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STATUTORY RULES OF NORTHERN IRELAND

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**1984 No. 225**

**Magistrates' Courts Rules (Northern Ireland) 1984**

**PART VII**

**Satisfaction and Enforcement of Orders**

*A. SUMS ADJUDGED TO BE PAYABLE*

**Notice to defendant of sum adjudged to be payable by a conviction**

**105.**—(1) Where a person has been adjudged by a conviction to pay a sum 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) Unless a resident magistrate otherwise directs, a warrant of distress or commitment shall not be issued until the preceding provisions of this Rule have been complied with.

(3) A notice under this Rule shall be served by delivering it to the offender or by sending it to him by ordinary post in an envelope addressed to him at his last known or usual place of abode.

**Orders for supervision**

**106.**—(1) Unless an order under Article 94 of the Order is made in the offender's presence, the clerk of petty sessions shall deliver to the offender or serve on him by ordinary post notice in writing of the order.

(2) It shall be the duty of any person for the time being appointed under the said Article to advise and befriend the offender with a view to inducing him to pay the sum adjudged to be paid and thereby avoid committal to custody and to give any information required by the court about the offender's conduct and means.

(3) Without prejudice to Rule 19 any order under Article 94 of the Order placing a person under supervision pending payment of a sum adjudged to be paid shall be entered in the Order Book.

## *B. FINANCIAL PENALTY ENFORCEMENT ORDERS*

### **Financial penalty enforcement orders**

**107.** A financial penalty enforcement order under section 133A of the Army Act 1955<sup>(1)</sup>, section 133A of the Air Force Act 1955<sup>(2)</sup> or section 128F of the Naval Discipline Act 1957<sup>(3)</sup> 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.

## *C. TRANSFER OF FINE ORDERS*

### **Transfer of Fine Order sent to England and Wales or Scotland**

**108.** Where the court makes a transfer of fine order under Article 95 of the Order (including Article 95 as applied by Article 96 of the Order), the clerk of petty sessions shall send to the clerk to the justices for the petty sessions area in England and Wales or to the sheriff or sheriff clerk of the court of summary jurisdiction in Scotland in or by which, under the order, payment of a sum adjudged to be paid is to be enforceable, a copy of the order in Form 70 or 71, as the case may be, with a statement of the offence; and the steps, if any, taken to recover the sum and with such further information as is available and is, in the opinion of the clerk of petty sessions, likely to assist enforcement.

### **Transfer of fine order sent from England and Wales or Scotland**

**109.**—(1) Where the clerk of petty sessions receives a copy of a transfer of fine order made in England and Wales or Scotland specifying the petty sessions district for which he acts as the district in which payment of the sum in question is to be enforceable, he shall register the order in his court by means of an entry made and signed by him in the Order Book and shall serve a notice in Form 72 on the offender.

(2) Such notice may be served in the same manner as a summons alleging a summary offence prosecuted by a member of the Royal Ulster Constabulary and service of the notice may be proved in the same manner as service of such summons is proved under Rule 11.

(3) Where after fourteen days from service of such notice or the expiration of the period within which the sum is payable under the order, whichever is the later, the offender has failed to pay or has failed to apply for time or further time to pay or for payment by instalments, as required by that notice the court may exercise its functions under Part IX of the Order in enforcing payment of the sum.

(4) Where the sum adjudged to be paid and due under the transfer of fine order—

- (a) is paid, the clerk of petty sessions shall send it to the clerk of the court which made the order;
- (b) is not paid, the clerk of petty sessions shall inform the clerk of that court of the manner in which the adjudication is satisfied or that the sum, or any balance thereof, appears to be irrecoverable.

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(1) 1955 c. 18  
(2) 1955 c. 19  
(3) 1957 c. 53

#### *D. ATTACHMENT OF EARNINGS*

##### **Interpretation of Rules 111 to 121**

**110.** Any reference in Rules 111 to 121 to a “maintenance order” shall include a reference to any order mentioned in Article 98(11) of the Order.

##### **Attachment of earnings order**

**111.—**(1) An attachment of earnings order under Article 101 of the Order shall be in Form 73.

(2) The clerk of petty sessions for the petty sessions district in which a court of summary jurisdiction was sitting when it made an attachment of earnings order may sign such order.

##### **Service of orders and notices**

**112.—**(1) Where a court of summary jurisdiction makes an attachment of earnings order or an order varying or discharging such an order, the clerk of petty sessions shall cause a copy of the order to be served on the employer and shall send a copy of the order to the defendant.

(2) Where an attachment of earnings order made by a court of summary jurisdiction ceases to have effect as provided in Article 104(7) or (8) of the Order the notice of the cessation required by Article 104(9) shall be given to the employer.

(3) The notice required by the preceding paragraph shall be given by the clerk of petty sessions.

(4) A copy of Article 102 of the Order shall be served with or annexed to the attachment of earnings order.

(5) Where under Article 105 of the Order (which relates to statements of earnings, etc.) a direction is given to the defendant or to a person appearing to be an employer of the defendant or where under these Rules a copy of an order is to be served or a notice is to be given to any person—

- (a) service may be effected on, or the direction or notice may be given to a person, other than a corporation, by delivering it to the person to whom it is directed or by sending it by post in a letter addressed to him at his last known or usual place of abode, or, in the case of an employer or a person appearing to be an employer of the defendant, at his place of business;
- (b) service may be effected on, or the direction or notice given to, a corporation by delivering the document at, or sending it to—
  - (i) such office or place as the corporation may, for the purpose of this Rule, have specified in writing to the court in relation to the defendant or to a class or description to which he belongs, or
  - (ii) the registered office of the corporation if that office is in Northern Ireland or, if there is no registered office in Northern Ireland, any place therein where the corporation trades or conducts its business.

##### **Particulars of defendant**

**113.** The particulars of the defendant for the purpose of enabling him to be identified which, so far as they are known, are to be included in an attachment of earnings order shall be—

- (a) full name and address;
- (b) place of work;
- (c) nature of work and works number, if any.

### **Notice of application for appropriate variation order**

114.—(1) Where an application is made under Article 104 of the Order for the appropriate variation of an attachment of earnings order, the clerk of petty sessions shall, where practicable, give notice in writing of the time and place appointed for the hearing of the application to the person entitled to receive payment under the related maintenance order (whether directly or through the officer of any court).

(2) An application for an order varying (including suspending or reviving) or discharging an attachment of earnings order shall be by way of complaint.

### **Variation of attachment of earnings order on change of employment**

115. Where an attachment of earnings order has lapsed under Article 104(5) of the Order on the debtor's ceasing to be in the employment of the person to whom the order was directed and it appears to the court that the defendant has subsequently entered the employment of a person (whether the same as before or another), the court may, of its own motion, vary the order by directing it to that person and may make any consequential amendment to the order made necessary by this variation.

### **Variation or discharge of attachment of earnings order by court of its own motion**

116.—(1) Where it appears to a court of summary jurisdiction that the defendant is not in the employment of the person to whom the attachment of earnings order is directed and that the likelihood of the defendant entering the employment of any person is not such as to justify preserving the order, the court may, of its own motion, discharge the order.

(2) Where a court of summary jurisdiction has made an attachment of earnings order and the related maintenance order has been discharged in whole or in part or reduced by operation of law, the court may, of its own motion, vary or discharge the attachment of earnings order.

(3) Where a court of summary jurisdiction has made an attachment of earnings order which takes account of accrued arrears and those arrears are subsequently discharged, the court may, of its own motion, vary or discharge the order as appropriate.

### **Temporary variation of protected earnings rate**

117.—(1) A court of summary jurisdiction which made the attachment of earnings order may, on a written application made by the defendant on the ground of a material change in the defendant's resources and needs since the order was made or last varied, by order (hereinafter referred to as a temporary variation order) vary the attachment of earnings order for a period of not more than thirteen weeks by an increase of the protected earnings rate.

(2) A temporary variation order shall be in Form 74.

(3) The clerk of petty sessions shall cause a copy of any temporary variation order to be served on the employer and shall give him notice if the temporary variation order is discharged and the clerk of petty sessions shall also send a copy to the person entitled to receive payments under the related maintenance order (whether directly or through an officer of any court).

(4) Where an application for the variation or discharge of an attachment of earnings order is made to a magistrates' court and there is in existence a temporary variation order in respect of the attachment of earnings order, the court may, of its own motion, discharge the temporary variation order.

### **Consolidated attachment orders**

**118.**—(1) Where a court of summary jurisdiction has power to make more than one attachment of earnings order in respect of the liabilities of a defendant it may make a consolidated attachment order to discharge those liabilities.

(2) Where a court of summary jurisdiction has power to make an attachment of earnings order in respect of a defendant who is already subject to such an order (whether or not it is itself a consolidated attachment order) made by any such court, the court may, subject to the provisions of this Rule, discharge the existing order and make a consolidated attachment order in respect of that defendant.

(3) Where two or more attachment of earnings orders (whether or not they are themselves consolidated attachment orders) made by courts of summary jurisdiction acting for the same petty sessions district as one of those courts may, subject to the provisions of this Rule, discharge the existing orders and make a consolidated attachment order in respect of that defendant.

(4) A court of summary jurisdiction may exercise the powers conferred under paragraphs (1) to (3) of this Rule either of its own motion or on the application of the defendant.

(5) A defendant may apply to a court of summary jurisdiction for a consolidated attachment order, by complaint.

(6) Where an employer applies in writing to the clerk of petty sessions for the court which has power to make a consolidated attachment order requesting the court to make such an order, the clerk shall bring the application before the court, and, if it appears to the court that the application is justified, the court shall proceed as if it had determined of its own motion to make such an order.

(7) Before a court of summary jurisdiction exercises of its own motion the powers conferred under paragraph (3) of this Rule, it shall cause written notice to be given to the defendant of his right to make representations to the court.

(8) Where a court of summary jurisdiction makes a consolidated attachment order, it shall specify in the order such normal deduction rate as the court thinks reasonable and this rate may be less than the sum of the normal deduction rates specified in any attachment of earnings orders discharged by the court.

### **Disposal of sums paid under consolidated attachment orders**

**119.**—(1) A clerk of petty sessions receiving a payment under a consolidated attachment order shall, subject to paragraph (2) below, apply the money in payment of the sums secured by the order; paying first any sums previously secured by an attachment of earnings order which was discharged in consequence of the making of the consolidated attachment order.

(2) Where two or more attachment of earnings orders were discharged in consequence of the making of the consolidated attachment order the sums due under the orders shall be paid in the chronological sequence of the orders.

### **Method of making payment under attachment of earnings order**

**120.**—(1) A clerk of petty sessions to whom any payment under an attachment of earnings order is to be made shall notify the employer and the person entitled to receive payments under the related maintenance order of the hours during which, and the place at which, payments are, subject to the provisions of this Rule, to be made and received.

(2) If an employer sends by post any payments under an attachment of earnings order to a clerk of petty sessions, he shall do so at his own risk and expense.

(3) A clerk of petty sessions may send by post any payment under an attachment of earnings order to the person entitled to receive payments under the related maintenance order at the request and at the risk of that person.

### **Enforcement of Judgments Office records**

**121.**—(1) Where a clerk of petty sessions causes a copy of an order or notice to be given to any person under Rule 112 of these Rules, he shall cause a copy of the order or notice to be given also to the Enforcement of Judgments Office.

(2) Where the clerk of petty sessions for the court which has made an attachment of earnings order is informed of a defendant's change of address he shall notify the new address to the Enforcement of Judgments Office.

### *E. SUSPENDED SENTENCES*

#### **Suspended sentences to be dealt with only in petty sessions**

**122.**—(1) Where during the operational period of a suspended sentence imposed under the Treatment of Offenders Act (Northern Ireland) 1968(4) the offender upon whom such sentence was passed appears before a justice of the peace (other than a resident magistrate) sitting out of petty sessions charged with an offence under any of the following enactments—

- (a) section 4 of the Vagrancy Act 1824(5);
- (b) section 3 of the Vagrancy (Ireland) Act 1847(6);
- (c) Article 10(2) of the Criminal Justice (Northern Ireland) Order 1980(7) (where the offence is punishable by imprisonment);
- (d) section 9 of the Summary Jurisdiction (Ireland) Act 1908(8); or
- (e) section 24 of the Children and Young Persons Act (Northern Ireland) 1968:

the justice shall remand him for appearance before a court of summary jurisdiction sitting for the petty sessions district in which the offence is alleged to have been committed.

(2) Where a court of summary jurisdiction deals with an offender in respect of a suspended sentence imposed by a magistrates' court otherwise than by making an order under section 19(1)(a) of the Treatment of Offenders Act (Northern Ireland) 1968 the court shall cause to be entered in the Order Book its reasons for its opinion that it would be unjust to make such order.

(3) Where under section 19(1)(c) of the said Act of 1968 the court varies the original order of a magistrates' court by substituting another period for the original operational period of a suspended sentence, the court shall explain to the offender in ordinary language the effect of the variation and his liability thereunder.

(4) Where a clerk of petty sessions gives notice under section 19(5) of the said Act of 1968 to the clerk of petty sessions for another petty sessions district he shall attach to the notice—

- (a) where the offender is committed to prison, a copy of the committal warrant;
- (b) where the court varies the operational period of the sentence, a certificate of the order making the variation.

(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.

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(4) 1968 c. 29 (N.I.)  
 (5) 1824 c. 83  
 (6) 10 & 11 Vict. c. 84  
 (7) S.I. 1980/704 (N.I. 6)  
 (8) 1908 c. 24

### **Evidence of conviction to be sent to the Crown Court**

**123.**—(1) Where a magistrates' court under section 20(3) of the Treatment of Offenders Act (Northern Ireland) 1968 commits an offender to the Crown Court, or, instead of doing so, furnishes written notice of the conviction to the chief clerk for the appropriate county court division, the clerk of petty sessions shall send to that chief clerk a certificate of the conviction by the magistrates' court.

(2) In this rule—

“appropriate county court division” means the county court division in which is located the place at which the Crown Court sat when the suspended sentence was passed.

### *F. PROBATION AND ABSOLUTE OR CONDITIONAL DISCHARGE*

### **Entry of probation order, absolute or conditional discharge**

**124.**—(1) Where the court makes a probation order or varies or discharges such order or makes an order for absolute or conditional discharge, it shall cause an entry to be made in the Order Book to that effect.

(2) An entry in the Order Book as to—

- (a) a probation order shall specify its duration, the supervising court and the conditions of the order and, where it is varied, the terms of the variation;
- (b) an order for conditional discharge shall specify its duration;
- (c) the substitution under section 24 of the Treatment of Offenders Act (Northern Ireland) 1968 of a probation order by an order for conditional discharge, shall state that it is so made.

(3) A note relating to any variation or discharge of a probation 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.

### **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**

**125.** Where a court of summary jurisdiction makes an order under section 4(3) or section 6(5) or (7) or the Crown Court makes an order under section 6(6) of the Probation Act (Northern Ireland) 1950<sup>(9)</sup>, 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.

### **Notification of discharge, etc., of probation orders, etc.**

**126.**—(1) Where a court of summary jurisdiction varies or discharges a probation order which was not made by that court, the clerk of petty sessions shall give notice of the variation or discharge to the clerk of petty sessions for the petty sessions district in which the order was made.

(2) Where a court of summary jurisdiction deals with a person under section 6 of the Probation Act (Northern Ireland) 1950 in relation to a probation order or order for conditional discharge which was not made by that court, the court shall give notice of the result of the proceedings to the clerk of petty sessions for the district in which the order was made.

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(9) 1950 c. 7 (N.I.)

(3) Where a court of summary jurisdiction makes an order under section 24 of the Treatment of Offenders Act (Northern Ireland) 1968 substituting an order for conditional discharge for a probation order which was not made by that court, the clerk of petty sessions shall give notice of the substitution to the clerk of petty sessions for the petty sessions district in which the probation order was made.

### *G. DEFERMENT OF SENTENCE*

#### **Notification of conviction before expiration of period of deferment**

**127.**—(1) Where under Article 14 of the Treatment of Offenders (Northern Ireland) Order 1976(10) a court has deferred passing sentence on an offender and before the expiration of the period of deferment he is convicted of any offence by a magistrates' court, the clerk of petty sessions shall, if the court which deferred passing sentence on the earlier occasion was another magistrates' court, give notice of the conviction to the clerk of that court and if the court which deferred passing sentence on the earlier occasion was the Crown Court, give notice of the conviction to the chief clerk for the appropriate county court division.

(2) In this Rule, “appropriate county court division” means the county court division in which is located the place at which the Crown Court sat when it deferred passing sentence.

### *H. ENFORCEMENT OF ORDERS MADE IN DEBT PROCEEDINGS*

#### **Enforcement process and order**

**128.**—(1) Proceedings under Article 107 of the Judgments Enforcement (Northern Ireland) Order 1981 where no instalment order has been made by the Enforcement of Judgments Office under Article 30 of that Order shall be commenced by a process (in these Rules referred to as an “enforcement process”) requiring the debtor to appear personally on the date therein specified before a court of summary jurisdiction acting for the petty sessions district in which the defendant resides or in which any business premises used or occupied by him are situated.

(2) On the hearing of an enforcement process the court may make—

- (a) an order (in these Rules referred to as an “enforcement order”) requiring the debtor to pay the amount due in such manner or by such instalments as the court thinks fit; or
- (b) such an order committing the debtor to prison as may be made under Rule 129.

(3) An enforcement process shall specify the date of the original order made against the debtor and the amount he was ordered to pay thereunder and such order shall be produced at the hearing.

#### **Committal process and order**

**129.**—(1) If the debtor defaults in payment of any instalment due under an enforcement order or due under an instalment order made by the Enforcement of Judgments Office under Article 30 of the said Order of 1981, the creditor may serve on the debtor a process (in these Rules referred to as a “committal process”) requiring the debtor to appear personally on the date therein specified before a court of summary jurisdiction acting for the petty sessions district in which the enforcement order was made or, in the case of an instalment order under the said Article 30, for the district in which the debtor resides or carries on business to show cause why an order (in these Rules referred to as a “committal order”) should not be made committing him to prison for his default in complying with the enforcement order.



(2) Upon proof of the making of the enforcement order, or instalment order, or, where the committal order is made under Rule 128(2)(b) upon proof of the original order for payment (which shall be given by the production of the original order or orders) and of the means of the debtor required by Article 107 (4) of the said Order of 1981, the court may, if the debtor fails to show cause why an order should not be made, make with costs such order committing him to prison as is authorised by that Order.

(3) Nothing in paragraph (2) shall, where it appears to the court that earnings fall to be paid to the debtor, affect the power of the court to make an attachment of earnings order under Article 98 of the said Order of 1981 in lieu of a committal order.

### **Service of process issued under Rule 128 or 129**

**130.**—(1) Service of a process issued in accordance with Rule 128 or 129 shall be effected by delivering to the defendant personally a true copy thereof.

(2) Where the person against whom a committal process is issued no longer resides or uses or occupies any business premises in the petty sessions district in which the enforcement order was made, a committal process may be served by the summons server of the petty sessions district in which the defendant resides or in which any business premises used or occupied by him are situated and such service may be proved by affidavit.

## *I. ENFORCEMENT OF ORDERS MADE IN EJECTMENT PROCEEDINGS*

### **Postponement of issue of decree for possession and application for the issue of the decree**

**131.**—(1) Where a decree has been granted directing that a plaintiff be put in possession of premises to which sub-paragraph (a) of Article 67(1) of the Order applies and the court has postponed the issue of the decree under Article 116 of the Order for a period or periods conditional upon the payment of arrears of rent or sums due under Article 69 of the Order by the defendant and where costs are ordered to be paid, the costs of the proceedings being paid by instalments either in addition to the current rent or otherwise the decree shall not, subject to Article 117 of the Order, issue from the court until after default has been made in payment of an instalment and an order has been made by the court authorising the issue of the decree as provided by this Rule.

(2) Where default has been made as aforesaid, the plaintiff may apply to the court for an order authorising the issue of the decree upon giving the defendant notice in writing of his intention to make the application not less than seven days before the date of hearing of the application.

(3) Upon the hearing of the application the court may order that the decree be issued or, except as otherwise provided by Article 116 of the Order, may from time to time adjourn the application or may further postpone the issue of the decree upon the existing conditions or upon such new conditions as it thinks fit as to payment by instalments or otherwise.

(4) Where the court makes any such order, other than an order of adjournment, it may award to the plaintiff a sum not exceeding £1.00 for the costs of the application, which shall be in addition to, and recovered in the same manner as, any costs awarded on the original decree.

(5) The details of the application and the date on which it is heard shall be entered in the Ejectment Process Register.

(6) Where an application under this Rule is adjourned other than in the presence of the defendant or his solicitor the plaintiff or his solicitor shall notify the defendant or his solicitor of the date, time and place of the adjourned hearing.

### **Signature on notice of application for the issue of decree for possession**

**132.** A form of notice of application under Rule 131 may be signed by the plaintiff or by his solicitor or firm of solicitors or in the name of such solicitor or firm of solicitors by some person duly authorised to sign.

### **Service and lodgment of notice of application**

**133.—(1)** A notice of application signed in accordance with Rule 132 may be served in the same manner as a process under Rule 58 or Rule 60(1)(b) or may be sent by the applicant or his solicitor to the person to whom it is to be given by registered post or by the recorded delivery service in an envelope addressed to that person at his last known or usual place of abode.

(2) A copy of such notice shall be lodged with the clerk of petty sessions at least four days before the date of the hearing of the application and if the notice has been served by sending it by registered post or by the recorded delivery service, the receipt for the latter shall be attached to the copy so lodged and no further proof of service shall be required.

(3) In reckoning the four days referred to in paragraph (2) no account shall be taken of a Saturday, Sunday or a public holiday.

### **Entry of minute of order on application under Rule 131**

**134.** A minute of any order whatsoever made upon an application under Rule 131 shall be entered in the Ejectment Process Register.

## *J. OTHER PROVISIONS AS TO THE ENFORCEMENT OF ORDERS IN DEBT OR EJECTMENT PROCEEDINGS*

### **Duration of committal orders**

**135.** A committal order under Article 107 of the Judgments (Enforcement) (Northern Ireland) Order 1981 shall remain in force for one year and no longer.

### **Duplicate orders**

**136.—(1)** Where a formal order has been lost or destroyed, or has improperly got into the hands of the person against whom the order was made or his agent, an application may be made to the court for the issue of a duplicate of such order, and the court may order that a duplicate be issued.

(2) Particulars of any such application and a minute of any order made thereon shall be entered in the appropriate Process Register.

(3) No costs of the application shall be awarded to any applicant for a duplicate order except in a case where it is proved to the court that the loss or destruction was caused by the other party or his agent, or where it is proved that the order is improperly in the possession of the other party or his agent.

(4) Any duplicate order issued under this Rule shall bear the word “Duplicate” in large letters on its face and shall have the same effect as the original order.

(5) Where costs are awarded under paragraph (3) the court may issue a decree for the recovery thereof.

*K. OTHER MATTERS IN RELATION TO THE ENFORCEMENT OF ORDERS*

**Order allowing time for payment or for payment by instalments in proceedings upon complaint**

**137.** Without prejudice to Rule 19 where a magistrates' court allows time to pay a sum adjudged to be paid by a conviction or any other sum ordered to be recovered in proceedings upon complaint or orders payment of any such sum by instalments, an entry to that effect shall be made in the Order Book as part of the order.

**Application for further time to pay or for payment to be by instalments in proceedings upon complaint**

**138.—**(1) An application for further time to pay a sum adjudged to be paid by a conviction or other sum ordered to be paid in proceedings upon complaint or to be allowed to pay such sum in instalments may, unless the court requires the applicant to attend, be made in writing.

(2) Such application may be made to a resident magistrate sitting out of petty sessions and a minute of the order made on such application shall be entered in the Order Book.

**Direction that money found on defaulter shall not be applied in satisfaction of sum adjudged to be paid by a conviction or in proceedings under Article 98 of the Order**

**139.** Where the defaulter is committed to, or ordered to be detained in a prison or other place of detention, any direction given under Article 110(2) of the Order shall be endorsed on the warrant of commitment.

**To whom payments of sums ordered to be paid in proceedings upon complaint are to be made**

**140.—**(1) Except when the court otherwise directs, a person ordered to pay a sum by a magistrates' court in proceedings upon complaint shall, unless a warrant to enforce payment thereof has been issued, pay that sum or any instalment thereof to the clerk of petty sessions.

(2) The provisions of this Rule shall not derogate from those of section 5 of the Fines Act (Ireland) 1851(11).

**Payment where imprisonment imposed**

**141.—**(1) The persons authorised for the purposes of Article 111 of the Order to receive payment are:—

- (a) unless there has been issued to the Royal Ulster Constabulary a warrant of commitment, the clerk of petty sessions;
- (b) any member of the Royal Ulster Constabulary holding the warrant of commitment; or
- (c) any governor of the prison in which the prisoner is confined or any other person having lawful custody of the prisoner.

(2) No person shall be required to receive in part payment under Article 111(2) of the Order an amount which, or so much of an amount as, will not procure a reduction of the period for which the defaulter is committed or ordered to be detained.

(3) Where a person having custody of the prisoner receives payment of any sum he shall endorse a certificate of receipt of the sum on the warrant of commitment and shall pay over the said sum to the clerk of petty sessions.

(4) Nothing in this Rule shall derogate from the provisions of section 5 of the Fines Act (Ireland) 1851.

(5) This Rule shall apply to committal orders under Article 107 of the Judgments Enforcement (Northern Ireland) Order 1981 as it applies to warrants of commitment.

#### **Part payment of sums to clerk of petty sessions**

**142.** Where before a warrant is issued to enforce payment of a sum adjudged to be paid by the conviction or order of a magistrates' court, part of that sum has been paid to the clerk of petty sessions, he shall endorse details of such payment on the warrant.

#### **Execution of warrants in proceedings upon complaint**

**143.—**(1) Subject to this Rule, a warrant issued by a resident magistrate or justice of the peace in proceedings upon complaint shall be addressed to the chief superintendent or, as the case may be, the superintendent of the constabulary division in which the warrant is issued.

(2) A warrant of discharge from prison and, where necessary, a warrant of commitment may be addressed to the prison governor.

(3) On receipt of a warrant of commitment the prison governor or his deputy shall receive the person named in the warrant (or shall detain him if he is already in custody) for the period specified in the warrant.

(4) The prison governor or his deputy shall, upon receiving a prisoner into his custody together with a warrant of commitment, give to the person charged with the execution of the warrant a receipt for the prisoner.

(5) Where the person named in the warrant is to be produced in court after an adjournment or remand the prison governor shall, subject to Article 47(5) of the Order, cause such person to be so produced at the time and place fixed by the warrant.

#### **Execution of distress warrant by the Royal Ulster Constabulary**

**144.—**(1) Sums adjudged to be paid by a conviction or order of a magistrates' court and levied under a warrant of distress addressed to a superintendent of the Royal Ulster Constabulary shall be paid over to the clerk of petty sessions.

(2) A warrant of distress shall authorise the person charged with its execution to take any money as well as the goods of the person against whom distress is to be levied and any money so taken shall be treated as if it were the proceeds of sale of goods taken under the warrant.

(3) Upon payment or tender of the sum to be levied and any expenses already incurred in connection with the distress to the person charged with executing the warrant, that person shall refrain from executing it.

(4) The person charged with the execution of a warrant of distress may sell the property distrained after the expiration of the period specified in the warrant, or if no period is fixed, after three days from the date of the distress, unless the sum for recovery of which the warrant was issued and the expenses of the distress are paid within that period.

(5) Where property is sold under a distress warrant, the person executing the warrant shall render to the owner of the property the balance of the proceeds of sale, if any, after retaining the sum to be levied and the expenses of the distress.

(6) A superintendent of the Royal Ulster Constabulary empowered to distrain goods under a warrant of distress may sell or cause such goods to be sold by public auction or in such other manner as the person against whom the distress is levied may in writing allow and may deduct the costs of such sale from the proceeds of sale.

#### **Warrants of distress issued under Article 109 of the Order**

**145.** A warrant of distress issued under Article 109 of the Order shall be enforced in the same manner as a warrant issued in proceedings upon complaint.

#### **Costs of warrant to be added to sum due under warrant of commitment or distress**

**146.** Where the warrant is a warrant of distress the sum referred to in Article 8 of the Magistrates' Courts Fees Order (Northern Ireland) 1983<sup>(12)</sup> shall be leviable in addition to any reasonable costs of making or keeping the distress or conducting the sale of the goods distrained in accordance with the order of the court.

#### **Application for review of warrant of commitment**

**147.** A person imprisoned under a warrant of commitment issued by a magistrates' court under Article 112 of the Order who is not detained otherwise than under that Article may make an application by way of complaint in Form 120 to a resident magistrate requesting that the warrant be cancelled and stating the grounds of the application.