1994 No. 387

MAGISTRATES' COURTS

Magistrates' Courts (Amendment) Rules (Northern Ireland) 1994

Made . . . . . *8th October 1994*

Coming into operation . . *1st November 1994*

The Lord Chancellor, in exercise of the powers conferred on him by Articles 13 and 126(1) and (3) of the Magistrates' Courts (Northern Ireland) Order 1981(**a**), and all other powers enabling him in that behalf, on the advice of the Magistrates' Courts Rules Committee and after consultation with the Lord Chief Justice, hereby makes the following rules:—

Citation and commencement

1. These rules may be cited as the Magistrates' Courts (Amendment) Rules (Northern Ireland) 1994 and shall come into operation on 1st November 1994.

Interpretation

2. In these rules, unless the context otherwise requires, a Rule or Schedule referred to by number means the Rule or Schedule so numbered in the Magistrates' Courts Rules (Northern Ireland) 1984(**b**).

The Order Book

3. Rule 19 shall be amended as follows:

(*a*) by inserting, in paragraph (2), after the word "proceeding", the words " or, where he is unavailable, by the clerk of petty sessions,";

(*b*) by substituting, in paragraph (3), for the word "he", the words "the appropriate resident magistrate or justice of the peace or, where he is unavailable, the clerk of petty sessions,";

(*c*) by substituting, in paragraph (5), for the words "submit the entry" to the end the words "shall submit the entry to the resident magistrate or justice of the peace who signed the certificate for his signature" or, where he is unavailable, the clerk of petty sessions shall sign the entry himself."; and

(*d*) by substituting, in paragraph (13), for the words "or justice of the peace" the words ", justice of the peace or clerk of petty sessions".

(**a**) S.I. 1981/1675 (N.I. 26); Article 126 was amended by S.I. 1989/1341 (N.I. 12), Article 86 and Schedule 4 paragraph 3

(**b**) S.R. 1984 No. 225

Service on accused of copy of notice and of documents referred to in Article 32(1) of the Order

4. Rule 33 shall be amended by substituting for the words "this Rule", the words "Rule 32".

Proof of service of process

5.—(1) Rule 62 shall be amended, at paragraph (4), by inserting, after the word "affidavit", the words "or certificate in Form 111A".

(2) Rule 63 shall be amended by inserting, after the word "affidavit", the words "or certificate in Form 111A".

(3) After Rule 63 there shall be inserted the following new Rule:

"*Receipt of certificate of service of process in evidence*

63A. Any document purporting to be given as a certificate in Form 111A shall be received in evidence and shall be deemed to be duly made until the contrary is shown.".

Process Register

6. Rule 65 shall be amended by substituting, for paragraph (3), the following paragraph:

"(3) The Process Register shall be signed at the foot of each page by the resident magistrate who had adjudicated upon the proceedings entered thereon or, where he is unavailable, by the clerk of petty sessions, provided that:

(*a*) where a page contains records of proceedings heard on more than one date it shall be signed either by the appropriate resident magistrate or, where he is unavailable, by the clerk of petty sessions at the last entry on each date; or

(*b*) where a page contains records of proceedings heard by more than one resident magistrate it shall be signed either by the appropriate resident magistrate at the last entry of any proceedings heard by him or, where he is unavailable, by the clerk of petty sessions.".

Amendments to Schedule 1

7. Schedule 1 shall be amended as follows:

(*a*) by inserting, after the words "Resident Magistrate" at the bottom of Form 39, the words "or Clerk of Petty Sessions";

(*b*) by inserting, after the words "Resident Magistrate" at the bottom of Form 53, the words "or Clerk of Petty Sessions";

(*c*) by substituting for Form 85 the new Form 85 set out in Schedule 1 to these rules; and

(*d*) by inserting, in the place appropriate to its number, each new Form set out in Schedule 2 to these rules.

Dated 8th October 1994. *Mackay of Clashfern,* C.

"FORM 85

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981
(Article 118(1); Rule 8)

Summons to Witness

To:—

of
witness in the case of

of Petty Sessions District of

Complainant
[Plaintiff]
[Appellant]
[Applicant]

of

Defendant
[Respondent] County Court Division of

WHEREAS a [complaint has been made] [process has been issued by the plaintiff claiming] that the defendant [*or* a Notice of [Appeal] [Application] to a magistrates' court has been duly served].

AND WHEREAS I am satisfied that you are able to give material evidence on behalf of the *and/or* produce a document or thing; namely:—

THIS IS TO COMMAND you to appear as witness before a magistrates' court at (place) on (date) at (time) [and there produce the said document or thing].

This day of 19 .

Justice of the Peace
[Clerk of Petty Sessions]

NOTE: Failure to appear at the time and place shown above is a criminal offence for which you are liable to prosecution."