1971. No. 37 **[C]**

MAGISTRATES' COURTS

Magistrates' Courts (Amendment) Rules

RULES, DATED 1ST FEBRUARY 1971, MADE BY THE MINISTER OF HOME AFFAIRS UNDER SECTION 23 OF THE MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964.

I, Major the Right Honourable James Dawson Chichester-Clark, D.L., Minister of Home Affairs for Northern Ireland, in exercise of the powers conferred on me by section 23 of the Magistrates' Courts Act (Northern Ireland) 1964(**a**) and of all other powers thereunto enabling, 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.

Dated this 1st day of February 1971.

J. D. Chichester-Clark,
Minister of Home Affairs
for Northern Ireland.

The Ministry of Finance concurs in so much of the Schedule as amends Rule 7 of and Schedule 2 to the Magistrates' Courts Rules (Northern Ireland) 1965(**b**) setting out court fees.

Sealed with the Official Seal of the Ministry of Finance this 2nd day of February 1971.

(L.S.)

R. R. Butler,
Assistant Secretary.

Citation and commencement

1. These Rules may be cited as the Magistrates' Courts (Amendment) Rules (Northern Ireland) 1971 and shall come into operation on 15th February 1971.

Schedule of Amendments of the 1965 Rules

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

(a) 1964. c. 21 (N.I.). (b) S.R. & O. (N.I.) 1965, No. 206.

SCHEDULE

AMENDMENTS TO THE MAGISTRATES' COURTS RULES (NORTHERN IRELAND) 1965

Provision of Rules Amended	Amendment
Rule 2	In paragraph (2) for the words "Ulster Special Constabulary" there shall be substituted "Royal Ulster Constabulary Reserve." After paragraph (2) there shall be inserted the following paragraph:— "(3) A reference to decimal currency in these Rules is a reference to the new currency provided for by the Decimal Currency Act 1967 and where it is necessary for the purposes of these Rules to calculate the amount in decimal currency corresponding to an amount in shillings and pence the calculation shall be made in accordance with Schedule 1 to the Decimal Currency Act 1969."
Rule 5	In paragraph (1) for the words "the Summary Jurisdiction (Children and Young Persons) Rules (Northern Ireland) 1950" there shall be substituted the words "the Magistrates' Courts (Children and Young Persons) Rules (Northern Ireland) 1969" and paragraph (2) is revoked.
Rule 7	For Rule 7 there shall be substituted the following:— *"Court Fees* **7.**—(1) Subject to paragraph (2), court fees shall be payable in accordance with Schedule 2 on the documents specified in that Schedule, and payment of the appropriate fee shall be indicated on every such document by an adhesive or impressed stamp or by an endorsement signed and stamped with his name in block letters by the person to whom the fee is paid or in such other manner as may be directed by the Ministry. (2) No fee need be paid under paragraph (1) by the complainant, plaintiff, applicant or appellant in any proceedings (including proceedings on appeal) brought by or on behalf of— (*a*) the Attorney General; (*b*) any Minister of the Crown; (*c*) any member of the Royal Ulster Constabulary acting as such; (*d*) any department of the Government of the United Kingdom; (*e*) any department of the Government of Northern Ireland; (*f*) the Supplementary Benefits Commission for Northern Ireland; or (*g*) the Enforcement of Judgments Office.

Provision of Rules Amended	Amendment
Rule 7 (*contd.*)	(3) For the purpose of any enactment relating to the recovery of costs or fees any fee which would but for paragraph (2) have been paid shall be deemed to have been paid. (4) Nothing in this Rule shall affect any statutory provision as to the payment of fees not repealed by the Act or revoked by the Rules. (5) Where a fee is remitted by order of a magistrates' court under section 163(2) of the Act the resident magistrate, justice of the peace or the clerk of petty sessions shall endorse the order on the relevant document or notify such remission by separate certificate and the reason for the remission shall be stated in the endorsement or on the certificate. (6) Without prejudice to any order or regulation for the time being in force under the Public Offices Fees Act 1879, the stamps required by this Rule for the purpose of stamping any document shall be those of a design appropriate to Magistrates' Courts and approved by the Ministry of Home Affairs. (7) The clerk of petty sessions, on receiving a document duly stamped as required by this Rule, shall forthwith and in every case cancel the stamp by writing or stamping the date of cancellation across the stamp in indelible ink."
Rule 9	In paragraph (5) before the words "last known" there shall be inserted the words "usual or".
Rule 10	In paragraph (2) after the words "is not" there shall be inserted the words "a solicitor or".
Rule 11	In paragraph 2(*c*) the word "other" where it firstly occurs shall be omitted.
Rule 14	In paragraph (2) after the words "imposed to run" there shall be inserted the words "concurrently with or."
Rule 18	After paragraph (8) there shall be inserted the following paragraph:— "(8A) Where an application is made to a magistrates' court for the grant of a legal aid, defence or appeal aid certificate, the court shall cause a note of the grant or refusal thereof to be entered in the Order Book."
Rule 27	For the word "copies" there shall be substituted the words "one copy".
Rule 32	After paragraph (1) there shall be inserted the following paragraph:— "(1A) Before proceeding to deal with the offence summarily, the court shall ascertain that the prosecutor consents in accordance with section 52(2) of the Act to the court so dealing with the offence."

Provision of Rules Amended	Amendment
Rule 35A	Before Rule 36 under the cross-heading "F. REMANDS" there shall be inserted the following Rules:— *"Remand on bail under section 54(4) for longer than eight or, as the case may be, fourteen days where sureties have not entered recognizances.* **35A.** Where the court, with a view to a person's being remanded on bail under section 54(4) of the Act for a period exceeding eight days or, where section 54(3) of the Act applies, fourteen days, has fixed the amount of the recognizances to be taken for that purpose but commits that person to custody because the recognizances of the sureties have not yet been taken, the warrant of commitment shall direct that such person to be brought before the court at the end of the period or at such earlier time as may be specified in the warrant, unless in the meantime the sureties have entered into their recognizances."
Rule 41A	After Rule 41 there shall be inserted the following Rule:— *"Sums stated in process in decimal currency* **41A.** Where reference to a sum of money is made in a process the sum must be stated in decimal currency."
Rule 46	In paragraph (1) for the words "Schedule 4" there shall be substituted the words "Schedule 3".
Rule 62A	After Rule 62 there shall be inserted the following Rule:— *"Sums stated in formal order in decimal currency* **62A.** A formal order handed to the clerk of petty sessions for signature after the 15th February 1971 must state the sum to be paid in decimal currency."
Rule 82	After paragraph (1) there shall be inserted the following paragraph:— "(IA) The notice served on the clerk of petty sessions shall be endorsed with the date upon which and the manner in which notice was served on the other party to the proceedings."
Rule 111	In paragraph (1) for the words "and executed by" to the end there shall be substituted the words "the chief superintendent or, as the case may be, the superintendent of the constabulary division in which the warrant is issued".

Provision of Rules Amended	Amendment
Rule 113A	After Rule 113 there shall be added the following Rule:— *"Costs of warrant to be added to sum due thereunder* **113A.**—(1) There shall be added to the total of any sum due under a warrant of commitment or distress issued to the Royal Ulster Constabulary (other than a warrant of commitment issued by virtue of section 103 of the Act at the time of the defendant's conviction) the sum of £1 towards the costs of issuing and executing the warrant. (2) Where the warrant is a warrant of distress the last-mentioned sum shall be leviable in addition to any reasonable costs of making or keeping the distress or conducting the sale of the goods distrained in accordance with the order of the court.".
Rule 119	In paragraph (2) for the words "given to," where they secondly appear, there shall be substituted the words "lodged with".
SCHEDULE 1	
General	Throughout the Forms in the Schedule, for any reference to a district inspector and to constables to whom the document may be delivered for execution there shall be substituted a reference to the chief superintendent or, as the case may be, the superintendent of the constabulary division in which the document is issued.
Form 6	In Form 6 in the body of the Form after the words "when he shall produce the Defendant at the above place" the following words shall be inserted:— "[(*where warrant endorsed for bail*) unless the Defendant and his sureties enter into the recognizances required by the endorsement on this warrant.]"
Form 7	In Form 7 after the words "in lieu of sureties]" there shall be inserted the words "to appear before a Magistrates' Court sitting at on the day of 19 , at the hour of in the noon [, and at every time and place to which during the course of the proceedings against the said Defendant the hearing may be from time to time adjourned].".
Forms 68, 70, 71, 72, 73 and 92	At the foot of the Form in the summary of amounts due after the reference to costs there shall be added a separate entry for the amount of the sum due for the issue of the warrant specified in Rule 113A.