

2022 No. 218

MAGISTRATES' COURTS

PROCEDURE

**The Magistrates' Courts (Amendment) Rules (Northern Ireland)
2022**

Made - - - - *14th September 2022*

Coming into operation in accordance with Rule 1

The Magistrates' Courts Rules Committee makes and the Department of Justice, after consultation with the Lady Chief Justice, allows the following Rules in exercise of the powers conferred by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981(a).

Citation, commencement and transitional provisions

1. These Rules may be cited as the Magistrates' Courts (Amendment) Rules (Northern Ireland) 2022 and shall come into operation on the same day as section 1 of the Criminal Justice (Committal Reform) Act (Northern Ireland) 2022(b).

2.—(1) These Rules do not apply to proceedings instituted before the coming into operation of section 1 of the Criminal Justice (Committal Reform) Act (Northern Ireland) 2022.

(2) For the purposes of this Rule, proceedings are taken to be instituted—

(a) where—

(i) a summons or warrant is issued under Article 20 of the Magistrates' Courts (Northern Ireland) Order 1981; or

(ii) a summons is issued under section 93;

when the complaint for the offence is made;

(b) where a person is charged with the offence after being taken into custody without a warrant, when that person is informed of the particulars of the charge;

(c) where an indictment is presented under the authority of section 2(2)(c), (d), (e) or (f) of the Grand Jury (Abolition) Act (Northern Ireland) 1969(c), when the indictment is presented to the court;

and where the application of this paragraph would result in there being more than one time for the institution of the proceedings, they shall be taken to have been instituted at the earliest of those times.

(a) S.I. 1981/1675 (N.I. 26); Article 13 was amended by paragraph 65 of Schedule 5 to the Constitutional Reform Act 2005 (c.4); paragraph 133 of Schedule 18 to the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976) and paragraph 4 of the Schedule to the Northern Ireland (Miscellaneous Provisions) Act 2014 (c.13).

(b) 2022 c.4.

(c) 1969 c.15.

Amendment to the Magistrates' Courts Rules (Northern Ireland) 1984

3. The Magistrates' Courts Rules (Northern Ireland) 1984(a) are amended as follows—

(1) Omit Rules 25 to 31.

(2) In Rule 32,

- (a) for the heading substitute “Notice of preliminary inquiry”;
- (b) for paragraph (1) substitute “(1) A notice of a preliminary inquiry shall be in Form 20A.”;
- (c) omit paragraphs (2) and (3);
- (d) in paragraph (4), for “Forms 20, 21 and 22”, substitute “Form 20A”;
- (e) in paragraph (5), for “32(1)(i)” substitute “32(1)(b)(i)”;
- (f) in paragraph (7)—
 - (i) after “notice”, insert “together with the”; and
 - (ii) omit “in accordance with Article 32(1) of the Order”.

(3) In Rule 33, for “The copy of the said notice” substitute “A copy of the said notice together with”.

(4) For Rule 34, substitute—

“Conduct of preliminary inquiry

34.—(1) Without prejudice to Article 32(4) of the Order, the court shall ascertain that the accused or each of them has received a copy of the notice and of the documents required to be served on him under Article 32(1) thereof and Rule 33.

(2) The court shall cause the charge to be read to the accused and shall, if necessary, explain its nature in ordinary language.

(3) Where there is more than one charge against an accused, instead of all the charges being read to that accused, if the court is satisfied that the accused is able to read and will not be prejudiced, the court may proceed as follows—

- (a) the clerk shall make public the nature of the charges by reading aloud and in full at least one charge in each category of the offence charged;
- (b) each of the other charges relating to the same category of offence may then be put to the accused by referring to the number of the charge and adding such other particulars as, without a full reading, may enable the accused to understand the charge and follow it on the copy of the statement of complaint.

(4) The district judge (magistrates' court) or lay magistrate may at any time cause any charge to be read or read again to the accused.”.

(5) In Rule 35—

- (a) omit the heading;
- (b) in paragraph (1), omit “(other than submissions under Rule 34)”;
- (c) omit paragraphs (3), (7), (9) and (10);
- (d) in paragraph (4), omit “to give evidence on his own behalf and to require the attendance of witnesses and to call witnesses and”;
- (e) in paragraph (6), for “25” substitute “25A”;
- (f) for paragraph (8) substitute—

“(8) Immediately after complying with the requirements of this Rule relating to the statement of the accused, and whether or not the accused has made a statement, the court

(a) S.R. 1984 No. 225 to which the most recent relevant amendments were made by S.R. 2016 No. 304.

shall ask the accused whether he wishes to tender any written statement of evidence on his behalf which complies with Article 33 of the Order.”.

(6) In Rule 41, for “the depositions” substitute “any depositions”.

(7) In Rule 42—

- (a) in sub-paragraph (1)(c), for “Rule 34(3), (4) or (5)” substitute “Rule 34(2)”; and
- (b) for sub-paragraph (1)(d) substitute “(d) the written statements and any depositions admitted in evidence at the preliminary inquiry;”.

(8) After Rule 42, insert—

“Procedure for binding witnesses and prosecutor over to attend trial

42A.—(1) Every recognizance under Article 39 of the Order shall be acknowledged and signed by the person entering into the recognizance and signed by the district judge (magistrates’ court) or lay magistrate.

(2) The recognizance may be on a separate form or at the foot of the deposition at the discretion of the court.

Supply of depositions and complaint to the accused

42B. The person having custody of depositions on which any person has been committed for trial shall, as soon as practicable after the application is made to him by or on behalf of the accused, supply to the accused one copy of the depositions and, if the complaint is in writing, of the complaint.”.

(9) In Rule 43—

- (a) in the heading, omit “investigation or”;
- (b) omit “preliminary investigation or”.

(10) In Rule 44(3), omit “preliminary investigation or”.

(11) In Rule 47, after “taken” insert “or admitted”.

(12) In Rule 149AA—

- (a) in sub-paragraph (3)(a), omit “Subject to sub-paragraph (b)”;
- (b) omit sub-paragraph (3)(b).

(13) In Rules 149AR and 149AS, omit “preliminary investigation or” in each place that it occurs.

(14) In Rules 149F, 149H and 149O—

- (a) in sub-paragraph (2)(a), omit “Subject to sub-paragraph (b)”;
- (b) omit sub-paragraph (2)(b).

(15) In Schedule 1—

- (a) in Form 15, in the title omit “25 and”;
- (b) in Form 15B, for the words from “An application shall be made” to “the remand of the defendant” substitute “An application shall be made not less than 14 days before the day fixed for the commencement of the proceedings to which the application relates”;
- (c) in Form 15I, omit “[preliminary investigation]”;
- (d) after Form 19 insert Form 20A as set out in Schedule 1 to these Rules;
- (e) omit Forms 20, 21 and 22;
- (f) for Form 25 substitute Form 25A as set out in Schedule 2 to these Rules;
- (g) in Form 88A, omit “a preliminary investigation or a”; and
- (h) in Forms 88B, 88C, 88E, 88F, 88G and 88H, omit “preliminary investigation or” in each place it occurs.

*Nigel Broderick
C McQuillan
T McCloskey
E McKenna*

Dated 17th August 2022.

In exercise of the powers conferred by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981, I allow these Rules.

Sealed with the Official Seal of the Department of Justice on 14th September 2022.



Naomi Long
Minister of Justice

Form 20A

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981
(Article 32(1); Rule 32)

Notice of Preliminary Inquiry
[Title as in Form 1]

The purpose of this Notice is to inform you that the magistrates' court at (place) on (date) will conduct a preliminary inquiry under the Order.

I hereby serve on you—

(1) a statement of the complaint(s) on which I intend to ask the court to commit the accused for trial by jury;

(2) copies of the written statements of each witness upon whose evidence the said complaint(s) is/are based;

(3) a list of names of the said witnesses and the number of pages containing each statement;

* (4) a list of every exhibit to be produced or referred to at the inquiry and referred to in such statements;

* (5) where practicable, copies of each written exhibit referred to in paragraph (4) and in the statements referred to in paragraph (2).

* Any of the exhibits referred to in paragraphs (4) and (5) of this Notice may be inspected by the accused at [].

* The accused has the right to inspect every exhibit by himself or in consultation with his solicitor or any witness the accused may wish to call at his trial.

The accused at the inquiry may object to the admission of any statement tendered upon a ground which would constitute a valid objection to oral evidence to the like effect as to the contents of the statement.

Dated this day of 20 .

Complainant
[On behalf of Complainant]

To: (1) The Clerk of Petty Sessions at
 (2) The Accused at

Form 25A

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981
(Article 34(3) and (4); Rule 35)

Statement of the Accused

[Title as in Form 1]

A charge/charges having been made against the above defendant (hereinafter called "the accused") before the undersigned justice as set out in the statement of complaint(s).

And certain written statements for the prosecution having been admitted in evidence.

And the said charge/charges having been put to the accused in accordance with the Magistrates' Courts Rules (Northern Ireland) 1984.

And the accused having been informed of his right, if he so desired, to tender any written statement of evidence.

The accused was then addressed as follows:

"You are not obliged to say anything in answer to the charge(s) unless you desire to do so, but whatever you say will be taken down in writing and may be given in evidence upon your trial. Do you wish to say anything in answer to the charge(s)?"

Whereupon the accused in reply said—

The accused [having made the statement above set out] [not having made any statement] in answer to the charge(s) was then asked whether he wished to tender a written statement of evidence pursuant to Article 33 of the Order.

The accused, having been informed that he was not obliged to tender any such statement, in reply said:—

Taken before me this day of 20 .

District Judge (Magistrates' Courts)

[Lay Magistrate]

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Magistrates' Courts Rules (Northern Ireland) 1984 (S.R. 1984 No. 225) in consequence of amendments made to the Magistrates' Courts (Northern Ireland) Order 1981 (1981 No. 1675 (N.I. 26)) by the Criminal Justice (Committal Reform) Act (Northern Ireland) 2022 (c.4) to abolish preliminary investigations and mixed committals.

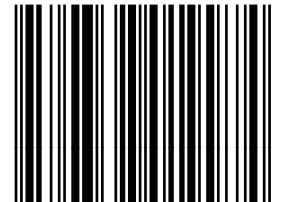
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