

Status: Point in time view as at 12/04/2010.

Changes to legislation: The Magistrates' Courts (Northern Ireland) Order 1981, PART XIII is up to date with all changes known to be in force on or before 27 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

STATUTORY INSTRUMENTS

1981 No. 1675

The Magistrates' Courts (Northern Ireland) Order 1981

PART XIII **N.I.**

GENERAL

Forms

Objections as to want of form or variance between complaint, etc., and evidence adduced **N.I.**

154.—(1) No objection shall be allowed in any proceedings before a magistrates' court to any complaint, summons, warrant, process, notice of application or appeal or other document for any alleged defect in substance or in form or for variation between any complaint, summons, warrant, process notice or other document and the evidence adduced on the part of the complainant, plaintiff, applicant or appellant at the hearing, unless the defect or variance appears to have misled the other party to the proceeding.

(2) Without prejudice to the generality of Article 161 or 163, where a party to the proceeding has been misled by such defect or variance as is mentioned in paragraph (1) the court may, if necessary and upon such terms as it thinks fit, adjourn the proceedings.

Modifications etc. (not altering text)

- C1** [Art. 154](#) applied (31.10.2007) by [Sea Fishing \(Restriction on Days at Sea\) Order \(Northern Ireland\) 2007 \(S.R. 2007/407\)](#), [art. 17\(2\)](#)
- C2** [Art. 154](#) applied (31.12.2008) by [Sea Fishing \(Marking and Identification of Passive Fishing Gear and Beam Trawls\) Order \(Northern Ireland\) 2008 \(S.R. 2008/484\)](#), [art. 5\(3\)](#)

Amendment of complaint or other documents **N.I.**

155. A magistrates' court may during any proceeding upon such terms as it thinks fit, make any amendment in any complaint, summons, warrant, process, notice of application or appeal or other document which is necessary for the purpose of raising the real questions at issue and arriving at a just decision.

Validity of documents issued in proceedings **N.I.**

156. A summons, warrant, decree or other document issued by a resident magistrate or^{[F1} lay magistrate] shall not be void by reason of the^{[F1} person] who signed the document subsequently dying or ceasing to hold or becoming disqualified for holding office.

F1 [2002 c. 26](#)

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Service of summons and execution of warrants

Summons or process lawfully issued may be served anywhere in Northern Ireland **N.I.**

157. Any summons, notice or other process lawfully issued in connection with any proceedings before a magistrates' court may be served in any part of Northern Ireland upon the person to whom it is addressed.

Execution of warrants **N.I.**

158.—(1) A warrant issued in connection with proceedings before a magistrates' court by a resident magistrate or^{F2} lay magistrate] shall remain in force until it is executed or until it is withdrawn by the person who issued it, or if he is unable to act, by any resident magistrate.

(2) Notwithstanding any other enactment, any warrant for arrest or search or of commitment or distress lawfully issued in connection with proceedings before a magistrates' court may be executed in any part of Northern Ireland and it may be executed either by any person to whom the warrant was originally directed or by any constable.

(3) Where the person against whom any such warrant or his property, as the case may be, is to be found in Northern Ireland, the provisions of the Petty Sessions (Ireland) Act 1851^{F3} relating to the certifying and endorsing of warrants shall not apply.

(4) Any warrant for the arrest of any person or any warrant of commitment lawfully issued in connection with proceedings before a magistrates' court may be executed by any constable at any time notwithstanding that the warrant is not in his possession at that time, but the warrant shall, on demand of the person arrested or committed, be shown to him as soon as practicable.

(5) The issue or execution of any warrant for arrest or search or of commitment in connection with proceedings before a magistrates' court shall be as effectual on Sunday as on any other day.

F2 2002 c. 26

F3 1851 c. 98

^{F4}*Power to rectify mistakes etc.*

F4 1995 c. 35

Power of magistrates' court to re-open cases to rectify mistakes etc. **N.I.**

158A.—(1) A magistrates' court may vary or rescind a sentence or other order imposed or made by it when dealing with an offender if it appears to the court to be in the interests of justice to do so; and it is hereby declared that this power extends to replacing a sentence or order which for any reason appears to be invalid by another which the court has power to impose or make.

(2) The power conferred on a magistrates' court by paragraph (1) shall not be exercisable in relation to any sentence or order imposed or made by it when dealing with an offender if—

- (a) the county court has determined an appeal against—
 - (i) that sentence or order;
 - (ii) the conviction in respect of which that sentence or order was imposed or made; or
 - (iii) any other sentence or order imposed or made by the magistrates' court when dealing with the offender in respect of that conviction (including a sentence or order replaced by that sentence or order); or

- (b) the Court of Appeal has determined a case stated for the opinion of that court on any question arising in any proceeding leading to or resulting from the imposition or making of the sentence or order.
- (3) Where a person is convicted by a magistrates' court and it subsequently appears to the court that it would be in the interests of justice that the case should be heard again by another resident magistrate^{F5} . . . , the court may so direct.
- (4) The power conferred on a magistrates' court by paragraph (3) shall not be exercisable in relation to a conviction if—
 - (a) the county court has determined an appeal against—
 - (i) the conviction; or
 - (ii) any sentence or order imposed or made by the magistrates' court when dealing with the offender in respect of the conviction; or
 - (b) the Court of Appeal has determined a case stated for the opinion of that court on any question arising in any proceeding leading to or resulting from the conviction.
- (5) Where a court gives a direction under paragraph (3)—
 - (a) the conviction and any sentence or other order imposed or made in consequence of it shall be of no effect; and
 - (b) Article 47 shall apply as if the trial of the person in question had been adjourned.
- (6) Where a sentence or order is varied under paragraph (1), the sentence or other order, as so varied, shall take effect from the beginning of the day on which it was originally imposed or made, unless the court otherwise directs.]

F5 2002 c. 26

Power of High Court to amend summary orders, etc.

Amendment of order of magistrates' court on application to quash it **N.I.**

159. Without prejudice to section 25 of the Judicature (Northern Ireland) Act 1978, where—
- (a) on the hearing of any application to the High Court to quash the order (including a conviction) of a magistrates' court there appears to be an omission or mistake in the order; and
 - (b) the High Court is satisfied that such omission or mistake is of an obvious or clerical nature and that the magistrates' court ought to have caused the order to be drawn up free from that omission or mistake,

the High Court may, upon such terms as to costs or otherwise as it thinks proper, amend the order and adjudicate thereon as if the omission or mistake had not happened.

Miscellaneous orders

Misbehaviour in court **N.I.**

- 160.—(1) A magistrates' court has jurisdiction under this Article to deal with any person who—
- (a) wilfully insults a resident magistrate or^{F6} lay magistrate], any witness before or officer of the court or any solicitor or counsel having business in the court, during his sitting or attendance in court or in going to or returning from the court; or

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(b) wilfully interrupts the proceedings of the court or otherwise misbehaves in court.

(2) In any such case the court may order any officer of the court, or any constable, to take the offender into custody and detain him until the rising of the court; and the court may commit the offender to prison for a specified period not exceeding one month or impose on him a fine not exceeding^{F7} £2,500] or both.

(3) A magistrates' court may at any time revoke an order of committal made under paragraph (2) and, if the offender is in prison, order his discharge.

(4) An order under paragraph (2) for the payment of a fine may be enforced as though the fine were a sum adjudged to be paid by a conviction.

F6	2002 c. 26
F7	1994 NI 15

Adjournment **N.I.**

161.—(1) A magistrates' court may at any time adjourn proceedings before it.

(2) Where a court of summary jurisdiction adjourns the hearing of a complaint any day on which a resident magistrate resumes the sitting to hear that complaint shall be deemed to be a day directed for the holding of petty sessions.

(3) The court may when adjourning either fix the time and place at which the proceedings are to be resumed or, unless it is remanding a person in custody or on bail, leave the time and place to be determined later by the court; but the proceedings shall not be resumed at that time and place unless the court is satisfied that the parties and witnesses had adequate notice thereof.

(4) Persons whose attendance has been required by summons shall, without the issue of further summons, attend on the day to which the hearing is adjourned.

(5) Where a magistrates' court is for any reason unable to sit at the time appointed for such sitting, the clerk of petty sessions may adjourn the sitting and any summons, process, notice or recognizance requiring or conditioned for the appearance of a person at such sitting shall be deemed to be varied so as to require the appearance of that person at the time and place to which the sitting is so adjourned.

Recovery and remission of fees **N.I.**

162.—(1) Where any person fails to pay any court fee, a court of summary jurisdiction may, on complaint of the clerk of petty sessions to whom such payment is due, make an order requiring the payment to be made and such order shall be enforceable in the same manner as an order for the payment of a sum adjudged to be paid by a conviction.

(2) A magistrates' court may, if satisfied of the inability of a party in any proceedings or on whose behalf any proceedings are brought to pay any court fees, remit such fees wholly or in part.

Costs **N.I.**

163.—(1) Subject to magistrates' court rules, a magistrates' court may order that a successful complainant, plaintiff, applicant or appellant in any summary proceeding shall recover costs from a defendant or respondent.

(2) Where a complaint, debt or ejectment proceeding, application, appeal or other summary proceeding is dismissed, withdrawn or ordered to be struck out or where an order in any such proceeding is refused, the court may order that a defendant or respondent shall recover costs from the complainant, plaintiff, applicant or appellant.

(3) The court when making an order for adjournment may order that one party shall recover from another the costs of the adjournment.

(4) Paragraphs (1) and (2) shall not apply to costs in criminal cases.

Representation

Appearance by counsel or solicitor **N.I.**

164.—(1) A party to any proceedings before a magistrates' court may be represented by counsel or solicitor; and an absent party so represented shall, except where any provision in any enactment (including this Order) or any condition of a recognizance expressly requires his presence, be deemed not to be so absent.

(2) Where a magistrates' court is satisfied that a party to proceedings is unable through illness or other reasonable cause to appear, the court may grant special leave to the father, son, mother, daughter,^{F8} spouse, civil partner], brother or sister of such party to appear and be heard.

(3) For the purposes of paragraph (1), counsel or solicitor shall be construed subject to Article 5 of the European Communities (Services of Lawyers) Order 1978^{F9}.

F8 2004 c. 33 (amending legislation states to subst. these words in para. (3) not (2)).
F9 SI 1978/1910

Conduct of proceedings by police officer **N.I.**

165. Where in proceedings before a magistrates' court the complainant is a member of the Royal Ulster Constabulary, the court may allow a member of the Royal Ulster Constabulary not below the rank of Inspector to conduct proceedings on behalf of the complainant.

Corporations **N.I.**

166. The provisions of Schedule 4 shall apply where a corporation is charged with an indictable offence before a magistrates' court.

Modifications etc. (not altering text)

- C3** Art. 166 applied (20.1.2007 for certain purposes, 6.4.2007 for certain purposes, 1.10.2007 for certain purposes, 6.4.2008 for certain purposes, 1.10.2008 for certain purposes, otherwise 1.10.2009) by Companies Act 2006 (c. 46), **ss. 1130(2)(b)(iii)**, 1300(2) (with s. 1133); S.I. 2006/3428, **art. 3(2)(b)** (subject to art. 5, Sch. 1 and with arts. 6,8, Sch. 5); S.I. 2007/1093, **art. 2(2)(c)** (with art. 11(1)); S.I. 2007/2194, **art. 2(1)(l)(3)(h)** (with art. 12); S.I. 2007/3495, **arts. 3(3)(g), 5(3)(a)** (with arts. 7, 12); S.I. 2008/2860, **art. 3(s)** (with art. 8)
- C4** Art. 166 applied (6.4.2008) by Companies Act 2006 (c. 46), **ss. 1257(4)**, 1300(2); S.I. 2007/3495, **art. 3(1)(u)** (with arts. 7, 12)
- C5** Art. 166 applied (31.3.2010) by Horse Passports Regulations (Northern Ireland) 2010 (S.R. 2010/40), **reg. 22(2)(b)**

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Supplemental

Expenses **N.I.**

167.—(1) Any expenses incurred by the Lord Chancellor in performing his functions under this Order or any increase in the expenses of the Lord Chancellor in defraying any sums authorised by this Order to be paid, or which are attributable to the performance or any function conferred by this Order, shall be defrayed out of moneys provided by the Parliament of the United Kingdom.

(2) Any expenses incurred by or in connection with the Rules Committee shall be defrayed as part of the expenses incurred by the [^{F10}Department of Justice in performing its functions] under this Order.

F10 Words in art. 167(2) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(5), **Sch. 18 para. 139** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

Directions **N.I.**

168. Any power conferred by this Order^{F11} . . . to give directions includes power to vary or revoke any directions so given.

F11 Words in art. 168 repealed (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 146, 148(1), Sch. 5 para. 69, Sch. 18 Pt. 3; S.I. 2006/1014, **art. 2(a)**, Sch. 1

Application to the Crown **N.I.**

169. Without prejudice to any Order in Council made under section 53 of the Crown Proceedings Act 1947^{F12} (extension of that Act to Northern Ireland), Articles 100 to 107 bind the Crown to the extent necessary to enable the enforcement of the duties imposed on chief officers by virtue of Article 103.

F12 1947 c. 44

Transitional provisions, construction of references, savings, amendments and repeals **N.I.**

170.—(1) Schedule 5 (which contains transitional and saving provisions and provisions for the construction of references which were contained in provisions repealed by this Order) shall have effect.

Para. (2)—Amendments

Para. (3)—Repeals

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