STATUTORY RULES OF NORTHERN IRELAND

2009 No. 310

MAGISTRATES' COURTS

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

Made - - - -	*3rd September 2009*
Coming into operation	*30th September 2009*

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

Citation and commencement

1. These Rules may be cited as the Magistrates' Courts (Amendment No.2) Rules (Northern Ireland) 2009 and shall come into operation on 30th September 2009.

Amendment of the Magistrates' Courts Rules (Northern Ireland) 1984

2. The Magistrates' Courts Rules (Northern Ireland) 1984(**2**) are amended as follows—

(1) in Rule 9(2), omit "or a member of the Royal Ulster Constabulary";

(2) in Rule 11—

(a) for paragraph (1), substitute —

"(1) Subject to Rule 12 and Rule 12A, in the case of an offence prosecuted by the Director of Public Prosecutions a summons shall be served by a member of the Police Service of Northern Ireland who is not in charge of the investigation of the offence";

(b) after paragraph (3A), insert—

"(3B) Service of a summons under Article 138(2A)(b) of the Order may be effected by a member of the Northern Ireland Court Service sending a copy of the summons in Form 95 and of Form 95B, by ordinary post in an envelope addressed to the person to be served at his or her last known place of abode.";

(c) in paragraph (7), after "Subject to paragraph 7A", insert "and paragraph 7C"; and

(d) after paragraph (7B), insert—

(**1**) S.I. 1981/1675 (N.I.26); Article 13 was amended by Schedule 5, paragraph 65 of the Constitutional Reform Act 2005 (c.4).
(**2**) S.R. 1984 No. 225 to which the most recent relevant amendments were made by S.R. 1997 No. 344, S.R. 1997 No. 428 and S.R. 2003 No. 477.

"(7C) Where a summons is to be served in accordance with paragraph (3B), the person posting the envelope containing the copy of the summons shall endorse on the original summons his name, description and the date and place of posting of the envelope and shall complete and sign a certificate of service in Form 95A.

(7D) If a surety fails to appear in answer to a summons served in accordance with paragraph (3B), such service shall not be deemed valid unless an acknowledgment of service in Form 95B appearing to be signed by the surety or his or her solicitor is produced to the court.

(7E) Unless the contrary is proved, where a summons is served in accordance with paragraph (3B),—

(i) the signed acknowledgment of service shall be taken as proof of service; and

(ii) the document 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.".

(3) in Rules 11(2) and (4) after "paragraph 3A", insert ",paragraph 3B";

(4) in Rules 11(3) and (5) after "paragraph 3A", insert "and paragraph 3B";

(5) in the heading to Rule 12A, omit "the Police Service of Northern Ireland or";

(6) in Rule 12A—

(a) in paragraph (1), omit "summary" and "by a member of the Police Service of Northern Ireland or";

(b) in paragraph (3), omit "rank or"; and

(c) for paragraph (6), substitute—

"(6) This Rule shall not apply to summonses which, under any statutory provision, require personal service upon the person to be served.";

(7) in the heading to Rule 13, omit "the Police Service of Northern Ireland or";

(8) in Rule 13A(2)(b), omit "and, if the prosecutor is not a member of the Royal Ulster Constabulary, the Chief Constable of the Royal Ulster Constabulary";

(9) in Rule 109(2), for "a member of the Royal Ulster Constabulary", substitute " the Public Prosecution Service for Northern Ireland"; and

(10) in Rule 152(1), for each reference to "constabulary station", substitute "police station".

(11) in Schedule 1—

(a) in Forms 15B,15M,88A,88B,88C,88D,88E,88F and 88G in "Case details" omit—

(i) "Name of PSNI Central Process Office";

(ii) "Central Process Office or District Command Unit reference number";

(iii) for "DPP reference number:", substitute "PPSNI reference number:"; and

(iv) below "PPSNI reference number", insert "ICOS reference number if known".

(b) in Form 90—

(i) in the heading for "[Constabulary]", substitute "[Police]"; and

(ii) for each reference to "constabulary station" substitute "police station"

(c) in Form 91, for each reference to "constabulary station", substitute "police station";

(d) for Form 95, substitute the new Form 95 set out in Schedule 1 to these Rules;

(e) after Form 95, insert new Form 95A and Form 95B set out in Schedule 2 to these Rules; and

(f) in Form 110B, for paragraph 6 of the Explanatory Note, substitute—

"6. If you do not return this form within 14 days, or appear personally or through your solicitor, alternative arrangements will be made to serve the papers on you and the date given on the enclosed summons for the hearing of your case will have to be changed.".

George Conner
John P B Maxwell
Nigel Broderick
Sean McCann
John Rea

Dated 3rd September 2009

SCHEDULE 1 Rule 4(a)

"Form 95

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981
(Article 138(2A)(b))

SUMMONS TO SURETY

To: -

of

surety in the case of [ ] (defendant)

WHEREAS on (date) you (name) entered into a recognizance as surety for the appearance of the above named defendant.

AND WHEREAS on (date) the defendant, being the principal party, to the said recognizance failed to appear before a magistrates' court.

THIS IS TO COMMAND YOU to appear before a magistrates' court at (place) on (date) at (time) at the hearing of estreatment proceedings to show due cause why you should not pay the sum in which you are bound.

This day of 20 .

[Clerk of Petty Sessions]

Note: If you fail to appear at the time and place shown above and the court is satisfied that this summons has been served on you, the court may proceed in your absence.".