
STATUTORY RULES OF NORTHERN IRELAND

1997 No. 278

MAGISTRATES' COURTS

The Magistrates' Courts (Criminal Procedure and Investigations Act 1996) (Tainted Acquittals) Rules (Northern Ireland) 1997

Made - - - - *10th June 1997*
Coming into operation *30th June 1997*

The Lord Chancellor, in exercise of the powers conferred upon him by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981⁽¹⁾ and of 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 (Criminal Procedure and Investigations Act 1996) (Tainted Acquittals) Rules (Northern Ireland) 1997 and shall come into operation on 30th June 1997.

(2) In these Rules—

“the Act” means the Criminal Procedure and Investigations Act 1996⁽²⁾ and a reference to a section by number is a reference to the section so numbered in the Act;

“acquittal” means an acquittal (of a person of an offence) which is the subject of a certification made under section 54(2);

“Order Book” means the Order Book required to be kept under rule 19 of the Magistrates' Courts Rules (Northern Ireland) 1984⁽³⁾.

Time of certification

2. Where a person is convicted before a court of summary jurisdiction of an offence as referred to in section 54(1)(b) and it appears to the court that the provisions of section 54(2) are satisfied, the court shall make the certification referred to in section 54(2) at any time following conviction, but no later than—

(a) immediately after the court sentences or otherwise deals with that person in respect of the offence, or

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

(2) 1996 c. 25; as modified in its application to Northern Ireland by Schedule 4 to the Act

(3) S.R. 1984 No. 225; to which the most recent relevant amendment was made by S.R. 1994 No. 387

- (b) where, in the case of a child or young person, the court remits him to a juvenile court to be dealt with in respect of the offence, immediately after he is so remitted, or
- (c) where the court adjourns the case to a court of summary jurisdiction sitting for a different petty sessions district, immediately before the case is so adjourned.

Form of certification

3. Where a court of summary jurisdiction makes the certification referred to in section 54(2), the certification shall be drawn up in Form 1 set out in the Schedule to these Rules.

Service of a copy of Form 1

4.—(1) Where a court of summary jurisdiction makes a certification as referred to in section 54(2), the clerk of petty sessions shall, as soon as is practicable after the drawing up of Form 1, serve a copy of that Form on the acquitted person referred to in the certification, on the prosecution in the proceedings which led to the acquittal, and, where the acquittal has not taken place before a court of summary jurisdiction sitting for the same petty sessions district as the court which has made the certification, on—

- (a) where the acquittal has taken place before a court of summary jurisdiction, the clerk of petty sessions for that court;
- (b) where the acquittal has taken place before the Crown Court, the chief clerk of that Court at the place where the acquittal occurred.

(2) Service as referred to in paragraph (1) may be made by delivering the copy of Form 1 to the person to be served (where that person is an individual), or by sending it by post in a letter addressed to him at his usual or last known residence or place of business in Northern Ireland; in the case of a company, such a letter may also be addressed to the company at its registered office in Northern Ireland (if it has such a registered office).

(3) If the person to be served is acting by a solicitor, the copy of Form 1 may be served by delivering it, or by sending it by post, to the solicitor's address for service.

(4) In paragraph (3)—

- (a) "solicitor" includes a body corporate which is recognized by the Council of Law Society of Northern Ireland under Article 26A of the Solicitors (Northern Ireland) Order 1976(4) (a recognized body); and
- (b) in the case of a recognized body, the reference to the solicitor's address for service shall be construed as a reference to the address specified by the recognized body as its address for the purposes of the service of the copy of Form 1 (including, where the person to be served is a party to the proceedings which led to the conviction referred to in Form 1, an address specified for the general purposes of those proceedings), or, in the absence of such a specified address, to its registered office.

Entry in the Order Book in relation to the conviction which occasioned certification

5. Where a court of summary jurisdiction makes a certification under section 54(2), the clerk of petty sessions shall enter in the Order Book of the court in relation to the conviction which occasioned the certification—

- (a) a note that certification has been made;
- (b) the date of certification;
- (c) the name of the acquitted person referred to in the certification;

(4) S.I. 1976/582 (N.I. 12); Article 26A was inserted by S.I. 1989/1343 (N.I. 14), Article 10(1)

- (d) a description of the offence of which the acquitted person was acquitted;
- (e) the date of the acquittal; and
- (f) the name of the court before which the acquittal has taken place.

Entry in the Order Book — acquittal before a court of summary jurisdiction

6.—(1) Where an acquittal has taken place before a court of summary jurisdiction, the clerk of petty sessions shall—

- (a) as soon as is practicable after receipt, from the court which has made the certification under section 54(2) relating to the acquittal, of a copy of a form recording the certification (being a copy of Form 1 where the certification has been made by a court of summary jurisdiction), or,
- (b) where the court which made the certification under section 54(2) is a court of summary jurisdiction sitting for the same petty sessions district as the court before which the acquittal has taken place, as soon as is practicable after the making of the certification,

enter in the Order Book of the court in relation to the acquittal—

- (i) a note that certification has been made;
- (ii) the date of the certification;
- (iii) the name of the court which has made the certification;
- (iv) the name of the person whose conviction occasioned the making of the certification; and
- (v) a description of the offence of which that person has been convicted.

(2) The entry in the Order Book required to be made in accordance with paragraph (1)(a) shall be signed by the clerk of petty sessions of the court before which the acquittal has taken place and rule 19(2) of the Magistrates' Courts Rules (Northern Ireland) 1984 shall not apply.

Display of copy certification form

7.—(1) Where a court of summary jurisdiction makes a certification as referred to in section 54(2), the clerk of petty sessions shall, as soon as is practicable after the drawing up of Form 1, display a copy of that Form at a prominent place within court premises to which the public has access.

(2) Where an acquittal has taken place before a court of summary jurisdiction and the court which has made the certification under section 54(2) in relation to the acquittal is not a court of summary jurisdiction sitting for the same petty sessions district as the court before which the acquittal has taken place, the clerk of petty sessions of the last mentioned court shall, as soon as is practicable after receipt from the court which has made the certification, of a copy of a form recording the certification (being Form 1 where the certification has been made by a court of summary jurisdiction), display a copy of that form at a prominent place within court premises to which place the public has access.

(3) The copy of Form 1 referred to in paragraph (1), or the copy form referred to in paragraph (2), shall continue to be displayed as referred to respectively in those paragraphs at least until the expiry of 28 days from,—

- (a) in the case of paragraph (1), the day on which the certification was made; or
- (b) in the case of paragraph (2), the day on which the copy form was received by the clerk of petty sessions.

Entry in the Order Book — decision of the High Court

8.—(1) Where an acquittal has taken place before a court of summary jurisdiction, the clerk of petty sessions shall, on receipt from the Central Office of the Supreme Court of notice of an order made under section 54(3) quashing the acquittal, or of a decision not to make such an order, enter in the Order Book of the court in relation to the acquittal, a note that the acquittal has been quashed by the said order, or that a decision has been made not to make such an order, as the case may be.

(2) Where a court of summary jurisdiction has made a certification under section 54(2), the clerk of petty sessions shall, on receipt from the Central Office of the Supreme Court of notice of an order made under section 54(3) quashing the acquittal referred to in the certification, or of a decision not to make such an order, enter in the Order Book of the court in relation to the conviction which occasioned the certification, a note that the acquittal has been quashed by the said order, or that a decision has been made not to make such an order, as the case may be.

(3) The entries in the Order Book referred to, respectively, in paragraphs (1) and (2) shall be signed by the clerk of petty sessions of the court of summary jurisdiction in question and rule 19(2) of the Magistrates' Courts Rules (Northern Ireland) 1984 shall not apply.

Display of copy notice received from the High Court

9.—(1) Where the clerk of petty sessions of a court of summary jurisdiction which has made a certification under section 54(2), or the clerk of petty sessions of a court of summary jurisdiction before which an acquittal has taken place, as the case may be, receives from the Central Office of the Supreme Court notice of an order quashing the acquittal concerned, or notice of a decision not to make such an order, he shall, as soon as is practicable after receiving the notice, display a copy of it at a prominent place within court premises to which the public has access.

(2) The copy notice referred to in paragraph (1) shall continue to be displayed as referred to in that paragraph at least until the expiry of 28 days from the day on which the notice was received by the clerk of petty sessions.

Dated 10th June 1997.

Irvine of Lairg, C

SCHEDULE

Rule 3

Form 1 CERTIFICATION OF TAINTED ACQUITTAL UNDER SECTION 54(2) OF THE CRIMINAL PROCEDURE AND INVESTIGATIONS ACT 1996

Petty Sessions District of:

County Court Division of:

Case Number:

The *(insert name of original court)* on *(insert acquittal date)* found *(insert name of person acquitted)* the acquitted person not guilty of an *(certain)* offence(s), namely *(insert offence details)*.

This court today, on *(insert conviction date)* has now found *(insert name of convicted person)*, the convicted person, guilty of *(insert offence details)* being an administration of justice offence for the purposes of section 54 of the Criminal Procedure and Investigations Act 1996, involving interference with or intimidation of a juror or a witness (or potential witness) in proceedings which led to the acquittal of *(insert name of acquitted person)*.

THIS COURT CERTIFIES under sub-section (2) of section 54 of the Criminal Procedure and Investigations Act 1996, that it appears to the Court that:

- (1) there is a real possibility that, but for the interference or intimidation involved in the offence of which *(insert name of convicted person)* is *(was)* convicted *(insert name of acquitted person)* would not have been acquitted, and
- (2) sub-section (5) of section 54 of the Criminal Procedure and Investigations Act 1996 does not apply*.

*Sub-section (5) applies if, because of lapse of time or for any other reason, it would be contrary to the interests of justice to take proceedings against the acquitted person for the offence of which he was acquitted.

Signed

(Clerk of Petty Sessions)

Dated

NOTE that where a court certifies under sub-section (2) of section 54 of the Criminal Procedure and Investigations Act 1996, an application may be made to the High Court for an order quashing the acquittal. In that event, the acquitted person will be given a reasonable opportunity to make written representations to the High Court.

- To: (i) the acquitted person named above
(ii) the prosecutor in the proceedings which led to the acquittal
(iii) Clerk of Petty Sessions/Chief Clerk at the court at which the person concerned was acquitted

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EXPLANATORY NOTE

(This note is not part of the Rules.)

These Rules are made in connection with the provision made by sections 54 and 55 of the Criminal Procedure and Investigations Act 1996 (“the Act”) for an application to be made to the High Court for an order quashing a person’s acquittal of an offence. Under section 54(3) of the Act, an application may be made to the High Court for such an order where:

- (a) a person has been convicted of an administration of justice offence involving interference with or intimidation of a juror or a witness (or potential witness) in any proceedings which led to the acquittal; and
- (b) the court before which the above conviction takes place certifies (under section 54(2) of the Act) that it appears to the court that there is a real possibility that, but for the interference or intimidation, the acquitted person would not have been acquitted and that it is not contrary to the interests of justice to take proceedings against the acquitted person for the offence of which he has been acquitted.

Rule 2 provides that certification by a court of summary jurisdiction under section 54(2) of the Act shall be made at any time following the above conviction, but no later than immediately after the court sentences or otherwise deals with the convicted person in respect of the offence, or where, in the case of a child or young person, the court remits him to a juvenile court to be dealt with, immediately after he is so remitted or where the court adjourns the case to a court of summary jurisdiction sitting for a different petty sessions district, immediately before the case is so adjourned.

Rule 3 provides for the form in which certification under section 54(2) of the Act is to be drawn up.

Rule 4 provides for the persons on whom a copy of Form 1 is to be served and for the manner of such service.

Rule 5 provides for the making of an entry in the Order Book of the court which has made the certification under section 54(2), in relation to the conviction which occasioned the certification, of details relating to the certification.

Rule 6 provides for the making of an entry in the Order Book of the court before which an acquittal has taken place (which acquittal is the subject of a certification order under section 54(2) of the Act) in relation to the acquittal, of details relating to the certification.

Rule 7 provides for the public display of a copy of Form 1 by a court of summary jurisdiction which has made a certification under section 54(2) of the Act and further provides for the public display by a court of summary jurisdiction before which an acquittal has taken place, of a copy of the form of certification relating to the acquittal (being Form 1 where the certification is made by a court of summary jurisdiction) a copy of which is received by the clerk of petty sessions from another court.

Rule 8 refers to the making of an order by the High Court under section 54(3) of the Act, quashing an acquittal, or the making of a decision by the High Court not to quash an acquittal, and provides, where certification in relation to that acquittal has been made by a court of summary jurisdiction or the acquittal has taken place before a court of summary jurisdiction, for the making of an entry by the clerk of petty sessions of the court before which the acquittal has taken place or by the clerk of petty sessions of the court which has made the certification in relation to the acquittal, as the case may be, in the Order Book of that court, of the fact that such an order or decision has been made.

Rule 9 provides for the public display, by a court of summary jurisdiction, of a copy of the notice received from the High Court of such an order or decision.

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