

2010 No.13

MAGISTRATES' COURTS

The Magistrates' Courts (Counter Terrorism Act 2008) (Foreign Travel Restriction Orders) Rules (Northern Ireland) 2010

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

Coming into operation - *1st March 2010*

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, commencement and interpretation

1.—(1) These Rules may be cited as the Magistrates' Courts (Counter Terrorism Act 2008) (Foreign Travel Restriction Orders) Rules (Northern Ireland) 2010 and shall come into operation on 1st March 2010.

(2) In these Rules, "foreign travel restriction order" means an order under Schedule 5 to the Counter Terrorism Act 2008(b).

Foreign Travel Restriction Orders

2.—(1) A summons issued on foot of a complaint for a foreign travel restriction order shall be in Form 1.

(2) A foreign travel restriction order shall be in Form 2.

(3) A summons issued on foot of a complaint for the variation, renewal or discharge of a foreign travel restriction order shall be made in Form 3, and such proceedings shall be before a court of summary jurisdiction acting for the petty sessions district which includes the area where the person subject to the order resides.

(4) Subject to paragraph (5), service of a summons under these Rules may be effected by—

- (a) a member of the Police Service of Northern Ireland serving a copy of the summons on the defendant in person; or
- (b) by sending a copy of the summons by ordinary first class post to the defendant at his last known address (in which cases the summons shall be deemed to have been received in the ordinary course of post, unless the defendant proves that he did not receive it).

(5) In the case of a summons on foot of a complaint for the variation or discharge of a foreign travel restriction order issued by the defendant mentioned in that order, service may be effected in accordance with paragraphs (2), (6) and (7) of Rule 11 of the Magistrates' Courts (Northern Ireland) Rules 1984 by delivering a copy of the summons to any police station within the petty

(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) 2008 c.28.

sessions district in which the proceedings are brought and leaving a copy with the officer in charge or any other constable.

(6) Where the court makes a foreign travel restriction order, the clerk of petty sessions shall serve a copy of the order on the defendant—

- (a) where the defendant is present, in person, if practicable; or
- (b) by sending it by ordinary first class post to the defendant at either his last known address or any address which is currently notified by him under Part 4 of the Counter Terrorism Act 2008 (in which cases the order will be deemed to have been received by him in the ordinary course of post unless the defendant proves that he did not receive it),

and shall send a copy by ordinary first class post to the complainant.

(7) Where the court makes an order varying, renewing or discharging a foreign travel restriction order the clerk of petty sessions shall serve on the defendant a copy of the order as it has been varied, renewed or discharged—

- (a) where the defendant is present, in person, if practicable; or
- (b) by sending it by ordinary first class post to the defendant at either his last known address or any address which is currently notified by him under Part 4 of the Counter Terrorism Act 2008 (in which cases the order will be deemed to have been received by him in the ordinary course of post unless the defendant proves he did not receive it),

and shall send a copy by ordinary first class post to the complainant.

(8) In paragraphs (6) and (7), references to the complainant and the defendant are references to the complainant and the defendant in the proceedings in which the order was originally made.

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

Dated 26th January 2010

SCHEDULE

Rule 2(1)

Form 1

COUNTER TERRORISM ACT 2008

MAGISTRATES' COURTS (COUNTER TERRORISM ACT 2008) (FOREIGN TRAVEL RESTRICTION ORDERS) RULES 2010

SUMMONS ON FOOT OF A COMPLAINT FOR A FOREIGN TRAVEL RESTRICTION ORDER

of

Complainant

Petty Sessions District of

of

County Court Division of

Defendant

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

That you, the above named defendant, are subject to the notification requirements in Part IV of the Counter Terrorism Act 2008 by virtue of the following facts —

Details of the offence by virtue of which the notification requirements apply:

[If committed abroad, and the defendant is subject to the notification requirements by virtue of a notification order under Schedule 4 to the Counter Terrorism Act 2008, the corresponding offence this would have constituted had the act been done in the United Kingdom]:

Date of conviction for offence by virtue of which the notification requirements apply:

Details of the court:

If without reasonable excuse you do anything which you are prohibited from doing or fail to do anything you are required to do by the order, or you are subject to and fail to comply with the regulations made under sections 52 and 96(2) of the Counter Terrorism Act 2008, you are liable—

- on summary conviction to a term of imprisonment not exceeding 6 months or a fine not exceeding the statutory maximum; or
- on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine or both.

Form 2

MAGISTRATES' COURTS (COUNTER TERRORISM ACT 2008) (FOREIGN TRAVEL RESTRICTION ORDER) RULES (NORTHERN IRELAND) 2010
(Schedule 5, rule 2)

FOREIGN TRAVEL RESTRICTION ORDER

of

Complainant

Petty Sessions District of

of

County Court Division of

Defendant

It is adjudged by a court of summary jurisdiction at (place) on (date) that the defendant is subject to the notification requirements under Part IV of the Counter Terrorism Act 2008 by reason of the following:

Details of the offence:

[If committed abroad, and the defendant is subject to the notification requirements by virtue of a notification order under Schedule 4 to the Counter Terrorism Act 2008, the corresponding offence this would have constituted had the act been done in the United Kingdom:]

Date of conviction for the offence by virtue of which the notification requirements apply:

Details of court:

And it is adjudged that the defendant's behaviour since the date of above the conviction makes it necessary to make a foreign travel restriction order under Schedule 5 to the Counter Terrorism Act 2008 to prevent the defendant from travelling outside the United Kingdom for the purpose of taking part in terrorism activity.

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

IT IS ORDERED that the defendant is prohibited from travelling to [the country/countries outside the United Kingdom specified below] [any country outside the United Kingdom other than those specified below] [any country outside the United Kingdom and the defendant must surrender all passport(s) held in their name within [] days at (insert details of police station)].

until (date not more than six months from the date of the order).

[And the defendant, who was subject to the notification requirements under Part IV of the Counter Terrorism Act 2008 immediately before the making of this order, but who would otherwise cease to be subject to the notification requirements of the said Part IV, shall, while this order has effect, remain subject to the regulations made under sections 52 and 96(2) of the Counter Terrorism Act 2008 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, you remain subject to the regulations made under sections 52 and 96(2) of the Counter Terrorism Act 2008 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.

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 which you are prohibited from doing or you fail to do anything you are required to do by the order, or if you are subject to and fail to comply with the regulations made under sections 52 and 96(2) of the Counter Terrorism Act 2008, you are liable–

- on summary conviction to a term of imprisonment not exceeding 6 months or a fine not exceeding the statutory maximum; or
- on conviction on indictment, to imprisonment for term not exceeding 5 years or a fine or both.

Form 3

COUNTER TERRORISM ACT 2008

MAGISTRATES' COURTS (COUNTER TERRORISM ACT 2008)(FOREIGN TRAVEL RESTRICTION ORDER) RULES (NORTHERN IRELAND) 2010
(Schedule 5, rule 2)

**SUMMONS ON FOOT OF A COMPLAINT FOR A [VARIATION]
[RENEWAL] [DISCHARGE] OF A FOREIGN TRAVEL RESTRICTION
ORDER**

of

Complainant

Petty Sessions District of

of

County Court Division of

Defendant

WHEREAS —

A foreign travel restriction order (a copy of which is attached to this summons) was made against the defendant mentioned in that order on day of 2010.

And the complainant, who was the [complainant] [defendant] in those proceedings now applies by complaint for the [variation] [renewal] [discharge] of the said order on the grounds that (specify grounds) —

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)

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules prescribe the procedure for applying to a court of summary jurisdiction, under Schedule 5 to the Counter Terrorism Act 2008, for a foreign travel restriction order.

Rule 2(1) provides that a summons on foot of a complaint for a foreign travel restriction order must be in Form 1.

Rule 2(2) provides that a foreign travel restriction order must be in Form 2.

Rule 2(3) prescribes that a summons issued for variation, renewal or discharge of a foreign travel restriction order must be in Form 3.

Rule 2(4) provides that, subject to paragraph (5), a summons for a foreign travel restriction order must be served on the defendant either by the police or by ordinary first class post. Where the summons is served by first class post it will be deemed to have been served on the defendant in the ordinary course of post unless the defendant proves he did not receive it.

Rule 2(5) provides that a summons issued by a person who was the defendant to the original foreign travel restriction order for variation, renewal or discharge of that order must be served on the police in accordance with Rule 11, paragraphs (2), (6) and (7) of the Magistrates' Courts Rules (Northern Ireland) 1984 (by summons server or other person who has received the permission of the court to fulfil that function).

Rule 2(6) provides that where the court makes a foreign travel restriction order, the clerk of petty sessions must serve a copy of the order on the defendant, either personally or by first class post, and on the complainant by first class post.

Rule 2(7) makes similar provision in respect of the service of an order for the variation, renewal or discharge of a foreign travel restriction order.

Rule 2(8) makes provision in respect of the interpretation of references to complainant and defendant in paragraphs (6) and (7) of these Rules.