1965. No. 206 **[C]**

MAGISTRATES' COURTS RULES

RULES, DATED 11TH OCTOBER, 1965, MADE BY THE MINISTER OF HOME AFFAIRS UNDER SECTION 23 OF THE MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964.

ARRANGEMENT OF RULES

PART I

CITATION, INTERPRETATION AND COMMENCEMENT, ETC.

Rule

1 Citation
2 Interpretation
3 Commencement
4 Revocation of existing rules
5 Saving for Summary Jurisdiction (Children and Young Persons) Rules (Northern Ireland) 1950

PART II

DOCUMENTS

6 Wording, etc., of documents
7 Stamps
8 Form of complaint
9 Form of summons
10 Preparation of summons
11 Service of summons
12 Fees for service of summons
13 Form of warrant
14 Separate warrants to be issued for each sentence imposed
15 Endorsement of warrants of commitment as to release on bail
16 Binding over complainant to prosecute or give evidence upon issue of warrant
17 Withdrawal of warrants
18 The Order Book
19 Certificate of conviction or order
20 Documents taken by or made before resident magistrates or justices of the peace sitting out of petty sessions
21 Signature of one resident magistrate sufficient in certain cases

PART III

CRIMINAL PROCEEDINGS

A. *Summary trial*

22 Order of proceedings on the hearing of a complaint charging a summary offence

B. *Right to claim trial by jury for certain summary offences*

Rule

23 Procedure in relation to certain offences to which section 41 of the Act applies

C. *Preliminary investigations*

24 Proceedings at a preliminary investigation
25 Procedure for binding witnesses and prosecutor over to attend trial
26 Documents and exhibits to be sent to the court of trial
27 Supply of depositions and complaint to accused
28 Accused to be told of right to apply to High Court for bail
29 Adjourned preliminary investigation

D. *Indictable offences dealt with summarily*

30 Accused to appear before resident magistrate prior to preliminary investigation by justice of the peace
31 Written notice under section 52(1) of the Act
32 Procedure where court decides to deal with an indictable offence summarily under section 52 of the Act
33 Conviction of offence other than that charged where indictable offence dealt with summarily
34 Preservation of depositions where indictable offence is dealt with summarily

E. *Depositions of sick or dying persons*

35 Taking of depositions under section 40 or 49 of the Act

F. *Remands*

36 Remand for inquiry into physical or mental condition

PART IV

DEBT AND EJECTMENT PROCEEDINGS

A. *Rules applicable to both debt and ejectment proceedings*

37 Definitions
38 Time of issue of process
39 Signature on process
40 Times of hearing of processes
41 Costs of process to be stated
42 Modes of service of process
43 Persons entitled to serve processes
44 Special mode of service
45 Time for service
46 Service fees
47 Summons servers' Process Book
48 Person other than summons server to prove service
49 Service deemed good
50 Process Register and extract therefrom
51 Entry of process
52 Re-entry of process where hearing adjourned
53 Striking out of proceeding
54. Withdrawal of proceeding
55 Order on consent where defendant appears
56 Order on written consent
57 Undefended proceedings

Rule
58 Order where more than one defendant
59 Dismiss
60 Procedure where previous dismiss is produced
61 Where process not entered by plaintiff it may be entered on application of defendant
62 Preparation of forms in debt or ejectment proceedings
63 Disposal of process
64 Signing of formal orders in debt or ejectment proceedings
65 Transfer of proceedings to county court
66 Enlargement or abridgement of times
67 Effect of non-compliance with rules
68 Claims for rent joined under section 82(3) of the Act with claims in ejectment

B. *Rules applicable to debt proceedings*

69 Contents of process in debt proceedings
70 Set-off or counterclaim
71 Details of claim, set-off or counterclaim may be demanded
72 Order where debt paid before hearing
73 Order where payments made on account before hearing
74 Dismiss on proof of set-off or counterclaim
75 Cross decrees
76 Tender
77 Issue of instalment decree
78 Costs in debt proceedings

C. *Rules applicable to ejectment proceedings*

79 Contents of process in ejectment proceedings
80 Costs in ejectment proceedings

PART V

APPEALS OR APPLICATIONS COMMENCED BY NOTICE UNDER PART VIII OF THE ACT

81 Signature on notice
82 Time of service of notice
83 Copy of decision or determination appealed from to be lodged
84 Manner of service of notice
85 Times of hearing of appeals or applications

PART VI

PROCEEDINGS UPON A COMPLAINT IN A CIVIL MATTER

86 Order of proceedings at the hearing of a complaint in a civil matter
87 Entries in Order Book
88 Method of making periodical payments

PART VII

SATISFACTION AND ENFORCEMENT OF ORDERS

A. *Sums adjudged to be paid by a conviction*

89 Notice to defendant of sum adjudged to be paid by a conviction in his absence
90 Orders for supervision

Rule

B. *Enforcement of orders made in debt proceedings*

91 Enforcement Process and order
92 Committal Process and order
93 Service of process issued under Rules 91 and 92

C. *Enforcement of orders made in ejectment proceedings*

94 Postponement of issue of or stay of execution of decree for possession and application for the issue of the decree or to remove stay
95 Signature on notice of application for the issue of or to remove stay of execution of decree for possession
96 Service and lodgment of notice of application
97 Endorsement of order on original decree for possession and entry on the Register

D. *Other provisions as to the enforcement of orders in debt or ejectment proceedings*

98 Fees, etc., payable to Under-Sheriff
99 Renewal process
100 Proof of amount outstanding or fact of overholding or occupation at time of entry
101 Granting of renewal
102 Production of original decree or dismiss upon application for renewal
103 Issue of renewal where amount due payable by instalments
104 Duplicate orders

E. *Other matters in relation to the enforcement of orders*

105 Order allowing time for payment or for payment by instalments in proceedings upon complaint
106 Application for further time to pay or for payment to be by instalments in proceedings upon complaint
107 Direction that money found on defaulter shall not be applied in satisfaction of sum adjudged to be paid by a conviction or in proceedings under section 110 of the Act
108 To whom payments of sums ordered to be paid in proceedings upon complaint are to be made
109 Payment where imprisonment imposed
110 Part payment of sums to clerk of petty sessions
111 Execution of warrants in proceedings upon complaint
112 Execution of distress warrant by the Royal Ulster Constabulary
113 Warrants of distress issued under section 111 of the Act

PART VIII

EVIDENCE

114 Affidavits and declarations

PART IX

RECOGNIZANCES

115 Taking of recognizances
116 Deposit of recognizance with clerk of petty sessions
117 Recognizances taken under section 130 or 131 of the Act
118 Taking of recognizances of accused and sureties where court has certified consent to bail and accused has been remanded in custody

PART X

APPEALS

A. *Appeal to the County Court*

Rule
119 Notice of appeal, recognizances, etc.
120 Documents to be sent to clerk of the Crown and peace and to the parties to the appeal
121 Procedure after appeal to county court is determined
122 Certificate by clerk of the Crown and peace that appeal has not been duly prosecuted
123 Return of recognizance where notice of abandonment of appeal to county court has been given

B. *Appeal by way of case stated*

124 Contents of and signature upon written application for case stated
125 Notification of decision to grant application for case stated
126 Preparation and contents of case stated
127 Entry of order made by Court of Appeal

C. *Other matters in relation to appeals to the County Court and by way of case stated*

128 Appellant to be told of his right to apply to the High Court for release from custody or reduction of bail pending hearing of appeal

SCHEDULES

SCHEDULE 1 FORMS
SCHEDULE 2 STAMPS
SCHEDULE 3 FEES PAYABLE FOR SERVING SUMMONSES
SCHEDULE 4 FEES PAYABLE FOR SERVING PROCESSES
SCHEDULE 5 SOLICITORS' COSTS AND COUNSEL'S FEES IN DEBT PROCEEDINGS
SCHEDULE 6 SOLICITORS' COSTS AND COUNSEL'S FEES IN EJECTMENT PROCEEDINGS

I, the Right Honourable Robert William Brian McConnell, Minister of Home Affairs, in exercise of the powers conferred on me by section 23(4) of the Magistrates' Courts Act (Northern Ireland) 1964(a) do hereby, upon the recommendation of the Magistrates' Courts Rules Committee appointed under section 23(2) of that Act and after consultation with the Lord Chief Justice, make the rules hereinafter set forth.

Signed R. W. B. McConnell
Minister of Home Affairs.

The scale of fees provided for in Schedule 2 has been fixed with the consent of the Ministry of Finance.

Sealed with the Official Seal of the Ministry of Finance this 11th day of October, 1965.

(L.S.)

Signed R. R. Butler
Assistant Secretary.

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