

SUMMARY MINUTES OF THE MEETING OF THE MAGISTRATES' COURTS RULES COMMITTEE HELD ON 25th AUGUST 2010 AT 4:30PM IN THE CONFERENCE ROOM, 5th FLOOR, LAGANSIDE HOUSE, BELFAST

Present: Mr G Conner, (Chairman)
Mr W McNally,
Mr J Rea BL
Mr N Broderick
Mr J Maxwell
Mr R Steer
Ms S Hughes

Apologies: Mr P Luney

In Attendance: Ms G Fee (Secretary)
Miss U Corrigan
Miss A Quinn
Mr M Moore

Minutes of the previous meeting and matter arising

1. The minutes of the meeting held on 3rd December 2009 were agreed and signed by the Chairman.
2. The Secretary updated the Committee on outstanding matters arising from these minutes.
3. It was noted that the use of either Secure Mail or Criminal Justice Secure Mail was being considered for electronic service.
4. It was noted that Operations Division was liaising with the PPS and PSNI to agree a protocol in relation to proceedings under section 7 of the Crime (International Co-operation) Act 2003.
5. It was noted that proceedings under Part 1 and 2 of the Extradition Act 2003 would continue to be dealt with by a county court judge.
6. It was noted that information in respect of recognition of certain foreign driving disqualifications would be transferred between the NICTS and the DOE in Form 15/7.
7. It was noted that the issue about service of the notice of disqualification on the offender in mutual recognition cases had been raised several times with the lead department without response.

The Magistrates' Courts (Amendment No.2) Rules (Northern Ireland) 2010 (Investigation Anonymity Orders)

8. The Chairman drew the Committees' attention to the draft Magistrates' Courts (Amendment No.2) Rules (Northern Ireland) 2010.
9. The Secretary outlined the background to the draft Rules.
10. The Secretary pointed out that draft Rule 166(1)(b) had been adjusted to provide that the name of the person who is the subject of the IAO must be included in the application unless the court directs otherwise. This allows the judge to have the choice of proceeding to an oral hearing or deciding the matter on the papers.
11. The Committee discussed whether a separate form should be prescribed for applications for IAO. It was content that the application be made in writing as provided for in the draft Rules.
12. It was asked whether the Rule 169 should make provision similar to that in Rule 167(2) in respect of the inclusion of the name of the specified person in an appeal against the decision of the court on an application to discharge a witness anonymity order.

Action: Secretariat to consider.

13. It was asked how IAO applications should be listed and the urgency with which they should be treated. The Secretary advised that they could be dealt with in the normal manner, as where a district judge (magistrates' courts) refuses to make an order and that decision is appealed, the district judge (magistrates' courts) must in the interim make the order as requested which continues in force until such time as the appeal is dealt with.
14. It was asked whether the Rules Committee had the power to provide in the Rules that the hearing should be in private. The Secretariat indicated it would consider this and report back to the Committee in due course.

Action: Secretariat to consider.

15. It was noted that the word "requested" in Rule 166(4) should be amended to "directed" in line with the amendments made to Rule 166(1)(b).
16. The Committee enquired whether applications for IAOs had been common in England and Wales.

Action: Secretariat to investigate.

17. Subject to further enquires being pursued by the Secretariat the Committee was content with the draft Rules.

The Magistrates' Courts (Amendment No.2) Rules (Northern Ireland) 2010 (Pleas of Guilty by Post Rules)

18. The Secretary set out the background to the rules. It was noted that the Rules had arisen following a Court of Appeal decision by way of case stated by District Judge (Magistrates' Courts) Meehan [2009] BROWN -NICA 32. It was noted that the PPS had had sight of the Rules.
19. The Secretary advised the Committee that the key point arising from the Brown judgment related to the acknowledgement of service to be used in a plea of guilty by post case. In its judgment, the Court of Appeal had ruled that in a plea of guilty by post case the acknowledgement of service was sufficient in Form 6/6A and did not need to be in Form 110B as well.
20. The Committee's views were sought as to whether the rules should allow for *either* Form 110B or Form 6/6A to be used as an acknowledgment of service in a plea of guilty by post case or whether the rules should provide that one or other form should be used.
21. The Committee considered the matter and decided that only one or other form should be used.
22. It was noted that the non production of licences was a problem in the magistrates' courts at present. It was thought that the provision of a box on the form allowing a defendant to indicate whether or not he had returned his licence to the court would provide a useful check for court staff.

Action: Secretariat to consider.

23. It was agreed to bold the Warning in Form 6A in an effort to draw a defendant's attention to the fact that they had to deliver their licence to the court.
24. The Committee queried whether Form 6/6A could be used to clearly indicate the person's name in print and the court date. It was recognised that this would help court staff identify the case which the plea of guilty or the acknowledgement of service related to.
25. It was noted that it was the intention of Form 6 that that information would be included at the head of the form. The Secretary acknowledged that there was a discrepancy between the court forms used and the PPS forms used as sometimes not all the information required by a court form appeared in a PPS form.

Action: Secretariat to liaise with PPS and explore whether the PPS forms can be amended to clearly include the person's name and court date.

26. The Committee asked if something could be added into the warning at the bottom of Form 6 to advise the defendant that failure to produce a licence was an offence.

Action: Secretariat

27. The Committee queried whether or not the warning relating to provision of date of birth and sex information by the defendant was necessary. It was noted that Operations Division had indicated that the inclusion of this information in the form provided a useful safeguard.
28. The Committee agreed to the draft Rules.

The Magistrates' Courts (Amendment No.2) Rules (Northern Ireland) 2010 (Amendment Form 1 and Form 1A)

29. The Secretariat outlined the background to the draft Rules. It was explained that the PPS had recently highlighted that in some areas it was becoming standard practice for Lay Magistrates to require that all complaints be laid on oath. In light of that, the Secretariat had examined whether or not it might be useful to revise Forms 1 and 1A to reinforce the point that not all complaints need be laid on oath. It was hoped that that would provide a helpful prompt to the Lay Magistrates.
30. The Committee thought that this would be a helpful amendment.
31. The Committee agreed the Rules.

The Magistrates' Courts (Criminal Justice (Children)) (Amendment) Rules (Northern Ireland) 2010

32. The Secretariat outlined the background to the Rules explaining that the Rules corrected a technical error in Form 1 of the Magistrates' Courts (Criminal Justice (Children)) Rules (Northern Ireland) 1999.
33. The Committee agreed the Rules.

Postal Summonses

34. The Secretary advised the Committee that the Secretariat had been liaising with the PPS in respect of the provision of data as to the use of postal summonses.

Post-Devolution Rules Making Procedures

35. It was noted that following devolution court rules would now be subject to new Assembly procedures.
36. It was noted that the role of the Justice Committee was still to be confirmed.

Costs in Criminal Cases

37. A table of options for proceeding with the consultation on costs in criminal cases was presented to the Committee.
38. The Secretary advised that Option 1 was to proceed with increasing the maximum to £300 as planned, but also to introduce an assessment where the court considers the length, difficulty or complexity of a case to merit a higher award.
39. Option 2 was to amend the rules to provide rates and scales.
40. Option 3 was to amend the primary legislation to remove the need for rules to specify rates or scales.
41. The Committee then considered the various options.
42. The Secretary indicated to the Committee that setting rates and scales would require a significant lead-in time for any redrafted consultation paper, and that the Secretariat may have to engage significantly with the Committee.
43. The Committee discussed how rates and scales may potentially work. They considered that it would not be useful to itemise on a case-by-case basis but instead to try and group together in some manner.
44. It was agreed that the Secretariat would begin some scoping work to identify how rates and scales might be set (Option 2) and would advise the Committee accordingly. The consultation paper was to be held for now.

Action: Secretariat

45. It was agreed that the Secretariat would come back to the Committee at the end of September with a date for a future meeting.
46. The Committee requested sight of the minutes from the recent Rules Committee meeting held by PLSD and an update on the session with the Justice Committee.

Action: Secretariat

47. Mr Conner formally welcomed Ms Hughes to the Committee.

The meeting ended at 6.30pm