STATUTORY INSTRUMENTS

1968 No. 1920(L.20)

MAGISTRATES' COURTS

PROCEDURE

The Magistrates' Courts Rules 1968

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

INFORMATION AND COMPLAINT

Information and complaint

1.—(1) 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.

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

(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.

(a) 1949 c. 101. (b) 1952 c. 55.

PROCEEDINGS PRELIMINARY TO TRIAL ON INDICTMENT

Restrictions on reports of committal proceedings

2.—(1) A magistrates' court acting as examining justices shall before admitting in evidence any written statement or taking depositions of witnesses in accordance with Rule 4 of these Rules explain to the accused the restrictions on reports of committal proceedings imposed by section 3 of the Criminal Justice Act 1967(a) and inform him of his right to apply to the court for an order removing those restrictions.

(2) Where a magistrates' court has made an order under section 3(2) of the Criminal Justice Act 1967 removing restrictions on the reports of committal proceedings, such order shall be entered in the register.

(3) Where the court adjourns any such proceedings to another day, the court shall, at the beginning of any adjourned hearing, state that the order has been made.

Committal for trial without consideration of evidence

3.—(1) This Rule applies to committal proceedings where the accused is represented by counsel or a solicitor and where the court has been informed that all the evidence for the prosecution is in the form of written statements copies of which have been given to the accused.

(2) A magistrates' court inquiring into an offence in committal proceedings to which this Rule applies shall cause the charge to be written down, if this has not already been done, and read to the accused and shall then ascertain whether he wishes to—

(*a*) object to any of the prosecution statements being tendered in evidence;

(*b*) give evidence himself or call witnesses; or

(*c*) submit that the prosecution statements disclose insufficient evidence to put him on trial by jury for the offence with which he is charged.

(3) If the court is satisfied that the accused or, as the case may be, each of the accused does not wish to take any of the steps mentioned in sub-paragraphs (*a*), (*b*) and (*c*) of the last foregoing paragraph and determines, after receiving any written statements tendered by the prosecution and the defence under section 2 of the Criminal Justice Act 1967, to commit the accused for trial without consideration of the evidence, the court shall proceed in accordance with the next following paragraph and in any other case shall proceed in accordance with Rule 4 of these Rules.

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

"You will be committed for trial by jury but I must warn you that at that trial you may not be permitted to give evidence of an alibi or to call witnesses in support of an alibi unless you have earlier given particulars of the alibi and of the witnesses. You may give those particulars now to this court or at any time in the next seven days to the solicitor for the prosecution.",

or words to that effect:

Provided that the court shall not be required to give this warning in any case where it appears to the court that, having regard to the nature of the offence with which the accused is charged, it is unnecessary to do so.

(a) 1967 c. 80.

(5) Where the court has given to the accused the warning required by the last foregoing paragraph the clerk of the court shall give to him written notice of the provisions of section 11 of the Criminal Justice Act 1967 about giving notice of particulars of alibi to the solicitor for the prosecution and the solicitor's name and address shall be stated in the notice.

Taking depositions of witnesses and statement of accused

4.—(1) This Rule does not apply to committal proceedings where under section 1 of the Criminal Justice Act 1967 a magistrates' court commits a person for trial without consideration of the evidence.

(2) 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 require the witness to sign the deposition.

(3) The depositions shall be authenticated by a certificate signed by one of the examining justices.

(4) Before a statement made in writing by or taken in writing from a child is received in evidence under section 27(1) of the Children and Young Persons Act 1963(a) the court shall cause the effect of that subsection to be explained to the accused in ordinary language and, if the defence does not object to the application of that subsection, shall inform him that he may ask questions about the circumstances in which the statement was made or taken.

(5) Any such statement as aforesaid which is received in evidence shall be made an exhibit.

(6) After the evidence for the prosecution (including any statements tendered under section 2 of the Criminal Justice Act 1967) has been given and after hearing any submission, if any is made, 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 it to him in ordinary language.

(7) The court shall then ask the accused whether he wishes to say anything in answer to the charge and, if he is not represented by counsel or a solicitor, shall before asking the question say to him—

> "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. Anything you say will be taken down and may be given in evidence at your trial. You should take no notice of any promise or threat which any person may have made to persuade you to say anything.",

or words to that effect.

(8) 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.

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

> "I must warn you that if this court should commit you for trial you may not be permitted at that trial to give evidence of an alibi or to call witnesses in support of an alibi unless you have earlier given particulars of the alibi

(a) 1963 c. 37.

and of the witnesses. You may give those particulars now to this court or to the solicitor for the prosecution not later than seven days from the end of these committal proceedings.",

or words to that effect and, if it appears to the court that the accused may not understand the meaning of the term "alibi", the court shall explain it to him:

Provided that the court shall not be required to give this warning in any case where it appears to the court that, having regard to the nature of the offence with which the accused is charged, it is unnecessary to do so.

(10) 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.

(11) 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 the court gives leave to counsel or the solicitor for the accused to be heard after, as well as before, the evidence is taken, counsel or the solicitor for the prosecution shall be entitled to be heard immediately before counsel or the solicitor for the accused is heard for the second time.

(12) Where the court determines to commit the accused for trial in respect of a charge which differs from that which was read to him in accordance with the provisions of paragraph (6) of this Rule, the court shall cause the new charge to be read to him.

(13) Where the court has given to the accused the warning required by paragraph (9) of this Rule the clerk of the court shall give to him written notice of the provisions of section 11 of the Criminal Justice Act 1967 about giving notice of particulars of alibi to the solicitor for the prosecution and the solicitor's name and address shall be stated in the notice.

Order for attendance of witness at court of trial

5.—(1) A witness order under section 1 of the Criminal Procedure (Attendance of Witnesses) Act 1965(**a**) shall be in the prescribed form and shall be served on the witness as soon as practicable after the accused has been committed for trial:

Provided that where, at the conclusion of the examination of a witness, the court determines that the witness order shall be a conditional order, the order shall be served on him immediately after the 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.

(**a**) 1965 c. 69.

(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.

(6) A witness order under section 1 of the Criminal Procedure (Attendance of Witnesses) Act 1965 and a notice given under this Rule shall 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

6.—(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.

Place of trial to be stated in warrant or recognizance

7. 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 Schedule 2 to the Act instead of in the said warrant or conditions.

Notice to governor of prison of committal on bail

8.—(1) 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 and also, if the person committed is under 21, to the governor of the remand centre to which he would have been committed if the court had refused him bail.

(2) Where a corporation is committed for trial, the clerk of the court shall give notice thereof to the governor of the prison to which would be committed a man committed by that court in custody for trial.

Notices on committal of person subject to transfer direction

9. Where a transfer direction has been given by the Secretary of State under section 73 of the Mental Health Act 1959(a) 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.

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

10.—(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 and written statements tendered in evidence, together with a certificate authenticating the depositions and statements, and any admission of facts made for the purposes of the committal proceedings under section 10 of the Criminal Justice Act 1967 and not withdrawn;

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

(*d*) a list 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 recognizance of the accused;

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

(*g*) a list of the documents and articles produced in evidence before the justices or treated as so produced;

(*h*) such of the documents and articles referred to in the last preceding sub-paragraph as have been retained by the justices;

(*i*) a certificate showing whether the accused was informed at the committal proceedings of the requirements of section 11 of the Criminal Justice Act 1967 (notice of alibi) and a record of any particulars given by him to the magistrates' court under that section;

(*j*) if the committal was under section 1 of the Criminal Justice Act 1967 (committal for trial without consideration of the evidence), a statement to that effect;

(*k*) if the magistrates' court has made an order under section 3(2) of the Criminal Justice Act 1967 (removal of restrictions on reports of committal proceedings), a statement to that effect;

(*l*) the certificate of the examining justices as to costs of prosecution (Form B in the Schedule to the Costs in Criminal Cases Regulations 1908(c));

(a) 1959 c. 72. (b) 1879 c. 22.
(c) S.R. & O. 1908/1001 (Rev. V, p. 404: 1908 I, p. 234).

(*m*) if any person under 17 is concerned in the committal proceedings, a statement whether the magistrates' court has given a direction under section 39 of the Children and Young Persons Act 1933(a) (prohibition of publication of certain matter in newspapers).

(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 sub-paragraphs (*b*) to (*d*) and (*g*) to (*m*) were omitted.

(4) The clerk shall, in compiling the list mentioned in paragraph (2)(*d*) of this Rule, indicate the names of the witnesses, if any, to whom he has given any such notice as is referred to in Rule 6(1) of these Rules and shall include in the list the date of any such notice.

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

(6) If after a list has been sent in pursuance of paragraph (2)(*d*) of this Rule to the proper officer of the court of trial the clerk of the magistrates' court 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.

(10) In the application of this Rule in relation to any committal under section 14 of the Criminal Justice Administration Act 1962(b) to a court other than the Central Criminal Court, in paragraph (2) the words "and in any case before the first day of sitting of the court to which he is committed" shall be omitted.

Supply of copies of depositions and information to accused

11. 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, supply to the accused copies of the depositions, a copy of the list of witnesses mentioned in Rule 10(2)(*d*) of these Rules and, if the information is in writing, of the information.

Summary Trial of Information and Hearing of Complaint

Information to be for one offence only

12.—(1) Subject to any Act passed after 2nd October 1848, 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.

(a) 1933 c. 12. (b) 1962 c. 15.

Order of evidence and speeches: information

13.—(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 makes an unsworn statement or 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 for the defence and any unsworn statement which the accused may make and the evidence, if any, in rebuttal, the accused may address the court if he has not already done so.

(5) Either party may, with the leave of the court, address the court a second time, but where the court grants leave to one party it shall not refuse leave to the other.

(6) Where both parties address the court twice the prosecutor shall address the court for the second time before the accused does so.

Order of evidence and speeches: complaint

14.—(1) On the hearing of a complaint, except where the court determines under section 45(3) 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 for the defence and the evidence, if any, in rebuttal, the defendant may address the court if he has not already done so.

(5) Either party may, with the leave of the court, address the court a second time, but where the court grants leave to one party it shall not refuse leave to the other.

(6) Where the defendant obtains leave to address the court for a second time his second address shall be made before the second address, if any, of the complainant.

Form of conviction or order

15.—(1) A form of summary conviction or order made on complaint shall be drawn up if 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.

Committals for sentence, etc.

16.—(1) Where a magistrates' court commits an offender to a court of assize or quarter sessions under the Vagrancy Act 1824(a), section 28 or 29 of the Act or section 41(2)(*a*), 56(1) or 62(6) of the Criminal Justice Act 1967 after convicting him of an offence, the clerk of the magistrates' court shall send to the proper officer of the court to which the offender is committed—

(*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 any note of the evidence given at the trial of the offender, any written statement tendered in evidence and any deposition;

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

(*d*) any report relating to the offender considered by the court; and

(*e*) if the offender is committed on bail, his recognizance and any recognizance entered into by any person as his surety.

(2) Where a magistrates' court commits an offender to a court of assize or quarter sessions under the Vagrancy Act 1824, section 8(4) of the Criminal Justice Act 1948(b), section 28 or 29 of the Act or section 41(2), 56(1) or 62(6) of the Criminal Justice Act 1967 and the magistrates' court on that occasion imposes, under section 56(8) of the Criminal Justice Act 1967, an interim disqualification for holding or obtaining a licence under Part II of the Road Traffic Act 1960(c), the clerk of the magistrates' court shall give notice of the interim disqualification to the proper officer of the court to which the offender is committed.

(3) Where a magistrates' court commits a person on bail to a court of assize or quarter sessions under any of the enactments mentioned in paragraph (2) of this Rule or under section 6(3)(*b*) or 8(3)(*b*) of the Criminal Justice Act 1948 the clerk of the magistrates' 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 and also, if the person committed is under 21, to the governor of the remand centre to which he would have been committed if the court had refused him bail.

Committal to quarter sessions for order restricting discharge, etc.

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

(*a*) under section 67(1) 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 29 of the Act, as modified by subsection (4) of the said section 67, 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 Rule 16 of these Rules;

(ii) any written evidence about the offender given by a medical practitioner under section 60(1)(*a*) 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 68 of that Act, the name and address of that hospital.

(a) 1824 c. 83. (b) 1948 c. 58. (c) 1960 c. 16.

Duty of clerk receiving statutory declaration under s.24(3) of Criminal Justice Act 1967

18. Where the clerk of a magistrates' court receives a statutory declaration which complies with section 24(3) of the Criminal Justice Act 1967, he shall—

(*a*) note the receipt of the declaration in the register against the entry in respect of the trial of the information to which the declaration relates; and

(*b*) inform the prosecutor and, if the prosecutor is not a constable, the chief officer of police of the receipt of the declaration.

Summary Trial of Indictable Offence

Duty to recall witnesses who have given evidence before examining justices

19. 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

20. 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

21. 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

22. Where the court, with a view to a person's being remanded on bail, under paragraph (*a*) of the proviso to section 105(4) 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 inquiry

23. On exercising the powers conferred by section 26 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.

Notice of further remand in certain cases

24. Where a transfer direction has been given by the Secretary of State under section 73 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 105 of the Act.

Conditional Discharge and Probation

Notification of discharge, etc., of probation order or order for conditional discharge

25.—(1) Where a magistrates' court discharges a probation order which was not made by that court the clerk of the court shall give notice of the discharge to the clerk of the court by which the order was made.

(2) Where a magistrates' court deals with a person under section 6 or 8 of the Criminal Justice Act 1948 in relation to a probation order or order for conditional discharge which was not made by that court the clerk of the court shall give notice of the result of the proceedings to the clerk of the court by which the order was made.

(3) Where a magistrates' court makes an order under section 53 of the Criminal Justice Act 1967 substituting an order for conditional discharge for a probation order which was not made by that court the clerk of the court shall give notice of the substitution to the clerk of the court by which the probation order was made.

(4) The clerk of a magistrates' court receiving a notice under this Rule shall note the decision of the other court in the register against the entry in respect of the original order.

Suspended Sentences

Entries in register in respect of suspended sentences

26.—(1) Where a magistrates' court passes a sentence of imprisonment for a term of not more than six months in respect of one offence and does not make an order under section 39(1) of the Criminal Justice Act 1967 suspending the sentence the court shall cause to be entered in the register and specified in the warrant of commitment the paragraph of section 39(3) of that Act which gives the court jurisdiction to pass the sentence without making such an order.

(2) Where under section 40 of the Criminal Justice Act 1967 a magistrates' court deals with a person in respect of a suspended sentence otherwise than by making an order under subsection (1) (*a*) of that section, the court shall cause to be entered in the register its reasons for its opinion that it would be unjust to make such an order.

(3) Where an offender is dealt with under the said section 40 in respect of a suspended sentence passed by a magistrates' court, the clerk of the court shall note this in the register against the original entry in respect of the suspended sentence, or where the suspended sentence was not passed by that court, shall notify the clerk of the court by which it was passed who shall note it in the register against the original entry in respect of the suspended sentence.

Hospital Order

Documents to be sent under Mental Health Act 1959

27.—(1) The court by which a hospital order is made under section 60 or 61 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 60, about the nature of the offence.

(2) The court by which a guardianship order is made under the said section 60 or 61 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 60, about the nature of the offence.

(3) The court by which an offender is ordered to be admitted to hospital under section 68 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.

Endorsement

Endorsement of driving licence

28. Where a magistrates' court convicts a person of an offence and, under section 7 of the Road Traffic Act 1962(**a**), orders that particulars of the conviction, and, if the court orders him to be disqualified, particulars of the disqualification, shall be endorsed on any licence held by him, the particulars to be endorsed shall include—

(*a*) the name of the petty sessions area for which the court is acting;

(*b*) the date of the conviction and the date on which sentence was passed (if different);

(*c*) particulars of the offence including the date on which it was committed;

(*d*) particulars of the sentence of the court (including the period of disqualification, if any) and of any order for costs.

(**a**) 1962 c. 59.

Deposition of Person Dangerously Ill

Deposition of person dangerously ill

29.—(1) Where a justice of the peace takes the deposition of a person under section 41 of the Act and the deposition relates to an offence with which a person has been charged, the justice 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.

Affiliation Orders

Time for hearing affiliation summons

31.—(1) The time at which a summons issued under section 1 of the Affiliation Proceedings Act 1957(**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.

Orders for Periodical Payments

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 52 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**) 1957 c. 55.

(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, of that person.

(3) If a person makes any periodical payments to a clerk of a magistrates' court otherwise than in person at the clerk's office, he shall do so at his own risk and expense.

Duty of clerk to notify arrears of weekly payments

33. Where an order under section 52(1) 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 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 88 of the Children and Young Persons Act 1933 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 section 26(4) of the Children Act 1948(**a**);

(*e*) to a complaint for an order under section 22(1) of the Maintenance Orders Act 1950(**b**);

(*f*) to a complaint for an order under section 5 of the Guardianship of Infants Act 1886(**c**).

(2) A complaint to which this Rule applies may be made to a justice of the peace acting for the same petty sessions area as the responsible court or to a justice of the peace 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, if known to him, the 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 responsible 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 responsible 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

(**a**) 1948 c. 43. (**b**) 1950 c. 37. (**c**) 1886 c. 27.

area, then, if the justice determines that the complaint could more conveniently be dealt with by a magistrates' court acting for that other petty sessions area, he shall cause the clerk of the responsible 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 responsible court acts, 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 responsible court; and the clerk of the responsible 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 responsible court.

(8) Notwithstanding the foregoing provisions of this Rule, a justice to whom a complaint is made may refer the complaint to the responsible court which may, in such case or when the complaint is brought before the court in accordance with paragraph (6) of this Rule, cause the complaint and particulars to be sent by post to the clerk of the court which made the original order and that clerk and that court shall proceed in accordance with the provisions of paragraph (6).

(9) In this Rule "responsible court" means—

(*a*) where payments under the order are made to the clerk of a magistrates' court, that court;

(*b*) where payments are not so made, the court which made the order.

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

35. An application under section 5(3) of the Affiliation Proceedings Act 1957 shall be by complaint for an order.

Service of copy of order

36. Where a magistrates' court makes, revokes, discharges, revives, alters or varies an affiliation order or order enforceable as an affiliation order the court shall cause a copy of its order to be served on the defendant by delivering it to him or by sending it by post in a letter addressed to him at his last known or usual place of abode.

Remission of sums due under order

37.—(1) Before remitting the whole or any part of a sum due under an affiliation order or an order enforceable as an affiliation order under section 76 of the Act, the court shall, except save where it appears to it to be unnecessary

or impracticable to do so, cause the person in whose favour the order is made to be notified of its intention and shall afford to such person a reasonable opportunity to make representations to the court, either orally at an adjourned hearing of the complaint for enforcement or in writing and such representations shall be considered by the court.

(2) Any written representations may be considered by the Court if they purport to be signed by or on behalf of the person in whose favour the order is made.

SATISFACTION, ENFORCEMENT AND APPLICATION OF PAYMENTS

Notice to defendant of fine or forfeited recognizance

38.—(1) Where under section 47(3) or 49 of the Criminal Justice Act 1967 or section 19(5) of the Coroners Act 1887(a) a magistrates' court is required to enforce payment of a fine imposed or recognizance forfeited by a court of assize or quarter sessions or by a coroner or 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, 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

39.—(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 or instalment 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

40. The clerk of a magistrates' court shall give or send a receipt to any person who makes a payment to him in pursuance of a conviction or order of a magistrates' court and who asks for a receipt.

(a) 1887 c. 71.

Relief of collecting officer

41.—(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 by order 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

42. An application under section 63(2) of the Act may, unless the court requires the applicant to attend, be made in writing.

Notice to defendant before enforcing order

43.—(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

44.—(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 or to a person named in the warrant 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 where it is directed to the constables of a police area, instead of being executed by any of those constables, 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 fifty 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 fifty 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 or other person 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 or other person charged with the execution of any such warrant as aforesaid 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 or other person 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 or other person as aforesaid shall not execute the warrant, or shall cease to execute it, as the case may be.

Payment after imprisonment imposed

45.—(1) The persons authorised for the purposes of section 67(2) of the Act to receive a part payment are—

(*a*) unless there has been issued a warrant of distress or commitment, the clerk of the court enforcing payment of the sum, or any person appointed under section 71 of the Act to supervise the offender;

(*b*) where the issue of a warrant of commitment has been suspended on conditions which provide for payment to be made to the clerk of some other magistrates' court, that clerk;

(*c*) any constable holding a warrant of distress or commitment or, where the warrant is directed to some other person, that person;

(*d*) 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 the said subsection (2) 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) Where the clerk of a court other than the court enforcing payment of the sums receives payment of any sum he shall inform the clerk of the other court.

(4) Where a person appointed under section 71 of the Act to supervise an offender receives payment of any sum, he shall send it forthwith to the clerk of the court which appointed him.

(5) 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 109 of the Act, or, if he is already in prison, the Secretary of State may transfer him to a place so certified.

Order for supervision

46.—(1) Unless an order under section 71(1) 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 which has made a transfer of fine order under section 72 or 72A of the Act shall send to the clerk of the 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 made under section 72 or 72A of the Act shall be sent by the clerk of the magistrates' court which made the order to the clerk of the convicting court in England and Wales or in Scotland, as the case may be.

(3) Where the clerk of a magistrates' court receives a copy of a transfer of fine order (whether made in England and Wales or in Scotland) specifying that court as the court by which payment of the sum in question is to be enforceable, he shall thereupon, if possible, deliver or send by post to the offender notice in writing in the prescribed form.

(4) If the said sum is paid, the clerk of the court on which jurisdiction is conferred by the order shall send it to the clerk of the convicting court; and if the said sum is not paid, the first-mentioned clerk shall inform the second-mentioned clerk of the manner in which the adjudication has been satisfied.

(5) Any reference in this Rule to a transfer of fine order made under section 72 or 72A of the Act shall include a reference to such an order made under that section as applied by section 72B thereof.

(6) Where it appears to the clerk of the court on which jurisdiction is conferred by the order that the sum or any balance thereof is irrecoverable, he shall so inform the clerk of the court which made the order or, in the case of a second or subsequent order, the clerk of the court which made the first order.

Civil debt: judgment summons

48.—(1) A summons issued on a complaint made for the purposes of section 73 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) Unless the judgment debtor appears and consents to an immediate hearing, the court shall not hear the complaint unless the summons was served at least three clear days before the hearing.

(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 section 88(2)(*a*) of the Children and Young Persons Act 1933, 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.

Notice of date of reception in custody and discharge

51.—(1) 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.

(2) Where a magistrates' court issues a warrant of commitment for a default in paying a sum adjudged to be paid by a summary conviction then on the discharge of the defaulter the governor or keeper of the prison or place of detention shall send to the clerk of the court a certificate showing the dates of the defaulter's reception and discharge.

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 section 68(2) of the Act shall be endorsed on the warrant of commitment.

Particulars of fine enforcement to be entered in register

53.—(1) Where the court on the occasion of convicting an offender of an offence issues a warrant of commitment for a default in paying a sum adjudged to be paid by the conviction or, having power to issue such a warrant, fixes a term of imprisonment under section 65(2) of the Act, the reasons for the court's action shall be entered in the register, or any separate record kept for the purpose of recording particulars of fine enforcement.

(2) There shall be entered in the register, or any such record particulars of any—

(*a*) means inquiry under section 44 of the Criminal Justice Act 1967;

(*b*) hearing under subsection (6) of the said section 44;

(*c*) allowance of further time for the payment of a sum adjudged to be paid by a conviction;

(*d*) direction that such a sum shall be paid by instalments;

(*e*) distress for the enforcement of such a sum;

(*f*) attachment of earnings order for the enforcement of such a sum;

(*g*) order under the Act placing a person under supervision pending payment of such a sum;

(*h*) order under subsection (10) of the said section 44 remitting the whole or any part of a fine;

(*i*) order under section 96(4) of the Act remitting the whole or any part of any sum enforceable under that section (forfeiture of recognizance);

(*j*) authority granted under section 45(3) of the Criminal Justice Act 1967 authorising the taking of proceedings in the High Court or county court for the recovery of any sum adjudged to be paid by a conviction;

(*k*) transfer of fine order made by the court;

(*l*) order transferring a fine to the court;

(*m*) order under section 47(3) of the Criminal Justice Act 1967 specifying the court for the purpose of enforcing a fine imposed or a recognizance forfeited by a court of assize or quarter sessions; and

(*n*) any fine imposed or recognizance forfeited by a coroner which has to be treated as imposed or forfeited by the court.

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) On the summary trial of an information the accused's plea shall be entered in the register.

(4) Where a court tries any person summarily in any case in which he may be tried summarily only with his consent, the court shall cause his consent to be entered in the register.

(5) Where a person is charged before a magistrates' court with a summary offence for which he may claim to be tried by a jury, the court shall cause the entry in the register to show whether he was present and whether (if present) he claimed to be tried by a jury.

(6) Where a court has power under section 45(3) 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.

(7) 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.

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

(9) The entries shall be signed by one of the justices, or the justice, before whom the proceedings to which they relate took place, or by the clerk who was present when those proceedings 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.

(10) 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—GENERAL

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 documents 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, clerk of a magistrates' court 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 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.

EVIDENCE—CRIMINAL PROCEEDINGS

Written statements in committal proceedings or summary trial

58.—(1) Written statements to be tendered in evidence under section 2 or 9 of the Criminal Justice Act 1967 shall be in the prescribed form.

(2) When a copy of such a statement is given to or served on any party to the proceedings a copy of the statement and of any exhibit which accompanied it shall be given to the clerk of the magistrates' court as soon as practicable thereafter, and where a copy of any such statement is given or served by or on behalf of the prosecutor, the accused shall be given notice of his right to object to the statement being tendered in evidence.

(3) Where before a magistrates' court enquiring into an offence as examining justices the accused objects to a written statement being tendered in evidence and he has been given a copy of the statement but has not given notice of his intention to object to the statement being tendered in evidence, the court shall, if necessary, adjourn to enable the witness to be called.

(4) Where a written statement to be tendered in evidence under the said section 2 or 9 refers to any document or object as an exhibit, that document or object shall wherever possible be identified by means of a label or other mark of identification signed by the maker of the statement, and before a magistrates' court treats any document or object referred to as an exhibit in such a written statement as an exhibit produced and identified in court by the maker of the statement, the court shall be satisfied that the document or object is sufficiently described in the statement for it to be identified.

(5) If it appears to a magistrates' court that any part of a written statement is inadmissible there shall be written against that part "Treated as inadmissible, J.P., an Examining Justice" if the written statement is tendered in evidence under the said section 2, or "Ruled inadmissible, J.P., Justice of the Peace" if the written statement is tendered in evidence under the said section 9.

(6) Where a written statement is tendered in evidence under the said section 2 or 9 before a magistrates' court the name and address of the maker of the statement shall be read aloud unless the court otherwise directs.

(7) Where under subsection (5) of the said section 2 or subsection (6) of the said section 9 in any proceedings before a magistrates' court any part of a written statement has to be read aloud, or an account has to be given orally of so much of any written statement as is not read aloud, the statement shall be read or the account given by or on behalf of the party which has tendered the statement in evidence.

(8) Written statements tendered in evidence under the said section 2 before a magistrates' court acting as examining justices shall be authenticated by a certificate signed by one of the examining justices.

(9) A written statement tendered in evidence under the said section 2 or 9 before a magistrates' court and not sent to a court of assize or quarter sessions under Rule 10, 16 or 17 of these Rules shall be preserved for a period of three years by the clerk of the magistrates' court.

Proof by formal admission

59. Where under section 10 of the Criminal Justice Act 1967 a fact is admitted orally in court by or on behalf of the prosecutor or defendant for the purposes of the summary trial of an offence or proceedings before a magistrates' court acting as examining justices the court shall cause the admission to be written down and signed by or on behalf of the party making the admission.

Proof of previous convictions

60. Service on an accused person of a notice of intention to cite previous convictions under section 3 of the Magistrates' Courts Act 1957(**a**) may be effected by delivering it to him 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.

Clerk to have copies of documents sent to defendant under Magistrates' Courts Act 1957

61. Where the prosecutor sends to the accused the statement of facts referred to in section 1(1) of the Magistrates' Courts Act 1957 (plea of guilty in absence of accused), he shall send a copy of the statement to the clerk of the magistrates' court.

Appeal to Quarter Sessions

Documents to be sent to quarter sessions

62.—(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 condi-

(**a**) 1957 c. 29.

tioned 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 that clerk.

(5) Where a notice of appeal is given in respect of a hospital order or guardianship order made under section 60 or 61 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 60.

(6) Where a notice of appeal is given in respect of an appeal against conviction by a magistrates' court the clerk of the court shall send with the notice to the clerk of the peace any admission of facts made for the purposes of the summary trial under section 10 of the Criminal Justice Act 1967.

Notices for purpose of appeal

63.—(1) A notice of appeal for the purposes of section 84 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 or by recorded delivery service addressed to him at his last known or usual place of abode or, if he is the clerk of a court or an officer of the Crown or a local authority, at his office.

Abandonment of appeal

64.—(1) Service on any person of a notice under section 85 of the Act may be effected by delivering it to him 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 or, if he is the clerk of a court or an officer of the Crown or a local authority, at his office.

(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

65. An application under section 87(1) 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

66. 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

67. 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

68. 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

69. Where a magistrates' court acting for any petty sessions area makes an order under section 92 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

70. 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 94 of the Act shall be made by complaint against that other person.

Notice of enlargement of recognizances

71. If a magistrates' court before which any person is bound by a recognizance to appear enlarges the recognizance to a later time under section 106 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

72.—(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 95 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

73. 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 send notice thereof by post to the said governor or keeper in the prescribed form and shall give a copy of the notice to the surety.

Release when recognizances have been taken

74. 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.

Binding over witness under s. 5 of Criminal Procedure (Attendance of Witnesses) Act 1965

75.—(1) A recognizance 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 recognizance and signed by the person before whom it is entered into.

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

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

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

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

WARRANT

Committal to custody to be by warrant

77. A justice of the peace shall not commit any person to a prison, detention centre, remand home, remand centre or place certified under section 109 of the Act or to the custody of a constable under section 105(5) of the Act except by a warrant of commitment.

Warrant to be signed

78. Except where signature by the clerk of a magistrates' court is permitted by Rule 93 of these Rules or by the Magistrates' Courts (Forms) Rules 1968(a), every warrant under the Act shall be signed by the justice issuing it.

Warrant of arrest

79.—(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

80.—(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 a person named in the warrant or 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 named person or 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.

(a) S.I. 1968/1919 (1968 III, p. 5075).

(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 or other person 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

81.—(1) A summons shall be signed by the justice issuing it or state his name and be authenticated by the signature of the clerk of a magistrates' court.

(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.

82.—(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 or by recorded delivery service 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 (*b*) or (*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:

Provided that this paragraph shall not apply to any summons in respect of a summary offence which is not also an indictable offence.

(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) Where this Rule or any other of these Rules provides that a summons or other document may be sent by post to a person's last known or usual place of abode that Rule shall have effect as if it provided also for the summons or other document to be sent in the manner specified in the Rule to an address given by that person for that purpose.

(7) This Rule shall not apply to a judgment summons.

Form in which Offence may be stated in Documents

Statement of offence

83.—(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. 106 *of Road Traffic Act* 1960

84.—(1) An application under section 106 of the Road Traffic Act 1960 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 chief officer of police 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 the said section 106 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.

*Application for revocation of order under s.*14 *of Food and Drugs Act* 1955

85.—(1) An application under section 14(4) of the Food and Drugs Act 1955(**a**) for the revocation of an order under that section disqualifying a person from using particular premises as catering premises shall be by complaint.

(2) The justice to whom the complaint is made shall issue a summons directed to the local authority upon whose application the disqualification order was made, requiring the local authority to show cause why the disqualification should not be revoked.

Application for substitution of conditional discharge for probation

86. An application to a magistrates' court under section 53 of the Criminal Justice Act 1967 for the substitution of an order of conditional discharge for a probation order shall be by complaint.

*Application for alteration of maintenance agreement under s.*24 *of Matrimonial Causes Act* 1965

87. An application to a magistrates' court under section 24 of the Matrimonial Causes Act 1965(**b**) for the alteration of a maintenance agreement shall be by complaint.

Application for summons to witness or warrant for his arrest

88.—(1) An application for the issue of a summons or warrant under section 77 of the Act may be made by the applicant in person or by his counsel or solicitor.

(2) An application for the issue of such a summons may be made by delivering or sending the application in writing to the clerk to the magistrates' court for submission to a justice of the peace.

Forms

89. 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 15 of the Justices of the Peace Act 1949, or a form to like effect.

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

90. The provisions of these Rules shall have effect subject to the Summary Jurisdiction (Children and Young Persons) Rules 1933(**c**) as amended(**d**).

Application of other rules or instruments

91. Any reference in any rules or other instrument made under any enactment to a provision of the Magistrates' Courts Rules 1952(**e**) or the Magistrates' Courts (Forms) Rules 1952(**f**) shall be construed, where appropriate, as a reference to the corresponding provision of these Rules or the Magistrates' Courts (Forms) Rules 1968.

(**a**) 4 & 5 Eliz. 2. c. 16. (**b**) 1965 c. 72.
(**c**) S.R. & O. 1933/819 (Rev. XI, p.573: 1933, p.959).
(**d**) The amending instruments are S.R. & O. 1938/1201 (Rev. XI, p. 613: 1938 I, p.1611); S.I. 1950/827, 1953/417, 1961/1421, 1962/1591, 1963/1262, 2120, 1967/1660 (1950 II, p. 887; 1953 I, p. 927; 1961 II, p. 2818; 1962 II, p. 1844; 1963 II, p. 2104; III, p. 4703; 1967 III, p. 4519).
(**e**) S.I. 1952/2190 (1952 II, p.1593). (**f**) S.I. 1952/2191 (1952 II, p.1619).

Construction of references to registered post in rules made before 1961 *under Justices of the Peace Act* 1949

92. Any references in rules made before 13th February 1961 and made or having effect as if made under section 15 of the Justices of the Peace Act 1949 to registered post, a registered letter or the registration of a letter shall be construed as including a reference to the recorded delivery service, a letter sent by that service and the acceptance by an officer of the Post Office of a letter for recorded delivery, respectively.

Signature of forms prescribed by rules made under Justices of the Peace Act 1949

93.—(1) Subject to paragraph (2) of this Rule, where any form prescribed by rules made or having effect as if made under section 15 of the Justices of the Peace Act 1949 contains provision for signature by a justice of the peace only, the form shall have effect as if it contained provision in the alternative for signature by the clerk of a magistrates' court.

(2) This Rule shall not apply to any form of warrant, other than a warrant of commitment or of distress, or to any form prescribed in the Magistrates' Courts (Forms) Rules 1968.

Interpretation

94.—(1) In these Rules "the Act" means the Magistrates' Courts Act 1952, "contribution order" has the meaning assigned to it by section 87 of the Children and Young Persons Act 1933, "judgment summons" has the meaning assigned to it by Rule 47 and other expressions have the same meaning as in the Act.

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

Revocation of previous Rules

95. The Rules mentioned in the Schedule to these Rules are hereby revoked.

Citation and commencement

96. These Rules may be cited as the Magistrates' Courts Rules 1968 and shall come into operation on 1st March 1969.

Dated 27th November 1968.

Gardiner, C.

(a) 1889 c. 63.

SCHEDULE

Rule 95

RULES REVOKED

Rules	References
The Magistrates' Courts Rules 1952	S.I. 1952/2190 (1952 II, p. 1593).
The Magistrates' Courts (Forms) Rules 1952	S.I. 1952/2191 (1952 II, p. 1619).
The Magistrates' Courts Rules 1957	S.I. 1957/1429 (1957 I, p. 1349).
The Magistrates' Courts Rules 1960	S.I. 1960/1431 (1960 II, p. 1867).
The Magistrates' Courts Rules 1961	S.I. 1961/169 (1961 I, p. 284).
The Magistrates' Courts (Forms) Rules 1962	S.I. 1962/1592 (1962 II, p. 1852).
The Magistrates' Courts (Forms) Rules 1963	S.I. 1963/1263 (1963 II, p. 2109).
The Magistrates' Courts Rules 1963	S.I. 1963/2121 (1963 III, p. 4719).
The Magistrates' Courts Rules 1964	S.I. 1964/168 (1964 I, p. 296).
The Magistrates' Courts (No. 2) Rules 1964	S.I. 1964/889 (1964 II, p. 1905).
The Magistrates' Courts (No. 3) Rules 1964	S.I. 1964/1842 (1964 III, p. 4007).
The Magistrates' Courts (Forms) Rules 1965	S.I. 1965/1601 (1965 II, p. 4608).
The Magistrates' Courts Rules 1965	S.I. 1965/1602 (1965 II, p. 4616).
The Magistrates' Courts Rules 1967	S.I. 1967/1661 (1967 III, p. 4521).

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules consolidate, with some amendments and additions, the various Rules relating to procedure in magistrates' courts contained in the Schedule. The most important amendments or additions are as follows.

In Rule 4(7) the caution addressed to an accused in committal proceedings has been simplified.

In Rules 13 and 14 the procedure relating to speeches by prosecutor and accused or defendant has been clarified and Rule 14 permits the complainant and defendant in civil proceedings to make a second speech with leave of the court. Where leave is granted to one, it is not to be refused to the other.

Rule 28 is new and provides for the matters to be included in the endorsement of a driving licence.

Rule 34 provides for applications for the revocation, variation, etc. of orders for periodical payments to be made to the court enforcing the order where that is not the court which made the original order, though the case may be referred to the original court in appropriate circumstances.

Rule 37 requires a court, before remitting any sums due under an order, to give an opportunity to the person in whose favour the order is made to make representations.

Rule 93 empowers justices' clerks to sign certain prescribed forms which hitherto could be signed only by a justice.