
STATUTORY INSTRUMENTS

1981 No. 1675

The Magistrates' Courts (Northern Ireland) Order 1981

PART X

WITNESSES AND EVIDENCE

^{F1}Evidence

F1 [Art. 118-118E](#) and cross-headings substituted (1.1.2012) for art. 118 and preceding cross-heading by Justice Act (Northern Ireland) 2011 c. 24 (NI), **ss. 100(1), 111(3)** (with [s. 106\(4\)](#), [Sch. 6 para. 8](#)); [S.R. 2011/370](#), **art. 3(f)**

Evidence on oath

121. Subject to this Part and to the provisions of any enactment or rule of law authorising the reception of unsworn evidence, evidence given before a magistrates' court shall be given on oath.

Statement of wages to be evidence

122. A statement in writing that wages of any amount have been paid to a person during any period, purporting to be signed by or on behalf of his employer, shall, without further proof, be evidence of the facts alleged in the statement—

- (a) for the purpose of ascertaining the means of such person where a magistrates' court is determining the amount of a sum adjudged to be paid by a conviction or order of a magistrates' court;
- (b) on any application made by or against such person for the making of an order for the periodical payment of money such as is specified in Article 98(11) or for the variation, revocation, discharge, suspension or revival of such an order or in any proceedings under that Article for its enforcement.

Proof of non-payment of sum adjudged

123. In any summary proceedings to enforce the payment of a sum of money ordered to be paid by one person to another, then—

- (a) if the sum was payable under the order to the clerk of petty sessions or collecting officer, the production of a certificate purporting to be signed by the clerk or collecting officer that the sum has not been paid to him; and
- (b) in any other case, the production of a statutory declaration to a like effect purporting to be made by the person to whom the sum is payable under the order or, where the person to whom the sum is payable is a public or local authority or board, any authorised officer of the authority or board;

Changes to legislation: *The Magistrates' Courts (Northern Ireland) Order 1981, Cross Heading:*
Evidence is up to date with all changes known to be in force on or before 19 February 2024. There are
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content and are referenced with annotations. (See end of Document for details) View outstanding changes

shall be evidence of the facts stated in the certificate or, as the case may be, the declaration, unless the court requires such clerk, officer or other person to be called as a witness.

Onus of proving exceptions in proceedings upon complaint

124.—(1) When the defendant to a complaint relies for his defence on any exception, exemption, proviso, excuse or qualification, the burden of proving such exception, exemption, proviso, excuse or qualification shall be on him.

(2) This Article shall have effect whether the exception, exemption, proviso, excuse or qualification relied on—

- (a) accompanies or does not accompany the description of the offence or matter of complaint in the enactment creating the offence or on which the complaint is founded; or
- (b) is or is not expressly specified or negated in the complaint.

Proof of previous convictions

125. Where a person is convicted of an offence by a court of summary jurisdiction^{F2}. . . , and it is proved to the satisfaction of the court, on oath or by affidavit or in the prescribed manner, that not less than seven days previously a notice was served on the accused in the prescribed form and manner specifying any alleged previous conviction of the accused of an offence proposed to be brought to the notice of the court in the event of his conviction of the offence charged, and the accused is not present in person before the court, the court may take account of any such previous conviction so specified as if the accused had appeared and admitted it.

F2 1989 NI 12

Proof by affidavit of service of summons, handwriting, etc.

126.—(1) Without prejudice to any other mode of proof, service on a person of any summons, notice, process or document required or authorised to be served in any proceedings before a magistrates' court and the handwriting or seal of any resident magistrate or^{F3} lay magistrate], clerk of petty sessions or other officer or person on any warrant, summons, notice, process recognizance or other document, may be proved by affidavit^{F4} or by such other document as may be prescribed].

(2) Any affidavit purporting to be made and attested in the prescribed form shall be received in evidence and shall be deemed to be duly made and attested until the contrary is shown.

[
^{F4}(3) Magistrates' courts rules may provide that any document purporting to be given as a document prescribed under paragraph (1) shall be received in evidence and shall be deemed to be duly given unless the contrary is shown.

(4) Without prejudice to Article 10 of the Perjury (Northern Ireland) Order 1979, if, in a document purporting to be given as a document prescribed under paragraph (1), a person—

- (a) makes a statement that he knows to be false in a material particular, or
- (b) recklessly makes any statement that is false in a material particular,

he shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding level 3 on the standard scale, or both.]]

F3 2002 c. 26
F4 1989 NI 12

Changes to legislation:

The Magistrates' Courts (Northern Ireland) Order 1981, Cross Heading: Evidence is up to date with all changes known to be in force on or before 19 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to :

- Instrument am (prosp) by [S.I. 1994/2795 \(N.I.\) arts.3\(4\)25](#)
- Instrument am (prosp) by [S.I. 1994/2795 \(N.I.\) art.3\(5\)Sch.1](#)
- Instrument am (prosp) by [S.I. 1994/2795 \(N.I.\) art.5\(2\)](#)
- Instrument mod (prosp) by [1994 c. 33 s. 91\(3\)](#)
- Instrument revoked by [1998 c. 41 s.74\(1\)\(3\)Sch.12 para.5Sch.14 Pt.I](#)

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

- Act amended by [1996 c. 25 s.79Sch.4 para 30](#)
- Act amended by [1996 c. 25 s.79Sch.4 para 30](#)
- Order applied (with modifications) by [S.I. 2018/1125 reg. 8](#) (This amendment not applied to [legislation.gov.uk](#). [S.I. 2018/1125](#), reg. 8 omitted (31.12.2020) by virtue of Private International Law (Implementation of Agreements) Act 2020 (c. 24), s. 4(3), Sch. 5 para. 4(4))
- Order power to modify conferred by [2015 c. 9 \(N.I.\) s. 24\(5\)\(a\)](#) (see [s 24\(6\)](#))

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- [Sch.6 Pt.I paras.1819](#) revoked by [1995 c. 21 s. 314\(1\)Sch.12](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch.6 Pt.I para.5](#) revoked by [S.I. 1995/756 art.15Sch.](#)
- [Sch. 6 para. 128-130](#) repealed by [2011 c. 15 \(N.I.\) Sch. 3 Pt. 2](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch. 6 para. 125](#) repealed by [2011 c. 16 \(N.I.\) Sch. 5](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch. 6 Pt. 3 para. 170](#) repealed by [S.I. 2007/916 \(N.I.\) Sch. 8 Pt. 1](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch. 6 para. 144](#) repealed by [2006 c. 48 Sch. 15 Pt. 4](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch. 6 para. 21](#) repealed by [2013 c. 22 Sch. 11 para. 210](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch. 6 para. 25](#) repealed by [2013 c. 22 Sch. 11 para. 210](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [art. 29A](#) excluded by [1975 c. 59, s. 4\(3\)](#) (as substituted) by [2015 c. 9 \(N.I.\) s. 7\(6\)](#)
- [art. 29A](#) inserted by [2015 c. 9 \(N.I.\) s. 7\(2\)](#)
- [art. 34\(1A\)-\(1E\)](#) inserted by [2015 c. 9 \(N.I.\) s. 8\(2\)](#)
- [art. 140\(2ZA\)](#) inserted by [2016 c. 18 \(N.I.\) Sch. 10 para. 16](#)