

2012 No. 189

MAGISTRATES' COURTS

**The Magistrates' Courts (Amendment) Rules (Northern Ireland)
2012**

Made - - - - - *16th May 2012*

Coming into operation in accordance with rule 1

The Magistrates' Courts Rules Committee makes the following Rules in exercise of the powers conferred by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981(a), after consultation with the Department of Justice and with the agreement of the Lord Chief Justice.

Citation and Commencement

1.—(1) These Rules may be cited as the Magistrates' Courts (Amendment) Rules (Northern Ireland) 2012 and, subject to paragraph (2), shall come into operation on the 6th June 2012.

(2) Rule 2(6) shall come into operation on 11th June 2012.

Amendment of the Magistrates' Courts Rules (Northern Ireland) 1984

2. The Magistrates' Courts Rules (Northern Ireland) 1984(b) are amended as follows—

(1) after Rule 12D, insert—

“Proof of service of notice of registration under the Justice Act (Northern Ireland) 2011

12E. Service of notice of registration under section 67(2) of the Justice Act (Northern Ireland) 2011 may be proved in any proceedings by a certificate of service in Form 109E.”;

(2) after Rule 13B, insert –

“Declarations under the Justice Act (Northern Ireland) 2011

13C.—(1) A statutory declaration under section 68 of the Justice Act (Northern Ireland) 2011 shall be made in Form 110E.

(2) Where the clerk of petty sessions or the court accepts service of such a statutory declaration the clerk of petty sessions shall –

(a) record the receipt of the statutory declaration in the Order Book against the relevant entry or registration of the sum as a fine; and

(b) notify the Chief Constable that the statutory declaration has been received.”;

(a) S.I. 1981/1675 (N.I.26); Article 13 was amended by paragraph 133 of Schedule 18 to the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (2010 No.976); and paragraph 65 of Schedule 5 to the Constitutional Reform Act 2005 (c.4)

(b) S.R. 1984 No.225; to which the most recent relevant amendments were made by S.R. 1997 No.428 and S.R. 2004 No.299

(3) in Rule 14—

(a) in paragraph (1), for “paragraphs (2) and (2A)”, substitute “paragraphs (2), (2A) and (2B);

(b) after paragraph (2A), insert—

“(2B) A warrant issued under the Penalty Notices (Justice Act (Northern Ireland) 2011) (Enforcement of Fines) Regulations (Northern Ireland) 2012 shall be signed by a district judge (magistrates’ courts) or a lay magistrate but shall not in any case be signed by the clerk of petty sessions.”; and

(c) in paragraph (6)(a), after “the Road Traffic Fixed Penalties (Enforcement of Fines) Regulations (Northern Ireland) 1997” insert “or Regulation 4(2)(b) or 6(5) of the Penalty Notices (Justice Act (Northern Ireland) 2011) (Enforcement of Fines) Regulations (Northern Ireland) 2012.”;

(4) in Rule 105, after each reference to “the Road Traffic Offenders (Northern Ireland) Order 1996”, insert “or section 67 of the Justice Act (Northern Ireland) 2011”;

(5) in Rule 150, in paragraph (2A), after “the Road Traffic Fixed Penalties (Enforcement of Fines) Regulations (Northern Ireland) 1997” insert “or the Penalty Notices (Justice Act (Northern Ireland) 2011) (Enforcement of Fines) Regulations (Northern Ireland) 2012.”;

(6) after rule 153B, insert —

“**153C.**—(1) An application for compassionate bail under section 91 of the Justice Act (Northern Ireland) Act 2011 shall be made by giving notice in Form 96A.

(2) The notice under paragraph (1) must be served by the applicant on the clerk of petty sessions and the Director of Public Prosecutions for Northern Ireland.

(3) An application under paragraph (1) must be listed by the clerk of petty sessions not later than 72 hours after receipt of the application by the clerk of petty sessions, excluding weekends, Christmas Day, Good Friday and any bank holiday.

(4) The clerk of petty sessions must inform the defendant, the Director of Public Prosecutions for Northern Ireland and the governor of the prison or other place in which the defendant is being detained of the time and place of the hearing.

(5) The clerk of petty sessions shall, as soon as reasonably practicable after the determination of the application under paragraph (1), notify the defendant, the Director of Public Prosecutions and the governor of the prison or other place in which the defendant is being detained of the decision of the court in Form 96B.”; and

(7) in Schedule 1 —

(a) after Form 1A, insert Form 1B;

(b) after Form 2B, insert Form 2C;

(c) after Form 8C, insert Form 8D;

(d) in Form 60, in the list of sums ordered to be paid, between “Fine ... £” and “Compensations, etc. ... £”, insert “Offender Levy ... £”;

(e) after Form 60A, insert Form 60B;

(f) in Form 61,

(i) after “ordered to pay for fine the sum of £ ”, insert , “for offender levy the sum of £ ”, and

(ii) in the list between “Fine ... £” and “Compensation ... £”, insert “Offender Levy ... £”;

(g) in Form 62,

(i) after “ordered to pay for fine the sum of £ ”, insert “for offender levy the sum of £ ”, and

(ii) in the list between “Fine ... £ ” and “Compensation ... £ ”, insert “Offender Levy ... £ ”;

- (iii) after Form 62A, insert Form 62B;
- (h) in Form 70, after “was adjudged to pay a fine of £ ”, insert “[and offender levy of £]”;
- (i) in Form 71, after “was adjudged to pay a fine of £ ”, insert “[and offender levy of £]”;
- (j) after Form 89A, insert Form 89B;
- (k) after Form 96, insert Form 96A and Form 96B;
- (l) after Form 109C, insert Form 109D and Form 109E; and
- (m) after Form 110D, insert Form 110E.

*W.A.McNally
Peter Luney
John Rea
Nigel Broderick*

Dated 16th May 2012

SCHEDULE 1

Rule 2(7)(a)

Form 1B

JUSTICE ACT (NORTHERN IRELAND) 2011

THE PENALTY NOTICES (JUSTICE ACT (NORTHERN IRELAND) 2011)
(ENFORCEMENT OF FINES) REGULATIONS (NORTHERN IRELAND) 2012;

Regulation 4
(Rules 7 and 17)

Complaint

of

Complainant

Petty Sessions District of

of

Defendant

County Court Division of

I, _____ of _____
say on oath that

[And the complainant prays that a [warrant in Form 8D may issue for the arrest of the defendant][summons in Form 2C may issue for the attendance of the defendant on the hearing of the complaint]

[And the undersigned binds himself to attend when and where called on to prosecute or to give evidence against the defendant for the said offence or otherwise to forfeit to the Crown the sum of £ _____].

Complainant
[for Complainant]

Taken and sworn before me this _____ day of _____ 20____.

District Judge (Magistrates' Courts)
[Lay Magistrate].

Form 2C

JUSTICE ACT (NORTHERN IRELAND) 2011

THE PENALTY NOTICES (JUSTICE ACT (NORTHERN IRELAND) 2011)
(ENFORCEMENT OF FINES) REGULATIONS (NORTHERN IRELAND) 2012;
Regulation 4
(Rule 8)

**Summons to Defendant for failure to pay a sum adjudged to be paid by a
conviction of a magistrates' court**

of

Complainant Petty Sessions District of

of County Court Division of

Defendant

WHEREAS a complaint has been made before me that on the (date)
at (place)
in that said petty sessions district the sum of £ was registered against you in respect of
Penalty Notice No. as a sum adjudged to be paid by a conviction under section 67 of the
Justice Act (Northern Ireland) 2011 and whereas a Notice of Registration as a fine was served on
you under section 67(2) of that Act and whereas you have defaulted on payment of that fine.

THIS IS TO COMMAND YOU to appear as a defendant on the hearing of the said
complaint at (place) on (date)
at (time)
before a magistrates' court for the said petty sessions district.

WARNING

The court may order you to be committed to prison in default of payment of the fine.

This day of 20 .

District Judge (Magistrates' Courts)
[Lay Magistrate]

To the said Defendant.

Form 8D

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981
(Article 138(5); Rules 14 and 143)

THE PENALTY NOTICES (JUSTICE ACT (NORTHERN IRELAND) 2011)
(ENFORCEMENT OF FINES) REGULATIONS (NORTHERN IRELAND) 2012;
Regulation 4

Warrant of Arrest

of

Complainant Petty Sessions District of

of

County Court Division of
Defendant

WHEREAS a complaint has been made [on oath and in writing] [and substantiated on oath]
that

THIS IS TO COMMAND YOU, to whom this warrant is addressed, to arrest the said
defendant and bring him before a magistrates' court for the said county court division unless the
said sum be sooner paid.

This day of 20 .

District Judge (Magistrates' Courts)
[Lay Magistrate]

To the Chief Constable of the Police Service of Northern Ireland at

NOTE: This form may be endorsed for bail as on Form 9A.

Form 60B

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981
(Article 92; Rules 105, 143 and 144)

JUSTICE ACT (NORTHERN IRELAND) 2011

THE PENALTY NOTICES (JUSTICE ACT (NORTHERN IRELAND) 2011)
(ENFORCEMENT OF FINES) REGULATIONS (NORTHERN IRELAND) 2012;
Regulation 7

**Notice to Defendant or Defaulter of Order Enforcing Payment of Sum Registered
under Section 67 of the Justice Act (Northern Ireland) 2011**

To: Petty Sessions Office
Courthouse

Order Book No.

TAKE NOTICE that at a magistrates' court held at (place)
on (date) , the court found that you have defaulted on
payment of a sum registered against you for enforcement as a fine under section 67 of the Justice
Act (Northern Ireland) 2011.

The court allowed you until (date) , to pay the following
sum [The court ordered you to pay the following sums by instalments of
commencing on (date)

Registered sum	....	£
Costs	....	£
Amount already paid	....	£
Balance due	....	£

You may however apply to the court by notice in writing addressed to me at the above address
for an order for payment by instalments pursuant to Article 91(3) of the Magistrates' Courts
(Northern Ireland) Order 1981 or for further time for payment or for variation of the said Order.
And the court ordered that if such payment is not made or such issue is not made or such
application received by me within the time allowed [a warrant of commitment be issued
committing you to prison for days. The issue of a warrant would increase the amount due.
Payment may be made to me within the time allowed at the above address, or may be sent by post
at your own risk. Payment made by post must be accompanied by this notice and postage must be
prepaid.

Dated this day of 20 .

Clerk of Petty Sessions

NOTE: It will be helpful to the court in dealing with your application if you will provide
particulars of income, outgoings and any change of circumstances since the order was made.

Form 62B

MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981
(Article 91 and 92; Rules 14, 105 and 143)

JUSTICE ACT (NORTHERN IRELAND) 2011

THE PENALTY NOTICES (JUSTICE ACT (NORTHERN IRELAND) 2011)
(ENFORCEMENT OF FINES) REGULATIONS (NORTHERN IRELAND) 2012;
Regulation 7

**Warrant of Commitment for Sum Registered under Section 67 of the Justice Act
(Northern Ireland) 2011**

of

Clerk of Petty Sessions
[Complainant]

Petty Sessions District of

of

County Court Division of

Defendant
[Defendant]

WHEREAS [upon hearing of a complaint that] on the (date)
at (place)
in the said petty sessions district the sum of £ was registered against the defaulter
[defendant] as a sum adjudged to be paid by a conviction under section 67 of the Justice Act
(Northern Ireland) 2011 in respect of Penalty Notice No. and whereas a Notice of
Registration of the fine was served on the defaulter [defendant] under section 67(2) of that Act and
whereas the defaulter [defendant] has defaulted on payment of that fine.

An order was made on the day of 20 , by a magistrates'
court for the said district against the said defaulter [defendant] to the following effect viz: -

AND WHEREAS the defaulter [defendant] has not paid the fine as ordered.

THIS IS TO COMMAND YOU to whom this warrant is addressed, to execute the said order
against the defendant as follows:-

To lodge the defendant in HM Prison at there to be imprisoned for the period
of unless the sums be sooner paid.

And for this present warrant shall be a sufficient authority to all whom it may concern. The sum levied to be paid to the clerk of petty sessions at

The warrant to be returned within a reasonable time if not executed.

Fine	....	£
Offender Levy	....	£
Part payment before default fixed	....	£
Amount due when default fixed	....	£
Part payment after default fixed	....	£
Cost of warrant	....	£

Balance	....	£

Dated this day of 20 .

District Judge (Magistrates' Courts)

To the Chief Constable of the Police Service of Northern Ireland

The principal party the sum of £ [and the said [surety] [sureties] the sum of £
[each] in case the said principal party fails to perform the above obligation] [and in lieu of surety
the said principal party hereby deposits the sum of £ or other valuable security to the
value of that sum as security for performance of the said obligation].

..... Principal Party

..... [Surety]

..... [Surety]

Taken before me this day of
20 .
(as to the said Principal Party)
(as to the said Suret[y][ies]

Taken before me this day of
20 .
(as to the said Principal Party)
(as to the said Suret[y][ies]

.....
Governor/Deputy Governor

Ireland]

.....
District Judge (Magistrates' Courts)
[Lay Magistrate]
[Clerk of Petty Sessions]
[Member of the Police Service of Northern

FORM 96A

JUSTICE ACT (NORTHERN IRELAND) 2011
(Section 91)

MAGISTRATES' COURTS RULES (NORTHERN IRELAND) ORDER 1984
(Rule 153C)

Application for compassionate bail under section 91 of the Justice Act (Northern Ireland) 2011

[Title as in Form 1]

TAKE NOTICE that I, the undersigned, intend to apply under section 91 of the Justice Act (Northern Ireland) 2011 to a magistrates' court for the above-named petty sessions district for an order that I be released from custody (insert dates for release) for -

(Grounds on which the application is made)

on such terms and conditions as the court thinks just.

Please provide details of any previous bail applications made in the proceedings, specifying the outcome of those applications and, where bail was granted, any conditions which were imposed by the court.

Where possible, please indicate whether the police are agreeable to compassionate bail under section 91 of the Justice Act (Northern Ireland) 2011 being granted. Where appropriate, please state any conditions which the police believe should be attached and if these conditions are agreed by the defence.

Please indicate whether the applicant/defendant consents to this application being dealt with in his absence.

YES/NO (delete as appropriate)

Dated this day of 20 .

Signed

Applicant/Defendant
[Solicitor for the Applicant/Defendant]

To: Clerk of Petty Sessions
Director of Public Prosecutions.

FORM 96B

JUSTICE ACT (NORTHERN IRELAND) 2011
(Section 91)

MAGISTRATES' COURTS RULES (NORTHERN IRELAND) ORDER 1984
(Rule 153C)

**Notice of release on compassionate bail under section 91 of the Justice Act
(Northern Ireland) 2011**

[Title as in Form 1]

UPON APPLICATION by the above named applicant/defendant.

IT IS ORDERED that the applicant/defendant be admitted to compassionate bail under section 91 of the Justice Act (Northern Ireland) 2011 him/herself in the sum of £ with surety[ies] in the sum of £ , for the personal appearance of the said applicant/defendant before [custodial establishment] in accordance with the condition(s) on which bail is granted,

AND IT IS ORDERED that bail is granted to the applicant/defendant subject to the following conditions:-

The applicant/defendant shall be released [release details] subject to the applicant/defendant being released into the custody of his surety/sureties who shall collect the applicant/defendant from [custodial establishment], and return him to the Governor of Her [custodial establishment] [return to custody details].

[other conditions]

AND IT IS ORDERED that upon the applicant/defendant and surety[ies] entering into recognizance in the above mentioned sums this Order shall be sufficient authority for the person for the time being in charge of [custodial establishment] on being satisfied as to the identity of sureties to release the applicant/defendant to sureties, unless he/she is in custody for some other cause.

This day of 20 .

Clerk of Petty Sessions

To the Governor of HM Prison

Form 109D

JUSTICE ACT (NORTHERN IRELAND) 2011
(Section 67)

THE PENALTY NOTICES (JUSTICE ACT (NORTHERN IRELAND) 2011)
(ENFORCEMENT OF FINES) REGULATIONS (NORTHERN IRELAND) 2012;
Regulation 4

MAGISTRATES' COURTS RULES(NORTHERN IRELAND) ORDER 1984
(Rule 12C)

Certificate of Service of Summons on Defendant

of

Complainant

Petty Sessions District of

of

County Court Division of

Defendant

I, _____ of _____
certify that on the _____ day of _____ 20____ I did serve a
summons under Regulation 4 of the Penalty Notices (Justice Act (Northern Ireland) 2011)
(Enforcement of Fines) Regulations (Northern Ireland) 2012 on the above-named defendant in the
manner endorsed by me on the original summons.

Dated this _____ day of _____ 20____

Signed:

Form 109E
JUSTICE ACT (NORTHERN IRELAND) 2011
(Section 67(2))

THE PENALTY NOTICES (JUSTICE ACT (NORTHERN IRELAND) 2011)
(ENFORCEMENT OF FINES) REGULATIONS (NORTHERN IRELAND) 2012;
Regulation 3

MAGISTRATES' COURTS RULES(NORTHERN IRELAND) ORDER 1984
(Rule 12E)

Certificate of Service of Notice of Registration on Defaulter

of

Complainant Petty Sessions District of

of

County Court Division of
Defendant

I, _____ of _____
hereby certify that on the _____ day of _____ 20____ I did serve a
Notice of Registration under Section 67(2) of the Justice Act (Northern Ireland) 2011 on the
above-named defendant in the manner endorsed by me on the original Notice.

Dated this _____ day of _____ 20____

Signed:

Form 110E
JUSTICE ACT (NORTHERN IRELAND) 2011
(Section 68)

MAGISTRATES' COURTS RULES (NORTHERN IRELAND) ORDER 1984
(Rule 13C)

Statutory Declaration

of

Complainant Petty Sessions District of

of

County Court Division of

Defendant

I, of

do solemnly and sincerely declare that

[(a) I was not the person to whom the penalty notice number referred to in the [Notice of Registration] (or here state the document received) served on me on the day of was given;]

[(b) I did not know of the penalty concerned or of any penalty notice until I received the [Notice of Registration] (or here state other document received);]

[(c) I gave notice requesting a hearing in respect of the alleged offence as permitted in the relevant penalty notice before the end of the suspended enforcement period or period allowed for response to that notice.]

Declarant

Declared before me this day of 20
at in the petty sessions district of

Lay Magistrate

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Magistrates' Courts Rules (Northern Ireland) 1984 (S.R.1984 No.225) ("the principal Rules") to-

- provide the procedure for proceedings in respect of enforcement of a Penalty Notice under Part 6, Chapter 1 of the Justice Act (Northern Ireland) 2011 [2011 c.24] ("the 2011 Act"). Part 6, Chapter 1 of the 2011 Act allows the police to issue a Penalty Notice to an offender in respect of certain offences, such as criminal damage or indecent behaviour;

- prescribe the procedure for making an application for compassionate bail under section 91 of the 2011 Act; and

- take account of the creation of the offender levy by the 2011 Act. Specifically,

Rule 2 (1) inserts new Rule 12E to provide the service of a notice of registration of a Penalty Notice for enforcement in the Magistrates' Courts shall be in Form 109E.

Rule 2 (2) inserts new Rule 13C to provide that a Statutory Declaration under section 68 of the 2011 Act shall be in Form 110E and the clerk of petty sessions shall record receipt of a Statutory Declaration in the Order Book and notify the Chief Constable of its receipt.

Rule 2 (3) amends Rule 14 to provide that a warrant issued under the 2011 Act in relation to non-payment of a Penalty Notice shall not be signed by the clerk of petty sessions, but instead shall be signed by a district judge (magistrates' courts) or a lay magistrate.

Rule 2 (4) amends Rule 105 to provide that an order made by the court in relation to enforcement of an unpaid Penalty Notice shall be served on the person against whom the order is directed by the clerk of petty sessions.

Rule 2 (5) amends Rule 150 (2A) to provide that a recognizance in respect of a Penalty Notice under the 2011 Act may be taken by a member of the Police Service of Northern Ireland.

Rule 2 (6) makes a number of amendments to the principal Rules to prescribe the procedure for making an application for compassionate bail under section 91 of the 2011 Act; and

Rule 2 (7) amends Forms 60, 61, 62, 70 and 71 in Schedule 1 to the Rules to allow an offender levy imposed by a court to be recorded on those Forms. It also inserts new Forms 1B, 2C, 8D, 60B, 62B, 89B, 96A, 96B, 109D, 109E and 110E to be used in proceedings relating to the enforcement of a Penalty Notice under the 2011 Act and new Forms 96A and 96B which are to be used in applications for bail under section 91 of the 2011 Act.

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STATUTORY RULES OF NORTHERN IRELAND

2012 No. 189

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2012

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