
STATUTORY INSTRUMENTS

1981 No. 1675

The Magistrates' Courts (Northern Ireland) Order 1981

PART V

CRIMINAL JURISDICTION AND PROCEDURE

Preliminary inquiry into indictable offences

Power to conduct preliminary inquiry

31.—(1) If the prosecution requests a magistrates' court to conduct a preliminary inquiry and the accused does not object to such an inquiry, a magistrates' court, instead of conducting a preliminary investigation, may conduct a preliminary inquiry into an indictable offence.

(2) If the prosecution does not request the court to conduct a preliminary inquiry^{[F1} or if] the accused objects to such an inquiry the court shall conduct a preliminary investigation.

(3) Where two or more persons are charged together with an indictable offence and—

- (a) one or more of those persons objects to the conducting of a preliminary inquiry, but
- (b) the other person or persons do not so object,

the court may proceed to conduct such an inquiry in respect of any such person not so objecting unless any person so objecting satisfies the court that his interests would be unduly or unreasonably prejudiced by the conduction of such inquiry.

F1 1986 NI 15

Documents to be furnished to court and served on accused

32.—(1) If the prosecution intends to request the court to conduct a preliminary inquiry the prosecution shall—

- (a) furnish a written notice of that intention together with copies of the documents mentioned in sub-paragraph (b) to the clerk of petty sessions for the district in which the preliminary inquiry is to be held; and
- (b) cause a copy of that notice together with the following documents, that is to say—
 - (i) a statement of the complaint made against him;
 - (ii) a statement of the evidence of each witness upon whose evidence the complaint is based;
 - (iii) a list of exhibits, if any, to be produced or referred to by the witness referred to in head (ii) together with—

^{[F2}(aa) in the case of a written exhibit, a copy of that exhibit or a notice of the time and place when that exhibit may be examined by the accused or his

Status: Point in time view as at 01/01/2006.

Changes to legislation: The Magistrates' Courts (Northern Ireland) Order 1981, Cross Heading: Preliminary inquiry into indictable offences is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

solicitor or any witness whom the accused may wish to call at his trial to give evidence relating to it; and

(bb) in the case of any other exhibit, a notice of the time and place when that exhibit may be examined as mentioned in paragraph (aa);]

to be served on the accused, or if there is more than one accused person upon each such person, a reasonable time before the day fixed for the conduct of the preliminary inquiry.

(2) The accused shall have the right to inspect every exhibit, either by himself or in consultation with his solicitor or any witness whom the accused may wish to call at his trial.

(3) The prosecution may withdraw the request for, and the accused may object to, the conducting of a preliminary inquiry at any time up to the commencement of such inquiry.

(4) If, when the accused appears before the court and the charge is read to him according to law,—

- (a) the court is not satisfied that the accused understands the effect of proceeding by way of preliminary inquiry; or
- (b) the court is satisfied that in all the circumstances the accused has not had sufficient notice of any evidence to be tendered at the preliminary inquiry; or
- (c) the documents mentioned in paragraph (1) (b) have not been served on the accused,

the court shall remand the accused in accordance with Article 47.

F2 1991 NI 16

Requirements as to written statements

33.—(1) A magistrates' court conducting a preliminary inquiry may admit the statement of the evidence to be given by a witness to the like extent as oral evidence to the like effect by that person if the following conditions are complied with, that is to say—

- (a) the statement shall be in writing,
- (b) the statement shall purport to be signed by the person who made it,
- (c) the statement shall contain a declaration by that person to the effect that—
 - (i) it is true to the best of his knowledge and belief, and
 - (ii) he made the statement knowing that, if it were tendered in evidence, whether at a preliminary inquiry or at the trial of the accused, he would be liable to prosecution if he wilfully said in it anything which he knew to be false or did not believe to be true,
 which declaration shall be endorsed with the signature of the person who recorded the statement, or to whom the statement was delivered by the maker of the statement for the purposes of the proceedings,
- (d) none of the parties objects to the statement being admitted in evidence upon a ground which would constitute a valid objection to oral evidence to the like effect as the contents of the statement,
- (e) if the statement is made by a person under the age of twenty-one, his age shall be set forth in the statement, and
- (f) if it is made by a person who cannot read, it shall be read to him before he signs it and shall be accompanied by a declaration by the person who so read the statement to the effect that it was so read and that after it was so read the maker of the statement assented to it.

(2) Any document or object referred to as an exhibit and identified in a written statement tendered in evidence under this Article shall be treated as if it had been produced as an exhibit and identified in court by the maker of the statement.

(3) Nothing in this Article shall prevent the giving in evidence of any confession, or other statement, made at any time by the accused which is admissible in law against him.

Preliminary inquiry

34.—(1) A magistrates' court conducting a preliminary inquiry shall—

- (a) consider the documents mentioned in Article 32 (1) (b) other than a statement which is not admitted in evidence by reason of an objection taken to it under Article 33 (1) (d), together with the exhibits admitted in evidence, and
- (b) read aloud so much of every written statement as is admitted in evidence, or the purport thereof, if requested to do so by either the prosecution or the accused, and
- (c) consider any submissions which may be made by or on behalf of the prosecution or the accused.

(2) The court, the prosecution and the accused may each require any person, whether his statement has been tendered in evidence or not, to attend and give evidence on oath which evidence shall be recorded as a written deposition and any such witness may be cross-examined and re-examined on his evidence; and where the evidence of a person is so recorded as a written deposition the court shall disregard any statement made by that person which has been furnished under Article 32.

(3) The court shall ask the accused if he has anything to say in answer to the charge and at the same time shall caution the accused that he is not obliged to say anything unless he wishes to do so and that whatever he does say may be taken down in writing and may be given in evidence at his trial; and whatever the accused says in answer after such caution shall be taken down in writing and read over to him and shall be signed by the resident magistrate^{F3} . . . conducting the preliminary inquiry.

(4) The accused's statement made and appearing to be signed under paragraph (3) may be given in evidence at his trial without further proof unless it is proved that it was not signed by the resident magistrate^{F3} . . . by whom it purports to have been signed.

(5) It shall be a sufficient compliance with this Article requiring the court to read aloud the contents of any written statement, or the purport of any such statement, or to address the accused, for the presiding resident magistrate^{F3} . . . to cause the statement, or the purport of that statement, to be read or the accused to be addressed in the appropriate manner, by an official of the court.

F3 2002 c. 26

Status:

Point in time view as at 01/01/2006.

Changes to legislation:

The Magistrates' Courts (Northern Ireland) Order 1981, Cross Heading: Preliminary inquiry into indictable offences is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.