
STATUTORY RULES OF NORTHERN IRELAND

1984 No. 225

Magistrates' Courts Rules (Northern Ireland) 1984

PART III

Criminal Proceedings

A. SUMMARY TRIAL

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;
- (e) 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 any other 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 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.

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

Procedure in relation to certain offences to which Article 29 of the Order applies

24.—(1) Where the accused appearing in person is charged with an offence (other than a scheduled 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 by 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 by a jury?”.

(2) Where the accused appearing in person is charged 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 by 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:—

“If you have the right to be tried by a jury, 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 by a jury, 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.

(3) Where the accused appearing in person is charged with a scheduled 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—

(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 at the Crown Court sitting in Belfast without a jury.”;

(b) if desirable, give to the accused any explanation as to the meaning of being tried by a court without a jury;

(c) address the accused as follows:—

“Instead of being tried summarily do you wish to claim your right to be tried at the Crown Court sitting in Belfast without a jury?”.

(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

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 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 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 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 on 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 provisions 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 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.

(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 the petty sessions district in which a person has been committed for trial shall, unless the court committing the accused orders otherwise, forward to the chief clerk for the county court division in which is located the place of trial, 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 for the county court division in which is located the place of trial 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(1) 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, addresses and occupations 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
- (l) 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.

Adjourned preliminary investigation

30. Where a preliminary investigation is adjourned under Article 36 of the Order and the adjourned investigation is held before a magistrates' court acting for the petty sessions district in which the place to which the investigation is adjourned is situated, the complaint and any depositions and recognizances already taken in the matter shall be transmitted to the clerk of petty sessions for that district and be brought before such court.

D. PRELIMINARY INQUIRIES

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(2);
 - (b) “the Act of 1975” means the Criminal Jurisdiction Act 1975;
 - (c) “the Act of 1978” means the Northern Ireland (Emergency Provisions) Act 1978(3).
- (2) The following provisions shall apply to a preliminary inquiry:—
- (a) Rule 27; and
 - (b) 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 inquiry

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 to which section 1 of the Act of 1978 applies or proceedings for an extra-territorial offence, be in Form 20.

(2) In relation to proceedings to which section 1 of the Act of 1978 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—

(2) 1975 c. 59

(3) 1978 c. 5

- (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 this Rule 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 inquiry

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 1 of the Act of 1978 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 1 of the Act of 1978 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 inquiry.

(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 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 1 of the Act of 1978 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 1 of the Act of 1978 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 1 of the Act of 1978 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 and address 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 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 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 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 for the county court division in which is located the place of trial 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, addresses and occupations 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 (l) 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

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.

F. DEPOSITIONS OF SICK OR DYING PERSONS

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, such resident magistrate or justice of the peace 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(4) 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 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 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 for the county court division in which is located the place of trial; or
- (b) in any other case, to the clerk of the court before which proceedings are pending in respect of the offence.

G. REMANDS

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.

(4) 1953 c. 18 (N.I.)

Remand on bail under Article 47(4) of the Order for longer than eight or, as the case may be, fourteen 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, fourteen 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.

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

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.