

STATUTORY INSTRUMENTS

1981 No. 1675

The Magistrates' Courts (Northern Ireland) Order 1981

PART VII

APPEALS AND APPLICATIONS TO COURTS OF SUMMARY JURISDICTION

Modifications etc. (not altering text)

- C1** Pt. VII (art. 76) applied (31.12.2009) by Safety of Sports Grounds (Northern Ireland) Order 2006 (S.I. 2006/313 (N.I. 2)), arts. 1(2), **8(4)(a)** (with art. 26); S.R. 2009/287, **art. 2(e)**
- C2** Pt. VII (art. 76) applied (15.3.2006) by Safety of Sports Grounds (Northern Ireland) Order 2006 (S.I. 2006/313 (N.I. 2)), arts. 1(3)(c), **10(3)(a)** (with art. 26)
- C3** Pt. VII (art. 76) applied (31.12.2009) by Safety of Sports Grounds (Northern Ireland) Order 2006 (S.I. 2006/313 (N.I. 2)), arts. 1(2), **17(5)(a)** (with art. 26); S.R. 2009/287, **art. 2(j)**
- C4** Pt. VII (art. 76) applied (24.7.2006) by Products of Animal Origin (Third Country Imports) Regulations (Northern Ireland) 2006 (S.R. 2006/291), **art. 21(6)**
- C5** Pt. VII (art. 76) applied (with modifications) by Foyle Fisheries Act (Northern Ireland) 1952 (c. 5), s. 55(3) (as substituted (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), **20(1)** (with art. 32)); S.R. 2008/232, **art. 2**, Sch.
- C6** Pt. VII (art. 76) applied (with modifications) by Foyle Fisheries Act (Northern Ireland) 1952 (c. 5), s. 55B(4) (as inserted (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), **20(2)** (with art. 32)); S.R. 2008/232, **art. 2**, Sch.
- C7** Pt. VII (art. 76) applied (2.8.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), **60(11)** (with art. 77); S.R. 2010/226, **art. 2**, Sch.
- C8** Pt. VII (art. 76) applied (prosp.) by Taxis Act (Northern Ireland) 2008 (c. 4), **ss. 34(2)**, 59
- C9** Pt. VII (art. 76) applied (prosp.) by Taxis Act (Northern Ireland) 2008 (c. 4), **ss. 37(10)**, 59
- C10** Pt. VII (art. 76) applied (2.2.2009) by Beef and Veal Labelling Regulations (Northern Ireland) 2009 (S.R. 2009/2), **reg. 11(1)**
- C11** Pt. VII (art. 76) applied (6.4.2010) by Detergents Regulations 2010 (S.I. 2010/740), regs. 1(2), **29(3)**
- C12** Pt. VII (art. 76) applied (17.5.2010) by Beef and Veal Labelling Regulations (Northern Ireland) 2010 (S.R. 2010/155), **reg. 6(3)**
- C13** Pt. VII applied (18.1.2012 for specified purposes, 1.4.2012 in so far as not already in operation) by Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (c. 23), s. 78, **Sch. 2 para. 1(2)**; S.R. 2012/13, art. 2(1)(2), Sch. 1, Sch. 2
- C14** Pt. VII applied (1.9.2012) by Taxis Act (Northern Ireland) 2008 (c. 4), **ss. 37(10)**, 59; S.R. 2012/313, art. 2(2), Sch. Pt. 2
- C15** Pt. VII applied (1.9.2012) by Taxis Act (Northern Ireland) 2008 (c. 4), **ss. 34(2)**, 59; S.R. 2012/313, art. 2(2), Sch. Pt. 2
- C16** Pt. VII referred to (1.10.2016) by Licensing of Pavement Cafés Act (Northern Ireland) 2014 (c. 9), **ss. 21(6)**, 32(1); S.R. 2016/126, art. 2
- C17** Pt. VII applied (1.6.2018) by The Sea Fishing (Illegal, Unreported and Unregulated Fishing) Order (Northern Ireland) 2018 (S.R. 2018/106), arts. 1(1), **6(5)**
- C18** Pt. VII applied (23.12.2020) by The Plant Health (Official Controls and Miscellaneous Provisions) Regulations (Northern Ireland) 2020 (S.R. 2020/293), regs. 1, **37(2)**

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Proceedings to be commenced by notice

76.—(1) Where an enactment—

- (a) provides for an appeal to be made to a court of summary jurisdiction and neither that enactment nor magistrates' courts rules provide for the procedure to be adopted on such appeal; or
- (b) authorises an application for a licence, permit, certificate or other authorisation or for the removal of a disqualification or disability to be made to a magistrates' court and either that enactment or magistrates' courts rules direct that the provisions of this Part shall apply; or
- (c) authorises an application to a magistrates' court for the disposal, destruction or forfeiture of property;

such appeal or application shall be initiated by notice under this Part.

(2) A notice under this Part shall be served at such time as may be prescribed before the date upon which the appeal or application is to be made upon—

- (a) the clerk of the petty sessions acting for the court to which the appeal or application is to be made;
- (b) in the case of an appeal from any decision or determination of a public or local authority, that authority, and any other party to the appeal and any person by whom or on whose behalf representations were made to the authority in respect of the subject-matter of the decision or determination;
- (c) any such person as may be prescribed.

(3) The court shall hear—

- (a) the appellant or applicant;
- (b) any evidence relevant to the appeal or application;
- (c) any person (other than the clerk of petty sessions) served with notice under this Part or entitled to be heard on the appeal or application who opposes it and asks to be heard on it; and
- (d) any relevant evidence that person may adduce.

(4) Without prejudice to the foregoing provisions of this Article the court may direct that a copy of the notice be served upon any person whom the court may consider a proper person to be served.

(5) A magistrates' court may in any case where the public interest requires an immediate order for the destruction of property dispense with the service of a notice under paragraph (2) and order immediate destruction of the property in accordance with the enactment under which the order is made.

[^{F1}Availability of live links in certain proceedings]

<p>F1 Art. 76A and cross-heading inserted (temp.) (25.3.2020) by virtue of Coronavirus Act 2020 (c. 7), s. 87(1), Sch. 27 para. 9 (with ss. 88-90)</p>

76A.—(1) A person may, if the court so directs, take part in eligible magistrates' court proceedings through—

- (a) a live audio link, or
- (b) a live video link.

(2) “Eligible magistrates' court proceedings” are—

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- (a) proceedings on an appeal under paragraph 82 of Schedule 21 to the Coronavirus Act 2020, and
 - (b) proceedings in relation to an application for a Part 1A order under Part 1A of the Public Health Act (Northern Ireland) 1967.
- (3) A direction under this Article may be given for a district judge (magistrates' courts) to take part in the proceedings through a live audio link or a live video link.
- (4) A person who takes part in proceedings in accordance with a direction under this Article is to be treated as—
- (a) complying with any requirement (however imposed or expressed) for that person to attend or appear before the court for the purposes of that participation in those proceedings, and
 - (b) present in court for the purposes of those proceedings.
- (5) Eligible magistrates' court proceedings that are conducted—
- (a) wholly as audio proceedings, or
 - (b) wholly as video proceedings,
- are to be regarded as taking place at the location where the district judge (magistrates' courts) takes part in the proceedings.
- (6) This Article applies whether the person is in the United Kingdom or elsewhere; and a statement made on oath by a person outside the United Kingdom and given in evidence through a live audio link or live video link in accordance with a direction under this Article is to be treated for the purposes of Article 3 of the Perjury (Northern Ireland) Order 1979 (S.I. 1979/1714 (N.I. 19)) as having been made in the proceedings in which it is given in evidence.
- (7) Paragraphs (8) to (13) apply for the purposes of this Article.
- (8) A reference to a person taking part in proceedings includes—
- (a) giving evidence in the proceedings, and
 - (b) attending the proceedings when not giving evidence.
- (9) A “live audio link”, in relation to a person (P) taking part in proceedings, is a live telephone link or other arrangement which—
- (a) enables P to hear all other persons taking part in the proceedings who are not in the same location as P, and
 - (b) enables all other persons taking part in the proceedings who are not in the same location as P to hear P.
- (10) Proceedings are conducted wholly as audio proceedings if—
- (a) directions have been given under this Article for all the persons taking part in the proceedings to do so through a live audio link, and
 - (b) all those persons take part in the proceedings in accordance with those directions.
- (11) A “live video link”, in relation to a person (P) taking part in proceedings, is a live television link or other arrangement which—
- (a) enables P to see and hear all other persons taking part in the proceedings who are not in the same location as P, and
 - (b) enables all other persons taking part in the proceedings who are not in the same location as P to see and hear P.
- (12) Proceedings are conducted wholly as video proceedings if—
- (a) directions have been given under this Article for all the persons taking part in the proceedings to do so through a live video link, and

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- (b) all those persons take part in the proceedings in accordance with those directions.
- (13) A reference to the persons taking part in proceedings includes—
- (a) the applicant;
 - (b) any person who, in relation to the proceedings, is within Article 76(3)(a);
 - (c) the district judge (magistrates' courts);
 - (d) any witness in the proceedings;
 - (e) any legal representatives acting in the proceedings;
 - (f) any interpreter or other person appointed by the court to assist in the proceedings;
 - (g) the clerk of the court;
 - (h) representatives of the press.
- (14) The extent (if any) to which a person is unable to hear or see by reason of any impairment of hearing or eyesight is to be disregarded for the purposes of paragraphs (9) and (11).]

Modifications etc. (not altering text)

C19 [Art. 76A](#) expiry of earlier affecting provision 2020 c. 7, Sch. 27 para. 9 (25.3.2022) by [Coronavirus Act 2020 \(c. 7\), s. 89](#) (with s. 90)

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Changes and effects yet to be applied to :

- Instrument am (prosp) by [S.I. 1994/2795 \(N.I.\) arts.3\(4\)25](#)
- Instrument am (prosp) by [S.I. 1994/2795 \(N.I.\) art.3\(5\)Sch.1](#)
- Instrument am (prosp) by [S.I. 1994/2795 \(N.I.\) art.5\(2\)](#)
- Instrument mod (prosp) by [1994 c. 33 s. 91\(3\)](#)
- Instrument revoked by [1998 c. 41 s.74\(1\)\(3\)Sch.12 para.5Sch.14 Pt.I](#)

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

- Act amended by [1996 c. 25 s.79Sch.4 para 30](#)
- Act amended by [1996 c. 25 s.79Sch.4 para 30](#)
- Order applied (with modifications) by [S.I. 2018/1125 reg. 8](#) (This amendment not applied to [legislation.gov.uk](#). [S.I. 2018/1125](#), reg. 8 omitted (31.12.2020) by virtue of Private International Law (Implementation of Agreements) Act 2020 (c. 24), s. 4(3), Sch. 5 para. 4(4))
- Order power to modify conferred by [2015 c. 9 \(N.I.\) s. 24\(5\)\(a\)](#) (see [s 24\(6\)](#))

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- [Sch.6 Pt.I paras.1819](#) revoked by [1995 c. 21 s. 314\(1\)Sch.12](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch.6 Pt.I para.5](#) revoked by [S.I. 1995/756 art.15Sch.](#)
- [Sch. 6 para. 128-130](#) repealed by [2011 c. 15 \(N.I.\) Sch. 3 Pt. 2](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch. 6 para. 125](#) repealed by [2011 c. 16 \(N.I.\) Sch. 5](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch. 6 Pt. 3 para. 170](#) repealed by [S.I. 2007/916 \(N.I.\) Sch. 8 Pt. 1](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch. 6 para. 144](#) repealed by [2006 c. 48 Sch. 15 Pt. 4](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch. 6 para. 21](#) repealed by [2013 c. 22 Sch. 11 para. 210](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch. 6 para. 25](#) repealed by [2013 c. 22 Sch. 11 para. 210](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [art. 29A](#) excluded by [1975 c. 59, s. 4\(3\)](#) (as substituted) by [2015 c. 9 \(N.I.\) s. 7\(6\)](#)
- [art. 29A](#) inserted by [2015 c. 9 \(N.I.\) s. 7\(2\)](#)
- [art. 34\(1A\)-\(1E\)](#) inserted by [2015 c. 9 \(N.I.\) s. 8\(2\)](#)
- [art. 140\(2ZA\)](#) inserted by [2016 c. 18 \(N.I.\) Sch. 10 para. 16](#)