, the clerk of petty sessions shall deliver to the offender or serve on him by ordinary post notice in writing of the order.

(2) It shall be the duty of any person for the time being appointed under the said Article to advise and befriend the offender with a view to inducing him to pay the sum adjudged to be paid and thereby avoid committal to custody and to give any information required by the court about the offender's conduct and means.

(3) Without prejudice to Rule 19 any order under Article 94 of the Order placing a person under supervision pending payment of a sum adjudged to be paid shall be entered in the Order Book.

**B. FINANCIAL PENALTY ENFORCEMENT ORDERS**

*Financial penalty enforcement orders*

107. A financial penalty enforcement order under section 133A of the Army Act 1955, section 133A of the Air Force Act 1955 or section 128F of the Naval Discipline Act 1957 [now Armed Forces Act 2006 (c. 52) s.322] shall be registered by means of an entry of the particulars of the order in the Order Book signed by the clerk of petty sessions.

**C. TRANSFER OF FINE ORDERS**

*Transfer of Fine Order sent to England and Wales or Scotland*

108. Where the court makes a transfer of fine order under Article 95 of the Order (including Article 95 as applied by Article 96 of the Order), the clerk of petty sessions shall send to the clerk to the justices for the petty sessions area in England and Wales or to the sheriff or sheriff clerk of the court of summary jurisdiction in Scotland in or by which, under the order, payment of a sum adjudged to be paid is to be enforceable, a copy of the order in Form 70 or 71, as the case may be, with a statement of the offence and the steps, if any, taken to recover the sum with such former information as is available and is, in the opinion of the clerk of petty sessions, likely to assist enforcement.

*Transfer of fine order sent from England and Wales or Scotland*

109. - (1) Where the clerk of petty sessions receives a copy of a transfer of fine order made in England and Wales or Scotland, he shall register the order by means

of an entry made and signed by him in the Order Book and shall serve a notice in Form 72 on the offender.

(2) Such notice may be served in the same manner as a summons alleging a summary offence prosecuted by the Public Prosecution Service for Northern Ireland and service of the notice may be proved in the same manner as service of such summons is proved under Rule 11.

(3) Where after fourteen days from service of such notice of the expiration of the period within which the sum is payable under the order, whichever is the later, the offender has failed to pay or has failed to apply for time or further time to pay or for payment by instalments, as required by that notice the court may exercise its functions under Part IX of the Order in enforcing payment of the sum.

(4) Where the sum adjudged to be paid and due under the transfer of fine order-

(a) is paid, the clerk of petty sessions shall send it to the clerk of the court which made the order;

(b) is not paid, the clerk of petty sessions shall inform the clerk of that court of the manner in which the adjudication is satisfied or that the sum, or any balance thereof, appears to be irrecoverable.

#### CA. CRIMINAL JUSTICE AND IMMIGRATION ACT 2008 [added SR (NI) 2010/12]

##### *Enforcement of financial penalties under section 88 of the Criminal Justice and Immigration Act 2008*

109A.—(1) Where, under section 88(3) of the Criminal Justice and Immigration Act 2008, a magistrates’ court decides that it is satisfied that one or more of the grounds for refusal apply, the clerk of petty sessions shall give notice of the decision to the Lord Chancellor in Form 72A.

(2) Where, under section 88(3) of the Criminal Justice and Immigration Act 2008, a magistrates’ court decides that it is satisfied that none of the grounds for refusal applies, the clerk of petty sessions shall—

(a) register the financial penalty as an order by means of an entry made and signed by him in the Order Book;

(b) give notice of the decision to the Lord Chancellor in Form 72A; and

(c) serve notice in Form 72B on the person required to pay the financial penalty.

#### D. ATTACHMENT OF EARNINGS

##### *Interpretation of Rules 111 to 121*

110. Any reference in rules 111 to 121 to a “maintenance order” shall include a reference to any order mentioned in Article 98(11) of the Order.

##### *Attachment of earnings order*

111. – (1) An attachment of earnings order under Article 101 of the Order shall be in Form 73.

(2) The clerk of petty sessions may sign such order.

##### *Service of orders and notices*

112. - (1) Where a court of summary jurisdiction makes an attachment of earnings order or an order varying or discharging such an order, the clerk of petty sessions

shall cause a copy of the order to be served on the employer and shall send a copy of the order to the defendant.

(2) Where an attachment of earnings order made by a court of summary jurisdiction ceases to have effect as provided in Article 104(7) or (8) of the Order the notice of the cessation required by Article 104(9) shall be given to the employer.

(3) The notice required by the preceding paragraph shall be given by the clerk of petty sessions.

(4) A copy of Article 102 of the Order shall be served with or annexed to the attachment of earnings order.

(5) Where under Article 105 of the Order (which relates to statements of earnings, etc.) a direction is given to the defendant or to a person appearing to be an employer of the defendant or where under these Rules a copy of an order is to be served or a notice is to be given to any person-

- (a) service may be effected on, or the direction or notice may be given to a person, other than a corporation, by delivering it to the person to whom it is directed or by sending it by post in a letter addressed to him at his last known or usual place of abode, or, in the case of an employer or a person appearing to be an employer of the defendant, at his place of business;
- (b) service may be effected on, or the direction or notice given to, a corporation by delivering the document at, or sending it to-
  - (i) such office or place as the corporation may, for the purpose of this Rule, have specified in writing to the court in relation to the defendant or to a class or description to which he belongs, or
  - (ii) the registered office of the corporation if that office is in Northern Ireland, or, if there is no registered office in Northern Ireland, any place therein where the corporation trades or conducts its business.

*Particulars of defendant*

113. The particulars of the defendant for the purpose of enabling him to be identified which, so far as they are known, are to be included in an attachment of earnings order shall be-

- (a) full name and address;
- (b) place of work;
- (c) nature of work and works number, if any.

*Notice of application for appropriate variation order*

114.- (1) Where an application is made under Article 104 of the Order for the appropriate variation of an attachment of earnings order, the clerk of petty sessions shall, where practicable, give notice in writing of the time and place appointed for the hearing of the application to the person entitled to receive payment under the related maintenance order (whether directly or through the officer of any court).

(2) An application for an order varying (including suspending or reviving) or discharging an attachment of earnings order shall be by way of complaint.

*Variation of attachment of earnings order on change of employment*

115. Where an attachment of earnings order has lapsed under Article 104(5) of the Order on the debtor's ceasing to be in the employment of the person to whom the

order was directed and it appears to the court that the defendant has subsequently entered the employment of a person (whether the same as before or another), the court may, of its own motion, vary the order by directing it to that person and may make any consequential amendment to the order made necessary by this variation.

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*Variation or discharge of attachment of earnings order by court of its own motion*

116. – (1) Where it appears to a court of summary jurisdiction that the defendant is not in the employment of the person to whom the attachment of earnings order is directed and that the likelihood of the defendant entering the employment of any person is not such as to justify preserving the order, the court may, of its own motion, discharge the order.

(2) Where a court of summary jurisdiction has made an attachment of earnings order and the related maintenance order has been discharged in whole or in part or reduced by operation of law, the court may, of its own motion, vary or discharge the attachment of earnings order.

(3) Where a court of summary jurisdiction has made an attachment of earnings order which takes account of accrued arrears and those arrears are subsequently discharged, the court may, of its own motion, vary or discharge the order as appropriate.

*Temporary variation of protected earnings rate*

117.- (1) A court of summary jurisdiction which made the attachment of earnings order may, on a written application made by the defendant on the ground of a material change in the defendant's resources and needs since the order was made or last varied, by order (hereinafter referred to as a temporary variation order) vary the attachment of earnings order for a period of not more than thirteen weeks by an increase of the protected earnings rate.

(2) A temporary variation order shall be in Form 74.

(3) The clerk of petty sessions shall cause a copy of any temporary variation order to be served on the employer and shall give him notice if the temporary variation order is discharged and the clerk of petty sessions shall also send a copy to the person entitled to receive payments under the related maintenance order (whether directly or through an officer of any court).

(4) Where an application for the variation or discharge of an attachment of earnings order is made to a magistrates' court and there is in existence a temporary variation order in respect of the attachment of earnings order, the court may, of its own motion, discharge the temporary variation order.

*Consolidated attachment orders*

118. – (1) Where a court of summary jurisdiction has power to make more than one attachment of earnings order in respect of the liabilities of a defendant it may make a consolidated attachment order to discharge those liabilities.

(2) Where a court of summary jurisdiction has power to make an attachment of earnings order in respect of a defendant who is already subject to such an order (whether or not it is itself a consolidated attachment order) made by any such court, the court may, subject to the provisions of this Rule, discharge the existing order and make a consolidated attachment order in respect of that defendant.



(3) Where two or more attachment of earnings orders have been made (whether or not they are themselves consolidated attachment orders) a court of summary jurisdiction may, subject to the provisions of this Rule, discharge the existing order and make a consolidated attachment order in respect of that defendant.

(4) A court of summary jurisdiction may exercise the powers conferred under paragraphs (1) to (3) of this Rule either of its own motion or on the application of the defendant.

(5) A defendant may apply to a court of summary jurisdiction for a consolidated attachment order, by complaint.

(6) Where an employer applies in writing to the clerk of petty sessions for the court which has power to make a consolidated attachment order requesting the court to make such an order, the clerk shall bring the application before the court, and, if it appears to the court that the application is justified, the court shall proceed as if it had determined of its own motion to make such an order.

(7) Before a court of summary jurisdiction exercises of its own motion the powers conferred under paragraph (3) of this Rule, it shall cause written notice to be given to the defendant of his right to make representations to the court.

(8) Where a court of summary jurisdiction makes a consolidated attachment order, it shall specify in the order such normal deduction rate as the court thinks reasonable and this rate may be less than the sum of the normal deduction rates specified in any attachment of earnings orders discharged by the court.

*Disposal of sums paid under consolidated attachment orders*

119. - (1) A clerk of petty sessions receiving a payment under a consolidated attachment order shall, subject to paragraph (2) below, apply the money in payment of the sums secured by the order, paying first any sums previously secured by an attachment of earnings order which was discharged in consequence of the making of the consolidated attachment order.

(2) Where two or more attachment of earnings orders were discharged in consequence of the making of the consolidated attachment order the sums due under the orders shall be paid in the chronological sequence of the orders.

*Method of making payment under attachment of earnings order*

120. - (1) A clerk of petty sessions to whom any payment under an attachment of earnings order is to be made shall notify the employer and the person entitled to receive payments under the related maintenance order of the hours during which, and the place at which, payments are, subject to the provisions of this Rule, to be made and received.

(2) If an employer sends by post any payments under an attachment of earnings order to a clerk of petty sessions, he shall do so at his own risk and expense.

(3) A clerk of petty sessions may send by post any payment under an attachment of earnings order to the person entitled to receive payments under the related maintenance order at the request and at the risk of that person.

*Enforcement of Judgments Office records*

121. - (1) Where a clerk of petty sessions causes a copy of an order or notice to be given to any person under Rule 112 of these Rules, he shall cause a copy of the order or notice to be given also to the Enforcement of Judgments Office.

(2) Where the clerk of petty sessions for the court which has made an attachment of earnings order is informed of a defendant's change of address he shall notify the new address to the Enforcement of Judgments Office.

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E. SUSPENDED SENTENCES

*Suspended sentences to be dealt with only in petty sessions*

122. - (1) Where during the operational period of a suspended sentence imposed under the Treatment of Offenders Act (Northern Ireland) 1968 the offender upon whom such sentence was passed appears before a justice of the peace [lay magistrate] (other than a resident magistrate) sitting out of petty sessions charged with an offence under any of the following enactments-

- (a) section 4 of the Vagrancy Act 1824;
- (b) section 3 of the Vagrancy (Ireland) Act 1847;
- (c) Article 10(2) of the Criminal Justice (Northern Ireland) Order 1980 (where the offence is punishable by imprisonment);
- (d) section 9 of the Summary Jurisdiction (Ireland) Act 1908; or
- (e) section 24 of the Children and Young Persons Act (Northern Ireland) 1968:

the justice shall remand him for appearance before a court of summary jurisdiction.

(2) Where a court of summary jurisdiction deals with an offender in respect of a suspended sentence imposed by a magistrates' court otherwise than by making an order under section 19(1)(a) of the Treatment of Offenders Act (Northern Ireland) 1968 the court shall cause to be entered in the Order Book its reasons for its opinion that it would be unjust to make such order.

(3) Where under section 19(1)(c) of the said Act of 1968 the court varies the original order of a magistrates' court by substituting another period for the original operational period of a suspended sentence, the court shall explain to the offender in ordinary language the effect of the variation and his liability thereunder.

(5) Where an offender is dealt with by any of the methods specified in paragraphs (a), (b), (c) and (d) of section 19(1) of the said Act of 1968, the clerk of petty sessions shall enter a note of the particulars of the method by which the offender has been dealt with opposite the entry in the Order Book made at the time the suspended sentence was passed.

*Evidence of conviction to be sent to the Crown Court*

123. - (1) Where a magistrates' court under section 20(3) of the Treatment of Offenders Act (Northern Ireland) 1968 commits an offender to the Crown Court, or, instead of doing so, furnishes written notice of the conviction to the chief clerk, the clerk of petty sessions shall send to the chief clerk a certificate of the conviction by the magistrates' court.

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F. CRIMINAL JUSTICE (NORTHERN IRELAND) ORDER 1996 AND CRIMINAL JUSTICE (NORTHERN IRELAND) ORDER 2008 [am. SR (NI) 2008/251]

*Interpretation of Section F*

124. In this Section-

- (a) “the 1996 Order” means the Criminal Justice (Northern Ireland) Order 1996;
- (aa) “the 2008 Order” means the Criminal Justice (Northern Ireland) Order 2008;
- (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.

*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 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.

(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.

*Entry in Order Book*

125A. Where a magistrates' court makes a statement under Article 9(4); 24(4) or (5) or 33(2) of the 1996 Order or Article 9(3) of the 2008 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.

(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.

(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 2(4) 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 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.

[Sch.2 to the 1996 Order relates to breach of a community service order.]

*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-

- (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.

[Articles 26 and 28 of the Criminal Justice (Northern Ireland) Order 1996 repealed by Criminal Justice (Northern Ireland) Order 2008 re offence committed since 1 April 2009: see now rough equivalent 2008 (NI 1) Art.28]

*Recommended licence conditions for sentences of 12 months or more*

126C. Where a court, when passing a determinate custodial sentence of 12 months or more, recommends under Article 23(1) of the 2008 Order particular conditions which in its view should be included in any licence granted under Article 17 or 19 of the 2008 Order, it shall send notice of its order to the Secretary of State in Form 106.

*Licence conditions for sentences of less than 12 months*

126D. Where a court, when passing a determinate custodial sentence of less than 12 months, under Article 24(2)(a) of the 2008 Order requires particular conditions to be included in any licence granted under Article 17 or 19 of the 2008 Order, it shall send notice of its order to the Secretary of State in Form 106.

*Conviction while licence remains in force*

126E. Where it appears to the court by or before which a person is convicted of an offence that the offence was committed while the person was on licence and that the person has not been recalled to prison, the court shall inform the Secretary of State of the conviction in Form 106.

G. DEFERMENT OF SENTENCE

*Notification of conviction before expiration of period of deferment*

127. - (1) Where under Article 3 of the Criminal Justice (Northern Ireland) Order 1996 a court has deferred passing sentence on an offender and before the expiration of the period of deferment he is convicted of any offence by a magistrates' court, the clerk of petty sessions shall give notice of the conviction to the clerk of that court and if the court which deferred passing sentence on the earlier occasion was the Crown Court, give notice of the conviction to the chief clerk.

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H.- ` ENFORCEMENT OF ORDERS IN DEBT PROCEEDINGS

*Enforcement process and order*

128. - (1) Proceedings under Article 107 [Committal for default] of the Judgments Enforcement (Northern Ireland) Order 1981 where no instalment order has been made by the Enforcement of Judgments Office under Article 30 of that Order shall be commenced by a process (in these Rules referred to as an "enforcement process") requiring the debtor to appear personally on the date therein specified before a court of summary jurisdiction.

(2) On the hearing of an enforcement process the court may make-

(a) an order (in these Rules referred to as an "enforcement order") requiring the debtor to pay the amount due in such manner or by such instalments as the court thinks fit; or

(b) such an order committing the debtor to prison as may be made under Rule 129.

(3) An enforcement process shall specify the date of the original order made against the debtor and the amount he was ordered to pay thereunder and such order shall be produced at the hearing.

*Committal process and order*

129. - (1) If the debtor defaults in payment of any instalment due under an enforcement order or due under an instalment order made by the Enforcement of Judgments Office under Article 30 of the said Order of 1981, the creditor may serve on the debtor a process (in these Rules referred to as a "committal process") requiring the debtor to appear personally on the date therein specified before a court of summary jurisdiction to show cause why an order (in these Rules referred to as a "committal order") should not be made committing him to prison for his default in complying with the enforcement order.

(2) Upon proof of the making of the enforcement order, or instalment order, or, where the committal order is made under Rule 128(2)(b) upon proof of the original order for payment (which shall be given by the production of the original order or orders) and of the means of the debtor required by Article 107(4) of the said Order of 1981, the court may, if the debtor fails to show cause why an order should not be made, make with costs such order committing him to prison as is authorised by that Order.

(3) Nothing in paragraph (2) shall, where it appears to the court that earnings fail to be paid to the debtor, affect the power of the court to make an attachment of earnings order under Article 98 of the said Order of 1981 in lieu of a committal order.

*Service of process issued under Rule 128 or 129*

130. - (1) Service of a process issued in accordance with Rule 128 or 129 shall be effected by delivering to the defendant personally a true copy thereof.

(2) A committal process may be served by the summons server of the administrative court division in which the defendant resides or in which any business premises used or occupied by him are situated and such service may be proved by affidavit.

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I. ENFORCEMENT OF ORDERS MADE IN EJECTMENT PROCEEDINGS

*Postponement of issue of decree for possession and application for the issue of the decree*

131. - (1) Where a decree has been granted directing that a plaintiff be put in possession of premises to which sub-paragraph (a) of Article 67(1) of the Order applies and the court has postponed the issue of the decree under Article 116 of the Order for a period or periods conditional upon the payment of arrears of rent or sums due under Article 69 of the Order by the defendant and where costs are ordered to be paid, the costs of the proceedings being paid by instalments either in addition to the current rent or otherwise the decree shall not, subject to Article 117 of the Order, issue from the court until after default has been made in payment of an instalment and an order has been made by the court authorising the issue of the decree as provided by this Rule.

(2) Where default has been made as aforesaid, the plaintiff may apply to the court for an order authorising the issue of the decree upon giving the defendant notice in writing of his intention to make the application not less than seven days before the date of hearing of the application.

(3) Upon the hearing of the application the court may order that the decree be issued or, except as otherwise provided by Article 116 of the order, may from time to time adjourn the application or may further postpone the issue of the decree upon the existing conditions or upon such new conditions as it thinks fit as to payment by instalments or otherwise.

(4) Where the court makes any such order, other than an order of adjournment, it may award to the plaintiff a sum not exceeding £1-00 [one pound!] for the costs of the application, which shall be in addition to, and recovered in the same manner as, any costs awarded on the original decree.

(5) The details of the application and the date on which it is heard shall be entered in the Ejectment Process Register.

(6) Where an application under this Rule is adjourned other than in the presence of the defendant or his solicitor the plaintiff or his solicitor shall notify the defendant or his solicitor of the date, time and place of the adjourned hearing.

*Signature on notice of application for the issue of decree for possession*

132. A form of notice of application under Rule 131 may be signed by the plaintiff or by his solicitor or firm of solicitors or in the name of such solicitor or firm of solicitors by some person duly authorised to sign.

*Service and lodgment of notice of application*

133. - (1) A notice of application signed in accordance with Rule 132 may be served in the same manner as a process under Rule 58 or Rule 60(1)(b) or may be sent by the applicant or his solicitor to the person to whom it is to be given by registered

post or by the recorded delivery service in an envelope addressed to that person at his last known or usual place of abode.

(2) A copy of such notice shall be lodged with the clerk of petty sessions at least four days before the date of the hearing of the application and if the notice has been served by sending it by registered post or by the recorded delivery service, the receipt for the latter shall be attached to the copy so lodged and no farther proof of service shall be required.

(3) In reckoning the four days referred to in paragraph (2) no account shall be taken of a Saturday, Sunday or a public holiday.

*Entry of minute of order on application under Rule 131*

134. A minute of any order whatsoever made upon an application under Rule 131 shall be entered in the Ejectment Process Register.

Magistrates' Courts Rules (NI) SR (NI) 1984/225

J. OTHER PROVISIONS AS TO THE ENFORCEMENT OF ORDERS IN DEBT OR EJECTMENT PROCEEDINGS

*Duration of committal orders*

135. A committal order under Article 107 of the Judgments (Enforcement) (Northern Ireland) Order 1981 shall remain in force for one year and no longer.

*Duplicate orders*

136.. – (1) Where a formal order has been lost or destroyed, or has improperly got into the hands of the person against whom the order was made or his agent, an application may be made to the court for the issue of a duplicate of such order, and the court may order that a duplicate be issued.

(2) Particulars of any such application and a minute of any order made thereon shall be entered in the appropriate Process Register.

(3) No costs of the application shall be awarded to any applicant for a duplicate order except in a case where it is proved to the court that the loss or destruction was caused by the other party or his agent, or where it is proved that the order is improperly in the possession of the other party or his agent.

(4) Any duplicate order issued under this Rule shall bear the word “Duplicate” in large letters on its face and shall have the same effect as the original order.

(5) Where costs are awarded under paragraph (3) the court may issue a decree for the recovery thereof.

Magistrates' Courts Rules (NI) SR (NI) 1984/225.r.137- 147

K. OTHER MATTERS RELATING TO THE ENFORCEMENT OF ORDERS

*Order allowing time for payment or for payment by instalments in proceedings upon complaint*

137. Without prejudice to Rule 19 where a magistrates' court allows time to pay a sum adjudged to be paid by a conviction or any other sum ordered to be recovered in proceedings upon complaint or orders payment of any such sum by instalments, an entry to that effect shall be made in the Order Book as part of the order.

*Application for further time to pay or for payment to be by instalments in proceedings upon complaint*

138. – (1) An application for further time to pay a sum adjudged to be paid by a conviction or other sum ordered to be paid in proceedings upon complaint or to be allowed to pay such sum in instalments may, unless the court requires the applicant to attend, be made in writing.

(2) Such application may be made to a resident magistrate sitting out of petty sessions and a minute of the order made on such application shall be entered in the Order Book.

*Direction that money found on default shall not be applied in satisfaction of sum adjudged to be paid by a conviction or in proceedings under Article 98 of the Order*

139. Where the defaulter is committed to, or ordered to be detained in a prison or other place of detention, any direction given under Article 110(2) of the Order shall be endorsed on the warrant of commitment.

*To whom payments of sums ordered to be paid in proceedings upon complaint are to be made*

140.- (1) Except where the court otherwise directs, a person ordered to pay a sum by a magistrates' court in proceedings upon complaint shall, unless a warrant to enforce payment thereof has been issued, pay that sum or any instalment thereof to the clerk of petty sessions.

(2) The provisions of this Rule shall not derogate from those of section 5 of the Fines Act (Ireland) 1851.

*Payment where imprisonment imposed*

141.- (1) The persons authorised for the purposes of Article 111 of the Order to receive payment are:-

- (a) unless there has been issued to the [Police Service of NI] a warrant of commitment, the clerk of petty sessions;
- (b) any member of the [Police Service of NI] holding the warrant of commitment; or
- (c) any governor of the prison in which the prisoner is confined or any other person having lawful custody of the prisoner.

(2) No person shall be required to receive in part payment under Article 111(2) of the Order an amount which, or so much of an amount as, will not procure a reduction of the period for which the defaulter is committed or ordered to be detained.

(3) Where a person having custody of the prisoner receives payment of any sum he shall endorse a certificate of receipt of the sum on the warrant of commitment and shall pay over the said sum to the clerk of petty sessions.

(4) Nothing in this Rule shall derogate from the provisions of section 5 of the Fines Act (Ireland) 1851.

(5) This Rule shall apply to committal order under Article 107 of the Judgments Enforcement (Northern Ireland) Order 1981 as it applies to warrants of commitment.

*Part payment of sums to clerk of petty sessions*

142. Where before a warrant is issued to enforce payment of a sum adjudged to be paid by the conviction or order of a magistrates' court, part of that sum has been



paid to the clerk of petty sessions, he shall endorse details of such payment on the warrant.

*Execution of warrants in proceedings upon complaint*

143.- (1) Subject to this Rule, a warrant issued by a resident magistrate or justice of the peace [now lay magistrate] in proceedings upon complaint shall be addressed to the district commander for the police district in which the warrant is issued.

(2) A warrant of discharge from prison and, where necessary, a warrant of commitment may be addressed to the prison governor.

(3) On receipt of a warrant of commitment the prison governor or his deputy shall receive the person named in the warrant (or shall detain him if he is already in custody) for the period specified in the warrant.

(4) The prison governor or his deputy shall, upon receiving a prisoner into his custody together with a warrant of commitment, give to the person charged with the execution of the warrant a receipt for the prisoner.

(5) Where the person named in the warrant is to be produced in court after an adjournment or remand the prison governor shall, subject to Article 47(5) of the Order, cause such person to be so produced at the time and place fixed by the warrant.

*Execution of distress warrant by the [Police Service of NI]*

144.- (1) Sums adjudged to be paid by a conviction or order of a magistrates' court and levied under a warrant of distress addressed to a superintendent of the [Police Service of NI] shall be paid over to the clerk of petty sessions.

(2) A warrant of distress shall authorise the person charged with its execution to take any money as well as the goods of the person against whom distress is to be levied and any money so taken shall be treated as if it were the proceeds of sale of goods taken under the warrant.

(3) Upon payment or tender of the sum to be levied and any expenses already incurred in connection with the distress to the person charged with executing the warrant, that person shall refrain from executing it.

(4) The person charged with the execution of a warrant of distress may sell the property distrained after the expiration of the period specified in the warrant, or if no period is fixed, after three days from the date of the distress, unless the sum for recovery of which the warrant was issued and the expenses of the distress are paid within that period.

(5) Where property is sold under a distress warrant, the person executing the warrant shall render to the owner of the property the balance of the proceeds of sale, if any, after retaining the sum to be levied and the expenses of the distress.

(6) A superintendent of the [Police Service of NI] empowered to distrain goods under a warrant of distress may sell or cause such goods to be sold by public auction or in such other manner as the person against whom the distress is levied may in writing allow and may deduct the costs of such sale from the proceeds of sale.

Magistrates' Courts Rules (NI) SR (NI) 1984/225 r.145

*Warrants of distress issued under Article 109 of the Order*

145. A warrant of distress issued under Article 109 of the Order shall be enforced in the same manner as a warrant issued in proceedings upon complaint.

*Costs of warrant to be added to sum due under warrant of commitment or distress*

146. Where the warrant is a warrant of distress the sum referred to in [Article 8 of the Magistrates' Courts Fees Order (Northern Ireland) SR (NI) 1996/102] shall be leviable in addition to any reasonable costs of making or keeping the distress or conducting the sale of goods distrained in accordance with the order of the court.

*Application for review of warrant of commitment*

147. A person imprisoned under a warrant of commitment issued by a magistrates' court under Article 112 of the Order who is not detained otherwise than under that Article may make an application by way of complaint in Form 120 to a resident magistrate requesting that the warrant be cancelled and stating the grounds of the application.

Magistrates' Courts Rules (NI) SR (NI) 1984/225

L. MENTAL HEALTH (NORTHERN IRELAND) ORDER 1986

*Supervision and Treatment Order*

147A. – (1) In this Rule-

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

Magistrates' Courts Rules (NI) SR (NI) 1984/225 r.148

PART VIII

**EVIDENCE [rr.148-149N]**

*Affidavits and declarations*

148.- (1) For the purposes of these Rules an affidavit may be sworn, or a statutory declaration may be made, before a justice of the peace [or lay magistrate] or before a commissioner for oaths or clerk of petty sessions.

(2) Without prejudice to paragraph (1), any such affidavit of service as is referred to in Article 126(1) of the Order may be sworn before the clerk of petty sessions.

(3) A fee paid to a commissioner for oaths on the swearing of an affidavit or the making of a statutory declaration shall not be recoverable by the person paying the fee from the other party.

*Proof by written statement in criminal proceedings (other than at a preliminary inquiry)*

149. - (1) Where a written statement complying with section 1 of the Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968 is served by the complainant or by the defendant for the purpose of any criminal proceedings before a court of summary jurisdiction (other than a preliminary inquiry) a copy of the statement and of any documentary exhibit which accompanied it shall be given to the clerk of petty sessions as soon as practicable after such service and, where a copy of such statement is served on behalf of the prosecution, the complainant shall append to the statement a notice informing the defendant of his right to object to his statement being admitted in evidence. [.commonly called a '38/36'.]

(2) Where under section 1(2)(d) of the said Act of 1968 a party serves notice objecting to the statement being tendered in evidence, he shall at the same time serve a copy of the notice on the clerk of petty sessions.

(3) Where the court under section 1(5) of the said Act of 1968 requires the attendance of the person who made such written statement the court shall, if necessary, adjourn the hearing to enable the witness to be called.

(4) Where any such written statement refers to any document or object as an exhibit, that document or object shall, wherever possible, be identified by means of a label or other mark of identification signed by the maker of the statement and, before the court treats any document or object referred to as an exhibit in such written statement as an exhibit produced and identified in court by the maker of the statement, the court shall be satisfied that the document or object is sufficiently described in the statement for it to be identified.

(5) Where the court decides not to admit as evidence any written statement or part thereof tendered in evidence it shall announce such decision forthwith and shall thereupon write or cause to be written upon such statement, or, as the case may be, against that part, the words 'his statement is not admitted as evidence,' or alternatively, "The part of this statement consisting of ..... is not admitted as evidence," and in either case the presiding magistrate shall subscribe his name thereto.

(6) Where in summary proceedings any written statement is admitted in evidence and read aloud in accordance with section 1(6) of the said Act or an account has to be given orally of so much of any written statement as is not read aloud, the statement shall be read aloud or the account given by or on behalf of the party who has tendered the statement in evidence.

149A. [rev.1 Dec 2003]

*Application for special measures directions*

149AA. - (1) An application by a party in any criminal proceedings for a special measures direction under Article 7 of the 1999 Order shall be made by giving notice in Form 15B.

(2) If the application is for a special measures direction-

(a) enabling a witness to give evidence by means of a live link, the information sought in Part 2 of Form 15B shall be provided;

- (b) enabling a video recording of an interview of a witness to be admitted as evidence in chief of the witness, the information sought in Part 3 of Form 15B shall be provided;
  - (c) enabling an examination of a witness to be conducted through an intermediary
    - (i) the information sought in Part 4 of Form 15B; and
    - (ii) any relevant report, including an intermediary's assessment, shall be provided.
- (3) (a) Subject to sub-paragraph (b), an application under paragraph (1) shall be made not less than 14 days before the day fixed for the commencement of the proceedings to which the application relates.
- (b) In the application of sub-paragraph (a) to preliminary investigations, "the proceedings" does not include the taking of a deposition relating to the arrest, or where directed by the court, the remand of the defendant.
- (4) The notice under paragraph (1) shall be served on the clerk of petty sessions and at the same time a copy thereof shall be served, by the applicant, on every other party to the proceedings.
- (5) Any party on whom a copy of a notice of the application under paragraph (1) is served may oppose the application for a special measures direction in respect of any measure available in relation to the witness, whether or not the question of whether the witness is eligible for assistance by virtue of Article 4 or 5 of the 1999 Order is in issue.
- (6) Any party who wishes to oppose the application shall, within 7 days of the date the notice was served on him, notify the applicant and the clerk of petty sessions, in writing, of his opposition and give reasons for it.
- (7) In order to comply with paragraph (6)-
- (a) a party shall state in the written notification whether he-
    - (i) disputes that the witness is eligible for assistance by virtue of Article 4 or 5 of the 1999 Order;
    - (ii) disputes that any of the special measures available would be likely to improve the quality of evidence given by the witness or that such measures (or a combination of them) would be likely to maximise the quality of that evidence; and
    - (iii) opposes the granting of a special measures direction; and
  - (b) where the application relates to the admission of a video recording, a party who receives a recording shall provide the information required by Rule 149AG(5).
- (8) Except where notice is received in accordance with paragraph (6), a resident magistrate may-
- (a) determine the application in favour of the applicant without a hearing; or
  - (b) direct a hearing.

(9) Where a party to the proceedings notifies the clerk of petty sessions in accordance with paragraph (6) of his opposition to the application, the clerk of petty sessions shall fix a date for the hearing of the application.

(10) Where a hearing of the application is to take place in accordance with paragraphs (8) or (9), the clerk of petty sessions shall notify each party to the proceedings of the time and place of the hearing.

(11) A party notified in accordance with paragraph (10) may be present at the hearing and be heard.

(12) The clerk of petty sessions shall, as soon as reasonably practicable after the determination of an application under paragraph (1), notify all the parties of the decision in Form 15C, and if the application was made for a direction enabling a video recording of an interview of a witness to be admitted as evidence in chief of that witness, the notification shall state whether the whole or specified parts only of the video recording or recordings disclosed are to be admitted in evidence.

*Application for an abridgement of time*

149AB. - (1) The period specified in Rule 149AA(3) may be abridged at any time by the court on an application made in writing, specifying why the applicant is or was unable to make the application within that period.

(2) The application shall be served, by the applicant, on the clerk of petty sessions and on every other party to the proceedings.

(3) An application for an abridgement of time under this Rule shall be determined by a resident magistrate without a hearing unless the resident magistrate otherwise directs.

(4) Where the resident magistrate abridges the period of 14 days under Rule 149AA(3), he shall also specify the period within which any other party to the proceedings may give notice of opposition in writing under Rule 149AA(6).

(5) The clerk of petty sessions shall notify all the parties of the resident magistrate's decision, and (as the case may be) the period specified by the resident magistrate for the giving of notice of opposition in writing under Rule 149AA(6).

*Late applications* [added SR (NI) 2003/296 from 30 June 2003]

149AC. - (1) Notwithstanding the requirements of Rule 149AA-

(a) an application may be made for a special measures direction orally at the trial;  
or

(b) the court may of its own motion raise the issue whether a special measures direction should be given.

(2) Where an application is made in accordance with paragraph (1)(a)-

(a) the applicant shall state the reasons for the late application; and

(b) the court must be satisfied that the applicant was unable to make the application in accordance with Rule 149AA.

(3) The court shall determine before making a special measures direction-

(a) whether to allow other parties to the proceedings to make representations on the application;

(b) the time allowed for making such representations (if any); and

- (c) whether the question should be determined following a hearing at which the parties to the proceedings may be heard.

*Discharge or variation of a special measures direction*

149AD. - (1) An application to discharge or vary a special measures direction under Article 8(2) of the 1999 Order shall be made in writing and shall specify each material change of circumstances which the applicant alleges has occurred since the direction was made.

(2) An application under paragraph (1) shall be served, by the applicant, on the clerk of petty sessions and on each party to the proceedings as soon as reasonably practicable after the change of circumstances occurs.

(3) Any party on whom the application is served in accordance with paragraph (2) may oppose the application on the ground that it discloses no material change of circumstances.

(4) Paragraphs (6) to (12) of Rule 149AA shall apply to an application to discharge or vary a special measures direction as they apply to an application for a direction.

*Application to disapply or disapply in part the primary rule [added SR (NI) 2011/418]*

149ADA. —(1) An application to disapply or disapply in part the primary rule under Article 9(4)(ba) of the 1999 Order shall be made in writing and shall include such information as the court requires to make a determination.

(2) An application under paragraph (1) shall be served, by the applicant, on the clerk of petty sessions and on each party to the proceedings as soon as reasonably practicable after the witness has expressed that wish.

(3) Paragraphs (6) to (12) of Rule 149AA shall apply to an application to disapply or disapply in part the primary rule as they apply to an application for a direction.

*Renewal application following a material change of circumstances*

149AE. - (1) Where an application for a special measures direction has been refused by the court, the application may only be renewed ("renewal application") where there has been a material change of circumstances since the court refused the application.

(2) The applicant shall-

(a) specify in the renewal application each material change of circumstances which is alleged to have occurred; and

(b) serve the renewal application on the clerk of petty sessions, and on each party to the proceedings, as soon as reasonably practicable after the change occurs.

(3) Any party on whom the application is served in accordance with paragraph (2)(b) may oppose the application on the ground that it discloses no material change of circumstances.

(4) Paragraphs (6) to (12) of Rule 149AA, Rules 149AF and 149AG shall apply to a renewal application as they apply to the application which was refused.

*Application for special measures direction for witness to give evidence by means of a live link [added SR (NI) 2003/296, am.] [am. SR (NI) 2011/418]*

149AF. - (1) Where the application for a special measures direction is made in accordance with Rule 149AA(2)(a), for a witness to give evidence by means of a live link, the following provisions of this Rule shall also apply.

(2) A party who seeks to oppose an application for a child witness to give evidence by means of a live link shall, in order to comply with Rule 149AA(6), state why in his view the giving of a special measures direction would not be likely to maximise the quality of the witness's evidence.

*Video recording of testimony from witnesses*

149AG. - (1) Where an application is made for a special measures direction enabling a video recording of an interview of a witness to be admitted as evidence in chief of the witness, the following provisions of this Rule shall also apply.

(2) Notice of the application made in accordance with Rule 149AA(1) shall be accompanied by the video recording (or a copy of the video recording) which it is proposed to tender in evidence and shall include-

- (a) the name of the defendant and the offence charged;
- (b) the name and date of birth of the witness in respect of whom the application is made;
- (c) the date on which the video recording was made;
- (d) a statement as to whether, and if so at what point in the video recording, an oath was administered to, or a solemn declaration made by, the witness;
- (e) a statement that, in the opinion of the applicant, either-
  - (i) the witness is available for cross-examination; or
  - (ii) the witness is not available for cross-examination and the parties have agreed that there is no need for the witness to be so available;
- (f) a statement of the circumstances in which the video recording was made which complies with paragraph (4); and
- (g) the date on which the video recording was disclosed to the other party or parties.

(3) Where it is proposed to tender part only of a video recording of an interview with the witness, the application shall specify that part and be accompanied by a video recording of the entire interview, including those parts which it is not proposed to tender in evidence, and by a statement of the circumstances in which the video recording of the entire interview was made which complies with paragraph (4).

(4) The statement of the circumstances in which the video recording was made referred to in paragraphs (2)(f) and (3) shall include the following information, except in so far as it is contained in the recording itself, -

- (a) the times at which the recording commenced and finished, including details of interruptions;
- (b) the location at which the recording was made and the usual function of the premises;
- (c) in relation to each person present at any point during, or immediately before, the recording-
  - (i) their name, age and occupation;
  - (ii) the time for which each person was present; and
  - (iii) the relationship, if any, of each person to the witness and to the defendant;

- (iv) whether or not the person present was there to act as an intermediary for a witness, and, if so, whether an application under Article 17 of the 1999 Order for the use of an intermediary has been made or will be made, and whether the intermediary made the declaration as set out in Form 88N before acting
  - (ca) in relation to each person present at any point during the recording, a statement confirming that the said person when present is visible in the recording;
  - (d) in relation to the equipment used for the recording-
    - (i) a description of the equipment;
    - (ii) the number of cameras used;
    - (iii) whether the cameras were fixed or mobile;
    - (iv) the number and location of the microphones;
    - (v) the video format used; and
    - (vi) whether it offered single or multiple recording facilities and, if so, which were used; and
  - (e) the location of the mastertape if the video recording is a copy and details of when and by whom the copy was made.
- (5) A party who receives a copy of a recording under paragraph (2) shall within 7 days of the date on which it was served on him, notify the applicant and the clerk of petty sessions, in writing-
- (a) whether he objects to the admission under Article 15 of the 1999 Order of any part of the video recording or recordings disclosed, giving his reasons why it would not be in the interests of justice for the recording or any part of it to be admitted;
  - (b) whether he would agree to the admission of part of the video recording or recordings and if so, which part or parts; and
  - (c) whether he wishes to be represented at any hearing of the application.
- (6) Notwithstanding the provisions of Rule 149AA and this Rule, a copy of any video recording which the defendant proposes to tender in evidence need not be sent to the prosecution until the close of the prosecution case at the trial.
- (7) The court may determine an application by the defendant to tender in evidence a video recording even though a copy of the recording has not, in accordance with paragraph (6), been served upon the prosecution.
- (8) Where a copy of the video recording which is the subject of a special measures direction is sent to the prosecution after the direction has been made, the prosecutor may apply to the court for the direction to be varied or discharged.
- (9) An application under paragraph (8) may be made orally to the court.
- (10) A prosecutor who makes an application under paragraph (8) shall state-
- (a) why he objects to the admission under Article 15 of the 1999 Order of any part of the video recording or recordings disclosed, giving his reasons why it would not be in the interests of justice for the recording or any part of it to be admitted; and



(b) whether he would agree to the admission of part of the video recording or recordings and if so, which part or parts.

(11) The court shall, before determining the application: -

(a) direct a hearing of the application; and

(b) allow all the parties to the proceedings to be present and be heard on the application.

(12) The clerk of petty sessions shall notify all parties to the proceedings of the decision of the court as soon as reasonably practicable after the decision is given.

(13) Any decision varying a special measures direction shall state whether the whole or specified parts of the video recording or recordings subject to the application are to be admitted in evidence.

#### *Expert Evidence*

149AH. Any party to the proceedings who proposes to adduce expert evidence (whether of fact or opinion) in connection with an application or renewal application for, or an application to vary or discharge, a special measures direction shall, not less than 14 days before the date set for the commencement of the proceedings at which the evidence is to be adduced-

(a) serve the other party or parties to those proceedings with a statement in writing of any finding or opinion which he proposes to adduce by way of such evidence; and

(b) where a request is made to him in that behalf by any other party to those proceedings, provide that party also with a copy of (or if it appears to the party proposing to adduce the evidence to be more practicable, a reasonable opportunity to examine) the record of any observation, test, calculation or other procedure on which such finding or opinion is based and any document or other thing or substance in respect of which any such procedure has been carried out.

#### *Prohibition on cross-examination of particular witness*

149AI. - (1) An application by the prosecutor for a direction under Article 24 of the 1999 Order in relation to any witness shall be made by giving notice in Form 15D to the clerk of petty sessions and at the same time the applicant shall serve a copy thereof on every other party to the proceedings.

(2) In an application under paragraph (1), the prosecutor shall state why, in his opinion-

(a) the evidence given by the witness is likely to be diminished if cross-examination is undertaken by the defendant in person;

(b) the evidence would be improved if a direction were given under Article 24(2) of the 1999 Order; and

(c) it would not be contrary to the interests of justice to give such a direction.

(3) On receipt of the application, the clerk of petty sessions shall refer it -

(a) if the proceedings to which the application relates have commenced, to the resident magistrate hearing those proceedings;

(b) if the proceedings to which the application relates have not commenced when the application is received, to a resident magistrate.

(4) Where a copy of a notice under paragraph (1) is served on a party to the proceedings more than 14 days before the date set for the commencement of the proceedings to which the application relates, that party may, within 14 days, make observations in writing in relation to the application to the clerk of petty sessions and shall serve a copy of such observations on every other party to the proceedings.

(5) A party on whom a copy of the notice is served in accordance with paragraph (1) may notify the clerk of petty sessions and every other party to the proceedings, in writing, of his opposition to the application and give reasons for it.

(6) Those reasons shall be notified-

(a) within 14 days of the date a copy of the notice was served on him, if that date is more than 14 days before the date set for commencement of the proceedings to which the application relates;

(b) if the proceedings to which the application relates have commenced, in accordance with any directions issued by the resident magistrate hearing those proceedings; or

(c) if neither sub-paragraph (a) nor sub-paragraph (b) apply, before the date set for the commencement of the proceedings to which the application relates.

(7) Where the application made in accordance with paragraph (1) is made before the date set for the commencement of the proceedings to which the application relates and the application-

(a) is not contested by any party to the proceedings, the court may determine the application without a hearing;

(b) is contested by a party to the proceedings, the court shall direct a hearing of the application.

(8) Where the application is made after the commencement of the proceedings to which the application relates-

(a) the application may be made orally; and

(b) the resident magistrate hearing those proceedings may give such directions as he considers appropriate in order to deal with the application.

(9) Where a hearing of the application is to take place, the clerk of petty sessions shall notify each party to the proceedings of the time and place of the hearing.

(10) A party notified in accordance with paragraph (9) may be present at the hearing and be heard.

(11) The clerk of petty sessions shall, as soon as reasonably practicable after the determination of an application made in accordance with paragraph (1), notify all the parties to the proceedings of the decision and the reasons for it.

(12) A person making an oral application under paragraph (8)(a) shall-

(a) give reasons why the application was not made before the commencement of the proceedings to which the application relates; and

(b) provide the court with the information set out in paragraph (2).

*Restrictions on cross-examination of witness by the accused person*

149AJ. - (1) This Rule and Rules 149AK and 149AL apply where a defendant is prevented from cross-examining a witness in person by virtue of Article 22, 23 or 24 of the 1999 Order.

(2) The court shall as early in the proceedings as is reasonably practicable-

- (a) explain to the defendant that he is prevented from cross-examining a witness in person; and
- (b) invite him to arrange for a legal representative to act for him for the purpose of cross-examining the witness.

(3) The defendant shall within 7 days of the court giving its explanation, or within such other period as the court may in any particular case allow, give notice to the clerk of petty sessions in Form 15E or otherwise in writing as to whether or not he has arranged for a legal representative to act on his behalf.

(4) Where the defendant has arranged for a legal representative to act for him, the notice under paragraph (3) shall include details of the name and address of the representative.

(5) The clerk of petty sessions shall notify all other parties to the proceedings of the name and address of any person appointed by the defendant to act on his behalf.

(6) Where the court gives its explanation under paragraph (2) to the defendant -

- (a) within 7 days of the date set for the commencement of any hearing at which a witness in respect of whom a prohibition under Article 22, 23 or 24 of the 1999 Order applies may be cross-examined, or
- (b) after such a hearing has commenced,

the period of 7 days within which the defendant is required to give notice under paragraph (3) shall be reduced in accordance with any direction issued by the court.

(7) Where at the end of the period of 7 days or such other period as the court has allowed, the court has not received notice from the defendant under paragraph (3), it may grant the defendant an extension of time, whether of its own motion or on the application of the defendant.

(8) Before granting an extension of time, the court may direct a hearing at which all parties to the proceedings may attend and be heard.

(9) Any extension of time shall be for such period as the court considers appropriate in the circumstances of the case.

(10) The decision of the court as to whether or not to grant the defendant an extension of time shall be notified to all parties to the proceedings by the clerk of petty sessions in Form 15F.

*Appointment by the court*

149AK. - (1) Where the court decides, in accordance with Article 26(4) of the 1999 Order, to appoint a qualified legal representative, the clerk of petty sessions shall notify all parties to the proceedings of the name and address of that representative.

(2) An appointment made by the court under Article 26(4) of the 1999 Order shall, except to such extent as the court may in any particular case determine, terminate at the conclusion of the cross-examination of any witness in respect of whom a prohibition under Article 22, 23 or 24 of the 1999 Order applies.

*Appointment arranged by the defendant*

149AL. - (1) The defendant may arrange for the qualified legal representative, appointed by the court under Article 26(4) of the 1999 Order, to be appointed to act for him for the purpose of cross-examining any witness in respect of whom a prohibition under Article 22, 23 or 24 of the 1999 Order applies.

(2) Where such an appointment is made-

- (a) the defendant shall notify the court of the appointment in Form 15E;
- (b) the qualified legal representative shall notify the court of the appointment in Form 15G; and
- (c) the qualified legal representative shall, from the time of his appointment, act for the defendant as though the arrangement had been made under Article 26(2)(a) of the 1999 Order and shall cease to be the representative of the court under Article 26(4) of the 1999 Order.

(3) Where the court receives notification of the appointment either from the qualified legal representative or from the defendant but not from both, the court shall investigate whether the appointment has been made, and if it concludes that the appointment has not been made, paragraph (2)(c) shall not apply.

(4) The defendant may, notwithstanding an appointment by the court under Article 26(4) of the 1999 Order, arrange for a legal representative to act for him for the purpose of cross-examining any witness in respect of whom a prohibition under Article 22, 23 or 24 applies.

(5) Where the defendant arranges for, or informs the court of his intention to arrange for a legal representative to act for him, he shall notify the court within such period as the court may allow, of the name and address of any person appointed to act for him.

(6) Where the court is notified within the time allowed that such an appointment has been made, any qualified legal representative appointed by the court in accordance with Article 26(4) of the 1999 Order shall be discharged.

(7) The clerk of petty sessions shall as soon as reasonably practicable after notification is received by the court, or where paragraph (3) applies, after the court is satisfied that the appointment has been made, notify all the parties to the proceedings in Form 15H-

- (a) that the appointment has been made;
- (b) where paragraph (4) applies, of the name and address of the person appointed;
- (c) that the person appointed by the court under Article 26(4) of the 1999 Order has been discharged or has ceased to act for the court.

*Procedure for applications in proceedings for sexual offences*

149AM. - (1) Application under Article 28(2) of the 1999 Order for leave to adduce evidence of, or ask questions about, any sexual behaviour of a complainant shall be made by giving notice in Form 15I to the clerk of petty sessions and shall, subject to paragraph (10)-

- (a) be served on the clerk of petty sessions not less than 14 days before the day fixed for the commencement of the proceedings to which the application relates; or

- (b) be accompanied by a full written explanation specifying the reasons why the application could not have been served in accordance with sub-paragraph (a).
- (2) An application under paragraph (1) shall contain the following-
- (a) a summary of the evidence it is proposed to adduce and of the questions it is proposed to put to any witness;
  - (b) a full explanation of the reasons why it is considered that the evidence and questions fall within paragraphs (3) or (5) of Article 28 of the 1999 Order;
  - (c) a summary of any document or other evidence to be submitted in support of such evidence and questions;
  - (d) where it is proposed that a witness give evidence as to the complainant's sexual behaviour, the name and date of birth of any such witness.
- (3) A copy of the application under paragraph (1) shall be served, by the applicant, on every other party to the proceedings at the same time as it is served on the clerk of petty sessions.
- (4) The prosecutor shall notify the clerk of petty sessions and the other parties to the proceedings in Form 15J-
- (a) whether or not he opposes the application, giving reasons for any such opposition, and
  - (b) whether or not he wishes to be represented at any hearing of the application,
- and where the notice of application is received by the prosecutor more than 14 days before the date set for commencement of the proceedings to which the application relates, the notification must be served by the prosecutor within 14 days of receipt.
- (5) Where a copy of the application is received by a party to the proceedings other than the prosecutor more than 14 days before the date set for the commencement of the proceedings to which the application relates, that party may, within 14 days, make observations in writing in relation to the application to the clerk of petty sessions and shall serve a copy of such observations on every other party to the proceedings.
- (6) In considering any application under this Rule, the court may request a party to the proceedings to provide the court with such information as it may specify in Form 15K and which the court considers would assist in determining the application.
- (7) Where the court makes such a request, the person required to provide the information shall do so within 14 days of the court making the request or by such time as the court considers appropriate in the circumstances of the case.
- (8) An application under paragraph (1) shall be determined by a resident magistrate following a hearing.
- (9) The date and time of the hearing shall be-
- (a) determined by the clerk of petty sessions after taking into consideration-
    - (i) any time which a party to the proceedings has been given to respond to a request for information; and
    - (ii) the date fixed for any other hearing relevant to the proceedings; and
  - (b) notified by the clerk of petty sessions to both the applicant and the prosecutor.

(10) An application under Article 28(2) of the 1999 Order may be made orally to the court where the application is made after the proceedings to which the application relates have begun.

(11) The person making the application under paragraph (10) shall-

- (a) give reasons why the applicant failed to make the application in accordance with paragraph (1); and
- (b) provide the court with the information set out in paragraph (2).

(12) The clerk of petty sessions shall, as soon as reasonably practicable after the hearing of an application under paragraph (1), notify all the parties to the proceedings of the decision of the court in Form 15L.

*Application for reporting direction*

149AN.- (1) An application by a party to any criminal proceedings for a reporting direction under section 46 of the 1999 Act in relation to a witness in those proceedings may be made at any time after the commencement of the proceedings by giving notice in Form 15M.

(2) For the purpose of this Rule, Rule 149AO and Rule 149AP, proceedings commence on the date that the matter is first listed before a magistrates' court.

(3) The notice under paragraph (1) shall be served on the clerk of petty sessions, and at the same time a copy thereof shall be served, by the applicant, on every other party to the proceedings.

(4) Any party who wishes to oppose the application shall, within 7 days of the date that notice of the application was served on him, notify the applicant and the clerk of petty sessions, in writing, of his opposition giving reasons for it.

(5) In order to comply with paragraph (4) a party shall state in the written notification whether he-

- (a) disputes that the witness is eligible for protection under section 46 of the 1999 Act; and
- (b) disputes that the granting of protection would be likely to improve the quality of evidence given by the witness or the level of co-operation given by the witness to any party to the proceedings in connection with the party's preparation of its case.

*Application for excepting direction*

149AO.- (1) An application for a direction under section 46(9) of the 1999 Act ("an excepting direction") may be made at any time after the commencement of the proceedings if a reporting direction has been given by the court in respect of the witness in those proceedings.

(2) The application under paragraph (1) may be made by-

- (a) any party to those proceedings; or
- (b) any person who, although not a party to the proceedings, is directly affected by a reporting direction given in relation to a witness in those proceedings or could be so affected if the court in determining an application gave a reporting direction.

(3) An application for an excepting direction may be made-

- (a) orally at the time the reporting direction is given; or
  - (b) by giving notice in Form 15N.
- (4) An applicant for an excepting direction shall state why, in his opinion-
- (a) the effect of the restrictions imposed (or which the applicant for the reporting direction seeks to have imposed) places a substantial and unreasonable restriction on the reporting of the proceedings; and
  - (b) it is in the public interest to remove or relax those restrictions.
- (5) Where the application for an excepting direction is made in writing, the notice under paragraph (3)(b) shall be served on the clerk of petty sessions, and at the same time a copy thereof shall be served, by the applicant, on every other party or, as the case may be, every party to those proceedings.
- (6) Where the application for an excepting direction is made orally, the clerk of petty sessions shall cause the details of the application to be recorded in the Order Book.
- (7) Any party who wishes to oppose the application shall, within 7 days of the date that notice of the application was served on him, notify the applicant and the clerk of petty sessions, in writing, of his opposition giving reasons for it.

*Variation or revocation*

149AP.- (1) An application to-

- (a) revoke a reporting direction; or
- (b) vary or revoke an excepting direction,

may be made at any time after the commencement of proceedings.

(2) The application under paragraph (1) may be made by-

- (a) any party to the proceedings in which the direction was given; or
- (b) any person who, although not a party to those proceedings is, in the opinion of the court, directly affected by the direction.

(3) The application under paragraph (1) shall be made by giving notice in Form 150 which-

- (a) shall specify the grounds upon which the applicant seeks to have to direction varied or, as the case may be, revoked; and
- (b) shall be served, by the applicant, on the clerk of petty sessions and on every other party or, as the case may be, every party to the proceedings.

(4) Any party who wishes to oppose the application shall, within 7 days of the date that the application was served on him, notify the applicant and the clerk of petty sessions, in writing, of his opposition giving reasons for it.

*Hearings*

149AQ.- (1) Subject to paragraph (2), the court may-

- (a) determine any application made under Rule 149AN, 149AO or 149AP without a hearing; or
- (b) direct a hearing of any such application.

(2) Where a party to the proceedings notifies the clerk of petty sessions of his opposition to an application under Rule 149AN, 149AO or, as the case may be, 149AP, the court shall direct a hearing of that application.

(3) Where a hearing of an application is to take place in accordance with this Rule, the clerk of petty sessions shall notify each party to the proceedings of the time and place of the hearing.

(4) A party notified in accordance with paragraph (3) may be present at the hearing and be heard.

(5) Before determining an application, the court may hear and take into account representations made to it by any person who in the court's opinion has a legitimate interest in the application before it.

(6) The clerk of petty sessions shall, as soon as reasonably practicable after the determination of an application under Rule 149AN, 149AO or 149AP, notify all the parties to the proceedings of the decision of the court in Form 15P.

*Procedure for the admission of evidence of bad character*

149AR. - (1) A party who wants to adduce evidence of a non-defendant's bad character or to cross examine a witness with a view to eliciting such evidence, under Article 5 of the 2004 Order, shall give notice in Form 88A.

(2) Subject to paragraph (2A), notice under paragraph (1) shall be served on the clerk of petty sessions and on every other party to the proceedings -

(a) within 14 days from the date on which the prosecutor has complied or purported to comply with section 3 of the Criminal Procedure and Investigations Act 1996 (disclosure by the prosecutor); or

(b) as soon as is reasonably practicable, where the application concerns a non-defendant who is to be invited to give, or has given, evidence for a defendant.

(2A) In respect of a preliminary investigation or preliminary inquiry, notice under paragraph (1) shall be served on the clerk of petty sessions and on every other party to the proceedings not less than 14 days before the date fixed for the hearing.

(3) Subject to paragraph (3A), any party who wishes to oppose the application under paragraph (1) shall, within 14 days of the date on which the notice of the application was served on him, notify the clerk of petty sessions and every other party to the proceedings, in Form 88B, of his opposition.

(3A) In respect of a preliminary investigation or preliminary inquiry, any party who wishes to oppose the application under paragraph (1) shall, within 7 days of the date on which the notice of the application was served on him, notify the clerk of petty sessions and every other party to the proceedings, in Form 88B, of his opposition.

(4) Subject to paragraph (5A), a prosecutor who wants to adduce evidence of a defendant's bad character or to cross examine a witness with a view to eliciting such evidence, under Article 6 of the 2004 Order, shall give notice in Form 88C.

(5) Notice under paragraph (4) shall be served on the clerk of petty sessions and on every other party to the proceedings at the same time as the prosecutor complies or purports to comply with section 3 of the Criminal Procedure and Investigations Act 1996.



(5A) In respect of a preliminary investigation or preliminary inquiry, notice under paragraph (4) shall be served on the clerk of petty sessions and on every other party to the proceedings not less than 14 days before the date fixed for the hearing.

(6) A co-defendant who wants to adduce evidence of a defendant's bad character or to cross examine a witness with a view to eliciting such evidence, under Article 6 of the 2004 Order, shall give notice in Form 88C.

(7) Subject to paragraph (7A), notice under paragraph (6) shall be served on the clerk of petty sessions and on every other party to the proceedings within 14 days from the date on which the prosecutor has complied or purported to comply with section 3 of the Criminal Procedure and Investigations Act 1996.

(7A) In respect of a preliminary investigation or preliminary inquiry, notice under paragraph (6) shall be served on the clerk of petty sessions and on every other party to the proceedings not less than 14 days before the date fixed for the hearing.

(8) An application by a defendant to exclude bad character evidence shall be in Form 88D and shall be served on the clerk of petty sessions and on every other party to the proceedings within 7 days from the date on which the notice under paragraph (4) or paragraph (6) was served on him.

(9) A defendant who is entitled to have notice served on him under this Rule may waive his entitlement by so informing the court and the party who would have served the notice.

(10) The court may, if it considers that it is in the interests of justice to do so-

(a) allow a notice or application required under this Rule to be given in a different form, or orally; or

(b) abridge or extend the time for service of a notice or application required under this Rule, either before or after that period expires.

*Procedure for the admission of hearsay evidence*

149AS. - (1) This Rule shall apply where a party wishes to adduce oral evidence on one or more of the grounds set out in Article 18(1)(a) to (d) of the 2004 Order and in this Rule, such evidence is referred to as "hearsay evidence".

[word 'oral' added. SR (NI) 2008/361 on 1 Oct 2008]

(2) A prosecutor who wants to adduce hearsay evidence shall give notice in Form 88E.

(3) Subject to paragraph (3A), notice under paragraph (2) shall be served on the clerk of petty sessions and on every other party to the proceedings at the same time as the prosecutor complies or purports to comply with section 3 of the Criminal Procedure and Investigations Act 1996 (disclosure by prosecutor).

(3A) In respect of a preliminary investigation or preliminary inquiry, notice under paragraph (2) shall be served on the clerk of petty sessions and on every other party to the proceedings not less than 14 days before the date fixed for the hearing.

(4) A defendant who wants to adduce hearsay evidence shall give notice in Form 88E.

(5) Subject to paragraph (5A), notice under paragraph (4) shall be served on the clerk of petty sessions and on every other party to the proceedings within 14 days from the date on which the prosecutor has complied or purported to comply with section 3 of the Criminal Procedure and Investigations Act 1996.

(5A) In respect of a preliminary investigation or preliminary inquiry, notice under paragraph (4) shall be served on the clerk of petty sessions and on every other party to the proceedings not less than 14 days before the date fixed for the hearing. [added. SR (NI) 2008/361 on 1 Oct 2008]

(6) Subject to paragraph (6A), any party who wishes to oppose the application under paragraph (2) or (4) shall, within 14 days of the date on which notice of the application was served on him, notify the clerk of petty sessions and every other party to the proceedings, in Form 88F, of his opposition.

(6A) In respect of a preliminary investigation or preliminary inquiry, any party who wishes to oppose the application under paragraphs (2) or (4) shall, within 7 days of the date on which notice of the application was served on him, notify the clerk of petty sessions and every other party to the proceedings, in Form 88F, of his opposition.

(7) A party who is entitled to have notice served on him by this Rule may waive his entitlement by so informing the court and the party who would have served the notice.

- (8) The court may, if it considers that it is in the interests of justice to do so-
- (a) dispense with the requirement to give notice of intention to adduce hearsay evidence;
  - (b) allow a notice required under this Rule to be given in a different form, or orally; or
  - (c) abridge or extend the time for service of a notice required under this Rule, either before or after that period expires.

*Admissibility of records as evidence under Article 16(5) of the Road Traffic Offenders (NI) 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;
    - (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;
    - (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) SR (NI) 1985/123;
  - (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) SR (NI) 1990/224;
    - (iii) regulation 8(3) of the Public Service Vehicles Regulations (Northern Ireland) SR (NI) 1985/123; or
    - (iv) regulation 17 of the Motor Cars (Driving Instruction) Regulations (Northern Ireland) SR (NI) 1991/373,
  - (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;
  - (l) a notice revoking or suspending a licence under Article 61(1) (public service vehicle licences), or 73(1) (large goods vehicle and passenger-carrying vehicle driver's licence) of the Order of 1981;
  - (m) in connection with the licensing and registration of mechanically propelled vehicles under the Vehicle Excise and Registration Act 1994-
    - (i) a document being, or forming part of, or submitted in connection with, an application for a vehicle licence or a trade licence or in connection with a repayment of duty under section 19 of the 1994 Act or the recovery of underpayments or overpayments of duty under the 1994 Act;
    - (ii) a vehicle licence, trade licence, registration book or registration mark;
    - (iii) a document containing a declaration and particulars in relation to vehicles exempted from duty under the 1994 Act.
- (3) In this Rule-
- (a) “the 1994 Act” means the Vehicle Excise and Registration Act 1994;
  - (b) “the Order of 1981” means the Road Traffic (Northern Ireland) Order 1981;

- (c) “the Order of 1995” means the Road Traffic (Northern Ireland) Order 1995;
- (d) “the Offenders Order” means the Road Traffic Offenders (Northern Ireland) Order 1996;
- (e) “certificate of competence to drive” means a certificate issued in pursuance of Regulation 37 of the Motor Vehicle (Driving Licences) Regulations (Northern Ireland) SR (NI) 1996/542;
- (f) “driving licence” means a licence to drive a motor vehicle granted under Part II of the Order of 1981;
- (g) “counterpart” has the meaning assigned to it by Article 19D of the Order of 1981;
- (h) “registration book” means a registration book issued under the Road Vehicles (Registration and Licensing) Regulations (Northern Ireland) [SI 2002/2742];
- (i) “registration mark” has the meaning assigned to it by section 62 of the 1994 Act;
- (j) “trade licence” has the meaning assigned to it under section 11 of the 1994 Act;
- (k) “vehicle licence” means a licence for a mechanically propelled vehicle under the 1994 Act;
- (1) “the Department” means [Department for Infrastructure?].

*Evidence by live link where witness is outside the United Kingdom*

149C. —(1) An application for leave under Article 80A(3) of the Police and Criminal Evidence (Northern Ireland) Order 1989 for a witness (other than the accused) who is outside the United Kingdom to give evidence through a live link shall be made by giving notice in Form 88G.

(2) The notice under paragraph (1) shall be served on the clerk of petty sessions and every other party to the proceedings not less than 14 days before the day fixed for commencement of the preliminary investigation or preliminary inquiry.

(3) Any party who wishes to oppose the application shall, within 7 days of the date that notice was served on him, notify the applicant and the clerk of petty sessions, in writing, of his opposition giving reasons for it.

(4) Except where notice is received in accordance with paragraph (3), the court may—

- (a) determine the application in favour of the applicant without a hearing; or
- (b) direct a hearing.

(5) Where a party to the proceedings notifies the clerk of petty sessions in accordance with paragraph (3) of his opposition to the application, the clerk of petty sessions shall fix a date for the hearing of the application.

(6) Where a hearing is to take place in accordance with paragraphs (4) or (5), the clerk of petty sessions shall notify each party to the proceedings of the time and place of the hearing.

(7) A party notified in accordance with paragraph (6) may be present at the hearing and be heard.

(8) The clerk of petty sessions shall, as soon as reasonably practicable after determination of an application under paragraph (1), notify all the parties of the decision of the court in Form 88H and, where leave is granted, the notification shall state—

- (a) the country in which the witness will give evidence;
- (b) if known, the place where the witness will give evidence;
- (c) where the witness is to give evidence on behalf of the prosecutor or where disclosure is required by section 5(7) of the Criminal Procedure and Investigations Act 1996 (alibi), the name of the witness;
- (d) the location of the court at which the preliminary investigation or preliminary inquiry will be held; and
- (e) any conditions specified by the Court in accordance with paragraph (9).

(9) In determining an application under paragraph (1), the court may specify that as a condition of the grant of leave the witness should give evidence in the presence of a specified person who is able and willing to answer under oath or affirmation any questions the court may put as to the circumstances in which the evidence is given, including questions about any persons who are present when the evidence is given and any matters which may affect the giving of the evidence.

(10) The court may, if it considers that it is in the interests of justice to do so, extend the time for service of a notice required under this Rule, either before or after that period expires.

*Application for an abridgement of time*

149D. —(1) The period specified in Rule 149C(2) may be abridged at any time by the court on an application made in writing, specifying why the applicant is or was unable to make the application within that period.

(2) The application shall be served, by the applicant, on the clerk of petty sessions and on every other party to the proceedings.

(3) An application for an abridgement of time under this Rule shall be determined by a resident magistrate without a hearing unless the resident magistrate otherwise directs.

(4) Where the resident magistrate abridges the period of 14 days under Rule 149C(2), he shall also specify the period within which any other party to the proceedings may give notice of opposition in writing under Rule 149C(3).

(5) The clerk of petty sessions shall notify all the parties of the resident magistrate's decision, and (as the case may be) the period specified by the resident magistrate for the giving of notice of opposition in writing under Rule 149C(3).

*Form of notice*

149E. The court may, if it considers that it is in the interests of justice to do so, allow a notice required under Rules 149C or 149D to be given in a different form, or orally.

*Evidence by live link by witness (other than the defendant)*

149F.—(1) An application for a direction under Article 10 of the Criminal Justice (Northern Ireland) Order 2004 for a witness (other than the defendant) to give evidence through a live link shall be made by giving notice in Form 88I.

(2) (a) Subject to sub-paragraph (b), an application under paragraph (1) shall be made not less than 14 days before the day fixed for the commencement of the proceedings to which the application relates.

(b) In the application of sub-paragraph (a) to preliminary investigations, "the proceedings" does not include the taking of a deposition relating to the arrest, or where directed by the court, the remand of the accused.

(3) The notice under paragraph (1) shall be served on the clerk of petty sessions and at the same time a copy thereof shall be served on every other party to the proceedings.

(4) Any party who wishes to oppose the application shall, within 7 days of the date that notice under paragraph (1) was served on him, notify the applicant and the clerk of petty sessions, in writing, of his opposition giving reasons for it.

(5) Except where notice is received in accordance with paragraph (4), the court may—

(a) determine the application in favour of the applicant without a hearing; or

(b) direct a hearing.

(6) Where a party to the proceedings notifies the clerk of petty sessions in accordance with paragraph (4) of his opposition to the application, the clerk of petty sessions shall fix a date for the hearing of the application.

(7) Where a hearing is to take place in accordance with paragraphs (5) or (6), the clerk of petty sessions shall notify each party to the proceedings of the time and place of the hearing.

(8) A party notified in accordance with paragraph (7) may be present at the hearing and be heard.

(9) The clerk of petty sessions shall, as soon as reasonably practicable after the determination of an application under paragraph (1), notify all the parties of the decision of the court in Form 88J, and, where a direction is given, the notification shall state—

(a) the place where the witness will give evidence;

(b) where the witness is to give evidence on behalf of the prosecutor or where disclosure is required by section 6A(2) of the Criminal Procedure and Investigations Act 1996, the name of witness;

(c) the location of the court at which the proceedings to which the application relates will be held; and

(d) any conditions specified by the court in accordance with paragraph (10).

(10) In determining an application under paragraph (1), the court may specify that as a condition of the direction, the witness should give evidence in the presence of a specified person who is able and willing to answer under oath or affirmation any questions the court may put as to the circumstances in which the evidence is given, including questions about any persons who are present when the evidence is given and any matters which may affect the giving of the evidence.

(11) The court may, if it considers that it is in the interests of justice to do so—

(a) allow a notice or application required under this rule to be given in a different form, or orally; or

- (b) abridge or extend the time for service of a notice or application required under this rule, either before or after that period expires.

*Application for rescission of a direction*

149G.—(1) An application to rescind a direction for a witness to give evidence through a live link under Article 11(5)(a) of Criminal Justice (Northern Ireland) Order 2004 shall be made in writing and shall specify each material change of circumstances which the applicant alleges has occurred since the direction was made.

(2) An application under paragraph (1) shall be served on the clerk of petty sessions and on every other party to the proceedings as soon as is reasonably practicable after the change in circumstances occurs.

(3) Any party on whom a copy of the notice under paragraph (2) is served may oppose the application on the ground that it discloses no material change of circumstances.

(4) Paragraphs (3)–(9) and (11) of rule 149F shall apply to an application to rescind a live link direction as they apply to an application for a live link direction.

*Application by the accused for live link direction*

149H.—(1) An application by the accused for a live link direction under Article 21A of the 1999 Order shall be made by giving notice in Form 88K.

(2) (a) Subject to sub-paragraph (b), an application under paragraph (1) shall be made not less than 14 days before the day fixed for the commencement of the proceedings to which the application relates.

(b) In the application of sub-paragraph (a) to preliminary investigations, “the proceedings” does not include the taking of a deposition relating to the arrest, or where directed by the court, the remand of the accused.

(3) The notice under paragraph (1) shall be served on the clerk of petty sessions and at the same time a copy thereof shall be served, by the applicant, on every other party to the proceedings.

(4) Any party on whom a copy of the notice of the application under paragraph (1) is served may oppose the application for a live link direction whether or not the question of whether the conditions set out in Article 21A(4) or (5) of the 1999 Order is in issue.

(5) Any party who wishes to oppose the application shall, within 7 days of the date the notice under paragraph (1) was served on him, notify the applicant and the clerk of petty sessions, in writing, of his opposition and give reasons for it.

(6) In order to comply with paragraph (5), a party shall state in the written notification whether he disputes that—

(a) the accused is eligible for a live link direction by virtue of Article 21A(4) or (5) of the 1999 Order; and

(b) it is in the interests of justice for the accused to give evidence through a live link.

(7) Except where notice is received in accordance with paragraph (5), the court may

(a) determine the application in favour of the applicant without a hearing; or

(b) direct a hearing.

(8) Where a party to the proceedings notifies the clerk of petty sessions in accordance with paragraph (5) of his opposition to the application, the clerk of petty sessions shall fix a date for the hearing of the application.

(9) Where a hearing of the application is to take place in accordance with paragraphs (7) or (8), the clerk of petty sessions shall notify each party to the proceedings of the time and place of the hearing.

(10) A party notified in accordance with paragraph (9) may be present at the hearing and be heard.

(11) The clerk of petty sessions shall, as soon as reasonably practicable after the determination of an application under paragraph (1), notify all the parties of the decision in Form 88L.

(12) The court may, if it considers that it is in the interests of justice to do so—

(a) allow a notice or application required under this rule to be given in a different form, or orally; or

(b) abridge or extend the time for service of a notice or application required under this rule, either before or after that period expires.

(13) Where a live link direction is made enabling the accused to give evidence by means of a live link, he shall be accompanied at the live link only by persons acceptable to a district judge (magistrates’ courts).

*Discharge of live link direction*

149I—(1) Subject to paragraph (3), an application to discharge a live link direction under Article 21A(7) of the 1999 Order shall be made in writing.

(2) An application under paragraph (1) shall be served on the clerk of petty sessions and on each party to the proceedings as soon as reasonably practicable.

(3) Paragraphs (4) to (12) of rule 149H shall apply to an application to discharge a live link direction as they apply to an application for a live link direction.

WITNESS SUMMONSES [149J-149N added SR (NI) 2011/418]

149J. In these Rules, unless the context otherwise requires—

“the applicant” means the applicant in relation to an application to which that rule applies; and

“the directed person” and “the stipulated evidence, document or thing” have the same meaning as in Article 118A(8) of the Order.

*Application for a witness summons*

149K.—(1) This rule applies to an application under Article 118A of the Order for the issue of a witness summons.

(2) [am. SR (NI) 2014/221] Subject to paragraphs (8) to (10), the application shall be made in writing, and shall—

(a) contain a brief description of the stipulated evidence, document or thing;

(b) set out the reasons why the applicant considers that the stipulated evidence, document or thing is likely to be material evidence;



- (c) set out the reason why a witness summons should be issued to secure the attendance of the directed person to give evidence or to produce the document or thing;
  - (d) be accompanied with a draft Form 85A; and
  - (e) if the witness summons is proposed to require the directed person to produce a document or thing—
    - (i) inform the directed person of his right under paragraph (5) to make representations in writing and at a hearing; and
    - (ii) state whether the applicant seeks a requirement to be imposed under Article 118B of the Order (power to require advance production) and, if such a requirement is sought, specify the place and time at which the applicant wishes the document or thing to be produced.
- (3) The application shall be supported by an affidavit—
- (a) setting out any complaint on which the proceedings concerned are based;
  - (b) specifying the stipulated evidence, document or thing in such a way as to enable the directed person to identify it;
  - (c) specifying grounds for believing that the directed person is likely to be able to give the stipulated evidence or, to produce the stipulated evidence, document or thing;
  - (d) specifying grounds for believing that the stipulated evidence is likely to be material evidence or, as the case may be, that the stipulated document or thing is likely to be material evidence.
- (4) The application and the supporting affidavit shall be served on the clerk of petty sessions and the directed person.
- (5) The directed person may, within 7 days of receiving a copy of the application under paragraph (4), inform, in writing, the clerk of petty sessions whether or not he wishes to make representations, concerning the issue of the witness summons proposed to be directed to him, at a hearing and may also serve written representations on the clerk of petty sessions.
- (6) The clerk of petty sessions shall—
- (a) if the directed person indicates that he wishes to have the application considered at a hearing, fix a time, date and place for the hearing;
  - (b) if the directed person does not indicate in accordance with paragraph (5) that he wishes to make representations at a hearing, refer the application to the court for determination with or without a hearing;
  - (c) notify the applicant and, where sub-paragraph (a) applies, the directed person of the time, date and place fixed for any hearing of the application.
- (7) A hearing under this rule may, if the court so directs, take place in private and the reasons for granting or refusing the application shall be recorded in the Order Book.
- (8) In the case of an application for a witness summons which it is proposed shall require the directed person to give evidence but not to produce any document or thing, that application may, with the consent of the court, be made orally to the court and, in such a case—

- (a) paragraphs (3) to (7) shall not have effect; and
- (b) the application shall, in addition to the matters set out in sub-paragraphs (a) to (d) of paragraph (2), specify—
  - (i) any complaint on which the proceedings concerned are based; and
  - (ii) the grounds for believing that the directed person is likely to be able to give the stipulated evidence.

(9) Subject to paragraph (10) and rule 149L, in the case of an application for a witness summons which it is proposed shall require the directed person to produce any document or thing and which is made within 7 days of the date fixed for hearing the proceedings, the clerk of petty sessions shall refer the notice of application to the court to determine or, give such directions as it considers appropriate, and paragraphs (2)(e)(i) and (4) to (6) shall not have effect.

(10) In the case of an application for a witness summons which it is proposed shall require the directed person to produce any document or thing and which is made during the course of proceedings, such application shall be made orally to the court to determine the application or to give such directions as it considers appropriate, and in such a case—

- (a) paragraphs (3) to (7) shall not have effect; and
- (b) the application shall, in addition to the matters set out in sub-paragraphs (a) to (d) of paragraph (2), specify the grounds for believing that the directed person is likely to be able to produce the document or thing.

*Application that summons be of no further effect*

149L.—(1) This rule applies to an application under Article 118B of the Order.

(2) The application shall be made in writing to the clerk of petty sessions as soon as reasonably practicable after the document or thing has been produced for inspection in pursuance of a requirement imposed by the witness summons under Article 118B of the Order.

(3) The application shall state that the applicant concludes that the requirement imposed by the witness summons under Article 118A(2) of the Order is no longer needed.

(4) If a direction is given under Article 118B of the Order following the application, the clerk of petty sessions shall notify the person to whom the witness summons is directed of the effect of the direction.

*Application to make the summons issued on application ineffective*

149M.—(1) This rule applies to an application under Article 118C of the Order.

(2) The application shall be made in writing, be served on the clerk of petty sessions, and shall—

- (a) state that the applicant was not served with notice of the application to issue the summons and that he was neither present nor represented at any hearing of that application; and
- (b) set out the reasons why the applicant considers that he cannot give any evidence likely to be material evidence or, as the case may be, produce any document or thing likely to be material evidence.

(3) On receiving the application the clerk of petty sessions shall—

- (a) serve notice of the application on the person on whose application the witness summons was issued; and
  - (b) refer the application—
    - (i) to the district judge (magistrates’ courts) who will hear and determine the complaint; or
    - (ii) to the district judge (magistrates’ courts) or lay magistrate who issued the witness summons or, the district judge (magistrates’ court) who will hear the complaint, if the hearing of the complaint has not yet begun.
- (4) The court shall not grant or, as the case may be, refuse the application unless the applicant and the person on whose application the witness summons was issued have been given an opportunity of making representations, whether at a hearing or (where they agree to do so) in writing without a hearing.
- (5) In a case where the witness summons to which the application relates imposed a requirement to produce any document or thing, then if—
- (a) the applicant can produce that document or thing; but
  - (b) he seeks to satisfy the court that the document or thing is not likely to be material evidence or that it is not in the interests of justice for it to be produced,
- the applicant must, unless the court directs otherwise, arrange for the document or thing to be available at the hearing of the application.
- (6) A hearing under this rule may, if the court so directs, take place in private and the reasons for granting or refusing the application shall be recorded in the Order Book.
- (7) The clerk of petty sessions shall notify the applicant and the person on whose application the witness summons was issued of the decision of the court in relation to the application.

*Application to make summons issued of the court’s own motion ineffective*

149N.—(1) Rule 149M shall apply to an application under Article 118D of the Order as it applies to an application under Article 118C of that Order, subject to the following modifications.

- (2) Paragraphs (2)(a) and (3)(a) shall be omitted.
- (3) In paragraphs (4) and (7), the words “and the person on whose application the witness summons was issued” shall be omitted.
- (4) In paragraph (4), for the words “(where they agreed to do so)”, there shall be substituted “(where he agrees to do so)”.

*Application by the accused for a direction allowing the examination of the accused through an intermediary [added SR (NI) 2013/89]*

149O.—(1) An application by the accused for direction allowing the accused to be examined through an intermediary under Article 21BA of the 1999 Order shall be made in Form 88K and shall include –

- (a) the information sought in Part C of Form 88K; and
- (b) any relevant report, including an intermediary’s assessment.

(2) (a) Subject to sub-paragraph (b), an application under paragraph (1) shall be made not less than 14 days before the date fixed for the commencement of the proceedings to which the application relates.

(b) In the application of sub-paragraph (a) to preliminary investigations, “the proceedings” does not include the taking of a deposition relating to the arrest, or where directed by the court, the remand of the accused.

(3) The notice under paragraph (1) shall be served on the clerk of petty sessions and at the same time a copy thereof shall be served by the applicant on every other party to the proceedings.

(4) Any party on whom a copy of the notice of the application under paragraph (1) is served may oppose the application for a direction allowing the use of an intermediary, whether or not the question of the conditions set out in Article 21BA (5) or (6) of the 1999 Order for the use of an intermediary is in issue.

(5) Any party who wishes to oppose the application shall, within 7 days of the date the notice under paragraph (1) was served on him, notify the applicant and the clerk of petty sessions in writing of his opposition and give reasons for it.

(6) In order to comply with paragraph (5), a party shall state in the written notification whether he disputes that –

(a) the accused is eligible for a direction allowing the use of an intermediary by virtue of Article 21BA (5) or (6) of the 1999 Order as appropriate; and

(b) allowing the accused to be examined through an intermediary is necessary in order to ensure that the accused receives a fair trial.

(7) Except where notice is received in accordance with paragraph (5), the court may –

(a) determine the application in favour of the applicant without a hearing; or

(b) direct a hearing.

(8) Where a party to the proceedings notifies the clerk of petty sessions in accordance with paragraph (5) of his opposition to the application, the clerk of petty sessions shall fix a date for the hearing of the application.

(9) Where a hearing of the application is to take place in accordance with paragraph (7) or (8), the clerk of petty sessions shall notify each party to the proceedings of the time and place of the hearing.

(10) A party notified in accordance with paragraph (9) may be present at the hearing and be heard.

(11) The clerk of petty sessions shall, as soon as reasonably practicable, after the determination of an application under paragraph (1), notify all the parties of the decision in Form 88M.

(12) The court may, if it considers that it is in the interests of justice to do so –

(a) allow a notice or application required under this rule to be given in a different form, or orally; or

(b) abridge or extend the time for service of a notice or application required under this rule, either before or after that period expires.

*Discharge or variation of a direction allowing the examination of accused by an intermediary [added SR (NI) 2013/89]*

149P.—(1) Subject to paragraph (3), an application to discharge or vary a direction allowing the examination of the accused by an intermediary shall be made in writing.

(2) Any application under paragraph (1) shall be served on the clerk of petty sessions and on each party to the proceedings as soon as reasonably practicable.

(3) Paragraphs (4) to (12) of Rule 149O shall apply to an application to discharge or vary a direction allowing the examination of the accused by an intermediary as they apply to an application for such a direction.

*Declaration by an intermediary acting for either a witness or an accused* [added SR (NI) 2013/89]

149Q.—(1) The declaration required to be taken by an intermediary under Article 17(5) or 21BA(9) of the 1999 Order shall be as set out in Form 88N.

(2) A copy of the declaration made by the intermediary shall be served on the clerk of petty sessions and on each party to the proceedings at the time an application for the use of an intermediary under rule 149AA or rule 149O is being made, or as soon as reasonably practicable thereafter

## PART IX

### **RECOGNIZANCES (rr.150-153B)**

#### *Taking of recognizances*

150. - (1) Every recognizance shall specify in full the name and address of each party bound and the amount in which each party is bound thereby.

(2) A recognizance may be taken by a resident magistrate, justice of the peace [now lay magistrate], clerk of petty sessions, or, where the person to be bound thereby is in prison or in a juvenile justice centre or is a surety for such person, the governor or deputy governor of the prison or the person in charge of the centre, as the case may be.

(2A) A recognizance under the Road Traffic Fixed Penalties (Enforcement of Fines) Regulations (Northern Ireland) 1997 or the Penalty Notices (Justice Act (Northern Ireland) 2011) (Enforcement of Fines) Regulations (Northern Ireland) SR (NI) 2012/188 may be taken by a member of the Police Service of NI.

(3) Where an appellant is in Great Britain a recognizance under Article 149 of the Order may be taken from him by a justice of the peace [lay magistrate] or clerk to the justices or, as the case may be, a sheriff, sheriff depute, sheriff clerk or sheriff clerk depute.

(4) Every recognizance shall be signed by each party acknowledging that he is bound thereby and by the person taking it.

(5) A person authorised to take a recognizance may require a person offering himself as surety to a recognizance to produce evidence as to his means and as to his identity and place of abode and to sign a certificate that he is possessed of sufficient means to pay the sum in which he is to be bound under the recognizance.

(6) Such certificate shall be attached to or endorsed on the recognizance.

(7) Where the party to be bound is a body corporate the recognizance shall be signed by a director or officer thereof.

(8) Where a person has deposited a sum of money or other valuable security with the clerk of petty sessions in lieu of sureties to a recognizance to prosecute an appeal to the county court or by way of case stated to the Court of Appeal, that recognizance may, where the person to be bound is outside Northern Ireland or is ill or is unable to attend at the time when he is required to enter it, be signed by his solicitor on behalf of and in the name of that person.

*Deposit of recognizance with clerk of petty sessions*

151. Without prejudice to Rule 21, where the condition of a recognizance is to appear before a magistrates' court or to be of good behaviour or to keep the peace or to be of good behaviour and keep the peace, the recognizance shall be deposited with the clerk of petty sessions.

*Recognizances taken under Article 129 or 130 of the Order*

152. - (1) Where a person is discharged from custody upon his entering into a recognizance under Article 129 or 130 of the Order the member of the [Police Service of NI] in charge of the police station shall give such person a copy of the recognizance before he leaves the police station.

(2) Where a person is released from custody under Article 130(1)(a) of the Order upon his entering into a recognizance to appear before a magistrates' court, such recognizance need not be conditioned for his personal appearance before such court if the complaint into which inquiries are being made charges a summary offence.

*Taking of recognizances of accused and sureties where court has certified consent to bail and accused has been remanded in custody*

153. Where an accused has been remanded or committed for trial in custody and the court has certified its consent to his being released on bail, his recognizance or that of any surety specified in the certificate may be taken by-

- (a) any person referred to in Rule 150(2); or
- (b) the member of the [Police Service of NI] in charge of the police station where the accused is in custody prior to commitment to prison,

and after taking such recognizance or recognizances that person or member shall discharge the accused from custody and send the recognizance or recognizances to the clerk of the petty sessions.

*Procedure on application for bail following grant of conditional police bail*

153A.- (1) An application under Article 132A of the Order or under Article 48(4) of the Police and Criminal Evidence (Northern Ireland) Order 1989 shall be made by giving notice in Form 91A which shall-

- (a) contain a statement of the grounds upon which it is made;
- (b) specify the offence in connection with which the applicant was released on bail;
- (c) specify, or be accompanied by a copy of the note of, the reasons given by the custody officer for imposing or varying the conditions of bail; and
- (d) specify the name and address of any surety provided by the applicant before his release on bail to secure his surrender to custody.

(2) The notice under paragraph (1) shall be served by the applicant—

- (a) on the clerk of petty sessions, and

(b) on the custody officer for the police station at which the applicant was granted bail or at which the conditions of his bail were varied.

(3) A notice under paragraph (1) may be served by the applicant or any person authorised by him to serve such notice in accordance with section 24(2) of the Interpretation Act (Northern Ireland) 1954.

(4) The clerk of petty sessions shall give notice of the date, time and place fixed for the hearing of the application to-

- (a) the applicant;
- (b) the prosecutor; and
- (c) any surety provided by the applicant before his release on bail to secure his surrender to custody.

(5) The time fixed for the hearing of the application shall be not later than 72 hours after receipt of the application, excluding weekends, Christmas Day, Good Friday and any bank holiday.

(6) The clerk of petty sessions shall, as soon as reasonably practicable, notify the applicant and any surety specified in the application of the decision of the court in Form 91B.

(7) The notice specified in paragraph (6) shall be served by ordinary first class post (in which case the notice shall be deemed to have been received in the ordinary course of post unless the applicant or, as the case may be, the surety proves that he did not receive it).

*Procedure on reconsideration of a decision to grant bail*

153B.- (1) An application under Article 133A of the Order shall be made by giving notice in Form 91C which shall-

- (a) contain a statement of the grounds upon which it is made;
- (b) specify the offence in connection with which the person to whom this application relates was released on bail;
- (c) specify the decision to be reconsidered (including any conditions of bail which have been imposed and why they have been imposed); and
- (d) specify the name and address of any surety provided by the person to whom the application relates before his release on bail.

(2) The notice under paragraph (1) shall be served by the applicant—

- (a) on the clerk of petty sessions,
- (b) on the person to whom the application relates, and
- (c) on any surety specified in the application.

(3) The clerk of petty sessions shall give notice of the date, time and place fixed for the hearing of the application to-

- (a) the applicant;
- (b) the person to whom the application relates; and
- (c) any surety specified in the application.

(4) The time fixed for the hearing of the application shall be not later than 72 hours after receipt of the application, excluding weekends, Christmas Day, Good Friday and any bank holiday.

(5) At the hearing of an application under Article 133A of the Order, the court shall consider any representations made by the person to whom the application relates (whether in writing or orally) before taking any decision under that Article with respect to him.

(6) Where the person to whom the application relates does not appear before the court, the court shall not determine the application unless it is satisfied that the notice under paragraph (4) was served on that person before the hearing.

(7) The clerk of petty sessions shall, as soon as reasonably practicable, notify the person to whom the application relates and any surety specified in the application of the decision of the court in Form 91D.

(8) Where the court proceeds in accordance with paragraph (6) to hear the application in the absence of the person to whom it relates and directs that bail be withheld-

(a) the order under Article 133A(4)(b) that the person surrender himself forthwith to the custody of the court shall be in Form 91E and shall be signed by the resident magistrate; and

(b) the clerk of petty sessions shall serve a copy of that order on the person to whom the application relates.

(9) Any document required by this Rule to be served on the person to whom the application relates shall be served in accordance with section 24(2) of the Interpretation Act (Northern Ireland) 1954

(10) Any document required by this Rule to be served on a surety shall be served by ordinary first class post (in which case the document shall be deemed to have been received by him in the ordinary course of post unless the surety proves that he did not receive it).

*[Compassionate bail]* [added SR (NI) 2012/189]

153C.—(1) An application for compassionate bail under section 91 of the Justice Act (Northern Ireland) Act 2011 shall be made by giving notice in Form 96A.

(2) The notice under paragraph (1) must be served by the applicant on the clerk of petty sessions and the Director of Public Prosecutions for Northern Ireland.

(3) An application under paragraph (1) must be listed by the clerk of petty sessions not later than 72 hours after receipt of the application by the clerk of petty sessions, excluding weekends, Christmas Day, Good Friday and any bank holiday.

(4) The clerk of petty sessions must inform the defendant, the Director of Public Prosecutions for Northern Ireland and the governor of the prison or other place in which the defendant is being detained of the time and place of the hearing.

(5) The clerk of petty sessions shall, as soon as reasonably practicable after the determination of the application under paragraph (1), notify the defendant, the Director of Public Prosecutions and the governor of the prison or other place in which the defendant is being detained of the decision of the court in Form 96B.

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PART X



**APPEALS [from Magistrates’ Court] [rr.154- 161A]**

**A. APPEAL TO THE COUNTY COURT**

*Notice of appeal, recognizances, etc.*

154.- (1) The notice of appeal to be given to the other party and the copy of the notice to be lodged with the clerk of petty sessions under Article 144(1) of the Order shall be prepared and signed by the appellant or by his solicitor or other duly authorized agent and shall contain his address or that of his solicitor or other duly authorized agent.

(2) Where an appeal is against conviction or sentence or both conviction and sentence the notice of appeal shall so state and, where the appeal is against more than one conviction or sentence, only one notice need be given to the other party and only one copy thereof need be lodged with the clerk of petty sessions and such notice shall specify the convictions or sentences which are the subject of the appeal.

(3) Every copy of the said notice lodged with the clerk of petty sessions shall be endorsed with the date upon which and the manner in which the notice was so given.

(4) As soon as practicable after the clerk of petty sessions has received the copy of the notice of appeal and the appellant has, where he is required to do so, entered into a recognizance under Article 148 or Article 149 of the Order the resident magistrate or justice of the peace [or lay magistrate] from whose conviction or order the appeal is to be brought or the clerk of petty sessions shall sign a separate form (in these Rules referred to as a “form of appeal”) setting out the terms of each conviction or order separately appealed against which shall include a certificate signed by the clerk of petty sessions to the effect that notice of appeal has been given and that such recognizance has, where necessary, been duly entered.

(5) Where a notice of appeal refers to more than one conviction or order, only one recognizance under Article 148 or under Article 149 of the Order suitably adapted need be entered into by the appellant.

*Documents to be sent to the chief clerk and to the parties to the appeal*

155.- (1) As soon as practicable after complying with Rule 154 the clerk of petty sessions shall send to the chief clerk-

- (a) the copy of the notice of appeal;
- (b) the recognizance, if any, entered into by the appellant under Article 148 or Article 149 of the Order;
- (c) the form of appeal duly completed;
- (d) all other proceedings in the case (including any written statements admitted in evidence under section 1 of the Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968) 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;
- (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.

(2) The clerk of petty sessions shall at the same time send to the appellant and to the respondent a copy of the form of appeal.

*Procedure after appeal to county court is determined*

156.- (1) After the county court has decided an appeal from a magistrates' court, the chief clerk, within seven days of such decision,

(a) shall certify such decision; and

(b) in any case in which the county court has determined that a right or rights of the appellant under Article 5 of the Convention were infringed by the making of the order to which the appeal relates shall so specify, at the foot of the form of appeal and shall transmit the form of appeal to the clerk of petty sessions who shall enter the details referred to in sub-paragraphs (a) and (b) as appropriate in his Order Book.

(2) In this Rule, “the Convention” has the same meaning as in section 21 of the Human Rights Act 1998.

*Return of Recognizance where notice of abandonment of appeal to the county court has been given*

157. After he receives a notice of abandonment of an appeal to the county court the chief clerk shall return any recognizance of the appellant entered into under Article 148 or 149 of the Order to the clerk of petty sessions.

#### B. APPEAL BY WAY OF CASE STATED

*Contents of and signature upon written application for case stated*

158. A written application under Article 146 of the Order for a case to be stated for the opinion of the Court of Appeal shall-

(a) specify the point of law involved in the determination by the magistrates' court of the proceedings or any issue as to its jurisdiction; and

(b) be prepared and signed by the appellant or his solicitor or counsel and contain his address or that of his solicitor.

*Notification of decision to grant application for case stated*

159. As soon as the court grants an application for a case stated, it shall notify the parties to the proceeding of its decision to grant the application.

*Notification of decision in an application for case stated in relation to proceedings under section 59 of the Crime (International Co-operation) Act 2003 [added SR (NI) 2010/12]*

159A. Where an application has been made to a district judge (magistrates’ courts) to state a case in relation to proceedings under section 59 of the Crime (International Co-operation) Act 2003, and the Court of Appeal has suspended the recognition of the disqualification under section 62(3) of that Act, the applicant shall notify the proper officer, as soon as practicable, if —

(a) the applicant abandons the application to state a case; or

(b) the district judge (magistrates’ courts) refuses to state a case and the applicant does not intend to apply to the Court of Appeal to compel him or her to do so.

*Preparation and contents of case stated*

160.- (1) A case stated by a magistrates' court under Article 146 of the Order shall be prepared and signed by the resident magistrate or where the decision on which the case is stated was made in a proceeding brought for the prosecution of an

offence specified in Part II of Schedule 1 to the Order and was heard by a justice of the peace [or lay magistrate] other than a resident magistrate, by such justice.

(2) A resident magistrate or justice of the peace [lay magistrate] in preparing a case stated shall refer copies of the draft thereof to the parties to the proceeding in which the decision was made upon which the case is to be stated.

(3) Without prejudice to paragraph (1), after copies of the draft case stated have been referred to the parties under paragraph (2) any party may make written representations to the resident magistrate or justice of the peace [lay magistrate] on such draft within such time as the resident magistrate or justice of the peace [lay magistrate] may fix and a copy of the document in which such representations are made, dated and signed by the party making the same or his solicitor, shall be served by such party on any other party to the proceeding or his solicitor.

(4) A case stated by a magistrates' court shall state the facts found by the court and, unless one of the questions on which the opinion of the Court of Appeal is sought is whether there was evidence on which the magistrates' court could come to its decision, shall not contain a statement of the evidence.

Magistrates' Courts Rules (NI) SR (NI) 1984/225

C. OTHER MATTERS IN RELATION TO APPEALS TO THE COUNTY COURT AND BY WAY OF CASE STATED

*Appellant to be told of his right to apply to the High Court for release from custody or reduction of bail pending hearing of appeal*

161. Where a magistrates' court or any justice of the peace [or lay magistrate] refuses to allow a person to be released from custody or has fixed the amount of a recognizance under Article 148(1) of the Order pending his appeal to the county court or by way of case stated to the Court of Appeal, the magistrates' court or justice shall inform him of his right to apply to the High Court or to a Judge thereof in accordance with paragraphs (2) and (3) of Article 148 of the Order for his release from custody or for reduction of the amount of the recognizance he or any surety has been required to enter or of the amount of any security to be given in lieu of sureties to the recognizance.

D. PROSECUTION APPEAL TO THE HIGH COURT AGAINST GRANT OF BAIL BY A MAGISTRATES' COURT.

*Procedure where prosecution appeals against grant of bail by magistrates' court [added SR (NI) 2004/433]*

161A. - (1) Where the prosecution wishes to exercise the right of appeal, under section 10 of the Justice (Northern Ireland) Act 2004 (hereafter in this Rule referred to as "the 2004 Act"), to the High Court against a decision to grant bail, the oral notice of appeal shall be given, by the prosecution, to the clerk of the court and to the person concerned, at the conclusion of the proceedings in which such bail was granted and before the release of the person concerned.

(2) On receipt of the oral notice of appeal, the clerk of the court shall announce in open court the time at which the notice was given.

(3) A record of the prosecution's decision to appeal and the time the oral notice of appeal was given shall be made in the Order Book.

(4) Where oral notice of appeal has been given the court shall remand in custody the person concerned until the appeal is determined or otherwise disposed of by a warrant of commitment in Form 10C.

(5) The written notice of appeal required by section 10(5) of the 2004 Act shall be in Form 91F and shall be served, by the prosecution, on the clerk of petty sessions and the person concerned within the two hour period referred to in section 10(5) of the 2004 Act.

(6) The written notice of appeal served on the clerk of petty sessions shall be endorsed with the manner in which and the time at which it was served on the person concerned.

(7) A record of the time at which the written notice of appeal was received by the clerk of petty sessions shall be made in the Order Book.

(8) As soon as practicable after written notice of appeal is served on him, the clerk of petty sessions shall serve a copy of that notice, endorsed with the time at which it was served, on the person having custody of the person concerned.

(9) If, having given oral notice of appeal, the prosecution fails to serve a written notice of appeal within the two hour period referred to in section 10(5) of the 2004 Act the clerk of petty sessions shall, as soon as practicable, by way of written notice in Form 91G to the person in whose custody the person concerned is, direct the release of the person concerned on bail as granted by the court and subject to any conditions which it imposed.

(10) Notice of abandonment of appeal shall be in Form 91H and shall be served, by the prosecution, on the clerk of petty sessions and on the person concerned.

(11) As soon as practicable after notice of abandonment of appeal is served on him, the clerk of petty sessions shall, by way of written notice in Form 91I to the Governor of the prison where the person concerned is being held, or the person responsible for any other establishment where such a person is being held, direct his release on bail as granted by the magistrates' court and subject to any conditions which it imposed.

(12) A record of the prosecution's failure to serve a written notice of appeal, or its service of a notice of abandonment, shall be made in the Order Book.

(13) As soon as practicable after written notice of appeal has been served on the clerk of petty sessions, he shall send to the appropriate officer of the High Court -

(a) a copy of that written notice; and

(b) a note of the date, or dates, when the person concerned is next due to appear in the court, whether he is released on bail or remanded in custody by the High Court.

(14) Expressions used in this Rule and in section 10 the 2004 Act have the same meaning as in section 10 of the 2004 Act.

Magistrates' Courts Rules (NI) SR (NI) 1984/225

PART XI

**MISCELLANEOUS [r.162-]**

*Adjournments in proceedings upon summons, etc., where date of resumption thereof to be fixed*

162.- (1) Where proceedings commenced by summons upon complaint are adjourned and the defendant is not remanded in custody or upon bail and the time and place at which the proceedings are to be resumed are, in accordance with Article 161(3) of the Order left to be determined later by the court, the original summons shall be returned by the clerk of petty sessions to the complainant.

(2) Where the court has determined such time and place, the clerk of petty sessions shall serve notice thereof upon the complainant and the defendant and the complainant shall reodge the original summons with the said clerk a reasonable time before the time specified in the notice.

(3) Without prejudice to the provisions of section 24 of the Interpretation Act (Northern Ireland) 1954 as to the manner in which any document may be served, such notice may be served in any manner directed by a resident magistrate (including service thereof upon a solicitor representing that he is authorised to accept service on behalf of the defendant) and the court before which the proceedings are resumed may declare the service of the notice, however effected, sufficient.

(4) This Rule shall, subject to any direction of the court, apply also to proceedings before a magistrates' court commenced by notice of application or notice of appeal as though for reference to the original summons or the defendant there were substituted a reference to such notice of appeal or application or the respondent, as the case may be.

*Remands in hospital*

163. Where a person has been arrested and charged with an offence and by reason of illness has been taken to hospital before being remanded by a magistrates' court, a court sitting out of petty sessions in the precincts of the hospital may, instead of remanding him by committing him to prison, if it appears expedient to do so, remand him under Article 47 of the Order in the custody of the governor of the appropriate prison and under the control of a prison officer for the purposes of section 18 of the Prison Act (Northern Ireland) 1953.

*Service of copy of order to which Article 98 of the Order applies*

164. Where the court makes, revokes, discharges, revives or varies an order to which Article 98 of the Order applies, the court shall cause a copy of its order to be served on the player and on the payee under the Order delivering it to him or by sending it by ordinary post in an envelope addressed to him at his last known or usual place of abode.

**[Investigation anonymity order rr.165-170]**

*Interpretation of Rules 166 to 170 [165-170 added SR (NI) 2011/59]*

165. In rules 166 to 170—

- (a) "the Act" means the Coroners and Justice Act 2009;
- (c) a section referred to by number means the section so numbered in the Act; and
- (d) expressions which are defined in the Act have the same meaning in these Rules as they have in the Act.

*Application for an investigation anonymity order*

166.—(1) An application for an investigation anonymity order shall—

- (a) be made in writing setting out how the conditions specified in section 78(3) to (8) of the Act are satisfied;
  - (b) identify the person to be specified in the order, unless the court otherwise directs; and
  - (c) attach any material on which the applicant intends to rely.
- (2) The applicant shall indicate if he or she intends to appeal a refusal to make an investigation anonymity order—
- (a) in the application for the order; or
  - (b) if there is a hearing of the application, at the hearing.
- (3) The applicant shall serve a copy of the application under paragraph (1) on the clerk of petty sessions.
- (4) Where a hearing is directed, the clerk of petty sessions shall fix a date for the hearing of the application and notify the applicant of the time and place of hearing.
- (5) At a hearing of an application under paragraph (1), the applicant shall, if he or she has not already done so, inform the court of the identity of the person to be specified in the order, unless the court otherwise directs.
- (6) The clerk of petty sessions shall, as soon as practicable, after the determination of an application under paragraph (1), notify the applicant of the decision in Form 126.

*Appeal against refusal to make an investigation anonymity order*

167.—(1) A notice of appeal against a refusal of an application made under section 77, shall—

- (a) be made in writing, setting out the grounds of appeal; and
  - (b) be lodged with the clerk of petty sessions within 14 days of the date on which the decision which is the subject of the appeal was made.
- (2) The appellant shall inform the court of the identity of the person to be specified in the order, if he or she has not already done so—
- (a) in the notice of appeal; or
  - (b) at the hearing of the appeal,
- unless the court otherwise directs.

*Application to discharge an investigation anonymity order*

168.—(1) An application to discharge an investigation anonymity order under section 80 shall—

- (a) be made in writing;
- (b) set out the material change of circumstances since the order was made, or since any previous application was made to discharge it, explaining why it is appropriate for the order to be discharged;
- (c) inform the court if the applicant intends to appeal against a decision of the court regarding the discharge of the order; and
- (d) attach a copy of the original order along with any material on which the applicant intends to rely.

(2) A copy of an application under paragraph (1) shall be served, by the applicant, as soon as reasonably practicable on the clerk of petty sessions, and where not the applicant, on—

- (a) the person on whose application the relevant investigation anonymity order was made; or
- (b) the specified person.

(3) The clerk of petty sessions shall fix a date for the hearing of the application and shall notify the applicant and any other person to whom notice of the application has been given, of the time and place of hearing.

(4) The clerk of petty sessions shall, as soon as practicable, after the determination of an application under paragraph (1), notify the parties of the decision in Form 126.

*Appeal against decision to discharge an investigation anonymity order*

169.—(1) A notice of appeal against the decision of the court in respect of an application under section 80 shall—

- (a) be made in writing, setting out the grounds of appeal; and
- (b) be lodged with the clerk of petty sessions within 14 days of the date on which the decision which is the subject of the appeal was made.

(2) The appellant shall serve a copy of the notice under paragraph (1) on any party notified of the application to discharge under rule 168(2).

*Hearings*

170. A hearing under section 77 or an appeal under sections 79 and 80(6) shall be in private, unless the court otherwise directs.

*Application for the closure of licensed premises and premises of registered clubs [added SR (NI) 2012/415]*

171.—(1) An application under Article 41A of the Registration of Clubs (Northern Ireland) Order 1996 or Article 69A of the Licensing (Northern Ireland) Order 1996 shall be made in writing and shall specify—

- (a) the name and address of the premises in respect of which the order is sought;
- (b) the grounds for seeking the order, in particular details of the disorder or expected disorder;
- (c) the period for which the order is sought,

and shall attach any relevant evidence.

(2) The application under paragraph (1) shall be served by the applicant on the clerk of petty sessions.

(3) Where a hearing is directed, the clerk of petty sessions shall fix a date for the hearing of the application and notify the applicant of the time and place of the hearing.

(4) The clerk of petty sessions shall, as soon as practicable, after the determination of a hearing under paragraph (3), notify the applicant of the decision.

*Consideration and extension of a closure order [added SR (NI) 2012/415]*

172.—(1) An application for the consideration and extension of a closure order under Article 41E of the Registration of Clubs (Northern Ireland) Order 1996, or Article 69E

of the Licensing (Northern Ireland) Order 1996, shall be made in Form 127 and shall attach a copy of the closure order which is currently in force in respect of the premises.

(2) The application under paragraph (1) shall be served by the applicant on the clerk of petty sessions and on every other party to the proceedings.

(3) Any party on whom an application is served in accordance with paragraph (2) may oppose the application.

(4) Any party who wishes to oppose the application shall, as soon as reasonably practicable after the application is served on him, and in any event at least 24 hours before the date fixed for the hearing of the application, notify the applicant and the clerk of petty sessions in writing of his opposition and give reasons.

(5) The clerk of petty sessions shall, as soon as reasonably practicable after the determination of an application under paragraph (1), notify all the parties to the proceedings of the decision of the court.

*Appeal against a decision in respect of a closure order*

173.—(1) A notice of appeal against a decision of the court in respect of an application under Article 41E of the Registration of Clubs (Northern Ireland) Order 1996 or Article 69E of the Licensing (Northern Ireland) Order 1996 shall be—

- (a) made in writing, setting out the grounds of appeal; and
- (b) served by the appellant on all parties to the proceedings.

Magistrates' Courts Rules (NI) SR (NI) 1984/225 r.174

*Application for access to premises under section 94(1) of the Justice Act (Northern Ireland) 2015 [added SR NI) 2016/93]*

174.—(1) In this rule—

“applicant” means a person making an application under section 94(1) of the Justice Act (Northern Ireland) 2015 and “application” shall be construed accordingly;

“interested person” means any person other than the occupier appearing to the court to have an interest in an application made under section 94(1) of the Justice Act (Northern Ireland) 2015; and

“PPS” means the Public Prosecution Service for Northern Ireland.

(2) An application under section 94(1) of the Justice Act (Northern Ireland) 2015 shall be made by serving notice in Form 128 on the clerk of petty sessions and at the same time, the applicant shall serve a copy thereof on—

- (a) the occupier of the premises; and
- (b) the PPS.

(3) Where it appears to the court that there is an interested person, unless the court directs otherwise, that person shall be served forthwith by the applicant with notice of the application.

(4) Where—

- (a) an occupier or an interested person wishes to make representations to the court as to the conditions to be imposed under section 94(7); or
- (b) the PPS wishes to oppose an application,



notice in writing, giving reasons, shall be given to the clerk of the petty sessions and the applicant within 7 days of service of the notice under paragraph (2).

(5) Except where notice is received in accordance with paragraph (4), the court may—

- (a) determine the application in favour of the applicant without a hearing; or
- (b) direct a hearing.

(6) Where notice is received in accordance with paragraph (4), the clerk of petty sessions shall fix a date for hearing of the application.

(7) Where a hearing of the application is to take place in accordance with paragraphs (5) or (6), the clerk of petty sessions shall notify the applicant and every person served under paragraphs (2) and (3) of the time and place of the hearing.

(8) The clerk of petty sessions shall, as soon as reasonably practicable after the determination of an application, serve a copy of the order on the applicant and every person served under paragraphs (2) and (3).

(9) The court may, if it considers that it is in the interests of justice to do so—

- (a) allow a notice required by this rule to be given orally;
- (b) abridge or extend the time for service of a notice required by this rule, either before or after that time expires; or
- (c) dispense with the requirement for service of a notice required by this rule.

- *Devolution issues*

Magistrates' Courts (Devolution Issues) Rules SR (NI) 1999/489

- *Human rights issues*

Magistrates' Courts (Human Rights Act 1998) Rules SR (NI) 2000/278

Magistrates' Courts Rules (NI) SR (NI) 1984/225 Sch.1

SCHEDULE 1

**FORMS**

CRIMINAL PROCEEDINGS

A. Forms used in connection with both summary trial and preliminary investigation/inquiry

**FORM ` 1**

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981

(Article 20; Rules 7 and 17)

Complaint

.. ..... of

.....

.....

Complainant

.. ..... of

.....

.....

Defendant

I, ..... of ..... say [on oath\*] that  
.....

.....

[And the undersigned binds himself to attend when and where called on to prosecute or to give evidence against the defendant for the said offence or otherwise to forfeit to the Crown the sum of £...]

\*delete as appropriate

Complainant

[for Complainant].

Taken before me this ..... day of ..... 20...

Justice of the peace [now lay magistrate]

**FORM ` 1A**

Road Traffic Offenders (NI) Order 1996)

Road Traffic Fixed Penalties (Enforcement of Fines') Regulations (NI) 1997; Reg.4  
(rr. 7 and 17)

Complaint

.. ..... of

.....

Complainant

.. ..... of

.....

Defendant

I, ..... of ..... say [on oath\*] that  
.....

.....

[And prays that a [warrant in Form 8A may issue for the arrest of the defendant] [a summons in Form 2A may issue for the attendance of the defendant on the hearing of the complaint] [And the undersigned binds himself to attend when and where called on to prosecute or to give evidence against the defendant for the said offence or otherwise to forfeit to the Crown the sum of £...]

\*delete as appropriate

Complainant

[for Complainant].

Taken before me this ..... day of ..... 20...

Justice of the peace [now lay magistrate]

**Form 1B**

JUSTICE ACT (NORTHERN IRELAND) 2011

THE PENALTY NOTICES (JUSTICE ACT (NORTHERN IRELAND) 2011) (ENFORCEMENT OF FINES) REGULATIONS (NORTHERN IRELAND) 2012;

Regulation 4

(Rules 7 and 17)

Complaint

....., of .....

Complainant

....., of .....

Defendant

I ....., of .....

say on oath that

[And the complainant prays that a [warrant in Form 8D may issue for the arrest of the defendant][summons in Form 2C may issue for the attendance of the defendant on the hearing of the complaint]

[And the undersigned binds himself to attend when and where called on to prosecute or to give evidence against the defendant for the said offence or otherwise to forfeit to the Crown the sum of £].

Complainant

[for Complainant]

Taken and sworn before me This ..... day of ..... 20... 20 .

District Judge (Magistrates’ Courts)

[Lay Magistrate].

**FORM 2**

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981

(Article 20(1), (2) and (3); Rules 8)

**Summons to Defendant to answer Complaint**

[Title as in Form 1]

WHEREAS a complaint has been made [before me] [to a lay magistrate] on (date) that on the (date) at (place), you, the said defendant .....

THIS IS TO COMMAND YOU to appear as a defendant on the hearing of the said complaint at (place) ..... on (date) ..... at (time) ..... before a magistrates’ court.

This ..... day of ..... 20 .....

Lay Magistrate

[Clerk of Petty Sessions]

[Public Prosecutor]

**FORM 2A**

Road Traffic Offenders (NI) Order 1996

Road Traffic Fixed Penalties (Enforcement of Fines) Regulations (NI) 1997; Reg.4  
(r. 8)

Summons to Defendant for failure to pay a sum adjudged to be paid by a conviction  
of a magistrates' court

Complaint

... .., of .....

Complainant

....., of .....

Defendant

WHEREAS a complaint has been made before me that on the (date) .....  
..... at (place) .....  
..... the sum of £.... was registered against you in  
respect of a Fixed Penalty Notice No. ... as the sum adjudged to be paid by a  
conviction under Article 76 of the Road Traffic Offenders (NI) Order 1996 and  
whereas a notice of registration of a fine was served on you under Article 76(2) of  
that Order and whereas you have defaulted on payment of that fine.

THIS IS TO COMMAND YOU to appear as a defendant on the hearing of the said  
complaint at (place) ..... on (date) .....  
....., at (time) .....

before a magistrates' court.

This ..... day of ..... 20.....

Justice of the peace [now lay magistrate]

[Clerk Of Petty Sessions]

**FORM 2B**

ROAD TRAFFIC OFFENDERS (NORTHERN IRELAND) ORDER 1996 (Articles 11, 28(5),  
29, 49)

ROAD TRAFFIC (NEW DRIVERS) (NORTHERN IRELAND) ORDER 1998 (Schedule 1,  
paragraph 3(2), (3) and (5))

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981 (Rule 8(7))

Endorsement on Summons of requirement to produce licence and its counterpart  
and/or test certificate

TAKE NOTICE that an offence in respect of which you are charged involves obligatory  
or discretionary disqualification.

By Article 11 of the Road Traffic Offenders (Northern Ireland) Order 1996 you are therefore required either to-

- (a) deliver your licence and its counterpart to the court; or
- (b) bring the licence and its counterpart to court with you at the hearing.

**If you are convicted of the offence and the court proposes to make an order disqualifying you or endorsing your licence and you fail to produce your licence and its counterpart to the court, you will be guilty of an offence AND your licence will be suspended automatically until it, and its counterpart, are produced to the court.**

If the offence with which you are charged involves obligatory endorsement and is alleged to have been committed during your probationary period and you hold a test certificate, you are also required by paragraph 3(2) of Schedule 1 to the Road Traffic (New Drivers) Order (Northern Ireland) 1998 either to-

- (a) deliver your test certificate to the court; or
- (b) bring the test certificate to court with you at the hearing.

**If you are convicted of the offence and fail to produce your test certificate to the court, you will be guilty of an offence.**

**Note:**

1. If you have applied for a new licence but have not yet received it, you must be able to satisfy the court of the truth of this.
2. If you have surrendered your licence and its counterpart on receiving a fixed penalty notice, the receipt issued must be delivered or produced to the court.
3. “Probationary period” means a period of 2 years beginning on the date of the first occasion on which you pass a test of competence to drive (taken on or after 14th December 1998).

**Form 2C**

JUSTICE ACT (NORTHERN IRELAND) 2011

THE PENALTY NOTICES (JUSTICE ACT (NORTHERN IRELAND) 2011) (ENFORCEMENT OF FINES) REGULATIONS (NORTHERN IRELAND) 2012;

Regulation 4

(Rule 8)

Summons to Defendant for failure to pay a sum adjudged to be paid by a conviction of a magistrates’ court

....., of .....

Complainant

....., of .....

Defendant

WHEREAS a complaint has been made before me that on the (date) at (place) the sum of £ was registered against you in respect of Penalty Notice/as a sum adjudged to be paid by a conviction under section 67 of the Justice Act (Northern Ireland)

2011 and whereas a Notice of Registration as a fine was served on you under section 67(2) of that Act and whereas you have defaulted on payment of that fine.

THIS IS TO COMMAND YOU to appear as a defendant on the hearing of the said complaint at (place) on (date) at (time) before a magistrates' court.

WARNING

The court may order you to be committed to prison in default of payment of the fine.

This ..... day of ..... 20... 20 .

District Judge (Magistrates' Courts)

[Lay Magistrate]

To the said Defendant.

**FORM 3** [subst. SR (NI) 2011/59]

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981

(Article 24(1A)(a); Rule 10)

Notice to Defendant: Plea of Guilty by post

[ Title as in Form 1]

The purpose of this notice is to inform you that if, on the hearing of the complaint(s) referred to in the summons(es) served herewith, you wish to enter a plea of guilty, you or your solicitor may, at least three days before the date fixed for the hearing, notify the clerk of petty sessions in writing to that effect in Form 6 or Form 6A as appropriate; copy attached. It will not then be necessary for you to appear before the court as required by the said summons(es). You may also include in the said Form 6 or Form 6A as appropriate in the space provided such statement in mitigation as you desire.

The evidence to be given at the hearing is that contained in Form 4/the witness statement(s)\*, a copy of which is attached for your information, and the facts therein contained and those facts only will, in your absence, be read to the court. Where copies of witness statements have been served, those statements will be read to the court, either in full or in part, as the court may direct. Your statement in mitigation will also be read to the court which may then deal with the case in your absence.

If your plea of guilty is accepted the court will not, unless it adjourns the case after convicting you and before sentencing you, permit any other statement to be made by or on behalf of the complainant with respect to any fact relating to the charge.

The court may decide not to proceed in your absence and, if so, it will adjourn the hearing. You will be notified of the time and place of the adjourned hearing and, in such a case, the trial will proceed at the adjourned hearing as if you had not entered a written plea of guilty.

You may at any time before the date of the hearing or adjourned hearing of any case withdraw your plea of guilty by writing to the clerk of petty sessions to that effect. Failure to do so immediately may result in delay and expense if the case has to be adjourned to allow the prosecution to bring its witness(es) to court.

Neither this notice nor any reply you may send in answer to it limits your right to appear before the court at the time fixed for the hearing, either in person or by counsel or a solicitor, and to plead guilty or not guilty as you may desire. If you



Complainant

[On behalf of the Complainant]

\*delete as appropriate

**FORM 6** [subst. SR (NI) 2011/59]

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981

(Article 24(2); Rule 10)

**Acknowledgement of service; Notification of plea of guilty and statement of mitigating circumstances; indication of intended plea**

Complaint

... .., of .....

Complainant

....., of .....

Defendant

Note: This Form is in three sections. Please read the notes to each section carefully before completing section A and either section B or C.

If you intend to consult a solicitor you should do so before completing this Form.

**SECTION A: ACKNOWLEDGEMENT OF SERVICE**

This section should be completed by all defendants.

By completing this section you are only acknowledging service of the summons(es).

Notice to defendant, Statement of Facts/witness statement(s) and Notice of previous convictions (if any) on you.

In connection with the summons(es), for hearing on (date) ..... , Notice to defendant [and] [statement of facts] [witness statement(s)] and Notice of previous convictions]\* now served upon you, will you please acknowledge receipt by signing and returning this form as soon as possible to the clerk of petty sessions at .....

I hereby acknowledge receipt of ..... summons(es), Notice to defendant [and] [statement of facts] [witness statement(s)] and Notice of previous convictions]\*.

Signed: \_\_\_\_\_ Date \_\_\_\_\_

MALE/FEMALE\*

Date of Birth \_\_\_\_\_

Present Address:

(if different from the address given above)

\*delete as appropriate

**SECTION B: PLEA OF GUILTY BY POST (NON-ATTENDANCE AT COURT)**

Note: if you wish a plea of guilty to be accepted without your attendance at court, please complete this section

Plea of Guilty



I have read [statement of facts/ witness statement(s) \* relating to the charge(s) against me.

I plead guilty to the charge(s) and I desire the court to deal with the case in my absence.

I would like the following circumstances to be taken into account.

.... ....

Mitigating Circumstances

(a) about the offence- ....

(b) about my personal and financial circumstances- .....

**SECTION C: INDICATION OF A PLEA (GUILTY OR NOT GUILTY) – ATTENDANCE AT COURT**

If you propose to attend court considerable time and expense may be saved if you will complete the following:

Do you intend to plead guilty? .....

Note: If having completed either section B or C and returned the form, you change your mind about the plea you have entered, you should immediately inform the clerk of petty sessions in writing..

**FORM 6A**

ROAD TRAFFIC OFFENDERS (NORTHERN IRELAND) ORDER 1996

(Articles 12, 27)

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981

(Article 24(2); Rule 10 and 12A)

Acknowledgement of service; Notification of Plea of Guilty for Offences involving obligatory or discretionary disqualifications from driving; indication of intended plea

Complaint

... .., of .....

Complainant

....., of .....

Defendant

Note: This Form is in three sections. Please read the notes to each section carefully before completing section A and either section B or C.

If you intend to consult a solicitor you should do so before completing this Form.

**SECTION A: ACKNOWLEDGEMENT OF SERVICE**

This section should be completed by all defendants.

By completing this section you are only acknowledging service of the summons(es).

Notice to defendant, Statement of Facts/witness statement(s) and Notice of previous convictions (if any) on you.

In connection with the summons(es), for hearing on (date) ..... ,  
Notice to defendant [and] [statement of facts] [witness statement(s)] and Notice of

previous convictions]\* now served upon you, will you please acknowledge receipt by signing and returning this form as soon as possible to the clerk of petty sessions at .....

I hereby acknowledge receipt of ..... summons(es), Notice to defendant [and] [statement of facts] [witness statement(s)] and Notice of previous convictions]\*.

Signed: \_\_\_\_\_ Date \_\_\_\_\_

MALE/FEMALE\*

Date of Birth \_\_\_\_\_

Present Address: \_\_\_\_\_

(if different from the address given above)

\*delete as appropriate

**SECTION B: PLEA OF GUILTY BY POST (NON-ATTENDANCE AT COURT)**

Note: if you wish a plea of guilty to be accepted without your attendance at court, please complete this section

Plea of Guilty \_\_\_\_\_

I have read [statement of facts/ witness statement(s) \* relating to the charge(s) against me.

I plead guilty to the charge(s) and I desire the court to deal with the case in my absence.

I would like the following circumstances to be taken into account.

....

Mitigating Circumstances

(a) about the offence- ....

(b) about my personal and financial circumstances- .....

**SECTION C: INDICATION OF A PLEA (GUILTY OR NOT GUILTY) – ATTENDANCE AT COURT**

If you propose to attend court considerable time and expense may be saved if you will complete the following:

Do you intend to plead guilty? .....

Note: If having completed either section B or C and returned the form, you change your mind about the plea you have entered, you should immediately inform the clerk of petty sessions in writing..

**WARNING**

**ROAD TRAFFIC OFFENDERS (NI) ORDER 1996**

Articles 11, 12 and 27

You have been charged with an offence which involves an obligatory or discretionary disqualification from driving. You must deliver your driving licence to the clerk of the court no later than the day before the date of the hearing, or bring it with you to the hearing.

If you are convicted of an offence involving obligatory or discretionary disqualification from driving and you do not deliver your licence to the court, you are guilty of an offence and your licence will be suspended from the time when its production was required until it is produced to the court.

If you have returned your licence to the court with this form, please tick this box

If you are convicted of an offence involving obligatory or discretionary disqualification for holding or obtaining a licence, and the court does not know your date of birth or sex, the court will order you to provide those details in writing to the court. Failure to comply with such an order is an offence.

Magistrates’ Courts Rules SR (NI) 1984/225

Form 7.

Notice of intention to cite previous convictions (Art 125; r. 23(6))

**Form 8** [rev. 31 Oct 2016]

**Form 8A.**

Warrant of Arrest (Art 138(5); rr. 14 and 143) (Road Traffic Fixed Penalties (Enforcement of Fines) Regulations (NI) 1997; Reg.4)

**Form 8B** [added SR (NI) 2008/251]

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981

(Article 118) (Rules 14 and 143)

Warrant of Arrest for Witness

... .., of .....

Complainant

....., of .....

Defendant

WHEREAS a complaint has been made [on oath and in writing] [and substantiated on oath] that

THIS IS TO COMMAND YOU, to whom this warrant is addressed, to arrest and bring (insert name of witness) before a magistrates’ court.

This ..... day of ..... 20...

District judge (magistrates’ courts) [Lay Magistrate]

To the District Commander of the Police Service of Northern Ireland at

Note: This form may be endorsed for bail as on Form 9.

**Form 8C**

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981

(Rules 14 and 143)

Warrant of Arrest

... .., of .....

Complainant

....., of .....

Defendant

WHEREAS a complaint has been made [on oath and in writing] [and substantiated on oath] that

THIS IS TO COMMAND YOU, to whom this warrant is addressed, to arrest and bring the said defendant before a magistrates’ court.

This ..... day of ..... 20...

[District Judge (Magistrates’ Courts)]

[Lay Magistrate]

To the District Commander of the Police Service of Northern Ireland at

Note: This form may be endorsed for bail as on Form 9.

This form may not be used where any other form of warrant of arrest applies.

**Form 8D**

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981

(Article 138(5); Rules 14 and 143)

THE PENALTY NOTICES (JUSTICE ACT (NORTHERN IRELAND) 2011) (ENFORCEMENT OF FINES) REGULATIONS (NORTHERN IRELAND) 2012;

Regulation 4

Warrant of Arrest

....., of .....

Complainant

....., of .....

Defendant

WHEREAS a complaint has been made [on oath and in writing] [and substantiated on oath] that

THIS IS TO COMMAND YOU, to whom this warrant is addressed, to arrest the said defendant and bring him before a magistrates’ court unless the said sum be sooner paid.

This ..... day of ..... 20...

District Judge (Magistrates’ Courts)

[Lay Magistrate]

To the Chief Constable of the Police Service of Northern Ireland at

NOTE: This form may be endorsed for bail as on Form 9A.

**Form 9.**

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981

(Art 129; r. 16)

Bail endorsement on Warrant of Arrest

I HEREBY DIRECT that ..... be released on his own bail of £.... [with sureties of £..... each]

This ... day of ..... 20...

District Judge (Magistrates’ Courts)

[Lay Magistrate]

**Form 9A**

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981

(Art 129; r. 16)

Road Traffic Fixed Penalties (Enforcement of Fines) Regulations (NI) 1997; Reg.4

Bail endorsement on Warrant of Arrest

I HEREBY DIRECT that ..... be released on his own bail of £.... [with sureties of £..... each]

This ... day of ..... 20...

District Judge (Magistrates’ Courts)

[Lay Magistrate]

10. Warrant of commitment on remand for enquiries after conviction or for medical examination (Arts 47, 50 and 51; rr. 14 and 143)

10A. Warrant of commitment to Detention at a Police Station (Arts 47(4A); rr. 14 and 143)

10B. Warrant of commitment to Custody of a Constable (Art 47(4B); rr. 14 and 143)

Magistrates' Courts Rules (NI) SR (NI) 1984/225

**FORM 10C**

Magistrates’ Courts (Northern Ireland) Order 1981 (Rule 161A)

Justice (Northern Ireland) Act 2004

(Section 10)

WARRANT OF COMMITMENT FOLLOWING PROSECUTION GIVING ORAL NOTICE OF APPEAL AGAINST GRANT OF BAIL

... .., of .....

Complainant

....., of .....

Defendant

WHEREAS the defendant appeared this day before the magistrates’ court sitting at ..... upon a complaint that ..... (state shortly particulars of offence(s))

which (is an offence)(are offences) punishable by imprisonment.

Following the prosecution having given oral notice of appeal to the High Court against the court’s decision to grant bail to the defendant, the court ordered that the

defendant be remanded in custody until the said appeal is determined or otherwise disposed of.

This is to command you to whom this warrant is addressed to detain the defendant in your custody until you are notified in writing by the clerk of petty sessions whether or not the prosecution has served written notice of appeal in accordance with section 10(5) of the Justice (Northern Ireland) Act 2004.

**PART A (Service of written notice of appeal)**

If you are notified that written notice has been served in accordance with section 10(5) of the said Act, this is to command you to whom this warrant is addressed to convey the defendant to HM Prison at ..... and there to deliver him to the Governor thereof, together with this warrant; and you, the said Governor, to receive him into your custody and, unless you are otherwise ordered in the meantime, to keep the defendant until the defendant is delivered in due course of law.

**PART B (Failure to serve written notice of appeal)**

Section 10(7) of the Act provides that if the prosecution fails to serve written notice of appeal on either the magistrates’ court or the defendant in accordance with section 10(5) the appeal shall be deemed to have been disposed of. Where notice has not been served, the clerk of petty sessions shall give you notice in Form 91G directing the release of the defendant on bail, unless he is in your custody for some other cause.

And for this the present warrant shall be a sufficient authority to all whom it may concern.

This .... day of ..... 20.....

Clerk of Petty Sessions

To: [the District Commander of the Police Service of Northern Ireland at .]

[AB, being such other person as the court may direct.]

**FORM 11.**

Magistrates’ Courts (NI) Order 1981

(Arts 37 and 47; r. 16)

Consent to bail on remand

The court consented to defendant being released on his own bail of £..... [with sureties of £ .... each] [or valuable securities]

This .... day of ..... 20.....

[District Judge (Magistrates’ Courts)]

[Lay Magistrate]

[Clerk of Petty Sessions]

**FORM 11A**

Magistrates’ Courts (NI) Order 1981

(r. 16)

Criminal Justice (NI) Order 1996

(Articles 5(5)(a), 28(2)(b), Schedule 2; paragraphs 2(4) and 9(2)(b))

Consent to bail

... .., of .....

Complainant

....., of .....

Defendant

The court consented to defendant being released on his own bail of £.... [with sureties of £ ... each] [or valuable securities]

This .... day of ..... 20....

[District Judge (Magistrates’ Courts)]

[Lay Magistrate]

- 12. Warrant of commitment on further remand of person in custody unable to appear by reason of illness or accident (Art 49, rr. 14 and 143)
- 13. Order to have defendant brought before the court before expiration of period of remand (Art 47(5))

B. Forms used in connection with summary trial

- 14. Warrant of commitment on sentence of imprisonment/detention (Art 114; rr. 14, 15, 125A and 143)

**Form 14ZA** [added SR (NI) 2008/251]

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981

(Article 114; Rules 14, 15, 125A and 143)

CRIMINAL JUSTICE (NORTHERN IRELAND) ORDER 2008 (Articles 5 and 9)

Warrant of Commitment on Determinate Custodial Sentence

... .., of .....

Complainant

....., of .....

Defendant

WHEREAS upon the hearing of a complaint that the defendant was convicted by a magistrates’ court sitting at (place) on (date) of the following offence(s):

(state shortly particulars of offence(s))

which[is][are] punishable with:

- (a) a sentence of imprisonment; or
- (b) a sentence of detention in a young offenders centre.

AND the court [having considered a pre-sentence report] [is of the opinion that the offence, or the combination of the offence and one or more offences associated with it, was so serious that only such a sentence can be justified for the offence because (state reason) .....

[proposed a community sentence that requires the consent of the defendant, and the defendant refused to give that consent].

AN ORDER WAS MADE on the (date) ....., by a magistrates’ court against the defendant to the following effect, viz:-

.....

(here insert order of the court)

[being a determinate custodial sentence of 12 months or more, the court recommended the following licence conditions under Article 23 of the Criminal Justice (Northern Ireland) Order 2008] [being a determinate custodial sentence of less than 12 months, the court required the following licence conditions under Article 24 of the Criminal Justice (Northern Ireland) Order 2008]-

.....

(here insert licence conditions)

THIS IS TO COMMAND YOU, to whom this warrant is addressed, to lodge the defendant in HM Prison [Young Offenders Centre] at ..... [in accordance with Part IV of the Young Offenders Centre Rules (Northern Ireland) 1982] to be detained there for the period of ..... .

[]

AND for this the present warrant shall be a sufficient authority to all whom it may concern.

Dated This ..... day of ..... 20...

District judge (magistrates’ courts) [Lay Magistrate]

[Clerk of Petty Sessions]

To the District Commander of the Police Service for Northern Ireland at .....

14A. Complaint on failure to comply with licence conditions (rr. 7, 17 and 126B of the Magistrates' Courts (NI) Order 1981 and Art 27 of the Criminal Justice (NI) Order 1996)

14B. Summons to Defendant on failure to comply with licence conditions (rr. 8 and 126B of the Magistrates' Courts (NI) Order 1981 and Art 27 of the Criminal Justice (NI) Order 1996)

14C. Warrant for arrest on failure to comply with licence condition(s) (rr. 14, 126B and 143 of the Magistrates' Courts (NI) Order 1981 and Art 27 of the Criminal Justice (NI) Order 1996)

14D. Warrant of Commitment where person is returned to prison under Art 27 of the Criminal Justice (NI) Order 1996 (Art 114; rr. 14, 15, 126B and 143 of the Magistrates' Courts (NI) Order 1981 and Art 27 of the Criminal Justice (NI) Order 1996

in the first paragraph, “[Crown Court]” is omitted; and

in the fifth paragraph, for “the licence be suspended and the defendant be recalled to prison [Young Offenders Centre] for (state period)” substitute—

“[the licence be revoked and the defendant be returned to prison/young offenders centre (delete as appropriate)]

[the licence be suspended and the defendant be returned to prison/young offenders centre (delete as appropriate) for (state period)]



**Form 14DA**

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981

(Rules 14, 15 and 143)

CRIMINAL JUSTICE (NORTHERN IRELAND) ORDER 1996 (Article 27)

Warrant of Commitment to the Crown Court under Article 27(3) of the Criminal Justice (Northern Ireland) Order 1996

... .., of .....

Complainant

....., of .....

Defendant

WHEREAS it appears that the defendant was on the ..... (date) convicted by the Crown Court sitting at ..... (place) of the following offence(s): ..... (state shortly particulars of offence(s))

AND WHEREAS on the (date) the said court ordered that the defendant be imprisoned [detained] for year(s) AND that Article 26 of the Criminal Justice (Northern Ireland) Order 1996 shall apply.

AND WHEREAS it appears that the defendant was on the (date) discharged from HM Prison [Young Offenders Centre] at and was on that date serving the above sentence of imprisonment [period of detention] which but for his discharge pursuant to prison rules would have expired on the (date)

Having been arrested by virtue of a warrant issued under Article 27(1)(b) of the Criminal Justice (Northern Ireland) Order 1996, AND having been brought before a magistrates’ court pursuant to Article 27(2) of the said Order, the court ordered that the defendant be committed to custody until the defendant can be brought before the Crown Court sitting at .

THIS IS TO COMMAND YOU, to whom this warrant is addressed, to lodge the defendant in HM

Prison [Young Offenders Centre] at in order that the defendant may be brought before the Crown Court sitting at (place)

Dated This ..... day of ..... 20...

[District Judge (Magistrates’ Courts)]

[Lay Magistrate]

[Clerk of Petty Sessions]

To the District Commander of the Police Service of Northern Ireland at

Note: This warrant may be endorsed for bail as on Form 11A.

14E. Warrant of commitment to Crown Court under Art 28(2)(b) of the Criminal Justice (NI) Order 1996 (Art 114; rr. 14, 15, 126B and 143 of the Magistrates’ Courts (NI) Order 1981 and Art 28(2)(b) of the Criminal Justice (NI) Order 1996)

14F. Warrant of commitment where person is ordered under Art 29(1) of the Criminal Justice (NI) Order 1996 to be returned to prison (Art 114; rr. 14, 15, 126B and 143 of the Magistrates' Courts (NI) Order 1981

**C. Forms used in connection with preliminary investigation or inquiry**

15. Statement of complaint(s) (Art 32(1)(b)(i); rr. 25 and 32(5) and (6))

[Forms used in connection with preliminary investigation or inquiry and summary trials]

**Form 15B** [subst. SR (NI) 2003/477, am. SR (NI) 2009/310, SR (NI) 2011/418]

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981

(Rule 149AA)

CRIMINAL EVIDENCE (NORTHERN IRELAND) ORDER 1999 (Article 7)

FORM OF APPLICATION FOR A SPECIAL MEASURES DIRECTION UNDER ARTICLE 7 OF THE CRIMINAL EVIDENCE (NORTHERN IRELAND) ORDER 1999

An application shall be made:

(a) subject to paragraph (b), not less than 14 days before the day fixed for the commencement of the proceedings to which the application relates.

(b) in the application of sub-paragraph (a) to preliminary investigations, “the proceedings” does not include the taking of a deposition relating to the arrest, or where directed by the court, the remand of the defendant.

A copy of this form shall be given at the same time to the other party or parties to the case.

**PART 1**

**TO BE COMPLETED BY ALL APPLICANTS**

*Details required*

*Notes*

**Case details**

Complainant:

Defendant:

The name of the defendant to whom this application relates:

Court venue:

The venue of the court hearing the case.

Date of next court appearance:

Charges:

Give brief details (including date and location of offence) of those charges to which this application applies.

PPSNI reference number:

ICOS reference number if known:

**Details of witness**

An application by the defence for evidence to be

Name of witness	given through a live link or
Date of birth of witness	by means of a video
If an application has been made to tender in evidence a video recording of testimony from the witness, give the date and (if known) result of that application.	recording need not disclose who that witness is, except to the extent that the disclosure is required by section 5(7) of the Criminal Procedure and Investigations Act 1996 (alibi).

If the applicant is the prosecutor, give the name of the witness (otherwise leave blank).

**Details of application**

Specify the special measures being sought.

State the grounds on which the witness relies in support of the application for a special measures direction.

The statement should make clear whether the applicant seeks automatic eligibility or whether the applicant alleges that the quality of the evidence will be reduced unless a direction is given. In the latter case, the grounds on which the applicant alleges that the quality of the witness’s evidence is likely to be diminished in terms of completeness, coherence and accuracy should be clearly stated.

Give a description of evidence submitted in support of this application.

This requirement is optional. Examples of evidence might be:  
birth certificate;  
medical report;  
expert evidence;  
police report.

**Arrangements available**

Give a description of the arrangements relevant to the measures applied for, which may be made available in the area in which it is likely the hearing will take place.

**Reasons for application**

Give the grounds for believing the special measures being sought in this application will increase the quality of the witness’s evidence.

Give the views of the witness as to why the measures sought in this application are required.

**Material change of circumstances**

Give a description of any material change of circumstances

This requirement applies only relied upon to support this application. where –

(a) a special measures direction is already in force and application is being made to discharge or vary the direction, or

(b) a previous application for a special measures direction was refused and this application seeks to reverse that decision.

PART 2

TO BE COMPLETED IF THE APPLICATION IS FOR EVIDENCE TO BE GIVEN THROUGH A LIVE LINK

*Details required*

*Notes*

**Details of application**

Give –

An application by the defence need not disclose the name of the person proposed to accompany the witness if disclosure could lead to the identification of the witness.

(a) the address of any venue from which the witness will give evidence if the court’s own live link is not used:

(b) the name of the person who it is proposed will accompany the witness:

(c) the occupation of this person:

(d) the relationship (if any) of this person to the witness:

**Grounds**

State why it is believed that this person should accompany the witness (include the witness’ views):

PART 3

TO BE COMPLETED IF THE APPLICATION IS TO TENDER IN EVIDENCE A VIDEO RECORDING UNDER ARTICLE 15 OF THE CRIMINAL EVIDENCE (NORTHERN IRELAND) ORDER 1999

*Details required*

*Notes*

**Video recording(s)**

Statement as to circumstances in which video recording made:

These details need to be completed only to the extent that the information is not contained in the video recording itself.

Date(s) of video recording(s):

Give the times at which recording began and

Time(s) of video recording(s):

finished, including details of any interruptions.

Location and normal function of premises where video recording made:

Give address of premises where recording made and state the usual function of those premises

Statement as to whether, and if so at what point in the video recording, an oath was administered to, or a solemn declaration made by, the witness:

**Details of those present while recording made**

Include name, age and occupation of anyone present; time for which present; relationship (if any) to witness and to the defendant.

Give details of each person present at any point during the recording:

In relation to each person present at any point during the recording, a statement confirming that the person when present is visible in the recording.

Was an intermediary used during the video-recording?

If yes, please complete Part 4 of this form, providing details of the intermediary. Please indicate whether the intermediary made the necessary declaration as set out in Form 88N before acting.

Has the Court already approved the use of an intermediary under Article 17 of the 1999 Order? If not, will an application be made?

**Equipment used**

The description shall include the following information –

Give a description of the equipment used for the recording:

number and type of cameras used (fixed or mobile); the number and location of

microphones; the video format used; and whether it offered single or multiple recording facilities and if it did which were used.

**Recordings of part only of an interview**

State whether the video recording contains part only of the interview with the witness:

A copy of any video recordings of other parts of the interview with the witness which it is not proposed to tender in evidence shall also be provided to the court and the other parties. The details of each such recording shall be given as above. Use separate sheets where necessary.

**Details of copy**

State in respect of each video recording whether it is a copy, and give the following details in respect of each copy –

Name and address of person who has the mastertape:

When, and by whom, the copy was made:

**Attendance and supply of copies**

Is the witness willing and able to attend the trial for

cross-examination?

Have copies of the video recording(s) to which this application relates been disclosed to the other parties?

Where the application is by the defendant, the video recording(s) do not have to be served on the prosecution until the close of the prosecution case at the trial.

Has a copy of this notice and the video recording(s) to which it relates been served on each party to the proceedings?

Has the agreement of the other parties to the video recording(s) being tendered as evidence been sought?

**PART 4**

To be completed if the application is to allow the examination of a witness through an intermediary

Details required

Notes

Details of the application

An application by the defence need not

(a) what is the name of the proposed intermediary: disclose the name of the intermediary if disclosure could lead to the identification of the witness.

(b) what is the occupation of this person:

(c) list any relevant skills or professional qualifications:

(d) what is the relationship (if any) of this person to the witness:

(e) is the proposed intermediary registered with the Department of Justice:

(f) describe the witness’ communication needs, and the proposed arrangements for questioning the witness. Attach any relevant report, including an intermediary’s assessment. Ground rules for questioning may be discussed between the court, the legal representatives and the intermediary before the witness gives evidence to establish (a) how questions should be put to help the witness understand them and (b) how the proposed intermediary will alert the court if the witness has not understood or needs a break.

(g) has the intermediary made a declaration? If yes, please attach a copy. If a declaration has not yet been made, a copy of it must be submitted to the Court as soon as reasonably practicable after having been made.

(h) has an intermediary been used in any other part of the investigation or pre-trial preparation, including a video-recorded interview:

(i) if an intermediary was used in a video-recorded interview, is it intended that an application will be made to have the video-recording admitted as evidence in chief:

(ii) was that intermediary used in any other part of the investigation, pre-trial preparation or video-recorded interview, the person named above (if no, please give the details sought in this Part in respect of that intermediary);

(iii) did that intermediary make a declaration before acting? If yes, please attach a copy.

Dated this ... day of ..... 20.. .

Applicant

[Solicitor for Applicant]

To the Clerk of Petty Sessions at ... .

And to

*(insert names and addresses of each of the other parties to the proceedings)*

**Note:**

The notice served on the clerk of petty sessions shall be endorsed with the date upon which and the manner in which notice was served on each of the other parties to the proceedings.

**Note to party who receives a copy of this notice:**

If you wish to oppose this application you are required within 7 days (or such other period as may be specified by the court under Rule 149AB(4)) to notify the applicant and the clerk of petty sessions in writing of your opposition stating the reasons for such.

**Form 15C**

Magistrates’ Courts (Northern Ireland) Order 1981 (Rule 149AA)

Criminal Evidence (Northern Ireland) Order 1999 (Article 7)

NOTICE OF DECISION ON APPLICATION FOR A SPECIAL MEASURES DIRECTION UNDER ARTICLE 7 OF THE CRIMINAL EVIDENCE (NORTHERN IRELAND) ORDER 1999

... .., of .....

Complainant

....., of .....

Defendant

Upon the hearing of an application by ..... (*name of applicant*), on ..... (*date application heard*) under Article 7 of the Criminal Evidence (Northern Ireland) Order 1999 for a special measures direction, the court made an order to the following effect, viz: –

Special measures direction under Article [11] [12] [13] [14] [15] [17] [18] granted\*/granted subject to the following conditions\*/refused on the following grounds –

This .... day of ..... 20.. .

Clerk of Petty Sessions



15D Application by Prosecutor for a Direction Under Article 24 of the Criminal Evidence (Northern Ireland) Order 1999 prohibiting the Defendant from Cross-examining a particular witness (Rule 149A1) [added SR (NI) 2003/477]

15E Notice to the Clerk of Petty Sessions of an appointment by the Defendant of a Legal Representative (Rules 149AJ and 149AL) [added SR (NI) 2003/477]

15F - Notice by clerk of petty sessions of a decision of the court [on application by the defendant]\* for an extension of time to appoint a legal representative (Rule 149AJ) [added SR (NI) 2003/477]

15G Notice to the Clerk of Petty Sessions by a qualified legal representative (Appointed by the Court) that he has now been appointed by the Defendant (Rule 149AL) [added SR (NI) 2003/477]

15H Notice by the Clerk of Petty Sessions of the discharge of the person appointed by the Court (Rule 149AL) [added SR (NI) 2003/477]

15I Notice to the clerk of petty sessions of an application for leave to adduce evidence under Article 28(2) of the Criminal Evidence (NI) Order 1999 (Rule 149AM) [added SR (NI) 2003/477]

15J Notice to the clerk of petty sessions whether or not the prosecutor opposes the application made under Article 28(2) of the Criminal Evidence (NI) Order 1999 (Rule 149AM) [added SR (NI) 2003/477]

15K Request by the Court for a Party to the Proceedings to provide information in relation to an application for leave to adduce evidence under Article 28(2) (Rule 149AM) [added SR (NI) 2003/477]

15L Notice of the decision of the Court on an application for leave to adduce evidence under Article 28(2) (Rule 149AM) [added SR (NI) 2003/477]

**FORM 15M** [added SR (NI) 2004/299 am. SR (NI) 2009/310]

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981

(Rule 149AN)

YOUTH JUSTICE AND CRIMINAL EVIDENCE ACT 1999

(Section 46)

Application for a reporting direction under section 46 of the Youth Justice and Criminal Evidence Act 1999

Details required

Notes

Details of applicant

Name of applicant:

Name of applicant's solicitor:

Address of solicitor:

Reference:

Details of witness

Name of witness:

Date of birth of witness:

Case details

PPSNI reference number:

ICOS reference number if known

Defendant(s): Surname:

Forenames:

Court venue:

The venue of the court hearing the case.

Date of next court appearance:

Charges

Give brief details of those charges to which this application relates

Details of application

State the grounds on which the applicant relies in support of the application for a reporting direction:

The statement should make clear why, in the applicant's view, if the direction is not given-

(a) the quality of evidence given by the witness, or

(b) the level of co-operation given by the witness to any party to the proceedings in the preparation of that party's case,

is likely to be diminished by fear or distress if the witness is identified by members of the public.

Give a description of evidence submitted in support of this application:

This requirement is optional.

Examples might be-

Police report

Medical report

Set out the views of the witness for whom the direction is sought on this application:

Public interest

State why a reporting direction-

(a) is in the interests of justice; and

(b) is in the public interest in avoiding the imposition of a substantial and unreasonable restriction on the reporting of proceedings

Dated this.....day of .....20....

Applicant

[Solicitor for Applicant]

To the Clerk of Petty Sessions at ...

And to

*(insert names and addresses of each of the other parties to the proceedings)*

NOTE:

The notice served on the clerk of petty sessions shall be endorsed with the date upon which and the manner in which notice was served on each of the other parties to the proceedings.

NOTE to party who receives a copy of this notice:

If you wish to oppose this application you are required within 7 days to notify the applicant and the clerk of petty sessions in writing of your opposition stating the reasons for such.

**FORM 15N**

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981 (Rule 149AO)

YOUTH JUSTICE AND CRIMINAL EVIDENCE ACT 1999 (Section 46)

**Application for an excepting direction under section 46(9) of the Youth Justice and Criminal Evidence Act 1999**

*Details required Notes*

**Details of applicant**

Name of applicant:

Name of applicant’s solicitor:

Address of solicitor:

Reference:

**Details of witness**

Name of witness:

Date of birth of witness:

**Case details**

Defendant(s): Surname:

Forenames:

Court venue: The venue of the court hearing the case.

Date of next court appearance:

**Charges** Give brief details of those charges to which this application relates

Reference number of reporting direction:

Court which gave the reporting direction:

Date on which reporting direction given:

Is a copy of the reporting direction attached: The applicant should attach a copy of the reporting direction if available

**Details of application**

State the grounds on which the applicant relies and in particular state why a reporting direction is or would be a substantial and unreasonable restriction on the reporting of the proceedings:

State why it would be in the public interest to remove or relax reporting restrictions:

Dated This ..... day of ..... 20... 20 .

Applicant

[Solicitor for Applicant]

To the Clerk of Petty Sessions at ...

And to

*(insert names and addresses of each of the other parties to the proceedings)*

**NOTE:**

The notice served on the clerk of petty sessions shall be endorsed with the date upon which and the manner in which notice was served on each of the other parties to the proceedings.

**NOTE to party who receives a copy of this notice:**

If you wish to oppose this application you are required within 7 days to notify the applicant and the clerk of petty sessions in writing of your opposition stating the reasons for such.

**FORM 150**

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981 (Rule 149AP)

YOUTH JUSTICE AND CRIMINAL EVIDENCE ACT 1999 (Section 46)

**Application for [revocation of a reporting direction] [variation of an excepting direction] [revocation of an excepting direction] under section 46 of the Youth Justice and Criminal Evidence Act 1999**

*Details required*      *Notes*

**Details of applicant**

Name of applicant:

Name of applicant’s solicitor:

Address of solicitor:

Reference:

**Details of witness**

Name of witness:

Date of birth of witness:

**Case details**

Defendant(s): Surname:

Forenames:

Court venue: The venue of the court hearing the case.

Date of next court appearance:

**Charges** Give brief details of those charges to which this application relates

Reference number of [reporting] [excepting] direction:

Court which gave the [reporting] [excepting] direction:

Date on which [reporting] [excepting] direction given:

Is a copy of the [reporting] [excepting] direction attached: The applicant should attach a copy of the [reporting] [excepting] direction if available

**Details of application**

The application is for: \* Delete as appropriate

[the revocation of a reporting direction]\* [the variation of an excepting direction]\*  
[the revocation of an excepting direction]\*

The grounds on which the applicant relies are as follows –

.....

Dated This ..... day of ..... 20... 20 .

Applicant

[Solicitor for Applicant]

To the Clerk of Petty Sessions at ...

And to

*(insert names and addresses of each of the other parties to the proceedings)*

**NOTE:**

The notice served on the clerk of petty sessions shall be endorsed with the date upon which and the manner in which notice was served on each of the other parties to the proceedings.

**NOTE to party who receives a copy of this notice:**

If you wish to oppose this application you are required within 7 days to notify the applicant and the clerk of petty sessions in writing of your opposition stating the reasons for such.

**FORM 15P**

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981 (Rule 149AQ)

YOUTH JUSTICE AND CRIMINAL EVIDENCE ACT 1999 (Section 46)

**Notice of decision on application for [reporting direction][excepting direction] [revocation of reporting direction] [variation or revocation of excepting direction] made in accordance with section 46 of the Youth Justice and Criminal Evidence Act 1999**

Notes

**Details of applicant**

Name of applicant:

Name of applicant’s solicitor:

Address of solicitor:

Reference:

**Details of witness**

Name of witness:

Date of birth of witness:

**Case details**

Defendant(s): Surname:

Forenames:

Court venue:

Charges:

Upon the hearing of an application on (*date*) at (*place*) the court made an order to the following effect, viz: –

**Reporting Direction**

*If a reporting direction has been given by the court, give the following details –*

Reference number of reporting direction:

Court which gave the reporting direction:

Date on which reporting direction given:

Give details of restrictions imposed by the direction:

**Excepting Direction**

*If an excepting direction has been given by the court, give the following details –*

Reference number of the excepting direction:

Court which gave the direction:

Date on which direction given:

Give details of the exception granted by the court:

**Revocation of a reporting direction**

*If a reporting direction has been revoked, give the following details –*

Reference number of the reporting direction:

Court which gave the reporting direction:

Date on which the reporting direction was given:

Date on which the reporting direction was revoked:

**Variation or revocation of an excepting direction**

*If an excepting direction has been varied or revoked, give the following details –*

Reference number of the excepting direction:

Court which gave the excepting direction:

Date on which the excepting direction was given:

Give details of how the excepting direction was varied or revoked:

Dated This ..... day of ..... 20... 20 .

Clerk of Petty Sessions

- 16. Deposition of a witness (Arts 30(2), 34(2) and 39; rr. 26, 27 and 35)
- 17. Warrant of commitment for trial (Arts 37, 40 and 47; rr. 14 and 143)
- 18. Warrant of commitment of witness for refusing to enter recognizance (Article 39(5); rr. 14 and 143)
- 19. Warrant for discharge (Articles 37(4), 3,9(5) and 148(1); rr. 14, 16(3) and 143)

D. Forms used in connection with preliminary inquiry

**FORM 20**

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981

(Article 32(1)(a); Rule 32)

Notice of Intention to Request Court to Conduct a Preliminary Inquiry

Complaint

... .., of .....

Complainant

....., of .....

Defendant

The purpose of this Notice is to inform you that I, the above-named complainant, intend at the sitting of a magistrates' court at (place) ..... on (date)..... to request the court to conduct a preliminary inquiry under the Order, unless the defendant (hereinafter called "the accused") objects to the conducting of such inquiry.

I hereby serve on you-

(1) a statement of the complaint(s) on which I intend to ask the court to commit the accused for trial by jury;

(2) copies of the written statements of each witness upon whose evidence the said complaint(s) is/are based;

(3) a list of the names of the said witnesses and the number of pages containing each statement;

\*(4) a list of every exhibit to be produced or referred to by the witnesses at the inquiry and referred to in such statements; and

\*(5) where practicable, copies of each written exhibit referred to in paragraph (4) and in the statements referred to in paragraph (2).

\*Any of the exhibits referred to in paragraphs (4) and (5) of this Notice may be inspected by the accused at ..... between the hour of ..... and the hour of .....

\*The accused has the right to inspect every exhibit either by himself or in consultation with his solicitor or any witness the accused may wish to call at his trial.

The accused may object to the court conducting a preliminary inquiry or, even if he does not object, he may at the inquiry object to the admission of any statement tendered to the like extent as in the case of oral evidence and may require any person, whether his statement is tendered in evidence or not, to attend and give evidence at the inquiry.

Where the accused will require any witness whose statement of evidence is served together with this notice to give oral evidence at the preliminary inquiry it is desirable in order to avoid any adjournment of the court that I be so informed a reasonable time before the commencement of the inquiry by writing to me at the following address-

.....

so that I can secure the attendance of the witness at the court at the time of the inquiry.

Dated this ..... day of ..... 20.....

Complainant

[On behalf of Complainant]

To the Clerk of Petty Sessions at .....

and to the Accused at .....

\* Delete where no exhibits

-----

**FORM 21**

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981

(Article 32(1)(a); Rule 32)

[JUSTICE AND SECURITY (NORTHERN IRELAND) ACT 2007 (Section 3)]

**Notice of Intention to Request Court to Conduct a Preliminary Inquiry**



Complaint

... .., of .....

Complainant

....., of .....

Defendant

The purpose of this Notice is to inform you that I, the above-named complainant, intend at the sitting of a magistrates' court at (place) ..... on (date) ..... 20..... to request the court to conduct a preliminary inquiry under the Order, unless the defendant (hereinafter called "the accused") objects to the conducting of such inquiry.

I hereby serve on you-

(1) a statement of the complaint(s) on which I intend to ask the court to commit the accused for trial by jury;

(2) copies of the written statements of each witness upon whose evidence the said complaint(s) is/are based;

(3) a list of the names of the said witnesses and the number of pages containing each statement;

\* (4) a list of every exhibit to be produced or referred to by the witnesses at the inquiry and referred to in such statements; and

\* (5) where practicable, copies of each written exhibit referred to in paragraph (4) and in the statements referred to in paragraph (2).

\* Any of the exhibits referred to in paragraphs (4) and (5) of this Notice may be inspected by the accused at ..... between the hour of ..... and the hour of .....

\* The accused has the right to inspect every exhibit either by himself or in consultation with his solicitor or any witness the accused may wish to call at his trial.

The accused may at the inquiry make a submission that the holding of a preliminary inquiry would be contrary to the interests of justice and the court shall consider any such submission before deciding to hold such inquiry.

The accused may object to the admission of any statement tendered to the like extent as in the case of oral evidence and may require any person, whether his statement is tendered in evidence or not, to attend and give evidence at the inquiry.

Where the accused will require any witness whose statement of evidence is served together with this notice to give oral evidence at the preliminary inquiry it is desirable in order to avoid any adjournment of the court that I be so informed a reasonable time before the commencement of the inquiry by writing to me at the following address-

.....

so that I can secure the attendance of the witness at the court at the time of the inquiry.

Dated this ..... day of ..... 20.....

Complainant

[On behalf of Complainant]

To the Clerk of Petty Sessions at .....

and to the Accused at .....

\* Delete where no exhibits

22. Notice of intention to request Court to conduct a preliminary inquiry (extraterritorial offences) (Art 32; rr. 31 and 32) (Criminal Jurisdiction Act 1975, s.4(3))

23. List of witnesses and number of pages in statement of evidence of each witness (r. 32(4))

24. List of exhibits to be produced or referred to by witness whose written statement is to be tendered at a preliminary inquiry (r. 32(1)(b)(iii); r. 32(5))

25. Statement of the accused (Arts 30(4) and (5) and 34(3) and (4); rr. 26 and 35)

26. Statement of witness to be tendered in evidence at preliminary inquiry (Art 33; r. 39)

27. Authenticating certificate of clerk of petty sessions (r. 41)

E. Forms used in connection with committal for trial of person against whom an indictment has been presented

28. Certificate of indictment having been presented (Art 40(1))

29. Warrant to arrest person indicted (Art 40(3); rr. 14 and 143)

F. Forms used in connection with summary trial of indictable offences specified in schedule 2 to the Order

**FORM 30**

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981

(Articles 20 and 45; Rules 8 and 44(1))

**Summons to Defendant to answer Complaint charging an Indictable Offence specified in Schedule 2 to the Order**

Complaint

... .., of .....

Complainant

....., of .....

Defendant

WHEREAS a complaint has been made before me that on (date) .....  
..... at (place) .....  
..... you, the said defendant, .....  
.....  
.....

THIS IS TO COMMAND YOU to appear in person as a defendant on the hearing of the said complaint at (place) ....., on (date) .....  
..... 20....

at (time) ..... before a magistrates' court.

This ..... day of ..... 20....

Justice of the peace [now lay magistrate]

[Clerk of Petty Sessions]

Notice under Article 45 of the said Order of 1981

The [following] offence(s) [that is to say-]

.....  
.....

for which you are hereby summoned to appear before the court [is] [are] [an] indictable offence(s) specified in Schedule 2 to the said Order which may be dealt with summarily by a resident magistrate in accordance with Article 45 of that Order.

The purpose of this notice is to inform you that the above offence(s) [is] [are] [an,] offence(s) for which you have a right to be tried by jury and which may be dealt with summarily by a resident magistrate only with your consent, and if you do so consent, only where the prosecutor also consents.

The resident magistrate may, however, even if you consent and the prosecutor also consents to the summary trial of [any of] the above-mentioned offence(s), decide that for any of the reasons specified in Article 45(1) of the said Order, it is inexpedient to deal with any such offence(s) summarily.

--

31. Notice under Art 45 of the Order to be given to an arrested person accused of an offence specified in Schedule 2 to that Order as soon as practicable after he has been formally charged with such offence (Art 45; r. 44(1))

32. Written waiver of requirement of notice under Art 45 of the Order (Art 45; r. 44(2))

DEBT PROCEEDINGS

FORM 33

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981

(Article 62; Rules 55, 57 and 84)

Process in Debt Proceedings

..... of Plaintiff	
..... of Defendant	

THE DEFENDANT is HEREBY REQUIRED to appear before the magistrates' court sitting at ..... (place), on ..... (date) at ..... (time) to answer the plaintiffs claim for the sum of £ ..... for .....  
.....  
.....

Dated this ..... day of ..... 20

Plaintiff

[Solicitor for the Plaintiff]

[Address}.

NOTE: If the amount of the above claim, together with the sum of £ ... for the costs of this process, be paid to the plaintiff or his solicitor before the ..... [insert entry date] day of ..... 20... proceedings will be stayed.

FORM 34

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981

(Rule 85)

Process in Debt Proceedings

..... of Plaintiff	
..... of Defendant	

TAKE NOTICE THAT THE DEFENDANT intends at the hearing of the process issued in this case to claim a set-off [or to make a counterclaim] against the plaintiff’s claim, particulars of which are as follows

Date	Nature of set-off or counterclaim	Amount

Dated this ..... day of ..... 20

Defendant

[Solicitor for the Defendant]

[Address}.

To the plaintiff and to

The Clerk of Petty Sessions at ...

35. Notice of lodgment in court of amount tendered (Rule 90(1))

36. Decree in debt proceedings (Article 74; Rule 79)

37. Affidavit/Statutory Declaration of default in payment of instalment in support of application for issue of decree hitherto postponed on terms (Article 116, Rule 91)

38. Dismiss in debt proceedings (Articles 2(3) and 73(6); Rules 74 and 79)

39. Process register in debt proceedings (Rule 65)

40. Memorandum of a debt proceeding entered in the process register (Rule 65(4))

EJECTMENT PROCEEDINGS

FORM 41

MAGISTRATES' COURTS' (NORTHERN IRELAND) ORDER 1981

(Article 67; Rules 55, 57 and 95)

Process in Ejectment Proceedings in respect of Lands or Premises to which sub-paragraph (a) of Article 67(1) of the Order Applies

[Title as in Form 33]

WHEREAS the plaintiff claims that the defendant has neglected [or refused] to deliver up to the plaintiff possession of the lands [or premises] situate at .....  
 ....., which the defendant held from the plaintiff as tenant from [quarter to  
 quarter] [month to month] [week to week] at a rent not exceeding the rate of one  
 hundred and ten pounds a year, to wit, the rent of ....., which tenancy [was  
 duly determined by a notice to quit which expired on ..... (date) and  
 which notice was served on the ..... (date) [or which tenancy ended on  
 ..... (date)

THE DEFENDANT is HEREBY REQUIRED to appear before the magistrates' court sitting at ..... (place) on ..... (date) at ..... (time) to answer to the plaintiff's claim for possession of the said lands [or premises].

Dated This ..... day of ..... 20...

Plaintiff

[Solicitor for the Plaintiff]

[Address].

NOTE: If possession of the lands [or premises] is surrendered to the plaintiff and the sum of £ ..... for the costs of this process be paid to the plaintiff or his solicitor before the ..... [Insert Entry Day] day of ..... 20... proceedings will be stayed.

FORM 42

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981

(Articles 67, 69 and 72(3); Rules 55, 57 and 95(5))

Process in Ejectment Proceedings In respect of Lands or Premises to which subparagraph (a) of Article 67(1) of the Order Applies and for the Recovery Arrears of Rent or Sums due under Article 69 of the Order

[Title as in Form 33]

WHEREAS the plaintiff claims that the defendant has neglected [or refused] to deliver up to the plaintiff possession of the lands [or premises] situate at ....., which the defendant held from the plaintiff as tenant from [quarter to quarter] [month to month] [week to week] at a rent not exceeding the rate of one hundred and ten pounds per year, to wit, the rent of ..... which tenancy [was duly determined by a notice to quit which expired on (date) ..... and which notice was served on (date) ..... ]

AND WHEREAS the plaintiff claims that the defendant is indebted to him in the sum of £....., in respect of arrears of rent up till the determination of the tenancy on ..... (date) [and the sum of £..... due to him up to the issue of this process under Article 69 of the Order] [arising from such tenancy under a lease dated .....] [granted by [the plaintiff] to [the defendant]].

THE DEFENDANT is HEREBY REQUIRED to appear before the magistrates' court sitting at ..... (place) on ..... (date) at ..... (time) to answer to the plaintiff's claim for possession of the said lands [or premises] and for the recovery of the said sum(s).

Dated This ..... day of ..... 20...

Plaintiff

[Solicitor for the Plaintiff]

[Address]

NOTE: If possession of the lands [or premises] is surrendered to the plaintiff and the sum of £..... in respect of [arrears of rent [and sums due under Article 69 of the Order]] and for the costs of this process be paid to the plaintiff ..... or his solicitor before the ..... [Insert Entry Day] day of ..... 20... proceedings will be stayed.

FORM 43

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981

(Article 67; Rules 55, 57 and 95(3))

Process in Ejectment Proceedings in respect of Lands or Premises to which sub-paragraph (b) of Article 67(1) of the Order Applies

[Title as in Form 33]

WHEREAS the plaintiff claims that the defendant, having been put into possession of the lands [or premises] situate at ..... by permission of the plaintiff as [servant] [herdsman] [caretaker] has refused [or omitted] to quit and deliver up possession of the lands [or premises] on demand made on ..... (date) by [the agent or receiver of] the plaintiff.

THE DEFENDANT is HEREBY REQUIRED to appear before the magistrates' court sitting at ..... (place) on ..... (date) at ..... (time) to answer to the plaintiff s claim for possession of the said lands {or premises}.

Dated this ..... day of ..... 20

Plaintiff

[Solicitor for the Plaintiff]

[Address]

NOTE: If possession of the lands [or premises] is surrendered to the plaintiff and the sum of £..... for the costs of this process be paid to the plaintiff ..... or his solicitor before the .....[ Insert Entry Day] day of ..... 20... proceedings will be stayed.

FORM 44

MAGISTRATES' COURT' (NORTHERN IRELAND) ORDER 1981

(Articles 67 and 71; Rules 55, 57 and 95(4))

Process in Ejectment Proceedings in respect of Lands or Premises to which sub-paragraph (c) of Article 67(1) of the Order Applies

[Title as in Form 33]

WHEREAS the plaintiff claims that he is entitled to recover possession of the lands [or premises] situate at ..... under the provisions of ..... (state enactment under which proceedings taken) by ejectment proceedings under and in accordance with Part VI of the Order by reason of ..... (here state cause of action and include a claim, if necessary, for arrears of rent or sums due under Article 69 of the Order).

THE DEFENDANT is HEREBY REQUIRED to appear before the magistrates' court sitting at ..... (place) on ..... (date) at ..... (time) to answer to the. plaintiffs claim for possession of the said lands [or premises].

Dated this ..... day of ..... 20

Plaintiff

[Solicitor for the Plaintiff]

[Address]

NOTE: If possession of the lands [or premises] is surrendered to the plaintiff and the sum of £..... for the costs of this process be paid to the plaintiff ..... or his solicitor before the .....[ Insert Entry Day] day of ..... 20... proceedings will be stayed.

- 45. Decree for recovery of lands or premises to which sub-paragraph (a) of Article 67(1) of the Order applies (Articles 67 and 74; Rule 79)
- 46. Decree for recovery of lands or premises to which sub-paragraph (a) of Article 67(1) of the Order applies and for the recovery of arrears of rent or sums due under Article 69 of the Order (Articles 67, 69, 72(3) and 74; Rule 79)
- 47. Decree for recovery of lands or premises to which sub-paragraph (b) of Article 67(1) of the Order applies (Articles 67 and 74; Rule 79)
- 48. Decree for recovery of lands or premises to which sub-paragraph (c) of Article 67(1) of the Order applies (Articles 67, 71 and 74; Rule 79)
- 49. Dismiss in ejectment proceedings in respect of lands or premises to which sub-paragraph (a) of Article 67(1) of the Order applies (Articles 2(3), 67, 73 and 74; Rules 74 and 79)
- 50. Dismiss in ejectment proceedings in respect of lands or premises to which sub-paragraph (a) of Article 67(1) of the Order applies and where arrears of rent or sums due under Article 69 of the Order where claimed (Articles 2(3), 67, 69, 72(3), 73 and 74; Rules 74 and 79)
- 51. Dismiss in ejectment proceedings in respect of lands or premises to which sub-paragraph (b) of Article 67(1) of the Order applies (Article 2(3), 67 and 73; Rules 74 and 79)
- 52. Dismiss in ejectment proceedings in respect of lands or premises to which sub-paragraph (c) of Article 67(1) of the Order applies (Articles 2(3), 67, 71 and 73; Rules 74 and 79)
- 53. Process register in ejectment proceedings (Rule 65)
- 54. Memorandum of an ejectment proceeding entered in the process register (Rule 65(4))

APPEALS AND APPLICATIONS TO MAGISTRATES’ COURT

**Form 55**

Magistrates’ Courts (Northern Ireland) Order 1981

(Article 76; Rule 97)

Notice of Appeal to Magistrates’ Court

... .., of .....

Complainant

....., of .....

Defendant

TAKE NOTICE that I, the undersigned appellant, intend to appeal to a magistrates’ court sitting at ..... (place) on ..... (date) at ..... (time) against the decision of .....



..... (here state decision appealed against)

Given under ..... (here state enactment under which decision appealed against was given)

Dated This ..... day of ..... 20...

Appellant

[Solicitor for Appellant]

To the Respondent

....., of .....

and to the Clerk of Petty Sessions.

**NOTES:**

Rule 98(2) The notice served on the clerk of petty sessions shall be endorsed with the date upon which and the manner in which the notice was served on the other party to the proceedings.

Rule 99: A copy of the decision or determination from which an appeal is brought shall be lodged with the clerk of petty sessions by the appellant at least seven days before the hearing of the appeal.

**Form 55A**

Magistrates’ Courts (Northern Ireland) Order 1981

(Article 76; Rules 97 and 97A)

Crime (International Co-operation) Act 2003 (Sections 59 and 62)

Notice of Appeal to Magistrates’ Court

... .., of .....

Complainant

....., of .....

Defendant

TAKE NOTICE that I, the undersigned appellant, intend to appeal to a magistrates’ court sitting at (place) on (date) at (time) against the decision of the [Department for Infrastructure] under section 57 of the Crime (International Co-operation) Act 2003, to recognise in the United Kingdom a driving disqualification imposed by (state the country by which the disqualification was imposed), on the ground(s) that (state the grounds on which the appeal is made)

I intend/do not intend to apply to the court to suspend the recognition of the disqualification under section 62(2) of the Crime (International Co-operation) Act 2003.

Dated This ..... day of ..... 20...

Appellant

[Solicitor for Appellant]

To the Respondent

....., of .....

and to the Clerk of Petty Sessions at ....

NOTES:

Rule 97A(1) The notice served on the clerk of petty sessions shall be accompanied by a copy of the notice of intention to appeal given to the appropriate Minister and, shall specify whether or not the appellant wishes to apply to the court to suspend the driving disqualification pending the final outcome of the appeal proceedings and state the grounds on which the appeal is made.

An appeal may be made under section 59 of the Crime (International Cooperation) Act 2003, against the decision of the [Department for Infrastructure] under section 57 of that Act, to recognise in the United Kingdom a foreign driving disqualification. Such an appeal may be made on the basis that section 57 does not apply to the appellant’s case. (Section 56 of the Crime (International Co-operation) Act 2003 sets out the criteria for applying section 57 to a foreign driving disqualification.)

Rule 98(2) The notice served on the clerk of petty sessions shall be endorsed with the date upon which and the manner in which the notice was served on the other party to the proceedings.

Rule 99: A copy of the decision or determination from which an appeal is brought shall be lodged with the clerk of petty sessions by the appellant at least seven days before the hearing of the appeal.

**Form 56**

Magistrates’ Courts (Northern Ireland) Order 1981

(Article 76; Rule 97)

Notice of Application to Magistrates’ Court

... .., of .....

Complainant

....., of .....

Defendant

TAKE NOTICE that I, the undersigned appellant, intend to apply to a magistrates’ court sitting at ..... (place) on ..... (date) at ..... (time)

For [a licence, permit, certificate or authorisation etc] [an order authorizing the disposal, destruction, forfeiture] under ..... (state enactment)

Dated This ..... day of ..... 20...

Appellant

[Solicitor for Appellant]

To the Respondent

....., of .....

and to the Clerk of Petty Sessions at ....

NOTES:

Rule 98(2) The notice served on the clerk of petty sessions shall be endorsed with the date upon which and the manner in which the notice was served on the other party to the proceedings.

PROCEEDINGS ON COMPLAINT IN A CIVIL MATTER

FORM 57

MAGISTRATES' COURT' (NORTHERN IRELAND) ORDER 1981

(Article 79; Rule 8)

Summons to Defendant to Answer Complaint

Complaint

... .., of .....

Complainant

....., of .....

Defendant

WHEREAS a complaint has been made before me that on .....  
..... (date) at ..... (place) you, the said defendant, .....  
.....  
.....

THIS IS TO COMMAND YOU to appear as a defendant on the hearing of the said  
complaint at ..... (place) on ..... (date) at .....  
(time) before a magistrates' court.

This ..... day of ..... 20...

Justice of the peace [now lay magistrate]

[Clerk of Petty Sessions]

To the said Defendant.

57. Summons to defendant to answer complaint (Art.79, r.8)

58. Summons to vary, etc., order for periodical payment (Articles 79 and 86; Rule 8)

59. Order varying, etc., order for periodical payment (Article 86)

**A. Orders in criminal proceedings**

**Form 60**

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981 (Article 91; Rule 105)

Notice to Defendant of Sum Adjudged to be Payable by a Conviction

PLEASE GIVE THIS NOTICE YOUR IMMEDIATE ATTENTION

Name and address of defendant: Case Ref: Online Account Reference:

At ... .. (name of court) on ... .. (date) you were convicted of (an) offence(s) and  
ordered to pay the following sums on the terms shown below:

Charge Fine Offender levy Extra costs

Other party

Charge total

PAYMENT TERMS

..... OVERALL TOTAL Payment received\* ... ..

\* Any payments made by you at Court may not be reflected on this notice.

## METHODS OF PAYMENT

On-line: You can pay online using a credit card. Go to [www.courtsni.gov.uk](http://www.courtsni.gov.uk) and enter your case reference number and your online account reference number (see above).

Telephone: You can pay by telephone using a credit or debit card. Telephone the Customer Service Centre on 028 7126 1329.

By post: You can pay by post using a cheque or postal order. Crossed cheques and postal orders should be made payable to ‘Northern Ireland Courts and Tribunals Service’ and sent to CUSTOMER SERVICE CENTRE, PO BOX 256, LONONDERRY, BT48 4AP. Your case reference number and name must be quoted on the back of all cheques and postal orders. Cash should not be sent.

## ENQUIRIES

All enquiries should be made to the Customer Service Centre on 028 7126 1329, quoting your case reference number.

Driving Licence Disqualification/Endorsements (if applicable)

The Court further ordered:

If you did not surrender your driving licence in court you must surrender it to the postal address shown above within 5 days of the date of court. Failure to do this may result in further prosecution.

## FURTHER TIME TO PAY

You may apply to the Court for payment by instalments, for further time to pay or to vary an instalment order. All applications should detail the reasons for your application and include details of your financial circumstances or any change in your circumstances since the date of your conviction. The Court may require you to appear at the hearing of an application. A COPY OF THIS NOTICE SHOULD BE SENT WITH YOUR APPLICATION.

## FAILURE TO PAY

If you fail to pay within the time specified by the Court or if you fail to comply with any instalment order, an application may be made to the Court for the order to be enforced by the issue of—

- a warrant of distress (i.e. the seizure and sale of your goods to satisfy the amount owed);
- a warrant committing you to prison for a specified period (see below); or
- a supervised activity order requiring you to perform unpaid work for a specified period.

Maximum periods of imprisonment for non-payment  
An amount not exceeding £200 7 days  
An amount exceeding £200 but not exceeding £500 14 days  
An amount exceeding £500 but not exceeding £1,000 28 days  
An amount exceeding £1,000 but not exceeding £2,500 45 days  
An amount exceeding £2,500 but not exceeding £5,000 3 months  
An amount exceeding £5,000 but not exceeding £10,000 6 months  
An amount exceeding £10,000 12 months

The issue of a warrant may result in you being liable for additional costs which would increase the amount you owe.

Dated this ... .. day of ... .. 20 .

Clerk of Petty Sessions.

60A. Notice to Defendant of Defaulter of Order Enforcing Payment of Sum Registered under Art 76 of the Road Traffic Offenders (NI) Order 1996 (Magistrates' Courts (NI) Order 1981 (Art 92; rr. 105, 143 and 144) (Road Traffic Fixed Penalties (Enforcement of Fines) Regulations (NI) 1997; Reg.7)

**Form 60B**

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981

(Article 92; Rules 105, 143 and 144)

JUSTICE ACT (NORTHERN IRELAND) 2011

THE PENALTY NOTICES (JUSTICE ACT (NORTHERN IRELAND) 2011) (ENFORCEMENT OF FINES) REGULATIONS (NORTHERN IRELAND) 2012;

Regulation 7

Notice to Defendant or Defaulter of Order Enforcing Payment of Sum Registered under Section 67 of the Justice Act (Northern Ireland) 2011

To: Petty Sessions Office

Courthouse

Order Book No.

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TAKE NOTICE that at a magistrates’ court held at (place) on (date) , the court found that you have defaulted on payment of a sum registered against you for enforcement as a fine under section 67 of the Justice Act (Northern Ireland) 2011.

The court allowed you until (date) , to pay the following sum [The court ordered you to pay the following sums by instalments of commencing on (date)

Registered sum .... £

Costs .... £

Amount already paid .... £

---

Balance due .... £

---

You may however apply to the court by notice in writing addressed to me at the above address for an order for payment by instalments pursuant to Article 91(3) of the Magistrates’ Courts (Northern Ireland) Order 1981 or for further time for payment or for variation of the said Order.

And the court ordered that if such payment is not made or such issue is not made or such application received by me within the time allowed [a warrant of commitment be issued committing you to prison for days. The issue of a warrant would increase the amount due.

Payment may be made to me within the time allowed at the above address, or may be sent by post at your own risk. Payment made by post must be accompanied by this notice and postage must be prepaid.

Dated This ..... day of ..... 20... 20 .

Clerk of Petty Sessions

NOTE: It will be helpful to the court in dealing with your application if you will provide particulars of income, outgoings and any change of circumstances since the order was made.

**Form 60C**

MAGISTRATES COURTS (NORTHERN IRELAND) ORDER 1981 (Article 92; Rule 105)

Notice to Defendant of a Fine Default Hearing for Failure to Pay a Sum Adjudged to be Payable by a Conviction

To: (Insert Defendant’s name and address)

Case Ref: Online Account Reference:

At (name of court) Magistrates’ Court on (date) you were convicted and ordered to pay the following sum on the terms shown below:

Charge Fine Offender levy Extra costs

Other party

Charge total

**PAYMENT TERMS**

In respect of these convictions you have made the following payment:

Total Payment Made £ As of [insert date of issue of notice]

This leaves a current balance outstanding of £

**FINE DEFAULT HEARING**

This notice is to inform you that at (time) on (date) at (name of court) Magistrates’ Court (address) the court will hold a Fine Default Hearing to consider the exercise of its powers under Article 92 of the Magistrates’ Courts (Northern Ireland) Order 1981 to enforce the order, which may include the issue of:

- o a warrant of distress (i.e. the seizure and sale of your goods to satisfy the amount owed);
- o a warrant committing you to prison for a specified period (see table below) for each charge with an outstanding balance; or
- o a supervised activity order requiring you to perform unpaid work for a specified period.

Maximum periods of imprisonment for non-payment  
An amount not exceeding £200 7 days  
An amount exceeding £200 but not exceeding £500 14 days  
An amount exceeding £500 but not exceeding £1,000 28 days  
An amount exceeding £1,000 but not exceeding £2,500 45 days  
An amount exceeding £2,500 but not exceeding £5,000 3 months  
An amount exceeding £5,000 but not exceeding £10,000 6 months  
An amount exceeding £10,000 12 months

The issue of a warrant may result in you being liable for additional costs which would increase the amount you owe.

You are entitled to appear and to be legally represented at a Fine Default Hearing and, depending on your means, you may be entitled to legal aid.

At the Fine Default Hearing you may apply to the Court for payment by instalments, for further time to pay or to vary an instalment order. You will be required to provide details of your financial circumstances or any change in your circumstances since the date of your conviction.

If you pay the whole outstanding balance before the Fine Default Hearing date of [date], it will not be necessary for you to appear.

**WARNING: NON-ATTENDANCE AT THE FINE DEFAULT HEARING MAY RESULT IN YOU BEING DEALT WITH IN YOUR ABSENCE**

Certificate of Service

I ..... of ..... hereby declare that on ... .. day of ... .. 20 ..... I served a copy of this notice as follows: (a) by delivering it to the above-named defendant at (address) ... .. (b) by sending it by ordinary post in an envelope addressed to the defendant at ... .. (address) (c) by sending it by registered post/first class recorded delivery/second class recorded delivery in an envelope addressed to the defendant at (address)

Dated:

Name: ... ..

**ACKNOWLEDGEMENT BY DEFENDANT OF RECEIVING NOTICE OF A FINE DEFAULT HEARING BY POST**

(Insert Defendant’s name and address)

Case Ref: Online Account Reference:

To appear at (time) on (date) at (name of court) Magistrates’ Court (address) ... ..

**IMPORTANT**

\* This acknowledgement of receipt of notice of a Fine Default Hearing should be completed by you or your solicitor and returned to the court office (address shown above) within 14 days or before the date of hearing (whichever is sooner).

\* The notice should be retained by you or your solicitor. Only this acknowledgement should be returned.

\* By signing the acknowledgement you are not accepting or disputing the failure to pay the fine (or other monetary penalty). You should make arrangements to attend and/or be represented at court on the date and time stated on the notice.

\* If you have any queries about the form or its effect you should consult your solicitor.

**ACKNOWLEDGEMENT**

\* I (print name) ..... of (print address) ... .. received a copy of the notice of the Fine Default Hearing summarised at the top of this form.

Signed: ..... [Defendant/Solicitor on behalf of Defendant]

Date:

Note The completed acknowledgement should be returned to the court office (address shown above) within 14 days or before the date of hearing (whichever is sooner).

61. Warrant of distress for sums adjudged to be payable by a conviction (Art 92(1)(a); rr. 14, 105, 143 and 144)

[after “ordered to pay for fine the sum of £ ”, insert , “for offender levy the sum of £ ”

in the list between “Fine ... £” and “Compensation ... £”, insert “Offender Levy ... £ ”]

61A. Warrant of distress for sum registered under Art 76 of the Road Traffic Offenders (NI) Order 1996 (Magistrates' Courts (NI) Order 1981 (Art 92; rr. 105, 143 and 144) (Road Traffic Fixed Penalties (Enforcement of Fines) Regulations (NI) 1997; Regs.6 and 7)

62. Warrant of Commitment for sum adjudged to be payable by a conviction (Arts 91 and 92(1)(b); rr. 14, 105 and 143)

[.after “ordered to pay for fine the sum of £ ”, insert “for offender levy the sum of £ ”

in the list between “Fine ... £ ” and “Compensation ... £ ”, insert “Offender Levy ... £”]

62A. Warrant of Commitment for the Fine Registered under Art 76 of the Road Traffic Offenders (NI) Order 1996 (Magistrates' Courts (NI) Order 1981 (Arts 91 and 92(1)(b); rr. 14, 105 and 143) (Road Traffic Fixed Penalties (Enforcement of Fines) Regulations (NI) 1997; Reg.7)

**Form 62B** [added SR (NI) 2008/251]

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981 (Rules 14 and 105A)  
CRIMINAL JUSTICE (NORTHERN IRELAND) ORDER 2008 (Article 45)

Supervised Activity Order

... .., of .....

Complainant

....., of .....

Defendant

WHEREAS it appears that the defendant being aged 18 or over, was on the (date) convicted by a magistrates’ court sitting at (place) of the following offence(s):

(state shortly particulars of offence(s))

AND that on the (date) the court ordered the defendant to pay the following sum: -

£

AND the court [allowed the defendant until (date) , to pay the said sum]

[ordered the defendant to pay the said sum by instalments of £ per commencing on (date)].

AND WHEREAS the defendant has not paid the sum as ordered.

IT IS ORDERED that the defendant shall, during the period of 12 months beginning with the date of this

order, be required to attend at (place) for the period of ... hours, and shall comply with the following requirements:



1. That the defendant shall report to the supervising officer and notify the officer without delay of any change of address or in the times (if any) at which the defendant usually works or attends a school or other educational establishment;

2. That the defendant shall attend at a place of supervision specified in this order and engage in activities in accordance with such instructions as may be given by the supervising officer for the period specified in this order.

[The court directs that the requirements of this order shall be [concurrent with] [additional to] the requirements specified in the supervised activity order(s) made on (date) for hours activity [respectively]].

Dated This ..... day of ..... 20...

District judge (magistrates’ courts) [Lay Magistrate] [Clerk of Petty Sessions]

**Form 62C** [added SR (NI) 2008/251]

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981 (Rules 7, 17 and 105A)

CRIMINAL JUSTICE (NORTHERN IRELAND) ORDER 2008 (Schedule 3, paragraph 5)

Complaint for failure to comply with requirement(s) of supervised activity order

... .., of .....

Complainant

....., of .....

Defendant

I ....., of .....

say on oath that the above-named defendant was on the (date) convicted by a court of summary jurisdiction of the following offence(s): (state shortly particulars of offence(s))

AND that on the (date) the said court made a supervised activity order requiring the said defendant to (here set out requirement which is contravened)

AND the said defendant did on (date) fail to comply with the requirements [in as much as (here set out particulars of breach)

].

Complainant

[for Complainant]

Taken before me This ..... day of ..... 20...

Lay Magistrate

**Form 62D** [added SR (NI) 2008/251]

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981

(Rules 8 and 105A)

CRIMINAL JUSTICE (NORTHERN IRELAND) ORDER 2008

(Schedule 3, paragraph 5)

Summons to Defendant for failure to comply with requirement(s) of supervised activity order

... .., of .....

Complainant

....., of .....

Defendant

WHEREAS a complaint has been made before me by of ..... that on (date) , you, the said defendant, were convicted by a court of summary jurisdiction of the following offence(s): (state shortly particulars of offence(s))

AND that on the (date) the said court made a supervised activity order requiring you to (here set out requirement(s) contravened) and by the said complaint, it is further alleged that you did on (date) fail to comply with the requirements of the said order [in as much as you (here set out particulars of breach)

].

THIS IS TO COMMAND YOU, to appear on the hearing of the above complaint at (place) on (date) at (time) o’clock in the forenoon, before a court of summary jurisdiction

Dated This ..... day of ..... 20...

Lay Magistrate

[Clerk of Petty Sessions]

To you the said defendant

**Form 62E** [added SR (NI) 2008/251]

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981 (Rules 14 and 105A)

CRIMINAL JUSTICE (NORTHERN IRELAND) ORDER 2008 (Schedule 3, paragraph 5)

Warrant for arrest on failure to comply with requirement(s) of supervised activity order

... .., of .....

Complainant

....., of .....

Defendant

WHEREAS a complaint has been made in writing and on oath that on (date) , the defendant was convicted by a court of summary jurisdiction of the following offence(s): (state shortly particulars of offence(s)):

AND that on the (date) the said court made a supervised activity order requiring the said defendant to (here set out requirement which is contravened) and by the said complaint, it is further alleged that the defendant did on (date) fail to comply with the requirements of the said order [in as much as (here set out particulars of breach)

].

THIS IS TO COMMAND YOU, to whom this warrant is addressed, to arrest and bring the said defendant before a court of summary jurisdiction at (place) to answer to the said complaint.

Dated This ..... day of ..... 20...

District judge (magistrates’ courts)

[Lay Magistrate]

To the District Commander of the Police Service of Northern Ireland at

Note: This form may be endorsed for bail as on Form 9.

**Form 62F** [added SR (NI) 2008/251]

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981

(Rules 14 and 105A)

CRIMINAL JUSTICE (NORTHERN IRELAND) ORDER 2008

(Schedule 3, paragraph 5)

Order on failure to comply with requirement(s) of supervised activity order

... .., of .....

Complainant

....., of .....

Defendant

WHEREAS a court of summary jurisdiction on (date) convicted the defendant of the following offence(s); (state shortly particulars of offence(s)):

AND that on the (date) the said court made a supervised activity order which required the defendant to (here set out requirement which is contravened) and by the said complaint, it is further alleged that you did on (date) fail to comply with the requirements of the said order [in as much as you (here set out particulars of breach)

].

AND WHEREAS on the (date) , a court of summary jurisdiction at (place) being satisfied that the defendant has failed without reasonable excuse to comply with the requirements of the said order,

ORDERED [that the defendant (here state particulars of decision)][that the order should be revoked and that -]

Dated This ..... day of ..... 20...

District judge (magistrates’ courts) [Lay Magistrate] [Clerk of Petty Sessions]

**Form 62G** [added SR (NI) 2008/251]

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981 (Rule 105A)

CRIMINAL JUSTICE (NORTHERN IRELAND) ORDER 2008 (Schedule 3, paragraph 6)

Notice of Application for [Amendment] [Extension] [Revocation] of supervised activity order

... .., of .....

Complainant

....., of .....

Defendant

WHEREAS a court of summary jurisdiction on (date) convicted [me] [the respondent] of the following offence(s); (state shortly particulars of offence(s)):

AND that on the (date) the said court made a supervised activity order.

[AND having regard to the circumstances which have arisen since the order was made, namely:

]

TAKE NOTICE that I intend to apply to a court of summary jurisdiction at (place) on the (date) ,

that the said order be [amended] [extended] [revoked] [revoked and a period of imprisonment be imposed].

Dated This ..... day of ..... 20...

Applicant

To:

**Form 62H** [added SR (NI) 2008/251]

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981

(Rules 8 and 105A)

CRIMINAL JUSTICE (NORTHERN IRELAND) ORDER 2008

(Schedule 3, paragraph 6)

Summons to Defendant to [Amend] [Extend] [Revoke] a supervised activity order

... .., of .....

Complainant

....., of .....

Defendant

WHEREAS an application has been made by of that on (date) , you the defendant were convicted by a court of summary jurisdiction of the following offence(s): (state shortly particulars of offence(s))

AND that on the (date) the said court made a supervised activity order.

AND, whereas by the said application (name of applicant) has applied that the said order be [amended] [extended] [revoked] [revoked and a period of imprisonment be imposed].

THIS IS TO COMMAND YOU, to appear as a defendant on (date) at (time) o’clock in the forenoon, before a court of summary jurisdiction at (place) in answer to the said application.

Dated This ..... day of ..... 20...

Lay Magistrate [Clerk of Petty Sessions]

To you the said defendant

**Form 62I** [added SR (NI) 2008/251]

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981

(Rules 14, 105A and 143)

CRIMINAL JUSTICE (NORTHERN IRELAND) ORDER 2008

(Schedule 3, paragraph 6)

Warrant for Arrest of Defendant on failure to appear in answer to summons to [Amend] [Extend] [Revoke] a supervised activity order

... .., of .....

Complainant

....., of .....

Defendant

WHEREAS an application has been made that the defendant was convicted by a [court of summary jurisdiction][Crown Court] sitting at (place) of the following offence(s):

(state shortly particulars of offence(s))

AND that on the (date) the said court made a supervised activity order.

AND a summons to [amend] [extend] [revoke] the said order was duly served on the defendant requiring him to appear before a court of summary jurisdiction sitting at (place)

on the (date).

AND the defendant failed to appear at the said court in answer to the summons.

THIS IS TO COMMAND YOU, to whom this warrant is addressed, to arrest the said defendant and bring the defendant before a court of summary jurisdiction sitting at (place) to answer to the said application.

Dated This ..... day of ..... 20...

District judge (magistrates’ courts)

[Lay Magistrate]

To the District Commander of the Police Service of Northern Ireland at

Note: This form may be endorsed for bail as on Form 9.

**Form 62J** [added SR (NI) 2008/251]

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981

(Rules 14 and 105A)

CRIMINAL JUSTICE (NORTHERN IRELAND) ORDER 2008

(Schedule 3, paragraph 6)

Order to [Amend] [Extend] [Revoke] a supervised activity order

... .., of .....

Complainant

....., of .....

Defendant

WHEREAS a court of summary jurisdiction sitting at (place) , on (date) convicted the defendant of the following offence(s): (state shortly particulars of offence(s))

AND that on the (date) the said court made a supervised activity order.

AND WHEREAS has applied that the order should be [amended] [extended] [revoked] [revoked and a period of imprisonment be imposed] on the ground that:

IT IS ORDERED that the said order should be [amended] [extended] [revoked] [revoked and a period of imprisonment of days be imposed] (insert details as appropriate)

Dated This ..... day of ..... 20...

District judge (magistrates’ courts) [Lay Magistrate] [Clerk of Petty Sessions]

**Form 62K** [added SR (NI) 2008/251]

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981 (Article 114; Rules 14, 15 and 105A)

CRIMINAL JUSTICE (NORTHERN IRELAND) ORDER 2008 (Schedule 3, paragraphs 5 and 6)

Warrant of Commitment on [failure to comply with requirement(s)] [revocation] of a supervised activity order

... .., of .....

Complainant

....., of .....

Defendant

WHEREAS it appears that the defendant was on the (date) convicted by a magistrates’ court sitting at (place)

of the following offence(s): (state shortly particulars of offence(s))

AND that on the (date) the said court made a supervised activity order [which required the defendant to (here set out requirement which is contravened)].

AND WHEREAS on the (date) a court of summary jurisdiction sitting at (place) being satisfied that [the defendant failed without reasonable excuse to comply with the requirements of the said order] [the order should be revoked and the court should impose a period of imprisonment].

THE COURT ORDERED THAT the said order be revoked and that for the said office, the defendant be [imprisoned][detained] in the [Prison][Young Offenders Centre] for the period of .

THIS IS TO COMMAND YOU, to whom this warrant is addressed, to lodge the defendant in HM Prison [Young Offenders Centre] at [in accordance with Part IV of the Young Offenders Centre Rules (Northern Ireland) 1982] to be detained there for the period of .....

And for this the present warrant shall be a sufficient authority to all whom it may concern.

Dated This ..... day of ..... 20...

District judge (magistrates’ courts)

[Lay Magistrate]

[Clerk of Petty Sessions]

To the District Commander of the Police Service of Northern Ireland at

**Form 62L** [added SR (NI) 2008/251]

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981

(Article 114; Rules 14, 15, 105, 105A and 143)

CRIMINAL JUSTICE (NORTHERN IRELAND) ORDER 2008 (Schedule 3, paragraph 5(3))

Warrant of commitment to the Crown Court on failure to comply with requirement of a supervised activity order

... .., of .....

Complainant

....., of .....

Defendant

WHEREAS it appears that the defendant was on the (date) convicted by the Crown Court sitting at (place) of the following offence(s): (state shortly particulars of offence(s))

AND that on the (date) the said court made a supervised activity order which required him to (here set out requirement which is contravened).

AND WHEREAS THE defendant has been arrested on foot of a warrant issued under paragraph 5(1)(b) of Schedule 3 to the Criminal Justice (Northern Ireland) Order 2008.

AND WHEREAS on the (date) a court of summary jurisdiction sitting at (place)

ORDERED that the defendant be committed to custody under paragraph 5(3) of Schedule 3 to the Criminal Justice (Northern Ireland) Order 2008 until the defendant can be brought before the Crown Court sitting at .

THIS IS TO COMMAND YOU, to whom this warrant is addressed, to lodge the defendant in HM Prison [Young Offenders Centre] at [in accordance with Part IV of

the Young Offenders Centre Rules (Northern Ireland) 1982] in order that the defendant may be brought before the Crown Court sitting at (place)

Dated This ..... day of ..... 20...

District judge (magistrates’ courts) [Lay Magistrate] [Clerk of Petty Sessions]

To the District Commander of the Police Service of Northern Ireland at

Note: This warrant may be endorsed for bail as on Form 11.

**Form 62M** [added SR (NI) 2012/189]

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981

(Article 91 and 92; Rules 14, 105 and 143)

JUSTICE ACT (NORTHERN IRELAND) 2011

THE PENALTY NOTICES (JUSTICE ACT (NORTHERN IRELAND) 2011) (ENFORCEMENT OF FINES) REGULATIONS (NORTHERN IRELAND) 2012;

Regulation 7

Warrant of Commitment for Sum Registered under Section 67 of the Justice Act (Northern Ireland) 2011

Clerk of Petty Sessions

... .., of .....

Complainant

....., of .....

Defendant

WHEREAS [upon hearing of a complaint that] on the (date) at (place) the sum of £ was registered against the defaulter [defendant] as a sum adjudged to be paid by a conviction under section 67 of the Justice Act (Northern Ireland) 2011 in respect of Penalty Notice/and whereas a Notice of Registration of the fine was served on the defaulter [defendant] under section 67(2) of that Act and whereas the defaulter [defendant] has defaulted on payment of that fine.

An order was made on the day of 20 , by a magistrates’ court against the said defaulter [defendant] to the following effect viz: -

AND WHEREAS the defaulter [defendant] has not paid the fine as ordered.

THIS IS TO COMMAND YOU to whom this warrant is addressed, to execute the said order against the defendant as follows:-

To lodge the defendant in HM Prison at there to be imprisoned for the period of unless the sums be sooner paid.

And for this present warrant shall be a sufficient authority to all whom it may concern. The sum levied to be paid to the clerk of petty sessions at

The warrant to be returned within a reasonable time if not executed.

Fine .... £

Offender Levy .... £

Part payment before .... £



default fixed

Amount due when .... £

default fixed

Part payment after .... £

default fixed

Cost of warrant .... £

---

Balance .... £

---

Dated This ..... day of ..... 20....

District Judge (Magistrates' Courts)

To the Chief Constable of the Police Service of Northern Ireland

63. Warrant of Commitment on commission of further offence during operational period of suspended sentence (Art 114; rr. 14, 15, 108 and 143) (Treatment of Offenders Act (NI) 1968 (Section 19(1)(a) or (b))

63A. Order for [absolute] [conditional] discharge (rr. 14 and 125 of the Magistrates' Courts (NI) Order 1981 and Art 4 of the Criminal Justice (NI) Order 1996)

63B. Complaint on Commission of Further Offence During Period of Conditional Discharge (rr. 7, 17 and 125 of the Magistrates' Courts (NI) Order 1981 and Art 5 of the Criminal Justice (NI) Order 1996)

63C. Summons to Defendant on Commission of Further Offences During Period of Conditional Discharge (rr. 8 and 125 of the Magistrates' Courts (NI) Order 1981 and Art 5 of the Criminal Justice (NI) Order 1996)

63D. Warrant for Arrest on Commission of Further Offence During Period of Conditional Discharge (rr. 14, 125 and 143 of the Magistrates' Courts (NI) Order 1981 and Art 5 of the Criminal Justice (NI) Order 1996)

63E. Warrant of Commitment to the Crown Court on Commission of Further Offence by Person in whose case an Order for Conditional Discharge has been made (Art 114; rr. 14, 15, 125 and 143 of the Magistrates' Courts (NI) Order 1981 and Art 5(5)(a) of the Criminal Justice (NI) Order 1996)

64. Summons on complaint for appearance before court by which a suspended sentence has been passed (r. 8) (Treatment of Offenders Act (NI) 1968 (Section 21))

65. Warrant for arrest of person upon whom a suspended sentence has been passed (rr. 14 and 143) (Treatment of Offenders Act (NI) 1968 (Section 21))

66. Warrant of Commitment where person is ordered under Art 3(1) of the Treatment of Offenders (NI) Order 1976 to be returned to prison (Art 114; rr. 14, 15 and 143) (Treatment of Offenders (NI) Order 1976 (Art 3))

67. Warrant of Commitment to Crown Court under Art 3(4) of the Treatment of Offenders (NI) Order 1976 (Art 114; rr. 14, 15 and 143) Treatment of Offenders (NI) Order 1976 (Art 3(4))

68. Summons upon complaint that person has been convicted as mentioned in Art 3(1)(a) of the Treatment of Offenders (NI) Order 1976 after his discharge from prison and has not been ordered to be returned to prison or young offenders centre (r. 8) (Treatment of Offenders (NI) Order 1976 (Art 5))
69. Warrant for arrest of person who has been convicted as mentioned in Art 3(1)(a) of the Treatment of Offenders (NI) Order 1976 after his discharge from prison and who has not been ordered to be returned to prison or a young offenders centre (rr. 14 and 143) (Treatment of Offenders (NI) Order 1976 (Art 5))
- 69A. Probation Order (rr. 14 and 126 of the Magistrates' Courts (NI) Order 1981 and Art 10 of the Criminal Justice (NI) Order 1996.
- 69B. Community Service Order (Magistrates' Courts (NI) Order 1981 and Art 13 of the Criminal Justice (NI) Order 1996)
- 69C. Combination Order (rr. 14 and 126 of the Magistrates' Courts (NI) Order 1981 and Art 15 of the Criminal Justice (NI) Order 1996.
- 69D. Complaint for failure to comply with requirement(s) for [probation][community service] [combination] order.  
“[Crown Court]” is omitted
- 69E. Summons to Defendant for failure to comply with requirement(s) of [probation] [community service] [combination] order (rr. 8 and 126 of the Magistrates' Courts (NI) Order 1996 and Schedule 2, paragraph 2 to the Criminal Justice (NI) Order 1996)  
“[Crown Court]” is omitted
- 69F Warrant for Arrest on failure to comply with requirements of [probation] [community service] [combination] order (rr. 14, 126 and 143 of the Magistrates' Courts (NI) Order 1981 and Schedule 2, paragraph 2 to the Criminal Justice (NI) Order 1996)  
“[Crown Court]” is omitted
- 69G. Order on failure to comply with requirement(s) of [probation] [community service] [combination] order (rr. 14 and 126 of the Magistrates' Courts (NI) Order 1981 and Schedule 2 paragraph 3 to the Criminal Justice (NI) Order 1996)  
“[Crown Court]” is omitted
- 69H. Notice of Application for [Revocation] [Amendment] of [probation] [community service] [combination] order (r. 126 of the Magistrates' Courts (NI) Order 1981 and Schedule 2, paragraphs 7, 9, 12, 13, and 15 to the Criminal Justice (NI) Order 1996)  
“[Crown Court]” is omitted
- 69I. Summons to Defendant to [Amend] [Revoke] a [probation] [community service] [combination] order. (rr. 8 and 126 of the Magistrates' Courts (NI) Order 1981 and Schedule 2 paragraph 7, 12 and 17 to the Criminal Justice (NI) Order 1996)  
“[Crown Court]” is omitted
- 69J. Warrant for Arrest of Defendant on Failure to appear in answer to summons to [Amend] [Revoke] a [probation] [community service] [combination] order. (rr. 14 and 126 of the Magistrates' Courts (NI) Order 1981 and Schedule 2, paragraphs 7 and 17 to the Criminal Justice (NI) Order 1996)

“[Crown Court]” is omitted

69K. Order to [Revoke] [Amend] a [probation] [community service] [combination] order (rr. 14 and 126 of the Magistrates' Courts (NI) Order 1981 and Schedule 2 paragraphs 7, 12, 13 and 15 to the Criminal Justice (NI) Order 1996)

69L. Warrant of Commitment on [failure to comply with requirement(s)] [revocation] of a [probation] [community service] [combination] order. (Art 114; rr. 14, 15, 126 and 143 of the Magistrates' Courts (NI) Order 1981 and Schedule 2 paragraphs 3(1)(d), 7(2)(a)(ii) of Schedule 2 to the Criminal Justice (NI) 1996)

69M. Certificate of failure to comply with requirement(s) of [probation] [community service] [combination] order (r. 126A of the Magistrates' Courts (NI) Order, 1981 and Schedule 2 paragraph 3(4) to the Criminal Justice (NI) Order 1996)

**Form 69N** [added SR (NI) 2008/251]

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981

(Rules 14, 15 and 143)

CRIMINAL JUSTICE (NORTHERN IRELAND) ORDER 1996

(Schedule 2, paragraph 2(2))

Warrant of Commitment to the Crown Court on failure to comply with requirement of a [probation] [community service] [combination] order

... .., of .....

Complainant

....., of .....

Defendant

WHEREAS it appears that the defendant was on the (date) convicted by the Crown Court sitting at (place) of the following offence(s): (state shortly particulars of offence(s))

AND WHEREAS on the (date) the said court made a [probation order] [community service order] [combination order under Article 15 of the Criminal Justice (Northern Ireland) Order 1996] which required the defendant to (here set out requirement which is contravened).

Having been arrested by virtue of a warrant issued under paragraph 2(3) of Schedule 2 to the Criminal Justice (Northern Ireland) Order 1996, AND having been brought before a magistrates’ court pursuant to paragraph 2(3) of Schedule 2 to the said Order, the court ordered that the defendant be committed to custody until the defendant can be brought before the Crown Court sitting at .

THIS IS TO COMMAND YOU, to whom this warrant is addressed, to lodge the defendant in HM Prison [Young Offenders Centre] at [in accordance with Part IV of the Young Offenders Centre Rules (Northern Ireland) 1982] in order that the defendant may be brought before the Crown Court sitting at (place) .

Dated This ..... day of ..... 20...

District judge (magistrates’ courts)

[Lay Magistrate]

[Clerk of Petty Sessions]

To the District Commander of the Police Service of Northern Ireland at

Note: This warrant may be endorsed for bail as on Form 11A.

690. Warrant of Commitment to Crown Court on Revocation of [probation] [community service] [combination] order. (Art 114, rr. 14, 126, 126A and 143 of the Magistrates Courts (NI) Order 1981 and Schedule 2 paragraph 9(2)(b) to the Criminal Justice (NI) Order 1996)

69P. Custody Probation Order (rr. 14, 126, and 126A to the Magistrates' Courts (NI) Order 1981 and Art 24 to the Criminal Justice (NI) Order 1996)

69Q. Warrant of Commitment on sentence of Custody Probation Order (Art 114, rr. 14, 15, 126 and 143 of the Magistrates' Courts (NI) Order 1981 and Art 24 of the Criminal Justice (NI) Order 1996)

70. Transfer of Fine Order (Art 95; r. 108)

[after “was adjudged to pay a fine of £ ”, insert “[and offender levy of £]]

71. Further transfer of Fine Order (Arts 95 and 96; r. 108)

[after “was adjudged to pay a fine of £ ”, insert “[and offender levy of £]]

72. Notice of transfer of Fine Order (Art 96; r. 109)

**Form 72A**

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981

(Rule 109A)

CRIMINAL JUSTICE AND IMMIGRATION ACT 2008 (Section 88)

Notice of a decision whether grounds for refusal apply

UPON THE RECEIPT on the [] day of [] 20[] of a request for enforcement under section 88 of the Criminal Justice and Immigration Act 2008 of a penalty for the sum [or the balance] of [*enter sum in currency of issuing state*], representing £[] against [] of [], the court decided that it was satisfied that [none of the grounds for refusal applies. Accordingly, I have served notice of enforcement on the person required to pay the financial penalty.] [the following grounds for refusal apply — .]

Dated this [] day of [] 20 [].

Clerk of Petty Sessions

To the Lord Chancellor.

**Form 72B**

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981

(Rule 109A)

CRIMINAL JUSTICE AND IMMIGRATION ACT 2008 (Section 88)

Notice of enforcement

Complaint

... .., of .....

Complainant

....., of .....

Defendant

On the [] day of [] 20[], you were adjudged by [] to pay the sum of [*enter sum in currency of issuing state*], representing £ [] and the said sum [or the balance of £ []] remains unpaid.

You are hereby given notice that in consequence of the registration of this notice of enforcement on the [] day of [] 20[], the enforcement of payment of the said sum [or balance] is enforceable by a magistrates’ court acting in Northern Ireland.

Payment of the said sum [or balance] should be made before the [] day of [] 20[] either by post in an envelope addressed to Customer Service Centre, P.O. Box 256, Londonderry or made personally at the court office at (address) between the hours of 9.30am and 1.00pm and 2.00pm to 4.30pm (Monday to Friday) (public holidays excepted). If you cannot pay, you should, within 28 days of service hereof, make application for further time [or payment by instalments] to be granted and the application must be made to the clerk of petty sessions at [] (address).

[If you fail to pay or make such application within that time, [a warrant may be issued committing you to prison in default of payment] [a warrant of distress may be issued].]

Dated this [] day of [] 20 [].

Clerk of Petty Sessions

NOTE: Any communications sent by post must be properly stamped. Cash should not be sent.

73. Attachment of earnings order- maintenance (Art 101; rr. 111 and 112)

74. Temporary variation order (Art 101; r. 117))

#### B. ORDERS IN DEBT PROCEEDINGS

75. Enforcement process under Part VIII of the Judgments Enforcement (Northern Ireland) Order 1981 (Rules 128 to 130)

76. Enforcement order under Part VIII of the Judgment Enforcement (Northern Ireland) Order 1981 (Rule 128)

77. Committal process under Part VIII of the Judgments Enforcement (Northern Ireland) Order 1981 (Rule 129)

78. Committal order made under Part VIII of the Judgments Enforcement (Northern Ireland) Order 1981 (Rules 128 and 129)

#### C. ORDERS OF EJECTMENT PROCEEDINGS

79. Notice of intention to apply for the issue of ejectment decree for over-holding (Article 116; Rules 131 to 133)

#### D. ORDERS FOR THE PAYMENT OF SUMS (OTHER THAN ON CONVICTION) MADE IN PROCEEDINGS UPON COMPLAINT

80. Complaint for arrears under an order or periodical [lump sum] payment enforceable under Article 98 (as applied by Article 99) of the Order (Articles 98 and 99; Rule 7)

- 81. Summons for arrears under an order or periodical [lump sum] payment (Articles 98(1)(a) and 99; Rule 8)
- 82. Warrant of arrest for arrears under an order for periodical [lump sum] payment (Articles 98(1)(b) and 99; Rules 14 and 143)
- 83. Warrant of distress for arrears (Articles 98(4)(a) and 99; Rules 14, 143 and 144)
- 84. Warrant of commitment in default of distress for arrears under an order for periodical [lump sum] payment (Articles 98(5) and 99; Rules 14 and 143)

WITNESSES AND EVIDENCE

**Form 85**

THE MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981

(Article 118(1); Rule 8)

Summons to Witness

... .., of .....

Complainant

....., of .....

Defendant

TO

....., of .....

WHEREAS [a complaint has been made] [process has been issued by the plaintiff claiming] that the defendant [or: a Notice of [Appeal] [Application] to a magistrates’ court has been duly served]

AND WHEREAS I am satisfied that you are able to give material evidence on behalf of the ..... and/or produce a document or thing; namely:- .....

THIS IS TO COMMAND YOU to appear as witness before a magistrates’ court at ..... (place) on ..... (date) at ..... (time)

[and there produce the said document or thing].

This ..... day of ..... 20...

District Judge (Magistrates’ Courts)

[Clerk of Petty Sessions]

NOTE: Failure to appear at the time and place shown above is a criminal offence for which you are liable to prosecution.

**Form 85A**

THE MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981

(Article 118A(1); Rule 149K)

Summons to Witness (Criminal Proceedings)

... .., of .....

Complainant

....., of .....

Defendant

TO

....., of .....

WHEREAS a complaint has been made that the defendant

AND WHEREAS I am satisfied that you are able to give material evidence on behalf of the complainant/defendant\* and/or produce a document or thing; namely: -

\*[THIS IS TO COMMAND YOU to produce the said document or thing for inspection at (place) on (date) at (time) and deliver it to (name) .]

THIS IS TO COMMAND YOU to appear as witness before a magistrates’ court at (place) on (date) at (time) [and there produce the said document or thing].

This ..... day of ..... 20...

District Judge (Magistrates’ Courts)

[Clerk of Petty Sessions]

\* delete as appropriate

NOTE: Failure to appear at the time and place shown above is a criminal offence for which you are liable to prosecution.

86. Certificate of collecting officer of non-payment of sums ordered to be paid (Art 123(a))

87. Statement of witness to be tendered in evidence under s.1 of the Criminal Justice (Miscellaneous Provisions) Act (NI) 1968 (r. 149) (Criminal Justice (Miscellaneous Provisions) Act (NI) 1968 (Section 1))

88. Notice by complainant of intention to tender written statement at summary trial (r. 149) (Criminal Justice (Miscellaneous Provisions) Act (NI) 1968 (Section 1))

**FORM 88A**

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981

(Rules 149AR(1))

CRIMINAL JUSTICE (EVIDENCE) (NORTHERN IRELAND) ORDER 2004

(Article 5)

Application for leave to adduce evidence of non-defendant's bad character

... .., of .....

Complainant

....., of .....

Defendant

Details required

Notes

Details of applicant

Name:

Address:

Case details

Court venue: The venue of the court hearing the case.

Date of next court appearance:

Charges: Give brief details (including date and location of offence) of those charges to which this application applies.

PPSNI reference number:

ICOS reference number if known:

Details of the application

Please provide the following details:

the particulars of the bad character evidence including how it is to be adduced or elicited in the proceedings (including the names of the relevant non-defendant and other relevant witnesses); and Article 5 of the 2004 Order.

the grounds for the admission of evidence of a non-defendant's bad character under Article 5 of the 2004 Order. Please attach any relevant documentation.

Extension of time for service

Please indicate whether you are applying for an extension of time for service.

If the answer is yes, please state your reasons:

Dated This ..... day of ..... 20... .

Applicant

To the Clerk of Petty Sessions at ...

And to

(Insert names and addresses of each of the other parties to the proceedings)

NOTE:

This form should be served on the clerk of petty sessions and on every other party to the proceedings:

- within 14 days from the date on which the prosecutor has complied or purported to comply with section 3 of the Criminal Procedure and Investigations Act 1996 (disclosure by the prosecutor); or
- as soon as reasonably practicable, where the application concerns a non-defendant who is to be invited to give, or has given, evidence for a defendant; or
- in respect of a preliminary investigation or a preliminary inquiry, not less than 14 days before the date fixed for the hearing.



The notice served on the clerk of petty sessions shall be endorsed with the date upon which and the manner in which notice was served on each of the other parties to the proceedings, and, where relevant and where known, with either the date on which the prosecutor has complied or purported to comply with section 3 of the Criminal Procedure and Investigations Act 1996, or the date fixed for the hearing.

Note to party who receives a copy of this application:

If you wish to oppose this application you are required within 14 days of the date the notice of the application was served on you (7 days in respect of a preliminary investigation or preliminary inquiry), to notify the clerk of petty sessions and every other party to the proceedings in Form 88B of your opposition.

**FORM 88B**

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981

(Rule 149AR(3))

CRIMINAL JUSTICE (EVIDENCE) (NORTHERN IRELAND) ORDER 2004

(Article 5)

Notice of opposition to the admission of evidence of a non-defendant's bad character  
... .., of .....

Complainant

....., of .....

Defendant

Details required	Notes
Details of party giving notice	State the name and address of the party giving notice of their opposition to the admission of evidence of a non-defendant's bad character. (If in custody give address where detained)
Name:	
Address:	

Case details

Court venue: The venue of the court hearing the case.

Date of next court appearance:

Charges: Give brief details (including date and location of offence) of those charges to which this application applies.

PPSNI reference number:

ICOS reference number if known:

Details of the notice

The details of the evidence of the non-defendant's bad character are as follows:	Give brief details of the evidence that you want to oppose the admission of. Specify whether you oppose the admission of all or part of that evidence.
--	--

Grounds for opposing the Set out the grounds for opposing the

admission of the non-defendant's bad character

admission of the evidence of the non-defendant's bad character.

Any relevant skeleton argument or case law that might bear on the issue may be attached to this notice.

Extension of time

Are you applying for an extension of time within which to give this notice?

If the answer is yes, please state your reasons:

Dated This ..... day of ..... 20... .

(Signed)

To the Clerk of Petty Sessions at ...

And to

(Insert names and addresses of each of the other parties to the proceedings)

NOTE:

This form should be served on the clerk of petty sessions and on every other party to the proceedings within 14 days of the date on which the notice of intention to adduce evidence of a non-defendant’s bad character was served (7 days in respect of a preliminary investigation or preliminary inquiry).

**FORM 88C**

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981

(Rules 149AR(4) and (6))

CRIMINAL JUSTICE (EVIDENCE) (NORTHERN IRELAND) ORDER 2004

(Article 6)

Notice of intention to adduce evidence of defendant's bad character

... .., of .....

Complainant

....., of .....

Defendant

Details required

Notes

Details of party giving notice

Name:

Address:

Case details

Court venue:

The venue of the court hearing the case.

Date of next court appearance:

Charges: Give brief details (including date and location of offence) of those charges to which this application applies.

PPSNI reference number:

ICOS reference number if known:

Details of the notice

To the named defendant:

You are hereby given notice that bad character evidence, particulars of which are detailed below, is to be adduced or elicited in these proceedings.

The particulars of that bad character evidence are as follows:

In this section include:

- (a) a description of the bad character evidence and how it is to be adduced or elicited in the proceedings (including the names of any relevant witnesses);
- (b) the grounds for the admission of evidence of the defendant's bad character under Article 6 of the 2004 Order;
- (c) why the admission of that evidence is in the interests of justice, where Article 13 of the Order applies (evidence of conviction when under 14 used in proceedings for offence committed as an adult).

Please attach any relevant documentation.

Extension of time for service

Please indicate whether you are applying for an extension of time for service.

If the answer is yes, please state your reasons:

Dated This ..... day of ..... 20... .

Applicant

NOTE:

This form should be served on the clerk of petty sessions and every other party to the proceedings.

Where the notice is given by the prosecutor, it shall be served at the same time as the prosecutor complies or purports to comply with section 3 of the Criminal Procedure and Investigations Act 1996 (disclosure by the prosecutor); or, in respect of a preliminary investigation or preliminary inquiry, not less than 14 days before the date fixed for the hearing.

Where the notice is given by a co-defendant, it shall be served within 14 days from the date on which the prosecutor has complied or purported to comply with section 3 of the Criminal Procedure and Investigations Act 1996; or, in respect of a preliminary investigation or preliminary inquiry, not less than 14 days before the date fixed for the hearing.

The notice served on the clerk of petty sessions shall be endorsed with the date upon which and the manner in which notice was served on each of the other parties to the proceedings, and, where relevant and where known, with either the date on which the prosecutor has complied or purported to comply with section 3 of the Criminal Procedure and Investigations Act 1996, or the date fixed for the hearing.

Note to defendant:

An application by a defendant to exclude bad character evidence shall be in Form 88D and shall be served on the clerk of petty sessions and on every other party to the proceedings within 7 days of the date the notice of intention to adduce the evidence of bad character was served on him.

**FORM 88D**

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981

(Rule 149AR(8))

CRIMINAL JUSTICE (EVIDENCE) (NORTHERN IRELAND) ORDER 2004

(Article 6)

Application to exclude evidence of defendant's bad character

Of

Complainant

Of

Defendant

Details required

Notes

Details of the defendant

Name:

Address:

Date of birth:

If you are in custody, please give your prison number and the address of the establishment in which you are detained:

Case details

Court venue:

The venue of the court hearing the case.

Date of next court

appearance:

Charges: Give brief details (including date and location of offence) of those charges to which this application applies.

PPSNI reference number:

ICOS reference number if known:

Date that you were served with the notice of intention to adduce bad character evidence in these proceedings:

Details of the application

Include the following information:

(a) why the admission of bad character evidence would have such an adverse effect on the fairness of the proceedings that the Court should not admit it.

Note that an application to exclude this evidence under Article 6(3) of the 2004 Order can only be made if you have been notified of a party's intention to adduce this evidence under Article 6(1)(d) (it is relevant to an important matter in issue between the defendant and the prosecution) or Article 6(1)(g) (that the defendant has made an attack on another person's character).

(b) details as to the length of time between the matters to which the bad character evidence relates and the matters which form the subject of the offence charged.

Article 6(4) of the 2004 Order.

(c) if you are applying for the exclusion of this evidence on grounds other than Article 6(3) of the 2004 Order, please set out such objections.

Extension of time for service

Please indicate whether you are applying for an extension of time for service.

If the answer is yes, please state your reasons:

Dated This ..... day of ..... 20... .

Defendant

[Solicitor for Defendant]

NOTE:

This form should be served on the clerk of petty sessions and on every other party to the proceedings within 7 days of the date on which the notice of intention to adduce evidence of the defendant's bad character was served on the defendant.

The notice served on the clerk of petty sessions shall be endorsed with the date upon which and the manner in which notice was served on each of the other parties to the proceedings.

**FORM 88E**

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981

(Rule 149AS(2) and (4))

CRIMINAL JUSTICE (EVIDENCE) (NORTHERN IRELAND) ORDER 2004

(Article 18)

Notice of intention to adduce hearsay evidence

... .., of .....

Complainant

....., of .....

Defendant

Details required

Notes

Details of party giving notice

State the name and address of the party giving notice of hearsay evidence.

Name:

Address:

(If in custody give address where detained)

Case details

Court venue:

The venue of the court hearing the case.

Date of next court appearance:

Charges:

Give brief details (including date and location of offence) of those charges to which this application applies.

PPSNI reference number:

ICOS reference number if known:

Details of the notice

To the named recipient of this notice:

I hereby give you notice of my intention to adduce hearsay evidence, details of which are set out below, in these proceedings.

Grounds for admission of hearsay    Tick as appropriate.

evidence

On which of the following grounds do you intend to adduce hearsay evidence?

(a) Any statutory provision makes it admissible; [ ]

(b) Any rule of law preserved by Article 22, Criminal Justice (Evidence) (Northern Ireland) Order 2004; [ ] Specify which provision of the 2004 Order or other statute, or which rule of law preserved by Article 22 you rely on to adduce the evidence.

(c) All parties to the proceedings agree to it being admissible; or [ ]

(d) It is in the interests of justice for it to be admissible. [ ] Where box (d) is ticked, you must specify which of the factors set out in Article 18(2) of the 2004 Order you rely upon and explain how they are relevant.

Further details of grounds:

Details of hearsay evidence

The details of the hearsay evidence are as follows: Give brief details of the evidence that you want to adduce as hearsay evidence.

A complete copy of that evidence must be attached to this notice. Any relevant skeleton argument or case law that might bear on the issue may be attached to this notice.

Extension of time

Are you applying for an extension of time within which to give this notice?

If the answer is yes, please state your reasons:

Dated This ..... day of ..... 20....

Applicant

To the Clerk of Petty Sessions at ...

And to

(Insert names and addresses of each of the other parties to the proceedings)

NOTE:

Where the notice is given by the prosecutor, it shall be served at the same time as the prosecutor complies or purports to comply with section 3 of the Criminal Procedure and Investigations Act 1996 (disclosure by the prosecutor); or, in respect

of a preliminary investigation or preliminary inquiry, not less than 14 days before the date fixed for the hearing.

Where the notice is given by a defendant, it shall be served within 14 days from the date on which the prosecutor has complied or purported to comply with section 3 of the Criminal Procedure and Investigations Act 1996; or, in respect of a preliminary investigation or preliminary inquiry, not less than 14 days before the date fixed for the hearing.

The notice served on the clerk of petty sessions shall be endorsed with the date upon which and the manner in which notice was served on each of the other parties to the proceedings, and, where relevant and where known, with either the date on which the prosecutor has complied or purported to comply with section 3 of the Criminal Procedure and Investigations Act 1996, or the date fixed for the hearing.

Note to party who receives a copy of this application:

If you wish to oppose this application you are required within 14 days of the date the notice of the application was served on you (7 days in respect of a preliminary investigation or preliminary inquiry), to serve notice in Form 88F on the clerk of petty sessions and every other party to the proceedings of your opposition, giving reasons for it.

**FORM 88F**

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981

(Rule 149AS(6))

CRIMINAL JUSTICE (EVIDENCE) (NORTHERN IRELAND) ORDER 2004

(Article 18)

Notice of opposition to the admission of hearsay evidence

... .., of .....

Complainant

....., of .....

Defendant

Details required

Notes

Details of party giving notice

State the name and address of the party giving notice of their opposition to the admission of hearsay evidence.

Name:

Address:

(If in custody give address where detained)

Case details

Court venue:

The venue of the court hearing the case.

Date of next court appearance:

Charges:

Give brief details (including date and location of offence) of those charges to which this application applies.



PPSNI reference number:

ICOS reference number if known:

Details of the notice

The details of the hearsay evidence are as follows: Give brief details of the evidence that you want to exclude from the proceedings. Specify whether you object to all or part of that evidence.

Grounds for excluding hearsay evidence Set out the grounds for excluding the hearsay evidence that you object to. Any relevant skeleton argument or case law that might bear on the issue may be attached to this notice.

Extension of time

Are you applying for an extension of time within which to give this notice?

If the answer is yes, please state your reasons:

Dated This ..... day of ..... 20....

(Signed)

To the Clerk of Petty Sessions at ...

And to

(Insert names and addresses of each of the other parties to the proceedings)

NOTE:

This form should be served on the clerk of petty sessions and every other party to the proceedings within 14 days of the date on which the notice of intention to adduce hearsay evidence was served (7 days in respect of a preliminary investigation or preliminary inquiry).

**Form 88G**

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981 (Rule 149C)

POLICE AND CRIMINAL EVIDENCE (NORTHERN IRELAND) ORDER 1989 (Article 80A)

**APPLICATION FOR LEAVE FOR WITNESS (OTHER THAN THE ACCUSED) WHO IS OUTSIDE THE UNITED KINGDOM TO GIVE EVIDENCE THROUGH A LIVE LINK**

... .., of .....

Complainant

....., of .....

Defendant

*Details required*

**Case details**

Court venue: The venue of the court hearing the case.

Date of next court appearance:

Charges:

Give brief details (including date and location of offence) of those charges to which this application

applies.

PPSNI reference number:

ICOS reference number if known

**Details of witness**

Name of witness:

Date of birth of witness:

An application by the defence for evidence to be given by live link need not disclose who that witness is, except to the extent that the disclosure is required by section 5(7) of the Criminal Procedure and Investigations Act 1996 (alibi).

**Details of application**

State the reasons given by the applicant in support of this application:

Country in which the witness will give evidence:

Place from which the witness will give evidence (if known):

**Extension or abridgement of time for service**

Please indicate whether you are applying for an extension/abridgement of time for service.

If the answer is yes, please state your reasons:

Dated this ... day of ..... 20....

Applicant

[Solicitor for Applicant]

To the Clerk of Petty Sessions at ...

And to

(Insert names and addresses of each of the other parties to the proceedings)

**NOTE:**

This form should be served on the clerk of petty sessions and every other party to the proceedings not less than 14 days before the day fixed for commencement of the preliminary investigation or preliminary inquiry.

The notice served on the clerk of petty sessions shall be endorsed with the date upon which and the manner in which notice was served on each of the other parties to the proceedings.

Any party who wishes to oppose the application shall, within 7 days of the date that notice was served on him, notify the applicant and the clerk of petty sessions, in writing, of his opposition giving reasons for it.

**Form 88H**

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981 (Rule 149C)

POLICE AND CRIMINAL EVIDENCE (NORTHERN IRELAND) ORDER 1989 (Article 80A)

**NOTICE OF DECISION ON APPLICATION FOR LEAVE FOR WITNESS (OTHER THAN THE ACCUSED) WHO IS OUTSIDE THE UNITED KINGDOM TO GIVE EVIDENCE THROUGH A LIVE LINK**

... .., of .....

Complainant

....., of .....

Defendant

Upon the hearing of an application by .... (name of applicant), on .... (date application heard) under Article 80A of the Police and Criminal Evidence (Northern Ireland) Order 1989 for leave for a witness outside the United Kingdom to give evidence through a live link, the court made an order to the following effect, viz: —

Leave granted\*/refused on the following grounds\* —

*To be completed where leave is granted-*

Country in which the witness will give evidence:

Place where the witness will give evidence (if known):

Where the witness is to give evidence on behalf of the prosecutor, or where disclosure is required by section 5(7) of the Criminal Procedure and Investigations Act 1996 (alibi), the name of witness:

The location of the court at which the court at preliminary investigation or preliminary inquiry will be held:

Name of person specified by the court under Rule 149C(10), in whose presence the witness shall give evidence (if applicable):

This ..... day of ..... 20...

Clerk of Petty Sessions

\* Delete as applicable

**FORM 88I**

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981 (Rule 149F(1))

CRIMINAL JUSTICE (NORTHERN IRELAND) ORDER 2004 (Article 10)

Application for direction for witness to give evidence through a live link

... .., of .....

Complainant

....., of .....

Defendant

Details required Notes

Case details

Court venue:

Date of next court appearance:

Charges:

PPSNI reference number:

ICOS reference number (if known):

The venue of the court hearing the case.

Give brief details (including the date and location of the offence) of those charged to which the application applies.

Details of witness

Name of witness:

Date of birth of witness:

An application by the defence for evidence to be given by live link need not disclose who that witness is, except to the extent that the disclosure is required by section 6A(2) of the Criminal Procedure and Investigations Act 1996.

Details of application for a direction

State the reasons given by the applicant in support of this application.

Place from which the witness will give evidence (if known):

Extension or abridgement of time for service

Please indicate whether you are applying for an extension/abridgement of time for service.

If the answer is yes please state your reasons:

Dated This ..... day of ..... 20....

Applicant

[Solicitor for Applicant]

To the Clerk of Petty Sessions at ....

And to:

(insert names and addresses of each of the other parties to the proceedings)

Note:

This form should be served on the clerk of petty sessions and every other party to the proceedings not less than 14 days before the day fixed for commencement of the proceedings to which it relates. The notice served on the clerk of petty sessions shall be endorsed with the date upon which and the manner in which notice was served on each of the other parties to the proceedings.

Any party who wishes to oppose the application shall within 7 days of the date that notice was served on him, notify the applicant and the clerk of petty sessions, in writing, of his opposition giving reasons for it.

**FORM 88J**

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981 (Rules 149F(9) and 149G(4))

CRIMINAL JUSTICE (NORTHERN IRELAND) ORDER 2004 (Articles 10 and 11)

Notice of decision on application for direction/rescission of direction for witness to give evidence through a live link

... .., of .....

Complainant

....., of .....

Defendant

Upon the hearing of an application by ..... (name of applicant), on ..... (date application heard) under Article 10/Article 11\* of the Criminal Justice (Northern Ireland) Order 2004 for a direction/rescission of a direction\* for a witness to give evidence through a live link, the court made an order to the following effect, viz:-

Direction given/refused/rescinded/rescission refused\*.

\* If direction is refused or rescinded or an application for rescission of a direction is refused, state the grounds –

\* If direction is given, state:

The place where the witness will give evidence (if known):

Where the witness is to give evidence on behalf of the prosecutor, or where disclosure is required by section 6A(2) of the Criminal Procedure and Investigations Act 1996, the name of the witness:

The location of the court at which the proceedings to which the application relates will be held:

Name of person specified by the court under Rule 149F(10), in whose presence the witness shall give evidence (if applicable):

This ..... day of ..... 20....

Clerk of Petty Sessions

\* Delete as applicable”

**Form 88K**

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981

(Rules 149H(1) and 149O(1))

CRIMINAL EVIDENCE (NORTHERN IRELAND) ORDER 1999

(Articles 21A and 21BA)

Form of application for a live link direction under Article 21A of the Criminal Evidence (Northern Ireland) Order 1999

Form of application for the examination of an accused through an intermediary under Article 21BA of the Criminal Evidence (Northern Ireland) Order 1999

PART A – TO BE COMPLETED FOR AN APPLICATION FOR A LIVE LINK DIRECTION OR AN APPLICATION FOR A DIRECTION FOR THE EXAMINATION OF ACCUSED THROUGH INTERMEDIARY

Details required [Notes]

Case details:

Complainant: .....

Defendant: .....

Court Venue

The venue of the court hearing the case.

Date of next court appearance:

Charges:

PPSNI reference number:

ICOS number (if known):

Give brief details (including date and location of the offence) of those charges to which this application applies.

Details of accused:

Name of accused:

Date of birth of accused:

PART B – TO BE COMPLETED WHERE AN APPLICATION FOR A LIVE LINK DIRECTION IS BEING MADE

Details of application

State the conditions under which Article 21A(4) or (5) upon which this application is based:

Give a description of the evidence submitted in support of this application: [This requirement is optional. Examples of evidence might be birth certificate; medical report.]

Arrangements available

Give a description of the live link facilities which are available in the area in which it is likely the hearing will take place:

Reasons for application

Give the grounds for believing the live link direction being sought in this application will enable the accused to participate more effectively in the proceedings as a whole:

Give the views of the accused as to why the live link direction sought in this application is required:

Details of live link

Give –

- (a) the address of any venue from which the accused will give evidence if the Court’s own live link is not used:
- (b) the name of the person who it is proposed will accompany the accused:
- (c) the occupation of this person:
- (d) the relationship (if any) of this person to the accused:

Grounds

State why it is believed that this person should accompany the accused

PART C – TO BE COMPLETED WHERE AN APPLICATION FOR THE EXAMINATION OF THE ACCUSED THROUGH AN INTERMEDIARY IS BEING MADE

Details of application

- (a) State the conditions under which Article 21A(5) or (6) upon which this application is based:
- (b) Give the grounds for believing that the use of an intermediary will enable the accused to participate more effectively in the proceedings as a witness giving oral evidence:
- (c) Give a description of the evidence on which the application is based:
- (d) what is the name of the proposed intermediary:
- (e) What is the occupation of this person:
- (f) List any relevant skills or professional qualification:
- (g) What is the relationship (if any) of this person to the accused:
- (h) Is the proposed intermediary registered with the Department of Justice:
- (i) Has the intermediary made a declaration? If yes, please attach a copy.

If a declaration has not yet been made, a copy of it must be submitted to the Court as soon as reasonably practicable after having been made:

(j) Describe the accused’s communication needs and the proposed arrangements for questioning the witness. Attach any relevant report including an intermediary’s assessment. Ground rules for questioning may be discussed between the Court, the legal representatives and the intermediary before the accused gives evidence to establish (a) how questions should be put to help the accused understand them and This requirement is optional. Examples of evidence might be birth certificate; medical report. (b) how the proposed intermediary will alert the Court if the witness has not understood or needs a break:

(k) Has an intermediary been used in any other part of the investigation: (i) Was that intermediary the person named above (if no, please give the details sought in this Part in respect of that intermediary): (ii) Did that intermediary make a declaration before acting? If yes, please attach a copy of it:

(l) Give a description of any other evidence submitted in support of this application: [This requirement is optional. Examples of evidence might be birth certificate; medical report.]

Extension/abridgment of time for service

Please indicate whether you are applying for an extension or an abridgement of time for service. If the answer is yes, please state your reasons.

Dated this ..... day of ..... 20...

Applicant

[Solicitor for Applicant]

To the Clerk of Petty Sessions at ...

And to

(insert names and addresses of each of the parties to the proceedings)

Note:

The notice served on the clerk of petty sessions shall be endorsed with the date upon which and the manner in which notice was served on each of the other parties to the proceedings.

Note to party who receives a copy of this notice:

If you wish to oppose this application you are required within 7 days (or such other period as may be specified by the court) to notify the applicant and the clerk of petty sessions in writing of your opposition, stating the reasons for such..

**FORM 88L**

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981 (Rules 149H(11) and 149I(3))

CRIMINAL EVIDENCE (NORTHERN IRELAND) ORDER 1999 (Article 21A)

Notice of decision on application for a live link direction/application to discharge a live link direction under Article 21A of the Criminal Evidence (Northern Ireland) Order 1999

... .., of .....

Complainant

....., of .....

Defendant

Upon the hearing of an application on ..... (date application heard) under Article 21A of the Criminal Evidence (Northern Ireland) Order 1999 for a live link direction/for the discharge of a live link direction\*, the court made an order to the following effect, viz:–

Live link direction given/refused/discharged/discharge refused\* on the following grounds—

This ..... day of ..... 20....

Clerk of Petty Sessions

\* delete as appropriate”

**Form 88M**

[added SR (NI) 2013/89]

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981



(Rules 149O(11) and 149P(11))

CRIMINAL EVIDENCE (NORTHERN IRELAND) ORDER 1999

(Articles 21BA and 21BB)

Notice of decision on application for examination of accused through an intermediary under Article 21BA of the Criminal Evidence (Northern Ireland) Order 1999

Notice of decision to vary or discharge a direction allowing the examination of accused through an intermediary under Article 21BB of the Criminal Evidence (Northern Ireland) Order 1999

... .., of .....

Complainant

....., of .....

Defendant

Upon hearing an application on .....(date application heard) under Article 21BA for a direction to allow the examination of the accused through an intermediary/under Article 21BB for the variation/dischARGE\* of a direction allowing the examination of the accused through an intermediary, the Court made an order to the following effect, viz:-

(please specify the name of the intermediary)

Direction allowing the examination of the accused through an intermediary given/refused/discharged/varied/discharged refused/variation refused\*

Please state the reasons for that decision -

This ..... day of ..... 20....

Clerk of Petty Sessions

\* delete as appropriate

**Form 88N** [added SR (NI) 2013/89]

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981

(Rule 149Q)

CRIMINAL EVIDENCE (NORTHERN IRELAND) ORDER 1999

(Articles 17 and 21BA)

Declaration for an intermediary under Article 17(5) Or Article 21BA(9) of the Criminal Evidence (Northern Ireland) Order 1999

I (insert name) solemnly, sincerely and truly declare (or I swear by Almighty God) that I will well and faithfully communicate questions and answers and make a true explanation of all matters and things as shall be required of me according to the best of my skill and understanding.

Signed:

(Intermediary)

Dated:

To the Clerk of Petty Sessions at ...

And to

(insert the names and addresses of each of the other parties to the proceedings).

RECOGNIZANCES AND FORMS USED IN CONNECTION THEREWITH

89. Recognizances to appear before a Magistrates' Court (Arts 47 and 135; rr. 150 to 153)

89A. Recognizance to appear before a Magistrates' Court (Arts 134, 135, 137, 138; rr. 150 to 152) (Road Traffic Offenders (NI) Order 1996) (Road Traffic Fixed Penalties (Enforcement of Fines) Regulations (NI) 1997; Reg.5)

**Form 89B**

MAGISTRATES’ COURTS (NORTHERN IRELAND) 1981

(Articles 134, 135, 137; Rules 150 to 152)

JUSTICE ACT (NORTHERN IRELAND) 2011

THE PENALTY NOTICES (JUSTICE ACT (NORTHERN IRELAND) 2011) (ENFORCEMENT OF FINES) REGULATIONS (NORTHERN IRELAND) 2012;

Regulation 6

Recognizance to appear before a Magistrates’ Court

....., of .....

Complainant

....., of .....

Defendant

WHEREAS a complaint was made that

The undersigned of

the principal party to this recognizance,

binds himself to perform the following obligations, viz: -

To appear personally before a Magistrates’ Court sitting at ... on the day of 20 at am and at every time and place to which, during the course of the proceedings, the hearing of the complaint may from time to time be adjourned and not to depart the court without leave.

The said principal party [together with

....., of .....

and of

acknowledge[s] himself bound to forfeit to the Crown the sum[s] following viz: -

The principal party the sum of £ [and the said [surety] [sureties] the sum of £ [each] in case the said principal party fails to perform the above obligation] [and in lieu of surety the said principal party hereby deposits the sum of £ or other valuable security to the value of that sum as security for performance of the said obligation].

..... Principal Party

..... [Surety]

..... [Surety]

Taken before me This ..... day of ..... 20...

Taken before me This ..... day of ..... 20....

(as to the said Principal Party) (as to the said Principal Party)

(as to the said Suret[y][ies] (as to the said Suret[y][ies]

.....

Governor/Deputy Governor District Judge (Magistrates’ Courts)

[Lay Magistrate]

[Clerk of Petty Sessions]

[Member of the Police Service of Northern Ireland]

90. Recognizances [police] to appear before a Magistrates' Court (Arts 130(1)(a) and 135 to 138; r. 152)

[am. SR (NI) 2009/310 on 30 Sept 2009] for each reference to “constabulary station” substitute “police station”

91. Recognizance to appear at a constabulary station (Arts 139(1)(b) and 135 to 138; r. 152)

[am. SR (NI) 2009/310 on 30 Sept 2009] for each reference to “constabulary station”, substitute “police station”;

**Form 91A**

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981

(Article 132A and Rule 153A)

POLICE AND CRIMINAL EVIDENCE (NORTHERN IRELAND) ORDER 1989 (Article 48(4))

Application for bail following grant of conditional police bail

... .., of .....

Applicant

....., of .....

Respondent

TAKE NOTICE that I, the undersigned, intend to apply under [Article 132A of the Magistrates’ Courts (Northern Ireland) Order 1981][Article 48(4) of the Police and Criminal Evidence (Northern Ireland) Order 1989] to a magistrates’ court sitting at ... for an order varying the conditions of bail granted to me under Part V of the Police and Criminal Evidence (Northern Ireland) Order 1989 on the (insert date bail was granted or varied) by the custody officer at (insert name of police station) .

The grounds upon which the application is made are as follows –

The offence(s) in connection with which I was released on bail [is][are] as follows –

The reasons given by the custody officer for [imposing] [varying] the conditions of bail are [attached] [set out below] –

The name and address of any surety provided by me before my release on bail [is] [are] as follows–

This ..... day of ..... 20...

Applicant

[Solicitor for Applicant]

To the custody officer at .

And to the Clerk of Petty Sessions at ....

NOTE:

The notice served on the clerk of petty sessions shall be endorsed with the date upon which and the manner in which notice was served on the other party to the proceedings.

The time fixed for the hearing of this application shall not be later than 72 hours after it is received by the clerk of petty sessions (excluding weekends, Christmas Day, Good Friday and any bank holiday). You will be notified by the clerk of petty sessions of the date, time and place for the hearing of the application.

**Form 91B**

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981 (Article 132A, Rule 153A)

POLICE AND CRIMINAL EVIDENCE (NORTHERN IRELAND) ORDER 1989 (Article 48(4))

Notice of decision on application for bail following grant of conditional police bail

... .., of .....

Applicant

....., of .....

Respondent

UPON THE HEARING of an application by (name of applicant), on (date application heard) under [Article 132A of the Magistrates’ Courts (Northern Ireland) Order 1981][Article 48(4) of the Police and Criminal Evidence (Northern Ireland) Order 1989] for an order varying the conditions of bail granted to the applicant by a custody officer under Part V of the Police and Criminal Evidence (Northern Ireland) Order 1989, the court made an order to the following effect, viz: –

[The court granted bail to the applicant and imposed the following conditions, namely –

].

[The court withheld bail].

Dated This ..... day of ..... 20...

Clerk of Petty Sessions

To the applicant (and to any surety specified in the application)

**FORM 91C**

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981

(Article 133A, Rule 153B)

**Application for reconsideration of a decision to grant bail**

....., of .....

Complainant

....., of .....

Defendant

TAKE NOTICE that I, the undersigned, intend to apply to a magistrates’ court sitting at ... for the reconsideration of a decision to grant bail to the defendant taken on the (*insert date decision taken*) by [the court] [a custody officer at (*insert name of police station*)].

The grounds upon which the application is made are as follows –

*(Note: No application for the reconsideration of bail may be made unless it is based on information which was not available to the court or the custody officer when the decision was taken).*

The offence(s) in connection with which the defendant was released on bail [is] [are] as follows –

*(Note: An application for the reconsideration of bail may only be made in relation to offences which are punishable on conviction on indictment (whether or not punishable only on conviction on indictment).*

The decision to be reconsidered (including any conditions of bail which were imposed and the reasons they have been imposed) is as follows –

The name and address of any surety provided by the defendant before his release on bail [is] [are] as follows –

Dated This ..... day of ..... 20....

Applicant

To the Defendant

....., of .....

[And to any surety specified in the application]

And to the Clerk of Petty Sessions at ....

**NOTE:**

The notice served on the clerk of petty sessions shall be endorsed with the date upon which and the manner in which notice was served on the other party to the proceedings.

The time fixed for the hearing of this application shall be not later than 72 hours after it is received by the clerk of petty sessions (excluding weekends, Christmas Day, Good Friday and any bank holiday).

You will be notified by the clerk of petty sessions of the date, time and place fixed for the hearing of the application.

The court may, when it determines this application –

- Vary or rescind the conditions of bail or impose further conditions;

- Impose conditions in respect of bail which has been granted unconditionally;
- Withhold bail.

If the court withholds bail, it shall remand you in custody or, in your absence, order that you surrender yourself to the custody of the court. Failure to surrender to custody as ordered will render you liable to arrest without warrant.

**FORM 91D**

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981

(Article 133A, Rule 153B)

**Notice of decision on application for reconsideration of a decision to grant bail**

....., of .....

Complainant

....., of .....

Defendant

UPON THE HEARING of an application by (*name of applicant*), on (*date application heard*) under Article 133A of the Magistrates’ Courts (Northern Ireland) Order 1981 for the reconsideration of a decision to grant bail to the defendant taken on the (*insert date decision taken*) by [the court] [a custody officer at (*insert name of police station*)], the court made an order to the following effect, viz: –

[The court [varied] [rescinded] [imposed further conditions] as set out below – ].

[The court imposed the following conditions in respect of bail which had been granted unconditionally, namely – ].

[The court withheld bail and [remanded the defendant in custody] [ordered that defendant surrender himself into the custody of the court forthwith]].

This ..... day of ..... 20....

Clerk of Petty Sessions

To the defendant (and to any surety specified in the application)

**FORM 91E**

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981

(Article 133A, Rule 153B)

**Order that a person surrender himself into the custody of the court following a decision under**

**Article 133a of the Magistrates’ Courts (Northern Ireland) Order 1981 to withhold bail**

....., of .....

Complainant

....., of .....

Defendant

UPON THE HEARING of an application by (*name of applicant*), on (*date application heard*) under Article 133A of the Magistrates’ Courts (Northern Ireland) Order 1981 for the reconsideration of a decision to grant bail to the defendant taken on the (*insert date decision taken*) by [the court] [a custody officer at (*insert name of police station*)], the court ordered that bail be withheld.

THIS IS TO COMMAND YOU, the above-named defendant, to surrender yourself forthwith into the custody of the magistrates’ court sitting at (*place*).

**If you fail to surrender to the custody of the court forthwith, you may be arrested without warrant by a constable.**

Dated This ..... day of ..... 20....

Clerk of Petty Sessions

To the defendant

**FORM 91F** [added SR (NI) 2004/433]

Magistrates’ Courts (Northern Ireland) Order 1981 (Rule 161A)

Justice (Northern Ireland) Act 2004 (Section 10)

WRITTEN NOTICE OF APPEAL BY THE PROSECUTION AGAINST THE GRANT OF BAIL BY A MAGISTRATES’ COURT

of

Complainant

of

Defendant

WHEREAS at a magistrates’ court sitting at on the day of

20 , the said defendant was granted bail in respect of the following offence(s): -

(state shortly particulars of offence(s)) which (is an offence) (are offences) punishable by imprisonment.

AND WHEREAS at am/pm oral notice of appeal was given by the prosecution at the conclusion of the proceedings in which bail was granted,

NOW TAKE NOTICE that the prosecution will appeal to the High Court against the granting of the said bail.

This ..... day of ..... 20.. .

Signed

(on behalf of the Prosecution)

To:

The Clerk of Petty Sessions at ....

The said defendant.

Served (date)

by

(insert manner of service)

**FORM 91G**[added SR (NI) 2004/433]

Magistrates’ Courts (Northern Ireland) Order 1981 (Rule 161A)

Justice (Northern Ireland) Act 2004 (Section 10)

**NOTICE OF RELEASE ON BAIL: PROSECUTION’S FAILURE TO SERVE WRITTEN  
NOTICE OF APPEAL**

of

Complainant

Defendant

WHEREAS at a magistrates’ court sitting at on the day of 20 , the said defendant was granted bail in respect of the following offence(s):- (state shortly particulars of offence(s)) which (is an offence) (are offences) punishable by imprisonment.

AND WHEREAS at am/pm oral notice of appeal to the High Court against the granting of the said bail was given by the prosecution at the conclusion of the proceedings in which bail was granted, the prosecution failed to serve written notice of appeal within two hours of the conclusion of such proceedings.

This is to command you to whom this notice is addressed to release the defendant on bail subject to the conditions set out below, unless (s)he is in your custody for some other cause.

This ..... day of ..... 20.. .

Clerk of Petty Sessions

To: [the District Commander of the Police Service of Northern Ireland at .]

[the Governor of HM Prison [Young Offenders Centre]

**ORDER FOR BAIL**

The court ordered that the defendant be released on his own bail of £ [with suret(y)(ies) of £ (each)] [or valuable securities]

[AND subject to the following conditions:

]

to appear before the (specify court) sitting at (place) on the (date) at (time)

This ..... day of ..... 20.. .

Clerk of Petty Sessions

**FORM 91H** [added SR (NI) 2004/433]

Magistrates’ Courts (Northern Ireland) Order 1981 (Rule 161A)

Justice (Northern Ireland) Act 2004

(Section 10)

**NOTICE OF ABANDONMENT OF APPEAL BY THE PROSECUTION AGAINST THE GRANT  
OF BAIL BY A MAGISTRATES’ COURT**

of

Complainant



Defendant

WHEREAS at a magistrates’ court sitting at on the day of 20 , the said defendant was granted bail in respect of the following offence(s):- (state shortly particulars of offence(s)) which (is an offence) (are offences) punishable by imprisonment.

AND WHEREAS written notice of appeal to the High Court against the granting of the said bail was given by the prosecution on (date) ,

**TAKE NOTICE that the prosecution now abandons the said appeal.**

This ..... day of ..... 20.. .

Signed

(on behalf of the Prosecution)

To:

The Clerk of Petty Sessions at ....

The said defendant.

**FORM 91.I** [added SR (NI) 2004/433]

Magistrates’ Courts (Northern Ireland) Order 1981 (Rule 161A)

Justice (Northern Ireland) Act 2004

(Section 10)

NOTICE OF RELEASE ON BAIL: PROSECUTION’S ABANDONMENT OF APPEAL

..... of

Complainant

.....

Defendant

WHEREAS at a magistrates’ court sitting at on the day of 20 , the said defendant was granted bail in respect of the following offence(s):- (state shortly particulars of offence(s)) which (is an offence) (are offences) punishable by imprisonment.

AND WHEREAS written notice of appeal to the High Court against the granting of the said bail was given by the prosecution on (date) , the prosecution has this day given notice of its intention to abandon its appeal.

This is to command you to whom this notice is addressed to release the defendant on bail subject to the conditions set out below, unless (s)he is in your custody for some other cause.

This ..... day of ..... 20.. .

Clerk of Petty Sessions

To the Governor of HM Prison [Young Offenders Centre].

**ORDER FOR BAIL**

The court ordered that the defendant be released on his own bail of £ [with suret(y)(ies) of £ (each)] [or valuable securities]

[AND subject to the following conditions:

] to appear

before the (specify court) sitting at (place) on the (date) at (time) .

This ..... day of ..... 20.. .

Clerk of Petty Sessions

92. Recognizances to appear at the Crown Court (Arts 37, 51(4) and 135 to 138; rr. 150 to 153)

**FORM 93** [subst. SR (NI) 2003/477

(Article 127; Rules 150 and 151)

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981

**Recognizance to keep the Peace [and] [or] to be of Good Behaviour**

Complaint

... .., of .....

Complainant

....., of .....

Defendant

WHEREAS a complaint was made that .....

AND IT WAS ORDERED by the magistrates' court at that the said defendant should be bound by recognizance [to keep the peace] [and] [be of good behaviour, in particular the defendant shall not ..... (specify types of behaviour from which the defendant must refrain)] for the period of .....

The undersigned ..... (name) ..... of ..... , the principal party to this recognizance, hereby binds himself to perform the following obligation, viz., [to keep the peace] [and] [be of good behaviour, in particular the defendant shall not ..... (specify types of behaviour from which the defendant must refrain)] for the period of , and the said principal party [together with .....(name) of ..... , and (name) , the undersigned surety] hereby acknowledge(s) bound to forfeit to the Crown the sum(s) following, viz:-

The principal party the sum of £ ..... [the first-named surety the sum of £ ..... and the second-named surety the sum of £.....] in case the said principal party fails to perform the above obligation.

} Principal Party  
} Surety

Taken before me this ..... day of ..... 20... .

Clerk of Petty Sessions

94. Certificate of proposed surety as to means (r. 150(5) and (6))

**Form 95** [subst. SR (NI) 2009/310 on 30 Sept 2009]

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981

(Article 138(2A)(b))

SUMMONS TO SURETY

To: -

....., of .....

surety in the case of [....] (defendant)

WHEREAS on ..... (date) you ..... (name) entered into a recognizance as surety for the appearance of the above named defendant.

AND WHEREAS on ..... (date) the defendant, being the principal party, to the said recognizance failed to appear before a magistrates’ court.

THIS IS TO COMMAND YOU to appear before a magistrates’ court at .... (place) on .... (date) at .... (time) at the hearing of estreatment proceedings to show due cause why you should not pay the sum in which you are bound.

This .... day of ..... 20.... .

[Clerk of Petty Sessions]

Note: If you fail to appear at the time and place shown above and the court is satisfied that this summons has been served on you, the court may proceed in your absence.”.

**Form 95A** [added SR (NI) 2009/310 on 30 Sept 2009]

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981

(Article 138(2A)(b) and Rule 11(7C))

Certificate of Service of Summons on Surety

I ..... of ..... hereby certify that I did serve a summons in this matter on the surety whose name appears below in the manner endorsed by me on the original summons.

Dated this .... day of ..... 20.... .

Signed.....

[Person who served the summons]

Name and Address of Surety

**Form 95B** [added SR (NI) 2009/310 on 30 Sept 2009]

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981

(Article 138(2A)(b) and Rule 11(7D))

Acknowledgment by Surety of receiving summons by post

You have been commanded to appear before a magistrates’ court sitting at ..... (place), on ..... (date), 20.... at the hearing of estreatment proceedings to show due cause why you should not pay the sum in which you are bound.

IMPORTANT

\*This acknowledgment of receipt of summons should be completed by you or your solicitor and returned within 14 days.

\* The summons should be retained by you or your solicitor. Only this acknowledgment should be returned to the court named above.

\* By signing this acknowledgment you are neither agreeing nor disputing that you should pay the sum in which you are bound.

\* Before completing this acknowledgment you should read the Explanatory Notes overleaf.

\* If you have any queries about this acknowledgment or its effect you should consult your solicitor.

EXPLANATORY NOTES

1. A summons requiring you to appear at court has been sent to you by post.
2. Either you or your solicitor should confirm that the summons and other related documents have been received by you by signing and dating the Acknowledgement Form on the opposite page.
3. Once signed, this completed acknowledgment should be returned within 14 days from the date on which you receive the papers.
4. The summons should be retained by you or your solicitor.
5. If you do not return this form within 14 days, or appear personally or through your solicitor, alternative arrangements will be made to serve the papers on you and the date given on the enclosed summons for the hearing of your case may have to be changed.

Acknowledgment

By completion of this acknowledgment you are ONLY confirming that you have received by post the documents indicated.

I ..... of ..... hereby acknowledge having received a copy of the summons to a surety under Article 138(2A)(b) of the Magistrates’ Courts (Northern Ireland) Order 1981.

Signed..... Date.....

[Recipient/Solicitor on behalf of Recipient]

The completed form should be returned within 14 days.

96. Warrant of distress and commitment in default of distress for sum forfeited upon the estreat of a recognizance (Art 138(4); rr. 14, 143 and 144)

**FORM 96A**

JUSTICE ACT (NORTHERN IRELAND) 2011

(Section 91)

MAGISTRATES’ COURTS RULES (NORTHERN IRELAND) ORDER 1984

(Rule 153C)

Application for compassionate bail under section 91 of the Justice Act (Northern Ireland) 2011

Complaint

... .., of .....

Complainant

....., of .....

Defendant

TAKE NOTICE that I, the undersigned, intend to apply under section 91 of the Justice Act (Northern Ireland) 2011 to a magistrates’ court sitting at ... for an order that I be released from custody (insert dates for release) for -

(Grounds on which the application is made)

on such terms and conditions as the court thinks just.

Please provide details of any previous bail applications made in the proceedings, specifying the outcome of those applications and, where bail was granted, any conditions which were imposed by the court.

Where possible, please indicate whether the police are agreeable to compassionate bail under section 91 of the Justice Act (Northern Ireland) 2011 being granted. Where appropriate, please state any conditions which the police believe should be attached and if these conditions are agreed by the defence.

Please indicate whether the applicant/defendant consents to this application being dealt with in his absence.

YES/NO (delete as appropriate)

Dated This ..... day of ..... 20....

Signed

Applicant/Defendant

[Solicitor for the Applicant/Defendant]

To: Clerk of Petty Sessions

Director of Public Prosecutions.

**FORM 96B**

JUSTICE ACT (NORTHERN IRELAND) 2011

(Section 91)

MAGISTRATES’ COURTS RULES (NORTHERN IRELAND) ORDER 1984

(Rule 153C)

Notice of release on compassionate bail under section 91 of the Justice Act (Northern Ireland) 2011

Complaint

... .., of .....

Complainant

....., of .....

Defendant

UPON APPLICATION by the above named applicant/defendant.

IT IS ORDERED that the applicant/defendant be admitted to compassionate bail under section 91 of the Justice Act (Northern Ireland) 2011 him/herself in the sum of £ with surety[ies] in the sum of £ , for the personal appearance of the said applicant/defendant before [custodial establishment] in accordance with the condition(s) on which bail is granted,

AND IT IS ORDERED that bail is granted to the applicant/defendant subject to the following conditions:-

The applicant/defendant shall be released [release details] subject to the applicant/defendant being released into the custody of his surety/sureties who shall collect the applicant/defendant from [custodial establishment], and return him to the Governor of Her [custodial establishment] [return to custody details].

[other conditions]

AND IT IS ORDERED that upon the applicant/defendant and surety[ies] entering into recognizance in the above mentioned sums this Order shall be sufficient authority for the person for the time being in charge of [custodial establishment] on being satisfied as to the identity of sureties to release the applicant/defendant to sureties, unless he/she is in custody for some other cause.

This ..... day of ..... 20....

Clerk of Petty Sessions

To the Governor of HM Prison

APPEALS TO COUNTY COURT AND BY WAY OF CASE STATED TO THE COURT OF APPEAL

MC Rules 1984 Form 97

A. Appeals to the county court

**FORM 97**

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981

(Article 144; Rule 154)

Notice of Appeal to the County Court

Complaint

... .., of .....

Complainant

....., of .....

Defendant

TAKE NOTICE that I, the defendant [complainant] intend to appeal to ..... county court sitting at (place) ..... on (date) ..... against the convictions [sentences] [orders] made [passed] by magistrates' court on (date) .....

My appeal(s) is/are in respect of offence(s) briefly described:

.....  
.....  
.....  
.....  
.....  
.....

Signed ..... Party Appealing

[Solicitor or Agent for Party Appealing]

..... Address of Party  
Appealing

[Solicitor or Agent for Party Appealing]

This ..... day of ..... 20 .....

To: ..... of (address) .....

and to The Clerk of Petty Sessions at ....

Served (date) .....

by .....

(insert manner of service)

--

**FORM 98**

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981

(Rules 154, 155 and 156)

Form of Appeal to the County Court

Complaint

... .., of .....

Complainant

....., of .....

Defendant

I CERTIFY that upon the hearing of [a complaint] [a process claiming] [an application for] [an appeal against] .....

(state cause of complaint, nature of process, grounds of application or appeal)

AN ORDER WAS MADE on ..... (date), by a magistrates' court at ... against the said .....to the following effect, viz.

.....

This ..... day of ..... 20 .....

Clerk of Petty Sessions

I certify notice of appeal lodged and recognisance entered into.

This ..... day of ..... 20 .....

Clerk of Petty Sessions

I CERTIFY that upon the hearing of the said appeal on the ..... day of ..... 20..., the county court ordered that .....

This ..... day of ..... 20 .....

Chief Clerk

99. Recognizance to prosecute appeal to county court [not] conditioned for bail  
(Articles 135 to 138 and 148; Rules 150 to 153)

**FORM 100**

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981

(Article 150(1))

Notice by clerk of petty sessions to chief clerk of abandonment of appeal to the  
county court

Between

.....

Appellant

And

.....

Respondent

THIS IS TO GIVE YOU NOTICE that I have received from the above-named Appellant  
notice that he has abandoned his appeal to the county court against a [conviction]  
[and] [sentence] [order] made [passed] by the magistrates' court sitting on the  
.... day of ..... 20 ..

Clerk of Petty Sessions

This ..... day of ..... 20 .....

To the Chief Clerk

at .....

Copy to the respondent

of .....

B. Appeals by way of case stated to Court of Appeal

**FORM 101**

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981

(Article 146; Rule 158)

Application to Court to State a Case

TO ....., resident magistrate who sat as a  
magistrates' court at ..... on the ..... day of  
..... 20....

In the matter of a [complaint] [process] [application] [appeal] wherein [I the  
undersigned] ..... was [complainant] [plaintiff]  
[applicant] [appellant] or [I the undersigned] .....  
..... was [defendant] [respondent] heard and determined by the said  
magistrates' court sitting at ..... on the ..... day of  
..... 20...

Being dissatisfied with the decision of the court on a point of law involved in the  
determination of the said court as being wrong in law, I hereby, pursuant to Article



146 of the Order make application to you to state a case for the opinion of the Court of Appeal on the following point of law:-

.....  
.....  
.....

This ..... day of ..... 20.....

Appellant .....

[ Solicitor for Appellant].

Address of Appellant .....

[Address of Solicitor for Appellant]

Copy to be served on the Respondent .....

.. ..... of

.....

--

102. Court's certificate of refusal to state a case (Article 146(4))

**FORM 103**

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981

(Article 146; Rule 160)

Case Stated by Magistrates' Court

IN HER MAJESTY'S COURT OF APPEAL IN NORTHERN IRELAND

On Appeal by way of Case Stated under the Magistrates' Courts (Northern Ireland) Order 1981

BETWEEN

.....

Complainant [or Plaintiff] [or Appellant] [or Applicant]

and Appellant [or Respondent]

AND

.....

Defendant [or Respondent]

and Respondent [or Appellant]

Case stated by a [resident magistrate] [justice of the peace] [or lay magistrate]] of in respect of his adjudication at a magistrates' court sitting at .....

.....

CASE

1. On the ..... day of ..... 20..... a [complaint] [process] [appeal] [application] was [preferred] [issued] [made] by the appellant [or respondent] against the respondent [or appellant] claiming that he .....

.....

.....  
.....

(state shortly particulars of complaint, process, appeal or application and refer to any relevant statutes.)

2. I heard the said [complaint] [process] [appeal] [application] on the ..... day of ..... 20 ..... and found the following facts:-

(a) .....

(b) .....

(c) .....

(d) .....

(set out in separate lettered paragraphs).

\*[The following is a short statement of evidence:-

.....  
.....  
.....

(set out so as to show relevant evidence given by each witness).]

3. It was contended by the appellant that .....

4. It was contended by the respondent that .....

5. I was referred to the following cases:-

.....  
.....  
.....

6. I was of opinion that .....

(state grounds of decision)

and accordingly .....

(state decision including any sentence or order).

QUESTION

7. The question for the opinion of the Court of Appeal is

.....  
.....

This ..... day of ..... 20 .....

Resident Magistrate

[Justice of the peace [or lay magistrate]].

\* Insert only if the opinion of the Court of Appeal is sought whether there was evidence upon which the magistrates' court could come to its decision.

104. Recognizance to prosecute appeal to Court of Appeal [not] conditioned for bail (Articles 135 to 138 and 148; Rules 150 to 153)

105. Notice by clerk of petty sessions to respondent that appellant has abandoned an appeal by way of case stated (Article 150(2))

MISCELLANEOUS

106. Certificate of conviction or order (r. 20)

107. General form for enforcement of conviction or order (Part IX)

108. Affidavit of service of summons on defendant (Arts 23(2), 25(3), 81(2) and 126; r. 11)

109. Affidavit of service of summons for offence where summons served in England and Wales or Scotland (Arts 23(2), 25(3) and 126; r. 12)

109A. Certificate of Service of Summons on Defendant (Road Traffic Offenders (NI) Order 1996 (Art 76)) (Road Traffic Fixed Penalties (Enforcement of Fines) Regulations (NI) 1997; Reg.4) (Magistrates' Courts rr. (NI) 1984 (r. 12B))

109B. Certificate of Service of Notice of Registration on Defaulter (Road Traffic Offenders (NI) Order 1996 (Art 76(2)) (Road Traffic Fixed Penalties (Enforcement of Fines) Regulations (NI) 1997; Reg.3) (Magistrates' Courts rr. (NI) 1984 (r. 12C))

109C. Certificate of Service of Requirement to identify driver of a vehicle (Road Traffic Offenders (NI) Order 1996 (Art 15)) (Magistrates' Courts rr. (NI) 1984 (r. 12D)

**Form 109D**

JUSTICE ACT (NORTHERN IRELAND) 2011

(Section 67)

THE PENALTY NOTICES (JUSTICE ACT (NORTHERN IRELAND) 2011) (ENFORCEMENT OF FINES) REGULATIONS (NORTHERN IRELAND) 2012;

Regulation 4

MAGISTRATES’ COURTS RULES(NORTHERN IRELAND) ORDER 1984

(Rule 12C)

Certificate of Service of Summons on Defendant

....., of .....

Complainant

....., of .....

Defendant

I ....., of .....

certify that on the day of 20 I did serve a summons under Regulation 4 of the Penalty Notices (Justice Act (Northern Ireland) 2011) (Enforcement of Fines) Regulations (Northern Ireland) 2012 on the above-named defendant in the manner endorsed by me on the original summons.

Dated This ..... day of ..... 20...

Signed:

**Form 109E**

JUSTICE ACT (NORTHERN IRELAND) 2011

(Section 67(2))

THE PENALTY NOTICES (JUSTICE ACT (NORTHERN IRELAND) 2011) (ENFORCEMENT OF FINES) REGULATIONS (NORTHERN IRELAND) 2012;

Regulation 3

MAGISTRATES’ COURTS RULES(NORTHERN IRELAND) ORDER 1984

(Rule 12E)

Certificate of Service of Notice of Registration on Defaulter

....., of .....

Complainant

....., of .....

Defendant

I ....., of .....

hereby certify that on the day of 20 I did serve a Notice of Registration under Section 67(2) of the Justice Act (Northern Ireland) 2011 on the above-named defendant in the manner endorsed by me on the original Notice.

Dated This ..... day of ..... 20...

Signed:

110. Affidavit of service of summons on witness (Arts 118(3) and 126; r. 11)

**Form 110A**

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981

(Articles 23(2), 25(3), 81(2), 126; Rules 11, 12, 12A, 12B and 13)

Certificate of service of summons on Defendant

Complaint

... .., of .....

Complainant

....., of .....

Defendant

I ..... of ..... hereby certify that I did serve the summons and the accompanying documents in this matter on the above-named defendant in the manner endorsed by me on the original summons

Dated This ..... day of ..... 20...

Signed: .....

[person who served the summons]

110B. Acknowledgement by defendant of receiving summons(es) and related papers by post

[am. SR (NI) 2009/310 on 30 Sept 2009] for paragraph 6 of the Explanatory Note, substitute—

“6. If you do not return this form within 14 days, or appear personally or through your solicitor, alternative arrangements will be made to serve the papers on you and the date given on the enclosed summons for the hearing of your case will have to be changed.”.

**Form 110C**

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981

(Rules 13A and 148)

Statutory declaration that the defendant did not know of the summons or proceedings.

Complaint

... .., of .....

Complainant

....., of .....

Defendant

I ..... of ..... do solemnly and sincerely declare that until the ... day of ..... 20., I had no knowledge of the summons or the proceedings in the above matter, I make this declaration by virtue of Article 25A of the Magistrates’ Courts (NI) Order 1981

.....

Declarant

Declared before me this ..... Day of .....20., at .....

Justice of the Peace

[Commissioner for Oaths]

[Clerk of Petty Sessions]

**IMPORTANT**

1. Article 25A of the Magistrates’ Courts (NI) Order 1981 provides that where an accused makes a statutory declaration that he did not know of the summons or the proceedings against him, the summons and proceedings are void.

2. If you knowingly and wilfully make a statement which is false in a material particular you will have committed an offence and be liable on conviction on indictment to a term of imprisonment or a fine or to both under the Perjury (NI) Order 1979

110D. Statutory Declaration (Road Traffic Offenders (NI) Order 1996 (Arts 77, 78))  
(Magistrates' Courts rr. (NI) 1984 (r. 13B))

**Form 110E**

JUSTICE ACT (NORTHERN IRELAND) 2011

(Section 68)

MAGISTRATES’ COURTS RULES (NORTHERN IRELAND) ORDER 1984

(Rule 13C)

Statutory Declaration

....., of .....

Complainant

....., of .....

Defendant

I ....., of .....

do solemnly and sincerely declare that [(a) I was not the person to whom the penalty notice number referred to in the [Notice of Registration] (or here state the document received) served on me on the day of was given;]

[(b) I did not know of the penalty concerned or of any penalty notice until I received the [Notice of Registration] (or here state other document received);]

[(c) I gave notice requesting a hearing in respect of the alleged offence as permitted in the relevant penalty notice before the end of the suspended enforcement period or period allowed for response to that notice.]

Declarant

Declared before me This ..... day of ..... 20...

at ...

Lay Magistrate

111. Affidavit of service of a process by a Summons Server or a Person who has received permission to serve the process (Art 126; rr. 58, 59 and 63).

111A. Certificate of Service of a Process by a Summons Server or a Person who has received permission to serve the process (Arts 73(2) and 126; rr. 62,63 and 63A)1

112. Receipt for prisoner (r. 143(4))

113. Order for taking fingerprints and palm prints (Art 61)

114. Warrant directing person apparently entitled thereto to be put in possession of premises (Art 158, r. 14) (Summary Jurisdiction (Miscellaneous Provisions) Act (NI) 1946 (Section 1))

115. General form of affidavit of service of notice, etc. (Art 126; r. 148)

116. Warrant of commitment on remand in hospital (Art 47; rr. 14, 143 and 164)

117. Certificate by or on behalf of complainant that summon sent by registered post or recorded delivery and returned as undelivered will, if delivered by ordinary post, come to notice of person to be served (r. 13(8)(e))

- 118. Statement of dates on which defendant remanded (rr. 28(2)(1) and 42(1)(o))
- 119. Notice of direction made by Court of Appeal (Art 152)
- 120. Application requesting that warrant of commitment be cancelled (Art 113)
- 121. Warrant of Further Detention (r. 14) (Police and Criminal Evidence (NI) Order 1989 (Arts 44 and 45))
- 122. Application for [Review of Course Organiser's Notice] [Declaration of Default] (Road Traffic Offenders (NI) Order 1996 (Arts 36, 37, 38)) (Magistrates' Courts rr. (NI) 1984 (r. 52A))
- 123. Notice of Order to Give Information of Date of Birth and Sex (Road Traffic Offenders (NI) Order 1996 (Art 27)) (Magistrates' Courts rr. (NI) 1984 (r. 52B))
- 124. Application for amendment of supervision and treatment order (r. 147A of the Magistrates' Courts (NI) Order 1981 and Schedule 2A paragraph 7(2), 8(1) to the Mental Health (NI) Order 1986
- 125. Order amending supervision and treatment order (rr. 14 and 147A of the Magistrates' Courts (NI) Order 1981 and Schedule 2, paragraph 7(2), 11(1)(b) to the Mental Health (NI) Order 1986
- 126. Decision re investigation anonymity order

**Form 127**

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981

(Rule 172)

REGISTRATION OF CLUBS (NORTHERN IRELAND) ORDER 1996

(Article 41E)

LICENSING (NORTHERN IRELAND) ORDER 1996

(Article 69E)

Application for the consideration and extension of a closure order

....., of .....

Applicant

....., of .....

Respondent

TAKE NOTICE that I, the undersigned, intend to apply to a court of summary jurisdiction sitting at [insert venue] on [insert date] at [insert time] for the consideration and extension of a closure order under [Article 41E of the Registration of Clubs (Northern Ireland) Order 1996] [Article 69E of the Licensing (Northern Ireland) Order 1996] in respect of ..... (insert name and address of the premises)

The grounds on which the application is made are as follows: -

[insert grounds]

The period for which the order is sought is as follows: -

[insert period]

I confirm that a copy of the closure order which is currently in force in respect of the premises is attached to this application.

This .. day of ..... 20.. .

Signed

(Rank)

To all parties in the proceedings

To the Clerk of Petty Sessions

NOTE

The notice served on the clerk of petty sessions shall be endorsed with the date upon which and the manner in which the notice was served on the other parties to the proceedings.

If you wish to oppose this application, you should give notice in writing to the clerk of petty sessions giving reasons for your opposition as soon as reasonably practicable after this notice is served on you but not later than 24 hours before the date set for the hearing of this application.

**Form 128**

MAGISTRATES’ COURTS (NORTHERN IRELAND) ORDER 1981 (Rule 174)

JUSTICE ACT (NORTHERN IRELAND) 2015 (Section 94)

APPLICATION FOR DEFENCE ACCESS TO PREMISES

of

Complainant

of

Defendant

Take notice that I intend to make application under section 94(1) of the Justice Act (Northern Ireland) 2015, for an order granting [me] [(insert name of specified person)] access to (description of premises) situate at (address or location of premises).

(Insert details of the purpose, date and estimated length of the proposed inspection)

Dated this ..... day of ..... 20.....

Applicant/Solicitor for the Applicant

To: The Clerk of Petty Sessions

To: The Occupier (insert name and address of the occupier of the premises to which access is requested)

To: PPS

And to: (insert names and addresses of any interested person as directed by the court).

Where a hearing of the application is to be held, the clerk of petty sessions shall notify the applicant and every person served with this notice of the date and place of the hearing.

Note to the Applicant



The notice served on the clerk of petty sessions shall be endorsed with the date upon which and the manner in which notice was served on the occupier of the premises and the PPS.

Note to the Occupier or Interested Person:

If you wish to make representations to the court as to the conditions to be imposed in relation to any order made on foot of this application, you are required within 7 days (or such other period as may be specified by the court under Rule 174(9)) to notify the applicant and the clerk of petty sessions in writing.

SCHEDULE 2

**Debt Proceedings [costs] [Sch.2]**

[amounts not changed since 1984]

TABLE 1: PLAINTIFF’S COSTS (UNDEFENDED<sup>1</sup> PROCEEDINGS)

In proceedings where the amount decreed-	Solicitors costs <sup>2</sup>
(1)	(2)
(i) does not exceed £30	£10.00
(ii) exceeds £30	£15.00

<sup>1</sup> For proceedings treated as undefended see rule 72

<sup>2</sup> See rule 57(2): Only 50% of costs specified in column (2) payable where defendant pays amount due before entry day

Judgments Enforcement (NI) Order 1981: Part VIII – Costs of enforcement order under rule 128(2)(a) shall be in accordance with this Table as if the total amount ordered to be paid were the amount decreed. Costs of a committal order following upon an enforcement order or an attachment of earnings shall be one half of the amount of costs appropriate to an enforcement order.

TABLE 2: PLAINTIFF’S COSTS (DEFENDED PROCEEDINGS)

In proceedings where the amount decreed-	Solicitors costs	Counsel’s fee
(1)	(2)	(3)
(i) does not exceed £30	£12.00	£6.00
(ii) exceeds £30	£15.00	£12.00

TABLE 3: DEFENDANT’S COSTS (DEFENDED PROCEEDINGS)

In proceedings where the amount decreed-	Solicitors costs	Counsel’s fee
(1)	(2)	(3)
(i) does not exceed £30	£11.00	£6.00
(ii) exceeds £30	£28.00	£12.00

SCHEDULE 3

**Ejectment Proceedings [costs]\* [Sch.3]**

[amounts not changed since 1986]

TABLE 1: PLAINTIFF’S COSTS

Solicitor’s costs <sup>1 2 4</sup>	Counsel’s fee <sup>3</sup>
(1)	(2)
£36.75	£19.95

<sup>1</sup> See rule 57(2) and (3): Only 50% of solicitor’s costs in column (1) payable where defendant delivers up possession and, where appropriate, pays any arrears of rent or any sum due under Article 69 of the Order before entry day.

<sup>2</sup> Where case of exceptional complexity or difficulty , the court may certify an amount exceeding the scale figure.

<sup>3</sup> No fee allowed for counsel where proceedings undefended unless the court otherwise orders.

<sup>4</sup> This Table includes proceedings where a claim for rent or sums due under Article 69 of the Order is joined with a claim for recovery of premises.

\* “Ejectment proceedings” means proceedings for the recovery of premises to which Article 67 of the Order applies (including cases of permissive occupancy). And see Note 4.

TABLE 2: DEFENDANT’S COSTS

Solicitor’s costs	Counsel’s fee
(1)	(2)
£34.65	£19.95

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