1969. No. 68 **[C]**

MAGISTRATES' COURTS RULES

RULES, DATED 28TH MARCH 1969, MADE BY THE MINISTER OF HOME AFFAIRS UNDER SECTION 23 OF THE MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964.

I, the Right Honourable Robert Wilson Porter, Q.C., 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) 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 28th day of March 1969.

R. W. Porter,
Minister of Home Affairs
for Northern Ireland.

The Ministry of Finance concurs in the making of Rule 5.

Sealed with the Official Seal of the Ministry of Finance this 28th day of March 1969.

(L.S.)

James V. Morrison,
Assistant Secretary.

Citation

1. These Rules shall be cited as the Magistrates' Courts (Amendment) Rules (Northern Ireland) 1969.

Commencement

2. These Rules shall come into operation on the first day of May 1969.

Interpretation

3. In these Rules—

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

"the principal Rules" means the Magistrates' Courts Rules (Northern Ireland) 1965(b).

Amendment of principal Rules

4. The principal Rules are amended to the extent specified in the Schedule.

(a) 1964. c. 21 (N.I.).

(b) S.R. & O. (N.I.) 1965, No. 206.

Amendment of Rules relating to court fees

5.—(1) For Rule 7 of the Moneylenders (Summary Jurisdiction) Rules (Northern Ireland) 1933(**c**) there shall be substituted the following Rule—

> "**7.** For the purposes of paragraph 1 of Schedule 2 to the Magistrates' Courts Rules (Northern Ireland) 1965 the statement to be lodged with the clerk of petty sessions under Rule 1 shall be treated as a notice of application and a form of certificate shall bear an adhesive petty sessions stamp or petty sessions stamps to the value of twenty shillings."

(2) For Rule 9 of the Summary Jurisdiction (Game Dealers' Certificates) Rules (Northern Ireland) 1954(**d**) there shall be substituted the following Rule—

> "**9.** For the purposes of paragraph 1 of Schedule 2 to the Magistrates' Courts Rules (Northern Ireland) 1965 the notice of intention to apply for a certificate authorising the grant of a game dealer's licence shall be treated as a notice of application and the form of certificate granted by the court shall bear an adhesive petty sessions stamp or petty sessions stamps to the value of ten shillings."

and, accordingly, Rule 10 of and Schedule 2 to those Rules are hereby revoked.

(3) For Rule 9 of the Summary Jurisdiction (Pawnbrokers) Rules (Northern Ireland) 1955(**e**) there shall be substituted the following Rule—

> "**9.** For the purposes of paragraph 1 of Schedule 2 to the Magistrates' Courts Rules (Northern Ireland) 1965 a notice of intention to apply for a certificate authorising the issue of a pawnbroker's licence shall be treated as a notice of application and every such certificate shall bear an adhesive petty sessions stamp or petty sessions stamps to the value of twenty shillings."

and, accordingly, Schedule 2 to those Rules is hereby revoked.

(**c**) S.R & O. (N.I.) 1933, No. 101.
(**d**) S.R. & O. (N.I.) 1954, No. 48.
(**e**) S.R. & O. (N.I.) 1955, No. 97.

SCHEDULE

Amendment of the Magistrates' Courts Rules (Northern Ireland) 1965

Provision of Principal Rules Amended	Amendment
PART II RULE 7	In Rule 7 after paragraph (3) there shall be inserted the following paragraphs— "(4) 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. (5) 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."
PART III RULE 24	In Rule 24 in paragraph (3) the words "but not including that of any witness merely as to his character" are hereby revoked and in paragraph (10) for the words "who know anything tending to show the innocence of the accused" there shall be substituted the words "who are able to give any relevant evidence on behalf of the accused."
RULE 30	In Rule 30(1) after the words "a justice of the peace (other than a resident magistrate) shall not proceed to conduct a preliminary investigation" there shall be inserted the words "or preliminary enquiry".
RULE 32	In Rule 32(2) after the words "The evidence of any witness" there shall be inserted the words "(other than a witness whose written statement has been admitted in evidence at a preliminary enquiry under section 3 of the Criminal Procedure (Committal for Trial) Act (Northern Ireland) 1968)". At the end of Part III there shall be inserted— "G. FORMAL ADMISSIONS *Formal admissions under section 2 of the Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland)* 1968 36A. Without prejudice to Rule 10 of the Magistrates' Courts (Preliminary Enquiry) Rules (Northern Ireland) 1969, where under section 2 of the Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968 a fact is admitted orally in court by or on behalf of the prosecutor or the accused for the purposes of any criminal proceedings before a magistrates' court, the court shall cause the admission to be written down and signed by or on behalf of the party making the admission."
PART VI RULE 88	In Rule 88(2) the words "and expense" are hereby revoked.

Provision of Principal Rules Amended	Amendment
PART VII	After Rule 90 there shall be inserted—

"AA. SUSPENDED SENTENCES

Suspended sentences to be dealt with only in petty sessions

90A.—(1) Where during the operational period of a suspended sentence imposed under the Treatment of Offenders Act (Northern Ireland) 1968, the offender upon whom such sentence was passed appears before a justice of the peace (other than a resident magistrate) sitting out of petty sessions charged with an offence under any of the following enactments—

(*a*) section 4 of the Vagrancy Act 1824;

(*b*) section 3 of the Vagrancy (Ireland) Act 1847;

(*c*) section 12 of the Licensing Act 1872 (where the offence is punishable by imprisonment);

(*d*) section 9 of the Summary Jurisdiction (Ireland) Act 1908; or

(*e*) section 24 of the Children and Young Persons Act (Northern Ireland) 1968,

the justice shall remand him for appearance before a court of summary jurisdiction sitting for the petty sessions district in which the offence is alleged to have been committed.

(2) Where a court of summary jurisdiction deals with an offender in respect of a suspended sentence imposed by a magistrates' court otherwise than by making an order under section 19(1)(*a*) of the Treatment of Offenders Act (Northern Ireland) 1968 the court shall cause to be entered in the Order Book its reasons for its opinion that it would be unjust to make such order.

(3) Where under section 19(1)(*c*) of the said Act of 1968 the court varies the original order of a magistrates' court by substituting another period for the original operational period of a suspended sentence, the court shall explain to the offender in ordinary language the effect of the variation and his liability thereunder.

(4) Where a clerk of petty sessions gives notice under section 19(5) of the said Act of 1968 to the clerk of petty sessions for another petty sessions district he shall attach to the notice—

(*a*) where the offender is committed to prison, a copy of the committal warrant;

(*b*) where the court varies the operational period of the sentence, a certificate of the order making the variation.

Evidence of conviction to be sent to a court of assize or county court

90B.—(1) Where a magistrates' court under section 20(3) of the said Act of 1968 commits an offender to a court of assize or county court having power to deal with him in respect of a suspended sentence, or, instead of doing so, furnishes written notice of the conviction to the clerk of the Crown and peace, the clerk of petty sessions shall send to

Provision of Principal Rules Amended	Amendment
	the clerk of the Crown and peace a certificate of the conviction by the magistrates' court. (2) Notwithstanding anything in Rule 7 of and Schedule 2 to these Rules a stamp shall not be required on any certificate of conviction or order required under this Rule. AB. PROBATION AND ABSOLUTE OR CONDITIONAL DISCHARGE *Entry of probation order, absolute or conditional discharge* 90C.—(1) Where the court makes a probation order or varies or discharges such order or makes an order for absolute or conditional discharge, it shall cause an entry to be made in the Order Book to that effect. (2) An entry in the Order Book as to— (*a*) a probation order shall specify its duration, the supervising court and the conditions of the order and, where it is varied, the terms of the variation; (*b*) an order for conditional discharge shall specify its duration; (*c*) the substitution under section 24 of the Treatment of Offenders Act (Northern Ireland) 1968 of a probation order by an order for conditional discharge, shall state that it is so made. *Notification of discharge, etc., of probation orders, etc.* 90D.—(1) Where a court of summary jurisdiction varies or discharges a probation order which was not made by that court, the clerk of petty sessions shall give notice of the variation or discharge to the clerk of petty sessions for the petty sessions district in which the order was made. (2) Where a court of summary jurisdiction deals with a person under section 6 of the Probation Act (Northern Ireland) 1950 in relation to a probation order or order for conditional discharge which was not made by that court, the court shall give notice of the result of the proceedings to the clerk of petty sessions for the district in which the order was made. (3) Where a court of summary jurisdiction makes an order under section 24 of the Treatment of Offenders Act (Northern Ireland) 1968 substituting an order for conditional discharge for a probation order which was not made by that court, the clerk of petty sessions shall give notice of the substitution to the clerk of petty sessions for the petty sessions district in which the probation order was made."
PART VIII	After Rule 114 there shall be inserted the following Rule— "*Proof by written statement in criminal proceedings (other than at a preliminary enquiry)* 114A.—(1) Where a written statement complying with section 1 of the Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968 is served by the complainant or by the defendant for the purposes of any criminal pro-