STATUTORY RULES OF NORTHERN IRELAND

2018 No. 103

MAGISTRATES' COURTS

PROCEDURE

The Magistrates' Courts (Amendment No.2) Rules (Northern Ireland) 2018

Made - - - - 23rd April 2018

Coming into operation in accordance with Rule 1.

The Magistrates' Courts Rules Committee makes and the Department of Justice, after consultation with the Lord Chief Justice, allows the following Rules in exercise of the powers conferred by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981(**1**).

Citation, commencement and interpretation

1. These Rules shall be cited as the Magistrates' Courts (Amendment No.2) Rules (Northern Ireland) 2018 and shall come into operation on the same day as section 1 of the Justice Act (Northern Ireland) 2016(**2**).

2. In these Rules "the principal Rules" means the Magistrates' Courts Rules (Northern Ireland) 1984(**3**), and a reference to a rule is a reference to that rule so numbered in the principal Rules.

Amendments to the principal Rules

3. The principal Rules are amended as follows:—

(1) In Rule 11—

(a) in paragraph (2), omit "paragraph (3A),";

(b) in paragraph (3), omit "paragraph (3A) and";

(c) omit paragraph (3A);

(d) in paragraph (4), omit "paragraph (3A),";

(e) in paragraph (5), omit "paragraph (3A),"; and

(**1**) S.I. 1981/1675 (N.I. 26); Article 13 was amended by paragraph 65 of Schedule 5 to the Constitutional Reform Act 2005 (c.4); paragraph 133 of Schedule 18 to the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976); and paragraph 4 of the Schedule to the Northern Ireland (Miscellaneous Provisions) Act 2014 (c.13).

(**2**) 2016 c.21 (N.I.)

(**3**) S.R. 1984 No. 225; to which the most recent relevant amendments were made by S.R. 2016 No. 93.

(f) in paragraph (7), omit "Form 109A, Form 109B,".

(2) In Rule 12B, omit "Form 109A, Form 109B,".

(3) Omit Rule 12C.

(4) Omit Rule 12E.

(5) In Rule 14–

(a) in paragraph (1), for the words "paragraphs (2), (2A) and (2B)" substitute "paragraph (2)";

(b) omit paragraph (2A); and

(c) omit paragraph (2B);

(6) For Rule 105, substitute the following new Rules—

"**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 in Form 60.

(2) Notice of the registration of a fixed penalty for enforcement as a fine under Article 76 of the Road Traffic Offenders (Northern Ireland) Order 1996 or section 67 of the Justice Act (Northern Ireland) 2011 shall be in Form 60A and shall be served on the person against whom it has been registered by the clerk of petty sessions.

(3) A notice under paragraph (1) or (2) shall—

(a) state the amount of the sum due and, if the sum consists of separate amounts, state each separate amount;

(b) contain information about how payments may be made under the terms of the order;

(c) contain information about the consequences of failing to pay the sum in accordance with the order; and

(d) where a collection order under section 3 of the Justice Act (Northern Ireland) 2016 has not been made, 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 the variation of any order for payment by instalments.

(4) A notice under paragraph (1) or (2) shall be served by delivering it to the defendant or person against whom a sum has been registered for enforcement as a fine or by sending it to him by ordinary post in an envelope addressed to him at his last known or usual place of abode.

Collection order

105A.—(1) A collection order under section 3 of the Justice Act (Northern Ireland) 2016 shall be in Form 60B and shall be served by the clerk of petty sessions on the debtor and, at the same time, a copy thereof shall be sent to the collection officer.

(2) A collection order shall be served by delivering it to the debtor or by sending it to him by ordinary post in an envelope addressed to him at his last known or usual place of abode.

Summons to debtor to attend on a collection officer

105B.—(1) A summons under section 5(4) of the Justice Act (Northern Ireland) 2016 requiring a debtor to attend on a collection officer at the time and place specified in the summons shall be in Form 60C.

(2) Notwithstanding Rule 11, a summons under section 5(4) of the 2016 Act may be served by a collection officer by—

(a) delivering a copy to the debtor or by leaving it for him with some person apparently over the age of sixteen years at his usual or last known place of abode or his place of business;

(b) sending a copy of the summons by ordinary post in an envelope addressed to the debtor at his usual or last known place of abode; or

(c) sending a copy of the summons by registered post or the recorded delivery service in an envelope addressed to the debtor at his usual or last known place of abode.

(3) The summons shall be served not less than seven days before the time specified and the person who serves it shall complete and sign the certificate of service on the original summons.

Summons to debtor to attend a default hearing

105C.—(1) A summons under section 6(10) or section 8(3) of the Justice Act (Northern Ireland) 2016 requiring a debtor to appear before a court of summary jurisdiction at the time and place specified in the summons shall be in Form 60D.

(2) Notwithstanding Rule 11, a summons under section 6(10) or 8(3) of the Justice Act (Northern Ireland) 2016 may be served by a collection officer or, as the case may be, the clerk of petty sessions by—

(a) delivering a copy to the debtor or by leaving it for him with some person apparently over the age of sixteen years at his usual or last known place of abode or his place of business;

(b) sending a copy of the summons by ordinary post in an envelope addressed to the debtor at his usual or last known place of abode; or

(c) sending a copy of the summons by registered post or the recorded delivery service in an envelope addressed to the debtor at his usual or last known place of abode.

(3) The summons shall be served not less than seven days before the hearing and the person who serves it shall complete and sign the certificate of service on the original summons.

(4) If the person fails to appear in person or by his legal representative in response to a summons served under sub-paragraph 2(b) or (c), such service shall not be valid unless an acknowledgement of service appearing to be signed by the debtor or his solicitor is produced to the court.

(5) Unless the contrary is proved, the signed acknowledgement of service shall be taken as proof of service and the summons shall be deemed to have been served at the time at which the envelope containing it would have been delivered in the ordinary course of post.

Arrest where debtor fails to attend default hearing

105D.—(1) A warrant of arrest under section 10 of the Justice Act (Northern Ireland) 2016 requiring a constable to arrest a debtor and bring him before a court unless he enters into a recognizance to appear at the court shall be in Form 60E.

(2) A recognizance requiring a debtor to appear before a court for a default hearing shall be in Form 60F and may be taken by a constable.

Notification of court order at default hearing

105E. Where, at a default hearing, a court exercises any of the powers conferred by section 9 of the Justice Act (Northern Ireland) 2016, the collection officer or, as the case may be, clerk of petty sessions shall serve upon the debtor notice in writing of the decision by delivering it to the debtor or by sending it to him by ordinary post in an envelope addressed to him at his last known or usual place of abode.

Interpretation

105F. In rules 105C to E, "default hearing" means a hearing under section 6(1) or 8(2) of the Justice Act (Northern Ireland) 2016.

Appeals

105G.—(1) An appeal under section 25(1) of the Justice Act (Northern Ireland) 2016 against a decision of a collection officer shall be in Form 55 and shall be served on the collection officer at least 14 days before the hearing of the appeal.

(2) At the same time, the appellant shall serve a copy of the notice on the clerk of petty sessions which shall be endorsed with the date and manner of service on the collection officer and should be accompanied by a copy of the decision being appealed.".

(7) Rules 105A and 105B are renumbered 106A and 106B respectively.

(8) Omit Rule 106.

(9) For Rule 109(3), for the words "functions under Part IX of the Order in enforcing payment of the sum" substitute "powers under section 9 of the Justice Act (Northern Ireland) 2016, following a referral under section 6 or 8 of that Act".

(10) In Rule 150, omit paragraph (2A).

(11) In Schedule 1–

(a) omit Form 1A;

(b) omit Form 1B;

(c) omit Form 2A;

(d) omit Form 2C;

(e) omit Form 8A;

(f) omit Form 8D;

(g) omit Form 9A;

(h) omit Forms 60 to 60C;

(i) after Form 59, insert the new Forms 60 to 60F as set out in the Schedule;

(j) in Form 61, after the words "AND WHEREAS the said order has not been complied with." insert the words "AND following a default hearing at [Default hearing venue] on [Default hearing date] the court ordered pursuant to section 9(1)(f) of the Justice Act (Northern Ireland) 2016 that payment of the outstanding amount be levied by distress.";

(k) in Form 61A—

(i) in the heading, for the words "Road Traffic Penalties (Enforcement of Fines) Regulations (Northern Ireland) 1997; Regulations 6 and 7" substitute "Justice Act (Northern Ireland) 2016; Section 9"; and

(ii) after the words "AND WHEREAS the defaulter [defendant] has not paid the fine as ordered." insert the words "AND following a default hearing at [Default hearing venue] on [Default hearing date] the court ordered pursuant to section 9(1)(f) of the Justice Act (Northern Ireland) 2016 that payment of the outstanding amount be levied by distress.";

(l) in Form 62, after the words "AND WHEREAS the said order has not been complied with." insert the words "[AND following a default hearing at [Default hearing venue] on [Default hearing date] the court issued a committal warrant pursuant to section 9(1)(i) of the Justice Act (Northern Ireland) 2016.]";

(m) in Form 62A—

(i) in the heading, for the words "Road Traffic Penalties (Enforcement of Fines) Regulations (Northern Ireland) 1997; Regulation 7" substitute "Justice Act (Northern Ireland) 2016; Section 9"; and

(ii) after the words "AND WHEREAS the defaulter [defendant] has not paid the fine as ordered." insert the words "[AND following a default hearing at [Default hearing venue] on [Default hearing date] the court issued a committal warrant pursuant to section 9(1)(i) of the Justice Act (Northern Ireland) 2016.]";

(n) for Form 62B, substitute the new Form 62B as set out in the Schedule;

(o) in Forms 62C to 62L, in the heading, for "Rule 105A" substitute "Rule 106A";

(p) in Form 62M—

(i) in the heading, for the words "The Penalty Notices (Justice Act (Northern Ireland) 2011) (Enforcement of Fines) Regulations (Northern Ireland) 2012; Regulation 7" substitute "Justice Act (Northern Ireland) 2016; Section 9"; and

(ii) after the words "AND WHEREAS the defaulter [defendant] has not paid the fine as ordered." insert the words "[AND following a default hearing at [Default hearing venue] on [Default hearing date] the court issued a committal warrant pursuant to section 9(1)(i) of the Justice Act (Northern Ireland) 2016.]";

(q) for Form 72, substitute the new Form 72 as set out in the Schedule;

(r) for Form 72B, substitute the new Form 72B as set out in the Schedule;

(s) omit Form 89A;

(t) omit Form 89B;

(u) omit Form 109A;

(v) omit Form 109B;

(w) omit Form 109D; and

(x) omit Form 109E.

Nigel Broderick
Eoghan McKenna
David Russell
Peter Luney

Dated 19th April 2018