EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations prescribe, in relation to reports and proposed orders under section 18 of the Justices of the Peace Act, 1949, with respect to the division of a county into petty sessional divisions, requirements as to notice and as to the manner in which, and the times within which, objections may be made.

PROCEDURE

1952 No. 2190 (L. 18)

The Magistrates' Courts Rules, 1952

Made - - - -	*17th December,* 1952
Laid before Parliament	*18th December,* 1952
Coming into Operation	*1st June,* 1953

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I, the Right Honourable Gavin Turnbull, Baron Simonds, Lord High Chancellor of Great Britain, in exercise of the power conferred upon me by section fifteen of the Justices of the Peace Act, 1949(a), as extended by section one hundred and twenty-two of the Magistrates' Courts Act, 1952(b), do hereby, after consultation with the Rule Committee appointed under the said section fifteen, make the following rules:—

Citation

1. These rules may be cited as the Magistrates' Courts Rules, 1952.

Commencement

2. These rules shall come into force on the first day of June, nineteen hundred and fifty-three.

Interpretation

3.—(1) In these rules "the Act" means the Magistrates' Courts Act, 1952, "contribution order" has the meaning assigned to it by section eighty-seven of the Children and Young Persons Act, 1933(c), "judgment summons" has the meaning assigned to it by rule 48 and other expressions have the same meaning as in the Act.

(2) The Interpretation Act, 1889(d), shall apply to these rules as if they were an Act.

INFORMATION AND COMPLAINT

Information and complaint

4.—(1) Subject to any provision of the Act and any other enactment, an information or complaint need not be in writing or on oath.

(2) An information may be laid or complaint made by the prosecutor or complainant in person or by his counsel or solicitor or other person authorised in that behalf.

(3) It shall not be necessary in an information or complaint to specify or negative an exception, exemption, proviso, excuse or qualification, whether or not it accompanies the description of the offence or matter of complaint contained in the enactment creating the offence or on which the complaint is founded.

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PROCEEDINGS PRELIMINARY TO TRIAL ON INDICTMENT

Taking depositions of witnesses and statement of accused

1967/1661 **5.**—(1) A magistrates' court inquiring into an offence as examining justices shall cause the evidence of each witness, including the evidence of the accused, but not including any witness of his merely to his character, to be put into writing; and as soon as may be after the examination of such a witness shall cause his deposition to be read to him in the presence and hearing of the accused, and shall cause the witness to sign the deposition.

(2) One of the examining justices shall sign the depositions.

(3) After the evidence for the prosecution has been given, the court shall, unless it then decides not to commit for trial, cause the charge to be written down, if this has not already been done, and read to the accused and shall explain to him its nature in ordinary language.

(a) 12, 13 & 14 Geo. 6. c. 101. (b) 15 & 16 Geo. 6 & 1 Eliz. 2. c. 55.
(c) 23 & 24 Geo. 5. c. 12. (d) 52 & 53 Vict. c. 63.

(4) The court shall then say to the accused—

"You will have an opportunity to give evidence on oath before us and to call witnesses. But first I am going to ask you whether you wish to say anything in answer to the charge. You need not say anything unless you wish to do so; and you have nothing to hope from any promise, and nothing to fear from any threat, that may have been held out to induce you to make any admission or confession of guilt. Anything you say will be taken down and may be given in evidence at your trial. Do you wish to say anything in answer to the charge?",

or words to that effect.

(5) Whatever the accused says in answer to the charge shall be put into writing, read over to him and signed by one of the examining justices and also, if the accused wishes, by him.

(6) After complying with the requirements of this rule relating to the statement of the accused, and whether or not he has made a statement in answer to the charge, the court shall give him an opportunity to give evidence himself and to call witnesses.

(7) Where the accused is represented by counsel or a solicitor, his counsel or solicitor shall be heard on his behalf, either before or after the evidence for the defence is taken, at his discretion, and may, if the accused gives evidence himself and calls witnesses, be heard on his behalf with the leave of the court both before and after the evidence is taken:

Provided that where counsel or a solicitor is heard both before and after the evidence is taken, counsel or the solicitor for the prosecution shall be entitled to be heard in reply.

Binding over witnesses and prosecutor to attend trial 1967/1661

6.—(1) The time at which the court shall bind over a witness as required by section five of the Act shall be as soon as practicable after his deposition has been signed.

(2) Every recognizance under section five of the Act shall be in the prescribed form and shall be acknowledged by the person entering into the recognizance and signed by one of the justices before whom it is entered into.

(3) As soon as practicable after taking such a recognizance as aforesaid the court shall give notice thereof to the person bound by the recognizance.

(4) Where the court has directed that any witness shall be treated as having been bound over to attend the trial conditionally as provided in section five of the Act, it shall give notice to the witness in the prescribed form.

(5) If after any person is bound by a recognizance to attend at any time as a witness before any court of assize or quarter sessions the magistrates' court commits the accused for trial before some other court of assize or quarter sessions or for trial at some other time, the committing court shall forthwith give the witness notice of the time and place at which he is required to attend.

(6) If any person is bound by a recognizance as aforesaid to attend and give evidence and the court determines not to commit the accused for trial, it shall give notice to the person so bound that he is no longer required to attend.

(7) A notice given under this rule shall be in writing and signed by one of the justices composing the court or the clerk of the court, and shall be served by delivering it to the person to whom it is directed or by leaving it for him with some person at his last known or usual place of abode.

Procuring attendance at trial of witness bound over conditionally

7.—(1) Where in pursuance of section five of the Act a witness has been, or is treated as having been, bound over conditionally upon notice being given to him to attend the trial of a person committed for trial, then if the prosecutor or the person committed for trial gives notice, at any time before the opening of the assizes or quarter sessions at which that person is to be tried, to the clerk of the magistrates' court that committed him, or at any time thereafter to the clerk of assize or the clerk of the peace, as the case may be, that he wishes the witness to attend at the trial, the clerk to whom the notice is given (in this rule referred to as "the notifying clerk") shall forthwith give notice in writing to the witness that he is required so to attend in pursuance of his recognizance.

(2) A notice by the notifying clerk under the preceding paragraph shall be served by delivering it to the person to whom it is directed or by leaving it for him with some person at his last known or usual place of abode:

Provided that if time does not permit the notice to be served in that manner, the clerk may notify the witness in such manner as may be most expedient in the circumstances.

(3) When the notifying clerk gives notice to a witness under the preceding provisions of this rule at the instance of the prosecutor, the clerk shall inform the person committed for trial thereof; and, when he gives notice as aforesaid at the instance of the person committed for trial, he shall inform the prosecutor thereof.

Place of trial to be stated in warrant or recognizance

8. A magistrates' court committing any person for trial shall cause to be entered in the register and shall specify in the warrant of commitment, or, as the case may be, in the conditions of the recognizance on which he is committed on bail, the assizes or quarter sessions before which he is to be tried:

Provided that, if the person committed is a corporation, the court shall specify the said assizes or quarter sessions in the order made by the court under paragraph 1 of the Second Schedule to the Act instead of in the said warrant or conditions.

Accused to be told of right to apply to High Court for bail

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9. Where a magistrates' court committing a person for trial of an offence other than treason or murder does not release him on bail, it shall inform him of his right to apply for bail to a judge of the High Court.

Notice to governor of prison on committal on bail

10. Where the accused is committed for trial on bail, the clerk of the court shall give notice thereof in writing to the governor of the prison to which persons of the sex of the person committed are committed by that court if committed in custody for trial.

Decision not to commit to be entered in register

11. Where a magistrates' court determines not to commit the accused for trial, it shall cause to be entered in the register the words "Discharged M.C. Act, s. 7".

Documents and exhibits to be retained and sent to court of trial

12.—(1) A magistrates' court that commits a person for trial shall, unless there are reasons for not doing so, retain any documents and articles produced by a witness whom it has bound over to attend the trial conditionally.

(2) As soon as practicable after the committal of any person for trial, and in any case before the first day of sitting of the court to which he is committed, the clerk of the magistrates' court that committed him shall, subject to the provisions of section five of the Prosecution of Offences Act, 1879(a) (which relates to the sending of recognizances, informations, depositions and other documents and things to the Director of Public Prosecutions), send to the proper officer of the court of trial— 1967/1661

(*a*) the information, if it is in writing;

(*b*) the depositions;

(*c*) all statements made by the accused before the magistrates' court;

(*d*) the recognizances of the prosecutor and witnesses;

(*e*) if the accused is committed for trial on bail, the recognizance of the accused;

(*f*) any recognizance entered into by any person as surety for the accused;

(*g*) a written statement of the names, addresses and occupations of the witnesses who have been, or are to be treated as having been, bound over to attend the trial conditionally;

(*h*) such of the documents and articles produced in evidence before the justices as have been retained by them, and

(*j*) the list of exhibits required by rule 8 of the Criminal Appeal Rules, 1908(b), to be sent to the court of trial.

(3) Paragraph (2) of this rule shall apply to the committal of a person under subsection (2) or subsection (3) of section twelve of the Act as if paragraphs (*a*) to (*d*), (*g*), (*h*) and (*j*) were omitted. 1967/1661

(4) The clerk shall, in compiling the statement mentioned in sub-paragraph (*g*) of paragraph (2) of this rule, distinguish the names of the witnesses, if any, to whom he has given any such notice as is referred to in paragraph (1) of rule 7 and shall include in the statement the date of any such notice.

The clerk shall retain a copy of the statement.

(5) If after the said statement has been sent to the proper officer of the court of trial the clerk gives any such notice as aforesaid, he shall send written particulars of the notice to the officer.

Supply of copies of depositions and information to accused

13. The person having custody of the depositions on which any person has been committed for trial shall, as soon as is practicable after application is made to him by or on behalf of the accused, and after payment of a fee not exceeding three halfpence for each folio of ninety words, supply to the accused copies of the depositions and, if the information is in writing, of the information.

(a) 42 & 43 Vict. c. 22. (b) S.R. & O. 1908/227; Rev. V, p. 352; 1908, p. 239.

SUMMARY TRIAL OF INFORMATION AND HEARING OF COMPLAINT

Information to be for one offence only

14.—(1) Subject to any Act passed after the second day of October, eighteen hundred and forty-eight, a magistrates' court shall not proceed to the trial of an information that charges more than one offence.

(2) Nothing in this rule shall prohibit two or more informations being set out in one document.

Plea of guilty, consent to summary trial, etc., to be entered in register

15.—(1) Where on the summary trial of an information the accused pleads guilty, the court shall cause the plea to be entered in the register.

(2) Where a court tries any person summarily in any case in which he may be tried summarily only with his consent or in which he has a right to claim trial by a jury, the court shall cause to be entered in the register his election to be tried summarily.

Consent to making order to be entered in register

16. Where a court has power under subsection (3) of section forty-five of the Act to make an order with the consent of the defendant without hearing evidence, the court shall cause any consent of the defendant to the making of the order to be entered in the register.

Order of evidence and speeches : information

17.—(1) On the summary trial of an information, where the accused does not plead guilty, the prosecutor shall call the evidence for the prosecution, and before doing so may address the court.

(2) At the conclusion of the evidence for the prosecution, the accused may address the court, whether or not he afterwards calls evidence.

(3) At the conclusion of the evidence, if any, for the defence, the prosecutor may call evidence to rebut that evidence.

(4) At the conclusion of the evidence, if any, for the defence, and the evidence, if any, in rebuttal as aforesaid, the accused may address the court—

(*a*) if he has not previously done so ; or

(*b*) with the leave of the court, if the accused and any other witness have been called on the part of the accused.

(5) If the accused is allowed to address the court twice as aforesaid, the prosecutor may address the court in reply.

Order of evidence and speeches : complaint

18.—(1) On the hearing of a complaint, except where the court determines under subsection (3) of section forty-five of the Act to make the order with the consent of the defendant without hearing evidence, the complainant shall call his evidence, and before doing so may address the court.

(2) At the conclusion of the evidence for the complainant the defendant may address the court, whether or not he afterwards calls evidence.

(3) At the conclusion of the evidence, if any, for the defence, the complainant may call evidence to rebut that evidence.

(4) At the conclusion of the evidence, if any, for the defence, and the evidence, if any, in rebuttal as aforesaid, the defendant may address the court—

(*a*) if he has not previously done so; or

(*b*) with the leave of the court, if the defendant and any other witness have been called on the part of the defendant.

(5) If the defendant is allowed to address the court twice as aforesaid, the complainant may address the court in reply.

Form of conviction or order

19.—(1) A form of summary conviction or order made on complaint shall not be drawn up unless required for an appeal or other legal purpose, and if drawn up shall be in such one of the prescribed forms as is appropriate to the case.

(2) Where the conviction is of an offence that could not have been tried summarily without the consent of the accused, the conviction shall contain a statement that the accused consented to the summary trial.

Committal to quarter sessions for sentence

20. Where a magistrates' court commits an offender to a court of quarter sessions under section twenty-eight of the Act with a view to a sentence of Borstal training or under section twenty-nine of the Act with a view to a sentence for an indictable offence, the clerk of the court shall send to the clerk of the peace—

(*a*) a copy signed by the clerk of the magistrates' court of the minute or memorandum of the conviction entered in the register;

(*b*) a copy of the note of the evidence given at the trial of the offender and the depositions, if any;

(*c*) such documents and articles produced in evidence before the court as have been retained by the court; and

(*d*) in the case of a person committed under the said section twenty-eight, any report or representations made in writing by or on behalf of the Prison Commissioners for the purposes of that section.

SUMMARY TRIAL OF INDICTABLE OFFENCE

Duty to recall witnesses who have given evidence before examining justices

21. Where under any provision of the Act a magistrates' court, having begun to inquire into an information as examining justices, proceeds to try the information summarily, then, unless the accused pleads guilty, the court shall recall for cross-examination any witnesses who have already given evidence, except any not required by the accused or the prosecutor to be recalled for that purpose.

Preservation of depositions where indictable offence is dealt with summarily

22. The clerk of the magistrates' court by which any person charged with an indictable offence has been tried summarily shall preserve for a period of three years such depositions as have been taken.

RIGHT TO CLAIM TRIAL BY JURY DEPENDING ON PREVIOUS CONVICTION

Inquiry into antecedents where right to claim trial by jury depends on previous conviction

23. Where the accused claims to be tried by a jury for an offence for which he is entitled to make the claim if he has been previously convicted of a like offence but not otherwise, the court shall, so far as practicable, restrict any inquiry it may make into his antecedents for the purpose of verifying his right to make the claim to matters necessary for determining whether he has a previous conviction giving him that right.

REMAND

Remand on bail for more than eight days where sureties have not entered into recognizances

24. Where the court, with a view to a person's being remanded on bail, under paragraph (*a*) of the proviso to subsection (4) of section one hundred and five of the Act, for a period exceeding eight days, has fixed the amount of the recognizances to be taken for that purpose but commits that person to custody because the recognizances of the sureties have not yet been taken, the warrant of commitment shall direct the governor or keeper of the prison or place to which he is committed to bring him before the court at the end of eight clear days or at such earlier time as may be specified in the warrant, unless in the meantime the sureties have entered into their recognizances.

Documents to be sent on remand for medical inqury

25. On exercising the powers conferred by section twenty-six of the Act a court shall,—

(*a*) where the accused is remanded in custody, send to the institution or place to which he is committed ;

(*b*) where the accused is remanded on bail, send to the institution or place at which, or the person by whom, he is to be examined,

a statement of the reasons why the court is of opinion that an inquiry ought to be made into his physical or mental condition and of any information before the court about his physical or mental condition.

ORDER FOR DISCHARGE

Absolute or conditional discharge to be entered in register

26. Where a magistrates' court makes an order discharging a person under section seven of the Criminal Justice Act, 1948(a), the court shall cause to be entered in the register,—

(*a*) if the order is for his absolute discharge, the words " Discharged absolutely C.J. Act, 1948, s. 7 ";

(*b*) if the order is for his conditional discharge, the words " Discharged conditionally C.J. Act, 1948, s. 7 " together with the period of conditional discharge.

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ORDER OF DETENTION IN A POLICE STATION

Order of detention in a police station

27. An order under section one hundred and ten of the Act to detain a person at a police station shall be in writing.

(a) 11 & 12 Geo. 6. 58.

RECEPTION ORDER

Documents to be sent on making reception order

28. The court by which an order is made under section thirty of the Act shall send to the institution named in the order such information in the possession of the court as it considers likely to be of assistance in dealing with the person to whom the order relates.

DEPOSITION OF PERSON DANGEROUSLY ILL

Deposition of person dangerously ill

29.—(1) A justice of the peace taking the deposition of a person under section forty-one of the Act shall give the person, whether prosecutor or accused, against whom it is proposed to use it reasonable notice of the intention to take the deposition, and shall give that person or his counsel or solicitor full opportunity of cross-examining the deponent.

(2) The justice shall sign the deposition and add to it a statement of his reason for taking it, the day when, and the place where, it was taken and the names of any persons present when it was taken.

(3) The justice shall send the deposition, with the statement,—

(*a*) if it relates to an offence for which a person has been committed for trial, to the proper officer of the court for trial before which the accused has been committed ;

(*b*) in any other case, to the clerk to the examining justices before whom proceedings are pending in respect of the offence, or, if no such proceedings are pending, to the clerk of the peace for the county or borough in which the deposition was taken.

APPEAL TO MAGISTRATES' COURT

Appeal to be by complaint

30. Where under any enactment an appeal lies to a magistrates' court against the decision or order of a local authority or other authority, or other body or person, the appeal shall be by way of complaint for an order.

BASTARDY AND ORDERS FOR PERIODICAL PAYMENT

Time for hearing bastardy summons

31.—(1) The time at which a summons issued under section three of the Bastardy Laws Amendment Act, 1872(**a**), shall require the defendant to appear shall be after the day on which the birth of the child is expected.

(2) If at the time when such a summons requires the defendant to appear before a magistrates' court the complainant has not been delivered of the child, or has been so recently delivered that she is unable to appear, the court shall adjourn the hearing until a time after the complainant has been delivered and when she is able to appear.

(3) The last preceding paragraph shall apply to the non-appearance of the complainant at the time fixed on any such adjournment as aforesaid as it applies to the time specified in the summons.

Method of making periodical payments

32.—(1) A magistrates' court ordering periodical payments to be made through a clerk of a magistrates' court under section fifty-two of the Act shall notify both parties of the hours during which, and the place at which, payments are to be made and received.

(a) 35 & 36 Vict. c. 65.

(2) A clerk of a magistrates' court may send by post any periodical payments to the person entitled to them at the request, and at the risk and expense, of that person.

(3) If a person makes any periodical payments to a clerk of a magistrates' court by post, he shall do so at his own risk and expense.

Duty of clerk to notify arrears of weekly payments

33. Where an order under subsection (1) of section fifty-two of the Act requires payment of any weekly sum to the clerk of a magistrates' court on behalf of any person and the payments are at any time in arrear to an amount equal to four times the sum payable weekly under the order, the clerk shall, unless it appears to him that by reason of special circumstances it is unnecessary or inexpedient to do so, give to that person notice in writing stating the particulars of the arrears.

Revocation, variation, etc., of orders for periodical payment

34.—(1) This rule shall apply to a complaint for the revocation, discharge, revival, alteration or variation of an affiliation order or order enforceable as an affiliation order, but shall not apply—

(*a*) where jurisdiction is confined by paragraph (*a*) of subsection (2) of section eighty-eight of the Children and Young Persons Act, 1933(**a**), to courts having jurisdiction in the place where the person liable is residing ;

(*b*) where an order has been made under the proviso to subsection (4) of that section ;

(*c*) to a contribution order ;

(*d*) to a complaint for an order under subsection (4) of section twenty-six of the Children Act, 1948(**b**) ;

(*e*) to a complaint for an order under subsection (1) of section twenty-two of the Maintenance Orders Act, 1950(**c**).

(2) A complaint to which this rule applies may be made to a justice acting for the same petty sessions area as the court which made the order (which court is in this rule referred to as " the original court ") or to a justice acting for the petty sessions area where the complainant is for the time being.

(3) A justice of the peace shall not take action on a complaint to which this rule applies unless either the complainant has furnished him with written particulars—

(*a*) of the nature of the evidence that the complainant proposes to adduce at the hearing of the complaint and the names and addresses and occupations of his witnesses ; and

(*b*) of the occupations of the complainant and defendant and the address of the complainant and last address of the defendant known to the complainant,

or the justice is acting for the same petty sessions area as the original court and it appears to him that the last address of the defendant known to the complainant is within that area.

(4) Where a complaint to which this rule applies is made to a justice of the peace acting for the same petty sessions area as the original court, and it appears to him that either of the places stated in the said particulars as being the addresses of the complainant and defendant is within another petty sessions area, then, if the justice determines that the complaint could

(a) 23 & 24 Geo. 5. c. 12. (b) 11 & 12 Geo. 6. c. 43. (c) 14 Geo. 6. c. 37.

more conveniently be dealt with by a magistrates' court acting for that other petty sessions area, he shall cause the clerk of the original court to send by post to the clerk of that other court the complaint and the said particulars.

(5) Where the places stated in the said particulars as being the addresses of the complainant and the defendant appear to the justice to be outside the petty sessions area for which the justice is acting and in other and different petty sessions areas, the reference in the last preceding paragraph to another petty sessions area shall be construed as a reference to such one of those other areas aforesaid as appears to the justice convenient.

(6) On receipt by the clerk of a magistrates' court of a complaint and particulars under paragraph (4) of this rule, he shall bring the complaint before the court, and the court shall issue a summons requiring the defendant to appear before it, and shall hear and determine the complaint.

(7) Where a complaint to which this rule applies is made to a justice of the peace acting for a petty sessions area other than that for which the original court acted, the justice shall cause the clerk of the magistrates' court acting for that other petty sessions area to send the complaint and the said particulars by post to the clerk of the original court; and the clerk of the original court shall bring the complaint before the court; and thereupon paragraphs (4) to (6) of this rule shall have effect as if the complaint had been made and the particulars furnished to a justice of the peace acting for the same petty sessions area as the original court.

(8) Where a magistrates' court other than the original court, in determining a complaint to which this rule applies, revokes, discharges, revives, alters or varies the order,—

(*a*) the clerk of the first-mentioned court shall forthwith send by post to the clerk of the original court an extract from the register containing a minute or memorandum of the determination;

(*b*) on receipt of the extract, the last-mentioned clerk shall enter the minute or memorandum in his register.

Application for sums under affiliation order to be paid to person having custody of child

35. An application under section three of the Affiliation Orders Act, 1914(**a**), shall be by complaint for an order.

Attachment of income or pension

36.—(1) Where a magistrates' court has made an order under section two of the Affiliation Orders Act, 1914, or subsection (2) of section eight of the Guardianship of Infants Act, 1925(**b**), attaching any pension or income, the clerk of the court shall give or send a certified copy of the order to the person by whom the pension or income is payable.

(2) The person by whom the pension or income is payable may make any payment ordered to be made under the order by post, and if he does so may deduct the expenses thereby incurred.

SATISFACTION, ENFORCEMENT AND APPLICATION OF PAYMENTS

Notice to defendant of fine 1957/661

37.—(1) Where a magistrates' court allows time for payment of a sum adjudged to be paid by a summary conviction, or directs that the sum be paid by instalments, or where the offender is absent when a sum is adjudged to be paid by a summary conviction, the clerk of the court shall serve on the offender notice in writing stating the amount of the sum and,

(a) 4 & 5 Geo. 5. c. 6. (b) 15 & 16 Geo. 5, c. 45.

if it is to be paid by instalments, the amount of the instalments, the date on which the sum, or each of the instalments, is to be paid and the places and times at which payment may be made; and a warrant of distress or commitment shall not be issued until the preceding provisions of this rule have been complied with.

(2) A notice under this rule shall be served by delivering it to the offender or by sending it to him by post in a letter addressed to him at his last known or usual place of abode.

To whom payments are to be made

38.—(1) A person adjudged by the conviction or order of a magistrates' court to pay any sum shall, unless the court otherwise directs, pay that sum, or any instalment of that sum, to the clerk of the court.

(2) Where payment of any sum adjudged to be paid by the conviction or order of a magistrates' court is made to any person other than the clerk of the court, that person, unless he is the person to whom the court has directed payment to be made, shall, as soon as may be, account for and, if the clerk so requires, pay over the sum or instalment to the clerk of the court.

(3) Where payment of any sum adjudged to be paid by the conviction or order of a magistrates' court, or any instalment of such a sum, is directed to be made to the clerk of some other magistrates' court, the clerk of the court that adjudged the sum to be paid shall pay over any sums received by him on account of the said sum or instalment to the clerk of that other court.

Duty of clerk to give receipt

39. The clerk of a magistrates' court shall give a receipt for any payment made to him in pursuance of a conviction or order of a magistrates' court.

Relief of collecting officer

40.—(1) Where a magistrates' court has ordered periodical payments to be made through the clerk of a magistrates' court, then, if it is proved that the person on whose behalf the order was made has persistently received the payments direct from the person liable to make them, the court that made the order may vary it so as to require the payments to be made direct.

(2) An order under this rule may be made—

(*a*) on complaint by the clerk through whom payments were ordered to be made; or

(*b*) on the hearing of a complaint to enforce the original order, if both parties are present.

Application for further time

41. An application under subsection (2) of section sixty-three of the Act may, unless the court requires the applicant to attend, be made in writing.

Notice to defendant before enforcing order

42.—(1) A warrant of distress shall not be issued for failure to pay a sum enforceable as a civil debt unless the defendant has been previously served with a copy of the minute of the order, or the order was made in his presence and the warrant is issued on that occasion.

(2) A warrant of commitment shall not be issued for disobedience to an order of a magistrates' court other than an order to pay money unless the defendant has been previously served with a copy of the minute of the order, or the order was made in his presence and the warrant is issued on that occasion.

(3) A copy of the minute of the order shall be served under this rule by delivering it to the defendant or by sending it to him by post in a letter addressed to him at his last known or usual place of abode.

Execution of distress warrant

43.—(1) A warrant of distress issued for the purpose of levying a sum adjudged to be paid by a summary conviction or order—

(*a*) shall name or otherwise describe the person against whom the distress is to be levied;

(*b*) shall be directed to the constables of the police area in which the warrant is issued and shall, subject to, and in accordance with, the provisions of this rule, require them to levy the said sum by distress and sale of the goods belonging to the said person;

(*c*) may, instead of being executed by any of the constables to whom it is directed, be executed by any person under the direction of a constable.

(2) The warrant shall authorise the person charged with the execution of it to take as well any money as any goods of the person against whom the distress is levied; and any money so taken shall be treated as if it were the proceeds of the sale of goods taken under the warrant.

(3) The warrant shall require the person charged with execution to pay the sum to be levied to the clerk of the court that issued the warrant.

(4) There shall not be taken under the warrant the wearing apparel or bedding of any person or his family or the tools and implements of his trade; so however that if the tools and implements of his trade exceed in value five pounds it shall be lawful to take such of the tools and implements as will leave in that person's possession tools and implements of his trade to the value of five pounds.

(5) The distress levied under any such warrant as aforesaid shall be sold within such period beginning not earlier than the sixth day after the making of the distress as may be specified in the warrant, or if no period is specified in the warrant, within a period beginning on the sixth day and ending on the fourteenth day after the making of the distress:

Provided that with the consent in writing of the person against whom the distress is levied the distress may be sold before the beginning of the said period.

(6) The said distress shall be sold by public auction or in such other manner as the person against whom the distress is levied may in writing allow.

(7) Notwithstanding anything in the preceding provisions of this rule, the said distress shall not be sold if the sum for which the warrant was issued and the charges of taking and keeping the distress have been paid.

(8) Subject to any direction to the contrary in the warrant, where the distress is levied on household goods, the goods shall not, without the consent in writing of the person against whom the distress is levied, be removed from the house until the day of sale; and so much of the goods

shall be impounded as is in the opinion of the person executing the warrant sufficient to satisfy the distress, by affixing to the articles impounded a conspicuous mark.

(9) The constable charged with the execution of any such warrant as aforesaid shall cause the distress to be sold, and may deduct out of the amount realised by the sale all costs and charges incurred in effecting the sale; and he shall return to the owner the balance, if any, after retaining the amount of the sum for which the warrant was issued and the proper costs and charges of the execution of the warrant.

(10) The constable charged with the execution of any such warrant shall as soon as practicable send to the clerk of the court that issued it a written account of the costs and charges incurred in executing it; and the clerk shall allow the person against whom the distress was levied to inspect the account within one month after the levy of the distress at any reasonable time to be appointed by the court.

(11) If any person pays or tenders to the constable charged with the execution of any such warrant as aforesaid the sum mentioned in the warrant, or produces a receipt for that sum given by the clerk of the court that issued the warrant, and also pays the amount of the costs and charges of the distress up to the time of the payment or tender or the production of the receipt, the constable shall not execute the warrant, or shall cease to execute it, as the case may be.

Reasons for fixing term of imprisonment on conviction to be entered in the register

1965/1661

44. Where a magistrates' court under subsection (3) of section sixty-nine of the Act imposes on the occasion of a conviction a term of imprisonment in the event of a future default in paying a sum adjudged to be paid by the conviction, its reasons for doing so shall be entered in the register.

Payment after imprisonment imposed

45.—(1) The persons authorised for the purposes of subsection (2) of section sixty-seven of the Act to receive a part payment are—

(*a*) unless there has been issued to the police a warrant of distress or commitment, the clerk of the court that imposed the imprisonment or detention, or any person appointed under section seventy-one of the Act to supervise the offender;

(*b*) any constable holding the warrant of distress or commitment;

(*c*) the governor or keeper of the prison or place in which the defaulter is detained, or other person having lawful custody of the defaulter:

Provided that—

(i) the said governor or keeper shall not be required to accept any sum tendered in part payment under subsection (2) of the said section sixty-seven except on a week-day between nine o'clock in the morning and five o'clock in the afternoon; and

(ii) no person shall be required to receive in part payment under the said subsection (2) an amount which, or so much of an amount as, will not procure a reduction of the period for which the defaulter is committed or ordered to be detained.

(2) Where a person having custody of a defaulter receives payment of any sum he shall note receipt of the sum on the warrant of commitment.

(3) If the period of imprisonment imposed on any person in default of payment of a sum adjudged to be paid by a conviction or order of a magistrates' court, or for want of sufficient distress to satisfy such a sum, is reduced through part payments to less than five days, he may be committed either to a prison or to a place certified by the Secretary of State under section one hundred and nine of the Act, or, if he is already in prison, the Secretary of State may transfer him to a place so certified.

(4) If the said period is reduced through part payments to one day, the defaulter may be detained within the precincts of the court-house as if an order had been made under section one hundred and ten of the Act.

Order for supervision

46.—(1) Unless an order under subsection (1) of section seventy-one of the Act is made in the offender's presence, the clerk of the court making the order shall deliver to the offender, or serve on him by post, notice in writing of the order.

(2) It shall be the duty of any person for the time being appointed under the said section to advise and befriend the offender with a view to inducing him to pay the sum adjudged to be paid and thereby avoid committal to custody and to give any information required by a magistrates' court about the offender's conduct and means.

Transfer of fine order

47.—(1) The clerk of a magistrates' court that has made a transfer of fine order shall send to the clerk of a magistrates' court having jurisdiction under the order a copy of the order with a statement of the offence and the steps, if any, taken to recover the sum adjudged to be paid, and with such further information as is available and is in the opinion of the first-mentioned clerk likely to assist the last-mentioned court.

(2) An additional copy of any second or subsequent transfer of fine order shall be sent by the clerk of the court that made the order to the clerk of the convicting court.

(3) On receiving a copy of a transfer of fine order sent to him under paragraph (1) of this rule, the clerk shall if possible deliver or send by post to the offender notice in writing in the prescribed form.

(4) If the said sum is not paid, the clerk of the court on which jurisdiction is conferred by the order shall inform the clerk of the convicting court of the manner in which the adjudication has been satisfied.

Civil debt: judgment summons

48.—(1) A summons issued on a complaint made for the purposes of section seventy-three of the Act (in these rules referred to as a "judgment summons") shall be served on the judgment debtor personally:

Provided that if a justice of the peace is satisfied by evidence on oath that prompt personal service of the summons is impracticable, he may allow the summons to be served in such a way as he may think just.

(2) A judgment summons shall not require the judgment debtor to appear earlier than the third day after the date of service.

(3) Service of a judgment summons outside the county or borough for which the justice issuing the summons acted may, without prejudice to any other provision of these rules enabling service of a summons to be proved, be proved by affidavit.

Enforcement of affiliation orders, etc.

49.—(1) Subject to the following provisions of this rule, a complaint for the enforcement of an affiliation order, or an order enforceable as an affiliation order, shall be heard by the court that made the order:

Provided that—

(*a*) where the complainant is the person in whose favour the order was made and resides in a petty sessions area other than that for which that court acts, and payment is directed to be made to the complainant or to the clerk of a magistrates' court acting for that petty sessions area, the complaint may be heard by the last-mentioned court;

(*b*) where the complainant is the clerk of a magistrates' court, the complaint may be heard by that court.

(2) Where a complaint is made to a justice of the peace for the enforcement of such an order as aforesaid and it appears to him that the defendant is for the time being in some petty sessions area other than that for which the justice is acting and that the order may be more conveniently enforced by a magistrates' court acting for that area, the justice shall cause the clerk of the court to send the complaint by post to the clerk of a magistrates' court acting for that other petty sessions area, and for that purpose shall write down the complaint if this has not already been done.

(3) On receipt by the clerk of a magistrates' court of a complaint sent under the last preceding paragraph, he shall bring it before the court; and the court shall issue a summons or warrant for procuring the appearance of the defendant before it, and shall hear and determine the complaint.

(4) If, after a complaint has been sent to the clerk of a magistrates' court under this rule, the clerk of the court to which the complaint was made receives any payment under the order, he shall forthwith send by post to the clerk to whom the complaint was sent a certificate of the amount of the payment and of the date when it was made.

(5) If, after a complaint has been sent as aforesaid, payment under the order is made, not to the clerk of the court to which the complaint was originally made, but to the person specified in the order, that person shall forthwith inform the clerk of the amount and date as aforesaid and the clerk shall forthwith send a certificate of the amount and date as required by the last preceding paragraph.

(6) A certificate under this rule purporting to be signed by the clerk of the court to which the complaint was originally made shall be admissible as evidence on the hearing of the complaint that the amount specified in the certificate was paid on the date so specified.

(7) This rule shall not apply—

(*a*) where jurisdiction is confined by paragraph (*a*) of subsection (2) of section eighty-eight of the Children and Young Persons Act, 1933(a), to courts having jurisdiction in the place where the person liable is residing;

(*b*) to a contribution order.

Notice of adjudication on complaint for enforcement of affiliation order, etc.

50. A magistrates' court shall give notice in writing to the complainant of its adjudication on a complaint for the enforcement of an affiliation order, or order enforceable as an affiliation order, unless the complainant is present or is the clerk of the court.

(a) 23 & 24 Geo. 5. c. 12.

Notice of date of reception in custody and discharge

51. Where in proceedings to enforce an affiliation order, or an order enforceable as an affiliation order, the defendant is committed to custody, then on his discharge the governor or keeper of the prison or place of detention shall send to the clerk of the court that committed the defendant a certificate showing the dates of the defendant's reception and discharge; and that clerk shall, if the payments under the order are required to be made to the clerk of any other court, send the certificate to the last-mentioned clerk.

Direction that money found on defaulter shall not be applied in satisfaction of debt

52. Where the defaulter is committed to, or ordered to be detained in, a prison or other place of detention, any direction given under subsection (2) of section sixty-eight of the Act shall be endorsed on the warrant of commitment.

Directions as to time for payment, instalments, transfer of fine and supervision to be entered in register

53. There shall be entered in the register, or any separate record kept for the purpose, any allowance of further time for the payment of a sum adjudged to be paid by a summary conviction or order, any direction that such a sum shall be paid by instalments, any transfer of fine order and any order under the Act placing a person under supervision pending payment of a sum adjudged to be paid by a summary conviction.

REGISTER

Register of convictions, etc.

54.—(1) The clerk of every magistrates' court shall keep a register in which there shall be entered—

(*a*) a minute or memorandum of every adjudication of the court;

(*b*) a minute or memorandum of every other proceeding or thing required by these rules or any other enactment to be so entered.

(2) The register shall be in the prescribed form, and entries in the register shall include, where relevant, such particulars as are provided for in the said form.

(3) The entry in the column of the register headed "Nature of Offence" shall show clearly, in case of conviction or dismissal, what is the offence of which the accused is convicted or, as the case may be, what is the offence charged in the information that is dismissed.

(4) An entry of a conviction in the register shall state the date of the offence.

(5) The entries shall be signed by one of the justices, or the justice, before whom the proceedings to which they relate took place:

Provided that, where the proceedings took place before a justice or justices sitting elsewhere than in a petty-sessional court-house, the justice or, as the case may be, one of the justices may instead of signing an entry in the register, send to the clerk whose duty it is to keep the register a signed return of the proceedings containing the particulars required to be entered in the register; and the clerk shall enter the return in the register.

(6) Every register shall be open to inspection during reasonable hours by any justice of the peace, or any person authorised in that behalf by a justice of the peace or the Secretary of State.

EVIDENCE

Proof of service, handwriting, etc.

55.—(1) The service on any person of a summons, process, notice or document required or authorised to be served in any proceedings before a magistrates' court, and the handwriting or seal of a justice of the peace or other person on any warrant, summons, notice, process or document issued or made in any such proceedings, may be proved in any legal proceedings by a document purporting to be a solemn declaration in the prescribed form made before a justice of the peace, commissioner for oaths, clerk of the peace or registrar of a county court.

(2) The service of any process or other document required or authorised to be served, the proper addressing, pre-paying and posting or registration for the purposes of service of a letter containing such a document, and the place, date and time of posting or registration of any such letter, may be proved in any proceedings before a magistrates' court by a document purporting to be a certificate signed by the person by whom the service was effected or the letter posted or registered.

(3) References in the last preceding paragraph to the service of any process shall, in their application to a witness summons, be construed as including references to the payment or tender to the witness of his costs and expenses.

(4) The last two preceding paragraphs shall apply to proceedings before a court of quarter sessions, or any committee thereof, sitting to hear an appeal from a magistrates' court as they apply to proceedings before a magistrates' court.

Proof of proceedings

56. The register of a magistrates' court, or any document purporting to be an extract from the register and to be certified by the clerk as a true extract, shall be admissible in any legal proceedings as evidence of the proceedings of the court entered in the register.

Proof that affiliation, maintenance orders, etc., have not been revoked, etc.

57. A certificate purporting to be signed by the clerk of a magistrates' court, and stating that no minute or memorandum of an order revoking, discharging, reviving, altering or varying an affiliation order, or order enforceable as an affiliation order, made by the court is entered in the register of the court shall, in any proceedings relating to the enforcement of the order or the revocation, discharge, revival, alteration or variation of the order, be evidence that the order has not been revoked, discharged, revived, altered or varied.

APPEAL TO QUARTER SESSIONS

Documents to be sent to quarter sessions

58.—(1) A clerk of a magistrates' court shall as soon as practicable send to the clerk of the peace any notice of appeal to quarter sessions given to the clerk of the court.

(2) The clerk of a magistrates' court shall send to the clerk of the peace, with the notice of appeal, a statement of the decision from which the appeal is brought and of the last known or usual place of abode of the parties to the appeal.

(3) Where any person, having given notice of appeal to quarter sessions, has for the purpose of his release from custody entered into a recognizance conditioned for his appearance at the hearing of the appeal, the clerk of the court from whose decision the appeal is brought shall before the day fixed for hearing the appeal send the recognizance to the clerk of the peace.

(4) Where any such recognizance has been entered into otherwise than before the magistrates' court from whose decision the appeal is brought, or the clerk of that court, the person who took the recognizance shall send it forthwith to the clerk.

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Notices for purpose of appeal

59.—(1) A notice of appeal for the purposes of section eighty-four of the Act shall be in writing and signed by or on behalf of the appellant and shall state the general grounds of appeal.

(2) Any notice of appeal required by the Act to be given to any person may be sent by post in a registered letter addressed to him at his last known or usual place of abode.

Abandonment of appeal

60.—(1) A notice may be served on any person under section eighty-five of the Act by delivering it to him or by registered letter addressed to him at his last known or usual place of abode.

(2) Where notice to abandon an appeal has been given by the appellant, any recognizance conditioned for the appearance of the appellant at the hearing of the appeal shall have effect as if conditioned for the appearance of the appellant before the court from whose decision the appeal was brought at a time and place to be notified to the appellant by the clerk of that court.

Case stated

Application to state case

61. An application under subsection (1) of section eighty-seven of the Act shall be made in writing and shall be delivered to the clerk of the magistrates' court whose decision is questioned, or sent to him by post.

Case stated by two justices on behalf of all

62. A case may be stated on behalf of the justices whose decision is questioned by any two or more of them.

Case to be stated within three months

63. The time within which justices shall state a case shall be three months after the application for the case to be stated.

Contents of case stated

64. A case stated by a magistrates' court shall state the facts found by the court and, unless one of the questions on which the opinion of the High Court is sought is whether there was evidence on which the magistrates' court could come to its decision, shall not contain a statement of the evidence.

Recognizance

Recognizance to keep the peace, etc., taken by one court and discharged by another

65. Where a magistrates' court acting for any petty sessions area makes an order under section ninety-two of the Act discharging a recognizance entered into before a magistrates' court acting for any other petty sessions area, the clerk of the court that orders the recognizance to be discharged shall send a copy of the order of discharge to the clerk of the court acting for that other petty sessions area.

Application to vary order for sureties or dispense with them

66. Where a person has been committed to custody in default of finding sureties and the order to find sureties was made at the instance of another person, an application under section ninety-four of the Act shall be made by complaint against that other person.

Notice of enlargement of recognizances

67. If a magistrates' court before which any person is bound by a recognizance to appear enlarges the recognizance to a later time under section one hundred and six of the Act in his absence, it shall give him and his sureties, if any, notice thereof.

Recognizances taken before person other than court which fixed them

68.—(1) Where a magistrates' court having jurisdiction to take a recognizance from any person has fixed the amount in which he and his sureties, if any, are to be bound, the recognizances may be entered into before any justice of the peace, or before the clerk of any magistrates' court, or before any police officer not below the rank of inspector, or before the officer in charge of any police station or, if the person to be bound is in a prison or other place of detention, before the governor or keeper of the prison or place.

(2) The clerk of a magistrates' court which has fixed the amount in which any person and his sureties, if any, are to be bound shall issue a certificate in the prescribed form showing the conditions of the recognizance and the amounts in which the principal and the sureties, if any, are to be bound; and a justice of the peace, clerk of a magistrates' court, police officer, governor of a prison or keeper of a place of detention, authorised to take a recognizance under this rule shall not be required to take it without production of such a certificate as aforesaid.

(3) If any person proposed as a surety for a person committed to custody by a magistrates' court produces to the governor or keeper of the prison or other place of detention in which the person so committed is detained a certificate in the prescribed form signed by any of the justices composing the court or the clerk of the court and signed in the margin by the person proposed as surety, the governor or keeper shall take the recognizance of the person so proposed.

(4) Where the recognizance of any person committed to custody by a justice of the peace, or of that person's sureties, is taken under section ninety-five of the Act and this rule by any person other than the court which committed the first-mentioned person to custody, the person taking the recognizance shall send it to the clerk of that court:

Provided that if the person committed has been committed for trial before a court of assize or quarter sessions the person taking the recognizance shall send it to the proper officer of the court before which the first-mentioned person is to be tried.

Notice to governor of prison, etc., where release from custody is ordered

69. Where a magistrates' court has, with a view to the release on bail of a person in custody, fixed the amount in which he and his sureties, if any, shall be bound—

(*a*) the clerk of the court shall give notice thereof to the governor or keeper of the prison or place where that person is detained by sending him such a certificate as is mentioned in paragraph (2) of the last preceding rule;

(*b*) any person taking the recognizance of a surety shall give notice thereof to the said governor or keeper in the prescribed form.

Release when recognizances have been taken

70. Where a magistrates' court has, with a view to the release on bail of a person in custody for any cause, fixed the amount in which he and his sureties, if any, shall be bound, the governor or keeper of the prison or place where that person is detained, on receiving notice in accordance with these rules that the amounts of the recognizances have been fixed and, where sureties are required, that the recognizances of the sureties have been taken, shall take the recognizance of that person, if this has not already been done, and, unless he is in custody for some other cause, release him.

WARRANT

Committal to custody to be by warrant

71. A justice of the peace shall not commit any person to a prison, detention centre, remand home, remand centre or place certified under section one hundred and nine of the Act except by a warrant of commitment.

Warrant to be signed 1967/1661

72. Every warrant under the Act shall be signed by the justice issuing it.

Warrant of arrest

73.—(1) A warrant issued by a justice of the peace for the arrest of any person shall require the persons to whom it is directed, that is to say, the constables of the police area in which the warrant is issued, or any persons named in that behalf in the warrant, to arrest the person against whom the warrant is issued.

(2) The warrant shall name or otherwise describe the person for whose arrest it is issued, and shall contain a statement of the offence charged in the information or, as the case may be, the ground on which the warrant is issued.

Warrant of commitment

74.—(1) A warrant of commitment issued by a justice of the peace—

(*a*) shall name or otherwise describe the person committed:

(*b*) shall contain a statement of the offence with which the person committed is charged, or of which he has been convicted, or of any other ground on which he is committed:

(*c*) shall be directed to the constables of the police area in which the warrant is issued and to the governor or keeper of the prison or place of detention specified in the warrant, and shall require—

(i) the constables to arrest the person committed, if he is at large, and convey him to that prison or place and deliver him with the warrant to the governor or keeper;

(ii) the governor or keeper to keep in his custody the person committed until that person be delivered in due course of law, or until the happening of an event specified in the warrant, or for the period specified in the warrant, as the case may be.

(2) A warrant of commitment may be executed by conveying the person committed to any prison or place of detention in which he may lawfully be detained and delivering him there together with the warrant: and, so long as any person is detained in any such prison or place other than that specified in the warrant, the warrant shall have effect as if that other prison or place were the prison or place specified in it.

(3) Notwithstanding the preceding provisions of this rule, a warrant of commitment issued in pursuance of a valid conviction, or of a valid order requiring the person committed to do or abstain from doing anything, shall not, if it alleges that the person committed has been convicted, or ordered to do or abstain from doing that thing, be held void by reason of any defect in the warrant.

(4) The governor or keeper of the prison or place of detention at which any person is delivered in pursuance of a warrant of commitment shall give to the constable making the delivery a receipt for that person.

(5) Notwithstanding the preceding provisions of this rule, a warrant of a justice of the peace to commit to custody any person who to the justice's knowledge is already detained in a prison or other place of detention shall be delivered to the governor or keeper of the prison or place of detention in which that person is detained.

SUMMONS

Form of summons

75.—(1) A summons shall be signed by the justice issuing it.

(2) A summons requiring a person to appear before a magistrates' court to answer to an information or complaint shall state shortly the matter of the information or complaint and shall state the time and place at which the defendant is required by the summons to appear.

(3) A single summons may be issued against a person in respect of several informations or complaints; but the summons shall state the matter of each information or complaint separately and shall have effect as several summonses, each issued in respect of one information or complaint.

Service of summons, etc.

76.—(1) Service of a summons issued by a justice of the peace on a person other than a corporation may be effected—

(*a*) by delivering it to the person to whom it is directed; or

(*b*) by leaving it for him with some person at his last known or usual place of abode; or

(*c*) by sending it by post in a registered letter addressed to him at his last known or usual place of abode.

(2) If the person summoned fails to appear, service of a summons in manner authorised by sub-paragraph (*c*) of the preceding paragraph shall not be treated as proved unless it is proved that the summons came to his knowledge; and for that purpose any letter or other communication purporting to be written by him or on his behalf in such terms as reasonably to justify the inference that the summons came to his knowledge shall be admissible as evidence of that fact.

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(3) Service for the purposes of the Act of a summons or other document issued by a justice of the peace on a corporation may be effected by delivering it at, or sending it by post to, the registered office of the corporation, if that office is in England and Wales, or, if there is no registered office in England and Wales, any place in England and Wales where the corporation trades or conducts its business.

(4) Any summons or other document served in manner authorised by the preceding provisions of this rule shall, for the purposes of any enactment other than the Act or these rules requiring a summons or other document to be served in any particular manner, be deemed to have been as effectively served as if it had been served in that manner; and nothing in this rule shall render invalid the service of a summons or other document in that manner.

(5) Sub-paragraph (*c*) of paragraph (1) of this rule shall not authorise the service by post of—

(*a*) a summons requiring the attendance of any person to give evidence or produce a document or thing; or

(*b*) a summons issued under any enactment relating to the liability of members of the naval, military or air forces of the Crown for the maintenance of their wives and children, whether legitimate or illegitimate;

or authorise a summons to be served outside England and Wales.

(6) This rule shall not apply to a judgment summons.

Form in which offence may be stated in documents

Statement of offence

77.—(1) Every information, summons, warrant or other document laid, issued or made for the purposes of, or in connection with, any proceedings before a magistrates' court for an offence shall be sufficient if it describes the specific offence with which the accused is charged, or of which he is convicted, in ordinary language avoiding as far as possible the use of technical terms and without necessarily stating all the elements of the offence, and gives such particulars as may be necessary for giving reasonable information of the nature of the charge.

(2) If the offence charged is one created by or under any Act, the description of the offence shall contain a reference to the section of the Act, or, as the case may be, the rule, order, regulation, byelaw or other instrument creating the offence.

Miscellaneous

Application for, and notice to be given of, order under s. 7 (3) of Road Traffic Act, 1930

78.—(1) An application under subsection (3) of section seven of the Road Traffic Act, 1930(a), for an order removing a disqualification for holding or obtaining a licence shall be by complaint.

(2) The justice to whom the complaint is made shall issue a summons directed to the superintendent of police for the district in which the court was sitting when it made the conviction or order, or, if the court was sitting in a borough having a separate police force, to the chief constable of that borough, or in either case to such constable as the said superintendent

(a) 20 & 21 Geo. 5. c. 43.

or chief constable may generally or in any particular case designate, requiring him to appear before a magistrates' court acting for the petty sessions area for which the justice is acting to show cause why an order should not be made on the complaint.

(3) Where a magistrates' court makes an order under subsection (3) of section seven of the said Act of 1930, the court shall cause notice of the making of the order and a copy of the particulars of the order endorsed on the licence, if any, previously held by the applicant for the order to be sent to the council of the county or county borough to which notice of the applicant's disqualification was sent.

Forms

79. Any requirement in these rules that a document shall be in the prescribed form shall be construed as a requirement that the document shall be in the form prescribed in that behalf by rules made under section fifteen of the Justices of the Peace Act, 1949(**a**), or a form to like effect.

Saving for the Summary Jurisdiction (Children and Young Persons) Rules, 1933

80. The provisions of these rules shall have effect subject to the Summary Jurisdiction (Children and Young Persons) Rules, 1933(**b**).

Revocation of previous rules

81. The rules mentioned in the Schedule to these rules are hereby revoked.

Dated the seventeenth day of December, 1952.

Simonds, C.

SCHEDULE

RULES REVOKED

The Summary Jurisdiction Rules, 1915(**c**),
The Indictable Offences Rules, 1926(**d**),
The Summary Jurisdiction Rules, 1932(**e**),
The Indictable Offences Rules, 1933(**f**),
The Summary Jurisdiction Rules, 1933(**g**),
The Summary Jurisdiction Rules, 1935(**h**),
The Summary Jurisdiction Rules, 1937(**i**),
The Summary Jurisdiction Rules, 1948(**j**),
The Summary Jurisdiction Rules, 1949(**k**).

(**a**) 12, 13 & 14 Geo. 6. c. 101.
(**b**) S.R. & O. 1933/819; Rev. XI, p. 573; 1933, p. 959: and *see* S.R. & O. 1938/1201; Rev. XI, p. 613; 1938 I, p. 1611: S.I. 1950/827; 1952/1467: 1950 II, p. 887; 1952 I, p. 1246.
(**c**) S.R. & O. 1915/200; Rev. XXI, p. 599; 1915 III, p. 121.
(**d**) S.R. & O. 1926/676; Rev. V, p. 337; 1926, p. 357.
(**e**) S.R. & O. 1932/1034; Rev. XXI, p. 599; 1932, p. 1652.
(**f**) S.R. & O. 1933/832; Rev. V, p. 346; 1933, p. 560.
(**g**) S.R. & O. 1933/1120; Rev. XXI, p. 599; 1933, p. 1797.
(**h**) S.R. & O. 1935/1088; Rev. XXI, p. 599; 1935, p. 1623.
(**i**) S.R. & O. 1937/798; Rev. XXI, p. 689; 1937, p. 2176.
(**j**) S.I. 1948/2663; Rev. XXI, p. 599; 1948 I, p. 4012.
(**k**) S.I. 1949/1405; Rev. XXI, p. 599; 1949 I, p. 3984.