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STATUTORY RULES OF NORTHERN IRELAND

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**2003 No. 122**

**MAGISTRATES' COURTS**

**Magistrates' Courts (Proceeds of Crime Act 2002)  
(Confiscation) Rules (Northern Ireland) 2003**

*Made* - - - - *3rd March 2003*  
*Coming into operation* *24th March 2003*

The Lord Chancellor, in exercise of the powers conferred on him by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981(1), and 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 and commencement**

1. These Rules may be cited as the Magistrates' Courts (Proceeds of Crime Act 2002) (Confiscation) Rules (Northern Ireland) 2003 and shall come into operation on 24th March 2003.

**Interpretation**

2. In these Rules, “the Act” means the Proceeds of Crime Act 2002(2) and a reference to a section by number alone is a reference to that section as numbered in the Act and expressions used have the same meaning as in Part 4 of the Act.

**Seized Money**

3.—(1) An application under section 215(5) for an order that money be paid to the appropriate chief clerk (“payment order”) shall be made in Form 1, or a form with the same effect, and shall be accompanied by: –

- (a) a copy of the restraint order which has effect in relation to the money; and
- (b) a copy of the confiscation order against the person who holds the money.

(2) The applicant shall, not less than fourteen days prior to the date of the hearing, serve the application on the clerk of petty sessions and at the same time serve a copy thereof on the bank or building society against which the payment order is sought at its registered or principal office, if

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(1) S.I.1981/1675 (N.I. 26)  
(2) 2002 Ch 29

such office is situated in Northern Ireland, or otherwise at any place of business maintained by it in Northern Ireland.

(3) Where the money has been seized under Article 21 of the Police and Criminal Evidence (Northern Ireland) Order 1989<sup>(3)</sup>, the applicant shall, at the same time, serve a copy of the application on: –

- (a) the Chief Constable or, as the case may be, the chief officer of the police force which maintains the account in which the money is held; or
- (b) the Commissioners of Her Majesty's Customs and Excise,

as appropriate.

(4) In this rule a reference to the clerk of petty sessions shall mean the clerk of petty sessions for the petty sessions district in which the bank or building society is served with a copy of the application in accordance with paragraph (2).

4. Notwithstanding the provisions of the Interpretation Act (Northern Ireland) 1954<sup>(4)</sup>, a payment order shall be served forthwith by the clerk of petty sessions by ordinary first class post on: –

- (a) the bank or building society which is the subject of the order;
- (b) every person who was served with a copy of the application;
- (c) the person who holds the money; and
- (d) the appropriate chief clerk.

### **Committal**

5. Where a magistrates' court commits a defendant to the Crown Court under section 218(2) of the Act, as soon as practicable the clerk of petty sessions shall send to the chief clerk for the county court division in which is located the court which will deal with the defendant: –

- (a) a certificate of order;
- (b) any written statements tendered in evidence and any depositions taken at the magistrates' court;
- (c) such documents and articles produced in evidence before the court as have been retained by the court;
- (d) any report relating to the defendant considered by the court;
- (e) if the defendant is committed to the Crown Court on bail, the recognizance of the defendant;
- (f) any recognizance entered into by any person as surety for the defendant.

6. The Magistrates' Courts Rules (Northern Ireland) 1984<sup>(5)</sup> shall have effect subject to the provisions of these Rules.

Dated 3rd March 2003.

*Irvine of Lairg, C.*

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(3) 1989 No. 1341 (N.I. 12)  
(4) 1954 Ch 33  
(5) S.R. 1984 No. 225

SCHEDULE

FORM 1 PROCEEDS OF CRIME ACT 2002 (section 215, rule 3) Application for Money to be Paid to Chief Clerk

of Petty Sessions District of Applicant County Court Division of Respondent

TAKE NOTICE that I (name of applicant) of (address) intend to apply to the magistrates' court at (place) on (date) at (time) for an order under section 215(5) of the Proceeds of Crime Act 2002 that the respondent pay to the chief clerk for the county court division of (insert name of person against whom the confiscation order was made) money held by (insert name and address of branch at which the account is held) on account of the amount payable under a confiscation order made against (insert name of person against whom the confiscation order was made) in the amount of £ by the Crown Court sitting at on the day of and will state that -

- (a) a restraint order has effect in relation to the money to which this application applies;
(b) a receiver has not been appointed under section 198 of the Act;
(c) the confiscation order is not subject to appeal;
(d) the Director of the Assets Recovery Agency has not been appointed as the enforcement authority for the confiscation order;
(e) the time allowed under section 161 of the Act for payment of the amount to be paid under the confiscation order has ended and the amount of £ is outstanding.

Dated this day of 20 Applicant

To: The Clerk of Petty Sessions
Copy to: Respondent
Chief Constable / Chief Officer of Police / Commissioners of Her Majesty's Customs and Excise [where appropriate]

The application served on the Clerk of Petty Sessions shall be endorsed with details of the time and manner in which service on each of the parties to the proceedings was effected.

FORM 2 PROCEEDS OF CRIME ACT 2002 (section 215) Order for Money to be Paid to Chief Clerk

Status: This is the original version (as it was originally made).

O<sup>2</sup> Petty Sessions  
District of

Applicant

O<sup>2</sup> County Court Division of

Respondent

Before the magistrates' court sitting at (place) on the day of .

WITNESAS (applicant) applied for an order under section 215(5) of the Proceeds of Crime Act 2002.

IT WAS ORDERED that, [within days of the date of this order] [by (insert date by which money is to be paid)], (respondent) pay to the chief clerk for the county court division of the sum of £ , being money held by (insert name of person against whom the confiscation order was made) in (insert account number and sort code, if known) an account maintained by [him] (insert name of police force which maintains the account) [the Commissioners of Customs and Excise] at (insert name and address of the branch at which the account is held, if known) on account of the amount of £ , being the amount outstanding under a confiscation order in the amount of £ made by the Crown Court sitting at on the day of .

Dated this day of 200

Resident Magistrate

[Clerk of Petty Sessions]

To Respondent  
Person who holds the money  
Chief Constable / Chief Officer of Police / Commissioners of Her Majesty's Customs and Excise [where appropriate]  
Chief Clerk

**WARNING**

If you fail to comply with this order, you may be ordered to pay a fine of up to £5000.

**FORM 3PROCEEDS OF CRIME ACT 2002(section 218)Certificate of Order of Magistrates' Court for Committal to Crown Court**

**Status:** This is the original version (as it was originally made).

Of Petty Sessions  
District of  
Complainant  
Of County Court Division of  
Defendant:

Before the magistrates' court, sitting at (place):

WHEREAS (insert name) (hereinafter called the Defendant) who resides at  
was convicted by the said court of the following offence(s): that he/she, on the day  
of , in the County Court Division of did (state brief particulars of  
offence)

AND the court was asked by the prosecutor to commit the Defendant to the Crown Court under section  
218 of the Proceeds of Crime Act 2002.

IT WAS ORDERED that the Defendant be committed to the Crown Court at (place)

It was also directed that the said Defendant [be committed to [JIM Prison] [Young Offenders Centre]  
[Juvenile Justice Centres] until he/she could be brought before the said Crown Court] [be released upon  
his/her entering into a recognizance in the sum of £ ] with surety in the sum of £ [[each]  
[accompanied by the deposit of the sum of £ or other valuable security to the value of that sum  
in lieu of sureties] [and] [insert any other conditions of bail] for his/her appearance at the said Crown  
Court on such day and at such time as may be notified to him/her.

Dated this day of 20 .

Resident Magistrate

[Clerk of Petty Sessions]

To: Chief Clerk

Of

**FORM 4PROCEEDS OF CRIME ACT 2002(section 218)Recognizance to Appear at the Crown  
Court**

Status: This is the original version (as it was originally made).

Of Petty Sessions  
 District of  
 Complainant  
 of  
 County Court Division of  
 Defendant

WHEREAS (insert name) (hereinafter called the Defendant) was on the day of convicted by the magistrates' court sitting at of the following offence(s): -  
*(state brief particulars of offence)*

AND the said court committed the Defendant under section 218 of the Proceeds of Crime Act 2002 to the Crown Court at *(place)*:

The Defendant, the principal party to this recognizance, hereby binds himself to perform the following obligation(s), namely: to attend the Crown Court at *(place)* on such day as may be notified to him at *(time)* [and to appear personally at every time and place to which during the course of proceedings the hearing may from time to time be adjourned until this recognizance shall be discharged by the court and not to depart from the court without leave].

AND the said principal party [together with *(name)* of and *(name)* of [the undersigned surety ] hereby acknowledges) bound to forfeit to the Crown the sum(s) following, viz -

The principal party, the sum of £ [the first named surety, the sum of £ ] [and the second named surety, the sum of £ ]

in case the said principal party fails to perform the above obligation [and in lieu of sureties the said principal party hereby deposits the sum of £ or other valuable surety to the value of that sum as security for the obligation]

..... } Principal Party  
 ..... }  
 ..... }  
 ..... } Surety

Taken before me this day of at

Resident Magistrate

[Justice of the Peace]

[Clerk of Petty Sessions

**FORM 5 PROCEEDS OF CRIME ACT 2002 (section 218) Warrant of Commitment on Committal of Defendant by Magistrates' Court to Crown Court**

**Status:** This is the original version (as it was originally made).

OF Petty Sessions  
District of  
Complainant

OF County Court, Division of  
Defendant

WHEREAS (name) (hereinafter called the Defendant) was on the day  
of convicted by the magistrates' court sitting at of the following offence(s): –  
*(state brief particulars of offence)*

AND the said court committed the Defendant under section 218 of the Proceeds of Crime Act 2002 to  
the Crown Court at *(place)*,

THIS IS TO COMMAND YOU, to whom this warrant is addressed, to convey the defendant to [HM  
Prison] [Young Offenders Centre] [Juvenile Justice Centre] and there to deliver h[im] to the Governor  
thereof, together with this warrant; and you, the said Governor, to receive h[im] into your custody and,  
unless you shall be ordered otherwise in the meantime, to keep h[im] until such day as may be notified  
to you when he/she shall be produced before the said Crown Court.

AND for this the present warrant shall be a sufficient authority to all whom it may concern.

Dated this day of 20 .

Resident Magistrate

[Justice of the Peace]

[Clerk of Petty Sessions]

To: The District Commander of the Police Service of Northern Ireland at

**NOTE:** A warrant in this form may be endorsed for bail as in Form 6.

**FORM 6 PROCEEDS OF CRIME ACT 2002 Consent to Bail on Remand**

**Status:** This is the original version (as it was originally made).

The court consented to the defendant being released on his own bail [with surety] in the sum of  
£ [ ] [each] [valuable securities]

*(Insert details of any bail conditions)*

Dated this [ ] day of [ ] 20 [ ] .

Resident Magistrate

[Justice of the Peace]

[Clerk of Petty Sessions]

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### EXPLANATORY NOTE

*(This note and forms are not part of the Rules.)*

These Rules prescribe the procedure and forms for applications under:

- section 215 of the Proceeds of Crime Act 2002 for money held in a bank or building society account to be paid to the chief clerk in satisfaction of a confiscation order; and
- for the committal of a defendant to the Crown Court for sentencing under section 218 of that Act.