
STATUTORY INSTRUMENTS

2012 No. 1726

The Criminal Procedure Rules 2012

PART 18

WARRANTS FOR ARREST, DETENTION OR IMPRISONMENT

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[Note. Part 52 contains rules about warrants to take goods to pay fines, etc.]

When this Part applies

18.1.—(1) This Part applies where the court can issue a warrant for arrest, detention or imprisonment.

(2) In this Part, ‘defendant’ means anyone against whom such a warrant is issued.

Terms of a warrant for arrest

18.2. A warrant for arrest must require each person to whom it is directed to arrest the defendant and—

- (a) bring the defendant to a court—
 - (i) specified in the warrant, or
 - (ii) required or allowed by law; or
- (b) release the defendant on bail (with conditions or without) to attend court at a date, time and place—
 - (i) specified in the warrant, or
 - (ii) to be notified by the court.

[Note. The principal provisions under which the court can issue a warrant for arrest are—

- (a) *section 4 of the Criminal Procedure (Attendance of Witnesses) Act 1965(1);*
- (b) *section 7 of the Bail Act 1976(2);*
- (c) *sections 1 and 97 of the Magistrates' Courts Act 1980(3); and*
- (d) *sections 79, 80 and 81(4), (5) of the Senior Courts Act 1981(4).*

See also section 27A of the Magistrates' Courts Act 1980(5) (power to transfer criminal proceedings) and section 78(2) of the Senior Courts Act 1981(6) (adjournment of Crown Court case to another place).]

Terms of a warrant for detention or imprisonment

18.3.—(1) A warrant for detention or imprisonment must—

- (a) require each person to whom it is directed to—
 - (i) arrest the defendant,
 - (ii) take the defendant to any place specified in the warrant, and
 - (iii) deliver the defendant to the custodian of that place; and
- (b) require that custodian to keep the defendant in custody, as ordered by the court, until in accordance with the law—
 - (i) the defendant is delivered to the appropriate court or place, or
 - (ii) the defendant is released.

(2) Where a magistrates' court remands a defendant to police detention under section 128(7)(7) or section 136(8) of the Magistrates' Courts Act 1980, or to customs detention under section 152 of the Criminal Justice Act 1988(9), the warrant it issues must—

- (a) be directed, as appropriate, to—
 - (i) a constable, or
 - (ii) an officer of Her Majesty's Revenue and Customs; and
- (b) require that constable or officer to keep the defendant in custody—

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- (1) 1965 c. 69; section 4 was amended by section 56 of, and paragraph 45 of Schedule 8 to, the Courts Act 1971 (c. 23) and sections 65, 66, 67 and 80 of, and Schedule 5 to, the Criminal Procedure and Investigations Act 1996 (c. 25).
 - (2) 1976 c. 63; section 7(1A) and (1B) were inserted section 198 of the Extradition Act 2003 (c. 41).
 - (3) 1980 c. 43; section 1 was amended by section 68 of, and paragraph 6 of Schedule 8 to, the Criminal Justice Act 1991 (c. 53), sections 43 and 109 of, and Schedule 10 to, the Courts Act 2003 (c. 39) and sections 31, 331 and 332 of, and Schedule 7 and paragraphs 7 and 8 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44). It is further amended by section 331 of, and paragraphs 7 and 8 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44), with effect from a date to be appointed. Section 97 was amended by sections 13 and 14 of, and paragraph 7 of Schedule 2 to, the Contempt of Court Act 1981 (c. 49), section 31 of, and paragraph 2 of Schedule 4 to, the Criminal Justice (International Co-operation) Act 1990 (c. 5), sections 17 and 65 of, and paragraph 6 of Schedule 3 and Part I of Schedule 4 to, the Criminal Justice Act 1991 (c. 53), section 51 of the Criminal Procedure and Investigations Act 1996 (c. 25) and section 169 of the Serious Organised Crime and Police Act 2005 (c. 15).
 - (4) 1981 c. 54; section 80 is amended by paragraph 54 of Schedule 3 to the Criminal Justice Act 2003 (c. 44) for certain purposes and in relation to certain local justice areas (see S.I. 2012/1320) and otherwise with effect from a date to be appointed. Section 81(5) was amended by section 177(1) of, and paragraph 76(b) of Schedule 21 to, the Coroners and Justice Act 2009 (c. 25).
 - (5) 1980 c. 43; section 27A was inserted by section 46 of the Courts Act 2003 (c. 39).
 - (6) 1981 c. 54.
 - (7) 1980 c. 43; section 128(7) was amended by section 48 of the Police and Criminal Evidence Act 1984 (c. 60). It is modified by section 91(5) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), with effect from a date to be appointed.
 - (8) 1980 c. 43; section 136 was amended by section 77 of, and paragraph 58 of Schedule 14 to, the Criminal Justice Act 1982 (c. 48), section 68 of, and paragraph 6 of Schedule 8 to, the Criminal Justice Act 1991 (c. 53), section 95(2) of the Access to Justice Act 1999 (c. 22) and section 165(1) of, and paragraph 78 of Schedule 9 to, the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6). It is further amended by sections 74, and 75 of, and paragraphs 58, 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.
 - (9) 1988 c. 33; section 152 was amended by paragraphs 1 and 17 of Schedule 11 to, the Proceeds of Crime Act 2002 (c. 29) and section 8 of the Drugs Act 2005 (c. 17).

- (i) for a period (not exceeding the maximum permissible) specified in the warrant, or
- (ii) until in accordance with the law the defendant is delivered to the appropriate court or place.

[Note. Under section 128(7) of the Magistrates' Courts Act 1980, a magistrates' court can remand a defendant to police detention for not more than 3 clear days, if the defendant is an adult, or for not more than 24 hours if the defendant is under 18.

Under section 136 of the 1980 Act, a magistrates' court can order a defendant's detention in police custody until the following 8am for non-payment of a fine, etc.

Under section 152 of the Criminal Justice Act 1988, a magistrates' court can remand a defendant to customs detention for not more than 192 hours if the defendant is charged with a drug trafficking offence.]

Information to be included in a warrant

- 18.4.**—(1) A warrant must identify—
- (a) each person to whom it is directed;
 - (b) the defendant against whom it was issued;
 - (c) the reason for its issue;
 - (d) the court that issued it, unless that is otherwise recorded by the court officer; and
 - (e) the court office for the court that issued it.
- (2) A warrant for detention or imprisonment must contain a record of any decision by the court under—
- (a) section 23 of the Children and Young Persons Act 1969⁽¹⁰⁾ (remand to local authority accommodation) or section 102 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012⁽¹¹⁾ (remand to youth detention accommodation);
 - (b) section 80 of the Magistrates' Courts Act 1980⁽¹²⁾ (application of money found on defaulter to satisfy sum adjudged); or
 - (c) section 82(1) or (4) of the 1980 Act⁽¹³⁾ (conditions for issue of a warrant).
- (3) A warrant that contains an error is not invalid, as long as—
- (a) it was issued in respect of a lawful decision by the court; and
 - (b) it contains enough information to identify that decision.

[Note. See section 23(8) of the Children and Young Persons Act 1969 and section 102(5) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012. Under section 23 of the 1969 Act,

⁽¹⁰⁾ 1969 c. 54; section 23 was substituted by section 60 of the Criminal Justice Act 1991 (c. 53) and amended by section 19 of the Criminal Justice and Public Order Act 1994 (c. 33), sections 97, 119 and 120(2) of, and paragraph 22 of Schedule 8 and Schedule 10 to, the Crime and Disorder Act 1998 (c. 37), section 24 of, and paragraphs 4 and 6 of Schedule 4 to, the Access to Justice Act 1999 (c. 22), section 116 of, and paragraph 3 of Schedule 4 to, the Care Standards Act 2000 (c. 14), sections 130, 132 and 133 of the Criminal Justice and Police Act 2001 (c. 16), section 201 of the Extradition Act 2003 (c. 41), paragraph 15 of Schedule 32 to the Criminal Justice Act 2003 (c. 44) and section 4 of the Criminal Defence Service Act 2006 (c. 9). It is repealed by paragraphs 5 and 6 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), with effect from a date to be appointed.

⁽¹¹⁾ 2012 c. 10; section 102 has effect from a date to be appointed.

⁽¹²⁾ 1980 c. 43; section 80 was amended by section 33(1) of, and paragraph 83 of Schedule 2 to, the Family Law Reform Act 1987 (c. 42) and is further amended by section 62(3) of, and paragraphs 45 and 49 of the Tribunals, Courts and Enforcement Act 2007 (c. 15), with effect from a date to be appointed.

⁽¹³⁾ 1980 c. 43; section 82(1) was amended by section 77 of, and paragraph 52(b) of Schedule 14 to, the Criminal Justice Act 1982 (c. 48) and paragraphs (1) and (2) of Schedule 8 to, the Criminal Justice Act 1988 (c. 33). It is further amended by paragraphs 58 and 63 of Part II of Schedule 7 to, the Criminal Justice and Court Services Act 2000 (c. 43), with effect from a date to be appointed.

the court can remand a person aged between 12 and 18 years to secure accommodation, if it decides that the prescribed conditions are met. Under section 102 of the 2012 Act, when it comes into force, the court can remand a person under 18 to such accommodation if it decides that the conditions prescribed by that Act are met.

Under section 80 of the Magistrates' Courts Act 1980, the court may decide that any money found on the defendant must not be applied towards payment of the sum for which a warrant is issued under section 76 of that Act (enforcement of sums adjudged to be paid).

See section 82(6) of the 1980 Act. Under section 82(1) and (4), the court may only issue a warrant for the defendant's imprisonment for non-payment of a sum due where it finds that the prescribed conditions are met.

Under section 123 of the 1980 Act(14), "no objection shall be allowed to any ... warrant to procure the presence of the defendant, for any defect in it in substance or in form ...".]

Execution of a warrant

18.5.—(1) A warrant may be executed—

- (a) by any person to whom it is directed; or
- (b) if the warrant was issued by a magistrates' court, by anyone authorised to do so by section 125(15) (warrants), 125A(16) (civilian enforcement officers) or 125B(17) (execution by approved enforcement agency) of the Magistrates' Courts Act 1980.

(2) The person who executes a warrant must—

- (a) explain, in terms the defendant can understand, what the warrant requires, and why;
- (b) show the defendant the warrant, if that person has it; and
- (c) if the defendant asks—
 - (i) arrange for the defendant to see the warrant, if that person does not have it, and
 - (ii) show the defendant any written statement of that person's authority required by section 125A or 125B of the 1980 Act.

(3) The person who executes a warrant of arrest that requires the defendant to be released on bail must—

- (a) make a record of—
 - (i) the defendant's name,
 - (ii) the reason for the arrest,
 - (iii) the defendant's release on bail, and
 - (iv) when and where the warrant requires the defendant to attend court; and
- (b) serve the record on—

(14) 1980 c. 43.

(15) 1980 c. 43; section 125 was amended by section 33 of the Police and Criminal Evidence Act 1984 (c. 60), section 65(1) of the Criminal Justice Act 1988 (c. 33), sections 95(1), 97(4) and 106 of, and Part V of Schedule 15 and Table (8) to, the Access to Justice Act 1999 (c. 22) and section 109(1) of, and paragraph 238 of Schedule 8 to, the Courts Act 2003 (c. 39). It is further amended by sections 62(3), 86 and 146 of and paragraphs 45 and 57 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15), with effect from a date to be appointed.

(16) 1980 c. 43; section 125A was inserted by section 92 of the Access to Justice Act 1999 (c. 22) and amended by articles 46 and 52 of S.I. 2006/1737 and article 8 of, and paragraph 5 of the Schedule to, S.I. 2007/2128. It is further amended by section 62 of, and paragraphs 45 and 58 of Schedule 13 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15), with effect from a date to be appointed.

(17) 1980 c. 43; section 125B was inserted by section 93(2) of the Access to Justice Act 1999 (c. 22) and amended by paragraph 239 of Schedule 8 to the Courts Act 2003 (c. 39). It is further amended by section 62 of, and paragraphs 45, 59 and 61 of Schedule 13 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15), with effect from a date to be appointed.

- (i) the defendant, and
 - (ii) the court officer.
- (4) The person who executes a warrant of detention or imprisonment must—
- (a) take the defendant—
 - (i) to any place specified in the warrant, or
 - (ii) if that is not immediately practicable, to any other place at which the defendant may be lawfully detained (and the warrant then has effect as if it specified that place);
 - (b) obtain a receipt from the custodian; and
 - (c) notify the court officer that the defendant has been taken to that place.

[Note. Under section 125 of the Magistrates' Courts Act 1980, a warrant issued by a magistrates' court may be executed by any person to whom it is directed or by any constable acting within that constable's police area.

Certain warrants issued by a magistrates' court may be executed anywhere in England and Wales by a civilian enforcement officer, under section 125A of the 1980 Act; or by an approved enforcement agency, under section 125B of the Act. In either case, the person executing the warrant must, if the defendant asks, show a written statement indicating: that person's name; the authority or agency by which that person is employed, or in which that person is a director or partner; that that person is authorised to execute warrants; and, where section 125B applies, that the agency is registered as one approved by the Lord Chancellor.

See also section 125D of the 1980 Act(18), under which—

- (a) *a warrant to which section 125A applies may be executed by any person entitled to execute it even though it is not in that person's possession at the time; and*
- (b) *certain other warrants, including any warrant to arrest a person in connection with an offence, may be executed by a constable even though it is not in that constable's possession at the time.]*

Warrants that cease to have effect on payment

18.6.—(1) This rule applies to a warrant issued by a magistrates' court under any of the following provisions of the Magistrates' Courts Act 1980—

- (a) section 76(19) (enforcement of sums adjudged to be paid);
- (b) section 83(20) (process for securing attendance of offender);
- (c) section 86(21) (power of magistrates' court to fix day for appearance of offender at means inquiry, etc.);
- (d) section 136(22) (committal to custody overnight at police station for non-payment of sum adjudged by conviction).

(18) 1980 c. 43; section 125D was inserted by section 96 of the Access to Justice Act 1999 (c. 22). It is further amended by sections 62 and 146 of, and paragraphs 45 and 61 of Schedule 13 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15), with effect from a date to be appointed.

(19) 1980 c. 43: section 76 was amended by section 7 of the Maintenance Enforcement Act 1991 (c. 17); section 78 of, and Schedule 16 to, the Criminal Justice Act 1982 (c. 48), and section 62(3) of, and paragraphs 45 and 46 of Schedule 13 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(20) 1980 c. 43; section 83 was amended by articles 46 and 47 of S.I. 2006/1737 and sections 97(2) and 106 of, and Part V (table 8) of Schedule 15 to, the Access to Justice Act 1999 (c. 22).

(21) 1980 c. 43; section 86 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).

(22) 1980 c. 43; section 136 was amended by section 77 of, and paragraph 58 of Schedule 14 to, the Criminal Justice Act 1982 (c. 48), section 68 of, and paragraph 6 of Schedule 8 to, the Criminal Justice Act 1991 (c. 53), section 95(2) of the Access to Justice Act 1999 (c. 22) and section 165(1) of, and paragraph 78 of Schedule 9 to, the Powers of Criminal Courts (Sentencing)

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- (2) The warrant no longer has effect if—
 - (a) the sum in respect of which the warrant was issued is paid to the person executing it;
 - (b) that sum is offered to, but refused by, that person; or
 - (c) that person is shown a receipt for that sum given by—
 - (i) the court officer, or
 - (ii) the authority to which that sum is due.

[Note. See sections 79(23) and 125(1) of the Magistrates' Courts Act 1980.]

Warrant issued when the court office is closed

- 18.7.**—(1) This rule applies where the court issues a warrant when the court office is closed.
- (2) The applicant for the warrant must, not more than 72 hours later, serve on the court officer—
 - (a) a copy of the warrant; and
 - (b) any written material that was submitted to the court.

Act 2000 (c. 6). It is further amended by sections 74, and 75 of, and paragraphs 58, 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.

(23) 1980 c. 43; section 79 was amended by paragraph 219 of Schedule 8 to the Courts Act 2003 (c. 39) and is amended by section 62 of, and paragraphs 45, 47 and 48 of Schedule 13 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15), with effect from a date to be appointed.