# 1977 No. 171

## **MAGISTRATES' COURTS**

# Magistrates' Courts (Amendment) Rules (Northern Ireland) 1977

Made	•	•	•	•	•	•	20th June 1977
Coming	into	oper	ation	•	•	•	1st September 1977
To be la	id be	fore	Parlia	men	t		

The Secretary of State(a) in pursuance of section 23 of the Magistrates' Courts Act (Northern Ireland) 1964(b), section 215(5C) of the Army Act 1955(c), section 215(5C) of the Air Force Act 1955(d) and section 124(6C) of the Naval Discipline Act 1957(e) 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) 1977 and shall come into operation on 1st September 1977.

#### Amendment of the 1974 rules

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

Northern Ireland Office 20th June 1977

Roy Mason One of Her Majesty's Principal Secretaries of State

(a) Formerly the Minister of Home Affairs for Northern Ireland; see S.I. 1973/2163 (1973 III, p. 7541)
(b) 1964 c. 21 (N.I.)
(c) 1955 c. 18
(d) 1955 c. 19
(e) 1957 c. 53
(f) S.R. 1974 No. 334 (II, p. 1541)

# Magistrates' Courts

#### SCHEDULE

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

Provision amended	Amendment					
Rule 32	Paragraph (5) of rule 32 shall be omitted.					
Part VII	After rule 107 there shall be inserted the following rule: "AA. FINANCIAL PENALTY ENFORCEMENT ORDERS 107A. A financial penalty enforcement order under section 133A of the Army Act 1955, section 133A of the Air Force Act 1955 or section 128F of the Naval Discipline Act 1957 shall be registered by means of an entry of the particulars of the order in the Order Book signed by the clerk of petty sessions.".					
Rule 108	At the end of rule 108 there shall be added the following paragraph: "(5) Where an offender is dealt with by any of the methods specified in paragraphs $(a)$ , $(b)$ , $(c)$ and $(d)$ of section 19(1) of the said Act of 1968, the clerk of petty sessions for the petty sessions district in which the suspended sentence was passed shall enter a note of the particulars of the method by which the offender has been dealt with opposite the entry in the Order Book made at the time the suspended sentence was passed.".					
Rule 110	At the end of rule 110 there shall be added the following paragraph: "(3) A note relating to any variation or discharge of a pro- bation order or the substitution for a probation order of an order for conditional discharge shall be made opposite the entry relating to the making of the probation order by the clerk of petty sessions for the petty sessions district in which it was made.".					
	After rule 110 there shall be inserted the following rule: "Entry of order made under section 4 or 6 of Probation Act (Northern Ireland) 1950 upon breach of probation order or commission of further offence					
	110A. Where a court of summary jurisdiction makes an order under section 4(3) or section 6(5) or (7) or a county court or a court of assize makes an order under section 6(6) of the Probation Act (Northern Ireland) 1950, the clerk of petty sessions for the petty sessions district in which the order of conditional discharge or, as the case may be, the probation order was made shall make a note of the order under the said section 4 or 6 opposite the entry in the Order Book relating to the making of the order of conditional discharge or, as the case may be, the probation order was made shall make a note of the order under the said section 4 or 6 opposite the entry in the Order Book relating to the making of the order of conditional discharge or, as the case may be, the probation order."					

Provision amended	Amendment							
Rule 135	After rule 135(3) there shall be inserted the following para- graphs: "(3A) A person authorised to take a recognizance may require a person offering himself as surety to a recognizance to produce evidence as to his means and to sign a certificate that he is possessed of sufficient means to pay the sum in which he is to be bound under the recognizance. (3B) Such certificate shall be attached to or endorsed on the recognizance.".							
Schedule 1	After Form 13 there shall be inserted the following Form:							
	"Form 13A							
	MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964 (Section 115; Rules 14, 15 and 128)							
	CRIMINAL JUSTICE ACT (NORTHERN IRELAND) 1953 (Section 7)							
	Warrant of Commitment to Borstal Institution							
	Petty Sessions District of							
	Complainant							
	County [Borough] of							
	of							
	Defendant							
	WHEREAS the Defendant appeared on the day of 19 before the Magistrates' Court sitting at							
	AND WHEREAS the Defendant being under 21 years of age, having been born as far as has been ascertained, on the 19 [and being charged with an offence specified in Schedule 3 to the Magistrates' Courts Act (Northern Ireland) 1964 and having been given at least twenty- four hours' notice in writing of his right to be tried by a jury, having consented to be dealt with summarily and] having pleaded guilty is convicted of the following offence:							
	being an offence punishable with imprisonment and the Defendant was remanded for a report to be made by or on behalf of the Secretary of State on his mental and physical condition and his suitability for Borstal training;							
· · · ·	AND WHEREAS at on the day of 19 the court considered that report and a copy thereof has been given by the court to the Defendant or his solicitor or counsel;							

•

No. 171

Provision amended	Amendment AND WHEREAS the court is satisfied, having regard to his character and previous conduct and to the circumstances of the offence, that it is expedient for his reformation and the pre- vention of crime that he should undergo a period of training in a Borstal Institution and it is hereby ordered that the Defendant should undergo a period of Borstal Training;								
Schedule 1 (contd.)									
	THIS IS TO COMMAND YOU to whom this warrant is addressed, to execute the said order against the Defendant as follows:								
	To lodge the Defendant in accordance with Part VI of the Prison Rules (Northern Ireland) 1954 in H.M. Prison at and thereafter that he be conveyed to the Borstal Institution at elsewhere as directed and that he be delivered to the person in charge of the Borstal Institution in order that he may undergo a period of Borstal Training.								
	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.								
<b>.</b>	To the Superintendent Division.".								
	After Form 135 there shall be inserted the following Form:								
	"Form 135A								
	CERTIFICATE OF PROPOSED SURETY AS TO MEANS								
	I propose to sign as surety for (principal party to recognizance) in the sum of $\pounds$ .								
	I understand my obligation under the recognizance.								
	I am possessed of sufficient means to pay the sum of $\pounds$ if required to do so.								
	Declared before me this day of 19								
	Resident Magistrate [or Justice of the Peace] [or Clerk of Petty Sessions] [or Court Clerk] [or Relief Clerk] [or Governor/Deputy Governor] [or Person in charge of Training School/Remand Home] [or Member of the Royal Ulster Constabulary]								

`

,

## Magistrates' Courts

## 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.

Provision is made for the entry in the Order Book of certain particulars relating to the variation, discharge and substitution of probation orders and to orders made upon the breach of a probation order or upon the commission of a further offence while a probation order or order for conditional discharge is in force.

Provision is made for the registration of financial penalty enforcement orders as provided under section 16 of and Schedule 8 to the Armed Forces Act 1976.

A person taking a recognizance may require a proposed surety to the recognizance to produce evidence as to his means.

Schedule 1 to the 1974 Rules (Forms) is also amended.