
STATUTORY INSTRUMENTS

1989 No. 1597 (L.16)

**MAGISTRATES' COURTS
PROCEDURE**

The Magistrates' Courts (Extradition) Rules 1989

Made - - - - *4th September 1989*
Laid before Parliament *6th September 1989*
Coming into force - - *27th September 1989*

The Lord Chancellor, in exercise of the power conferred on him by section 144 of the Magistrates' Courts Act 1980(1), after consultation with the Rule Committee appointed under that section, hereby makes the following Rules:

1. These Rules may be cited as the Magistrates' Courts (Extradition) Rules 1989 and shall come into force on 27th September 1989.

2. In these Rules—

“the Act” means the Extradition Act 1989(2);

“court of committal” and “metropolitan magistrate” have the same meanings as they have in the Act.

3. The provisions of the Magistrates' Courts Rules 1981(3) shall have effect subject to the provisions of these Rules.

4.—(1) Where the court of committal refuses to make an order of committal in relation to a person in respect of the offence or, as the case may be, any of the offences to which the authority to proceed relates and the state, country or colony seeking the surrender of that person immediately informs the court that it intends to make an application to the court to state a case for the opinion of the High Court, if the court of committal makes an order in accordance with section 10(2) of the Act releasing that person on bail, the clerk shall forthwith send a copy of that order to the Crown Office.

(2) Where the court of committal refuses to make an order of committal in relation to a person in respect of the offence or, as the case may be, any of the offences to which the authority to proceed relates and the state, country or colony seeking his surrender wishes to apply to the court to state a case for the opinion of the High Court under section 10(1) of the Act, such application must be made

(1) 1980 c. 43; section 144 was extended by section 145 of that Act and by the Extradition Act 1989 (c. 33), sections 10(3) and 14(2) and Schedule 1, paragraph 9(2).

(2) 1989 c. 33.

(3) S.I.1981/552, amended by S.I. 1982/245, 1983/523, 1984/1552, 1985/1944, 1986/1332.

to the court of committal within the period of 21 days following the day on which the court refuses to make the order of committal unless the court grants a longer period within which the application is to be made.

(3) Such an application shall be made in writing and shall identify the question or questions of law on which the opinion of the High Court is sought.

(4) Within 21 days after receipt of an application to state a case under section 10(1) of the Act, the clerk of the court of committal shall send a draft case to the solicitor for the state, country or colony and to the person whose surrender is sought or his solicitor and shall allow each party 21 days within which to make representations thereon; within 21 days after the latest day on which such representations may be made the court of committal shall, after considering any such representations and making such adjustments, if any, to the draft case as it thinks fit, state and sign the case which the clerk shall forthwith send to the solicitor for the state, country or colony.

5.—(1) A notice given under section 14 of or paragraph 9 of Schedule 1 to the Act (notice of waiver under the simplified procedure) shall be in form 1 set out in the Schedule to these Rules or a form to the like effect.

(2) Such a notice shall be signed in the presence of a metropolitan magistrate, a justice of the peace or a justices' clerk.

(3) Any such notice given by a person in custody shall be delivered to the Governor of the prison in whose custody he is.

(4) If a person on bail gives such notice he shall deliver it to, or send it by post in a registered letter or by recorded delivery service addressed to, the Under Secretary of State, Home Office, London SW1H 9AT.

6.—(1) A person arrested in pursuance of a warrant under section 8 of or paragraph 5 of Schedule 1 to the Act may at any time consent to his return; and where such consent is given in accordance with the following provisions of this rule, a metropolitan magistrate may order the committal for return of that person in accordance with section 14(2) of the Act or, as the case may be, paragraph 9(2) of Schedule 1 to the Act.

(2) A notice of consent for the purposes of this rule shall be given in form 2 set out in the Schedule to these Rules or a form to the like effect and shall be signed in the presence of a metropolitan magistrate.

Dated 4th September 1989

Mackay of Clashfern, C.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Rules 5 and 6

FORMS

1 Simplified procedure: notice of waiver (Extradition Act 1989, s.14 and Schedule 1, paragraph 9).

Whereas on the day of 19 , a court of committal consisting of a metropolitan magistrate committed me to await the Secretary of State's decision as to my return to (insert name of foreign state, Commonwealth country or colony) which has requested my extradition:

And whereas I understand that, unless I waive those rights, I have the right:

- (a) to make an application for habeas corpus, and
- (b) not to be returned in any case until the expiration of the period of 15 days beginning with the above-mentioned date and, if I apply for habeas corpus, for so long as proceedings on that application are pending:

Now, therefore, I give notice that I waive my right to make an application for habeas corpus and consent to my earlier return before the said period of 15 days has expired.

AB

This notice was signed by the above-mentioned person in my presence on the day of 19

Metropolitan Stipendiary Magistrate
 [or JP
 Justice of the Peace for]
 [or JC,
 Justices' Clerk for .]

2 Notice of consent to committal for return (Extradition Act 1989, s.14 and Schedule 1, paragraph 9).

Whereas on the day of 19 , I was arrested in pursuance of a warrant under [section 8 of] [paragraph 5 of Schedule 1 to] the Extradition Act 1989 with a view to my committal to await the Secretary of State's decision as to my return to (insert name of foreign state, Commonwealth country or colony) which has requested my extradition:

And whereas I understand that, unless I consent to my committal, I shall have the right:

- (a) to make representations at committal proceedings as to the matters of which the court of committal is to be satisfied before making an order of committal, and
- (b) thereafter, if such an order is made, to make an application for habeas corpus, and
- (c) not to be returned for so long as proceedings on any application for habeas corpus are pending and in any case within 15 days of the order of committal:

Now, therefore, I give notice that I consent to an order of committal being made against me by a magistrate and to my earlier return before the said period of 15 days has expired.

AB

This notice was signed by the above-mentioned person in my presence on the day of 19

Metropolitan Stipendiary Magistrate

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EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules make procedural provision in relation to extradition proceedings under the Extradition Act 1989 (which consolidates Part I of the Criminal Justice Act 1988, the Extradition Act 1870 (c. 52) (as amended by the 1988 Act) and the Fugitive Offenders Act 1967 (c. 68) (as so amended)). Rule 4 specifies time limits and other requirements in relation to appeals by case stated under section 10 of the 1989 Act against a refusal to make an order of committal. Rule 5 and form 1 in the Schedule to the Rules prescribe the manner in which notice is to be given of waiver of the right to seek habeas corpus under the simplified procedure under section 14 of and paragraph 9 of Schedule 1 to the 1989 Act. Rule 6 enables a magistrate to order the committal for return of a person with his consent at any time after his arrest under the simplified procedure and form 2 in the Schedule prescribes a notice of consent for this purpose.