

2005 No. 143

COUNTY COURTS

County Court (Amendment) Rules (Northern Ireland) 2005

Made - - - - - *17th March 2005*

Coming into operation *18th April 2005*

We, the County Court Rules Committee, appointed by the Lord Chancellor under Article 46 of the County Courts (Northern Ireland) Order 1980(a), in exercise of the powers conferred upon us by Article 47 of that Order, Articles 16 and 35 of the Criminal Justice (Evidence) (Northern Ireland) Order 2004(b), and all other powers enabling us in that behalf, hereby make the following Rules: –

Citation and interpretation

1.—(1) These Rules may be cited as the County Court (Amendment) Rules (Northern Ireland) 2005.

(2) In these Rules, a reference to an Order, Part, Appendix or Form is a reference to that Order, Part, Appendix or Form as numbered in the County Court Rules (Northern Ireland) 1981(c).

Amendment to the principal Rules

2.—(1) Order 32 Part IIA shall be amended by inserting after Rule 6NF, the following new Rules: –

“Procedure for the admission of evidence of bad character

6NG.—(1) A party to an appeal arising out of criminal proceedings in a magistrates’ court who wants to adduce evidence of a non-appellant’s bad character or to cross examine a witness with a view to eliciting such evidence, under Article 5 of the 2004 Order, shall give notice in Form 137N.

(2) Notice under paragraph (1) shall be served on the chief clerk of the appropriate county court division and on every other party to the appeal within 14 days from the date of the service of notice of appeal from the decision of a magistrates’ court.

(3) Any party who wishes to oppose the application under paragraph (1) shall, within 14 days from the date on which notice of the application was served on him, notify the chief clerk and every other party to the appeal, in Form 137O, of his opposition.

(4) A party to an appeal arising out of criminal proceedings in a magistrates’ court who wants to adduce evidence of an appellant’s bad character or to cross examine a witness with a view to eliciting such evidence, under Article 6 of the 2004 Order, shall give notice in Form 137P.

(a) S.I. 1980/397 (N.I. 3)

(b) S.I. 2004/1501 (N.I. 10)

(c) S.R. 1981 No. 225; to which the most recent relevant amendment was made by S.R. 2004 No. 463

(5) Notice under paragraph (4) shall be served on the chief clerk of the appropriate county court division and on every other party to the appeal within 14 days from the date of the service of notice of appeal from the decision of a magistrates' court.

(6) An application by an appellant to exclude bad character evidence shall be in Form 137Q and shall be served on the chief clerk of the appropriate county court division and on every other party to the appeal within 7 days from the date on which the notice under paragraph (4) was served on him.

(7) An appellant who is entitled to have a notice served on him under this Rule may waive his entitlement by so informing the court and the party who would have served the notice.

(8) Without prejudice to the generality of Order 43 Rule 10, the court may, if it considers that it is in the interests of justice to do so, –

- (a) allow a notice or application required under this Rule to be given in a different form or orally; or
- (b) abridge or extend the time for service of a notice or application required under this Rule, either before or after that period expires.

Procedure for the admission of hearsay evidence

6NH.—(1) This Rule shall apply where a party to an appeal arising out of criminal proceedings in a magistrates' court wishes to adduce evidence on one or more of the grounds set out in Article 18(1)(a) to (d) of the 2004 Order and in this Rule, such evidence is referred to as "hearsay evidence".

(2) A party who wishes to adduce hearsay evidence shall give notice in Form 137R.

(3) Notice under paragraph (2) shall be served on the chief clerk of the appropriate county court division and on every other party to the appeal within 14 days from the date of the service of notice of appeal from the decision of a magistrates' court.

(4) Any party who wishes to oppose the admission of hearsay evidence under paragraph (2) shall, within 14 days from the date on which notice was served on him, notify the chief clerk and every other party to the appeal, in Form 137S, of his opposition.

(5) A party who is entitled to have notice served on him under this Rule may waive his entitlement by so informing the court and the party who would have served the notice.

(6) Without prejudice to the generality of Order 43 Rule 10, the court may, if it considers that it is in the interests of justice to do so, –

- (a) dispense with the requirement to give notice of intention to adduce hearsay evidence;
- (b) allow a notice required under this Rule to be given in a different form, or orally; or
- (c) abridge or extend the time for service of a notice required under this Rule, either before or after that period expires."

(2) In Order 32 Part III, Rule 7 shall be amended by inserting after the definition of the "the 1999 Order", the following definition:

“ “the 2004 Order” means the Criminal Justice (Evidence) (Northern Ireland) Order 2004;”.

(3) Appendix I shall be amended by inserting after Form 137M, the new Forms 137N to 137S in the Schedule to these Rules.

We, the undersigned members of the County Court Rules Committee, having by virtue of the powers vested in us in this behalf made the foregoing Rules, do hereby certify the same under our hand and submit them to the Lord Chancellor accordingly.

*T. A. Burgess
Barry Valentine
James A. Agnew
Adrian Colton*

Dated 15th March 2005

After consultation with the Lord Chief Justice, I allow these Rules which shall come into operation on 18th April 2005.

Signed by the authority of the Lord Chancellor

Baroness Ashton of Upholland
Parliamentary Under-Secretary of State, Department for Constitutional Affairs

Dated 17th March 2005

SCHEDULE

Rule 2(3)

FORMS TO BE INSERTED IN THE COUNTY COURT RULES (NORTHERN IRELAND) 1981

FORM 137N

APPLICATION FOR LEAVE TO ADDUCE EVIDENCE OF NON-APPELLANT'S BAD CHARACTER UNDER ARTICLE 5 OF THE CRIMINAL JUSTICE (EVIDENCE) (NORTHERN IRELAND) ORDER 2004

Order 32: Part IIA: Rule 6NG(1)

This form shall be served on the chief clerk and on every other party to the appeal, within 14 days from the date of the service of notice of appeal from the decision of a magistrates' court.

<i>Details required</i>	<i>Notes</i>
<p>Details of applicant</p> <p>Name:</p> <p>Address:</p>	
<p>Case details</p> <p>Name of PSNI Central Process Office:</p> <p>Central Process Office or District Command Unit reference number:</p> <p>DPP reference number:</p> <p>Appellant(s):</p> <ul style="list-style-type: none"> • Name: • Address: • Date of birth: <p>Court venue:</p> <p>Date of next court appearance:</p> <p>Charges:</p>	<p>The venue of the court hearing the appeal.</p> <p>Give brief details (including date and location of offence) of those charges to which this application applies.</p>
<p>Details of the application</p> <p>Please provide the following details:</p> <ul style="list-style-type: none"> • the particulars of the bad character evidence including how it is to be adduced or elicited at the appeal (including the names of the relevant non-appellant and other relevant witnesses); and • the grounds for the admission of evidence of a non-appellant's bad character under Article 5 of the 2004 Order. 	<p>Article 5 of the 2004 Order.</p> <p>Please attach any relevant documentation.</p>
<p>Extension of time for service</p> <p>Please indicate whether you are applying for an extension of time for service.</p> <p>If the answer is yes, please state your reasons:</p>	

Note to appellant:

An application by an appellant to exclude bad character evidence shall be in Form 137Q and shall be served on the chief clerk and on every other party to the appeal within 7 days from the date on which the notice of intention to adduce the evidence of bad character was served on him.

FORM 137Q

APPLICATION TO EXCLUDE EVIDENCE OF APPELLANT'S BAD CHARACTER UNDER ARTICLE 6 OF THE CRIMINAL JUSTICE (EVIDENCE) (NORTHERN IRELAND) ORDER 2004

Order 32: Part IIA: Rule 6NG(6)

This form should be served on the chief clerk and on every other party to the appeal within 7 days from the date on which the notice of intention to adduce evidence of the appellant's bad character was served on the appellant.

<i>Details required</i>	<i>Notes</i>
<p>Details of the appellant(s)</p> <p>Name:</p> <p>Address:</p> <p>Date of birth:</p> <p>If you are in custody, please give your prison number and the address of the establishment in which you are detained:</p>	
<p>Case details</p> <p>Name of PSNI Central Process Office:</p> <p>Central Process Office or District Command Unit reference number:</p> <p>DPP reference number:</p> <p>Appellant(s):</p> <p>Court venue:</p> <p>Date of next court appearance:</p> <p>Charges:</p> <p>Date that you were served with the notice of intention to adduce bad character evidence at this appeal:</p>	<p>The venue of the court hearing the appeal.</p> <p>Give brief details (including date and location of offence) of those charges to which this application applies.</p>
<p>Details of the application</p> <p>Include the following information:</p> <p>(a) why the admission of bad character evidence would have such an adverse effect on the fairness of the proceedings that the court should not admit it.</p>	<p>Note that an application to exclude this evidence under Article 6(3) of the 2004 Order can only be made if you have been notified of a party's intention to adduce this evidence under Article 6(1)(d) (it is relevant to an important matter in</p>

FORM 137S

NOTICE OF OPPOSITION TO THE ADMISSION OF HEARSAY EVIDENCE UNDER ARTICLE 18 OF THE CRIMINAL JUSTICE (EVIDENCE) (NORTHERN IRELAND) ORDER 2004

Order 32: Part IIA: Rule 6NH(4)

This form shall be served on the chief clerk and on every other party to the appeal, within 14 days from the date on which notice of intention to adduce hearsay evidence was served.

<i>Details required</i>	<i>Notes</i>
<p>Details of party giving notice</p> <p>Name:</p> <p>Address:</p>	
<p>Case details</p> <p>Name of PSNI Central Process Office:</p> <p>Central Process Office or District Command Unit reference number:</p> <p>DPP reference number:</p> <p>Appellant(s):</p> <ul style="list-style-type: none"> • Name: • Address: • Date of birth: <p>Court venue:</p> <p>Date of next court appearance:</p> <p>Charges:</p>	<p>The venue of the court hearing the appeal.</p> <p>Give brief details (including date and location of offence) of those charges to which this application applies</p>
<p>Details of the notice</p> <p>The details of the hearsay evidence are as follows:</p>	<p>Give brief details of the evidence that you want to exclude from the proceedings. Specify whether you object to all or part of that evidence.</p>
<p>Grounds for excluding hearsay evidence</p>	<p>Set out the grounds for excluding the hearsay evidence that you object to.</p> <p>Any relevant skeleton argument or case law that might bear on the issue may be attached to this notice.</p>
<p>Extension of time</p> <p>Are you applying for an extension of time within which to give this notice?</p> <p>If yes, state your reasons:</p>	

EXPLANATORY NOTE

(This note is not part of the Rules.)

These Rules amend Order 32 of the County Court Rules (Northern Ireland) 1981 (“the principal Rules”) to prescribe the procedure relating to –

- applications to adduce evidence of bad character under Part II of the Criminal Justice (Evidence) (Northern Ireland) Order 2004; and
- notice of intention to adduce hearsay evidence under Part III of that Order.

Rule 2(1) inserts a new Rule 6NG, which prescribes the procedure to be followed on an application to:

- adduce evidence of the bad character of persons other than the appellant or to cross examine a witness with a view to eliciting such evidence (new Rules 6NG(1) and (2));
- oppose the admission of evidence of bad character of persons other than the appellant (new Rule 6NG(3));
- adduce evidence of an appellant’s bad character or to cross examine a witness with a view to eliciting such evidence (new Rules 6NG(4) and (5));
- exclude evidence of an appellant’s bad character (new Rule 6NG(6)).

New Rule 6NG(7) provides that the appellant may waive service of any application or notice. The court may also allow a notice or application to be given in a different form or orally, and may abridge or extend any of the time limits (new Rule 6NG(8)).

Rule 2(1) also inserts new Rule 6NH, which prescribes the procedure to be followed on an application to –

- adduce hearsay evidence (new Rules 6NH(1) to (3));
- oppose the admission of hearsay evidence (new Rule 6NH(4)).

New Rule 6NH(5) provides that a party may waive his entitlement to be served with any notice under new Rule 6NH.

New Rule 6NH(6) provides that the court may dispense with the requirement to give notice, may allow a notice or application to be given in a different form or orally and may abridge or extend any of the time limits for service of a notice under new Rule 6NH.

Rule 2(2) inserts a reference to the Criminal Justice (Evidence) (Northern Ireland) Order 2004 into the interpretation provisions in Order 32 of the principal Rules.

Rule 2(3) amends the Appendix I to the principal Rules by inserting new Forms 137N to 137S for use in connection with applications prescribed by these Rules.

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