
 S T A T U T O R Y I N S T R U M E N T S

1976 No. 1769 (L. 34)

JUVENILE COURTS AND OFFENDERS
The Magistrates' Courts (Children and Young Persons)
(Amendment) Rules 1976

Made - - - - - 25th October 1976
Laid before Parliament 4th November 1976
Coming into Operation 26th November 1976

The Lord Chancellor, in exercise of the powers conferred on him by section 15 of the Justices of the Peace Act 1949(a), as extended by section 122 of the Magistrates' Courts Act 1952(b) and section 18(2)(b) of the Children and Young Persons Act 1969(c), after consultation with the Rule Committee appointed under the said section 15, hereby makes the following Rules:—

1. These Rules may be cited as the Magistrates' Courts (Children and Young Persons) (Amendment) Rules 1976 and shall come into operation on 26th November 1976.

2. The Magistrates' Courts (Children and Young Persons) Rules 1970(d) shall have effect subject to the amendments specified in the Schedule to these Rules.

Dated 25th October 1976.

Elwyn-Jones, C.

SCHEDULE

Rule 2

PART I

AMENDMENTS TO MAGISTRATES' COURTS (CHILDREN AND YOUNG PERSONS) RULES 1970

1. In the definition of "guardian" in rule 13(2), after the word "guardian" there shall be inserted the words "(except where it is used in the expression "guardian *ad litem*")".

2. In rule 14(1), after the words "the proceedings and" there shall be inserted the words "the names and addresses of".

(a) 1949 c. 101.
 (c) 1969 c. 54.

(b) 1952 c. 55.
 (d) S.I. 1970/1792 (1970 III, p. 5803).

3. In rule 14(3), after sub-paragraph (b) there shall be inserted the following sub-paragraph—

“(bb) any foster parent or other person with whom the relevant infant has had his home for a period of not less than six weeks, ending not more than six months before the date of the application, if the whereabouts of such a person is known to the applicant;”.

4. In rule 14, after paragraph (3) there shall be inserted the following paragraphs—

“(4) In the case of an application to which this paragraph applies there shall be sent with the copy of the notice required by paragraph (2) to be sent to the respondent a notice stating that he should inform the clerk of the court as soon as practicable and not later than 14 days after the receipt of the notice whether or not he intends to oppose the application.

(5) Paragraph (4) applies to—

(a) an application under section 15(1) of the Act of 1969 for the discharge of a relevant supervision order or a supervision order made under section 21(2) of that Act on the discharge of a relevant care order; and

(b) an application under section 21(2) of that Act for the discharge of a relevant care order or a care order made under section 15(1) of that Act on the discharge of a relevant supervision order.

In this paragraph “relevant care order” means a care order made under section 1 of the Act of 1969 and “relevant supervision order” means a supervision order made under that section.”

5. After Rule 14 there shall be inserted the following Rules:—

“*Appointment and duties of guardian ad litem*

14A.—(1) In any proceedings to which an order under section 32A(1) of the Act of 1969 relates (not being an order under section 32A(2)) the court shall appoint a guardian *ad litem* of the relevant infant for the purposes of the proceedings if it appears to the court that it is in his interests to do so.

(2) An appointment of a guardian *ad litem* under this rule or section 32B(1) of the Act of 1969 shall be made by order and the person to be appointed shall be selected from the panel established by regulations under section 103 of the Children Act 1975(a) or, if this is not practicable, shall be some other suitable person and, in either case, the person selected shall not be a member, officer or servant of a local authority or authorised person (within the meaning of section 1 of the Act of 1969) which is a party to the proceedings.

(3) Where the court has appointed a guardian *ad litem* under this rule or section 32B(1) of the Act of 1969, and it appears to the court desirable that some other person should act as guardian *ad litem* in substitution for the person appointed earlier, the court shall, by order, revoke the earlier appointment and make a new appointment.

(4) The power of the court to appoint a guardian *ad litem* under this rule shall also be exercisable, before the hearing of the application to which the proceedings relate, by a single justice or by the justices' clerk.

(5) The court shall cause a copy of an order appointing a guardian *ad litem* to be given to the guardian *ad litem*, the applicant and the persons to whom notice of the proceedings has been given under rule 14(2).

(6) The guardian *ad litem* appointed under this rule or section 32B(1) of the Act of 1969, with a view to safeguarding the interests of the relevant infant before the court shall—

(a) so far as it is reasonably practicable, investigate all circumstances relevant to the proceedings and for that purpose shall interview such persons and inspect such records as the guardian *ad litem* thinks appropriate;

(a) 1975 c. 72 (no regulations under section 103 had been made by the date of these Rules).

- (b) in the light of that investigation, consider whether it is in the infant's best interests that the application to which the proceedings relate should succeed;
- (c) in the light of that consideration, decide how the case should be conducted on behalf of the infant and, where appropriate, instruct a solicitor to represent the infant;
- (d) where the infant is not legally represented, conduct the case on behalf of the infant, unless he otherwise requests;
- (e) where the guardian *ad litem* thinks that it would assist the court, make a report in writing to the court for the purposes of rule 20(1)(a);
- (f) perform such other duties as the court shall direct.

(7) When the court has finally disposed of the case the guardian *ad litem* shall consider whether it would be in the infant's best interests to appeal to the Crown Court and, if he considers that it would be, he shall give notice of appeal on behalf of the infant.

Rights of parents and guardians

14B. Without prejudice to any other provision of these Rules which provides for a parent or guardian to take part in proceedings, the relevant infant's parent or guardian shall be entitled:—

- (a) to meet any allegations made against him in the course of the proceedings by calling or giving evidence; and
- (b) where the court has made an order under section 32A of the Act of 1969, to make representations to the court;

in either case at the conclusion of the evidence for the respondent and the evidence, if any, for the applicant in rebuttal but before either the respondent or the applicant addresses the court under rule 14(4) or (5) of the Magistrates' Courts Rules 1968(a) as applied by rule 15(2) of these Rules."

6. In rule 17(1), after sub-paragraph (b) there shall be inserted the word "or" and the following sub-paragraph:—

"(c) the court has under section 32A of the Act of 1969 ordered that in relation to the proceedings his parent or guardian is not to be treated as representing the relevant infant or as otherwise authorised to act on his behalf."

7. In rule 17(2), after the word "requests" there shall be inserted the words "or a guardian *ad litem* has been appointed".

8. In the proviso to rule 18(2), the words "and shall give the person an opportunity of meeting it by calling evidence or otherwise" shall be omitted.

9. In rule 20(1), sub-paragraph (a) to (d) shall be re-lettered (b) to (e) and the following sub-paragraph shall be inserted before them:—

"(a) where the guardian *ad litem* has made a written report to the court, the court shall take it into consideration and it may be received and considered by the court without being read aloud;"

10. In rule 20(2), for the words "paragraph (1)(c)" and "paragraph (1)(d)" there shall be substituted the words "paragraph (1)(a) or (d)" and "paragraph (1)(e)" respectively.

11. For paragraph (2) of rule 28 there shall be substituted the following paragraph—

"(2) For the purpose of facilitating the performance by supervisors of their functions under section 14 of the Act of 1969 of advising, assisting and befriending persons subject to supervision orders—

- (a) the additional requirements set out at the end of Form 43 contained in Schedule 2 are hereby prescribed for the purposes of section 18(2)(b) of the Act of 1969 in its application to criminal proceedings; and

(a) S.I. 1968/1920 (1968 III, p. 5175).

(b) the additional requirements set out at the end of Forms 44 and 45 contained in Schedule 2 are hereby prescribed for the purposes of the said section 18(2)(b) in its application to other proceedings.”

12. Forms 44 and 45 of the forms in Schedule 2 shall be amended by substituting for the words “(either or both of the above requirements may be included)” where they appear at the end of each form the following words:—

“3. that he/she shall be medically examined in accordance with arrangements made by the supervisor:
(one or more of the above further requirements may be included)”.

13. In Schedule 2, for the forms numbered 17, 29, 30, 31 and 47 there shall be substituted respectively the forms numbered in like manner in Part II of this Schedule and the forms numbered 7A, 7B, 10A, 10B, 10C and 10D in the said Part II shall be inserted in numerical order in Schedule 2.

PART II

FORMS TO BE SUBSTITUTED OR INSERTED IN SCHEDULE 2 TO THE MAGISTRATES' COURTS
(CHILDREN AND YOUNG PERSONS) RULES 1970.

7A

Notice of Appointment of Guardian ad litem.

(C. & Y. P. Act 1969, s. 32B; M.C. (C. & Y.P.) Rules 1970, r. 14A(5))

Date:

Name of child or
young person
(hereinafter called
the infant).

Address:

Take notice that.....
of
has been appointed guardian *ad litem* of the above named infant in proceedings
which are in the list for hearing at this juvenile court on.....
at.....am/pm.

In pursuance of rule 14A(5) of the Magistrates' Courts (Children and Young
Persons) Rules 1970 a copy of this notice is being sent to each of the following
persons:—

J.C.,
Clerk of the Court.

Address of Court:

Telephone number:

7B

Notice of Order Depriving Parent or Guardian of Right to Represent Child or Young Person

(C. & Y. P. Act 1969, s. 32A)

Date:

Name:

Address:

Take notice that it appears to the court that in the proceedings concerning the
child/young person named.....
(hereinafter called the infant) of whom you are a parent/guardian, which are in the
list for hearing at this juvenile court on.....
at.....am/pm there is or may be a conflict on relevant matters
between your interests and those of the said infant. Accordingly the court has
ordered that in relation to the proceedings you are not to be treated as representing
the infant or as otherwise authorised to act on his behalf.

J.C.,
Clerk of the Court.

Address of Court:

Telephone number:

10A

Information for Search Warrant under Section 32 of the Children and Young Persons Act 1969

(C. & Y.P. Act 1969, s. 32)

.....Magistrates' Court (Code)

Date:

The information of:

Address:

Telephone number.....

who upon oath states that he has reasonable grounds for believing that.....
.....a child/young person to whom section 32 of the Children and Young Persons Act 1969 as amended applies, is absent from the place where he is required to be, and that the said child/young person is in the premises at.....

Taken and sworn before me.

Justice of the Peace.

10B

Warrant to Search for Child or Young Person to Whom Section 32 of the Children and Young Persons Act 1969 Applies

(C. & Y.P. Act 1969, s. 32)

.....Magistrates' Court (Code)

To each and all of the Constables of.....

Date:

The information of:

Address:

who upon oath states that he has reasonable grounds for believing that.....
.....a child/young person to whom section 32 of the Children and Young Persons Act 1969 applies, is absent from the place where he is required to be, and that the said child/young person is in the premises at.....
You are hereby authorised to enter and search the said premises and if the said child/young person is found, to arrest him without warrant under the authority of the said section 32 and conduct him to the premises where he should be or to such other premises as may be directed.

Justice of the Peace.

10C

*Information for Search Warrant under Section 67 of the Children Act 1975
(C. Act 1975, s. 67)*

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

Date:

The information of:

Telephone number.....

an officer of the.....local authority
who upon oath states that he has reasonable grounds for believing that.....
.....a child within the meaning of the Children Act 1975 and to
whom section 67 of that Act applies who is in the care of the said local authority
is absent from the place where he is required to be, and that the said child is in the
premises at.....

Taken and sworn before me.

Justice of the Peace.

10D

*Warrant to Search for Child to whom Section 67 of the Children Act 1975 applies
(C. Act 1975, s. 67)*

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

To.....an officer of the.....
local authority.

Date:

The information of:

an officer of the said local authority

who upon oath states that he has reasonable grounds for believing that.....
.....a child within the meaning of the Children Act 1975 and to
whom section 67 of that Act applies who is in the care of the said local authority is
absent from the place where he is required to be, and that the said child is in the
premises at.....

You are hereby authorised to enter and search the said premises and if the said
child is found, to place him in such accommodation as the said local authority
may provide.

Justice of the Peace.

Offence: *(particulars and statute)*
 The relevant infant was on *(date)* brought before the court under section 1 of the Children and Young Persons Act 1969 and the court was of the opinion that the following condition was satisfied with respect to the relevant infant, that is to say, that he was guilty of the indictable offence specified above.

Order: That [the relevant infant] [A.B. of (address), a parent/guardian of the relevant infant,] pay the sum of

Amount: £ as compensation for personal injury/loss/damage
 Person compensated: suffered by

Terms of payment: the said sum to be paid [forthwith] [by weekly/monthly instalments of]
 [not later than]
 to the clerk to the justices at the address given below.

J.P.,
 Justice of the Peace
 [By order of the Court
 J.C.,
 Justices' Clerk]

Address of court office:—

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Attendance centre order; offence
(C.J. Act 1948, s. 19; C.J. Act 1961, s. 10)
Juvenile Court (*Code*)

Date:
 Accused: Age years
 Address:
 Offence:

(particulars and statute)
 The accused was on *(date)* found guilty of the above offence which is punishable on summary conviction in the case of an adult with imprisonment.
 The court has been notified by the Secretary of State that the attendance centre specified herein is available for the reception from the court of persons of the accused's class or description. The court is satisfied that the attendance centre is reasonably accessible to the accused, having regard to the age of, and the means of access available to, the accused and any other circumstances.
 [The court is of the opinion that twelve hours attendance would be [excessive, having regard to [the accused's age] [the following circumstances:—
] the accused being under fourteen years of age.] [inadequate, having regard to all the circumstances.]]

Order: That the accused attend at the.....
 attendance centre on the first occasion on *(date)* at *(time)*, and subsequently at such times as shall be fixed by the officer in charge of that centre, until the accused shall have completed a period of attendance of hours.

J.P.,
 Justice of the Peace
 [By order of the Court
 J.C.,
 Justices' Clerk]

NOTE: The present address of the attendance centre specified above is.....

Order on failure to comply with attendance centre order or on breach of Attendance Centre Rules

(C.J. Act 1948, s. 19.)

.....Juvenile Court (*Code*)

Date:

Accused:

Age years

Address:

On (*date*) the accused was ordered to attend at the.....
.....attendance centre.

The accused has today [appeared] [been brought] before this court under section 19(7) of the Criminal Justice Act 1948 and the court is satisfied that on (*date*) the accused [failed without reasonable excuse to attend at that attendance centre in accordance with that order] [while attending at that attendance centre committed a breach of the Attendance Centre Rules 1958 which could not be adequately dealt with under those Rules, namely:—

Particulars
of breach:

]

Order:

That the said attendance centre order be revoked and that for the offence in respect of which that order was made the accused (specify terms of new order).

J.P.,
Justice of the Peace
[By order of the Court
J.C.,
Justices' Clerk]

Attendance centre order on failure to comply with requirements of supervision order
(C. & Y. P. Act 1969, ss. 15(2), (4), 16.)

.....[Juvenile] [Magistrates'] Court (Code)

Date:

Supervised person: Age years

Address:

Supervision order
made on:

by the:Juvenile Court

[Varied on:

by the:Juvenile Court]

Local authority
area:

Petty sessions
area:

for the time being named in that supervision order.

Supervisor: [.....Council] [a probation officer appointed
for, or assigned to, that petty sessions area]

On the application of the supervisor the court is satisfied that
the supervised person has failed to comply with the following
requirement(s) of the supervision order

Requirement(s) of
supervision order
contravened:

The court has been notified by the Secretary of State that the
attendance centre specified herein is available for the reception
from the court of persons of the supervised person's class or
description.

The court is satisfied that the attendance centre is reasonably
accessible to the supervised person, having regard to the age of,
and the means of access available to, the supervised person and
any other circumstances.

[The court is of the opinion that twelve hours attendance would
be inadequate having regard to all the circumstances.]

Order: [That the supervision order be discharged/varied as follows:—
[AND] that the supervised person attend at the.....
attendance centre on the first occasion on (date) at (time),
and subsequently at such times as shall be fixed by the officer
in charge of that centre, until the supervised person shall have
completed a period of attendance of.....hours.

J.P.,

Justice of the Peace

[By order of the Court

J.C.,

Justices' Clerk]

NOTE: The present address of the attendance centre specified above is.....

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules make a number of amendments to the Magistrates' Courts (Children and Young Persons) Rules 1970 principally to take account of changes in the law made by the Children Act 1975. In particular new rule 14A regulates the appointment and duties of a guardian *ad litem* in proceedings in a juvenile court to which an order under section 32A of the Children and Young Persons Act 1969 relates. That section (inserted by section 64 of the Act of 1975) provides for the making of an order that the parent shall not be treated as authorised to act on behalf of his child in proceedings where it appears to the court that there may be a conflict between the interests of parent and child. New rule 14B specifies the part which a parent or guardian may take in care proceedings and proceedings relating to care, supervision or fit person orders, including, in particular, proceedings to which an order under section 32A of the Act of 1969 relates. Section 65 of the Act of 1975 amends the Legal Aid Act 1974 (c.4) to authorise the grant of legal aid, in cases where the court has made an order under section 32A of the Act of 1969, to a parent for the purpose of taking such part in the proceedings as may be allowed by rules of court.

Other provisions of these Rules extend the list of persons to whom notice of care proceedings has to be given to include any person with whom the infant has been living for a period of not less than six weeks ending not more than six months before the date of the application to the court; allow a requirement as to medical examination to be included in a supervision order made in care proceedings; substitute new forms for some of the forms prescribed in the Rules of 1970; and add new forms to those prescribed in those Rules.

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