

2009 No. 310

MAGISTRATES' COURTS

**The Magistrates' Courts (Amendment No. 2) Rules
(Northern Ireland) 2009**

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CORRECTION

For the Explanatory Note in the above instrument substitute the following: -

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Magistrates' Courts Rules (Northern Ireland) 1984 ("the principal Rules") to:

- provide that service of a summons in all categories of offence prosecuted by the Public Prosecution Service ("PPS") may be effected by post. (Rule 2(6)). Previously postal service was only available in respect of summary offences prosecuted by the PPS;
- make a number of minor technical amendments to reflect that prosecutions are no longer undertaken by the police in Northern Ireland (Rules 2(1), 2(2)(a), 2(5) and 2(7) to 2(11) (a)-(c)).

They also amend the principal Rules to make provision for the service of a summons to a surety under Article 138(2A) (b) of the Magistrates' Courts (Northern Ireland) Order 1981.

In particular, Rule 2(2) (b)- (d)—

- inserts new Rule 11(3B) into the principal Rules to provide for the matter in which a summons to a surety must be served;
- makes a technical amendment to Rule 11(7) to refer to new Rule 11(7C);
- inserts new Rule 11(7C) which provides that where a summons is served on a surety by post, the person serving the summons must endorse the original summons with their details and the date and place of posting and complete the certificate of service form in new Form 95A;
- inserts new Rule 11(7D) which prescribes that in the event that the surety fails to attend court in answer to a summons, service may be deemed valid if an acknowledgment of service in Form 95A signed by either the surety or his or her solicitor is produced to the court; and
- inserts new Rule 11(7E) which provides that, in relation to service of a summons on a surety, a signed acknowledgment of service will be considered to be proof of service and the summons will be deemed to have been served in the normal course of ordinary post.

Rules 2(3) and 2(4) make minor technical amendments to Rules 11(2), (3), (4) and (5).

Rule 2(11)(d) - (f) substitutes new Form 95 into the Schedule to the principal Rules. New Form 95 is a summons to a surety. It also inserts new Forms 95A and 95B into the Schedule to the principal Rules. New Form 95A is the certificate of service to be signed by the person who served the summons on the surety by post. New Form 95B is the acknowledgment of service which must be signed and returned by the surety or his or her solicitor where the summons has been served by ordinary post.

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