STATUTORY INSTRUMENTS

1981 No. 1675

The Magistrates' Courts (Northern Ireland) Order 1981

PART XII

APPEAL AND CASE STATED

Case stated

Cases stated by magistrates' courts

146.—(1) Any party of a summary proceeding dissatisfied with any decision of the court upon any point of law involved in the determination of the proceeding or of any issue as to its jurisdiction may apply to the court to state a case setting forth the relevant facts and the grounds of such determination for the opinion of the Court of Appeal.

(2) An application under paragraph (1) shall be made in writing by delivering it to the clerk of petty sessions within fourteen days commencing with the day on which the decision of the magistrates' court was given and a copy shall be served on the other party within the same period.

(3) For the purpose of paragraph (2) the day on which the decision of the magistrates' court is given shall, where the hearing of the charge has been adjourned after conviction or under Article 51, be the day on which the court sentences or otherwise deals with the offender.

(4) If the magistrates' court is of opinion that an application under this Article is frivolous, but not otherwise, it may, subject to paragraph (5), refuse to state a case, and, if the applicant so requires, shall give him a certificate stating that the application has been refused.

(5) The court shall not refuse to state a case if the application is made by or under the direction of the Attorney General.

(6) Subject to the preceding provisions of this Article the magistrates' court, upon application made under paragraph (1), shall state a case within three months from the date of the application.

(7) Where the magistrates' court refuses or fails to state a case under paragraph (6), the applicant may apply to a Judge of the Court of Appeal for an order directing the magistrates' court to state a case within the time limited by the order and where the Judge of the Court of Appeal makes such order the magistrates' court shall state the case upon the applicant entering into any recognizance required by Article 149.

(8) Where an application for a case to be stated under this Article has been granted any other right of the applicant to appeal against the decision shall cease.

(9) Within fourteen days from the date on which the clerk of petty sessions dispatches the case stated to the applicant (such date to be stamped by the clerk of petty sessions on the front of the case stated), the applicant shall transmit the case stated to the Court of Appeal and serve on the other party a copy of the case stated with the date of transmission endorsed on it.

(10) Where two or more parties to the same proceedings apply under this Article to the court to state a case, the court shall, subject to paragraph (4), state a single case only.

Modifications etc. (not altering text)

 C1 Art. 146 applied (11.7.2011) by Welfare of Animals Act (Northern Ireland) 2011 (c. 16), **ss. 17(14)**, 59 (with ss. 1(2), 52(1), 53, 54); S.R. 2011/245, **art. 2**, Sch. 1

 C2 Art. 146 applied (11.7.2011) by Welfare of Animals Act (Northern Ireland) 2011 (c. 16), **ss. 20(1)**, 59 (with ss. 1(2), 52(1), 53, 54); S.R. 2011/245, **art. 2**, Sch. 1

 C3 Art. 146 applied (11.7.2011) by Welfare of Animals Act (Northern Ireland) 2011 (c. 16), **ss. 20(6)**, 59 (with ss. 1(2), 52(1), 53, 54); S.R. 2011/245, **art. 2**, Sch. 1