STATUTORY INSTRUMENTS

1985 No. 601 (L.7)

MAGISTRATES' COURTS

PROCEDURE

The Magistrates' Courts (Advance Information) Rules 1985

Made - - -	12*th April* 1985
Laid before Parliament	25*th April* 1985
Coming into Operation	20*th May* 1985

The Lord Chancellor, in exercise of the power conferred on him by section 144 of the Magistrates' Courts Act 1980(**a**), as extended by section 48 of the Criminal Law Act 1977(**b**), after consultation with the Rule Committee appointed under the said section 144, hereby makes the following Rules:—

1. These Rules may be cited as the Magistrates' Courts (Advance Information) Rules 1985 and shall come into operation on 20th May 1985.

2. These Rules apply in respect of proceedings against any person ("the accused") for an offence triable either way other than proceedings where the accused was charged or an information was laid before the coming into operation of these Rules.

3. As soon as practicable after a person has been charged with an offence in proceedings in respect of which these Rules apply or a summons has been served on a person in connection with such an offence, the prosecutor shall provide him with a notice in writing explaining the effect of Rule 4 below and setting out the address at which a request under that Rule may be made.

4.—(1) If, in any proceedings in respect of which these Rules apply, either before the magistrates' court considers whether the offence appears to be more suitable for summary trial or trial on indictment or, where the accused has not attained the age of 17 years when he appears or is brought before a magistrates' court, before he is asked whether he pleads guilty or not guilty, the accused or a person representing the accused requests the prosecutor to furnish him with advance information, the prosecutor shall, subject to Rule 5 below, furnish him as soon as practicable with either —

(*a*) a copy of those parts of every written statement which contain information as to the facts and matters of which the prosecutor proposes to adduce evidence in the proceedings, or

(**a**) 1980 c.43.
(**b**) 1977 c.45; section 48 was amended by the Magistrates' Courts Act 1980, Schedule 7, paragraph 151 and was brought into force on 20th May 1985 (*see* S.I. 1985/579).

(*b*) a summary of the facts and matters of which the prosecutor proposes to adduce evidence in the proceedings.

(2) In paragraph (1) above, "written statement" means a statement made by a person on whose evidence the prosecutor proposes to rely in the proceedings and, where such a person has made more than one written statement one of which contains information as to all the facts and matters in relation to which the prosecutor proposes to rely on the evidence of that person, only that statement is a written statement for purposes of paragraph (1) above.

(3) Where in any part of a written statement or in a summary furnished under paragraph (1) above reference is made to a document on which the prosecutor proposes to rely, the prosecutor shall, subject to Rule 5 below, when furnishing the part of the written statement or the summary, also furnish either a copy of the document or such information as may be necessary to enable the person making the request under paragraph (1) above to inspect the document or a copy thereof.

5.—(1) If the prosecutor is of the opinion that the disclosure of any particular fact or matter in compliance with the requirements imposed by Rule 4 above might lead to any person on whose evidence he proposes to rely in the proceedings being intimidated, to an attempt to intimidate him being made or otherwise to the course of justice being interfered with, he shall not be obliged to comply with those requirements in relation to that fact or matter.

(2) Where, in accordance with paragraph (1) above, the prosecutor considers that he is not obliged to comply with the requirements imposed by Rule 4 in relation to any particular fact or matter, he shall give notice in writing to the person who made the request under that Rule to the effect that certain advance information is being withheld by virtue of that paragraph.

6.—(1) Subject to paragraph (2) below, where an accused appears or is brought before a magistrates' court in proceedings in respect of which these Rules apply, the court shall, before it considers whether the offence appears to be more suitable for summary trial or trial on indictment, satisfy itself that the accused is aware of the requirements which may be imposed on the prosecutor under Rule 4 above.

(2) Where the accused has not attained the age of 17 years when he appears or is brought before a magistrates' court in proceedings in respect of which these Rules apply, the court shall, before the accused is asked whether he pleads guilty or not guilty, satisfy itself that the accused is aware of the requirements which may be imposed on the prosecutor under Rule 4 above.

7.—(1) If, in any proceedings in respect of which these Rules apply, the court is satisfied that, a request under Rule 4 of these Rules having been made to the prosecutor by or on behalf of the accused, a requirement imposed on the prosecutor by that Rule has not been complied with, the court shall adjourn the proceedings pending compliance with the requirement unless the court is satisfied that the conduct of the case for the accused will not be substantially prejudiced by non-compliance with the requirement.

(2) Where, in the circumstances set out in paragraph (1) above, the court decides not to adjourn the proceedings, a record of that decision and of the reasons why the court was satisfied that the conduct of the case for the accused would not be substantially prejudiced by non-compliance with the requirement shall be entered in the register kept under Rule 66 of the Magistrates' Courts Rules 1981(**a**).

Hailsham of St. Marylebone, C.

Dated 12th April 1985.

EXPLANATORY NOTE

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

These Rules make provision for the disclosure to an accused of advance information as to the prosecutor's case in proceedings against him for an offence triable either way. The prosecutor is required to provide the accused with a written notice as to the accused's right to request disclosure of advance information by the prosecutor (Rule 3). Where such a request is made before the mode of trial for the offence is considered by a magistrates' court or, where the accused is a juvenile, before he is asked to plead, a requirement is imposed on the prosecutor to furnish information by supplying copies of relevant parts of witness statements or a summary of the relevant facts and matters (Rule 4). The prosecutor may withhold disclosure of any fact or matter if in his opinion its disclosure might lead to the intimidation of a witness, to attempts to intimidate a witness or otherwise to the course of justice being interfered with (Rule 5). Provision is made for the court to satisfy itself that the accused is aware that he may ask for advance information and, if the prosecutor has failed to comply with the requirements on him, for the adjournment of the proceedings (Rules 6 and 7.)

(**a**) S.I. 1981/552 (Rule 66 was amended by S.I. 1983/523).

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