

2008 No. 253

MAGISTRATES' COURTS

**The Magistrates' Courts (Anti-social Behaviour Orders)
(Amendment) Rules (Northern Ireland) 2008**

Made - - - - - *16th June 2008*

Coming into operation - *16th July 2008*

The Magistrates' Courts Rules Committee makes the following Rules in exercise of the powers conferred by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981(a) and Article 6C(4) of the Anti-social Behaviour (Northern Ireland) Order 2004(b) after consultation with the Lord Chancellor and with the agreement of the Lord Chief Justice—

Citation and commencement

1. These Rules may be cited as the Magistrates' Courts (Anti-social Behaviour Orders) (Amendment) Rules (Northern Ireland) 2008 and shall come into operation on the 16th July 2008.

Amendment of the Magistrates' Courts (Anti-social Behaviour Orders) Rules (Northern Ireland) 2004

2. The Magistrates' Courts (Anti-social Behaviour Orders) Rules (Northern Ireland) 2004(c) are amended as follows:—

(1) In Rule 2(1), after “Article 3”, insert “or an interim anti-social behaviour order under Article 4”.

(2) After Rule 4, insert the following new Rule—

“Special measures for witnesses

5. Rules 149AA to 149AH (*special measures for vulnerable or intimidated witnesses*) of the Magistrates' Courts Rules (Northern Ireland) 1984 shall apply in relation to proceedings on an application for, or relating to the issue whether to make, vary or discharge an anti-social behaviour order as they apply in relation to criminal proceedings, subject to the following omissions and modifications—

(a) in Rule 149AA(1), for “criminal proceedings”, substitute “proceedings on an application for, or relating to the issue whether to make, vary or discharge an anti-social behaviour order under the Anti-social Behaviour (Northern Ireland) Order 2004”;

(a) S.I. 1981/1675 (N.I. 26); Article 13 was amended by paragraph 65 of Schedule 5 to the Constitutional Reform Act 2005 (c.4)

(b) S.I. 2004/1988 (N.I. 12) as inserted by the Criminal Justice (Northern Ireland) Order 2005 (S.I. 2005 No. 1965 (N.I. 15)). Article 6C(4) was amended by Article 94 of the Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008 No.1216 (N.I. 1)).

(c) S.R. 2004 No. 324

- (b) Rule 149AA(3)(b) is omitted;
 - (c) in Rule 149AA, any reference to Form 15B shall be construed as a reference to Form 6 in the Schedule;
 - (d) in Rule 149AC(1)(a), for “the trial”, substitute “the hearing of any proceedings on an application for, or relating to the issue whether to make, vary or discharge an anti-social behaviour order under the Anti-social Behaviour (Northern Ireland) Order 2004”;
 - (e) in Rule 149AC(3)(a), after “proceedings”, insert “and, where appropriate, any specified authority”;
 - (f) Rule 149AF(3) is omitted;
 - (g) in Rule 149AG(2)(a), “the offence charged” is omitted; and
 - (h) Rules 149AG(6) to (13) are omitted.”.
- (3) In the Schedule—
- (a) for Form 1, substitute the new Form 1 set out in the Schedule to these Rules; and
 - (b) after Form 5, insert the new Form 6 set out in the Schedule to these Rules.

*George Conner
W A McNally
Nigel Broderick
John Rea
John P B Maxwell*

Dated 16th June 2008

SCHEDULE

Rule 2(3)(a)

“FORM 1

ANTI-SOCIAL BEHAVIOUR (NORTHERN IRELAND) ORDER 2004
MAGISTRATES’ COURTS (ANTI-SOCIAL BEHAVIOUR ORDERS) RULES
(NORTHERN IRELAND) 2004

(Articles 3 and 4, Rule 2(1))

**Summons on complaint for [anti-social behaviour order] [and] [interim
anti-social behaviour order]**

of

]

] Petty Sessions District of

]

Complainant]

of

] County Court Division of

]

Defendant]

WHEREAS a complaint has been made before me in respect of an application for an anti-social behaviour order under Article 3 [and] [an interim anti-social behaviour order under Article 4] of the Anti-social Behaviour (Northern Ireland) Order 2004 (“the 2004 Order”) to the following effect viz—

(a) That you, the above-named defendant, on *(specify date(s))* at *(specify place(s))* acted in an anti-social manner, that is to say, in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as yourself, namely:-

(provide a short description of the defendant’s actions); and

(b) That an anti-social behaviour order is necessary to protect relevant persons from further anti-social acts by you, and accordingly application is made for an anti-social behaviour order containing the following prohibition(s)—

The complaint has, in accordance with Article 5 of the 2004 Order; consulted with the following relevant authorities, namely—

(specify relevant authorities consulted with).

[The Complainant applies for an interim anti-social behaviour order under Article 4 of the 2004 Order on the following grounds –]

[The Complainant applies for the application under Article 4 of the 2004 Order to be heard without notice being given to the defendant on the following grounds –

[Where application is made for interim order only, specify the date of the application for anti-social behaviour order –]

Accordingly application is made for an anti-social behaviour order under Article 3 [and] [an interim anti-social behaviour order under Article 4] of the 2004 Order.

THIS IS TO COMMAND YOU to appear as a defendant at the hearing of the said application at *(place)* on *(date)* at *(time)* before a magistrates' court for the said petty sessions district.

This day of .

Lay Magistrate
[District Judge (Magistrates' Court)]

To:

[the defendant]

Note:

Where the court is satisfied that this summons was served on you within what appears to the court to be a reasonable time before the hearing or adjourned hearing and you fail to appear, the court may issue a warrant for your arrest or proceed in your absence.

If any anti-social behaviour order is made against you and if, without reasonable excuse, you do anything you are prohibited from doing by such an order, you shall be liable on conviction to imprisonment for a term not exceeding five years, or to a fine, or both.”

FORM 6

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981
(Rule 149AA)

CRIMINAL EVIDENCE (NORTHERN IRELAND) ORDER 1999
(Article 7)

ANTI-SOCIAL BEHAVIOUR (NORTHERN IRELAND) ORDER 2004
(Article 6C)

**Form of application for a Special Measures Direction under Article 7 of the
Criminal Evidence (Northern Ireland) Order 1999 in relation to Anti-social
Behaviour Order Proceedings**

An application shall be made not less than 14 days before the day fixed for the commencement of the proceedings to which the application relates.

A copy of this form shall be given at the same time to the other party or parties to the case.

PART 1

TO BE COMPLETED BY ALL APPLICANTS

<i>Details required</i>	<i>Notes</i>
<p>Case details</p> <p>Complainant:</p> <p style="text-align: center;">Petty Sessions District of:</p> <p>Defendant:</p> <p style="text-align: center;">County Court Division of:</p> <p>The name of the defendant to whom this application relates</p> <p>Court venue:</p>	<p>The venue of the court hearing the case.</p>
<p>Date of next court appearance:</p> <p>Details of proceedings to which this application relates:</p>	
<p>Details of witness</p> <p>Name of witness:</p> <p>Date of birth of witness:</p>	

<p>If an application has been made to tender in evidence a video recording of testimony from the witness, give the date and (if known) the result of that application:</p>	
<p>Details of application</p> <p>Specify the special measures being sought:</p> <p>State the grounds on which the witness relies in support of the application for a special measures direction:</p> <p>Give a description of evidence submitted in support of this application:</p>	<p>This requirement is optional. Examples of evidence might be: birth certificate; medical report; expert evidence; police report.</p>
<p>Arrangements available</p> <p>Give a description of the arrangements relevant to the measures applied for, which may be made available in the area in which it is likely the hearing will take place:</p>	

<p>Reasons for application</p> <p>Give the grounds for believing the special measures being sought in this application will increase the quality of the witness's evidence:</p> <p>Give the views of the witness as to why the measures sought in this application are required:</p>	
<p>Material change of circumstances</p> <p>Give a description of any material change of circumstances relied upon to support this application:</p>	<p>This requirement applies only where—</p> <p>(a) a special measures direction is already in force and application is being made to discharge or vary the direction, or</p> <p>(b) a previous application for a special measures direction was refused and this application seeks to reverse that decision.</p>

PART 1A

TO BE COMPLETED IF THE APPLICATION RELATES TO PROCEEDINGS FOR AN ANTI-SOCIAL BEHAVIOUR ORDER ON CONVICTION OR INTERIM ANTI-SOCIAL BEHAVIOUR ORDER ON CONVICTION

<p>Offence:</p> <p>Name of PSNI Central Process Office:</p> <p>Central Process Office or District Command Unit Reference Number:</p> <p>PPSNI Reference Number:</p>	<p>Give brief details including the date of the defendant's conviction.</p>
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PART 2

TO BE COMPLETED IF THE APPLICATION IS FOR EVIDENCE TO BE GIVEN THROUGH A LIVE LINK

<i>Details required</i>	<i>Notes</i>
<p>Details of application</p> <p>Give—</p> <p>(a) the address of any venue from which the witness will give evidence if the court’s own live link is not used:</p> <p>(b) the name of the person who it is proposed will accompany the witness:</p> <p>(c) the occupation of this person:</p> <p>(d) the relationship (if any) of this person to the witness:</p>	
<p>Grounds</p> <p>State why it is believed that this person should accompany the witness:</p>	

PART 3

TO BE COMPLETED IF THE APPLICATION IS TO TENDER IN EVIDENCE A VIDEO RECORDING UNDER ARTICLE 15 OF THE CRIMINAL EVIDENCE (NORTHERN IRELAND) ORDER 1999

<i>Details required</i>	<i>Notes</i>
<p>Video recording(s)</p> <p>Statement as to circumstances in which video recording made:</p> <p>Date(s) of video recording(s):</p> <p>Time(s) of video recording(s):</p>	<p>These details need to be completed only to the extent that the information is not contained in the video recording itself.</p> <p>Give the times at which recording began and finished, including details of any interruptions.</p>

<p>Locations and normal function of premises where video recording made:</p> <p>Statement as to whether, and if so at what point in the video recording, an oath was administered to, or a solemn declaration made by, the witness:</p>	<p>Give address of premises where recording made and state the usual function of those premises.</p>
<p>Details of those present while recording made</p> <p>Give details of each person present at any point during the recording:</p> <p>In relation to each person present at any point during the recording, a statement confirming that the person when present is visible in the recording:</p>	<p>Include name, age and occupation of anyone present; time for which present; relationship (if any) to the witness and to the defendant.</p>
<p>Equipment used</p> <p>Give a description of the equipment used for the recording:</p>	<p>The description shall include the following information— number and type of cameras used (fixed or mobile); the number and location of microphones; the video format used; and whether it offered single or multiple recording facilities and if it did which were used.</p>
<p>Recordings of part only of an interview</p> <p>State whether the video recording contains part only of the interview with the witness:</p>	<p>A copy of any video recordings of other parts of the interview with the witness which it is <i>not</i> proposed to tender in evidence shall also be provided to the court and the other parties. The details</p>

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Magistrates' Courts (Anti-social Behaviour Orders) Rules (Northern Ireland) 2004 [S.R. 2004 No. 324] ("the 2004 Rules") to take account of amendments which have been made to the Anti-social Behaviour (Northern Ireland) Order 2004 by the Criminal Justice (Northern Ireland) Order 2005 and the Criminal Justice (Northern Ireland) Order 2008.

They amend the 2004 Rules to prescribe the procedure to be followed in relation to an application for an interim anti-social behaviour order, and insert a new Form to be used for such applications.

These Rules also provide that Rules 149AA to 149AH (*special measures for vulnerable or intimidated witnesses*) of the Magistrates' Courts Rules (Northern Ireland) 1984 shall, with certain modifications, apply in relation to proceedings on an application for, or relating to the issue whether to make, vary or discharge an anti-social behaviour order as they apply in relation to criminal proceedings. A new Form for applications for special measures directions is also inserted.

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