

2011 No. 59

MAGISTRATES' COURTS

**The Magistrates' Courts (Amendment) Rules (Northern Ireland)
2011**

Made - - - - - *1st March 2011*

Coming into operation - *25th March 2011*

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), after consultation with the Department of Justice and with the agreement of the Lord Chief Justice.

Citation and commencement

1. These Rules may be cited as the Magistrates' Courts (Amendment) Rules (Northern Ireland) 2011 and shall come into operation on 25th March 2011.

Amendment of the Magistrates' Courts Rules (Northern Ireland) 1984

2. The Magistrates' Courts Rules (Northern Ireland) 1984(b) are amended as follows—

(1) in rule 10—

(a) for paragraph (1), substitute—

“(1) Where it is intended to make the procedure of pleading guilty by post under Article 24(1A) of the Order available to the defendant, the summons shall be accompanied by Form 3 together with—

(a) Form 4 or copies of the witness statement(s); and

(b) Form 6 or Form 6A,

as appropriate.”;

(2) for rule 12A(4), substitute—

“(4) If the person summoned fails to appear in answer to a summons served in the manner authorised by paragraph (2), such service shall not be deemed valid unless an acknowledgment of service in—

(a) Form 110B; or

(b) in cases where the procedure of pleading guilty by post under Article 24(1A) of the Order is available to the defendant, in Form 6 or Form 6A as appropriate

(a) S.I.1981/1675 (N.I.26); Article 13 was amended by paragraph 133 of Part 2 of Schedule 18 to the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I.2010 No.976); and paragraph 65 of Schedule 5 to the Constitutional Reform Act 2005 (c.4).

(b) S.R. 1984 No.225; to which the most recent relevant amendments were made by S.R. 2009 No.47, S.R. 2009 No.310 and S.R. 2010 No. 12.

appearing to be signed by the defendant or his solicitor is produced to the court.”;

(3) after rule 164 insert—

“Interpretation of Rules 166 to 170—

165. In rules 166 to 170—

- (a) “the Act” means the Coroners and Justice Act 2009(a);
- (b) “clerk of petty sessions” means the clerk of petty sessions for the petty sessions district in which the application for an investigation anonymity order is made;
- (c) a section referred to by number means the section so numbered in the Act; and
- (d) expressions which are defined in the Act have the same meaning in these Rules as they have in the Act.

Application for an investigation anonymity order

166.—(1) An application for an investigation anonymity order shall—

- (a) be made in writing setting out how the conditions specified in section 78(3) to (8) of the Act are satisfied;
- (b) identify the person to be specified in the order, unless the court otherwise directs; and
- (c) attach any material on which the applicant intends to rely.

(2) The applicant shall indicate if he or she intends to appeal a refusal to make an investigation anonymity order—

- (a) in the application for the order; or
- (b) if there is a hearing of the application, at the hearing.

(3) The applicant shall serve a copy of the application under paragraph (1) on the clerk of petty sessions.

(4) Where a hearing is directed, the clerk of petty sessions shall fix a date for the hearing of the application and notify the applicant of the time and place of hearing.

(5) At a hearing of an application under paragraph (1), the applicant shall, if he or she has not already done so, inform the court of the identity of the person to be specified in the order, unless the court otherwise directs.

(6) The clerk of petty sessions shall, as soon as practicable, after the determination of an application under paragraph (1), notify the applicant of the decision in Form 126.

Appeal against refusal to make an investigation anonymity order

167.—(1) A notice of appeal against a refusal of an application made under section 77, shall—

- (a) be made in writing, setting out the grounds of appeal; and
- (b) be lodged with the clerk of petty sessions within 14 days of the date on which the decision which is the subject of the appeal was made.

(2) The appellant shall inform the court of the identity of the person to be specified in the order, if he or she has not already done so—

- (a) in the notice of appeal; or
- (b) at the hearing of the appeal,

unless the court otherwise directs.

(a) 2009 c.25; sections 76 and 85 were commenced by S.I. 2010/816.

Application to discharge an investigation anonymity order

168.—(1) An application to discharge an investigation anonymity order under section 80 shall—

- (a) be made in writing;
- (b) set out the material change of circumstances since the order was made, or since any previous application was made to discharge it, explaining why it is appropriate for the order to be discharged;
- (c) inform the court if the applicant intends to appeal against a decision of the court regarding the discharge of the order; and
- (d) attach a copy of the original order along with any material on which the applicant intends to rely.

(2) A copy of an application under paragraph (1) shall be served, by the applicant, as soon as reasonably practicable on the clerk of petty sessions, and where not the applicant, on—

- (a) the person on whose application the relevant investigation anonymity order was made; or
- (b) the specified person.

(3) The clerk of petty sessions shall fix a date for the hearing of the application and shall notify the applicant and any other person to whom notice of the application has been given, of the time and placing of hearing.

(4) The clerk of petty sessions shall, as soon as practicable, after the determination of an application under paragraph (1), notify the parties of the decision in Form 126.

Appeal against decision to discharge an investigation anonymity order

169.—(1) A notice of appeal against the decision of the court in respect of an application under section 80 shall—

- (a) be made in writing, setting out the grounds of appeal; and
- (b) be lodged with the clerk of petty sessions within 14 days of the date on which the decision which is the subject of the appeal was made.

(2) The appellant shall serve a copy of the notice under paragraph (1) on any party notified of the application to discharge under rule 168(2).

Hearings

170. A hearing under section 77 or an appeal under sections 79 and 80(6) shall be in private, unless the court otherwise directs.”; and

(4) in Schedule 1—

- (a) in Form 1 and Form 1A —
 - (i) for “[on oath]” substitute “[on oath*]”; and
 - (ii) at the end of both forms insert “*delete as appropriate”;
- (b) in Form 1A, for “[and sworn]” substitute “[and sworn*]”;
- (c) for Form 3, substitute new Form 3;
- (d) for Form 4, substitute new Form 4;
- (e) for Form 5, substitute new Form 5;
- (f) for Form 6, substitute new Form 6;
- (g) for Form 6A substitute new Form 6A; and
- (h) after Form 125, insert new Form 126.

*Liam McNally
Peter Luney
John Rea
Nigel Broderick*

Dated 1st March 2011

FORM 4

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981
(Article 24(1A)(b); Rule 10)

Statement of Facts

[Title as in Form 1]

The purpose of this notice is to inform you that if you advise the clerk of petty sessions for the above mentioned district at _____ that you wish to plead guilty to the charge(s) set out in the summons(es) served herewith without appearing before the court and the court proceeds to hear and dispose of the case in your absence under Article 24 of the above mentioned Order, the following statement of facts will be read out in open court before the court decides whether to accept your plea.

Statement of Facts

Complainant
[On behalf of the Complainant]

FORM 5

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981
(Article 24(1); Rule 10)

**Certificate by Complainant of Service on Defendant of Form 3 and 4/Witness
Statement(s)***
[Title as in Form 1]

I, _____ the complainant, hereby certify that copies of Form 3 and Form 4/copies
of the witness statement(s)* were served on the defendant together with the summons(es).

Dated this _____ day of _____ 20 ____ .

Complainant
[on behalf of the Complainant]

*delete as appropriate

FORM 6

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981
(Article 24(2); Rules 10 and 12A)

**Acknowledgment of Service; Notification of Plea of Guilty by Post and Statement
of Mitigating Circumstances; Indication of intended plea.**

[Title as in Form 1]

**Note: This form is in three sections. Please read the notes to each section carefully before
completing Section A and either Section B or C.**

If you intend to consult a solicitor you should do so before completing this form.

SECTION A : ACKNOWLEDGMENT OF SERVICE

Note: This section should be completed by all defendants.

**By completing this section you are only acknowledging service of the summons(es), Notice to
Defendant, Statement of Facts/witness statement(s) and Notice of previous convictions (if
any) on you.**

In connection with the summons(es) for hearing on (date) , Notice to defendant
[and][Statement of Facts][witness statement(s)][and Notice of previous convictions]* now served
upon you, will you please acknowledge receipt by signing and returning this form as soon as
possible to the clerk of petty sessions at .

I hereby acknowledge receipt of summons(es), Notice to defendant [and][Statement
of Facts][witness statement(s)][and Notice of previous convictions]* .

Signed

Date.....

Male/Female*

Date of Birth:

Present Address:

(if different from the address given above)

*delete as appropriate

SECTION B: PLEA OF GUILTY BY POST (NON-ATTENDANCE AT COURT)

**Note: If you wish a plea of guilty to be accepted without your attendance at court, please
complete this section.**

Plea of Guilty

I have read the statement of facts/witness statement(s)* relating to the charges against me.

I plead guilty to the charge(s) and I desire the court to deal with the case in my absence.

I would like the following circumstances to be taken into account –

Signed

Mitigating Circumstances

(a) about the offence –

(b) about my personal and financial circumstances –

SECTION C: INDICATION OF A PLEA (GUILTY OR NOT GUILTY) – ATTENDANCE AT COURT

Note: If you propose to attend court, considerable time and expense may be saved if you complete the following.

Do you intend to plead guilty?

Note: If having completed either Section B or C and returned this form you change your mind about the plea you have entered, you should immediately inform the clerk of petty sessions in writing.

FORM 6A

ROAD TRAFFIC OFFENDERS (NORTHERN IRELAND) ORDER 1996
(Articles 12 and 27)

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981
(Article 24(2); Rules 10 and 12A)

Acknowledgment of Service; Notification of Plea of Guilty by Post for offences involving obligatory or discretionary disqualification from driving; Indication of intended plea.

[Title as in Form 1]

Note: This form is in three sections. Please read the notes to each section carefully before completing Section A and either Section B or C.

If you intend to consult a solicitor you should do so before completing this form.

SECTION A : ACKNOWLEDGMENT OF SERVICE

Note: This section should be completed by all defendants.

By completing this section you are only acknowledging service of the summons(es), Notice to Defendant, Statement of Facts/witness statement(s) and Notice of previous convictions (if any) on you.

In connection with the summons(es) for hearing on (date) , Notice to Defendant [and][Statement of Facts][witness statement(s)][and Notice of previous convictions]* now served upon you, will you please acknowledge receipt by signing and returning this form as soon as possible to the clerk of petty sessions at .

I hereby acknowledge receipt of summons(es), Notice to Defendant [and][Statement of Facts][witness statement(s)][and Notice of previous convictions]*

Signed Date.....

Male/Female*

Date of Birth:

Present Address:

(if different from the address given above)

**delete as appropriate*

SECTION B: PLEA OF GUILTY BY POST (NON-ATTENDANCE AT COURT)

Note: If you wish a plea of guilty to be accepted without your attendance at court, please complete this section.

Plea of Guilty

I have read the statement of facts/witness statement(s)* relating to the charges against me.

I plead guilty to the charge(s) and I desire the court to deal with the case in my absence.

I would like the following circumstances to be taken into account –

Signed

Mitigating Circumstances

(a) about the offence –

(b) about my personal and financial circumstances –

SECTION C: INDICATION OF A PLEA (GUILTY OR NOT GUILTY) – ATTENDANCE AT COURT

Note: If you propose to attend court, considerable time and expense may be saved if you complete the following.

Do you intend to plead guilty?

Note: If having completed either Section B or C and returned this form you change your mind about the plea you have entered, you should immediately inform the clerk of petty sessions in writing.

WARNING

Road Traffic Offenders (Northern Ireland) Order 1996

(Articles 11, 12 and 27)

You have been charged with an offence which involves an obligatory or discretionary disqualification from driving. You must deliver your driving licence to the clerk of the court no later than the day before the date of the hearing, or bring it with you to the hearing.

If you are convicted of an offence involving obligatory or discretionary disqualification from driving and you do not deliver your licence to the court, you are guilty of an offence and your licence will be suspended from the time when its production was required until it is produced to the court.

If you have returned your licence to the court with this form, please tick this box

If you are convicted of an offence involving obligatory or discretionary disqualification from driving and the court does not know your date of birth or sex, the court shall order you to provide those details in writing to the court. Failure to comply with such an order is an offence.”.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Magistrates' Courts (Northern Ireland) Rules 1984 (S.R.1984 No.225) ("the principal Rules") to amend the procedure around entering a plea of guilty by post, prescribe the procedure relating to applications in respect of investigation anonymity orders under section 77-85 of the Coroners and Justice Act 2009 ('the 2009 Act'), and make a number of minor technical amendments to Forms 1 and 1A.

Rule 2(1)(a) substitutes new rule 10(1) into the principal Rules to provide that where the procedure of pleading guilty by post has been made available, the summons shall be accompanied by Form 4 or copies of the witness(es) statements and Form 6 or Form 6A as appropriate.

Rule 2(2) substitutes new rule 12A(4) to provide that where the defendant fails to appear in answer to a summons, service shall not be deemed valid unless an acknowledgement of service in Form 110B, or in pleas of guilty by post cases in Form 6 or 6A, has been returned to the court.

Rule 2(3) inserts new rules 165-170 into the principal Rules to prescribe the procedure in relation to an application for an investigation anonymity order under section 77 of the 2009 Act, an application to discharge an order under section 80 of the 2009 Act and the procedure to be followed on appeal. Specifically,

- new rule 165 provides that any references to 'the Act' will be construed as references to the 2009 Act; the clerk of petty sessions shall mean the clerk of petty sessions for the district in which the application for an investigation anonymity order is made; and that any expressions used shall have the same meaning as in the Act.
- new rules 166(1)-(6) prescribes the procedure in respect of an application for an investigation anonymity order under the 2009 Act.
- new rule 167 prescribes the procedure to be followed on appeal against the refusal of the court to make an investigation anonymity order.
- new rule 168 sets out the procedure to be followed in respect of an application to discharge an investigation anonymity order.
- new rule 169 prescribes the procedure to be followed on an appeal against a refusal to discharge an investigation anonymity order.
- new rule 170 provides that a hearing of an application under section 70 or an appeal brought under sections 79 or 80(6) shall be in private.

Rule 2(4) amends Schedule 1 to the principal Rules to —

- amend Forms 1 and 1A to make it explicit in the forms that it is not a requirement that the complaint be sworn on oath;
- insert new Forms 3, 4, 5, 6 and 6A; and
- insert new Form 126 for use in connection with applications relating to an investigation anonymity order under section 77 of the 2009 Act.

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The Magistrates' Courts (Amendment) Rules (Northern Ireland)
2011

£5.75