

**2018 No. 25**

**MAGISTRATES' COURTS**

**PROCEDURE**

**The Magistrates' Courts (Amendment) Rules (Northern Ireland)  
2018**

*Made* - - - - - *29th January 2018*

*Laid before Parliament* *1st February 2018*

*Coming into operation in accordance with Rule 1*

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 regulation 61 of the Criminal Justice (European Investigation Order) Regulations 2017(b).

**Citation, commencement and interpretation**

1. These Rules shall be cited as the Magistrates' Courts (Amendment) Rules (Northern Ireland) 2018 and shall come into operation on the twenty-first day after the date upon which this instrument is laid before Parliament.

2. In these Rules "the principal Rules" means the Magistrates' Courts Rules (Northern Ireland) 1984(c), and a reference to a rule is a reference to that rule so numbered in the principal Rules.

**Amendment to the principal Rules**

3. In the principal Rules, after Rule 52N, insert—

"L. THE CRIMINAL JUSTICE (EUROPEAN INVESTIGATION ORDER) REGULATIONS 2017

**Interpretation**

**52O.** In this Rule and Rules 52P and 52Q—

- (a) "the Directive" means Directive 2014/41/EU of the European Parliament and of the Council regarding the European Investigation Order in criminal matters(d);

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(a) S.I. 1981/1675 (N.I. 26), Article 13 was amended by paragraph 133 of Schedule 18 to the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976); paragraph 65 of Schedule 5 to the Constitutional Reform Act 2005 (c.4) and paragraph 4 of the Schedule to the Northern Ireland (Miscellaneous Provisions) Act 2014 (c.13)

(b) S.I. 2017/730

(c) S.R. 1984 No.225, to which the most recent relevant amendment was made by S.R. 2014 No. 221 and S.R. 2016 No. 304.

(d) OJ No. L 130, 1.5. 2014, pl

- (b) “the Regulations” means the Criminal Justice (European Investigation Order) Regulations 2017, a reference to a regulation, Part or Schedule by number is a reference to the regulation, Part or Schedule so numbered in the Regulations; and
- (c) expressions which are defined in the Regulations have the same meaning as in the Regulations.

#### **Application for European investigation order**

**52P.**—(1) An application under regulation 6 for a European investigation order shall, subject to paragraph (92), be made by giving notice in writing to the clerk of petty sessions and shall state—

- (a) the particulars of the alleged offence or the grounds for suspecting that an offence has been committed;
- (b) whether proceedings in respect of the alleged offence have been instituted or the alleged offence is being investigated;
- (c) the investigative measure or measures in respect of which the order is sought;
- (d) the participating State; and
- (e) the grounds for the application including those which set out, in respect of each investigative measure sought,—
  - (i) why such measure is necessary and proportionate for the purposes of the investigation or proceedings in question; and
  - (ii) how such measure could lawfully be ordered or undertaken under the same conditions in a similar domestic case, having regard to regulation 11.

(2) The application shall be accompanied by a draft of the order sought in the form set out in Annex A to the Directive.

(3) The court may direct that paragraph (1) need not be complied with if it is satisfied that the applicant has good reason to make the application as soon as possible and that it is not practicable to comply with that paragraph.

(4) The court may deal with the application *ex parte*.

#### **Variation or revocation of a European investigation order**

**52Q.**—(1) An application under regulation 10 to vary or revoke a European investigation order shall be made in writing, giving full particulars of the matters relied upon in support of the application.

(2) The application shall be served by the applicant on the clerk of petty sessions and on each party to the proceedings.

(3) The application served on the clerk of petty sessions shall be endorsed with the date upon which and the manner in which notice was served on each other party to the proceedings.

(4) Where the application is for variation of a European investigation order, the application shall be accompanied by a draft of the order sought in the form set out in Annex A to the Directive.

(5) Any party who wishes to oppose the application shall, within 7 days of the date notice of the application was served on him, notify the applicant and the clerk of petty sessions, in writing, of his opposition to give reasons for it.

- (6) Except where notice is received in accordance with paragraph (5), the court may—
  - (a) determine the application in favour of the applicant without a hearing; or
  - (b) direct a hearing.

(7) Where a party to the proceedings notifies the clerk of petty sessions in accordance with paragraph (5) of his opposition to the applicant, the court may direct a hearing of the application.

(8) Where a hearing of the application is to take place in accordance with paragraphs (6) or (7), the clerk of petty sessions shall notify the applicant or any other person served with the application of the time and place of the hearing.

(9) A person notified in accordance with paragraph (8) may be present at the hearing and may be heard.

(10) The clerk of petty sessions shall, as soon as reasonably practicable after the determination of the application, notify all parties of the decision.

(11) Where the court makes an order to vary or revoke a European investigation order, the clerk of petty sessions shall, as soon as reasonably practicable, send a copy of that order to the central authority or, as the case may be, the appropriate executing authority of the executing State, as so directed by the court.”

*Nigel Broderick  
Peter Luney  
Eoghan McKenna  
Amanda Brady  
Marc Little*

Dated 22nd August 2017

In exercise of the powers conferred upon me by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981, I allow these Rules.

*David Gauke*  
Lord Chancellor  
Ministry of Justice

Date 29th January 2018

## **EXPLANATORY NOTE**

*(This note is not part of the Rules)*

These Rules amend the Magistrates' Courts Rules (Northern Ireland) 1984 (S.R. 1984 No. 225) to take account of the Criminal Justice (European Investigation Order) Regulations 2017 (S.I. 2017/730) which transpose Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters (OJ NO L 130, 1.5.2014, p.1).

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