STATUTORY RULES OF NORTHERN IRELAND

2011 No. 230

COURT OF JUDICATURE, NORTHERN IRELAND

PROCEDURE

The Crown Court (Amendment) Rules (Northern Ireland) 2011

Made - - - -	*20th June 2011*
Coming into operation	*25th July 2011*

The Crown Court Rules Committee makes the following Rules in exercise of the powers conferred by sections 52(1) and 53A of the Judicature (Northern Ireland) Act 1978(**1**) and section 49 of the Crime (International Co-operation) Act 2003(**2**).

Citation and Commencement

1. These Rules may be cited as the Crown Court (Amendment) Rules (Northern Ireland) 2011 and shall come into operation on 25th July 2011.

Interpretation

2. In these Rules, a reference to a rule, Schedule or Form is a reference to that rule, Schedule or Form so numbered in the Crown Court Rules (Northern Ireland) 1979(**3**).

Amendment to the Crown Court Rules (Northern Ireland) 1979

3. The Crown Court Rules (Northern Ireland) 1979 are amended as follows —

(1) for rule 46, substitute —

"**Manner of application where no other procedure specified**

46. Where no other provision is made in these Rules as to the way in which an application is made to the Court (otherwise than at the trial) under these Rules, the application shall be made in writing and delivered to the chief clerk and a copy thereof given to every other party to the proceedings.";

(**1**) 1978 c.23; to which the most recent relevant amendments were made by paragraph 6 of Schedule 17, and paragraphs 14 and 26 of Schedule 18, to the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010 No. 976).

(**2**) 2003 c.32.

(**3**) S.R. 1979 No.90; to which the most recent amendments were made by S.R. 2008 No. 505 and S.R. 2008 No. 574.

(2) in rule 55, at the end, insert —

""chief clerk" means the chief clerk of the Court at the place where the proceedings under the Crime (International Co-operation) Act 2003 are to be heard and includes such other civil servant in the Department of Justice as may be authorised to act on his behalf for the purpose in question.";

(3) in rule 58, omit paragraph (3);

(4) after rule 58, insert—

"**Notice of application for a domestic freezing order**

58A.—(1) An application under section 10(1) (domestic freezing orders) shall be made by giving notice in writing to the chief clerk and shall be accompanied by –

(a) the certificate, referred to in section 11, completed by the applicant; and

(b) either the request made under section 7, or an indication of when such a request will be made.

(2) Where the judge makes a domestic freezing order under section 10(1) the chief clerk 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 completed by the applicant; and

(c) either the request under section 7, or an indication of when such a request will be made.

Variation or revocation of a domestic freezing order

58B.—(1) An application to vary or revoke a domestic freezing order under section 12 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 chief clerk 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 chief clerk, 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 chief clerk 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 chief clerk 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 chief clerk 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 judge makes an order to vary or revoke a freezing order under section 12, the chief clerk shall, as soon as reasonably practicable, send a copy of that order to the Secretary of State.";

(5) after rule 60, insert –

"**Consideration of an overseas freezing order**

60A.—(1) In proceedings before a Court nominated under section 21, 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 chief clerk 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

60B.—(1) An application under section 25 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 chief clerk, 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 chief clerk 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 chief clerk 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 chief clerk 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 chief clerk 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 the chief clerk shall, as soon as reasonably practicable, give notice of that order to the Secretary of State.”; and

(6) in the Schedule, in Forms 6 and 7A —

(a) omit—

(i) “Name of PSNI Central Process Office”; and

(ii) “Central Process Office or District Command Unit reference number”;

(b) for “DPP reference number”, substitute “PPSNI reference number”; and

(c) below “PPSNI reference number”, insert “ICOS reference number if known”.

Declan Morgan
A.J. Hart
Eilis McDermott
T.A.Burgess

Dated 15th June 2011

In exercise of the powers conferred by section 55A (3) and (5) of the Judicature (Northern Ireland) Act 1978, I allow these Rules.
Sealed with the Official Seal of the Department of Justice on 20th June 2011

David Ford
Minister of Justice

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules make a number of amendments the Crown Court Rules (Northern Ireland) 1979 (S.R 1979 No.90) ("the principal Rules"). Specifically,

— Rule 3(1) inserts new rule 46 to prescribe the manner for making an application to the Crown Court, by any party, where no other provision is prescribed. The application should be made in writing and delivered to the chief clerk. A copy should be given to every other person who is a party to the proceedings.

— Rule 3(2) inserts a definition of chief clerk for the purposes of proceedings under the Crime (International Co-operation) Act 2003 ("the 2003 Act").

— Rule 3(3) omits rule 58(3) of the principal Rules to remove the requirement that all requests for assistance in criminal proceedings, under section 7 of the 2003 Act, must be sent to the Secretary of State.

— Rule 3(4) inserts new rules 58A and 58B into the principal Rules to prescribe the procedure for dealing with applications in respect of domestic freezing orders under sections 10-12 of the 2003 Act. Rule 58A prescribes the procedure for making an application for a domestic freezing order and Rule 58B sets out the procedure for applying for a variation or revocation of a domestic freezing order.

— Rule 3(5) insert new rules 60A and 60B into the principal Rules to prescribe the procedure for dealing with applications in respect of overseas freezing orders under sections 20-25 of the 2003 Act. Rule 60A provides the procedure to be followed for the consideration by the Court of an overseas freezing order, and Rule 60B provides the procedure for applying for the release of evidence which is subject to an overseas freezing order.

— Rule 3(6) makes a number of technical amendments to Forms 6 and 7A in the Crown Court Rules (Northern Ireland) 1979 to reflect that prosecutions are no longer undertaken by the police in Northern Ireland and update a number of references to reflect current procedural arrangements.