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STATUTORY INSTRUMENTS

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**2005 No. 384**

The Criminal Procedure Rules 2005

PART 18

WARRANTS

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**Warrant to be signed**

**18.1.** Except where signature by the clerk of a magistrates' court is permitted by rule 5.3, every warrant under the Magistrates' Courts Act 1980(1) shall be signed by the justice issuing it.

*[Note. Formerly rule 95 of the Magistrates' Courts Rules 1981(2).]*

**Warrant issued out of hours**

**18.2.** Where a warrant is issued by a justice of the peace for any local justice area at a time when the court office for that area is closed, the applicant for the warrant shall within 72 hours serve upon the court officer any information on which the warrant was issued.

*[Note. Formerly rule 95A of the Magistrates' Courts Rules 1981.]*

**Warrant of arrest**

**18.3.—(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

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(1) 1980 c. 43.

(2) S.I. 1981/552; amending instruments relevant to this Part are S.I. 1988/2132, 1990/1190, 1993/1183, 2001/167, 2001/610 and 2003/1236.

issued, or the civilian enforcement officers for the area in which they are employed, 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.

(3) A warrant to which this rule applies may be executed by the persons to whom it was directed or by any of the following persons, whether or not the warrant was directed to them—

- (a) a constable for any police area in England and Wales, acting in his own police area;
- (b) where the warrant is one to which section 125A of the Magistrates' Courts Act 1980(3) applies, a civilian enforcement officer within the meaning of that section; and
- (c) where the warrant is one to which section 125A of the 1980 Act applies, any of the individuals described in section 125B(1) of that Act(4),

and in this rule any reference to the person charged with the execution of a warrant includes any of the above persons who is for the time being authorised to execute the warrant, whether or not they have the warrant in their possession at the time.

(4) A person executing a warrant of arrest shall, upon arresting the person against whom the warrant is issued—

- (a) either
  - (i) if he has the warrant with him, show it to the person against whom the warrant is issued, or
  - (ii) otherwise, state where the warrant is and what arrangements may be made to allow the person arrested to inspect it;
- (b) explain, in ordinary language, the offence or default with which the person is charged and the reason for the arrest;
- (c) where the person executing the warrant is one of the persons referred to in paragraph (3) (b) or (c), show the person arrested a written statement under section 125A(4) or 125B(4) of the 1980 Act as appropriate; and
- (d) in any case, show documentary proof of his identity.

(5) A warrant of arrest issued under any of the provisions in paragraph (6) shall cease to have effect when—

- (a) the sum in respect of which the warrant is issued is paid to the person charged with the execution of the warrant;
- (b) that sum is tendered to and refused by the person charged with the execution of the warrant; or
- (c) a receipt for that sum given by—
  - (i) the court officer for the court which issued the warrant, or
  - (ii) the charging or billing authority,
 is produced to the person charged with the execution of the warrant.

(6) Those provisions are sections 83(1), 83(2), and 86(4) of the 1980 Act(5).

*[Note. Formerly rule 96 of the Magistrates' Courts Rules 1981.]*

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(3) Section 125A was inserted by section 92 of the Access to Justice Act 1999 (c. 22).

(4) Section 125B was inserted by section 93(2) of the Access to Justice Act 1999 (c. 22).

(5) Section 86(4) was amended by section 51(2) of the Criminal Justice Act 1982 (c. 48) and section 97(3) of the Access to Justice Act 1999 (c. 22).

### **Records to be kept where warrant is endorsed for bail**

**18.4.**—(1) Where a person is arrested and released on bail pursuant to a warrant endorsed for bail in accordance with section 117 of the Magistrates' Courts Act 1980<sup>(6)</sup>, the person executing the warrant shall make a record stating the matters set out in paragraph (2).

- (2) Those matters are—
- (a) the name of the person arrested;
  - (b) the offence or default with which the person arrested is charged and the reason for the arrest;
  - (c) the fact that that person is to be released on bail;
  - (d) the date, time and place at which that person is to appear before the court; and
  - (e) any other details which in the opinion of the person executing the warrant are relevant.
- (3) After making the record, the person executing the warrant shall—
- (a) sign the record;
  - (b) invite the person arrested to sign the record;
  - (c) if the person arrested refuses to sign the record, annotate the record to show the fact of that refusal;
  - (d) make a copy of the record and give it to the person arrested; and
  - (e) send the original record to the court officer for the court which issued the warrant.

*[Note. Formerly rule 90B of the Magistrates' Courts Rules 1981.]*

### **Committal to custody to be by warrant**

**18.5.** A justice of the peace shall not commit any person to a prison, young offender institution or a remand centre, or to detention at a police station under section 128(7) of the Magistrates' Courts Act 1980<sup>(7)</sup>, or to customs detention under section 152 of the Criminal Justice Act 1988<sup>(8)</sup> except by warrant of commitment.

*[Note. Formerly rule 94 of the Magistrates' Courts Rules 1981.]*

### **Warrant of commitment**

**18.6.**—(1) A warrant of commitment or detention, other than a warrant committing a person to customs detention under section 152 of the Criminal Justice Act 1988, issued by a justice of the peace—

- (a) shall name or otherwise describe the person committed or detained;
- (b) shall contain a statement of the offence with which the person committed or detained is charged, or of which he has been convicted, or of any other ground on which he is committed; and
- (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 or to the civilian enforcement officers for the area in which they are employed and to the governor or keeper of the prison or place of detention specified in the warrant, and shall require—

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<sup>(6)</sup> Section 117 was amended by section 47 of the Police and Criminal Evidence Act 1984 (c. 60).

<sup>(7)</sup> Section 128(7) was amended by section 48 of the Police and Criminal Evidence Act 1984 (c. 60).

<sup>(8)</sup> 1988 c. 33.

- (i) the named person or the constables or civilian enforcement officers to arrest the person committed or detained, if he is at large, and convey him to that prison or place and deliver him with the warrant to the governor or keeper, and
- (ii) the governor or keeper to keep in his custody the person committed or detained 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 issued by a justice of the peace committing a person to customs detention under section 152 of the 1988 Act—

- (a) shall name or otherwise describe the person committed;
- (b) shall contain a statement of the offence with which the person committed is charged; and
- (c) shall be directed to the officers of Her Majesty's Customs and Excise and shall require those officers to keep the person committed in their custody, unless in the meantime he be otherwise delivered in due course of law, for a period (not exceeding 192 hours) specified in the warrant.

(3) A warrant of commitment or detention other than a warrant committing a person to customs detention under section 152 of the 1988 Act may be executed by the persons to whom it was directed or by any of the following persons, whether or not the warrant was directed to them—

- (a) a constable for any police area in England and Wales, acting in his own police area;
- (b) where the warrant is one to which section 125A of the Magistrates' Courts Act 1980 applies, a civilian enforcement officer within the meaning of that section; and
- (c) where the warrant is one to which section 125A of the 1980 Act applies, any of the individuals described in section 125B(1) of that Act;

and in this rule any reference to the person charged with the execution of a warrant includes any of the above persons who is for the time being authorised to execute the warrant, whether or not they have the warrant in their possession at the time.

(4) A person executing a warrant of commitment or detention shall, upon arresting the person against whom the warrant is issued—

- (a) either
  - (i) if he has the warrant with him, show it to the person against whom the warrant is issued, or
  - (ii) otherwise, state where the warrant is and what arrangements may be made to allow the person against whom the warrant was issued to inspect it;
- (b) explain, in ordinary language, the offence or default with which the person is charged and the reason for the commitment or detention;
- (c) where the person executing the warrant is one of the persons referred to in paragraph (3) (b) or (c), show the person against whom the warrant was issued a written statement under section 125A(4) or 125B(4) of the 1980 Act as appropriate; and
- (d) in any case, show documentary proof of his identity.

(5) A warrant of commitment or detention, other than a warrant committing a person to customs detention under section 152 of the 1988 Act, may be executed by conveying the person committed or detained 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 the other prison or place were the prison or place specified in it.

(6) Notwithstanding the preceding provisions of this rule, a warrant of commitment or detention issued in pursuance of a valid conviction, or of a valid order requiring the person committed or

detained to do or abstain from doing anything, shall not, if it alleges that the person committed or detained has been convicted, or ordered to do or abstain from doing that thing, be held void by reason of any defect in the warrant.

(7) The governor or keeper of the prison or place of detention at which any person is delivered in pursuance of a warrant of commitment or detention shall give to the constable or other person making the delivery a receipt for that person.

(8) 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.

(9) A warrant of commitment or detention issued under any of the provisions in paragraph (10) shall cease to have effect if, at any time before the person for whose commitment or detention the warrant was issued is placed in custody—

- (a) the sum in respect of which the warrant is issued, together with the costs and charges, if any, of the commitment, is paid to the person charged with the execution of the warrant;
- (b) that sum is tendered to and refused by the person charged with the execution of the warrant; or
- (c) a receipt for that sum given by—
  - (i) the court officer for the court which issued the warrant, or
  - (ii) the charging or billing authority,is produced to the person charged with the execution of the warrant.

(10) Those provisions are sections 76 and 136 of the 1980 Act<sup>(9)</sup>;

*[Note. Formerly rule 97 of the Magistrates' Courts Rules 1981.]*

### **Form of warrant of commitment in a youth court**

**18.7.** Where a young person is remanded or committed under section 23(4) of the Children and Young Persons Act 1969<sup>(10)</sup> to—

- (a) local authority accommodation with a requirement that he be placed and kept in secure accommodation;
- (b) a remand centre; or
- (c) a prison,

the court shall record in the warrant of commitment that it has declared as mentioned in that subsection.

*[Note. Formerly rule 28 of the Magistrates' Courts (Children and Young Persons) Rules 1992<sup>(11)</sup>.]*

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(9) Section 76 was amended by section 78 of, and Schedule 16 to, the Criminal Justice Act 1982 (c. 48); section 136 was amended by section 77 of, and paragraph 58 of Schedule 14 to, the Criminal Justice Act 1982 (c. 48), section 95(2) of the Access to Justice Act 1999 (c. 22) and paragraph 78 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), and is further amended by section 75 of, and paragraphs 58 and 68 of Schedule 7, and Schedule 8 to, the Criminal Justice and Court Services Act 2000 (c. 43) with effect from a date to be appointed.

(10) 1969 c. 54; section 23(4) was amended by section 97(1) of the Crime and Disorder Act 1998 (c. 37) and section 201 of the Extradition Act 2003 (c. 41).

(11) S.I. 1992/2071, amended by S.I. 1999/1343.

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

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### **Warrant of commitment where recognizances not taken**

**18.8.** Where a magistrates' court, with a view to a person's being remanded on bail under section 128(6)(a) of the Magistrates' Courts Act 1980<sup>(12)</sup> for a period exceeding 8 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 8 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.

*[Note. Formerly rule 23 of the Magistrates' Courts Rules 1981.]*

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<sup>(12)</sup> Section 128(6) was amended by section 170(1) of, and paragraphs 65 and 69 of Schedule 15 to, the Criminal Justice Act 1988 (c. 33).