

1976 No. 40

MAGISTRATES' COURTS

Magistrates' Courts (Amendment) Rules (Northern Ireland) 1976

Made 9th February 1976

Coming into operation 1st March 1976

To be laid before parliament

The Secretary of State(a) in pursuance of section 23 of the Magistrates' Courts Act (Northern Ireland) 1964(b), on the recommendation of the Magistrates' Courts Rules Committee and after consultation with the Lord Chief Justice, hereby makes the following rules:

Citation and commencement

1. These rules may be cited as the Magistrates' Courts (Amendment) Rules (Northern Ireland) 1976 and shall come into operation on 1st March 1976.

Amendment of the 1974 rules

2. The provisions of the Magistrates' Courts Rules (Northern Ireland) 1974(c) specified in the first column of the Schedule are hereby amended to the extent specified in the second column thereof.

Northern Ireland Office
9th February 1976

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

(a) Formerly the Minister of Home Affairs for Northern Ireland: see S.I. 1973/2163.
(b) 1964 c. 21 (N.I.)
(c) S.R. 1974 No. 334

SCHEDULE

Amendments to the Magistrates' Courts Rules (Northern Ireland) 1974

<i>Provision amended</i>	<i>Amendment</i>
Rule 33	<p>For rule 33 there shall be substituted the following rule:</p> <p>“33. The copy of the said notice, lists and documents referred to in section 2(2) of the Act of 1968 shall be served on the accused in the same manner as a summons upon complaint for an indictable offence is required to be served under paragraphs (1), (2), (4), (5) and (6) of rule 11 and proof of such service shall be given in accordance with paragraph (7) of that rule.”</p>
Rule 59	<p>In paragraph (1) after the words “are brought” there shall be inserted the words “or in which the defendant resides.”</p>
Rule 85	<p>In paragraphs (3) and (4) for the expression “£50” there shall be substituted the expression “£100”.</p>
Rule 135	<p>In paragraph (2) after the words “in prison” there shall be inserted the words “or in a training school or remand home” and at the end there shall be added the words “or the person in charge of the school or home, as the case may be”.</p> <p>After paragraph (2) there shall be inserted the following paragraph —</p> <p>“(2A) Where an appellant is in Great Britain, a recognizance under section 149 of the Act may be taken from him by a justice of the peace or clerk to the justices or, as the case may be, sheriff, sheriff depute, sheriff clerk or sheriff clerk depute”.</p>
Rule 152	<p>In rule 152 for the words “person against whom it is made” there shall be substituted the words “payer and on the payee under the order”.</p>
Schedule 1	<p>In Forms 52, 53, 56, 57, 60 and 61 for the words “fifty-five” there shall be substituted the words “one hundred and ten”.</p>
Schedule 3	<p>For Schedule 3 there shall be substituted the following Schedule —</p> <p style="text-align: center;">“SCHEDULE 3</p> <p style="text-align: center;">FEEs PAYABLE FOR SERVICE OF A</p> <p style="text-align: center;">SUMMONS OR PROCESS</p> <p>1.—(1) Subject to sub-paragraph (2), for the service of a summons or process £1.00</p> <p style="padding-left: 40px;">(2) Where service of a summons or process is required to be personal £1.50</p> <p>2. For the service of a summons or process where there are two or more defendants or witnesses in the same proceedings there shall be a separate fee for each defendant or witness.”</p>

<i>Provision amended</i>	<i>Amendment</i>																													
Schedule 4	<p>For Schedule 4 there shall be substituted the following Schedule—</p> <p style="text-align: center;">“SCHEDULE 4</p> <p style="text-align: center;">DEBT PROCEEDINGS</p> <p style="text-align: center;">TABLE 1: PLAINTIFF'S COSTS (UNDEFENDED¹ PROCEEDINGS)</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">In proceedings where amount decreed — (1)</th> <th colspan="2" style="text-align: center;">Solicitor's costs² (2)</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">(i) does not exceed £30</td> <td colspan="2" style="text-align: center;">£10.00</td> </tr> <tr> <td style="text-align: center;">(ii) exceeds £30</td> <td colspan="2" style="text-align: center;">£15.00</td> </tr> </tbody> </table> <p>¹ For proceedings treated as undefended see Rule 73.</p> <p>² See Rule 57(2): Only 50% of costs specified in column (2) payable where defendant pays amount due before entry day.</p> <p>Judgments (Enforcement) Act (N.I.) 1969: Part VII— Costs of enforcement order under Rule 112(2)(a) shall be in accordance with this Table as if the total amount ordered to be paid were the amount decreed. Costs of a committal order following upon an enforcement order or an attachment of earnings order shall be one half of amount of costs appropriate to an enforcement order.</p> <p style="text-align: center;">TABLE 2: PLAINTIFF'S COSTS (DEFENDED PROCEEDINGS)</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">In actions where amount decreed— (1)</th> <th style="text-align: center;">Solicitor's costs (2)</th> <th style="text-align: center;">Counsel's fee (3)</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">(i) does not exceed £30</td> <td style="text-align: center;">£12.00</td> <td style="text-align: center;">£6.00</td> </tr> <tr> <td style="text-align: center;">(ii) exceeds £30</td> <td style="text-align: center;">£30.00</td> <td style="text-align: center;">£12.00</td> </tr> </tbody> </table> <p style="text-align: center;">TABLE 3: DEFENDANT'S COSTS (DEFENDED PROCEEDINGS)</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">In actions where amount claimed— (1)</th> <th style="text-align: center;">Solicitor's costs (2)</th> <th style="text-align: center;">Counsel's fee (3)</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">(i) does not exceed £30</td> <td style="text-align: center;">£11.00</td> <td style="text-align: center;">£6.00</td> </tr> <tr> <td style="text-align: center;">(ii) exceeds £30</td> <td style="text-align: center;">£28.00</td> <td style="text-align: center;">£12.00”</td> </tr> </tbody> </table>			In proceedings where amount decreed — (1)	Solicitor's costs ² (2)		(i) does not exceed £30	£10.00		(ii) exceeds £30	£15.00		In actions where amount decreed— (1)	Solicitor's costs (2)	Counsel's fee (3)	(i) does not exceed £30	£12.00	£6.00	(ii) exceeds £30	£30.00	£12.00	In actions where amount claimed— (1)	Solicitor's costs (2)	Counsel's fee (3)	(i) does not exceed £30	£11.00	£6.00	(ii) exceeds £30	£28.00	£12.00”
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<i>Provision amended</i>	<i>Amendment</i>													
Schedule 5	<p style="text-align: center;">For Schedule 5 there shall be substituted the following Schedule—</p> <p style="text-align: center;">"SCHEDULE 5</p> <p style="text-align: center;">EJECTMENT PROCEEDINGS*</p> <p style="text-align: center;">TABLE 1: PLAINTIFF'S COSTS</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">Solicitor's costs^{1 2 4}</th> <th style="text-align: center;">Counsel's fee^{3 4}</th> </tr> <tr> <th style="text-align: center;">(1)</th> <th style="text-align: center;">(2)</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">£15.00</td> <td style="text-align: center;">£8.00</td> </tr> </tbody> </table> <p>¹ See Rule 57(2) and (3): Only 50% of solicitor's costs in column (1) payable where defendant delivers up possession and, where appropriate, pays any arrears of rent or any sum due under section 78 of the Act before entry day.</p> <p>² Where case of exceptional complexity or difficulty the court may certify an amount exceeding the scale figure.</p> <p>³ No fee to be allowed for counsel where proceedings are undefended unless court otherwise orders.</p> <p>⁴ This Table includes proceedings where a claim for rent or for sums due under section 78 of the Act is joined with a claim for the recovery of premises.</p> <p>*"Ejectment proceedings" means proceedings for the recovery of premises to which section 76 of the Act applies (including cases of permissive occupancy) and see Note 4.</p> <p style="text-align: center;">TABLE 2: DEFENDANT'S COSTS</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">Solicitor's costs</th> <th style="text-align: center;">Counsel's fee</th> </tr> <tr> <th style="text-align: center;">(1)</th> <th style="text-align: center;">(2)</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">£14.00</td> <td style="text-align: center;">£8.00</td> </tr> </tbody> </table>		Solicitor's costs ^{1 2 4}	Counsel's fee ^{3 4}	(1)	(2)	£15.00	£8.00	Solicitor's costs	Counsel's fee	(1)	(2)	£14.00	£8.00
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EXPLANATORY NOTE

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

These rules amend the Magistrates' Courts Rules (Northern Ireland) 1974.

Amendments are made in consequence of increases in jurisdiction in debt and ejection proceedings upon the coming into operation on 1st March 1976 of Article 10 of the Administration of Justice (Northern Ireland) Order 1975.

Other amendments relate to the service of documents required to be served upon the accused under section 2 of the Criminal Procedure (Committal for Trial) Act (Northern Ireland) 1968, to the service of a process in debt or ejection proceedings to the persons before whom certain recognizances may be taken and to persons on whom a copy of certain orders in respect of periodical payments are to be served.

The fees payable to summons and process servers are increased and the scales of costs in debt and ejection proceedings are amended: