

1968. No. 175

[C]

**MAGISTRATES' COURTS RULES**

RULES, DATED 24TH JULY 1968, MADE BY THE MINISTER OF HOME AFFAIRS UNDER SECTION 23 OF THE MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964 AND SECTION 57(2) OF THE ROAD TRAFFIC ACT (NORTHERN IRELAND) 1955.

I, The Right Honourable William Craig, Minister of Home Affairs for Northern Ireland, in exercise of the powers conferred on me by section 23 of the Magistrates' Courts Act (Northern Ireland) 1964(a), section 57(2) of the Road Traffic Act (Northern Ireland) 1955(b) and all other powers thereunto enabling, do hereby, upon the recommendation of the Magistrates' Courts Rules Committee and after consultation with the Lord Chief Justice, make the Rules hereinafter set forth.

Dated this 24th day of July 1968.

*Wm. Craig,*  
Minister of Home Affairs  
for Northern Ireland.

*Citation*

1. These Rules shall be cited as The Magistrates' Courts (Suspension of Disqualification for Driving) Rules (Northern Ireland) 1968.

*Application to any resident magistrate sitting as court of summary jurisdiction for district in which disqualification ordered*

2. Where a person ordered by a court of summary jurisdiction to be disqualified for holding or obtaining a licence to drive a motor vehicle—

- (a) gives notice of appeal to the county court to the prosecutor under section 144(1) of the Magistrates' Courts Act (Northern Ireland) 1964 or applies under section 146 of that Act to that court of summary jurisdiction to state a case for the opinion of the Court of Appeal; and
- (b) desires to apply under section 57(2) of the Road Traffic Act (Northern Ireland) 1955 for the operation of that order to be suspended pending the appeal; and
- (c) on the day on which that person wishes to make such application the resident magistrate who made the order or any other resident magistrate is sitting as a court of summary jurisdiction in the petty sessions district in which the order was made,

that person may make such application to the resident magistrate who is so sitting.

(a) 1964. c. 21 (N.I.).

(b) 1955. c. 27.

*Application to resident magistrate who ordered disqualification when not sitting in district in which such order was made*

3. Where on the day on which that person wishes to make such application no resident magistrate is sitting in the petty sessions district in which the order of disqualification was made, that person may make such application to the resident magistrate who made such order sitting that day as a court of summary jurisdiction in any petty sessions district of any county.

*Application to court of summary jurisdiction other than under Rules 2 and 3*

4. An application under section 57(2) of the said Act of 1955 may be made to a court of summary jurisdiction other than one specified in Rule 2 or Rule 3, if, and only if, the applicant satisfies the court that he could not, but for this Rule, make any such application or that the inevitable delay in the making thereof would cause undue hardship in view of the date for the hearing of the appeal.

*Applications to be on notice*

5.—(1) Except where an application under section 57(2) of the said Act of 1955 is made to the court which made the order of disqualification before its rising on the day on which such order was made, the applicant shall serve notice of the application under Part VIII of the Magistrates' Courts Act (Northern Ireland) 1964 and, subject to paragraph (2) of this Rule, Part V of the Magistrates' Courts Rules (Northern Ireland) 1965(c) shall have effect accordingly.

(2) Rule 82(1) and Rule 85(1) of the said Rules of 1965 shall not apply and the applicant shall, a reasonable time before the application is made, serve the notice of application on the clerk for the petty sessions district in which the application is to be heard and at the same time a copy thereof on the complainant in the proceedings in which the order of disqualification was made.

(3) Where the application is to be made to a court of summary jurisdiction sitting outside a petty sessions district served by the clerk of petty sessions for the district in which the order of disqualification was made, the applicant shall, in addition to complying with paragraphs (1) and (2) serve—

- (a) on the said clerk, a copy of the notice of application in which there shall be stated the reason for making the application to such court; and
- (b) on the clerk of petty sessions for the district in which application is to be made a copy of the order of disqualification certified by the first-mentioned clerk.

(4) Any document to which this Rule applies may, without prejudice to any enactment, be served by sending it by registered post or by the recorded delivery service in an envelope addressed to the office of the clerk of petty sessions or, as the case may be, by being so sent to the complainant addressed, where he is a member of the Royal Ulster Constabulary who prosecuted as such, to the Constabulary station to which he is attached, or in any other case, to his usual abode.

*Service of documents on clerk of petty sessions for district in which disqualification ordered*

6. Where an application is heard outside a petty sessions district served by the clerk of the district in which the order of disqualification was made, the

clerk of petty sessions serving the court which heard the application shall send to the clerk of petty sessions for the district in which the order of disqualification was made a certified copy of the order made on the hearing of the application.

*No stamps required on certified copies of order made on the application*

7. Notwithstanding anything in paragraph 1 of Schedule 2 to the Magistrates' Courts Rules (Northern Ireland) 1965 no stamp shall be required on the certified copy of the order sent to a clerk of petty sessions under Rule 6.

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#### EXPLANATORY NOTE

*(This Note is not part of the Rules but is intended to indicate their general purport.)*

These Rules provide for applications by persons disqualified by a court of summary jurisdiction from driving seeking an order that the disqualification be suspended pending an appeal. The Rules prescribe the venue of the application and the procedure to be adopted by the applicant and the court.