PROCEDURE

1960 No. 1431 (L. 16)

The Magistrates' Courts Rules, 1960

Made - - - -	*8th August*, 1960
Laid before Parliament	*15th August*, 1960
Coming into Operation	*1st November*, 1960

I, the Right Honourable David, Viscount Kilmuir, Lord High Chancellor of Great Britain, in exercise of the power conferred on 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:—

1. After Rule 10 of the Magistrates' Courts Rules, 1952(c), there shall be inserted the following Rule:—

"*Notices on committal of person subject to transfer direction*

10A. Where a transfer direction has been given by the Secretary of State under section seventy-three of the Mental Health Act, 1959(d), in respect of a person remanded in custody by a magistrates' court and, before the direction ceases to have effect, that person is committed for trial, the clerk of the court shall give notice in the prescribed form—

(*a*) to the governor of the prison to which persons of the sex of that person are committed by that court if committed in custody for trial; and

(*b*) to the managers of the hospital where he is detained.".

2. After Rule 20 of the said Rules, there shall be inserted the following Rule:—

"*Committal to quarter sessions for order restricting discharge, etc.*

20A. Where a magistrates' court commits an offender to a court of quarter sessions either—

(*a*) under subsection (1) of section sixty-seven of the Mental Health Act, 1959, with a view to the making of a hospital order with an order restricting his discharge; or

(*b*) under section twenty-nine of the Act, as modified by subsection (4) of the said section sixty-seven, with a view to the passing of a more severe sentence than the magistrates' court has power to inflict if such an order is not made,

the clerk of the court shall send to the clerk of the peace—

(i) the copies, documents and articles specified in paragraphs (*a*), (*b*) and (*c*) of Rule 20 of these Rules;

(a) 12, 13 & 14 Geo. 6. c. 101. (b) 15 & 16 Geo. 6 & 1 Eliz. 2. c. 55.
(c) S.I. 1952/2190 (1952 II, p. 1593). (d) 7 & 8 Eliz. 2. c. 72.

(ii) any written evidence about the offender given by a medical practitioner under paragraph (*a*) of subsection (1) of section sixty of the Mental Health Act, 1959, or a copy of a note of any oral evidence so given;

(iii) the name and address of the hospital the managers of which have agreed to admit the offender if a hospital order is made; and

(iv) if the offender has been admitted to a hospital under section sixty-eight of that Act, the name and address of that hospital.".

3. After Rule 25 of the said Rules there shall be inserted the following Rule:—

"*Notice of further remand in certain cases*

25A. Where a transfer direction has been given by the Secretary of State under section seventy-three of the Mental Health Act, 1959, in respect of a person remanded in custody by a magistrates' court and the direction has not ceased to have effect, the clerk of the court shall give notice in writing to the managers of the hospital where he is detained of any further remand under section one hundred and five of the Act.".

4. For Rule 28 of the said Rules there shall be substituted the following Rule:—

"*Documents to be sent under Mental Health Act,* 1959

28.—(1) The court by which a hospital order is made under section sixty or sixty-one of the Mental Health Act, 1959, shall send to the hospital named in the order such information in the possession of the court as it considers likely to be of assistance in dealing with the patient to whom the order relates, and in particular such information about the mental condition, character and antecedents of the patient, and, in the case of an order made under the said section sixty, about the nature of the offence.

(2) The court by which a guardianship order is made under the said section sixty or sixty-one shall send to the local health authority named therein as guardian or, as the case may be, the local health authority for the area in which the person so named resides, such information in the possession of the court as it considers likely to be of assistance in dealing with the patient to whom the order relates and in particular such information about the mental condition, character and antecedents of the patient, and, in the case of an order made under the said section sixty, about the nature of the offence.

(3) The court by which an offender is ordered to be admitted to hospital under section sixty-eight of the Mental Health Act, 1959, shall send to the hospital such information in the possession of the court as it considers likely to assist in the treatment of the offender until his case is dealt with by quarter sessions.".

5. At the end of Rule 58 of the said Rules there shall be added the following paragraph:—

"(5) Where a notice of appeal is given in respect of a hospital order or guardianship order made under section sixty or sixty-one of the Mental Health Act, 1959, the clerk of the magistrates' court from which the appeal is brought shall send with the notice to the clerk of the peace any written evidence considered by the court under paragraph (*a*) of subsection (1) of the said section sixty.".

6. After form 15 of the Magistrates' Courts (Forms) Rules, 1952(a), there shall be inserted the form numbered 15A in the Schedule to these Rules.

7. For form 30 of the said Rules there shall be substituted the form numbered 30 in the Schedule to these Rules.

8. For form 31 of the said Rules there shall be substituted the forms numbered 31 and 31A in the Schedule to these Rules.

9. After form 37 of the said Rules there shall be inserted the forms numbered 37A, 37B and 37C in the Schedule to these Rules.

10. For form 95 of the said Rules there shall be substituted the form numbered 95 in the Schedule to these Rules.

11. These Rules may be cited as the Magistrates' Courts Rules, 1960, and shall come into operation on the first day of November, 1960.

Dated the eighth day of August, 1960.

Kilmuir, C.

SCHEDULE

FORMS

15A

Notice on committal for trial of person subject to transfer direction under s. 73 of Mental Health Act, 1959 (*M.C. Rules*, 1960, *r.* 1.)

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

To the Governor of Her Majesty's prison at and to the Managers of the Hospital at .

The undermentioned person, being subject to a transfer direction under section seventy-three of the Mental Health Act, 1959, and detained at the above mentioned hospital, was this day committed in custody for trial at the next Court of Assize [*or* Quarter Sessions] for the [county] of to be held at .

Name, age, address and occupation of accused	
Charge as set out in caption of depositions	
Committing Court	

Dated this day of , 19 .

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

(a) S.I. 1952/2191 (1952 II, p. 1619).

30

Commitment on remand after conviction or for medical examination (*M.C. Act*, 1952, *ss.* 14 (3), 26, 28, 105 ; *M.C. Rules*, 1952, *rr.* 25, 71, 72, 74.)

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*) appeared this day before the Magistrates' Court sitting at , charged with (*state shortly particulars of offence*):

And, the defendant [, having consented to be tried summarily and] having been convicted of the said offence, the Court decided to adjourn the hearing and remand the defendant for the purpose of enabling inquiries to be made [and] [*or* of determining the most suitable method of dealing with the case]:

[*or* And the Court, being satisfied that the defendant did the act or made the omission charged but, being of opinion that an inquiry ought to be made into his/her physical [and] [*or* mental] condition before the method of dealing with him/her was determined, decided to adjourn the hearing and remand the defendant:]

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, [unless he/she shall have been bailed in the meantime, or] unless you, the said Governor shall be otherwise ordered in the meantime, to keep him/her until the day of , 19 :

And you, the said Governor, are hereby requested [to arrange for an inquiry to be made into the defendant's physical [and] [*or* mental] condition by a duly qualified medical practitioner [*or* by two duly qualified medical practitioners, of whom one is approved for the purposes of section twenty-eight of the Mental Health Act, 1959, by a local health authority as having special experience in the diagnosis or treatment of mental disorders], who shall report thereon to the Court [, and] [*or* to make such arrangements as will ensure that a report is made to the Court by or on behalf of the Prison Commissioners on the defendant's physical and mental condition and his/her suitability for a sentence of Borstal training].

And you, the said Governor, are further commanded to convey the defendant on the said day of , 19 , at the hour of in the noon before the Court to be further dealt with according to law.

Dated the day of , 19 .

J.P.,

Justice of the Peace for the [county] aforesaid.

(*Endorsement where bail is allowed*)

The Court hereby certifies that the defendant may be bailed by recognizance, himself/herself in the sum of , with suret in the sum of [each], to appear before the Magistrates' Court sitting at , on the day of , 19 , at the hour of in the noon [and, subject to the condition for his/her said appearance, to undergo medical examination by a duly qualified medical practitioner [*or* by two duly qualified medical practitioners, of whom one is approved for the purposes of section twenty-eight of the Mental Health Act, 1959,] and for the purpose attend at (*insert name and address of institution or place or name and address of doctor*), [and comply with any directions given to him/her for that purpose by] [and reside there until the expiration of from the date of admission or until earlier discharge.]]

And that the defendant has [not] entered into his/her recognizance.

J.P.,

Justice of the Peace for the [county] aforesaid.

31

Hospital order (*Mental Health Act*, 1959, *s.* 60; *M.C. Rules*, 1952, *r.* 28.)

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

Before the Magistrates' Court sitting at .

A.B. is this day charged with (*state shortly particulars of offence*), being an offence punishable on summary conviction with imprisonment:

And the Court has convicted A.B. of the said offence [*or* is satisfied that A.B. did the act or made the omission charged]:

And the Court has heard [*or* considered] the [written] evidence of two medical practitioners, namely (*insert names and addresses*), [each] of whom [the first mentioned] is approved for the purposes of section twenty-eight of the Mental Health Act, 1959, by a local health authority as having special experience in the diagnosis or treatment of mental disorders, and each of the said practitioners has described the said A.B. as suffering from mental illness [*or* psychopathic disorder *or* subnormality *or* severe subnormality]:

And the Court is satisfied that he/she is suffering from the following form(s) of mental disorder within the meaning of the Mental Health Act, 1959, namely mental illness [*or* psychopathic disorder *or* subnormality *or* severe subnormality], and that the disorder is of a nature or degree which warrants his/her detention in a hospital for medical treatment and is satisfied that arrangements have been made for his/her admission to the hospital hereinafter specified within twenty-eight days of this date and that the most suitable method of disposing of the case is by means of a hospital order:

It is ordered that the said A.B. be admitted to and detained in (*insert name and address of hospital*):

[And that he/she be conveyed to the said hospital by E.F.]:

[And it is directed that pending admission to the said hospital within the said period of twenty-eight days the said A.B. shall be detained in a place of safety, namely] [and shall be conveyed thither by E.F.].

Dated the day of , 19 .

J.P.,

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

31A

Guardianship order (*Mental Health Act*, 1959, *s.* 60; *M.C. Rules*, 1952, *r.* 28.)

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

Before the Magistrates' Court sitting at .

A.B. is this day charged with (*state shortly particulars of offence*), being an offence punishable on summary conviction with imprisonment:

And the Court has convicted A.B. of the said offence [*or* is satisfied that A.B. did the act or made the omission charged]:

And the Court has heard [*or* considered] the [written] evidence of two medical practitioners, namely (*insert names and addresses*), [each] of whom [the first mentioned] is approved for the purposes of section twenty-eight of the Mental Health Act, 1959, by a local health authority as having special experience in the diagnosis or treatment of mental disorders, and each of the said practitioners has described the said A.B. as suffering from mental illness [*or* psychopathic disorder *or* subnormality *or* severe subnormality]:

And the Court is satisfied that he/she is suffering from the following form(s) of mental disorder within the meaning of the Mental Health Act, 1959, namely mental illness [*or* psychopathic disorder *or* subnormality *or* severe subnormality], and that the disorder is of a nature or degree which warrants his/her reception into guardianship under that Act and is satisfied that the authority [*or* person] hereinafter specified is willing to receive him/her into guardianship and that the most suitable method of disposing of the case is by means of a guardianship order:

It is ordered that the said A.B. be placed under guardianship of a local health authority, namely the County [Borough] Council [*or* of C.D. being a person approved by a local health authority, namely the County [Borough] Council].

Dated the day of , 19 .

J.P.,

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

37A

Commitment to Sessions for restriction order (*Mental Health Act*, 1959, *s.* 67 (1).)

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 consented to be tried summarily,] was this day [*or* on the day of , 19 ,] convicted by the Magistrates' Court sitting at , (*state shortly particulars of offence*), being an offence punishable on summary conviction with imprisonment:

And it appeared to the Court that on the day of his/her said conviction the defendant was not less than fourteen years of age:

And the conditions which under subsection (1) of section sixty of the Mental Health Act, 1959, are required to be satisfied for the making of a hospital order are satisfied in respect of the defendant:

And it appeared to the Court, having regard to the nature of the offence, the antecedents of the defendant and the risk of his/her committing further offences if set at large, that if a hospital order is made an order restricting the discharge of the defendant should also be made:

And it was this day adjudged that the defendant should be committed in custody to Quarter Sessions under the provisions of subsection (1) of section sixty-seven of the Mental Health Act, 1959, to be dealt with in respect of the offence:

You, the said constables, are hereby commanded to convey the defendant to Her Majesty's prison aforesaid and there deliver him/her to the Governor thereof, together with this warrant; and you, the Governor of the said prison, to receive the defendant into your custody and to keep him/her until the next [available sitting of the Appeal Committee of the] Quarter Sessions for the said [county] and to have him/her there, together with this warrant, there to be dealt with according to law.

Dated the day of , 19 .

J.P.,

Justice of the Peace for the [county] aforesaid.

37B

Commitment to Sessions for restriction order or sentence (*Mental Health Act*, 1959, *s.* 67 (4).)

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

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

A.B. (hereinafter called the defendant) [, having consented to be tried summarily,] was this day [*or* on the day of , 19 ,] convicted by the Magistrates' Court sitting at (*state shortly particulars of offence*):

And it appeared to the Court that on the day of his/her said conviction the defendant was not less than seventeen years of age:

And the conditions which under subsection (1) of section sixty of the Mental Health Act, 1959, are required to be satisfied for the making of a hospital order are satisfied in respect of the defendant:

And it appeared to the Court, having regard to the nature of the offence, the antecedents of the defendant and the risk of his/her committing further offences if set at large, that if a hospital order is made an order restricting the discharge of the defendant should also be made:

And the Court, on obtaining information as to the character and antecedents of the defendant, was of opinion that they were such that greater punishment should be inflicted in respect of the offence than the Court had power to inflict unless a hospital order is made in the case of the defendant with an order restricting his/her discharge:

And it was this day adjudged that the defendant should be committed in custody to Quarter Sessions under section twenty-nine of the Magistrates' Courts Act, 1952, as modified by subsection (4) of section sixty-seven of the Mental Health Act, 1959, for sentence in accordance with the provisions of section twenty-nine of the Criminal Justice Act, 1948:

You, the said constables, are hereby commanded to convey the defendant to Her Majesty's prison aforesaid and there deliver him/her to the Governor thereof, together with this warrant; and you, the Governor of the said prison, to receive the defendant into your custody and keep him/her until the next [available sitting of the Appeal Committee of the] Quarter Sessions for the said [county] and to have him/her there, together with this warrant, there to be dealt with according to law.

Dated the day of , 19 .

J.P.,

Justice of the Peace for the [county] aforesaid.

37c

Order of admission to hospital pending restriction order
(*Mental Health Act*, 1959, *s.* 68.)

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

To the Managers of the Hospital at .

A.B. (hereinafter called the defendant) [, having consented to be tried summarily,] was this day [*or* on the day of , 19 ,] convicted by the Magistrates' Court sitting at (*state shortly particulars of offence*) being an offence punishable on summary conviction with imprisonment:

And it appeared to the Court that on the day of his/her said conviction the defendant was not less than fourteen years of age:

And the conditions which, under section sixty of the Mental Health Act, 1959, are required to be satisfied for the making of a hospital order are satisfied in respect of the defendant:

And it appeared to the Court, having regard to the nature of the offence, the antecedents of the defendant and the risk of his/her committing further offences if set at large, that if a hospital order is made an order restricting his/her discharge should also be made:

And the Court has committed the defendant to Quarter Sessions under subsection (1) of section sixty-seven of the Mental Health Act, 1959, to be dealt with in respect of the offence:

The Court being satisfied that arrangements have been made for the admission of the defendant to the hospital hereinafter specified:

It was this day directed that the defendant be admitted to the Hospital at and be detained there until Quarter Sessions has disposed of the case:

And it was directed that C.D. [*or* you, the said managers,] should produce the defendant from the said hospital to attend the next [available sitting of the Appeal Committee of the] Quarter Sessions for the said [county] on the day and at the time to be notified by the Clerk of the Peace.

Dated the day of , 19 .

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

95

Recognizance : general (*M.C. Act*, 1952, *ss.* 7, 14, 26, 89, 91.)

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 , 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.,
Superintendent of the Police.]

(*Endorsement*)

Condition[*s*]

The condition[s] of this recognizance is [are] that if the principal—

appears before the Magistrates' Court sitting at , on day the day of , 19 , at the hour of in the noon [*or* appears at every time and place to which during the course of the proceedings against the principal the hearing may be from time to time adjourned, unless the Court otherwise orders in the meantime,] to answer to the charge made against him/her by ,

[*or* appears before the next Court of Assize [*or* Quarter Sessions] for the [county] of to be held at , and there surrenders himself/herself into custody and takes his/her trial upon any indictment preferred against him/her,]

[and, subject to the condition for his/her said appearance, undergoes medical examination by a [*or* two] duly qualified medical practitioner[s] [, of whom one is approved for the purposes of section twenty-eight of the Mental Health Act, 1959,] and for the purpose attends at (*insert name and address of institution or place or name and address of doctor*) and complies with any directions given to him/her for that purpose by [and resides there until the expiration of from the date of admission or until earlier discharge],]

[*or* keeps the peace and is of good behaviour towards Her Majesty and all Her liege people, and especially towards for the term of from the date of this recognizance,]

[*or* appears on such date and at such time and place as may be notified to him/her by the Clerk of the Peace at the hearing of his/her appeal to Quarter Sessions for the [county] aforesaid from a decision of the Magistrates' Court sitting at , dated the day of , 19 , whereby the principal was convicted (*state shortly particulars of offence*) [*or* was sentenced *or* ordered],]

[*or* prosecutes without delay his/her appeal to the High Court of Justice from a conviction [*or* order] of the Magistrates' Court sitting at , dated the day of , 19 , whereby the principal was convicted (*state shortly particulars of offence*) [*or* was ordered], and submits to the judgment of the High Court and pays such costs as may be awarded by the High Court [*and, unless the determination appealed against is reversed, appears before the said Magistrates' Court within ten days after the said judgment is given],]

[*or* (*where prosecutor is appealing*) prosecutes without delay his/her appeal to the High Court of Justice from a determination of the Magistrates' Court sitting at on the day of , 19 , whereby the said Magistrates' Court dismissed an information laid by the principal alleging that X.Y. had (*state shortly particulars of offence*) [*or* (*state other determination appealed against*)], and pays such costs as may be awarded by the High Court,]

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

* Delete if the principal is not to be released on bail pending the appeal to the High Court.