1980 No. 199

MAGISTRATES' COURTS

Magistrates' Courts (Criminal Justice) (Amendment) Rules (Northern Ireland) 1980

Made	*18th June 1980*
Coming into operation . . .	*22nd June 1980*

The Lord Chancellor, in exercise of the powers conferred on him by section 23 of the Magistrates' Courts Act (Northern Ireland) 1964(**a**) 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 (Criminal Justice) (Amendment) Rules (Northern Ireland) 1980 and shall come into operation on 22nd June 1980.

Interpretation

2. In these rules—

"the Act" means the Magistrates' Courts Act (Northern Ireland) 1964;

"the Rules of 1974" means the Magistrates' Courts Rules (Northern Ireland) 1974(**b**) and any reference to a Rule or Form by number is a reference to that Rule or Form as numbered in the Rules of 1974;

Any reference in these rules to a Form in the Schedules to these rules shall include a reference to a Form to the like effect with such variations as the circumstances may require.

Plea of guilty by post

3.—(1) A summons served on a defendant in accordance with the provisions of section 37A(1) of the Act may be accompanied by the documents in the Forms A and B in the First Schedule to these rules.

(2) Notice in writing of such service shall be given by or on behalf of the complainant to the clerk of petty sessions pursuant to section 37A(1) of the Act and shall be in the Form C in the said First Schedule.

(3) Where the defendant elects to enter a plea of guilty in writing pursuant to section 37A(2) of the Act he shall do so in the Form D in the said First Schedule.

Notice of adjournment

4. Where a person has been convicted upon his written plea of guilty and the Court decides to adjourn the hearing before passing sentence, the clerk of petty sessions shall give to the defendant notice in writing of the time and place of the adjourned hearing and shall specify the reason for the adjournment.

(**a**) 1964 c. 21 (N.I.) as modified by S.I. 1973/2163 (1973 III, p. 7541)
(**b**) 1974 S.R. No. 334 (II p. 1541)

Notice of intention to cite previous convictions

5.—(1) A notice of previous convictions may be served on the defendant not less than seven days before the date fixed for the hearing.

(2) Such notice shall be in the Form E in the First Schedule to these rules.

Notice to defendant of sum adjudged to be paid by a conviction

6.—(1) For rule 106(1) of the Rules of 1974 there shall be substituted the following rule:—

"Where a person has been adjudged to pay a sum upon conviction, the clerk of petty sessions shall serve upon such person notice in writing stating the amount of the sum, the date on which it is to be paid and the manner in which payment is to be made. Such notice shall further 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 variation of any order for payment by instalments or for an order for remission of the sum in whole or in part. Such notice shall further warn the defendant that failure to pay or to make the appropriate application within the time allowed will result in the issue of a warrant committing him to prison, and additional costs attendant upon such issue".

(2) For Form 76 there shall be substituted the Form 76 in the Second Schedule to these Rules.

(3) Forms 77, 79, 80 and 82 shall be amended by the deletion of the words "[no notice under Rule 106 of the Magistrates' Courts Rules (Northern Ireland) 1974 having been served on the Defendant because [a Resident Magistrate directed accordingly] [the order was made in the presence of the Defendant or his counsel or solicitor]]" wherever they occur.

Dated 18th June 1980.

Hailsham of St. Marylebone, C.

SCHEDULE 1

FORM A

MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964

(Section 37A(1)(i): Rule 3(1))

Notice to Defendant: plea of guilty in absence

of

Complainant

Petty Sessions District of

of

County Court Division of

Defendant

The purpose of this NOTICE is to inform you that if, on the hearing of the complaint(s) referred to in the summons(es) served herewith, you wish to enter a plea of guilty, you or your solicitor may, at least three days before the date fixed for the hearing, notify the clerk of petty sessions for the above mentioned district in writing to that effect in Form D, copy attached. It will not then be necessary for you to appear before the Court as required by the said summons(es). You may also include in the said Form D in the space provided such statement in mitigation as you desire.

The evidence to be given at the hearing is that contained in Form B, a copy of which is attached for your information, and the facts therein contained and those facts only will, in your absence, be read to the Court. Your statement in mitigation will also be read to the Court which may then deal with the case in your absence.

The Court may decide not to proceed in your absence and, if so, it will adjourn the hearing. You will be notified of the time and place of the adjourned hearing and, in such a case, the trial will proceed at the adjourned hearing as if you had not entered a written plea of guilty.

You may at any time before the date of the hearing or adjourned hearing of any case withdraw your plea of guilty by writing to the clerk of petty sessions to that effect. Failure to do so immediately may result in delay and expense if the case has to be adjourned to allow the prosecution to bring its witnesses to Court.

Neither this notice nor any reply you may send in answer to it limits your right to appear before the Court at the time fixed for the hearing, either in person or by counsel or a solicitor, and to plead guilty or not guilty as you may desire. If you adopt this course the trial will proceed as though you had not already entered a written plea of guilty.

Dated this day of 19

Signed
(On behalf of the Complainant)

FORM B

MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964

(Section 37A(i)(ii): Rule 3(1))

Statement of Facts

of

Complainant

Petty Sessions District of

of

County Court Division of

Defendant

The purpose of this NOTICE is to inform you that if you advise the clerk of petty sessions for the above mentioned district at that you wish to plead guilty to the charge(s) set out in the summons(es) served herewith without appearing before the Court and the Court proceeds to hear and dispose of the case in your absence under section 37A of the above mentioned Act, the following Statement of Facts will be read out in open Court before the Court decides whether to accept your plea. If your plea of guilty is accepted the Court will not, unless it adjourns the case after convicting you and before sentencing you, permit any other statement to be made by or on behalf of the complainant with respect to any fact relating to the charge.

Statement of Facts

Signed
(On behalf of the Complainant)

FORM C

MAGISTRATES' COURTS ACT (NORTHRERN IRELAND) 1964

(Section 37(A)(2): Rule 3(2))

Certificate by Complainant of Service on Defendant of Forms A & B

of

Complainant — Petty Sessions District of

of

County Court Division of

Defendant

I, the Complainant, hereby certify that copies of Forms A and B were served on the Defendant together with the summons(es).

Dated this day of 19.

Signed
(On behalf of Complainant)