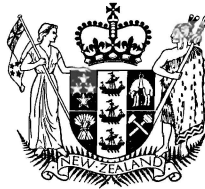


1956/82



**THE IMPRISONMENT FOR DEBT LIMITATION  
(MAGISTRATES' COURTS) RULES 1949,  
AMENDMENT NO. 2**

H. E. BARROWCLOUGH, Administrator of the Government  
ORDER IN COUNCIL

At the Government House at Wellington this 6th day of June 1956

Present:

HIS EXCELLENCY THE ADMINISTRATOR OF THE GOVERNMENT IN COUNCIL

PURSUANT to the Imprisonment for Debt Limitation Act 1908 and the Magistrates' Courts Act 1947, His Excellency the Administrator of the Government, acting by and with the advice and consent of the Executive Council, hereby makes the following rules.

**RULES**

1. (1) These rules may be cited as the Imprisonment for Debt Limitation (Magistrates' Courts) Rules 1949, Amendment No. 2, and shall be read together with and deemed part of the Imprisonment for Debt Limitation (Magistrates' Courts) Rules 1949\* (hereinafter referred to as the principal rules).

(2) These rules shall come into force on the fourteenth day after the date of their notification in the *Gazette*.

2. (1) Rule 13 of the principal rules is hereby amended by revoking subclause (2), and substituting the following subclauses:

"(2) A judgment summons shall be served by delivering it to the judgment debtor, or by bringing it to his notice if he refuses to accept it:

"Provided that where the judgment debtor resides in a remote locality, or in any other special circumstances, a Magistrate may, if he thinks fit, authorise the service of a judgment summons by registered letter.

"(2A) Except as provided in subclause (3) of this rule, a judgment summons shall be served not less than ten clear days before the day appointed for the hearing."

(2) The said rule 13 is hereby further amended by omitting from subclause (1) the words "by a bailiff or a constable", and substituting the words "by an officer of a Court or by a constable".

3. (1) Rule 14 of the principal rules is hereby amended by omitting from subclause (1) the words "items 4, 5, and 6 of the Scale of Allowances to Witnesses and Interpreters set out in the Fourth Schedule to the Magistrates' Courts Rules 1948", and substituting the words "the amounts payable to witnesses for allowances and travelling expenses, but not fees, pursuant to the Witnesses and Interpreters Fees Regulations 1954".\*

(2) The said rule 14 is hereby further amended by adding to subclause (1) the following proviso:

"Provided that no conduct money shall be payable unless the sum so estimated exceeds 5s."

4. Rule 27 of the principal rules is hereby amended by adding the following subclause:

"(10) A Magistrate may from time to time direct that the execution of any warrant of committal be held over for a specified period; and may at any time revoke any such direction, whether it was given by him or by any other Magistrate."

5. (1) The principal rules are hereby amended by revoking rule 34, and substituting the following rule:

"34. The fees to be taken under these rules shall be the appropriate fees set out in the Third Schedule to the Magistrates' Courts Rules 1948†, and all such fees shall be prepaid."

(2) The Third Schedule to the principal rules, and rule 8 of the Imprisonment for Debt Limitation (Magistrates' Courts) Rules 1949, Amendment No. 1,‡ are hereby consequentially revoked.

(3) In respect of any proceedings commenced before the date of the coming into force of these rules, no further fees shall be payable under the Third Schedule to the principal rules, as hereby revoked, and the appropriate fees, if any, set out in the Third Schedule to the Magistrates' Courts Rules 1948 shall be payable in respect of any step in the proceedings taken on or after that date.

(4) Form 7 in the Second Schedule to the principal rules is hereby amended by omitting the words "Service fee ..... 0 3 0".

6. Rule 35 of the principal rules is hereby amended by revoking paragraph (c) of subclause (3), and substituting the following paragraph:

"(c) Fees, allowances, and travelling expenses payable to witnesses and interpreters in accordance with the Witnesses and Interpreters Fees Regulations 1954\*;"

7. The Second Schedule to the principal regulations is hereby amended as follows:

- (a) By revoking paragraphs 5 and 6 of form 3, and the note numbered (3) at the foot of that form:
- (b) By revoking paragraphs 6 and 7 of form 4, and the note numbered (3) at the foot of that form:
- (c) By revoking paragraphs 6 and 7 of form 5, and the note numbered (3) at the foot of that form.

T. J. SHERRARD,  
Clerk of the Executive Council.

## EXPLANATORY NOTE

*This note is not part of the rules, but is intended to indicate their general effect.*

These rules make miscellaneous amendments to the Imprisonment for Debt Limitation (Magistrates' Courts) Rules 1949. They come into force on the fourteenth day after the date of their notification in the *Gazette*.

The effect of rule 2 is that a Magistrate may authorise the service of a judgment summons by registered post if the judgment debtor resides in a remote locality, or in any other special circumstances.

The effect of rule 3 (1) is that in estimating the amount of conduct money to be tendered to the judgment debtor the Registrar is to have regard to the scales of allowances and travelling expenses under the Witnesses and Interpreters Fees Regulations 1954. The effect of rule 3 (2) is that conduct money will be payable only where it exceeds 5s.

Rule 4 authorises a Magistrate to direct that the execution of a warrant of committal may be held over for a specified period.

Rule 5 revokes the scale of Court fees in the Third Schedule to the principal rules, and provides that the fees to be taken are those set out in the new scale of Court fees in the Third Schedule to the Magistrates' Courts Rules 1948 (as enacted by the Magistrates' Courts Rules 1948, Amendment No. 2). The new scale will operate both in respect of proceedings commenced on or after the date of the coming into force of these rules and in respect of any step in proceedings commenced before that date.

Rule 6 amends rule 35 of the principal rules, in relation to the witnesses' and interpreters' allowances included in the costs of a judgment summons, by applying the Witnesses and Interpreters Fees Regulations 1954.

Rule 7 omits from the forms of application for a judgment summons the paragraphs requiring the applicant to state his belief that the debtor has had sufficient money to pay the debt, and the grounds for his belief.

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Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 7 June 1956.

These regulations are administered in the Department of Justice.