
STATUTORY RULES OF NORTHERN IRELAND

2004 No. 299

MAGISTRATES' COURTS

**The Magistrates' Courts (Amendment
No. 2) Rules (Northern Ireland) 2004**

Made - - - - 6th July 2004

Coming into operation in accordance with Rule 1

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

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Magistrates' Courts (Amendment No. 2) Rules (Northern Ireland) 2004 and subject to paragraphs (2) to (4) shall come into operation on 26th July 2004.

(2) Paragraphs (1), (2) and (5)(a) of Rule 2 below shall come into operation on the same day as section 46 of the Youth Justice and Criminal Evidence Act 1999⁽²⁾ comes into force.

(3) Paragraphs (3) and (5)(b) of Rule 2 below shall come into operation on the same day as Article 9 of the Criminal Justice (Northern Ireland) Order 2003⁽³⁾ comes into operation.

(4) Paragraphs (4) and (5)(c) of Rule 2 below shall come into operation on the same day as Article 10 of the Criminal Justice (Northern Ireland) Order 2003 comes into operation.

(5) In these Rules, a reference to a Rule, a Schedule or a Form by number means the Rule, Schedule or Form so numbered in the Magistrates' Courts Rules (Northern Ireland) 1984⁽⁴⁾.

Amendment to the principal Rules

2.—(1) After Rule 2(3)(c) there shall be added:

“(d) “the 1999 Act” means the Youth Justice and Criminal Evidence Act 1999.”.

(2) After Rule 149AM, there shall be inserted the following new Rules:

(1) S.I. 1981/1675 (N.I. 26)

(2) 1999 c. 23

(3) S.I. 2003/1247 (N.I. 33)

(4) S.R. 1984 No. 225; to which the most recent relevant amendment was made by S.R. 2004 No. 204 and S.R. 2003 No. 477

“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 15O 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.”

(3) After Rule 153, there shall be inserted the following new Rule:

“Procedure on application for bail following grant of conditional police bail

153A.—(1) An application under Article 132A of the Order 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 for the magistrates' court (if any) appointed by the custody officer as the court to which the applicant is under a duty to surrender; or where no such court has been appointed,
 - (b) on the clerk of petty sessions for a magistrates' court acting for the petty sessions district in which the police station at which the applicant was granted bail or at which the conditions of his bail were varied is situated,

and in either case the applicant shall serve a copy of the notice on the custody officer for that police station.

(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(5).

(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).”

(4) After Rule 153A, there shall be inserted the following new Rule:

“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 for the magistrates' court which granted the bail; or
- (b) on the clerk of petty sessions for the magistrates' court (if any) appointed by the custody officer as the court to which the applicant is under a duty to surrender; or
- (c) if no such court has been appointed, on the clerk of petty sessions for a magistrates' court acting for the petty sessions district in which the police station at which the applicant was granted bail is situated,

and, at the same time, the applicant shall serve a copy of the notice on the person to whom the application relates and 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).”

(5) Schedule 1 shall be amended as follows:

- (a) after Form 15L, there shall be inserted the new Forms 15M to 15P in the Schedule to these Rules.

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- (b) after Form 91, there shall be inserted the new Forms 91A to 91B in the Schedule to these Rules; and
- (c) after Form 91B, there shall be inserted the new Forms 91C to 91E in the Schedule to these Rules.

Signed by authority of the Lord Chancellor

Dated 6th July 2004

Lord Filkin
Parliamentary Under-Secretary of State,
Department for Constitutional Affairs

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SCHEDULE

Rule 2(5)

FORMS TO BE INSERTED IN THE MAGISTRATES'
COURTS RULES (NORTHERN IRELAND) 1984
FORM 15MMAGISTRATES' 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

<i>Details required</i>	<i>Notes</i>
<p>Details of applicant</p> <p>Name of applicant:</p> <p>Name of applicant's solicitor:</p> <p>Address of solicitor:</p> <p>Reference:</p>	
<p>Details of witness</p> <p>Name of witness:</p> <p>Date of birth of witness:</p>	
<p>Case details</p> <p>Name of PSNI Central Process Office:</p> <p>Central Process Office or District Command Unit reference number:</p> <p>DPP reference number:</p> <p>Defendant(s): Surname:</p> <p style="padding-left: 40px;">Forenames:</p> <p>Court venue:</p> <p>Date of next court appearance:</p>	<p>The venue of the court hearing the case.</p>
<p>Charges</p>	<p>Give brief details of those charges to which this application relates</p>
<p>Details of application</p> <p>State the grounds on which the applicant relies in support of the application for a reporting direction:</p>	<p>The statement should make clear why, in the applicant's view, if the direction is not given –</p> <p>(a) the quality of evidence given by the witness, or</p> <p>(b) the level of co-operation given by the witness to any party to the proceedings in the preparation of that party's case,</p>

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<i>Details required</i>	<i>Notes</i>
<p>Give a description of evidence submitted in support of this application:</p> <p>Set out the views of the witness for whom the direction is sought on this application:</p>	<p>is likely to be diminished by fear or distress if the witness is identified by members of the public.</p> <p>This requirement is optional. Examples might be –</p> <p>Police report</p> <p>Medical report</p>
<p>Public interest</p> <p>State why a reporting direction –</p> <p>(a) is in the interests of justice; and</p> <p>(b) is in the public interest in avoiding the imposition of a substantial and unreasonable restriction on the reporting of proceedings</p>	

Dated this day of 20 .

Applicant
[Solicitor for Applicant]

To the Clerk of Petty Sessions for the petty sessions district of

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.

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FORM 150MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981

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(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

<i>Details required</i>	<i>Notes</i>
<p>Details of applicant Name of applicant: Name of applicant's solicitor: Address of solicitor: Reference:</p>	
<p>Details of witness Name of witness: Date of birth of witness:</p>	
<p>Case details Defendant(s): Surname: Forenames: Court venue: Date of next court appearance:</p> <p>Charges Reference number of [reporting] [excepting] direction: Court which gave the [reporting] [excepting] direction: Date on which [reporting] [excepting] direction given:</p>	<p>The venue of the court hearing the case.</p> <p>Give brief details of those charges to which this application relates</p>
<p>Is a copy of the [reporting] [excepting] direction attached:</p>	<p>The applicant should attach a copy of the [reporting] [excepting] direction if available</p>
<p>Details of application The application is for: [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 –</p>	<p>* Delete as appropriate</p>

Dated this day of 20 .

Applicant
[Solicitor for Applicant]

To the Clerk of Petty Sessions for the petty sessions district of

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.

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(Article 132A, Rule 153A)

Application for bail following grant of conditional police bail

of	}	Petty Sessions District of
Applicant		
of	}	County Court Division of
Respondent		

TAKE NOTICE that I, the undersigned, intend to apply to a magistrates' court for the above-named petty sessions district 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 for the above-named petty sessions district.

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.

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(Article 132A, Rule 153A)

Notice of decision on application for bail following grant of conditional police bail

of

Applicant

of

Respondent

Petty Sessions District of

County Court Division of

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 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 91CMAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981

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(Article 133A, Rule 153B)

Application for reconsideration of a decision to grant bail

of	}	Petty Sessions District of
Complainant		
of	}	County Court Division of
Defendant		

TAKE NOTICE that I, the undersigned, intend to apply to a magistrates' court for the above-named petty sessions district 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 for the above-named petty sessions district.

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.

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FORM 91DMAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981

(Article 133A, Rule 153B)

Notice of decision on application for reconsideration of a decision to grant bail

of	}	Petty Sessions District of
Complainant		
of	}	County Court Division 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 91EMAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981

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(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	}	Petty Sessions District of
Complainant		
of	}	County Court Division 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

EXPLANATORY NOTE

(This note is not part of the Rules.)

These Rules amend the Magistrates' Courts Rules (Northern Ireland) 1984 ("the principal Rules") to make provision relating to applications under –

- section 46 of the Youth Justice and Criminal Evidence Act 1999 for reporting directions and excepting directions in respect of adult witnesses in criminal proceedings; and
- Article 132A (Power to grant bail where police bail has been granted) and Article 133A (Reconsideration of decisions granting bail) of the Magistrates' Courts (Northern Ireland) Order 1981.

Rule 2(1) inserts a reference to the Youth Justice and Criminal Evidence Act 1999 into the interpretation provisions of the principal Rules.

Rule 2(2) inserts *new Rules 149AN to 149AQ* into the principal Rules.

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New Rule 149AN prescribes the manner in which an application for a reporting direction shall be made. *New Rule 149AO* prescribes the manner in which an application for an excepting direction shall be made.

New Rule 149AP provides for an application to be made to revoke a reporting direction or to vary or revoke an excepting direction which has already been given.

New Rule 149AQ provides that the court may direct a hearing of an application where notice of opposition is given or where the court considers that it is appropriate to do so. It also provides that the clerk of petty sessions shall notify all the parties to the proceedings of the court's decision.

Rule 2(3) inserts *new Rule 153A* into the principal Rules which provides for an application under Article 132A of the 1981 Order for bail following the grant of conditional police bail.

Rule 2(4) inserts *new Rule 153B* into the principal Rules which provides for an application by a prosecutor under Article 133A of the 1981 Order for the reconsideration of a decision by a magistrates' court or a custody officer to grant bail.

Rule 2(5) amends Schedule 1 to the principal Rules by inserting new Forms 15M to 15P and 91A to 91E for use in connection with applications prescribed in these Rules.