
STATUTORY RULES OF NORTHERN IRELAND

1984 No. 225

Magistrates' Courts Rules (Northern Ireland) 1984

PART III

Criminal Proceedings

E. INDICTABLE OFFENCES DEALT WITH SUMMARILY

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 (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 and appreciates the meaning of such right; or, in relation to a scheduled offence, the court is satisfied in accordance with Rule 45(6) and (7) that the accused understands that he has a right to be tried at the Crown Court sitting in Belfast without a jury, or, if the Attorney General certifies that the offence is not to be treated as a scheduled offence, at the Crown Court with a jury, and appreciates the meaning of such right.

(3) Where the prosecutor informs a resident magistrate or a justice of the peace 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

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) Except where the offence is a scheduled offence, the resident magistrate 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 a jury at the Crown Court. Such explanation shall include a statement as to the Crown Court at which the accused may be tried.

(5) Except where the offence is a scheduled offence, the resident magistrate shall next address the accused as follows:—

“Do you wish to be tried by a jury, or do you consent to the case being dealt with summarily?”

and if the accused consents to be dealt with summarily, the resident magistrate shall ask him "Do you plead guilty or not guilty?".

(6) Where the offence is a scheduled offence, the resident magistrate 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 the accused for trial at the Crown Court sitting in Belfast without a jury or at the Crown Court with a jury. Such explanation shall include a statement as to the authority of the Attorney General to certify that the offence is not to be treated as a scheduled offence and the effect of such certification; and a statement as to the Crown Court at which the accused may be tried if trial is to be with a jury.

(7) Where the offence is a scheduled offence, the resident magistrate shall next address the accused as follows:—

“Do you wish to be tried at the Crown Court sitting in Belfast without a jury or, if the Attorney General certifies that the offence is not to be treated as a scheduled offence, at the Crown Court with a jury, or do you consent to the case being dealt with summarily?”

and if the accused consents to be dealt with summarily, the resident magistrate 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 (6) or addressing the accused, as would otherwise be required by paragraph (5) or (7), 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. The clerk of petty sessions for the district in which a person charged with an indictable offence has been tried summarily under Article 45 of the Order by a resident magistrate shall preserve for a period of at least three years such depositions as have been taken.