

SUMMARY MINUTES OF THE MEETING OF THE MAGISTRATES' COURTS RULES COMMITTEE HELD ON TUESDAY 14th APRIL 2008 AT 4.00 PM IN THE CONFERENCE ROOM, 19th FLOOR, WINDSOR HOUSE, BELFAST

Present: Mr G Conner RM (Chairman)
Mr L McNally RM
Mr JPB Maxwell BL
Mr R Steer BL
Mrs V Brennan
Mr J Rea

Apologies: Mr N Broderick
Mr P Kelly
Mr S McCann

In Attendance: Mr P Luney (Acting Secretary)
Miss B O'Reilly

Minutes of the previous meeting

1. Subject to a minor typographical error, the minutes of the previous meeting of 4 October 2006 were agreed by the Committee and signed by the Chairman.

Matters Arising

2. Time limits for hearsay/bad character applications in relation to preliminary investigations were discussed. The Secretariat agreed to prepare an amendment providing for an application to adduce hearsay/bad character evidence to be made within a specified number of days before the date fixed for hearing for consideration at the next meeting of the Committee.
3. The interpretation of the phrase 'commencement of the proceedings to which the application relates' was discussed. The Committee considered whether the term meant the date on which a matter was first listed or the hearing at which the witness is to give evidence. The Secretariat advised that it had considered the matter and concluded that the current construction was sufficiently clear and did not require amendment. Mr Conner undertook to consider the matter further.

Magistrates' Courts (Amendment) Rules (Northern Ireland) 2008 - Criminal Justice (Northern Ireland) Order 2008

4. The draft Magistrates' Courts (Amendment) Rules (Northern Ireland) 2008 were considered. It was noted that the Rules were drafted to take account of provision in the Criminal Justice (Northern Ireland) Order 2008. In particular it was noted the Rules took account of provision in the Order which:
- repealed and re-enacted provisions contained in the Criminal Justice (Northern Ireland) Order 1996;
 - abolished the automatic fifty percent remission, introduced a new licence system for all offenders receiving custodial sentences and new arrangements to deal with dangerous offenders by means of the imposition of an indeterminate or extended custodial sentence;
 - enhanced the powers of the court for breach of sex offender licences;
 - provided Supervised Activity Orders as an alternative to committal to custody for fine default;
 - made new arrangements for the enforcement of community and youth justice orders;
 - provided the magistrates' court with the power to vary conditions of bail granted at a police station before a person is charged with an offence; and
 - provided for the execution of an arrest warrant before a magistrates' court for the county court division in which a warrant was issued, for the division in which a person was arrested and for a division adjoining that in which a person was arrested.

Magistrates' Courts (Criminal Justice (Children)) (Amendment) Rules (Northern Ireland) 2008

5. The Committee considered the draft Magistrates' Courts (Criminal Justice (Children)) (Amendment) Rules (Northern Ireland) 2008 which make provision in relation to public protection sentences for dangerous offenders and the jurisdiction for proving arrest warrants. It was noted that public protection sentences would primarily be used in the Crown Court but that the provision applied to finding of guilt in a summary trial for indictable offences under Article 17 of the Criminal Justice (Children) (Northern Ireland) Order 1998.

Magistrates' Courts (Anti-Social Behaviour Orders) (Amendment) Rules (Northern Ireland) 2008

6. The Committee considered the Magistrates' Courts (Anti-Social Behaviour Orders) (Amendment) Rules (Northern Ireland) 2008. It was noted that the Rules had been prepared to take account of Articles 93 and 94 of the 2008 Order and Article 6 of the Criminal Justice (Northern Ireland) Order 2005. The Committee were advised that ASBO provisions did not previously allow authorities to apply for interim ASBO's without giving notice to the defendant and noted that the 2008 Order had now made provision in that regard. The Committee were advised that the 2005 Order had amended the Criminal Evidence (Northern Ireland) Order 1999 so as to provide that special measures directions applied in relation proceedings to make, vary or discharge an ASBO and to proceedings on appeal against the making of an ASBO.

Magistrates' Courts (Amendment) Rules (Northern Ireland) 2008 – Lapsing of Part 7 of the Terrorism Act 2000

7. The Committee considered the amendments to the Magistrates' Courts Rules arising from the lapsing of Part 7 of the Terrorism Act 2000 and the introduction of a new system for non-jury trial under the Justice and Security Act 2007. It was advised that the lapsing of Part 7 of the Terrorism Act had implications for provision in the principal Rules in relation to Scheduled Offences, Preliminary Inquiries and the mode of trial for Article 29 offences and indictable offences dealt with summarily. The Committee noted that the amendments contained in the draft were primarily a 'tidy-up' exercise to omit now obsolete references to scheduled offences and substitute comparable references to the 2007 Act.

Magistrates' Courts (Children (Northern Ireland) Order 1995) (Amendment No.2) Rules (Northern Ireland) 2008

8. The Committee considered the Magistrates' Courts (Children (Northern Ireland) Order 1995) (Amendment No.2) Rules (Northern Ireland) 2008. It noted that a report of the Children Order Advisory Committee had recommended that Rules be amended to allow a lay magistrate hearing an ex-parte application for an emergency protection order to appoint a guardian and that the draft Rules made provision to that effect.

Committee Deliberations

9. As there were no other issues arising, the Committee agreed that, subject to a number of minor amendments and typographical errors, all the draft Rules considered should be forwarded to the Lord Chief Justice for his agreement and subsequently to the Lord Chancellor for his consideration.

Any other business

10. The Committee noted that the Secretariat was preparing a number of matters for its consideration before the summer recess and agreed that a half day meeting should be held on Monday 16th June 2008 at 2.00pm.
11. There being no other business arising, the meeting was concluded at 5.30pm.