STATUTORY INSTRUMENTS

# 1965 No.1601 (L.19)

# MAGISTRATES' COURTS

## PROCEDURE

# The Magistrates' Courts (Forms) Rules 1965

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| *Made* - - - - | 16*th August* 1965 |
| *Laid before Parliament* | 24*th August* 1965 |
| *Coming into Operation* | 5*th October* 1965 |

I, Gerald, Baron Gardiner, Lord High Chancellor of Great Britain, in exercise of the power conferred upon 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), do hereby, after consultation with the Rule Committee appointed under the said section 15, make the following Rules:—

**1.** In the Schedule to the Magistrates' Courts (Forms) Rules 1952(c), as amended (d), for the forms numbered 13 and 14 and 16 to 24 there shall be substituted the forms numbered 16 to 22 in the Schedule to these Rules; after the form numbered 96 there shall be inserted the forms numbered 96A and 96B and after the form numbered 109 there shall be inserted the form numbered 109A.

**2.** These Rules may be cited as the Magistrates' Courts (Forms) Rules 1965 and shall come into operation on 5th October, 1965.

Dated 16th August 1965. *Gardiner*, C.

## SCHEDULE

FORMS TO BE SUBSTITUTED OR INSERTED IN THE MAGISTRATES' COURTS (FORMS) RULES 1952

16

*Witness order* (*C.P.* (*A. of W.*) *Act* 1965, *s.*1(1); *M.C. Rules* 1952, *r.* 6(1).)

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

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 [*or*

*Delete unless the order is a conditional order.

(a) 12, 13 & 14 Geo. 6. c. 101.
(b) 15 & 16 Geo. 6 & 1 Eliz. 2. c. 55.
(c) S.I. 1952/2191 (1952 II, p. 1619).
(d) There is no amendment which relates to the subject matter of these Rules.

Quarter Sessions] for the [county] of to be held at
or at such other Court as you may be directed.

Dated the day of , 19 .

J.P.,
Justice of the Peace for the [county] of .
[*or* By order of the Court,
J.C.,
Clerk of the Magistrates' Court sitting at .]

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 3 months and a fine.

17

*Notice to witness that a witness order is to be treated as a conditional order* (*C.P.* (*A. of W.*) *Act* 1965, *s.* 1 (2) (*b*); *M.C. Rules* 1952, *r.* 6(2).)

Whereas you, C.D., of , were on the day of , 19 , ordered to attend at the next Court of Assize [*or* Quarter Sessions] for the [county] of , or at such other Court as you should be directed, and there to give evidence at the trial of A.B.:

And whereas the Examining Justices have [since committed the said A.B. for trial at the next Court of Assize [*or* Quarter Sessions] for the [county] of , to be held at , and have] directed that that order be treated as a conditional order:

THIS IS TO GIVE YOU NOTICE that you are NOT required to attend the Court of Trial unless you subsequently receive notice directing you to appear thereat.

Dated the day of , 19 .

J.P.,
Justice of the Peace for the [county] of .
[*or* J.C.,
Clerk of the Magistrates' Court sitting at .]

18

*Notice directing witness to appear at a court other than that specified in his witness order* (*M.C. Rules* 1952, *r.* 6(3).)

Whereas you, C.D., of , were on the day of , 19 , ordered to attend at the next Court of Assize [*or* Quarter Sessions] for the [county] of , to be held at
or at such other Court as you should be directed, to give evidence on the trial of A.B.:

THIS IS TO GIVE YOU NOTICE that you are no longer required to attend the above mentioned Court at but you are hereby directed and required to attend at the next Court of Assize [*or* Quarter Sessions] for the [county] of , to be held at .

Dated the day of , 19 .

J.P.,
Justice of the Peace for the [county] of .
[*or* J.C.,
Clerk of the Magistrates' Court sitting at .]

19

*Notice to witness subject to conditional witness order that accused has been committed for trial to some other court* (*M.C. Rules* 1952, *r.* 6(3).)

Whereas you, C.D., of , were on the day of , 19 , ordered to attend, upon notice being given you, at the next Court of Assize [*or* Quarter Sessions] for the [county] of , to be held at , or at such other Court as you should be directed, to give evidence on the trial of A.B. (hereinafter called the accused):

And whereas the accused has since been committed for trial at the next Court of Assize [*or* Quarter Sessions] for the [county] of , to be held at :

THIS IS TO GIVE YOU NOTICE that you will NOT be required to attend at the first above mentioned Court, but that you may receive notice to attend at the Court to which the accused has been committed for trial. You are NOT however required to attend the Court of Trial unless you subsequently receive notice directing you to attend thereat.

Dated the day of , 19 .

J.P.,
Justice of the Peace for the [county] of .
[*or* J.C.,
Clerk of the Magistrates' Court sitting at .]

20

*Notice to witness that accused has not been committed for trial* (*M.C. Rules* 1952, *r.* 6(4).)

Whereas you, C.D., of , were on the day of , 19 , ordered to attend [upon notice being given to you] at the next Court of Assize [*or* Quarter Sessions] for the [county] of , to be held at , to give evidence upon the trial of A.B.:

THIS IS TO GIVE YOU NOTICE that the Court has determined not to commit the said A.B. for trial and that consequently you are NOT required to attend at the said Court for the purpose aforesaid.

Dated the day of , 19 .

J.P.,
Justice of the Peace for the [county] of .
[*or* J.C.,
Clerk of the Magistrates' Court sitting at .]

21

*Notice requiring attendance of witness subject to conditional witness order* (*M.C. Rules* 1952, *r.* 7.)

Whereas you, C.D., of , were by a witness order dated the day of , 19 , ordered to attend* upon notice being given to you at the Court specified in the order and there to give evidence at the trial of A.B.:

[*Or* (*where the Court has directed that the witness order be treated as a conditional order insert instead after asterisk**) at the next Court of Assize [*or* Quarter Sessions] for the [county] of , or at such other Court as you should be directed, to give evidence at the trial of A.B.; and whereas notice was subsequently given to you that you would not be required to attend the trial unless you received notice:]

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

Dated the day of , 19 .

J.C.,
Clerk of the Magistrates' Court sitting at .

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 3 months and a fine.

22

*Statement about witnesses* (*M.C. Rules* 1952, *r.* 12(2) (*d*).)

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

Committed for trial at the Court of Assize [*or* Quarter Sessions] 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 the examining justices made a witness order requiring his/her attendance at the Court of Trial (other than a conditional order or an order which they subsequently directed to be treated as conditional).

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

Part B

Those in respect of whom the examining justices made a conditional witness order.

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

Part C

Those in respect of whom the examining justices made a witness order and subsequently gave a direction that the order should be treated as conditional.

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

Part D

Of the persons named in Parts B and C I have subsequently given notice that they are required to attend the trial to those named in column 1 below on the date specified in column 2 in respect of each witness.

| (1) Name | (2) Date of Notice |
|---|---|
| | |

Dated the day of , 19 .

J.C.,
Clerk of the Magistrates' Court sitting at .

96A

*Recognisance of witness and surety* (*C.P.* (*A. of W.*) *Act* 1965, *s.* 5; *M.C. Rules* 1952, *r.* 70A.)

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:
C.D. of , as principal, the sum of , and 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 the condition endorsed hereon.

Taken before me this 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.,
Officer in charge of the Police Station.]

(*Endorsement*)

*Condition*

The condition of this recognisance is that whereas a warrant was issued by to arrest the said C.D. and bring him before the Court of Assize [*or* Quarter Sessions] for the [county] of and the said C.D. having been arrested in pursuance of the warrant was brought before the Magistrates' Court [*or* taken to the Police Station] under section 5 of the Criminal Procedure (Attendance of Witnesses) Act 1965:

If therefore the said C.D. appears at the Court of Assize [*or* Quarter Sessions] for the [county] of at such time as he/she may be directed,

then this recognisance shall be void, but otherwise shall remain in full force.

96B

*Notice of recognisance to witness* (*C.P.* (*A. of W.*) *Act* 1965, *s.* 5; *M.C. Rules* 1952, *r.* 70A.)

TAKE NOTICE that you, C.D., of , are bound by a recognisance in the sum of to appear at the Court of Assize [*or* Quarter Sessions] for the [county] of to be held at ; and unless you appear accordingly, and unless you comply with the requirements of any direction you may receive in relation thereto, the said recognisance will be forthwith enforced against you.

Dated the day of , 19 .

J.C.,
Clerk of the Magistrates' Court sitting at .
[*or* E.F.,
Officer in charge of the Police Station.]

109A

*Committal of witness after failure to attend trial or after High Court warrant* (*C.P.* (*A. of W.*) *Act* 1965, *s.* 5.)

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 .

C.D. (hereinafter called the witness) being required by a witness order/summons under the Criminal Procedure (Attendance of Witnesses) Act 1965 to attend the trial on indictment of A.B.

was ordered to be arrested and brought before the Court of Trial by a warrant of Mr. Justice under section 4(1) of that Act dated the day of , 19 :

[*or* failed to do so and a warrant for the arrest of the witness was issued under section 4(2) of that Act by the Court of Assize [*or* Quarter Sessions] sitting at on the day of , 19 , [endorsed under section 5(3) of that Act with the opinion of the Court that the evidence of the witness could be dispensed with but that consideration should be given to dealing with him for the disobedience under section 3 thereof]:]

The witness having been brought before this Court in pursuance of section 5(1) of that Act:

You, the said constables, are hereby commanded to convey the witness 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 the witness into your custody and to keep the witness in custody until he/she can be brought before the Court of Trial [*or* (*in a case where the warrant was endorsed as mentioned above and the magistrates' court is not satisfied that that Court will be held within 7 days of the committal*) until he/she can be brought before a Judge of the High Court or a Commissioner of Assize].

**Dated the day of , 19 .**

J.P.,
Justice of the Peace for the [county] first above mentioned.

(*Endorsement where bail is allowed*)

The Court hereby certifies that the witness may be bailed by recognisance himself/herself in the sum of , with suret in the sum of [each], to appear at the Court of Assize [*or* Quarter Sessions] for the [county] of , at such time as he/she may be directed, and that the witness has [not] entered into his/her recognisance.

J.P.,
Justice of the Peace for the [county] first above mentioned.

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## EXPLANATORY NOTE

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

These Rules amend the Magistrates' Courts (Forms) Rules 1952 (which prescribe forms for use in connection with proceedings in magistrates' courts) in consequence of the provisions of section 1 of the Criminal Procedure (Attendance of Witnesses) Act 1965 (c.69) by which magistrates' courts acting as examining justices make witness orders requiring witnesses to attend before the court of assize or quarter sessions before which the accused is to be tried, and of the provision of section 5 of that Act by which a magistrates' court in certain circumstances commits a witness in custody or releases him on bail to be brought or appear to give evidence at a court of assize or quarter sessions or to be dealt with for disobedience to a requirement to do so.