

1972. No. 173

[C]

MAGISTRATES' COURTS RULES

RULES, DATED 30TH JUNE 1972, MADE BY THE SECRETARY OF STATE UNDER SECTION 23 OF THE MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964.

I, THE RIGHT HONOURABLE WILLIAM WHITELAW, M.C., M.P., in exercise of the powers conferred on me by section 23 of the Magistrates' Courts Act (Northern Ireland) 1964(a), section 1(1) of the Northern Ireland (Temporary Provisions) Act 1972(b) and all other powers me enabling in that behalf do hereby, upon the recommendation of the Magistrates' Courts Rules Committee and after consultation with the Lord Chief Justice, make the Rules hereinafter set forth.

Citation and commencement

1. These Rules may be cited as the Magistrates' Courts (Amendment) Rules (Northern Ireland) 1972 and shall come into operation on 17th July 1972.

Amendment of Principal Rules

2. The provisions of the Magistrates' Courts Rules (Northern Ireland) 1965(c) specified in column 1 of Schedule 1 are amended to the extent specified in the second column thereof.

Amendment of the Magistrates' Courts (Preliminary Enquiry) Rules

3. The provisions of the Magistrates' Courts (Preliminary Enquiry) Rules (Northern Ireland) 1969(d) specified in column 1 of Schedule 2 are amended to the extent specified in the second column thereof.

Dated this 30th day of June 1972.

W. Whitelaw,
One of Her Majesty's Principal
Secretaries of State.

(a) 1964. c. 21 (N.I.)
(b) 1972. c. 22.

(c) S.R. & O. (N.I.) 1965, No. 206.
(d) S.R. & O. (N.I.) 1969, No. 69.

SCHEDULE 1

AMENDMENT OF THE MAGISTRATES' COURTS RULES
(NORTHERN IRELAND) 1965

Provision amended	Amendment
Rule 23A	<p>Under the heading "C. PRELIMINARY INVESTIGATIONS" there shall be inserted the following Rule:—</p> <p><i>"Service of statement of complaint before preliminary investigation</i></p> <p>23A.—(1) The prosecutor shall, as soon as practicable, before the commencement of a preliminary investigation cause to be served on the clerk of petty sessions a written statement setting out each complaint in numerical order (in these Rules referred to as "the statement of complaint") and a copy thereof on the accused.</p> <p>(2) The copy of the statement of complaint 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 Rule 11."</p>
Rule 24	<p>In Rule 24 after paragraph (1) there shall be inserted the following paragraph:—</p> <p>"(1A) Where there is more than one charge and the court is satisfied that the accused can read and will not be prejudiced, the court may instead of causing each charge to be read to the accused, draw the attention of the accused to the statement of complaint and then—</p> <p>(a) the clerk shall make public the nature of the charges by reading aloud and in full at least one charge in each category of the offence charged;</p> <p>(b) each of the other charges relating to the same category of offence may then be put to the accused by referring to the number of the charge and adding such other particulars as, without a full reading, may enable the accused to understand the charge and follow it on the copy of the statement of complaint in his possession.</p> <p>The presiding resident magistrate or justice of the peace may at any time cause any charge to be read or read again to the accused."</p> <p>In Rule 24 in paragraph (6) after the words "be again read to the accused" there shall be inserted the words "or, as the case may be, be drawn to the attention of the accused by reference to the charges, as numbered in the statement of complaint".</p>

Provision amended	Amendment									
Schedule 1 (contd.)	<p>For Form 16 there shall be substituted the following Form:—</p> <p style="text-align: center;">“FORM 16</p> <p style="text-align: center;">MAGISTRATES’ COURTS ACT (NORTHERN IRELAND) 1964 (Section 42; Rule 24)</p> <p style="text-align: center;">Statement of the Accused</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%; vertical-align: top;">of</td> <td style="width: 30%; border-left: 1px solid black; border-right: 1px solid black; vertical-align: top;">Complainant</td> <td style="width: 40%; vertical-align: top;">Petty Sessions District</td> </tr> <tr> <td></td> <td style="border-left: 1px solid black; border-right: 1px solid black; vertical-align: top;">of</td> <td style="vertical-align: top;">of</td> </tr> <tr> <td style="vertical-align: top;">of</td> <td style="border-left: 1px solid black; border-right: 1px solid black; vertical-align: top;">Defendant</td> <td style="vertical-align: top;">County [Borough] of</td> </tr> </table> <hr style="width: 20%; margin: 10px auto;"/> <p>A charge/charges having been made against the above defendant (hereinafter called “the Accused”) before the undersigned Justice as set out in the statement of complaint and numbered</p> <p>And the witnesses for the prosecution having been severally examined in the presence of the Accused;</p> <p>And the said charge(s) [having been read or put to the Accused by reference to the charges as numbered in the Statement of Complaint] [being read] and where necessary its/their nature explained in ordinary language to the Accused;</p> <p>And the Accused being informed of h right, if h so desired, to give evidence on h own behalf and to call witnesses:</p> <p>The Accused w then addressed as follows:—</p> <p style="padding-left: 40px;">“You are not obliged to say anything in answer to the charge(s) unless you desire to do so, but whatever you say will be taken down in writing and may be given in evidence upon your trial. Do you wish to say anything in answer to the charge(s)?”</p> <p>Whereupon the Accused in reply said:—</p>	of	Complainant	Petty Sessions District		of	of	of	Defendant	County [Borough] of
of	Complainant	Petty Sessions District								
	of	of								
of	Defendant	County [Borough] of								

Provision amended	Amendment								
Schedule 1 (<i>contd.</i>)	<p>The Accused, having [made the statement above set out] [not made any statement] in answer to the charge(s) w then asked whether h desired to give evidence on h own behalf and whether h desired to call witnesses;</p> <p>The Accused, having been informed that h w not obliged to give evidence or to call witnesses and that anyone giving evidence was liable to be cross-examined, in reply said:—</p> <p>Taken before me this day of 19 , at</p> <p style="text-align: right;">Resident Magistrate [or Justice of the Peace]"</p> <p>For Form 17 there shall be substituted the following Form:—</p> <p style="text-align: center;">"FORM 17</p> <p style="text-align: center;">MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964 (Sections 42 and 167 and Schedule 5; Rule 24)</p> <p style="text-align: center;">Statement of an Accused Corporation</p> <table style="margin-left: auto; margin-right: auto;"> <tr> <td style="padding-right: 20px;">of</td> <td style="border-left: 1px solid black; padding-left: 10px;">Petty Sessions District</td> </tr> <tr> <td style="padding-right: 20px;">Complainant</td> <td style="border-left: 1px solid black; padding-left: 10px;">of</td> </tr> <tr> <td style="padding-right: 20px;">of</td> <td style="border-left: 1px solid black; padding-left: 10px;">County [Borough] of</td> </tr> <tr> <td style="padding-right: 20px;">Defendant</td> <td style="border-left: 1px solid black; padding-left: 10px;"></td> </tr> </table> <p style="margin-top: 20px;">A charge/charges having been made against (hereinafter called "the Accused Corporation") before the undersigned Justice as set out in the Statement of Complaint and numbered</p>	of	Petty Sessions District	Complainant	of	of	County [Borough] of	Defendant	
of	Petty Sessions District								
Complainant	of								
of	County [Borough] of								
Defendant									

Provision amended	Amendment
Schedule 1 (<i>contd.</i>)	<p>And the witnesses for the prosecution, having been severally examined in the presence of a representative of the Accused Corporation;</p> <p>And the said charge(s) [being read or put to the said representative by reference to the charges as numbered in the Statement of Complaint] [being read] and where necessary its/their nature explained in ordinary language to the said representative;</p> <p>And the said representative being informed of his right, if he so desired, to give evidence on behalf of the Accused Corporation and to call witnesses;</p> <p>The said representative was then addressed as follows:—</p> <p>“You are not obliged to say anything in answer to the charge(s) unless you desire to do so but whatever you say will be taken down in writing and may be given in evidence upon the trial of the Accused Corporation. Do you wish to say anything on behalf of the Accused Corporation in answer to the charge(s)?”</p> <p>Whereupon the said representative in reply said:—</p> <p>The said representative, having [made the statement above set out] [not made any statement] in answer to the charge(s), was then asked whether he desired to give evidence on behalf of the Accused Corporation and whether he desired to call witnesses on its behalf.</p> <p>The said representative, having been informed that he was not obliged to give evidence or to call witnesses and that anyone giving evidence was liable to be cross-examined, in reply said:—</p> <p>Taken before me this day of 19 , at</p> <p style="text-align: right;">Resident Magistrate [or Justice of the Peace]”</p>

Provision amended	Amendment
Forms 15 and 119	In Form 15 (<i>Deposition of witness</i>) and Form 119 (<i>Recognisance to appear at Assize or County Court</i>) where appropriate, reference may be made to the Statement of Complaint.
Forms 43 and 44	In Forms 43 and 44 in the body of the Form in the first paragraph after the words "a notice to quit" there shall be inserted the words "which expired on the day of 19 and which notice was".
Form 44	In Form 44 in the body of the Form in the second paragraph after the words "up till" there shall be inserted the words "the determination of the tenancy on" and after the words "due to him" there shall be inserted the words "up to the issue of this process".
Form 48	In Form 48 in the body of the Form after the words "due under section 78 of the Magistrates' Courts Act (Northern Ireland) 1964" there shall be inserted the words "up to the date of the issue of the said process".
Form 93*	<p>In Form 93 above the heading of the Form for the reference to Rule 113A there shall be substituted a reference to Rule 113B; immediately before the paragraph beginning "Whereas" there shall be inserted the following paragraph—</p> <p style="padding-left: 40px;">"By the Court of Summary Jurisdiction sitting at on the day of 19 ."</p> <p>Above the space for signature shall be inserted the words</p> <p style="padding-left: 40px;">"Dated this day of 19 ."</p>
Form 109	<p>In the body of the Form—</p> <p>after the words "document or thing;" there shall be added the expression "namely" and space for the details of the document or thing;</p> <p>after the word "noon" there shall be inserted the words "and there produce the said document or thing".</p>

*See that Form as substituted by the Magistrates' Courts (Judgments Enforcement) (Consequential Amendment) Rules (Northern Ireland) 1971 (S.R. & O. (N.I.) 1971, No. 36).

Provision amended	Amendment												
	<p>After Form 157 there shall be inserted the following Form:—</p> <p style="text-align: center;">“FORM 158</p> <p style="text-align: center;">MAGISTRATES’ COURTS ACT (NORTHERN IRELAND) 1964 (Section 127; Rule 114)</p> <p style="text-align: center;">General Form of Affidavit of Service of Notice, etc.</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 30%; vertical-align: top;">of</td> <td style="width: 30%; vertical-align: top;">Complainant</td> <td style="width: 10%; vertical-align: middle;">}</td> <td style="width: 30%; vertical-align: top;">Petty Sessions District</td> </tr> <tr> <td></td> <td></td> <td></td> <td style="vertical-align: top;">of</td> </tr> <tr> <td style="vertical-align: top;">of</td> <td style="vertical-align: top;">Defendant</td> <td style="vertical-align: middle;">}</td> <td style="vertical-align: top;">County [Borough] of</td> </tr> </table> <p style="text-align: center;">_____</p> <p>I <i>(full names and rank of description where applicable)</i> of a person entitled to serve a notice [or state other document served] under section _____ <i>(state statutory provision authorising service)</i> make oath and say that I did serve the notice [or state other document] dated _____ on the person(s) whose name(s) appear(s) at the foot hereof at the time and place and in the manner endorsed by me on the notice [or other document]:</p> <p style="text-align: center;">Deponent Sworn before me this _____ day of _____ 19____, at _____ in the County [Borough] of _____</p> <p style="text-align: center;">Justice of the Peace <i>[or Commissioner for Oaths]</i></p> <p>Name(s) and address(es) of person(s) on whom notice served.</p> <p style="text-align: right;">”</p>	of	Complainant	}	Petty Sessions District				of	of	Defendant	}	County [Borough] of
of	Complainant	}	Petty Sessions District										
			of										
of	Defendant	}	County [Borough] of										
Schedule 3*	<p>In paragraph 2 of Schedule 3 to the Rules after the word “summons” there shall be inserted the words “or process”.</p>												

(* See that Schedule as substituted by Rule 2 of and the Schedule to the Magistrates’ Courts (Amendment) Rules (Northern Ireland) 1971 (S.R. & O. (N.I.) 1971, No. 37).

SCHEDULE 2

AMENDMENT OF THE MAGISTRATES' COURTS (PRELIMINARY ENQUIRY) RULES (NORTHERN IRELAND) 1969

Provision amended	Amendment
Rule 4	<p>In Rule 4 after paragraph (2) there shall be inserted the following paragraph:—</p>
	<p>“(2A) Where the statement of complaint relates to more than one charge, it shall set out each charge in numerical order.”</p>
Rule 6	<p>In Rule 6 after paragraph (2) there shall be inserted the following paragraph:—</p>
	<p>“(2A) Where there is more than one charge against an accused, instead of all the charges being read to that accused, if the court is satisfied that the accused is able to read and will not be prejudiced, the court may proceed as follows:—</p> <p>(a) the clerk shall make public the nature of the charges by reading aloud and in full at least one charge in each category of the offence charged;</p> <p>(b) each of the other charges relating to the same category of offence may then be put to the accused by referring to the number of the charge and adding such other particulars, as without a full reading, may enable the accused to understand the charge and follow it on the copy of the statement of complaint.</p>
	<p>The presiding resident magistrate or justice of the peace may at any time cause any charge to be read or read again to the accused.”</p>
Rule 7.	<p>In Rule 7(4) after the words “be again read to the accused” there shall be inserted the words “or, as the case may be, be drawn to the attention of the accused by reference to the charges as numbered in the statement of complaint”.</p>
	<p>In Rule 7(5) and (6) any reference to the charge shall, where there is more than one charge, include a reference to the charges.</p>
Rule 14	<p>In Rule 14 sub-paragraph (h) of paragraph (1) at the beginning there shall be inserted the words “subject to paragraph (1A)”, and after paragraph (1) there shall be inserted the following paragraph:—</p>
	<p>“(1A) Where the list of exhibits produced or referred to in evidence at the enquiry is the same as that in Form 4, or differs therefrom only by the addition or omission of certain exhibits, the clerk of petty sessions may, instead of sending the list in Form 9, send the original list served on him under section 2(1) of the Act, in Form 4, any alteration in the particulars therein being initialled either by him or by the presiding resident magistrate or justice of the peace.”</p>

Provision amended	Amendment									
Schedule	<p>For Form 5 there shall be substituted the following Form:—</p> <p style="text-align: center;">“FORM 5</p> <p style="text-align: center;">Statement of Accused in answer to Charge at Preliminary Enquiry</p> <table style="margin-left: auto; margin-right: auto;"> <tr> <td style="padding-right: 20px;">of</td> <td style="border-left: 1px solid black; border-right: 1px solid black; padding: 0 10px;">Complainant</td> <td style="padding-left: 20px;">} Petty Sessions District</td> </tr> <tr> <td></td> <td></td> <td style="padding-left: 20px;">} of</td> </tr> <tr> <td style="padding-right: 20px;">of</td> <td style="border-left: 1px solid black; border-right: 1px solid black; padding: 0 10px;">Accused</td> <td style="padding-left: 20px;">} County [Borough] of</td> </tr> </table> <hr style="width: 20%; margin: 20px auto;"/> <p>A charge/charges having been made against (hereinafter called “the Accused”) before the undersigned Justice as set out in the statement of complaint and numbered</p> <p>And certain written statements of evidence for the prosecution having been admitted in evidence [and certain witnesses for the prosecution severally examined in the presence of the Accused];</p> <p>And the said charge(s) [being read or put to the accused by reference to the charges as numbered in the statement of complaint]; [being read] and where necessary its/their nature explained in ordinary language to the Accused;</p> <p>And the Accused being informed of his right if he so desired, to give evidence on his own behalf and to call witnesses;</p> <p>The Accused was then addressed as follows:—</p> <p>“You are not obliged to say anything in answer to the charge(s) unless you desire to do so, but whatever you say will be taken down in writing and may be given in evidence upon your trial. Do you wish to say anything in answer to the charge(s)?”</p> <p>Whereupon the Accused in reply said:—</p>	of	Complainant	} Petty Sessions District			} of	of	Accused	} County [Borough] of
of	Complainant	} Petty Sessions District								
		} of								
of	Accused	} County [Borough] of								

Provision amended

Amendment

Schedule 1
(contd.)

The Accused [having made the statement above set out] [not having made any statement] in answer to the charge(s) w then asked whether h desired to give evidence on h own behalf and whether h desired to call witnesses or to tender any written statement of evidence of any witness in compliance with section 3 of the Criminal Procedure (Committal for Trial) Act (Northern Ireland) 1968;

The Accused having been further informed that h w not obliged to give evidence or to call witnesses or to tender any such statement and that anyone giving oral evidence was liable to be cross-examined, in reply said:—

Taken before me this day of 19 ,
at

Resident Magistrate
[or Justice of the Peace]”

For Form 6 there shall be substituted the following Form:—

“FORM 6

Statement of Accused Corporation in answer to Charge at Preliminary Enquiry

of	}	Petty Sessions District
Complainant		of
of		County [Borough] of
Defendant		

A charge/charges having been made against (hereinafter called “the Accused Coporation”) before the undersigned Justice as set out in the statement of complaint as numbered

Provision amended	Amendment
Schedule 1 (contd.)	<p>And certain written statements of evidence for the prosecution having been admitted in evidence [and certain witnesses for the prosecution severally examined in the presence of , a representative of the Accused Corporation];</p> <p>And the said charge(s) [being read or put to the said representative by reference to the charges as numbered in the statement of complaint] [being read] and where necessary its/their nature explained in ordinary language to the said representative;</p> <p>And the said representative being informed of h right, if h so desired, to give evidence on behalf of the Accused Corporation and to call witnesses;</p> <p>The said representative was then addressed as follows:—</p> <p>“You are not obliged to say anything in answer to the charge(s) unless you desire to do so but whatever you say will be taken down in writing and may be given in evidence upon the trial of the Accused Corporation. Do you wish to say anything on behalf of the Accused Corporation in answer to the charge(s)?”</p> <p>Whereupon the said representative in reply said:—</p> <p>The said representative, having [made the statement above set out] [not made any statement] in answer to the charge(s), was then asked whether h desired to give evidence on behalf of the Accused Corporation and whether h desired to call witnesses on its behalf, or to tender any written statement of evidence of any witness on its behalf in compliance with section 3 of the Criminal Procedure (Committal for Trial) Act (Northern Ireland) 1968;</p> <p>The said representative, having been informed that h was not obliged to give evidence or to call witnesses and that anyone giving evidence was liable to be cross-examined, in reply said:—</p> <p>Taken before me this day of 19 , at</p> <p style="text-align: right;">Resident Magistrate [or Justice of the Peace]”</p>

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) 1965 and the Magistrates' Courts (Preliminary Enquiry) Rules (Northern Ireland) 1969 to provide for a shortened method of putting numerous charges to an accused at a preliminary investigation or preliminary enquiry.

The Rules also provide the prescribed form of affidavit of service of notices and documents for the purposes of section 127 of the Magistrates' Courts Act (Northern Ireland) 1964.

Certain Forms are amended in minor detail.

An increased fee is allowed to summons servers for personal service of a committal process in debt proceedings.