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STATUTORY INSTRUMENTS

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1982 No. 246 (L. 7)

MAGISTRATES' COURTS

PROCEDURE

**The Magistrates' Courts (Forms)  
(Amendment) Rules 1982**

<i>Made</i>	- - - - -	<i>25th February 1982</i>
<i>Laid before Parliament</i>		<i>8th March 1982</i>
<i>Coming into Operation</i>		<i>29th March 1982</i>

The Lord Chancellor, in exercise of the power conferred on him by section 144 of the Magistrates' Courts Act 1980(a), as extended by section 145 of that Act, after consultation with the Rule Committee appointed under the said section 144, hereby makes the following Rules:—

1. These Rules may be cited as the Magistrates' Courts (Forms) (Amendment) Rules 1982 and shall come into operation on 29th March 1982.

2. Schedule 2 to the Magistrates' Courts (Forms) Rules 1981(b) shall be amended by inserting after the form numbered 90 the forms numbered 90A, 90B, 90C, 90D, 90E, 90F, 90G, 90H and 90I in the Schedule to these Rules.

Dated 25th February 1982.

*Hailsham of St. Marylebone, C.*

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(a) 1980 c.43.  
(b) S.I. 1981/553.

SCHEDULE

FORMS TO BE INSERTED IN THE MAGISTRATES' COURTS (FORMS) RULES 1982

FORM 90 A

*Conviction: partly suspended sentence (C.L. Act 1977, s.47; M.C. Act 1980, s.9; M.C. Rules 1981, r.16)*

..... Magistrates' Court (*Code*)

Date of decision:

Accused: Age: years

Address:

Offence: (*Short particulars and statute*)

The accused was convicted of the above offence.

\*Decision: The court sentenced the accused to imprisonment for (*state whole period*) and ordered that after the accused has served a period of (*state period ordered to be served*) in prison, the remainder of the sentence shall be held in suspense and not take effect unless the accused is convicted of an offence punishable with imprisonment and committed during the whole period of the sentence and thereafter an order is made under section 47(3) of the Criminal Law Act 1977 that the accused shall serve the part held in suspense.

Justice of the Peace  
[or By order of the Court  
Clerk of the Court]

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\*There should be added here details of any order as to costs or compensation.

## FORM 90 B

*Warrant of Commitment: partly suspended sentence of imprisonment (C.L. Act 1977, s.47; P. of C.C. Act 1973, s.20; M.C. Rules 1981, rr. 94, 95, 97)*

.....Magistrates' Court (Code)

Date of decision:

Accused: Age: years

Address:

Offence: *(Short particulars and statute)*

The accused was convicted of the above offence [and the court being of opinion that no method of dealing with the accused other than a sentence of imprisonment is appropriate because *(state reason)* \*]

†Decision: The accused is sentenced to imprisonment for *(state whole period of sentence)* and the court orders that after the accused has served a period of *(state period ordered to be served)* in prison, the remainder of the sentence shall be held in suspense and not take effect unless the accused is convicted of an offence punishable with imprisonment and committed during the whole period of the sentence and thereafter an order is made under section 47(3) of the Criminal Law Act 1977 that the accused shall serve the part held in suspense.

Direction: You, [the constables of Police Force] [A.B.], are hereby required to convey the accused to prison and there deliver the accused to the Governor thereof, together with this warrant; and you the Governor, to receive into your custody and keep the accused for the period to be served in prison.

Justice of the Peace

[or By order of the Court  
Clerk of the Court]

\*Delete if defendant has previously been sentenced to imprisonment.

†There should be added here details of any order as to costs or compensation and information as to whether the partly suspended sentence is concurrent or consecutive to any other sentence of imprisonment imposed on the same occasion.

FORM 90 C

*Information on conviction of further offence committed during whole period of a partly suspended sentence (C.L. Act 1977, s.47, Sch. 9; M.C. Rules 1981, r.4)*

..... Magistrates' Court (Code)

Date:

Accused:

Address:

Original offence: *(short particulars and statute)*

Sentence imposed: months/years imprisonment of which *(state period ordered to be served)* was ordered to be served and the remainder held in suspense. Sentence imposed by the above magistrates' court on *(date)*.

Date and place of further conviction: [ Magistrates' Court ]  
[Crown Court at ]

Further offence: *(short particulars and statute)*

The information of:

Address: Telephone No:

who [upon oath] states that the accused is subject to the partly suspended sentence of which short particulars are set out above and has been convicted of the further offence, of which short particulars are also set out above, and which was committed during the whole period of the original sentence.

Taken [and sworn] before me.

Justice of the Peace  
[Justices' Clerk]

## FORM 90 D

*Summons on conviction of further offence committed during whole period of a partly suspended sentence (C.L. Act 1977, s.47, Sch.9; M.C. Rules 1981, r. 98)*

..... Magistrates' Court (*Code*)

Date:

To the accused:

Of:

Original offence: (*short particulars and statute*)

Partly suspended sentence: On (*date*) you were sentenced by the Magistrates' Court to imprisonment for a period of (*state whole period*) and the court ordered that after you had served a period of (*state period ordered to be served*) in prison, the remainder of the sentence was to be held in suspense and not put into effect unless you were convicted of an offence punishable with imprisonment and committed during the whole period of the sentence and unless thereafter an order was made under section 47(3) of the Criminal Law Act 1977 that you should serve the part held in suspense.

You are hereby summoned to appear on (*date*)  
at \_\_\_\_\_ m. before  
the Magistrates' Court at  
to answer the following information:

Information: That you are subject to the above partly suspended sentence and you have been convicted of the further offence set out below which you committed during the whole period of the partly suspended sentence.

Further offence: (*short particulars and statute*)

Date and place of conviction: [ \_\_\_\_\_ Magistrates' Court]  
[Crown Court at \_\_\_\_\_].

Information laid by:

Address:

Date of Information:

Justice of the Peace  
[Justices' Clerk]

FORM 90 E

*Warrant of arrest on conviction of further offence committed during whole period of a partly suspended sentence (C.L. Act 1977, s.47, Sch.9; Bail Act 1976, s.3; M.C. Act 1980, s. 117; M.C. Rules 1981, rr. 94, 95, 96)*

..... Magistrates' Court (*Code*)

Date:

Defendant:

Address:

Original offence: *(short particulars and statute)*

Partly suspended sentence: On *(date)* the defendant was sentenced by the above court to imprisonment for *(state whole period)* of which *(state period ordered to be served)* was ordered to be served and the remainder held in suspense.

Date and place of further conviction:

Further offence: *(short particulars and statute)*

Information on [oath] [affirmation] having this day been laid before me by that the defendant is subject to the partly suspended sentence of which short particulars are set out above, being an offence committed during the whole period of the original sentence.

Direction: You, the constables of Police Force, are hereby required to arrest the defendant and bring the defendant before the Magistrates' Court immediately [unless the defendant is released on bail as directed below].

\*Bail: On arrest, after complying with the condition(s) specified in Schedule I hereto, the defendant shall be released on bail subject to the condition(s) specified in Schedule II hereto, and with a duty to surrender to the custody of the Magistrates' Court on ..... at ..... a.m./p.m.

Justice of the Peace

\*Delete if bail is not granted.

**SCHEDULE I**

Conditions to be complied with before release on bail

To provide \_\_\_\_\_ suret[y][ies] in the sum of £  
[each] to secure the defendant's surrender to custody at the time and place  
appointed.

†

**SCHEDULE II**

Conditions to be complied with after release on bail

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†Insert condition(s) as appropriate (including in Schedule I directions under M.C. Rules 1981, r. 85, in respect of any pre-release conditions).

FORM 90 F

*Warrant of commitment: committal to Crown Court on conviction of further offence committed during whole period of a partly suspended sentence (C.L. Act 1977, s.47, Sch. 9; Bail Act 1976, s. 3; M.C. Rules 1981, rr. 94, 95, 97)*

..... Magistrates' Court (Code)

Date:

Defendant: Age: years

Address:

Original offence: *(short particulars and statute)*

Partly suspended sentence: On *(date)* the defendant was sentenced by the Crown Court at ..... in respect of the offence set out above to imprisonment for *(state whole period)* of which *(state period ordered to be served)* was ordered to be served and the remainder held in suspense.

Further offence: *(short particulars and statute)*

Decision: The court, having convicted the defendant of the further offence set out above, being an offence punishable with imprisonment and committed during the whole period of the said sentence, commits the defendant to custody until the defendant can be brought before the Crown Court at .....

Direction: You, [the constables of Police Force] [A.B.], are hereby required to convey the defendant to ..... prison and there deliver the defendant to the Governor thereof, together with this warrant; and you the Governor, to receive the defendant into your custody and, unless the defendant is released on bail in the meantime, to keep the defendant until the defendant is delivered in due course of law.

\*Bail: After complying with the condition(s) specified in Schedule I hereto, the defendant shall be released on bail subject to the condition(s) specified in Schedule II hereto, and with a duty to surrender to the custody of the Crown Court at the time and place for the time being appointed by that court.

Justice of the Peace  
[or By order of the Court  
Clerk of the Court]

\*Delete if bail is not granted.



**SCHEDULE I**Conditions to be complied with before release on bail

To provide suret[y][ies] in the sum of £ [each] to secure the defendant's surrender to custody at the time and place appointed.

†

**SCHEDULE II**Conditions to be complied with after release on bail

†

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†Insert condition(s) as appropriate (including in Schedule I directions under M.C. Rules 1981, r. 85, in respect of any pre-release conditions).

FORM 90 G

*Notice to Crown Court of conviction of further offence committed during whole period of a partly suspended sentence (C.L. Act 1977, s. 47, Sch. 9)*

..... Magistrates' Court (*Code*)

Date:

To the Crown Court at

Accused:

Address:

Original offence: (*short particulars and statute*)

Partly suspended sentence: On (*date*) the accused was sentenced by the Crown Court at ..... to imprisonment for (*state whole period*) of which (*state period ordered to be served*) was ordered to be served and the remainder held in suspense.

This court has [today] [on (*date*)] convicted the accused of the further offence set out below, being an offence punishable with imprisonment and committed during the whole period of the said sentence.

Further offence: (*short particulars and statute*) and the court has sentenced the accused as follows:—

Sentence for the further offence: (*state particulars*)

Justices' Clerk

## FORM 90 H

Order restoring the part of a partly suspended sentence held in suspense (C.L. Act 1977, s.47)

..... Magistrates' Court (Code)

Date:

Accused: Age: years

Address:

was on *(date)* at  
Magistrates' Court sentenced in respect of the following offence to imprisonment for *(state whole period)* of which *(state period ordered to be served)* was ordered to be served and the remainder held in suspense.

Original offence: *(short particulars and statute)*

And the accused was [today] [on *(date)*] convicted by ..... Magistrates' Court of a further offence punishable with imprisonment which was committed during the whole period of the said sentence namely—

Further offence: *(short particulars and statute)*

Date of further offence:

Decision: The court restores [ months/years of] the part of the said sentence held in suspense and orders that the accused is to serve such period [at the end of the term of imprisonment *(give particulars)*].

Justice of the Peace  
[or By order of the Court  
Clerk to the Court]

FORM 90 I

Warrant of commitment putting into effect partly suspended sentence (C.L. Act 1977, s. 47; M.C. Rules 1981, rr. 94, 95, 97)

..... Magistrates' Court (Code)

Date:

Accused: Age: years

Address:

was on (date) at Magistrates' Court sentenced in respect of the following offence to imprisonment for (state whole period) of which (state period ordered to be served) was ordered to be served and the remainder held in suspense.

Original offence: (short particulars and statute)

And the accused was [today] [on (date)] convicted by ..... Magistrates' Court of a further offence punishable with imprisonment which was committed during the whole period of the said sentence namely—

Further offence: (short particulars and statute)

Date of further offence:

Decision: The court restores [ months/years of] the part of the said sentence held in suspense and orders that the accused is to serve such period.

Direction: You, [the constables of Police Force] [A.B.], are hereby required to convey the accused to prison and there deliver the accused to the Governor thereof, together with this warrant; and you the Governor, to receive into your custody and keep the accused for [to commence at the end of the term of imprisonment (give particulars)].

Justice of the Peace [or By order of the Court Justices' Clerk]

## EXPLANATORY NOTE

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

These Rules amend the Magistrates' Courts (Forms) Rules 1981 in consequence of section 47 of the Criminal Law Act 1977 (c.45) (prison sentence partly served and partly suspended) which comes into force on 29th March 1982 by virtue of the Criminal Law Act 1977 (Commencement No. 11) Order 1982 (S.I. 1982/243).

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