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STATUTORY INSTRUMENTS

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**2010 No. 60**

**The Criminal Procedure Rules 2010**

**PART 5**

**FORMS AND COURT RECORDS**

*SECTION 2: COURT RECORDS*

**Magistrates' court register**

- 5.4.**—(1) A magistrates' court officer shall keep a register in which there shall be entered—
- (a) a minute or memorandum of every adjudication of the court; and
  - (b) a minute or memorandum of every other proceeding or thing required by these Rules or any other enactment to be so entered.
- (2) The register may be stored in electronic form on the court computer system and entries in the register shall include, where relevant, the following particulars—
- (a) the name of the informant, complainant or applicant;
  - (b) the name and date of birth (if known) of the defendant or respondent;
  - (c) the nature of offence, matter of complaint or details of the application;
  - (d) the date of offence or matter of complaint;
  - (e) the plea or consent to order; and
  - (f) the minute of adjudication.
- (3) Particulars of any entry relating to a decision about bail, or the reasons for any such decision, or the particulars of any certificate granted under section 5(6A) of the Bail Act 1976(1), may be made in a record separate from that in which the entry recording the decision itself is made; but any such separate record shall be regarded as forming part of the register.
- (4) Where, by virtue of section 128(3A) of the Magistrates' Courts Act 1980(2), an accused gives his consent to the hearing and determination in his absence of any application for his remand on an adjournment of the case under sections 5, 10(1) or 18(4)(3) of that Act, the court shall cause the consent of the accused, and the date on which it was notified to the court, to be entered in the register.

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(1) 1976 c. 63; section 5(6A) was inserted by section 60 of the Criminal Justice Act 1982 (c. 48) and amended by section 165 of, and paragraph 53 of Schedule 9 to, the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6); and, in relation to certain cases, by section 41 of, and paragraph 48 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44). It is further amended by sections 41 and 331 of, and paragraph 48 of Schedule 3, paragraphs 1 and 2 of Schedule 36, and Part 4 of Schedule 37 to, the Criminal Justice Act 2003 (c. 44), with effect from a date to be appointed.

(2) 1980 c. 43; section 128(3A) was inserted by section 59 of, and paragraph 4 of Schedule 9 to, the Criminal Justice Act 1982 (c. 48) and amended by section 170(1) of, and paragraphs 65 and 69 of Schedule 15 to, the Criminal Justice Act 1988 and sections 49, 52 and 80 of, and Schedule 5 to, the Criminal Procedure and Investigations Act 1996 (c. 25); and is further amended by sections 41 and 332 of, and paragraph 51 of Schedule 3 and Part 4 of Schedule 37 to, the Criminal Justice Act 2003 (c. 44), with effect from a date to be appointed.

(3) 1980 c. 43; section 5 was amended by section 59 of, and paragraph 1(a) of Schedule 9 to, the Criminal Justice Act 1982 (c. 48) and is repealed by paragraph 51 of Schedule 3 and Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c. 44),

(5) Where any consent mentioned in paragraph (4) is withdrawn, the court shall cause the withdrawal of the consent and the date on which it was notified to the court to be entered in the register.

(6) On the summary trial of an information, the accused's plea shall be entered in the register.

(7) Where a court tries any person summarily in any case in which he may be tried summarily only with his consent, the court shall cause his consent to be entered in the register and, if the consent is signified by a person representing him in his absence, the court shall cause that fact also to be entered in the register.

(8) Where a person is charged before a magistrates' court with an offence triable either way, the court shall cause the entry in the register to show whether he was present when the proceedings for determining the mode of trial were conducted; and, if they were conducted in his absence, whether they were so conducted by virtue of section 18(3) of the 1980 Act (disorderly conduct on his part) or by virtue of section 23(1) of that Act(4) (consent signified by person representing him).

(9) In any case to which section 22 of the 1980 Act(5) (certain offences triable either way to be tried summarily if value involved is small) applies, the court shall cause its decision as to the value involved or, as the case may be, the fact that it is unable to reach such a decision to be entered in the register.

(10) Where a court has power under section 53(3) of the 1980 Act to make an order with the consent of the defendant without hearing evidence, the court shall cause any consent of the defendant to the making of the order to be entered in the register.

(11) In the case of conviction or dismissal, the register shall clearly show the nature of the offence of which the accused is convicted or, as the case may be, the nature of the offence charged in the information that is dismissed.

(12) An entry of a conviction in the register shall state the date of the offence.

(13) Where a court is required under section 130(3) of the Powers of Criminal Courts (Sentencing) Act 2000(6) to give reasons for not making a compensation order the court shall cause the reasons given to be entered in the register.

(14) Where a court passes a custodial sentence, the court shall cause a statement of whether it obtained and considered a pre-sentence report before passing sentence to be entered in the register.

(15) Every register shall be open to inspection during reasonable hours by any justice of the peace, or any person authorised in that behalf by a justice of the peace or the Lord Chancellor.

(16) A record of summary conviction or order made on complaint required for an appeal or other legal purpose may be in the form of certified extract from the court register.

(17) Such part of the register as relates to proceedings in a youth court may be recorded separately and stored in electronic form on the court computer system.

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with effect from a date to be appointed. Section 18(4) was amended by section 59 of, and paragraph 1 of Schedule 9 to, the Criminal Justice Act 1982 (c. 48).

(4) 1980 c. 43; section 23(1) was amended by section 125(3) of, and paragraph 25 of Schedule 18 to, the Courts and Legal Services Act 2000 (c. 41).

(5) 1980 c. 43; section 22 was amended by sections 38 and 170(2) of, and Schedule 16 to, the Criminal Justice Act 1988 (c. 33), section 68 of, and paragraph 6 of Schedule 8 to, the Criminal Justice Act 1991 (c. 53), section 2(2) of the Aggravated Vehicle Taking Act 1992 (c. 11) and sections 46 and 168(3) of, and Schedule 11 to, the Criminal Justice and Public Order Act 1994 (c. 33).

(6) 2000 c. 6.

### **Registration of endorsement of licence under section 57 of the Road Traffic Offenders Act 1988**

**5.5.** A magistrates' court officer or justices' clerk who, as a fixed penalty clerk within the meaning of section 69(4) of the Road Traffic Offenders Act 1988(7), endorses a driving licence under section 57(3) or (4) of that Act(8) (endorsement of licences without hearing) shall register the particulars of the endorsement in a record separate from the register kept under rule 5.4; but any such record shall be regarded as forming part of the register.

### **Registration of certificate issued under section 70 of the Road Traffic Offenders Act 1988**

**5.6.** A magistrates' court officer shall register receipt of a registration certificate issued under section 70 of the Road Traffic Offenders Act 1988(9) (sum payable in default of fixed penalty to be enforced as a fine) in a record separate from the register kept under rule 5.4; but any such record shall be regarded as forming part of the register.

### **Proof of proceedings in magistrates' courts**

**5.7.** The register of a magistrates' court, or an extract from the register certified by the magistrates' court officer as a true extract, shall be admissible in any legal proceedings as evidence of the proceedings of the court entered in the register.

*[Note. For the requirement to keep a register, see rule 5.4.]*

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(7) 1988 c. 53; section 69(4) was amended by section 48 of, and paragraph 105 of Schedule 4 to, the [Road Traffic Act 1991 \(c. 40\)](#), section 109 of, and paragraph 315 of Schedule 8 to, the [Courts Act 2003 \(c. 39\)](#), and section 9 of, and paragraphs 2 and 20 of Schedule 2 to, the [Road Safety Act 2006 \(c. 49\)](#).

(8) 1988 c. 53; section 57(3) and (4) was amended by regulations 2(2) and (3) of, and paragraph 17 of Schedule 2 to, [S.I. 1990/144](#) and section 5 of, and paragraphs (1) and (5) of Schedule 1 to, the [Road Safety Act 2006 \(c. 49\)](#).

(9) 1988 c. 53; section 70 was amended by section 109 of, and paragraph 316 of Schedule 8 to, the [Courts Act 2003 \(c. 39\)](#) and sections 5, 9(6) and 59 of, and paragraphs 1 and 12 of Schedule 1, paragraphs 2 and 21 of Schedule 2 and paragraph 7 to, the [Road Safety Act 2006 \(c. 49\)](#).