
STATUTORY RULES OF NORTHERN IRELAND

2005 No. 162

**The Magistrates' Courts (Amendment)
Rules (Northern Ireland) 2005**

Amendment to the principal Rules

2.—(1) Rule 2(3) shall be amended by inserting after the definition of “the 1999 Act”, the following definition:

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

(2) After Rule 149AQ there shall be inserted the following new Rules –

“Procedure for the admission of evidence of bad character

149AR.—(1) A party who wants to adduce evidence of a non-defendant’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 88A.

(2) Notice under paragraph (1) shall be served on the clerk of petty sessions and on every other party to the proceedings –

- (a) within 14 days from the date on which the prosecutor has complied or purported to comply with section 3 of the Criminal Procedure and Investigations Act 1996⁽¹⁾ (disclosure by the prosecutor); or
- (b) as soon as is reasonably practicable, where the application concerns a non-defendant who is to be invited to give, or has given, evidence for a defendant.

(3) Any party who wishes to oppose the application under paragraph (1) shall, within 14 days of the date on which the notice of the application was served on him, notify the clerk of petty sessions and every other party to the proceedings, in Form 88B, of his opposition.

(4) A prosecutor who wants to adduce evidence of a defendant’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 88C.

(5) Notice under paragraph (4) shall be served on the clerk of petty sessions and on every other party to the proceedings at the same time as the prosecutor complies or purports to comply with section 3 of the Criminal Procedure and Investigations Act 1996.

(6) A co-defendant who wants to adduce evidence of a defendant’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 88C.

(7) Notice under paragraph (6) shall be served on the clerk of petty sessions and on every other party to the proceedings within 14 days from the date on which the prosecutor has

⁽¹⁾ 1996 c. 25; section 3 was amended by section 82(1) of and paragraph 7(1) of Schedule 4 to the Regulation of Investigatory Powers Act 2000 (c. 23) and is prospectively amended by section 32 of, and paragraphs 20 and 21 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44)

complied or purported to comply with section 3 of the Criminal Procedure and Investigations Act 1996.

(8) An application by a defendant to exclude bad character evidence shall be in Form 88D and shall be served on the clerk of petty sessions and on every other party to the proceedings within 7 days from the date on which the notice under paragraph (4) or paragraph (6) was served on him.

(9) A defendant 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.

(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

149AS.—(1) This Rule shall apply where a party 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 prosecutor who wants to adduce hearsay evidence shall give notice in Form 88E.

(3) Notice under paragraph (2) shall be served on the clerk of petty sessions and on every other party to the proceedings at the same time as the prosecutor complies or purports to comply with section 3 of the Criminal Procedure and Investigations Act 1996 (disclosure by prosecutor).

(4) A defendant who wants to adduce hearsay evidence shall give notice in Form 88E.

(5) Notice under paragraph (4) shall be served on the clerk of petty sessions and on every other party to the proceedings within 14 days from the date on which the prosecutor has complied or purported to comply with section 3 of the Criminal Procedure and Investigations Act 1996.

(6) Any party who wishes to oppose the application under paragraph (2) or (4) shall, within 14 days of the date on which notice of the application was served on him, notify the clerk of petty sessions and every other party to the proceedings, in Form 88F, of his opposition.

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

(8) 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.”

(3) Schedule 1 shall be amended by inserting after Form 88, the new Forms 88A to 88F in the Schedule to these Rules.