1965 No. 1602 (L. 20)

MAGISTRATES' COURTS

PROCEDURE

The Magistrates' Courts Rules 1965

Made - - - -	16*th August* 1965
Laid before Parliament	23*rd August* 1965
Coming into Operation	5*th October* 1965

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

1. For Rules 6 and 7 of the Magistrates' Courts Rules 1952(c), as amended (d), there shall be substituted the following Rules:—

" *Order for attendance of witness at court of trial*

6.—(1) A witness order under section 1 of the Criminal Procedure (Attendance of Witnesses) Act 1965(e) shall be in the prescribed form and shall be handed to the witness as soon as practicable after his deposition has been signed.

(2) Where a court has directed under section 1(2)(*b*) of the said Act that a witness order shall be treated as a conditional order, it shall give notice to the witness in the prescribed form.

(3) If after a witness order has been made requiring a person to attend 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, the committing court shall forthwith give the witness notice of the court at which he is required to attend.

(4) If a witness order has been made as aforesaid and the court determines not to commit the accused for trial, it shall give notice to the witness that he is no longer required to attend.

(5) 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

(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) There is no amendment which relates to the subject matter of Rules 6 and 7.

(e) 1965 c. 69.

be served by delivering it to the witness or by leaving it for him with some person at his last known or usual place of abode or by sending it by post in a registered letter or by recorded delivery service addressed to him at his last known or usual place of abode.

Procuring attendance at trial of witness subject to conditional order

7.—(1) Where in pursuance of section 1(2) of the Criminal Procedure (Attendance of Witnesses) Act 1965 a conditional witness order has been made, or a direction has been given that a witness order be treated as a conditional order, 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 to attend in pursuance of the witness order.

(2) A notice by the notifying clerk under the preceding paragraph shall be served by delivering it to the witness:

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) Where 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.".

2. For Rule 12 of the Magistrates' Courts Rules 1952, as amended**(a)**, there shall be substituted the following Rule:—

"*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 who is subject to a conditional witness order or in whose case the court has directed that a witness order be treated as a conditional order.

(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 5 of the Prosecution of Offences Act 1879**(b)** (which relates to the sending of documents and things to the Director of Public Prosecutions), send to the proper officer of the court of trial—

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

(*b*) the depositions;

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

(*d*) a written statement of the names, addresses and occupations of the witnesses in respect of whom witness orders have been made;

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

(a) The relevant amending instrument is S.I. 1964/1842 (1964 III, p. 4007).

(b) 42 & 43 Vict. c. 22.

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

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

(*h*) the list of exhibits required by Rule 8 of the Criminal Appeal Rules 1908(a) to be sent to the court of trial.

(3) Paragraph (2) of this Rule shall apply to the committal of a person under section 12(2) or (3) of the Act as if paragraphs (*a*) to (*d*), (*g*) and (*h*) were omitted.

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

(5) The clerk shall retain a copy of any statement sent in pursuance of paragraph (2)(*d*) of this Rule.

(6) If after a statement has been sent in pursuance of paragraph (2)(*d*) of this Rule 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.

(7) In the application of this Rule in relation to any committal to the Central Criminal Court, in paragraph (2) for the words 'before the first day of sitting of the court to which he is committed' there shall be substituted the words 'within four days from the date of his committal (not counting Sundays, Good Friday, Christmas Day or bank holidays)'.

(8) In the application of this Rule as aforesaid, the said period of four days may be extended for so long as the clerk of the Central Criminal Court directs, having regard to the length of any document mentioned in paragraph (2) of this Rule or any other relevant circumstance.

(9) Upon the committal of any person to the Central Criminal Court, the clerk of the magistrates' court that committed him shall forthwith in writing notify the clerk of the Central Criminal Court of that committal.".

3. After Rule 70 of the Magistrates' Courts Rules 1952 there shall be inserted the following Rules:—

"*Binding over witness under section 5 of the Criminal Procedure (Attendance of Witnesses) Act 1965*

70A.—(1) A recognisance entered into under section 5 of the Criminal Procedure (Attendance of Witnesses) Act 1965 shall be in the prescribed form and shall be acknowledged by the person entering into, the recognisance and signed by the person before whom it is entered into.

(2) Where such a recognisance as aforesaid has been entered into notice thereof shall be given forthwith to the person bound thereby.

(3) A recognisance taken as aforesaid shall be transmitted as soon as practicable to the proper officer of the court before which the person entering into the recognisance is required by it to appear.

Notification about witness to be sent to court of assize or quarter sessions

70B. Where under section 5 of the Criminal Procedure (Attendance of Witnesses) Act 1965 a magistrates' court commits to custody or releases

(a) S.R. & O. 1908/227 (Rev. V, p.352 : 1908, p. 239).

on bail a witness who has been arrested in pursuance of a warrant issued under section 4 of that Act, or the officer in charge of a police station releases such a witness on bail, the clerk of the court or the officer, as the case may be, shall forthwith notify the proper officer of the court of assize or quarter sessions before which the witness is required to be brought or to appear of the action taken in respect of him ; or, in a case where the magistrates' court commits the witness in custody to be brought before a judge of the High Court or a commissioner of assize, the clerk of the magistrates' court shall forthwith notify the Master of the Crown Office of the action taken in respect of the witness. ".

4. These Rules may be cited as the Magistrates' Courts Rules 1965 and shall come into operation on 5th October 1965.

Gardiner, C.

Dated 16th August 1965.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

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