

1991 No. 244

MAGISTRATES' COURTS**Magistrates' Courts (Criminal Justice (International Co-operation) Act 1990) Rules (Northern Ireland) 1991**

Made 11th June 1991

Coming into operation 1st July 1991

The Lord Chancellor, in exercise of the powers conferred on him by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981(a) and section 10 of the Criminal Justice (International Co-operation) Act 1990(b), 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 (Criminal Justice (International Co-operation) Act 1990) Rules (Northern Ireland) 1991 and shall come into operation on 1st July 1991.

Interpretation

2. In these rules "the Act" means the Criminal Justice (International Co-operation) Act 1990.

Service of summons outside the United Kingdom

3. Where a summons is issued under section 2(1) of the Act it shall be sent by the clerk of petty sessions to the Secretary of State.

Proof of service of summons outside the United Kingdom

4.—(1) The service on any person of a summons issued under section 2(1) of the Act may be proved in any proceedings by a certificate given by or on behalf of the Secretary of State.

(2) A statement in any such certificate as is mentioned in paragraph (1):

- (a) that a summons has been served;
- (b) of the manner in which service was effected;
- (c) of the date upon which a summons was served;

shall be admissible as evidence of any facts so stated.

Application for letter of request

5.—(1) An application to a resident magistrate under section 3(1) of the Act shall, subject to paragraph (4), be made in writing and shall—

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

(b) 1990 c. 5

- (a) state the particulars of the offence which it is alleged has been committed or the grounds upon which it is suspected that an offence has been committed;
- (b) state whether proceedings in respect of the offence have been instituted or the offence is being investigated; and
- (c) have attached a draft letter of request which includes particulars of the assistance requested.

(2) An application made in accordance with paragraph (1) shall, subject to paragraph (4), be lodged with the clerk of petty sessions for the petty sessions district in which the proceedings have been instituted or in which the offence is being investigated, as the case may be.

(3) An application under section 3(1) of the Act—

- (a) shall be heard in a petty sessions courthouse unless the resident magistrate otherwise directs; and
- (b) may be heard *ex parte*.

(4) The resident magistrate may hear an application under section 3(1) of the Act, notwithstanding that the requirements in paragraphs (1) and (2) have not been complied with, where he is satisfied that there are reasonable grounds for doing so.

Sending of letter of request to Secretary of State

6. Where a resident magistrate issues a letter of request under section 3(1) of the Act the clerk of petty sessions shall, subject to rule 7, send it to the Secretary of State.

Letters of request in urgent cases

7. Where in a case of urgency a letter of request is sent by the clerk of petty sessions direct to any court or tribunal, in pursuance of section 3(5) of the Act, he shall forthwith notify the Secretary of State of this in writing and send with the notification a copy of the letter of request.

Proceedings before a nominated court

8.—(1) In proceedings before a nominated court in pursuance of a notice under section 4(2) of the Act, the court may, if it thinks necessary in the interest of the administration of justice, direct that all or any persons not being members or officers of the court or parties to the proceedings, their solicitors or counsel, or other persons considered by the court to have a direct interest in the proceedings, be excluded from the court during the proceedings.

(2) Evidence taken orally in proceedings before a nominated court shall be recorded in writing.

Entries in the Order Book

9.—(1) Details of proceedings under section 3(1) or pursuant to a notice under section 4(2) of the Act shall be noted by the clerk of petty sessions in the Order Book.

(2) Where a court receives evidence in proceedings pursuant to a notice under section 4(2) of the Act, the clerk of petty sessions shall, in addition to entering the particulars of the proceedings in the Order Book, note therein—

- (a) which persons with a direct interest in the proceedings were present;
- (b) which of the said persons were represented and by whom; and
- (c) whether any of the said persons were denied the opportunity of cross-examining a witness as to any part of his testimony.

(3) If the Secretary of State requests a copy of an extract of the Order Book relating to specific proceedings pursuant to a notice under section 4(2) of the Act, the clerk of petty sessions shall forward this to him.

Dated 11th June

Mackay of Clashfern, C.

EXPLANATORY NOTE

(This note is not part of the rules.)

These rules take account of Part I of the Criminal Justice (International Co-operation) Act 1990 which provides for the mutual service of process and mutual provision of evidence between the United Kingdom and other countries.

The rules make provision:—

- (a) in relation to the service of summonses outside the United Kingdom and the proof of such service (rules 3 and 4);
- (b) in respect of applications for the issue of letters requesting the assistance of a court outside the United Kingdom in obtaining evidence for use in a magistrates' court (rules 5-7);
- (c) regarding the situation where a magistrates' court is nominated to receive evidence for use outside the United Kingdom (rule 8); and
- (d) specifying that the details of proceedings where a letter of request is sought or where the court is used to obtain evidence for use overseas, are to be noted in the Order Book (rule 9).