
STATUTORY RULES OF NORTHERN IRELAND

1997 No. 531

The Magistrates' Courts (Criminal Procedure and Investigations Act 1996) (Disclosure) Rules (Northern Ireland) 1997

Review of non-disclosure order: application by accused

5.—(1) This Rule applies to an application by the accused under section 14(2).

(2) An application to which this Rule applies shall be made by notice in writing to the clerk of petty sessions and shall specify the reason why the accused believes the court should review the question mentioned in section 14(2).

(3) The accused shall serve a copy of the notice of application on the prosecutor at the same time as it is sent to the clerk of petty sessions.

(4) On receipt of an application to which this Rule applies the clerk of petty sessions shall take such steps as he thinks fit to ensure that the court determining the application has before it any document or other material which was available to the court which made the order mentioned in section 14(2).

(5) Subject to paragraphs (6) to (8) and to Rule 6(4), the hearing of an application to which this Rule applies shall be *inter partes* and the accused and the prosecutor shall be entitled to make representations to the court.

(6) Where the court considers that there are no grounds on which it might conclude that it is in the public interest to disclose material to any extent it may determine the application without hearing representations from the accused, the prosecutor or any person claiming to have an interest in the material to which the application relates.

(7) Where after hearing the accused's representations, the prosecutor applies to the court for leave to make representations in the absence of the accused, the court may for that purpose sit in the absence of the accused and any legal representative of his.

(8) Subject to Rule 6(4), where the order to which the application relates was made following an application of which the accused was not notified under Rule 2(3) or (4), the hearing shall be *ex parte* and only the prosecutor shall be entitled to make representations to the court.

(9) The clerk of petty sessions shall give notice in writing to—

- (a) the prosecutor;
- (b) except where a hearing takes place in accordance with paragraph (8), the accused; and
- (c) any person claiming to have an interest in the material to which the application relates who has applied under section 16(b) to be heard by the court,

of the date and time when, and the place where, the hearing of an application to which this Rule applies will take place and of any order which is made by the court following its determination of the application.

(10) Where an application to which this Rule applies is made in respect of an order made following an application of which the accused was not notified under Rule 2(3) or (4)—

- (a) the clerk of petty sessions shall record any order made by the court on determination of the application in the register required to be kept under Rule 4(3);

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(b) such entry shall be signed by the resident magistrate who determined the application, and Rules 19 and 20 of the principal Rules shall not apply.