

1980 No. 199

MAGISTRATES' COURTS**Magistrates' Courts (Criminal Justice) (Amendment) Rules
(Northern Ireland) 1980***Made* 18th June 1980*Coming into operation* 22nd June 1980

The Lord Chancellor, in exercise of the powers conferred on him by section 23 of the Magistrates' Courts Act (Northern Ireland) 1964(a) on the advice 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 (Criminal Justice) (Amendment) Rules (Northern Ireland) 1980 and shall come into operation on 22nd June 1980.

Interpretation

2. In these rules—

“the Act” means the Magistrates' Courts Act (Northern Ireland) 1964;

“the Rules of 1974” means the Magistrates' Courts Rules (Northern Ireland) 1974(b) and any reference to a Rule or Form by number is a reference to that Rule or Form as numbered in the Rules of 1974;

Any reference in these rules to a Form in the Schedules to these rules shall include a reference to a Form to the like effect with such variations as the circumstances may require.

Plea of guilty by post

3.—(1) A summons served on a defendant in accordance with the provisions of section 37A(1) of the Act may be accompanied by the documents in the Forms A and B in the First Schedule to these rules.

(2) Notice in writing of such service shall be given by or on behalf of the complainant to the clerk of petty sessions pursuant to section 37A(1) of the Act and shall be in the Form C in the said First Schedule.

(3) Where the defendant elects to enter a plea of guilty in writing pursuant to section 37A(2) of the Act he shall do so in the Form D in the said First Schedule.

Notice of adjournment

4. Where a person has been convicted upon his written plea of guilty and the Court decides to adjourn the hearing before passing sentence, the clerk of petty sessions shall give to the defendant notice in writing of the time and place of the adjourned hearing and shall specify the reason for the adjournment.

(a) 1964 c. 21 (N.I.) as modified by S.I. 1973/2163 (1973 III, p. 7541)

(b) 1974 S.R. No. 334 (II p. 1541)

Notice of intention to cite previous convictions

5.—(1) A notice of previous convictions may be served on the defendant not less than seven days before the date fixed for the hearing.

(2) Such notice shall be in the Form E in the First Schedule to these rules.

Notice to defendant of sum adjudged to be paid by a conviction

6.—(1) For rule 106(1) of the Rules of 1974 there shall be substituted the following rule:—

“Where a person has been adjudged to pay a sum upon conviction, the clerk of petty sessions shall serve upon such person notice in writing stating the amount of the sum, the date on which it is to be paid and the manner in which payment is to be made. Such notice shall further advise the defendant that he may, within the time allowed apply to the court in writing for further time to pay or for an order for payment by instalments or for variation of any order for payment by instalments or for an order for remission of the sum in whole or in part. Such notice shall further warn the defendant that failure to pay or to make the appropriate application within the time allowed will result in the issue of a warrant committing him to prison, and additional costs attendant upon such issue”.

(2) For Form 76 there shall be substituted the Form 76 in the Second Schedule to these Rules.

(3) Forms 77, 79, 80 and 82 shall be amended by the deletion of the words “[no notice under Rule 106 of the Magistrates’ Courts Rules (Northern Ireland) 1974 having been served on the Defendant because [a Resident Magistrate directed accordingly] [the order was made in the presence of the Defendant or his counsel or solicitor]]” wherever they occur.

Dated 18th June 1980.

Hailsham of St. Marylebone, C.

SCHEDULE 1

FORM A

MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964

(Section 37A(1)(i): Rule 3(1))

Notice to Defendant: plea of guilty in absence

of

Complainant

Defendant

Petty Sessions District of

County Court Division of

of

The purpose of this NOTICE is to inform you that if, on the hearing of the complaint(s) referred to in the summons(es) served herewith, you wish to enter a plea of guilty, you or your solicitor may, at least three days before the date fixed for the hearing, notify the clerk of petty sessions for the above mentioned district in writing to that effect in Form D, copy attached. It will not then be necessary for you to appear before the Court as required by the said summons(es). You may also include in the said Form D in the space provided such statement in mitigation as you desire.

The evidence to be given at the hearing is that contained in Form B, a copy of which is attached for your information, and the facts therein contained and those facts only will, in your absence, be read to the Court. Your statement in mitigation will also be read to the Court which may then deal with the case in your absence.

The Court may decide not to proceed in your absence and, if so, it will adjourn the hearing. You will be notified of the time and place of the adjourned hearing and, in such a case, the trial will proceed at the adjourned hearing as if you had not entered a written plea of guilty.

You may at any time before the date of the hearing or adjourned hearing of any case withdraw your plea of guilty by writing to the clerk of petty sessions to that effect. Failure to do so immediately may result in delay and expense if the case has to be adjourned to allow the prosecution to bring its witnesses to Court.

Neither this notice nor any reply you may send in answer to it limits your right to appear before the Court at the time fixed for the hearing, either in person or by counsel or a solicitor, and to plead guilty or not guilty as you may desire. If you adopt this course the trial will proceed as though you had not already entered a written plea of guilty.

Dated this day of 19

Signed
(On behalf of the Complainant)

FORM B

MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964

(Section 37A(i)(ii): Rule 3(1))

Statement of Facts

of

Complainant

Petty Sessions District of

of

Defendant

County Court Division of

The purpose of this NOTICE is to inform you that if you advise the clerk of petty sessions for the above mentioned district at that you wish to plead guilty to the charge(s) set out in the summons(es) served herewith without appearing before the Court and the Court proceeds to hear and dispose of the case in your absence under section 37A of the above mentioned Act, the following Statement of Facts will be read out in open Court before the Court decides whether to accept your plea. If your plea of guilty is accepted the Court will not, unless it adjourns the case after convicting you and before sentencing you, permit any other statement to be made by or on behalf of the complainant with respect to any fact relating to the charge.

Statement of Facts

Signed

(On behalf of the Complainant)

FORM C

MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964

(Section 37(A)(2): Rule 3(2))

**Certificate by Complainant of Service
on Defendant of Forms A & B**

of

Complainant

Petty Sessions District of

of

County Court Division of

Defendant

I, _____ the Complainant, hereby certify that copies of Forms A and B were served on the Defendant together with the summons(es).

Dated this _____ day of _____ 19. _____

Signed
(On behalf of Complainant)

FORM D

MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964

(Section 37A(2): Rule 3(3))

Notification of Plea of Guilty and Statement of Mitigating Circumstances

of

Complainant

Petty Sessions District of

of

County Court Division of

Defendant

In connection with the summons(es), notice and statement of facts, now served upon you, will you please acknowledge receipt by signing and returning this form as soon as possible to the clerk of petty sessions at

I hereby acknowledge receipt of and notice of alleged previous convictions.

summons(es), notice, statement of facts

Signed: MALE/FEMALE

Date of Birth (if over 21 state "over 21")

Present Address:

PLEASE COMPLETE EITHER SECTION A OR B.

Note: If you intend to consult a solicitor you should do so before completing this form.

SECTION A.

If you desire a plea of guilty to be accepted without your attendance at Court, please complete the following:

PLEA OF GUILTY

I have read the statement of facts relating to the charge(s) against me.

I plead guilty to the charge(s) and I desire the Court to deal with the case in my absence, and to take the following circumstances into account.

Signed

MITIGATING CIRCUMSTANCES

- (a) about the offence—
- (b) about my personal and financial circumstances—

SECTION B.

If you propose to attend Court considerable saving of time and expense may be effected if you will complete the following:

Do you intend to plead guilty?

Note: If having completed and returned the form, you change your mind, you should immediately inform the clerk of petty sessions in writing.

FORM E

MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964

(Section 37B: Rule 5(2))

Notice of intention to cite previous convictions

of

Complainant

Petty Sessions District of

of

Defendant

County Court Division of

TAKE NOTICE that if, but only if, you are convicted of [any of] the offence(s) of _____ in respect of which you are summoned to appear before the Magistrates' Court for the above mentioned district on the _____ day of _____, 19____, the undermentioned convictions which are recorded against you will be brought to the notice of the Court; and if you are not present in person before the Court, the Court may take account of any such previous conviction as if you had appeared and admitted it.

Date of Conviction	Court	Offence	Sentence

Dated this _____ day of _____ 19____

Signed _____
Complainant

If you do not intend to appear in person at the hearing and you dispute any of the above convictions, or any of the details in connection with them, you should immediately notify the complainant at _____ so that further enquiries can be made. Nothing in this section limits in any way your right to appear in person on the date fixed for the hearing and to dispute any conviction alleged against you.

SCHEDULE 2

FORM 76

MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964

(Section 101: Rule 106)

Notice to Defendant of sum adjudged to be paid by a conviction

Petty Sessions Office
 Courthouse
 Order Book No.

TAKE NOTICE that at the Magistrates' Court held at _____ on the _____ day
 of _____ 19____, you were convicted of [an offence] [offences] and ordered to pay the
 following sums:—

Fine	.. £
Compensation, etc.	.. £
Costs	.. £
Total	.. £

The Court allowed you until the _____ day of _____ 19____, to pay the said sums
 [or the Court ordered you to pay the said sums by _____ instalments of
 commencing on the _____ day of _____ 19____.]

You may however apply to the Court by notice in writing addressed to me at the above
 address for [an order for payment by instalments pursuant to section 101(3) of the above Act of
 1964] [or for further time for payment or for variation of an order for payment by instalments
 pursuant to section 101(4) of the said Act] [for an order remitting the whole or any part of the
 said sums pursuant to section 101(4A) of the said Act]. And the Court ordered that if such
 payment is not made or such application received by me within the time allowed a Warrant of
 Commitment be issued committing you to prison. The issue of a Warrant would increase the
 amount due by additional costs. Payment may be made to me within the time allowed at the
 above address, or may be sent by post at your own risk. A payment made by post must be
 accompanied by this notice and postage must be prepaid.

Clerk of Petty Sessions

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 and make provision, in relation to courts of summary jurisdiction, for the various matters which are to be prescribed under Schedule 1 to the Criminal Justice (Northern Ireland) Order 1980. Rule 3 and Forms A, B, C and D in the First Schedule provide the machinery whereby a defendant may be notified of his right to plead guilty by post and the method by which he may so do.

Rule 4 provides for the notice to be served on a defendant who has so pleaded advising him of the time and place of any adjourned hearing and the reason therefor. Rule 5 and Form E in the First Schedule make provision for the service on a defendant of notice of intention to cite previous convictions in his absence. Rule 6 and Form 76 in the Second Schedule advise a defendant, who has been adjudged to pay a sum by a conviction, of the various applications that he may make to the court in relation to time to pay, payment by instalments or remission and further warns him that failure to take the appropriate steps within the time allowed will result in the issue of a Warrant of Commitment. Rule 6 also provides for a minor amendment to Forms 77, 79, 80 and 82.