EXPLANATORY NOTE

(This note is not part of the Order, but is intended to indicate its general purport.)

The object of this Order is to provide for the rates of grant (and of Exchequer payments towards the grants) for houses provided by private persons for letting and owner-occupation, which are completed during the year 1961.

1961. No. 52 **[C]**

COUNTY COURTS

Summoning of Witnesses in Civil Proceedings

RULES, DATED 9TH MARCH, 1961, MADE BY THE MINISTER OF HOME AFFAIRS UNDER SECTION 146 OF THE COUNTY COURTS ACT (NORTHERN IRELAND), 1959, ON THE RECOMMENDATION OF THE COUNTY COURT RULES COMMITTEE AND AFTER CONSULTATION WITH THE LORD CHIEF JUSTICE.

I, the Right Honourable Brian Faulkner, Minister of Home Affairs, by virtue of the power vested in me by Section 146 of the County Courts Act (Northern Ireland), 1959(a), on the recommendation of the County Court Rules Committee and after consultation with the Lord Chief Justice, do hereby make the following Rules:—

Citation

1. These Rules may be cited as the County Court (Summoning of Witnesses in Civil Proceedings) Rules (Northern Ireland), 1961.

Issue and service of witness summons

2.—(1) Subject to paragraph (2), where any party to any action or other civil proceeding desires a person to be summoned as a witness to give oral evidence at the hearing in court or to produce at the hearing in court a document in his possession or control, the clerk of the Crown and peace, or other officer of the court authorised by him for the purpose, shall, on the application of the party, issue a witness summons in Form 1 in the Schedule together with a copy thereof.

(2) Where the clerk of the Crown and peace has reason to believe that any application for a witness summons, not being an application by a party through his solicitor, is frivolous or vexatious, he may refer the application to the judge, and the judge may thereupon direct the issue of the summons or otherwise deal with the matter as to him seems just.

(3) The applicant shall, if the clerk of the Crown and peace, or other officer as aforesaid, so requests, produce the civil bill or other originating process.

(4) Each original summons shall bear a stamp of the prescribed amount and each such summons and each copy thereof shall be intitled as in the civil bill or other originating process to which it relates and shall contain

(a) 1959, c. 25.

the name of one witness only but where the application is made by a party through his solicitor may as regards the name of the witness be issued in blank.

(5) Unless the judge otherwise directs, the summons shall, a reasonable time before the day fixed for the hearing, be served by the delivery of a copy thereof to the witness personally by—

(*a*) a process server for the district in which the witness resides; or

(*b*) the solicitor of the party issuing the summons or a solicitor acting as an agent for such solicitor or some person over sixteen years of age employed by either solicitor to serve the document.

(6) Where the summons is to be served by a process server, any money to be paid or tendered under Rule 3 shall be sent to him together with the summons and the copy thereof.

Viaticum to witness

3. There shall be paid or tendered to the witness at the time of service of the summons a viaticum consisting of—

(*a*) such sum, not being less than one shilling, as shall reasonably cover his expenses in travelling to and from court; and

(*b*) if the person summoned is not a party to the proceedings, an additional sum of five shillings.

Endorsement of service

4. The endorsement of service of a witness' summons shall be in Form 2 in the Schedule.

Dated this 9th day of March, 1961.

Brian Faulkner,
Minister of Home Affairs.

SCHEDULE

FORMS

FORM 1

Summons to Witness

[*Heading and Title as in Civil Bill*]

YOU ARE HEREBY SUMMONED to attend at on the day of , 19 , at the hour of in the noon, and so from day to day, until the above action or proceeding is disposed of, to give evidence in the above action or proceeding.

*Delete if not required.

*And to bring with you and produce to the court the documents mentioned hereunder.

If you fail to attend or to give evidence or to produce the documents required by this summons, or unless duly excused, fail to remain in attendance throughout the trial of the action or proceeding, you will be liable to a fine not exceeding fifty pounds and in addition or alternatively to imprisonment for a term not exceeding one month.

Dated this day of , 19 .

Clerk of the Crown and Peace.

To

of

This summons is served on behalf of the plaintiff/defendant whose solicitors are.....

Sum to be paid or tendered to the witness:— £ : :

FORM 2

Service Endorsement on Summons to Witness

A true copy of this summons was served by me on the within-named personally, at on the day of , 19 , and the sum of was at the same time paid/tendered by me to the said for his/her expenses.

(Signed)