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STATUTORY INSTRUMENTS

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**1997 No. 707 (L.26)**  
**MAGISTRATES' COURTS**  
**PROCEDURE**

**The Magistrates' Courts (Forms) (Amendment) Rules 1997**

*Made* - - - - *10th March 1997*  
*Laid before Parliament* *11th March 1997*  
*Coming into force* - - *1st April 1997*

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

**Citation and commencement**

1.—(1) These Rules may be cited as the Magistrates' Courts (Forms) (Amendment) Rules 1997 and shall, subject to paragraph (2) below, come into force on 1st April 1997.

(2) These Rules, other than rule 3(b), shall have effect in the same way as Schedules 1 and 2 to the Criminal Procedure and Investigations Act 1996(2) have effect.

**Interpretation**

2. In these Rules any reference to a form is a reference to a form contained in Schedule 2 to the Magistrates Courts (Forms) Rules 1981(3).

**Amendment of Magistrates' Courts (Forms) Rules 1981**

3. In form 13 (Statement of witness)—

- (a) in the heading, for the words "S.102" there shall be substituted "ss5A(3)(a) and 5B", and
- (b) for the number "21" in both places where it occurs there shall be substituted "18".

4. In form 14 (Notice to defendant: proof by written statement)—

- (a) in the heading, the words "MC Act 1980, s 102" shall be omitted;

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(1) 1980 c. 43; as extended by section 145 of that Act (which is in turn amended by section 65(3) of, and Schedule 5 to, the Criminal Procedure and Investigations Act 1996.

(2) 1996 c. 25.

(3) S.I. 1981/553.

*Status: This is the original version (as it was originally made).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

- (b) for the words “may only be tried before a jury [or may]” there shall be substituted “[may]”;
- (c) before the words “Each” there shall be inserted the words “If the offence is [or the offences are] tried by the Magistrates’ Court”;
- (d) for the words “If [\* you do not do so within 7 days of receiving this notice and the offence[s] is/are tried by the Magistrates’ Court” there shall be substituted “If you do not do so within 7 days of receiving this notice”;
- (e) the words “If the offence[s] is/are not tried” to “then to be called” shall be omitted; and
- (f) the words “\* Omit if offence cannot be tried by magistrates’ court” shall be omitted.

5. After form 14 there shall be inserted—

**14A. Notice to accused: right to object to written statement or deposition being read out at trial without further proof (CPI Act 1996, s.68, Sch. 2 paragraphs 1(3)(c) and 2(3)(c): MC Rules 1981, r.4B (as inserted by MC (Amendment) Rules 1997).**

To AB, of

If you are committed for trial, the Crown Court may try you in respect of the charge or charges on which you are committed or in respect of any other charge arising out of the same transaction or set of circumstances which may, with leave of the Court, be put to you.

[Written statements] [and] [depositions] have been made by the witnesses named below and copies of their [statements] [and] [depositions] are enclosed. Each of these [statements] [and] [depositions] will be read out at the trial without oral evidence being given by the witness who has made the [statement] [or] [deposition] unless you want that witness to give oral evidence and to be cross-examined on such oral evidence. If you want any of these witnesses to give oral evidence, and be cross-examined if necessary, you should inform the Crown Court and me in writing within 14 days of being committed for trial. If you do not do so you will lose your right to prevent the [statement] [or] [deposition] being read out without any oral evidence being given by the witness in question and to require the attendance of that witness unless the Court gives you leave to do so, but that will not prevent the prosecutor from exercising his discretion to call that witness to give oral evidence, and be cross-examined, at the trial if the prosecutor so wishes.

[\*Pre-paid] reply forms [and pre-paid envelopes] are enclosed and if you object to any [statement] [or] [deposition] being read out at the trial without oral evidence being given by the witness who made it you must let the Crown Court and me know within 14 days of being committed for trial, and at the same time indicate which of these witnesses you want to give oral evidence at the trial.

If you have a solicitor acting for you in your case you should hand this notice and the [statements] [and] [depositions] to him at once, so that he may deal with them.]

Names of witnesses whose [statements] [and] [depositions] are enclosed—

Address any reply to:—

(Signed).....  
[On behalf of the Prosecutor]

\* Omit if documents are sent to accused’s solicitor.

6. In form 16 (Certificate to be sent to Crown Court on committal for trial)—

- (a) in the heading, for the words in the brackets there shall be substituted “CPI Act 1996, s.68, Schedule 2; MC Act 1980, ss.4, 5A to 5D, 6, 8, 97A, 98; MC Rules 1981, rr.4B, 6, 7, 8, 11”;

- (b) for the paragraphs which are side-headed “Depositions” and “Statements” respectively there shall be substituted—

**“Documentary Evidence**

I hereby certify that—

- (a) the statements by the persons listed in Part I of Schedule hereto; and  
(b) the depositions of the persons listed in Part II of that Schedule;

were tendered in evidence in accordance with section 5A of the Magistrates’ Courts Act 1980.”;

- (c) for the paragraph side-headed “Alibi” there shall be substituted—

**“Notice of right to object to statement or deposition being read as evidence at trial without oral evidence**

I hereby certify that the accused, having been notified by the prosecutor, was reminded by the court on his committal for trial of his right to object, by written notification to the prosecutor and the Crown Court within 14 days of being committed for trial, unless that court permits such an objection to be made outside that period, to any statement or deposition being read as evidence at the trial without oral evidence being given by the person who made the statement or deposition and without the opportunity to cross-examine that person.”;

- (d) the footnotes marked \* and † respectively shall be omitted; and  
(e) for Schedule 2 there shall be substituted—

“SCHEDULE 2

**PART I  
STATEMENTS**

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<i>Name, address and occupation of person making statement</i>	<i>Page No.</i>
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**PART II  
DEPOSITIONS**

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<i>Name, address and occupation of person making deposition</i>	<i>Page No.”</i>
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7. Forms 22 (Witness order) and 23 (Notice to witness that a witness order is to be treated as a conditional order) shall be omitted.

8. Form 24 (Notice of provisions of section 11 of the Criminal Justice Act 1967) shall be omitted.

**9.** In form 25 (List of exhibits) in the table the column headed “Produced by prosecution (P) or defence (D)” shall be omitted.

**10.** In form 136 (Summons to witness)—

- (a) in the heading for the words “section 97” there shall be substituted “ss.97, 97A”; and
- (b) for the words “at the hearing of” there shall be substituted “[at the hearing of] [for the purposes of the committal proceedings in]”.

**11.** In forms 137 (Warrant for arrest on witness or failure to appear to summons) and 138 (Warrant for arrest of witness in first instance)—

- (a) in the heading, after the number “97” there shall be inserted “97A,”; and
- (b) for the words “at the hearing of” there shall be substituted “[at the hearing of] [for the purposes of committal proceedings in]”.

**12.** In form 139 (Commitment of witness)—

- (a) in the heading after the number “97” there shall be inserted “97A” and the number “134” shall be omitted; and
- (b) for the words “on the hearing” there shall be substituted “[at the hearing of] [for the purposes of committal proceedings in respect of]”.

Dated 10th March 1997

*Mackay of Clashfern, C.*

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## EXPLANATORY NOTE

*(This note is not part of the Rules)*

These Rules amend the Magistrates' Courts (Forms) Rules 1981 ("the 1981 Forms Rules") to take account of the changes effected by the Criminal Procedure and Investigations Act 1996 ("the 1996 Act") in magistrates' courts' procedures including, in particular those in respect of committal for trial in the Crown Court ("committal proceedings"). These Rules amend, omit or substitute certain forms used in relation to committal proceedings as a consequence of those changes. Unless otherwise indicated any reference in this note to a rule is a reference to a rule in these Rules, and any reference to a form is a reference to a form in the 1981 Forms Rules.

Rule 3 makes amendments to form 13 (which sets out the form of a witness statement) which are consequential on the 1996 Act ("consequential amendments") including, in particular, the lowering of the age (from 21 to 18) at which the age of a witness must be indicated on the form.

Rule 4 makes consequential amendments to form 14 (which sets out the notice to be given to the defendant of his right to object to a witness' statement being read out without oral evidence being given by the witness) to reflect the fact that oral evidence will no longer be admissible in committal proceedings.

Rule 5 inserts a new form which indicates the nature of the notice to be given by the prosecutor to the accused of his right to object to witness statements and depositions being read out at the trial in the Crown Court without oral evidence being given by the witnesses who made the statements and depositions.

Rule 6 makes consequential amendments to form 16 (certificate to be sent to Crown Court on committal for trial) including, in particular, a certificate to the effect that, instead of being notified of the requirements of section 11 of the Criminal Justice Act 1967 as to any alibi offered at trial (section 11 was repealed by the 1996 Act), the accused has been notified of his right to object to a statement or deposition being read out at the trial without oral evidence being given by the witness who made the statement or deposition.

Rule 7 omits forms 22 (witness evidence) and 23 (notice to witness that a witness order is to be treated as a conditional order) since magistrates' courts will no longer make witness orders on committal for trial.

Rule 8 omits form 24 (notice of provisions of section 11 of the Criminal Justice Act 1967 regarding alibi) since section 11 is repealed by the 1996 Act and alibi notices will no longer be given at committal proceedings.

Rule 9 omits from form 25 (list of exhibits sent to Crown Court on committal) the reference to an exhibit being provided by the prosecution or the defence, since only prosecution evidence will be admitted at committal proceedings.

Rules 10, 11 and 12 make consequential amendments to forms 136 (summons to witness) 137 (warrant for arrest of witness on failure to appear to summons), 138 (warrant for arrest of witness in first instance) and 139 (commitment of witness).