STATUTORY INSTRUMENTS

1965 No. 1906 (L.24)

MAGISTRATES' COURTS
PROCEDURE

The Magistrates' Courts (Backing of Warrants) Rules 1965

Made - - - -	*3rd November* 1965
Laid before Parliament	*9th November* 1965
Coming into Operation	*15th November* 1965

I, Gerald, Baron Gardiner, Lord High Chancellor of Great Britain, in exercise of the power conferred on me by section 15 of the Justices of the Peace Act 1949(a), as extended by section 122 of the Magistrates' Courts Act 1952(b) and section 8 of the Backing of Warrants (Republic of Ireland) Act 1965(c), do hereby, after consultation with the Rule Committee appointed under the said section 15, make the following Rules:—

1.—(1) The forms contained in the Schedule to these Rules or forms to the like effect may be used in connection with proceedings in magistrates' courts under the Act.

(2) Where a requirement is imposed by the Act for the use of a prescribed form, and an appropriate form is contained in the Schedule to these Rules, that form or a form to the like effect shall be used.

2.—(1) A notice given under section 3(1)(*a*) of the Act (consent to surrender earlier than is otherwise permitted) shall be signed in the presence of a justice of the peace or a justices' clerk.

(2) Any such notice given by a person in custody shall be delivered to the Governor of the prison in whose custody he is.

(3) If a person on bail gives such notice, he shall deliver it to, or send it by post in a registered letter or by recorded delivery service addressed to, the police officer in charge of the police station specified in his recognisance.

(4) Any such notice shall be attached to the warrant ordering the surrender of that person.

3.—(1) The person taking the recognisance of a person remanded on bail under section 2(1) or 4(3) of the Act shall furnish a copy of the recognisance to the police officer in charge of the police station specified in the recognisance.

(2) The clerk of a magistrates' court which ordered a person to be surrendered and remanded him on bail shall deliver to, or send by post in a registered letter or by recorded delivery service addressed to, the police officer in charge of the police station specified in the recognisance the warrant ordering the person to be surrendered.

(a) 12, 13 & 14 Geo. 6. c. 101.
(b) 15 & 16 Geo. 6 & 1 Eliz. 2. c. 55.
(c) 1965 c. 45.

4.—(1) The clerk of a magistrates' court which ordered a person to be surrendered shall deliver to, or send by post in a registered letter or by recorded delivery service addressed to—

(*a*) if he is remanded in custody under section 5(1)(*a*) of the Act, the prison Governor to whose custody he is committed,

(*b*) if he is remanded on bail under section 5(1)(*b*) of the Act, the police officer in charge of the police station specified in the recognisance,

(*c*) if he is committed to the custody of a constable pending the taking from him of a recognisance under section 5(1) of the Act, the police officer in charge of the police station specified in the warrant of commitment,

the warrant of arrest issued by a judicial authority in the Republic and endorsed in accordance with section 1 of the Act.

(2) The Governor or police officer to whom the said warrant of arrest is delivered or sent shall arrange for it to be given to the member of the police force of the Republic into whose custody the person is delivered when the person is so delivered.

5.—(1) A document purporting to be a warrant issued by a judicial authority in the Republic shall, for the purposes of section 7(*a*) of the Act, be verified by a certificate purporting to be signed by a judicial authority, a clerk of a court or a member of the police force of the Republic and certifying that the document is a warrant and is issued by a judge or justice of a court or a peace commissioner.

(2) A document purporting to be a copy of a summons issued by a judicial authority in the Republic shall, for the purposes of the said section 7(*a*), be verified by a certificate purporting to be signed by a judicial authority, a clerk of a court or a member of the police force of the Republic and certifying that the document is a true copy of such a summons.

(3) A deposition purporting to have been made in the Republic, or affidavit or written statement purporting to have been sworn therein, shall, for the purposes of section 7(*c*) of the Act, be verified by a certificate purporting to be signed by the person before whom it was sworn and certifying that it was so sworn.

6.—(1) In these Rules—

" the Act " means the Backing of Warrants (Republic of Ireland) Act 1965 ;

a reference to a person ordered to be surrendered means a reference to a person ordered by a magistrates' court to be delivered into the custody of a member of the police force of the Republic under section 2(1) of the Act ; and cognate expressions shall be construed accordingly ;

" the Republic " means the Republic of Ireland.

(2) The Interpretation Act 1889(a) shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

7. These Rules may be cited as the Magistrates' Courts (Backing of Warrants) Rules 1965 and shall come into operation on 15th November 1965.

Dated 3rd November 1965.

Gardiner C.

(a) 52 & 53 Vict. c. 63.

SCHEDULE

FORMS

1

Endorsement of warrant of arrest (*Backing of Warrants (R. of I.) Act 1965, s.1(1).*)

I, the undersigned, a justice of the peace for the [county] of , being satisfied that this warrant may be endorsed under section 1 of the Backing of Warrants (Republic of Ireland) Act 1965, hereby authorise any constable of to execute this warrant in England or Wales by bringing before a magistrates' court the said .

Dated the day of , 19 .

J.P.,
Justice of the Peace for the [county] aforesaid.

2

Consent to earlier return (*Backing of Warrants* (*R. of I.*) *Act 1965, s.3(1)(a).*)

Whereas on the day of , 19 , the Magistrates' Court sitting at ordered that I should be delivered into the custody of a member of the police force of the Republic of Ireland :

And whereas I understand that, unless I consent to an earlier removal, I cannot be so delivered until the expiration of the period of fifteen days beginning with the date of the making of the order :

Now, therefore, I give notice that I consent to my earlier removal before the said period of fifteen days has expired.

A.B.,

This form was signed by the above-mentioned person in my presence on the day of , 19 .

J.P.,
Justice of the Peace for .

[*or* J.C.,
Justices' Clerk for .]

3

Provisional warrant of arrest (*Backing of Warrants* (*R. of I.*) *Act 1965, s.4(1).*)

In the [county of . Petty Sessional Division of].

To each and all of the constables of .

C.D. a constable of has stated on oath that he has reason to believe that a warrant has been issued by a judicial authority in the

Republic of Ireland for the arrest of A.B. (hereinafter called the defendant) who is accused [*or* convicted] of an indictable offence against the laws of the Republic but that the warrant is not yet in his possession ; [and that he has reason to believe that the requirements of section 1(3) of the Backing of Warrants (Republic of Ireland) Act 1965 (surrender of convicted person for sentence or imprisonment) are satisfied ;] and that he has received a request made on grounds of urgency by a member of the police force of the Republic holding the rank of inspector or above for the issue in the United Kingdom of a warrant for the defendant's arrest ; and that he has reason to believe that the defendant is within the [county] aforesaid :

You are hereby commanded to arrest the defendant within five days after the issue of this warrant and to bring him as soon as practicable before a magistrates' court.

Dated the day of , 19 .

J.P.,
Justice of the Peace for the [county] aforesaid.

Note. This warrant is not authority for the making of an arrest more than five days after the date of its issue.

4

Warrant of commitment of person ordered to be delivered up (Backing of Warrants (R. of I.) Act 1965, s.5(1)(a).)

In the [county of . Petty Sessional Division of].

To each and all of the constables of and to the Governor of Her Majesty's prison at .

A.B. (hereinafter called the defendant) having been brought this day before the Magistrates' Court sitting at pursuant to a warrant for his/her arrest endorsed in accordance with section 1 of the Backing of Warrants (Republic of Ireland) Act 1965 :

And the Court having ordered that he/she should be delivered at some convenient point of departure from England or Wales into the custody of a member of the police force of the Republic of Ireland and be remanded in custody until so delivered :

You, the said constables, are hereby commanded to convey the defendant to the said prison and there deliver him/her to the Governor thereof, together with this warrant ; and you, the Governor of the said prison, to receive him/her into your custody and keep him/her until he/she shall be duly conveyed to some convenient point of departure from England or Wales in accordance with this warrant or otherwise delivered in due course of law ; and you, the said constables and the Governor of the said prison or one or more of you, to convey the defendant, after the expiration of the period of fifteen days from the date of this order if no application has been made by him/her or on his/her behalf for a writ of habeas corpus or after he/she has consented to be delivered up into the custody of the police force of the Republic of Ireland before the expiration of the said period, from the said prison to some convenient point of departure from England or Wales and there deliver him/her into the custody of a member of the police force of the Republic of Ireland.

Dated the day of , 19 .

J.P.,
Justice of the Peace for the [county] aforesaid.

5

Warrant of commitment awaiting Irish warrant (Backing of Warrants (R. of I.) Act 1965, ss.4(3), 5(1)(a).)

In the [county of . Petty Sessional Division of].

To each and all of the constables of and to the Governor of Her Majesty's prison at [*or* the police officer in charge of the police station at].

A.B. (hereinafter called the defendant) having been brought this day before the Magistrates' Court sitting at pursuant to a provisional warrant of arrest issued under section 4 of the Backing of Warrants (Republic of Ireland) Act 1965:

And the warrant of arrest issued in respect of him/her in the Republic of Ireland and endorsed in accordance with section 1 of the said Act not having been produced to the Court:

You, the said constables, are hereby commanded to convey the defendant to the said prison [*or* police station] and there deliver him/her to the Governor [*or* police officer in charge] thereof, together with this warrant; and you, the Governor of the said prison [*or* police officer in charge of the said police station] to receive him/her into your custody and keep him/her until the day of , 19 , and on that day to convey him/her at the hour of in the noon before the [said] Magistrates' Court [sitting at] to be further dealt with according to law.

Dated the day of , 19 .

J.P.,
Justice of the Peace for the [county] aforesaid.

6

Warrant of commitment: recognisance to be taken later (Backing of Warrants (R. of I.) Act 1965, s.5(1).)

In the [county of . Petty Sessional Division of].

To each and all of the constables of and to the police officer in charge of the police station at .

A.B. (hereinafter called the defendant) having been brought this day before the Magistrates' Court sitting at pursuant to a warrant

for his/her arrest endorsed in accordance with section 1 [*or* provisional warrant of arrest issued under section 4] of the Backing of Warrants (Republic of Ireland) Act 1965:

And the Court having ordered that the defendant should be delivered at some convenient point of departure from England or Wales into the custody of a member of the police force of the Republic of Ireland and be remanded on bail:

[*or* And the warrant of arrest issued in respect of the defendant in the Republic of Ireland and endorsed in accordance with section 1 of the said Act not having been produced to the Court the Court having ordered that he/she be remanded on bail:]

And the Court having fixed the amount of the defendant's recognisance:

You, the said constables, are hereby commanded to convey the defendant to the said police station and there deliver him/her to the police officer in charge thereof, together with this warrant; and you the police officer in charge of the said police station to receive him/her into your custody and, unless he/she shall have been bailed in the meantime to keep him/her until he/she shall be duly conveyed to some convenient point of departure from England or Wales in accordance with this warrant or otherwise delivered in due course of law; and you, the said constables and the said police officer or one or more of you, to convey the defendant, after the expiration of the period of fifteen days from the date of this order if no application has been made by him/her or on his/her behalf for a writ of habeas corpus or after he/she has consented to be delivered up into the custody of the police force of the Republic of Ireland before the expiration of the said period, from the said police station to some convenient point of departure from England or Wales and there deliver him/her into the custody of a member of the police force of the Republic of Ireland [*or* until the day of , 19 , and on that day to convey him/her at the hour of in the noon before the [said] Magistrates' Court [sitting at] to be further dealt with according to law].

Dated the day of , 19 .

J.P.,

Justice of the Peace for the [county] aforesaid.

(*Endorsement*)

The Court hereby certifies that the defendant may be bailed by recognisance, himself/herself in the sum of , with suret in the sum of [each], to surrender himself/herself into the custody of the police officer in charge of the police station at the time mentioned in a notice in writing served on him/her by or on behalf of that police officer.

7

Recognisance (*Backing of Warrants* (*R. of I.*) *Act 1965, s.5(1)(b), (2).*)

In the [county of . Petty Sessional Division of].

The undermentioned persons each acknowledge that they owe to our Sovereign Lady the Queen the following sums, namely:—

of , as principal, the sum of , and of , as suret the

sum of [each], payment thereof to be enforced severally against them by due process of law if the principal fails to comply with any of the conditions endorsed hereon.

(*Signed where not taken orally*) A.B.
G.H.
J.K.

Taken [orally] before me the day of , 19 .

J.P.,
Justice of the Peace for the [county] aforesaid.
[*or* J.C.,
Clerk of the Magistrates' Court sitting at .]
[*or* E.F.,
(*rank*) of the Police.]

(*Endorsement*)

Condition

The condition of this recognisance is that if the principal—

surrenders himself/herself into the custody of the police officer in charge of the police station at the time mentioned in a notice in writing served on him/her by or on behalf of that police officer, then this recognisance shall be void, but otherwise shall remain in full force.

8

Warrant of delivery up of person bailed (*Backing of Warrants* (*R. of I.*) *Act 1965, ss.2(1), 5.*)

In the [county of . Petty Sessional Division of].

To each and all of the constables of .

The Magistrates' Court sitting at having ordered on the day of , 19 , that A.B. (hereinafter called the defendant) should be delivered at some convenient point of departure from England or Wales into the custody of a member of the police force of the Republic of Ireland and be remanded on bail in accordance with section 5 of the Backing of Warrants (Republic of Ireland) Act 1965 :

You, the said constables, are hereby commanded to convey the defendant at the end of the period of his/her remand to some convenient point of departure from England or Wales and there deliver him/her into the custody of a member of the police force of the Republic of Ireland.

Dated the day of , 19 .

J.P.,
Justice of the Peace for the [county] aforesaid.

9

Warrant of arrest on failure to surrender to bail (Backing of Warrants (R. of I.) Act 1965, s.5(4).)

In the [county of . Petty Sessional Division of].

To each and all of the constables of .

A.B. (hereinafter called the defendant) was on the day of , 19 , ordered by the Magistrates' Court sitting at to be delivered at some convenient point of departure from England or Wales into the custody of a member of the police force of the Republic of Ireland [*or* brought before the Magistrates' Court sitting at pursuant to a provisional warrant of arrest issued under section 4 of the Backing of Warrants (Republic of Ireland) Act 1965] :

And the defendant was released, in pursuance of section 5 of the Backing of Warrants (Republic of Ireland) Act 1965, upon a recognisance conditioned for his/her surrender to the police officer in charge of the police station on the day of , 19 , at the hour of in the noon :

And, in breach of the said recognisance, the defendant has failed to surrender as aforesaid :

You are hereby commanded to bring the defendant before the police officer in charge of the police station forthwith.

Dated the day of , 19 .

J.P.,
Justice of the Peace for the [county] aforesaid.

EXPLANATORY NOTE

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

Rule 1 prescribes the forms to be used under the Backing of Warrants (Republic of Ireland) Act 1965. Rules 2, 3 and 4 lay down the procedure for dealing with the notice of consent to surrender under section 3(1)(*a*) of that Act earlier than is otherwise permitted, the recognisance of a person remanded on bail, the order authorising the surrender of a person, and the warrant of arrest. Rule 5 prescribes how documents emanating from the Republic of Ireland are to be verified. The Rules apply only to England and Wales.