

1974. No. 112

MAGISTRATES' COURTS

Magistrates' Courts (Amendment) (No. 2) Rules
(Northern Ireland) 1974

Made 6th June 1974
Coming into operation 1st August 1974
To be laid before Parliament

RULES, DATED 6TH DAY OF JUNE 1974, MADE BY THE SECRETARY OF STATE UNDER SECTION 23 OF THE MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964.

In pursuance of section 23 of the Magistrates' Courts Act (Northern Ireland) 1964(a), on the recommendation of the Magistrates' Courts Rules Committee and after consultation with the Lord Chief Justice, I hereby make the following Rules:—

Citation and commencement

1. These Rules may be cited as the Magistrates' Courts (Amendment) (No. 2) Rules (Northern Ireland) 1974 and shall come into operation on 1st August 1974.

Amendment of Principal Rules

2. The Magistrates' Courts Rules (Northern Ireland) 1965(b) are amended to the extent specified in the Schedule.

Northern Ireland Office.
6th June 1974.

Merlyn Rees,
One of Her Majesty's Principal Secretaries of State.

(a) 1964. c. 21 (N.I.) (b) S.R. & O. (N.I.) 1965. No. 206.

SCHEDULE

Amendment of the Magistrates' Courts Rules (Northern Ireland) 1965

Provision of Principal Rules amended	Amendment						
New Rule (87A) added	<p>After Rule 87 there shall be inserted the following Rule:— <i>“Service of copy of order to which section 110 of Act applies</i> 87A. Where the court makes, revokes, discharges, revives or varies an order to which section 110 of the Act applies, the court shall cause a copy of its order to be served on the person against whom it is made by delivering it to him or by sending it by ordinary post in an envelope addressed to him at his last known or usual place of abode.”</p>						
Rule 127	<p>At the end of Rule 127 there shall be added the words “and shall notify the parties to the proceedings in writing of any direction made by the Court of Appeal for the continuance of the hearing by a magistrates’ court and the date of such hearing.”</p>						
Schedule 1 New Form (74AA) added	<p>After Form 74A* in Schedule 1 to the said Rules of 1965 there shall be inserted the following Form:—</p> <p style="text-align: center;">“FORM 74AA</p> <p style="text-align: center;">MAGISTRATES’ COURTS ACT (NORTHERN IRELAND) 1964 (Section 115; Rules 13, 14, 90A and 111)</p> <p style="text-align: center;">TREATMENT OF OFFENDERS ACT (NORTHERN IRELAND) 1968 (Section 19(1)(a) or (b))</p> <p style="text-align: center;">Warrant of commitment on commission of further offence during operational period of suspended sentence imposed by county court on appeal</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 30%; vertical-align: top;">of</td> <td style="width: 30%; vertical-align: top;">Complainant</td> <td style="width: 40%; vertical-align: middle;">} Petty Sessions District of</td> </tr> <tr> <td style="vertical-align: top;">of</td> <td style="vertical-align: top;">Defendant</td> <td style="vertical-align: middle;">} County [Borough] of</td> </tr> </table> <p>WHEREAS the Defendant was on the _____ day of _____ 19____, convicted by a Magistrates’ Court sitting at _____ for the above-named petty sessions district of the said County [Borough] of the following offence:—</p> <p>and the Court ordered that:</p>	of	Complainant	} Petty Sessions District of	of	Defendant	} County [Borough] of
of	Complainant	} Petty Sessions District of					
of	Defendant	} County [Borough] of					

* See S.R. & O. (N.I.) 1969, No. 68, inserting Form 74A.

Provision of
Principal
Rules amended

Amendment

On appeal to the County Court for the Division of from his [sentence] [conviction] for the said offence, the County Court on the day of 19 substituted for the said order an order that he be sentenced for the said offence to imprisonment for (state period) but the said County Court made an order that the said sentence of imprisonment should not take effect unless during the period of years from that day the Defendant committed in Northern Ireland another offence punishable with imprisonment;

[AND WHEREAS the said period during which the said sentence should not take effect was by [a Court of Assize for the County [Borough] of] [or a County Court for the County Court Division of] [or a Court of Summary Jurisdiction for the above-named petty sessions district and County [Borough]] sitting at on the day of 19, varied so as to expire on the day of 19 ;]

AND WHEREAS the Defendant was on the day of 19, convicted by [a Court of Assize for the County [Borough] of] [or a County Court for the County Court Division of] [or a Magistrates' Court for [the petty sessions district of and the County [Borough] of] [the above-named petty sessions district and County [Borough] sitting at] of the following offence:—

(state shortly particulars of offence) being an offence punishable with imprisonment committed by the Defendant on the day of 19, during the said period [as so varied], a Court of Summary Jurisdiction sitting at for the above-named petty sessions district and County [Borough] on the day of 19, ordered that the said suspended sentence take effect [with the substitution of a term of imprisonment of for the original term]:

THIS IS TO COMMAND YOU, to whom this Warrant is addressed to execute the last-mentioned Order as follows:

To lodge the Defendant in the Prison at to be imprisoned there for the period of [to commence on the expiration of the term of imprisonment

(give particulars of any term of imprisonment to which the Defendant is liable where the term specified in the present Warrant is ordered to run consecutively to any term imposed by this or any other Court.)]

*Provision of
Principal
Rules amended*

Amendment

New Form
(74BB) added

And for this the Present Warrant shall be a sufficient Authority to all whom it may concern.

Resident Magistrate
[or Clerk of Petty Sessions]

This day of 19 .

To the [Chief] Superintendent commanding the Constabulary Division. ”

After Form 74B there shall be inserted the following Form:—

“FORM 74BB

MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964
(Rule 8)

TREATMENT OF OFFENDERS ACT (NORTHERN IRELAND) 1968
(Section 21)

Complaint that offender has committed offence punishable with imprisonment during operational period of suspended sentence imposed by county court on appeal

of

Complainant

of

Defendant

Petty Sessions District of

County [Borough] of

I of say [on oath] that the Defendant was convicted by a Magistrates' Court sitting at for the above-named petty sessions district of the said County [Borough] of the following offence:—

and the Court ordered that:

On appeal to the County Court for the Division of from his [sentence] [conviction] for the said offence, the County Court on the day of 19 substituted for the said order an order that he be sentenced for the said offence to imprisonment for (state period) but the said County Court made an order that the said sentence of imprisonment should not take effect unless during the period of years from that day the defendant committed in Northern Ireland another offence punishable with imprisonment; (continue as in Form 74B).”

*Provision of
Principal
Rules amended*

Amendment

New Form
(74CC) added

After Form 74C there shall be inserted the following Form:—

“FORM. 74CC

MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964
(Rule 9)

TREATMENT OF OFFENDERS ACT (NORTHERN IRELAND) 1968
(Sections 20(5) and 21)

Summons on complaint for appearance before Magistrates' Court where suspended sentence imposed on appeal to county court

of	}	Petty Sessions District of
Complainant		
of	}	County [Borough] of
Defendant		

WHEREAS a complaint has been made before me that on the day of 19 , you the said Defendant were convicted by a Magistrates' Court sitting at for the above-named petty sessions district of the said County [Borough] of the following offence:—

and the Court ordered that:

On appeal to the County Court for the Division of from your [sentence] [conviction] for the said offence the County Court on the day of 19 substituted for the said Order an order that you be sentenced for the said offence to imprisonment for (*state period*) but the said County Court made an order that the said sentence of imprisonment should not take effect unless during the period of years from that day you committed in Northern Ireland another offence punishable with imprisonment;

[AND WHEREAS the said period during which the said sentence should not take effect was by [a Court of Assize for the County [Borough] of] [or a County Court for the County Court Division of] [or a Court of Summary Jurisdiction for the above-named petty sessions district and County [Borough]] sitting at on the day of 19 , varied so as to expire on the day of 19 ;]

*Provision of
Principal
Rules amended*

Amendment

AND WHEREAS the complaint alleges that on the day of 19 , you were convicted by [a Court of Assize for the County [Borough] of] [or a County Court for the County Court Division of] [or a Magistrates' Court for [the petty sessions district of and the County [Borough] of] [the above-named petty sessions district and County [Borough] sitting at]] of the following offence:—

(state shortly particulars of offence) being an offence punishable with imprisonment, committed by you on the day of 19 , during the said period [as so varied]:

THIS IS TO COMMAND YOU to appear before a Court of Summary Jurisdiction for the above-named petty sessions district and County [Borough] sitting at on the day of 19 at o'clock in the noon.

Justice of the Peace

This day of 19 .

To the said Defendant.”

New Form
(74DD) added

After Form 74D there shall be inserted the following Form:—

“FORM 74DD

MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964
(Rules 13 and 111)

TREATMENT OF OFFENDERS ACT (NORTHERN IRELAND) 1968
(Sections 20(5) and 21)

Warrant for arrest of person upon whom a suspended sentence has been imposed by County Court on appeal

of

Complainant

of

Defendant

Petty Sessions District of

County [Borough] of

**Provision of
Principal
Rules amended**

Amendment

WHEREAS a complaint has been made in writing and on oath that the Defendant was on the day of 19 , convicted by a Magistrates' Court sitting at for the above-named petty sessions district of the said County [Borough] of the following offence:

and the Court ordered that:

On appeal to the County Court for the Division of from his [sentence] [conviction] for the said offence the County Court on the day of substituted for the said order an order that he be sentenced for the said offence to imprisonment for (state period) but the said County Court made an order that the said sentence of imprisonment should not take effect unless during the period of years from that day the Defendant committed in Northern Ireland another offence punishable with imprisonment;

[AND WHEREAS the said period during which the said sentence should not take effect was by [a Court of Assize for the County [Borough] of] [or a County Court for the County Court Division of] [or a Court of Summary Jurisdiction for the above-named petty sessions district and County [Borough]] sitting at on the day of 19 , varied so as to expire on the day of 19 ;]

AND WHEREAS the complaint alleges that the Defendant was on the day of 19 , convicted by [a Court of Assize for the County [Borough] of] [or a County Court for the County Court Division of] [or a Magistrates' Court for [the petty sessions district of and the County [Borough] of] [the above-named petty sessions district and County [Borough] sitting at] of the following offence:—

(state shortly particulars of offence) being an offence punishable with imprisonment, committed by the Defendant on the day of 19 , during the said period [as so varied]:

Provision of
Principal
Rules amended

Amendment

THIS IS TO COMMAND YOU, to whom this Warrant is addressed, to arrest the said _____ and bring him forthwith before a Magistrates' Court of the said County [Borough] to answer to the said complaint.

Justice of the Peace.

This day of _____ 19 _____

To the [Chief] Superintendent commanding the Constabulary Division. ”

Form 133

For Form 133 there shall be substituted the following Form:—

“FORM 133

MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964
(Section 153; Rules 13 and 111)

Warrant to enforce an order by a county court made on appeal

of	Complainant (or Plaintiff) (or Applicant) (or Appellant)	} Petty Sessions District of
of	Defendant (or Respondent)	} County [Borough] of

WHEREAS upon hearing of a [complaint] [process] [an application] [an appeal]

(here set out complaint or as case may be)
a Magistrates' Court for the above-named petty sessions district sitting at _____ on the _____ day of _____ 19 _____, made the following Order:

AND WHEREAS the said [Complainant] [Plaintiff] [Appellant] [Defendant] [Respondent] appealed to the [Recorder's Court] [County Court for the division of _____] sitting at _____ and on the _____ day of _____ 19 _____, the last-mentioned court ordered that:

Provision of
Principal
Rules amended

Amendment

THIS IS TO COMMAND YOU, to whom this Warrant is addressed, to execute the said Order as follows:

And for this the present Warrant shall be a sufficient Authority to all whom it may concern.

Clerk of the Crown and Peace
or Resident Magistrate
or Justice of the Peace
or Clerk of Petty Sessions

This day of 19

To the [Chief] Superintendent commanding the Constabulary Division.

New Form
(140A) added

After Form 140 there shall be added the following Form:—

“FORM 140A

MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964
(Section 153; Rule 127)

Notice of direction made by Court of Appeal

of	Complainant (or Plaintiff) (or Applicant) (or Appellant)	} Petty Sessions District of
of	Defendant (or Respondent)	} County [Borough] of

WHEREAS upon the hearing of a [complaint] [process] [an application] [an appeal]

(here set out complaint or as the case may be)
a Magistrates' Court for the above-named petty sessions district sitting at on the day of 19 , made the following order:—

(here set out order)

*Provision of
Principal
Rules amended*

Amendment

AND WHEREAS the said [Complainant] [Plaintiff] [Applicant] [Appellant] [Defendant] [Respondent] appealed to the Court of Appeal by way of case stated:

AND WHEREAS the Court of Appeal having heard the said appeal directed that:

TAKE NOTICE that a Magistrates' Court sitting at will proceed in accordance with such direction and that you are hereby notified to attend thereat on the _____ day of _____ 19____ at _____ o'clock in the _____ noon.

Dated this _____ day of _____ 19____

Clerk of Petty Sessions.

To the above-named and

Form 141

For Form 141 there shall be substituted the following Form:—

"FORM 141

MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964
(Section 153; Rules 13 and 111)

Warrant to enforce an Order made on Appeal by way of Case stated to the Court of Appeal

of _____ Petty Sessions District of

Complainant
(or Plaintiff)
(or Applicant)
(or Appellant)

of _____ County [Borough] of

Defendant
(or Respondent)

WHEREAS upon the hearing of a [complaint] [process] [an application] [an appeal]

(here set out complaint or as case may be)
a Magistrates' Court for the above-named petty sessions district sitting at _____ on the _____ day of _____ 19____, made the following Order:—

<i>Provision of Principal Rules amended</i>	<i>Amendment</i>
	<p>AND WHEREAS the said [Complainant] [Plaintiff] [Applicant] [Appellant] [Defendant] [Respondent] appealed to the Court of Appeal and on the day of 19 , the Court of Appeal ordered that:</p> <p>THIS IS TO COMMAND YOU, to whom this Warrant is addressed, to execute the said Order as follows:</p> <p>And for this the present Warrant shall be a sufficient Authority to all whom it may concern.</p> <p style="text-align: right;">Registrar /Asst. Registrar or Resident Magistrate or Justice of the Peace or Clerk of Petty Sessions</p> <p>This day of 19 </p> <p>To the [Chief] Superintendent commanding the Constabulary Division. "</p>

EXPLANATORY NOTE

(This note is not part of the Rules, but is intended to indicate their general purport.)

These Rules amend the Magistrates' Court Rules (Northern Ireland) 1965 to provide for service of a copy of a maintenance or affiliation order and other orders for periodical payment on the defendant.

The Rules are also amended to require that, where on appeal by way of Case stated the Court of Appeal makes a direction for the continuance of a hearing by a Magistrates' Court, the parties shall be notified of the direction.

The Forms in Schedule 1 to those Rules are also amended by adding new Forms in relation to an offence committed during the operational period of a suspended sentence of imprisonment imposed by the County Court on appeal from a Magistrates' Court.

A new Form is substituted for the form of warrant to enforce an order by a County Court made on Appeal and by the Court of Appeal on appeal by way of case stated.