STATUTORY RULES OF NORTHERN IRELAND

2002 No. 12

MAGISTRATES' COURTS

Magistrates' Courts (Detention and Forfeiture of Terrorist Cash) Rules (Northern Ireland) 2002

Made - - - - 19th January 2002 Coming into operation 11th February 2002

The Lord Chancellor, in exercise of the powers conferred on him by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981(1), on the advice of the Magistrates' Courts Rules Committee and after consultation with the Lord Chief Justice, hereby makes the following Rules:—

Citation and commencement

1. These Rules may be cited as the Magistrates' Courts (Detention and Forfeiture of Terrorist Cash) Rules (Northern Ireland) 2002 and shall come into operation on 11th February 2002.

Revocation

2. The Magistrates' Courts (Terrorism Act 2000) Rules (Northern Ireland) 2001(2) are hereby revoked.

Interpretation

- 3. In these Rules—
 - (a) "the Act" means the Anti-terrorism, Crime and Security Act 2001(3) and a reference to a Schedule by number alone is a reference to the Schedule so numbered in the Act and expressions used have the same meaning as in Schedule 1; and
 - (b) any reference to the clerk of petty sessions is a reference to the clerk of petty sessions for the petty sessions district in which the seizure of cash under Schedule 1 was made.

⁽¹⁾ S.I.1981/1675 (N.I. 26)

⁽²⁾ S.R. 2001 No. 65

^{(3) 2001} c. 24

Application for continued detention of seized cash

- **4.**—(1) A first application under paragraph 3(5) of Schedule 1 for an order under paragraph 3(2) of Schedule 1 for continued detention of cash seized under paragraph 2 of Schedule 1 shall be made to a magistrates' court in writing in Form 1.
 - (2) The applicant shall give—
 - (a) a copy of the application under paragraph (1); and
 - (b) notification of the hearing of the application;

to the person from whom the cash was seized.

Unattended parcels and other containers

5. In rules 4, 7 and 8, references to the person from whom the cash was seized include references to the sender and the intended recipient, where this is known, of a letter, parcel, container or other means of unattended dispatch, but a magistrates' court shall not decline to hear an application in such a case solely on the ground that it has not been proved that the sender or intended recipient has received a copy of the application and notification of hearing under rule 4(2).

Order and notice of order for continued detention of seized cash

- **6.**—(1) An order made under paragraph 3(2) of Schedule 1 shall be in Form 2.
- (2) Notice of any order made under paragraph 3(2) of Schedule 1 shall be given forthwith by the court to the person from whom the cash was seized and to any other person who is affected by, and specified in, the said order. Notice shall be in Form 3 and shall be accompanied by a copy of the order.

Further applications for continued detention of seized cash

- 7.—(1) An application under paragraph 3(5) of Schedule 1 for a further order under paragraph 3(2) of Schedule 1 for the continued detention of cash shall be made in writing in Form 4 and shall be lodged with the clerk of petty sessions and shall be accompanied by a copy of the relevant order for continued detention.
- (2) A copy of the application under paragraph (1) shall be given by the applicant to the person from whom cash was seized and to any other person affected by, and specified in, the order made in relation to the previous application under paragraph 3(5) of Schedule 1.
- (3) The clerk of petty sessions who receives an application in accordance with paragraph (1) shall fix a date for the hearing of the application, shall notify the applicant and every person to whom notice of the order for continued detention has been given of the date fixed for the hearing which, unless the clerk of petty sessions directs otherwise in any particular case, shall not be within seven days of the date on which the application is received.
- (4) A further order for continued detention of cash made under paragraph 3(2) of Schedule 1 shall be in Form 2 and shall be given by the clerk of petty sessions to every person to whom the notice of the order for continued detention has been given.

Applications for release of detained cash

- **8.**—(1) An application under paragraph 5(2) or paragraph 9(1) of Schedule 1 for the release of detained cash shall be made in writing, shall state the grounds on which it is made, and shall be lodged with the clerk of petty sessions.
- (2) The clerk of petty sessions who receives an application in accordance with paragraph (1) shall fix a date for the hearing of the application, shall notify the applicant and every person to whom notice of the order for continued detention has been given of the date fixed for the hearing which,

unless the clerk of petty sessions directs otherwise in any particular case, shall not be within seven days of the date on which the application is received.

- (3) The clerk of petty sessions shall in addition give a copy of the written application to every person, other than the applicant, to whom notice of the order for continued detention has been given.
- (4) A direction under paragraph 5(2) of Schedule 1 for the release of detained cash shall be in Form 5, and shall provide for the release of the cash within seven days of the date of the direction, or such longer period as with the agreement of the person from whom the cash was seized may be specified in the direction, except that the cash shall not be released while paragraph 5(4) of Schedule 1 applies.
- (5) An order under paragraph 9(3) of Schedule 1 for the release of detained cash shall be in Form 6, and shall provide for the release of the cash within seven days of the date of the making of the order or such longer period as with the agreement of the applicant may be specified in the order.

Forfeiture

- **9.**—(1) An application under paragraph 6(1) of Schedule 1 for the forfeiture of detained cash shall be made in writing in Form 7 and shall be lodged with the clerk of petty sessions.
- (2) A copy of the application under paragraph (1) shall be given by the applicant to the person from whom cash was seized and to any other person affected by, and specified in, the order made in relation to the previous application under paragraph 3(5) of Schedule 1.
- (3) The clerk of petty sessions who receives such an application shall fix a date for the hearing, shall notify the applicant and every person to whom notice of an order for continued detention has been given of the hearing date. Unless the clerk of petty sessions directs otherwise in any particular case, the date for hearing shall not be within seven days of the date on which the application is received.

Order for forfeiture of detained cash

10. An order for the forfeiture of detained cash made by a magistrates' court under paragraph 6(2) of Schedule 1 shall be in Form 8 and a copy of the order shall be given to every person to whom notice of the order for continued detention was given.

Appeal against order forfeiting cash

- 11.—(1) Where an appeal against a forfeiture order is made to a county court under paragraph 7(1) of Schedule 1 the appellant shall, within the period prescribed by paragraph 7 of Schedule 1, serve on every person to whom notice of the order for continued detention of the cash was given notice of his appeal in writing in Form 9 and shall within the said period serve a copy of such notice on the clerk of petty sessions.
- (2) The notice of appeal to be served on the parties and the copy of the notice to be served on the clerk of petty sessions under paragraph (1) shall be prepared and signed by the appellant or by his solicitor or other duly authorised agent and shall contain his address or that of his solicitor or other duly authorised agent.
- (3) The copy of 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.
- (4) As soon as practicable after the clerk of petty sessions has received the notice of appeal, the resident magistrate or justice of the peace from whose order the appeal is to be brought or the clerk of petty sessions shall in Form 10 ("the form of appeal") set out the terms of the order appealed against and that form shall include a certificate signed by the clerk of petty sessions to the effect that notice of appeal has been given.

- (5) As soon as practicable after complying with the above paragraphs, the clerk of petty sessions shall—
 - (a) send to the chief clerk for the county court division in which the appeal will be heard, the copy of the notice of appeal and the form of appeal duly completed; and
 - (b) send to the appellant and to the respondent a copy of the form of appeal.
- (6) After the county court has decided an appeal under paragraph 7(1) of Schedule 1, the chief clerk for the county court division for which that county court is held shall, within seven days of that decision, certify the decision 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 decision in his Order Book.
- (7) Any notice of abandonment of an appeal under paragraph 7(1) of Schedule 1 shall be in Form 11.

Application for compensation

- 12.—(1) An application under paragraph 10(1) of Schedule 1 for compensation shall be made in writing and shall be lodged with the clerk of petty sessions and shall specify the grounds on which it is made.
 - (2) The clerk of petty sessions shall send a copy of the application to—
 - (a) the Commissioners for Customs and Excise, if the cash which is the subject of the application was seized by a customs officer;
 - (b) the Chief Constable, if the cash which is the subject of the application was seized by a constable;
 - (c) the Secretary of State, if the cash which is the subject of the application was seized by an immigration officer.
- (3) The clerk of petty sessions who receives an application in accordance with paragraph (1) shall fix a date for the hearing of the application and shall notify the applicant and the person referred to in paragraph (2) of the date fixed for the hearing which, unless the clerk of petty sessions directs otherwise in any particular case, shall not be within seven days of the date on which the application is received.

Joinder

13. At any hearing of an application under paragraph 3(5), paragraph 5(2), paragraph 6(1) or paragraph 9(1) of Schedule 1, or on the application of any person affected by an order for continued or further detention, the court may, if it thinks fit, order that such a person be joined as a party to the proceedings and, if the court so orders, otherwise than at such a hearing, the clerk of petty sessions shall give notice to the other parties of the joinder.

Notice

- **14.**—(1) Any notice, notification, copy of any order or any other document required to be given to any person under the provisions of rule 6(2), 7(3) and (4), 8(2) and (3), 9(3), 11(5)-(7), 12 or 13 may be given by ordinary first class post to his last known address.
- (2) A notice under rule 11(1) shall be served in accordance with section 24(2) of the Interpretation Act (Northern Ireland) 1954(4).

Procedure at hearings

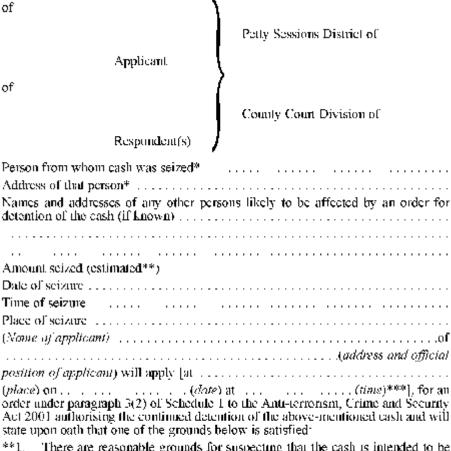
- **15.**—(1) At the hearing of an application under Schedule 1 to the Act any person to whom notice of the application has been given, or should have been given, may attend and be heard on the question whether the application should be granted, but the fact that any such person does not attend shall not prevent the court from hearing the application.
- (2) At the hearing of an application under Schedule 1 to the Act, the court shall require the matters contained in the application to be sworn by the applicant under oath, may require the applicant to answer any questions under oath and may require any response from the respondent to the application to be made under oath.
- (3) The court shall record or cause to be recorded in writing the substance of any statements made under oath which are not already recorded in the written application.
- **16.** The Magistrates' Courts Rules (Northern Ireland) 1984(**5**) shall have have effect subject to the provisions of these Rules.

Dated 19th January 2002.

Irvine of Lairg, C.

SCHEDULE Rule 4

Form 1Anti-terrorism, Crime and Security Act 2001Magistrates' Courts (Detention and Forfeiture of Terrorist Cash) Rules (Northern Ireland) 2002(paragraph 3(5) of Schedule 1, Rule 4)Application for Continued Detention of Seized Cash



- **1. There are reasonable grounds for suspecting that the cash is intended to be used for the purposes of terrorism and that either
 - (a) its continued detention is justified while its intended use is further investigated or consideration is given to bringing (in the United Kingdom or elsewhere) proceedings against any person for an offence with which the cash is connected, or
 - (b) proceedings against any person for an offence with which the cash is connected have been started and have not been concluded;
- **2. There are reasonable grounds for suspecting that the cash consists of resources of an organisation which is a proscribed organisation and that either—

- (a) its continued detention is justified while investigation is made into whether or not it consists of such resources or consideration is given to bringing (in the United Kingdom or elsewhere) proceedings against any person for an offence with which the cash is connected, or
- (b) proceedings against any person for an offence with which the cash is connected have been started and have not been concluded:
- **3 There are reasonable grounds for suspecting that eash is properly earmarked as terrorist property and that either—
 - (a) its continued detention is justified while its derivation is further investigated or consideration is given to bringing (in the United Kingdom or elsewhere) proceedings against any person for an offence with which the cash is connected, or
 - (b) proceedings against any person for an offence with which the cash is connected have been started and have not been concluded.(state grounds)

Dated this day of 20

Applicant

- * in the case of a letter, parcel, container or other means of unattended dispatch, insert names and addresses, if known, of sender and intended recipient.
- ** Delete as appropriate.
- *** Details of the time, date and place at which the hearing of the application is to be heard should always be included, unless these details are not known to the applicant.

NOTE TO THE APPLICANT.

(1) You must give a copy of this application and notification of the hearing of it to the person from whom the eash was seized. The magistrates' court that considers this application will require the facts alleged in it to be sworn on eath and may require the applicant to answer any questions on eath. The magistrates' court may require any statement in response by the person from whom the eash was seized to be given on eath.

Form 2The Anti-Terrorism, Crime and Security Act 2001Magistrates' Courts (Detention and Forfeiture of Terrorist Cash) Rules (Northern Ireland) 2002(paragraph 3(2) of Schedule 1, Rule 6)Order/Further Order for Continued Detention of Seized Cash

Rule 6

of Petty Sessions District of Applicant ofRespondent(s) Date of hearing Person from whom each seized* Amount seized (estimated**) . . . Date of setzure Time of scizure . . . Place of serzure Date of latest order for continued detention of seized cash (if any)........... Amount detained under latest order for continued detention (if any)....... Amounts released since the latest order for continued detention (if any)........ Names and addresses of any other persons whom the court has identified as being affected by this order ______ On the application of (name of applicant), after hearing oral being the person from whom the cash was seized/a person likely to be affected by the order. Decision It is ordered that the above-mentioned eash be continued to be detained for a period of (state period up to a maximum of three months from from the date of this order, and not beyond the end of a period of two years from the date of the first order) from the date of this order or until its release may be sooner

directed.

Important

Notice of this order must be given forthwith to the person from whom the eash was seized and any other person specified in this order as being affected by it. Such notice shall be in the prescribed form (Form 3 in the Schedule to the Magistrates' Courts (Detention and Forfeiture of Terrorist Cash) Rules (Northern Ireland) 2002) and shall be accompanied by a copy of this order.

Dated this

day of

20 .

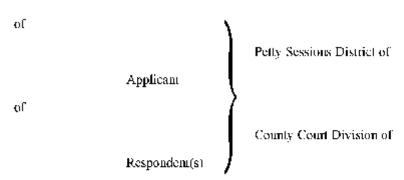
Signed

[Resident Magistrate] [Justice of the Peace] [Clerk of Petty Sessions]

- * In the case of a letter, parcel, container or other means of unattended dispatch, insert names and addresses, if known, of sender and intended recipient.
- ** Delete as appropriate.

Form 3The Anti-terrorism, Crime and Security Act 2001Magistrates' Courts (Detention and Forfeiture of Terrorist Cash) Rules (Northern Ireland) 2002(paragraph 3(4) of Schedule 1, Rule 6)Notice to Persons Affected by Order for Continued Detention of Seized Cash

Rule 6



You are being given notice of the order because it appears to the court that you may be effected by it.

The person from whom the cash was seized may apply for the release of the detained cash or any part of it under paragraph 5(2) of Schedule 1 to that Act. If the cash was in a letter, parcel, container or other means of unattended dispatch the sender or the intended recipient may make the application.

A person who claims that-

- (i) any cash detained or any part of it belongs to him;
- (ii) that he was deprived of it or of properly which it represents by criminal conduct; and
- (iii) that the property be was deprived of was not, immediately before he was deprived of it, property obtained by or in return from criminal conduct and nor did it represent such property,

may apply for the release of the detained cash or part of it under paragraph 9(1) of Schedule 1 to that Act. Such a person may apply to the court to be joined as a party to proceedings.

An application under paragraph 5(2) or paragraph 9(1) of Schedule 1 should be made in writing, should state the grounds on which it is made and should be lodged with the clerk of petty sessions.

At the end of the above-mentioned period of detention an application may be made for the further detention of the eash. An application may be made for forfeiture

of the cash. You will be notified if an application is made, or if any other person makes an application to the court for the release of the detained cash.

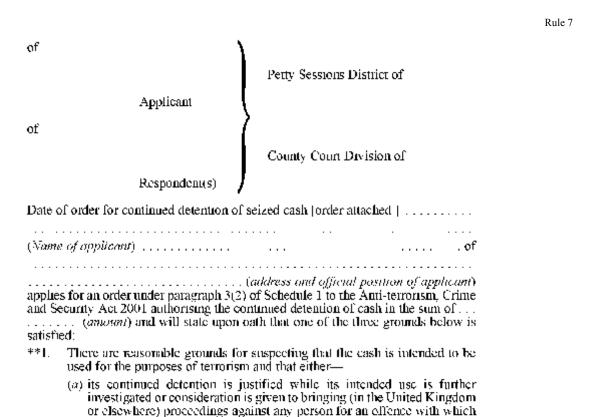
Signed

[Resident Magistrate]
[Justice of the Peace]
[Clerk of Petty Sessions]

Date

* In the case of a letter, parcel, container or other means of unattended dispatch, insert names and addresses, if known, of sender and intended recipient.

Form 4Anti-terrorism, Crime and Security Act 2001Magistrates' Courts (Detention and Forfeiture of Terrorist Cash) Rules (Northern Ireland) 2002(paragraph 3(5) of Schedule 1, Rule 7)Further Application for Continued Detention of Seized Cash



- the eash is connected, or

 (b) proceedings against any person for an offence with which the eash is
- **2. There are reasonable grounds for suspecting that the cash consists of resources of an organisation which is a proscribed organisation and that either
 - (a) its continued detention is justified while investigation is made into whether or not it consists of such resources or consideration is given to bringing (in the United Kingdom or elsewhere) proceedings against any person for an offence with which the cash is connected, or
 - (b) proceedings against any person for an offence with which the cash is connected have been started and have not been concluded;
- **3. There are reasonable grounds for suspecting that cash is property earmarked as terrorist property and that either—
 - (a) its continued detention is justified while its derivation is further investigated or consideration is given to bringing (in the United Kingdom

- or elsewhere) proceedings against any person for an offence with which the cash is connected, or,
- (b) proceedings against any person for an offence with which the cash is connected have been started and have not been concluded.(state grounds)

Note to the Applicant.

This application must wherever possible be submitted to the clerk of petty sessions at least seven days before the expiry of the last period of detention which was ordered by the court. You must attach to this application a copy of any order made in relation to the previous applications under paragraph 3(5) of Schedule 1, and send copies of both documents to the person from whom the cash was seized and any other person specified in any order made in relation to the previous applications under paragraph 3(5) of Schedule 1.

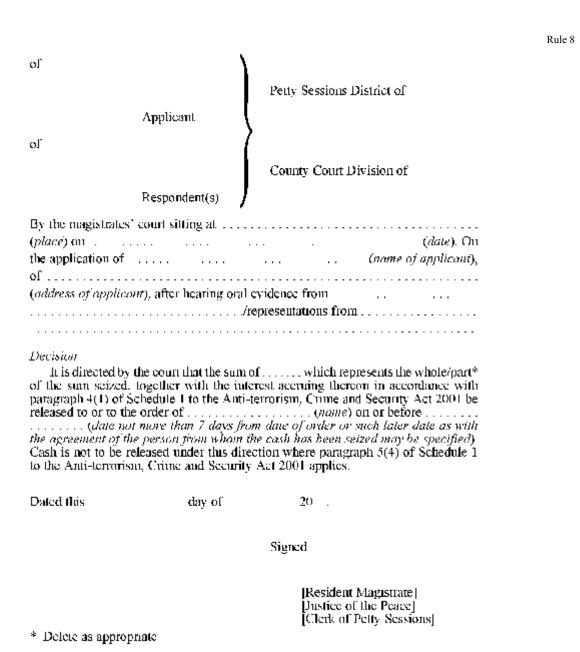
Dated this day of 20 .

Signed

Applicant

To: The clerk of petty sessions for the petty sessions district of being the district in which the seizure of eash was made.

Form 5Anti-terrorism, Crime and Security Act 2001Magistrates' Courts (Detention and Forfeiture of Terrorist Cash) Rules (Northern Ireland) 2002(paragraph 5(2) of Schedule 1, Rule 8)Direction for Release of Detained Cash under paragraph 5(2) of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001



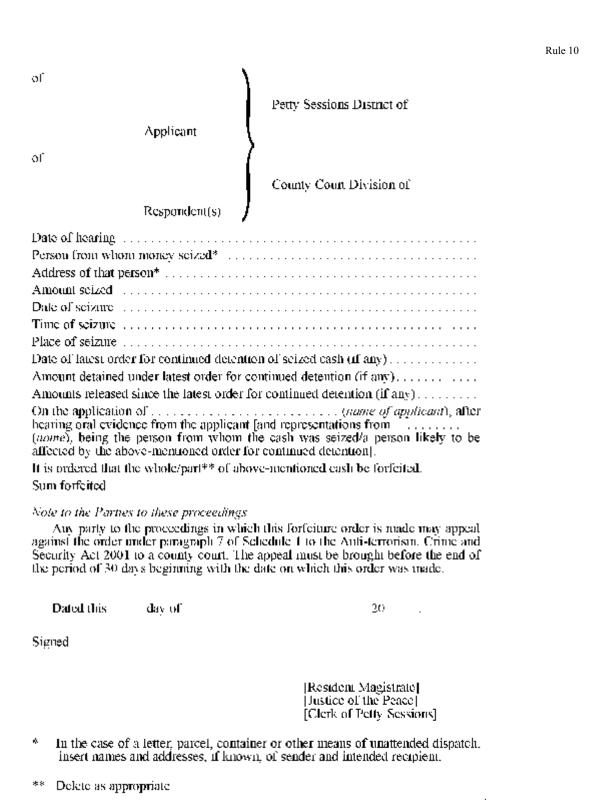
Form 6Anti-terrorism, Crime and Security Act 2001Magistrates' Courts (Detention and Forfeiture of Terrorist Cash) Rules (Northern Ireland) 2002(paragraph 9(3) of Schedule 1, Rule 8)Order for Release of Detained Cash under paragraph 9(3) of Schedule 1 to the Anti-Terrorism, Crime and Security Act 2001

Rule 8 oΓ Petty Sessions District of Applicant. of County Count Division of Respondent(s) By the magistrates' court sitting at (place) on (name - (alae)). On the application of (name - (alae))of applicant), after hearing oral evidence from /representations It appears to the court that the sum below— belongs to the applicant; (ii) that the applicant was deprived of it or of property which it represents by eriminal conduct; and (iii) that the property the applicant was deprived of was not, immediately before he was deprived of it, property obtained by or in return for criminal conduct and nor did it represent such property. Decision It is ordered that the sum of which represents the whole/part* of the sum serzed, together with any interest accrumg thereon in accordance with paragraph 4(1) of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001, be released to or to the order of (name) on or before (date not more than 7 days from date of order or such later date as with the agreement of the applicant may be specified) Dated this day of 20 - .Signed [Resident Magistrate] [Justice of the Peace]

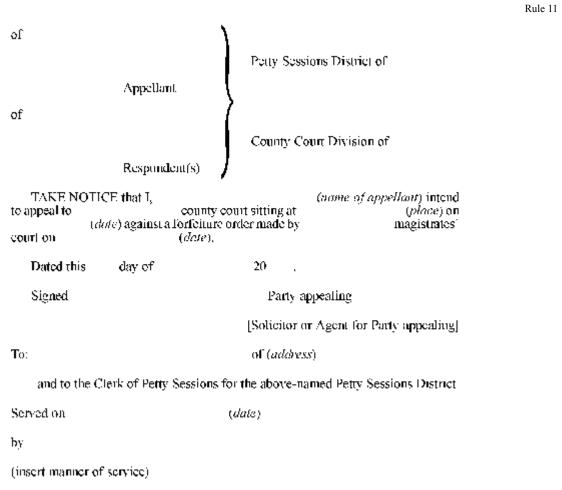
Form 7Anti-terrorism, Crime and Security Act 2001Magistrates' Courts (Detention and Forfeiture of Terrorist Cash) Rules (Northern Ireland) 2002(paragraph 6(1) of Schedule 1, Rule 9)Application for Forfeiture of Seized Cash

Clerk of Petty Sessions

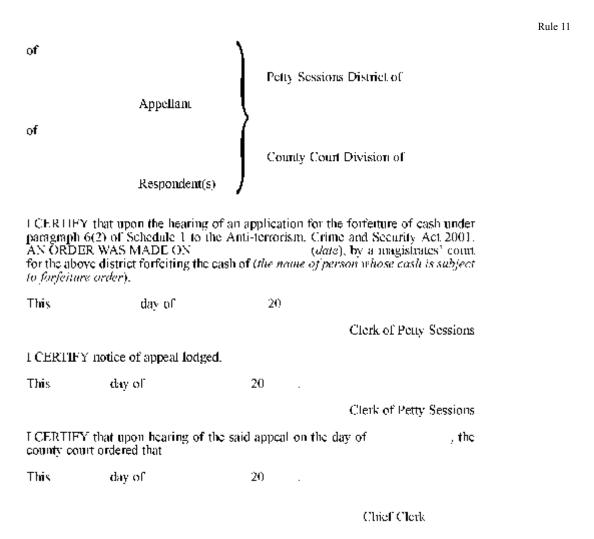
			Rule 9
of Ap	plicant	Petty Sessions Distri	.ct of
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under paragraph 6 of Sci for the forfeiture of eash (date and time) together with any intere 1 to that Act on the grou (i) is intended to be (ii) consists of the re- and/or** (iii) is or represents p	ress and official positive hedule I to the Anti-te in the sum of	tion of applicant) as arrorism, Crime and	oplies for an order Security Act 2001 sized on on whom seized*). h 4(1) of Schedule or** ribed organisation, property carmarked
Dated this	day of	20 .	
	s	iigned	
			Applicant
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To: The eleris of petty s	essions for the petty s	essions district of .	
	(Northern Ireland) 2		s' Courts (Detention and Forfeiture 2) of Schedule 1, Rule 10)Order for



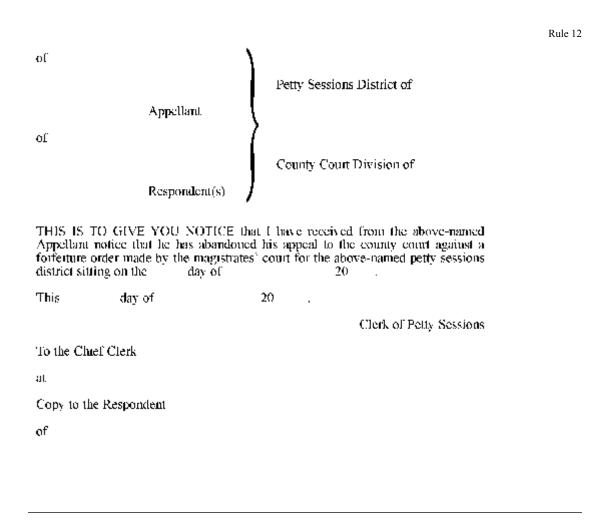
Form 9Anti-terrorism, Crime and Security Act 2001Magistrates' Courts (Detention and Forfeiture of Terrorist Cash) Rules (Northern Ireland) 2002(paragraph 7(1) of Schedule 1, Rule 11)Notice of Appeal to the County Court



Form 10Anti-terrorism, Crime and Security Act 2001Magistrates' Courts (Detention and Forfeiture of Terrorist Cash) Rules (Northern Ireland) 2002(paragraph 7(11) of Schedule 1, Rule 11)Form of Appeal to County Court



Form 11Anti-terrorism, Crime and Security Act 2001Magistrates' Courts (Detention and Forfeiture of Terrorist Cash) Rules (Northern Ireland) 2002(paragraph 7(1) of Schedule 1, Rule 12)Notice by Clerk of Petty Sessions to Chief Clerk of abandonment of appeal to the County Court



EXPLANATORY NOTE

(This note is not part of the Rules.)

These Rules revoke and replace the Magistrates' Courts (Terrorism Act 2000) Rules (Northern Ireland) 2001. They prescribe the procedure to be followed for applications to a magistrates' court for the detention, further detention, forfeiture or release of cash seized by a constable, customs officer, or immigration officer under Schedule 1 to the Anti-terrorism, Crime and Security Act 2001 on reasonable suspicion of a connection to terrorism. They also prescribe the procedure to be followed for applications to a magistrates' court for compensation where no forfeiture order is made. These Rules prescribe the forms to be used in connection with the application and hearings.