

2010 No.15

MAGISTRATES' COURTS

**The Magistrates' Courts (Sexual Offences Act 2003)
(Amendment) Rules (Northern Ireland) 2010**

Made - - - - - *26th January 2010*

Coming into operation in accordance with rule 1

The Magistrates' Courts Rules Committee makes the following Rules in exercise of the powers conferred by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981^(a) after consultation with the Lord Chancellor and with the agreement of the Lord Chief Justice.

Citation and commencement

1. These Rules may be cited as the Magistrates' Courts (Sexual Offences Act 2003) (Amendment) Rules (Northern Ireland) 2010, and shall come into operation on the same day as sections 24 and 25 of the Policing and Crime Act 2009^(b) come into force.

Amendments to the Magistrates' Courts (Sexual Offences Act 2003) Rules (Northern Ireland) 2004

2. The Magistrates' Courts (Sexual Offences Act 2003) Rules (Northern Ireland) 2004^(c) are amended as follows—

- (a) in rule 8(2), “, renewal” is omitted;
- (b) in the Schedule,
 - (i) for Form 7, substitute the new Form 7 as set out in the Schedule to these Rules; and
 - (ii) for Form 8, substitute the new Form 8 as set out in the Schedule to these Rules.

*George Conner
John Rea
Peter Luney
John P B Maxwell
Nigel Broderick*

Dated 26th January 2010

(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).
(b) 2009 c.26.
(c) S.R. 2004/203.

SCHEDULE

Rule 2(b)(i)

“Form 7

SEXUAL OFFENCES ACT 2003

MAGISTRATES’ COURTS (SEXUAL OFFENCES ACT 2003) RULES

(Section 114, Rule 5(1))

Summons on foot of complaint for foreign travel order

of

Complainant

Petty Sessions District of

of

Defendant

County Court Division of

WHEREAS a complaint has been made before me in respect of an application for a foreign travel order to the following effect, viz -

That you, the above-named defendant, are a qualifying offender by virtue of the following facts –

Details of offence:

If committed abroad, the corresponding offence this would have constituted had the act been done in the United Kingdom:

Date of [conviction] [finding] [caution]:

Details of court/police station:

And it is alleged that you have since the date of the above conviction, finding or caution, acted in such a way as to give reasonable cause to believe that a foreign travel order under section 114 of the Sexual Offences Act 2003 is necessary to protect children generally or any particular child from serious sexual harm from you outside the United Kingdom.

Short description of acts, including date(s) and further comments:

Accordingly application is made for a foreign travel order prohibiting travel to [the country/countries outside the United Kingdom specified below] [any country/countries outside the United Kingdom other than those specified below] [any country outside the United Kingdom]:

THIS IS TO COMMAND YOU to appear as a defendant at the hearing of the said application at
(*place*) on (date) at (time) before a court of

summary jurisdiction for the said petty sessions district.

This day of 20 .

[Lay Magistrate]
[District Judge (Magistrates' Courts)]

To:
[the defendant]

Note:

Where the court is satisfied that this summons was served on you within what appears to the court to be a reasonable time before the hearing or adjourned hearing, it may proceed in your absence.

If you wish to dispute that the offence referred to in this summons is a 'relevant offence' within the meaning of the Sexual Offences Act 2003, you must, not less than 3 days before the date on which the matter is to be heard, serve notice under section 116(6) of the Act on the complainant, and at the same time serve a copy thereof on the clerk of petty sessions.

If a foreign travel order is made against you, you will be subject to the prohibitions made in it.

Except where you are prohibited from travelling to any country outside the United Kingdom, you will be subject to the foreign travel notification regulations made under section 86 of the Sexual Offences Act 2003, which oblige you to notify the police of any plans you have to travel abroad for a period of 3 days or longer. If details are known to you 7 days before you travel you must inform the police 7 days before you travel. Otherwise you must inform the police no less than 24 hours in advance of travel.

If you are prohibited from travelling to any country outside the United Kingdom, you must surrender all passport(s) held in your name to a police station within the time specified by the order.

If without reasonable excuse, you do anything you are prohibited from doing or fail to do anything you are required to do by the order, or if you are subject to and fail to comply with the foreign travel notification regulations made under section 86 of the Sexual Offences Act 2003, you shall be liable -

- (i) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both;**
- (ii) on conviction on indictment, to imprisonment for a term not exceeding five years."**

“Form 8

SEXUAL OFFENCES ACT 2003

MAGISTRATES’ COURTS (SEXUAL OFFENCES ACT 2003) RULES
(NORTHERN IRELAND) 2004

(Section 114, Rule 5(3))

Foreign Travel Order

of
Complainant Petty Sessions District of

of
Defendant County Court Division of

It is adjudged by a court of summary jurisdiction at (place) on the (date) that the defendant is a qualifying offender by reason of the following:

Details of offence:

If committed abroad, the corresponding offence this would have constituted had the act been done in the United Kingdom:

Date of [conviction] [finding] [caution]:

Details of court/police station:

And it is adjudged that the defendant's behaviour since the date of the above conviction, finding or caution, makes it necessary to make a foreign travel order under section 114 of the Sexual Offences Act 2003 to protect children generally or any particular child from serious sexual harm from him outside the United Kingdom.

Short description of acts, (including date(s)) and further comments:

IT IS ORDERED that the defendant is prohibited from travel to [the country/countries outside the United Kingdom specified below] [any country/countries outside the United Kingdom other than those specified below] [any country outside the United Kingdom, and must surrender all of his/her passports to (police station) within () days of this order]:

until (date not more than 5 years from date of order).

Except where travel to any country outside the United Kingdom is prohibited, while this order (as renewed from time to time) has effect, the defendant shall be subject to the foreign travel notification regulations made under section 86 of the Sexual Offences Act 2003.

[OR, where the defendant is already subject to the notification requirements on the making of this order -

And the defendant, who was a relevant offender within the meaning of Part 2 of the Sexual Offences Act 2003 immediately before the making of this order, but who would otherwise cease to be subject to the notification requirements of the said Part 2, shall, while this order has effect, remain subject to the foreign travel notification regulations made under section 86 of the Sexual Offences Act 2003 for the duration of this order as renewed from time to time.]

This day of 20 .

[District Judge (Magistrates' Courts)]

[Clerk of Petty Sessions]

Note:

Except where you are prohibited from travelling to any country outside the United Kingdom, for the period of this order, you are subject to the foreign travel notification regulations made under section 86 of the Sexual Offences Act 2003, which oblige you to notify the police of any plans you have to travel abroad for a period of 3 days or longer. If details are known to you 7 days before you travel you must inform the police 7 days before you travel. Otherwise you must inform the police no less than 24 hours in advance.

Police Service of Northern Ireland Headquarters will be able to explain these conditions in more detail. The restrictions in this order apply throughout the United Kingdom (England and Wales, Scotland and Northern Ireland).

If without reasonable excuse, you do anything you are prohibited from doing or fail to do anything you are required to do by the order, or if you are subject to and fail to comply with the foreign travel notification regulations made under section 86 of the Sexual Offences Act 2003, you shall be liable -

(i) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both;

(ii) on conviction on indictment, to imprisonment for a term not exceeding five years.”

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Magistrates' Courts (Sexual Offences Act 2003) Rules (Northern Ireland) 2004 (S.R. 2004 No.203) to make a minor amendment to Rule 8(2), and to substitute new Forms 7 (Summons on foot of complaint for foreign travel order) and 8 (Foreign Travel Order) in consequence of amendments to the Sexual Offences Act 2003 made by the Policing and Crime Act 2009 ("the 2009 Act"). The new Forms refer to the requirement under the 2009 Act for a person who is subject to a foreign travel order prohibiting travel to any country outside the UK to surrender his or her passport(s) to the police station within the time limit specified in the order; and reflect that a foreign travel order may now be imposed for a period of up to 5 years.