STATUTORY INSTRUMENTS

2001 No. 167 (L.4)

MAGISTRATES' COURTS, ENGLAND AND WALES

The Magistrates' Courts (Amendment) Rules 2001

Made - - - - -	*24th January 2001*
Laid before Parliament	*26th January 2001*
Coming into force - -	*19th February 2001*

The Lord Chancellor, in exercise of the powers conferred upon him by sections 125(1) and 144 of the Magistrates' Courts Act 1980(**a**), as extended by section 145 of that Act, and after consultation with the rule committee constituted by section 144 of that Act, makes the following Rules:

Citation and commencement

1. These Rules may be cited as the Magistrates' Courts (Amendment) Rules 2001 and shall come into force on 19th February 2001.

Interpretation

2. In these Rules, any reference to a rule by number alone means the rule so numbered in the Magistrates' Courts Rules 1981(**b**).

Amendments to the Magistrates' Courts Rules 1981

3.—(1) In rule 54(1), for "authorised persons" there shall be substituted "civilian enforcement officers".

(2) After rule 54(3) there shall be inserted—

"(3A) A warrant to which this rule applies may be executed by the persons to whom it was directed or by any of the following persons, whether or not the warrant was directed to them—

(a) a constable for any police area in England and Wales, acting in his own police area;

(b) where the warrant is one to which section 125A of the Act of 1980 applies, a civilian enforcement officer within the meaning of section 125A of the Act of 1980;

(c) where the warrant is one to which section 125A of the Act of 1980 applies, any of the individuals described in section 125B(1) of the Act of 1980;

and in this rule any reference to the person charged with the execution of a warrant includes any of the above persons who is for the time being authorised to execute the warrant, whether or not they have the warrant in their possession at the time.

(3B) A person executing a warrant of distress shall—

(a) either—

(**a**) 1980 c. 43. Section 125(1) was amended by section 97 of the Access to Justice Act 1999 (c. 22).
(**b**) S.I. 1981/552. as amended by S.I. 1983/523, 1984/1552, 1988/2132, 1990/1190 and 1992/729.

(i) if he has the warrant with him, show it to the person against whom the distress is levied, or

(ii) otherwise, state where the warrant is and what arrangements may be made to allow the person against whom distress is levied to inspect it;

(b) explain, in ordinary language, the sum for which distress is levied and the reason for the distress;

(c) where the person executing the warrant is one of the persons referred to in paragraph (3A)(b) or (c) above, show the person against whom distress is levied a written statement under section 125A(4) of 125B(4) as appropriate; and

(d) in any case, show documentary proof of his identity.".

(3) After rule 54(5) there shall be inserted—

"(5A) The clerk of the court which issued the warrant may, on the application of the person charged with the execution of it, extend the period within which the distress must be sold by any number of days not exceeding 60; but following the grant of such an application there shall be no further variation or extension of that period.".

(4) In rule 54(9), (10) and (11) the words "constable or other" shall be omitted wherever they occur.

4. After rule 86(1)(b) there shall be inserted the following:

"; or

(c) where a person other than a police officer is authorised under section 125A or 125B of the Act of 1980 to execute a warrant of arrest providing for a recognizance to be entered into by the person arrested (but not by any other person), before the person executing the warrant.".

5. After rule 90A, there shall be inserted the following new rule—

"Records to be kept where warrant is endorsed for bail

90B.—(1) Where a person is arrested and released on bail pursuant to a warrant endorsed for bail in accordance with section 117 of the Act of 1980, the person executing the warrant shall make a record stating the matters set out in paragraph (2) below.

(2) Those matters are—

(a) the name of the person arrested;

(b) the offence or default with which the person arrested is charged and the reason for the arrest;

(c) the fact that that person is to be released on bail;

(d) the date, time and place at which that person is to appear before the court;

(e) except in criminal proceedings, the amount if any in which that person is bound;

(f) any other details which in the opinion of the person executing the warrant are relevant.

(3) After making the record, the person executing the warrant shall—

(a) sign the record;

(b) invite the person arrested to sign the record;

(c) if the person arrested refuses to sign the record, annotate the record to show the fact of that refusal;

(d) make a copy of the record and give it to the person arrested;

(e) send the original record to the justices' chief executive for the court which issued the warrant.".

6.—(1) In rule 96(1), for "authorised persons" there shall be substituted "civilian enforcement officers".

(2) After rule 96(2) there shall be inserted—

"(3) A warrant to which this rule applies may be executed by the persons to whom it was directed or by any of the following persons, whether or not the warrant was directed to them—

(a) a constable for any police area in England and Wales, acting in his own police area;

(b) where the warrant is one to which section 125A of the Act of 1980 applies, a civilian enforcement officer within the meaning of section 125A of the Act of 1980;

(c) where the warrant is one to which section 125A of the Act of 1980 applies, any of the individuals described in section 125B(1) of the Act of 1980;

and in this rule any reference to the person charged with the execution of a warrant includes any of the above persons who is for the time being authorised to execute the warrant, whether or not they have the warrant in their possession at the time.

(4) A person executing a warrant of arrest shall, upon arresting the person against whom the warrant is issued—

(a) either

(i) if he has the warrant with him, show it to the person against whom the warrant is issued, or

(ii) otherwise, state where the warrant is and what arrangements may be made to allow the person arrested to inspect it;

(b) explain, in ordinary language, the offence or default with which the person is charged and the reason for the arrest;

(c) where the person executing the warrant is one of the persons referred to in paragraph (3)(b) or (c) above, show the person arrested a written statement under section 125A(4) or 125B(4) as appropriate; and

(d) in any case, show documentary proof of his identity.

(5) A warrant of arrest issued under any of the provisions in paragraph (6) shall cease to have effect when—

(a) the sum in respect of which the warrant is issued is paid to the person charged with the execution of the warrant;

(b) that sum is tendered to and refused by the person charged with the execution of the warrant; or

(c) a receipt for that sum given by—

(i) the justices' chief executive for the court which issued the warrant; or

(ii) the charging or billing authority,

is produced to the person charged with the execution of the warrant.

(6) Those provisions are—

(a) sections 83(1), 83(2), 86(4) and 93(5) of the Act of 1980;

(b) regulation 42(5)(b) of the Community Charges (Administration and Enforcement) Regulations 1989(**a**);

(c) regulation 17(5)(b) of the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989(**b**); and

(d) regulation 48(5)(b) of the Council Tax (Administration and Enforcement) Regulations 1992(**c**).".

7.—(1) In rule 97(1)—

(a) after "commitment" there shall be inserted "or detention";

(b) after the words "person committed", wherever they occur, there shall be inserted "or detained";

(c) for the words "authorised persons", wherever they occur, there shall be substituted "civilian enforcement officers".

(2) After rule 97(1A) there shall be inserted—

"(1B) A warrant of commitment or detention other than a warrant committing a person to customs detention under section 152 of the Criminal Justice Act 1988 may be executed by the persons to whom it was directed or by any of the following persons, whether or not the warrant was directed to them—

(a) a constable for any police area in England and Wales, acting in his own police area;

(**a**) S.I. 1989/438.
(**b**) S.I. 1989/1058.
(**c**) S.I. 1992/613.

(b) where the warrant is one to which section 125A of the Act of 1980 applies, a civilian enforcement officer within the meaning of section 125A of the Act of 1980;

(c) where the warrant is one to which section 125A of the Act of 1980 applies, any of the individuals described in section 125B(1) of the Act of 1980;

and in this rule any reference to the person charged with the execution of a warrant includes any of the above persons who is for the time being authorised to execute the warrant, whether or not they have the warrant in their possession at the time.

(1C) A person executing a warrant of commitment or detention shall, upon arresting the person against whom the warrant is issued—

(a) either

(i) if he has the warrant with him, show it to the person against whom the warrant is issued, or

(ii) otherwise, state where the warrant is and what arrangements may be made to allow the person against whom the warrant was issued to inspect it;

(b) explain, in ordinary language, the offence or default with which the person is charged and the reason for the commitment or detention;

(c) where the person executing the warrant is one of the persons referred to in paragraph (1B)(b) or (c) above, show the person against whom the warrant was issued a written statement under section 125A(4) or 125B(4) as appropriate; and

(d) in any case, show documentary proof of his identity.".

(3) In rule 97(2), (3) and (4)—

(a) after "commitment", wherever it occurs, there shall be inserted "or detention";

(b) after the words "person committed", wherever they occur, there shall be inserted "or detained".

(4) After rule 97(5) there shall be inserted—

"(6) A warrant of commitment or detention issued under any of the provisions in paragraph (7) shall cease to have effect if, at any time before the person for whose commitment or detention the warrant was issued is placed in custody—

(a) the sum in respect of which the warrant is issued, together with the costs and charges, if any, of the commitment, is paid to the person charged with the execution of the warrant;

(b) that sum is tendered to and refused by the person charged with the execution of the warrant; or

(c) a receipt for that sum given by—

(i) the justices' chief executive for the court which issued the warrant; or

(ii) the charging or billing authority,

is produced to the person charged with the execution of the warrant.

(7) Those provisions are:

(a) sections 76 and 136 of the Act of 1980;

(b) section 40 of the Child Support Act 1991(**a**);

(c) regulation 41(1) of the Community Charges (Administration and Enforcement) Regulations 1989;

(d) regulation 16(3)(a) of the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989; and

(e) regulation 47(3)(a) of the Council Tax (Administration and Enforcement) Regulations 1992.

(**a**) 1991 c. 48.

(8) A warrant of commitment issued for the enforcement of a maintenance order to which Part I of the Maintenance Orders Act 1958(**a**) applies shall cease to have effect if, at any time when the defendant is not already detained in pursuance of the warrant, the person charged with the execution of the warrant is informed—

(a) that an application for registration of the order has been granted under section 2 of the Maintenance Orders Act 1958; or

(b) that notice seeking the cancellation of such registration has been given under section 5 of that Act.".

Signed by authority of the Lord Chancellor

Jane Kennedy
Parliamentary Secretary,
Lord Chancellor's Department

Dated 24th January 2001

(**a**) 1958 c. 39. Section 1(2A), which specifies the warrants to which Part I applies, was inserted by paragraph 1 of Schedule 3 to the Administration of Justice Act 1977 (c. 38): the new rule 97(8) inserted by these Rules is in substitution for sections 2(4)(b) and 5(4)(b) of the 1958 Act, both of which are repealed by paragraph (8) of Part V of Schedule 15 to the Access to Justice Act 1999 (c. 22).

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Magistrates' Courts Rules 1981 to accommodate the changes effected by sections 92 to 97 of the Access to Justice Act 1999, relating to the execution of warrants issued by magistrates' courts. In particular they provide for:

(a) the execution of warrants by police officers anywhere in England and Wales;

(b) the execution of certain warrants by civilian enforcement officers and the employees of approved enforcement agencies, whether or not the warrant is directed to them;

(c) the procedure to be followed when a warrant is to be executed by a person who does not have it in his possession;

(d) the extension of the period within which a warrant for distress may be executed;

(e) the taking of recognizances by a civilian authorised to execute a warrant of arrest;

(f) civilians executing warrants to produce identifying documents;

(g) certain warrants to cease to have effect upon an offer of payment or production of a receipt from the court or, as the case may be, the charging or billing authority;

(h) warrants of arrest in maintenance cases to cease to have effect upon registration or cancellation of registration of the order with a court.

STATUTORY INSTRUMENTS

2001 No. 167 (L.4)

MAGISTRATES' COURTS, ENGLAND AND WALES

The Magistrates' Courts (Amendment) Rules 2001

ISBN 0-11-019187-0

9 780110 191874

£2.00

© Crown copyright 2001

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.
E249 586988 2/2001 19585