STATUTORY INSTRUMENTS

# 1965 No. 1973

# CORONERS

## The Coroners (Indictable Offences) Rules 1965

*Made* - - - - 15*th November* 1965
*Coming into Operation* 6*th December* 1965

I, Gerald, Baron Gardiner, Lord High Chancellor of Great Britain, in pursuance of the powers conferred upon me by sections 25 and 27 of the Coroners (Amendment) Act 1926(a), do hereby make the Rules herein contained, and the Rules so made by me shall apply to England and Wales with the exception of the county of Lancaster;

And I, the Right Honourable Douglas Houghton, Chancellor of the Duchy and County Palatine of Lancaster, in pursuance of the powers conferred upon me by the said sections 25 and 27 and by section 39 of the Coroners Act 1887(b), do hereby make the Rules herein contained, and the Rules so made by me shall apply to the county of Lancaster.

1.—(1) In Rule 1 of the Coroners (Indictable Offences) Rules 1956(c) (which relates to the application of certain enactments) for the words from "subsections (2) and (3)" to "Criminal Justice Act 1925" there shall be substituted the words—

"section 1(1), (2) and (3) of the Criminal Procedure (Attendance of Witnesses) Act 1965(d),

section 10(1) of the Magistrates' Courts Act 1952(e),

section 14(1) of the Criminal Justice Administration Act 1962(f),

section 18 of the said Act of 1962,

paragraph 10 of Schedule 1 to the Administration of Justice Act 1964(g),".

(2) At the end of the said Rule 1 there shall be added the following paragraph :—

"(2) The provisions of section 16(1) of the Criminal Justice Administration Act 1962 shall apply to a coroner's inquisition charging a person with murder, manslaughter or infanticide as they apply to an indictment.".

(a) 16 & 17 Geo. 5. c. 59.
(b) 50 & 51 Vict. c. 71.
(c) S.I. 1956/1692 (1956 I, p. 522).
(d) 1965 c. 69.
(e) 15 & 16 Geo. 6 & 1 Eliz. 2. c. 55.
(f) 10 & 11 Eliz. 2. c. 15.
(g) 1964 c. 42.

**2.** In Rule 7(1) of the said Rules (which relates to witnesses bound over conditionally)—

(*a*) for the words "Where a witness has been bound over conditionally", there shall be substituted the words "Where in pursuance of section 1(2) of the Criminal Procedure (Attendance of Witnesses) Act 1965, as applied by Rule 1 of these Rules, a conditional witness order has been made";

(*b*) the words "in pursuance of his recognizance" shall be omitted.

**3.**—(1) In Rule 8(1) of the said Rules (which relates to the forwarding of documents to the court of trial) for the words "who have been bound over conditionally" there shall be substituted the words "in respect of whom witness orders have been made under section 1 of the Criminal Procedure (Attendance of Witnesses) Act 1965, as applied by Rule 1 of these Rules".

(2) In Rule 8(2) of the said Rules for the words "Rule 8" there shall be substituted the words "Rule 7".

(3) After Rule 8(3) of the said Rules there shall be added the following paragraph :—

"(4) Where a person charged by a coroner's inquisition with murder, manslaughter or infanticide is committed for trial to the Central Criminal Court, the coroner shall forthwith send written notification of the committal to the Clerk of the Court and, subject to the provisions of section 5 of the Prosecution of Offences Act 1879(a), shall forward to the Clerk within four days of the committal (not counting Sundays, Christmas Day, Good Friday or bank holidays), or such later day as the Clerk may, having regard to the length of any document, direct, any document which is required to be forwarded to the Clerk under section 5(3) of the Coroners Act 1887 or paragraph (1) of this Rule.".

**4.** In Rule 11(1) of the said Rules—

(*a*) the definition of "bound over conditionally" shall be omitted;

(*b*) for the definition of "prosecutor" there shall be substituted the following definition :—

" 'prosecutor' means the chief officer of police for the area in which the coroner's jurisdiction is comprised.".

**5.**—(1) For paragraph (A) in Schedule 1 to the said Rules, namely, the application of section 5(2) and (3) of the Magistrates' Courts Act 1952, there shall be substituted the following paragraph :—

"(A) *Section* 1(1), (2) *and* (3) *of the Criminal Procedure* (*Attendance of Witnesses*) *Act* 1965

'(1) Where any person is charged by a coroner's inquisition with murder, manslaughter or infanticide, the coroner shall in respect of each witness at the inquest, other than the accused, make an order (in this Act referred to as a witness order) requiring him to attend and give evidence before the court of assize before which the accused is to be tried.

(a) 42 & 43 Vict. c. 22.

(2) Where it appears to the coroner, after taking into account any representation made by the accused or the prosecutor, that the attendance at the trial of any witness is unnecessary on the ground that his evidence is unlikely to be required or is unlikely to be disputed, then any witness order to be made by the coroner in his case shall be a conditional order requiring him to attend the trial if notice in that behalf is given to him and not otherwise.

(3) Where any person is charged by a coroner's inquisition with murder, manslaughter or infanticide, the coroner shall inform him of his right to require the attendance at the trial of any witness in respect of whom a conditional witness order has been made and of the steps he must take for the purpose of enforcing the attendance.' ".

(2) For paragraph (C) in Schedule 1 to the said Rules, namely, the application of section 14(4) of the Criminal Justice Act 1925, there shall be substituted the following paragraphs :—

"(C) *Section* 14(1) *of the Criminal Justice Administration Act* 1962

'(1) Where a coroner proposes to commit a person to the assizes for any place to be tried for murder, manslaughter or infanticide, and a court of assize for that place is being held at the time of the committal, the coroner may, with his and the prosecutor's consent and with the agreement of the judge holding the court or, if more than one, the senior of them, commit him to that court, notwithstanding any enactment requiring his committal to the next assizes.'

(D) *Section* 18 *of the Criminal Justice Administration Act* 1962

'(1) Subsections (2) to (5) of this section shall apply where a person charged by a coroner's inquisition with murder, manslaughter or infanticide is tried, sentenced or dealt with by or before any court of assize by or before which he could not have been tried, sentenced or dealt with but for the following provisions, that is to say :—

section 14(2) of the Criminal Justice Act 1925(a);

section 10 of the Magistrates' Courts Act 1952, as applied by Rule 1 of these Rules;

section 16(1) of the Criminal Justice Administration Act 1962, as applied by Rule 1 of these Rules.

(2) Any costs payable in the case out of local funds under the Costs in Criminal Cases Act 1952(b), shall in the first instance be paid as in the case of an offence committed in the county or county borough in which the proceedings take place but shall be recoverable in accordance with subsection (5) of this section.

(3) Such sum (if any) in respect of the expenses of holding the court (including salaries and allowances) as may be determined in accordance with regulations made by the Secretary of State by statutory instrument may be recovered by the authority incurring those expenses from the authority

(a) 15 & 16 Geo. 5. c. 86. (b) 15 & 16 Geo. 6 & 1 Eliz. 2. c. 48.

(if different) liable to defray the expenses of the court by or before which the said person would have been tried, sentenced or dealt with apart from the said provisions.

(4) Where a coroner, under section 10 of the Magistrates' Courts Act 1952, as applied by Rule 1 of these Rules, commits a person to a court to which he could not otherwise commit him, he shall send to the proper officer of that court a notice specifying the court to which the said person would have been committed apart from those provisions.

(5) Where a person tried, sentenced or dealt with as mentioned in subsection (1) of this section was committed by a coroner, other than a coroner for the county or county borough in which the proceedings take place, the council of that county or county borough may recover any sum paid by them under subsection (2) of this section from the following council, that is to say,—

(*a*) if that coroner was a coroner for a county, from the council of that county;

(*b*) if he was a coroner for a non-county borough, from the council of the county in which that borough is situated; and

(*c*) if he was a coroner for a county borough, from the council of that borough.

(6) Where a person is committed to be tried before any court of assize but is not tried or sentenced by or before that court, subsections (2), (3) and (5) of this section shall, with the necessary modifications, apply as they apply where a person is tried, sentenced or dealt with as mentioned in subsection (1) of this section.'

(E) *Paragraph* 10 *of Schedule* 1 *to the Administration of Justice Act* 1964

'10. A coroner who would apart from this paragraph be required to commit a person charged by a coroner's inquisition with murder, manslaughter or infanticide for trial to the next session of the Central Criminal Court may, if the committal falls to be made between the beginning of a session of the Court and the relevant date in that session, commit him to the current session of the Court; and accordingly section 14(1) of the Criminal Justice Administration Act 1962, as applied by Rule 1 of these Rules, shall, so far as it relates to committal to the Court, only apply to committal to the Court on or after the relevant date in any session of the Court.' ".

**6.** For the Forms numbered 3, 4, 5, 6, 7 and 8 in Schedule 3 to the said Rules there shall be substituted the Forms numbered 3, 4 and 5 in the Schedule to these Rules.

**7.** These Rules may be cited as the Coroners (Indictable Offences) Rules 1965 and shall come into operation on 6th December 1965.

Dated 15th November 1965.

*Gardiner, C.*
*Douglas Houghton.*

SCHEDULE Rule 6

FORMS

3

*Witness order*

To C.D., of

You are hereby ordered [if notice is later given to you to that effect]* to attend and give evidence at the trial of A.B. before the next Court of Assize for the [county] of

Dated the day of , 19 .

J.S.,
Coroner for

*Note.* Under section 3(1) of the Criminal Procedure (Attendance of Witnesses) Act 1965 a person who disobeys a witness order without just excuse may be punished with imprisonment not exceeding three months and a fine.

*Delete unless the order is a conditional order.

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4

*Notice requiring attendance of witness at trial*

WHEREAS you, C.D., of , were on the day of , 19 , ordered, upon notice being given to you, to attend at the Court specified in the order and to give evidence at the trial of A.B. :

THIS IS TO GIVE YOU NOTICE that you are required to attend at the next Court of Assize for the [county] of , to be held at , and to give evidence accordingly.

Dated the day of , 19 .

J.S.,
Coroner for

**5**

*Statement about witnesses*

Reg. v.

Committed for trial at the Court of Assize for the [county] of beginning on the day of , 19 .

List of Witnesses subject to witness orders under section 1 of the Criminal Procedure (Attendance of Witnesses) Act 1965.

Part A

Those in respect of whom I made witness orders requiring their attendance at the Court of Trial.

| Name | Address | Occupation |
|---|---|---|
| | | |

Part B

Those in respect of whom I made conditional witness orders.

| Name | Address | Occupation |
|---|---|---|
| | | |

Part C

I have given notice to each of the persons named in column 1 below (being persons named in Part B) on the date specified in column 2 opposite to that person that he is required to attend the trial.

| Name | Date of Notice |
|---|---|
| | |

Dated the day of , 19 .

J.S.,
Coroner for

## EXPLANATORY NOTE

*(This Note is not part of the Rules.)*

These Rules amend the Coroners (Indictable Offences) Rules 1956 to enable a coroner to issue witness orders under the Criminal Procedure (Attendance of Witnesses) Act 1965 when he commits for trial a person charged by inquisition with murder, manslaughter or infanticide; and they apply certain recent enactments relating to committal to convenient assizes.