
STATUTORY INSTRUMENTS

1997 No. 1055 (L. 23)

**MAGISTRATES' COURTS
PROCEDURE**

**The Magistrates' Courts (Criminal Procedure and
Investigations Act 1996) (Tainted Acquittals) Rules 1997**

<i>Made</i>	- - - -	<i>24th March 1997</i>
<i>Laid before Parliament</i>		<i>24th March 1997</i>
<i>Coming into force</i>	- -	<i>15th April 1997</i>

The Lord Chancellor, in exercise of the powers conferred upon him by section 144 of the Magistrates' Courts Act 1980(1), as extended by section 145 of that Act(1), and after consultation with the Rule Committee appointed under the said section 144, hereby makes the following Rules:

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Magistrates' Courts (Criminal Procedure and Investigations Act 1996) (Tainted Acquittals) Rules 1997 and shall come into force on 15th April 1997.

(2) In these Rules—

“the Act” means the Criminal Procedure and Investigations Act 1996(2);

“acquittal” means an acquittal (of a person of an offence) which is the subject of a certification made under section 54(2) of the Act; and

“the register” means the register kept pursuant to rule 66 of the Magistrates' Courts Rules 1981(3).

Time of certification

2. Where a person is convicted before a magistrates' court of an offence as referred to in section 54(1)(b) of the Act and it appears to the court that the provisions of section 54(2) of the Act

(1) 1980 c. 43; section 144 was amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 18, paragraph 25(1) and (7); there are amendments to section 145 not relevant to these Rules.

(1) 1980 c. 43; section 144 was amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 18, paragraph 25(1) and (7); there are amendments to section 145 not relevant to these Rules.

(2) 1996 c. 25.

(3) S.I.1981/552; relevant amending instruments are S.I. 1992/709 and 1993/1183.

are satisfied, the court shall make the certification referred to in section 54(2) at any time following conviction but no later than—

- (a) immediately after the court sentences or otherwise deals with that person in respect of the offence, or
- (b) where the court commits that person to the Crown Court, or remits him to another magistrates' court, to be dealt with in respect of the offence, immediately after he is so committed or remitted, as the case may be.

Form of certification

3. Where a magistrates' court makes the certification referred to in section 54(2) of the Act, the certification shall be drawn up in Form TAM 1 set out in the Schedule to these Rules, or a form to the like effect, and any reference elsewhere in these Rules to Form TAM 1 shall include a reference to such a form.

Service of a copy of Form TAM 1

4.—(1) The clerk of a magistrates' court which makes a certification as referred to in section 54(2) of the Act shall, as soon as practicable after the drawing up of Form TAM 1, serve a copy of that form on the acquitted person referred to in the certification, on the prosecutor in the proceedings which led to the acquittal, and where the acquittal has not taken place before a magistrates' court sitting at the same place as the court which has made the certification, on—

- (a) where the acquittal has taken place before a magistrates' court, the clerk of that court, or
- (b) where the acquittal has taken place before the Crown Court, the appropriate officer of that Court.

(2) Service as referred to in paragraph (1) above may be made by delivering the copy of Form TAM 1 to the person to be served (where that person is an individual), or by sending it by post in a letter addressed to him at his usual or last known residence or place of business in England or Wales; in the case of a company, such a letter may also be addressed to the company at its registered office in England or Wales (if it has such a registered office).

(3) If the person to be served is acting by a solicitor, the copy of Form TAM 1 may be served by delivering it, or by sending it by post, to the solicitor's address for service.

(4) In paragraph (3) above, "solicitor" includes a body corporate which is recognised by the Council of the Law Society under section 9 of the Administration of Justice Act 1985(4) (a "recognised body") and, in the case of a recognised body, the reference to the solicitor's address for service shall be construed as a reference to the address specified by the recognised body as its address for the purposes of the service of the copy of Form TAM 1 (including, where the person to be served is a party to the proceedings which led to the conviction referred to in Form TAM 1, an address specified for the general purposes of those proceedings), or, in the absence of such a specified address, to its registered office.

Entry in register in relation to the conviction which occasioned certification

5. The clerk of a magistrates' court which makes a certification under section 54(2) of the Act shall enter in the register of the court, in relation to the conviction which occasioned the certification, a note of the fact that certification has been made, the date of certification, the name of the acquitted person referred to in the certification, a description of the offence of which the acquitted person has been acquitted, the date of the acquittal, and the name of the court before which the acquittal has taken place.

(4) 1985 c. 61.

Entry in the register of the magistrates' court of acquittal

6.—(1) The clerk of a magistrates' court before which an acquittal has taken place shall, as soon as practicable after receipt from the court which has made the certification under section 54(2) of the Act relating to the acquittal, of a copy of a form recording the certification (being a copy of Form TAM 1 where the certification has been made by a magistrates' court), or, where the court which has made the certification is a magistrates' court sitting at the same place as the court before which the acquittal has taken place, as soon as practicable after the making of the certification, enter in the register of the court, in relation to the acquittal, a note that the certification has been made, the date of the certification, the name of the court which has made the certification, the name of the person whose conviction occasioned the making of the certification, and a description of the offence of which that person has been convicted.

(2) Notwithstanding rule 66(11) of the Magistrates' Courts Rules 1981, where the court which has made the certification as referred to in paragraph (1) above is not a magistrates' court sitting at the same place as the magistrates' court before which the acquittal has taken place, the entry referred to in paragraph (1) above shall be signed by the clerk of the court before which the acquittal has taken place (without prejudice to the application of rule 66(11) of the Magistrates' Courts Rules 1981 to the case where the said certification has been made by a magistrates' court sitting at the same place as the court before which the acquittal has taken place).

Display of copy certification form

7.—(1) Where a magistrates' court makes a certification as referred to in section 54(2) of the Act, the clerk of the court shall, as soon as practicable after the drawing up of Form TAM 1, display a copy of that form at a prominent place within court premises to which place the public has access.

(2) Where an acquittal has taken place before a magistrates' court and the court which has made the certification under section 54(2) of the Act in relation to the acquittal is not a magistrates' court sitting at the same place as the court before which the acquittal has taken place, the clerk of the last mentioned court shall, as soon as practicable after receipt from the court which has made the certification of a copy of a form recording the certification (being a copy of Form TAM 1 where the certification has been made by a magistrates' court), display a copy of that form at a prominent place within court premises to which place the public has access.

(3) The copy of Form TAM 1 referred to in paragraph (1) above, or the copy form referred to in paragraph (2) above, shall continue to be displayed as referred to, respectively, in those paragraphs at least until the expiry of 28 days from, in the case of paragraph (1) above, the day on which the certification was made, or, in the case of paragraph (2) above, the day on which the copy form was received by the clerk of the court.

Entry in the register—decision of High Court

8.—(1) The clerk of a magistrates' court before which an acquittal has taken place shall, on receipt from the Crown Office of the High Court of notice of an order made under section 54(3) of the Act quashing the acquittal, or of a decision not to make such an order, enter in the register of the court, in relation to the acquittal, a note of the fact that the acquittal has been quashed by the said order, or that a decision has been made not to make such an order, as the case may be.

(2) The clerk of a magistrates' court which has made a certification under section 54(2) of the Act shall, on receipt from the Crown Office of the High Court of notice of an order made under section 54(3) of the Act quashing the acquittal referred to in the certification, or of a decision not to make such an order, enter in the register of the court, in relation to the conviction which occasioned the certification, a note that the acquittal has been quashed by the said order, or that a decision has been made not to make such an order, as the case may be.

(3) The entries in the register referred to, respectively, in paragraphs (1) and (2) above shall be signed by the clerk of the magistrates' court in question.

Display of copy of notice received from High Court

9.—(1) Where the clerk of a magistrates' court which has made a certification under section 54(2) of the Act, or the clerk of a magistrates' court before which an acquittal has taken place, as the case may be, receives from the Crown Office of the High Court notice of an order quashing the acquittal concerned, or notice of a decision not to make such an order, he shall, as soon as practicable after receiving the notice, display a copy of it at a prominent place within court premises to which place the public has access.

(2) The copy notice referred to in paragraph (1) above shall continue to be displayed as referred to in that paragraph at least until the expiry of 28 days from the day on which the notice was received by the clerk of the court.

Dated 24th March 1997

Mackay of Clashfern, C.

SCHEDULE

Rule 3

Form TAM 1

(INSERT COURT NAME)

Code (INSERT COURT CODE)

(INSERT COURT ADDRESS)

(INSERT COURT TELEPHONE AND FAX NUMBERS)

(INSERT OPENING HOURS, CONTACT NAME/TITLE AND OTHER USEFUL INFORMATION)

Certification of Tainted Acquittal

(insert person acquitted)

Born: (insert date of birth)

(insert address)

The (insert original court) on (insert acquittal date) found (insert person acquitted), the acquitted person not guilty of an (certain) offence(s), namely (insert offence details).

This court today (on (insert conviction date)) has now found (insert name of person convicted), the convicted person, guilty of (insert offence details) being an administration of justice offence for the purposes of section 54 of the Criminal Procedure and Investigations Act 1996, involving interference with or intimidation of a juror or a witness (or potential witness) in proceedings which led to the acquittal of (insert person acquitted).

This court certifies under subsection (2) of section 54 of the Criminal Procedure and Investigations Act 1996 that it appears to the Court that:

(1) there is a real possibility that, but for the interference or intimidation involved in the offence of which (insert person convicted) is (was) convicted, (insert person acquitted) would not have been acquitted, and

(2) subsection (5) of section 54 of the Criminal Procedure and Investigations Act 1996 does not apply.*

Date

Clerk of the Court

NOTE that where a court certifies under subsection (2) of section 54 of the Criminal Procedure and Investigations Act 1996, an application may be made to the High Court for an order quashing the acquittal. In that event, the acquitted person will be given a reasonable opportunity to make written representations to the Court.

*subsection (5) applies if, because of lapse of time or for any other reason, it would be contrary to the interests of justice to take proceedings against the acquitted person for the offence of which he was acquitted.

To: (1) the acquitted person (2) the prosecutor in the proceedings which led to the acquittal (3) the Clerk to the Justices/appropriate officer at the court at which the person concerned was acquitted.

Form TAM 1

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

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules are made in connection with the provision made by sections 54 and 55 of the Criminal Procedure and Investigations Act 1996 (“the Act”) for an application to be made to the High Court for an order quashing a person’s acquittal of an offence. Under section 54(3) of the Act, an application may be made to the High Court for such an order where:

- (a) a person has been convicted of an administration of justice offence involving interference with or intimidation of a juror or a witness (or potential witness) in any proceedings which led to the acquittal, and
- (b) the court before which the above conviction takes place certifies (under section 54(2) of the Act) that it appears to the court that there is a real possibility that, but for the interference or intimidation, the acquitted person would not have been acquitted and that it is not contrary to the interests of justice to take proceedings against the acquitted person for the offence of which he has been acquitted.

Rule 2 provides that certification by a magistrates' court under section 54(2) of the Act shall be made at any time following the above conviction, but no later than immediately after the court sentences or otherwise deals with the convicted person in respect of the offence, or, where the court commits him to the Crown Court to be sentenced or otherwise dealt with, or remits him to another magistrates' court for that purpose, immediately after he is so committed or remitted, as the case may be. Rule 3 provides for the Form in which certification under section 54(2) of the Act is to be drawn up, and Rule 4 provides for the persons on whom a copy of the Form referred to in rule 3 is to be served, and for the manner of such service. Rule 5 provides for the making of an entry in the register of the court which has made the certification, in relation to the conviction which occasioned the certification, of details relating to the certification.

Rule 6 provides for the making of an entry in the register of a magistrates' court before which an acquittal has taken place (which acquittal is the subject of a certification under section 54(2) of the Act), in relation to the acquittal, of details relating to the certification.

Rule 7 provides for the public display of a copy of the Form referred to in rule 3 by a magistrates' court which has made a certification under section 54(2) of the Act and further provides for the public display by a magistrates' court before which an acquittal has taken place of a copy of the form of certification relating to the acquittal (being the Form referred to in rule 3 where certification is made by a magistrates' court) a copy of which is received by the clerk of the court from another court.

Rule 8 refers to the making of an order by the High Court, under section 54(3) of the Act, quashing an acquittal, or the making of a decision by the High Court not to quash an acquittal, and provides, where certification in relation to that acquittal has been made by a magistrates' court or the acquittal has taken place before a magistrates' court, for the making of an entry by the clerk of the magistrates' court before which the acquittal has taken place, or by the clerk of the magistrates' court which has made the certification relating to the acquittal, as the case may be, in the court register, of the fact that such an order or decision has been made. Rule 9 provides for the public display, by a magistrates' court, of a copy of the notice received from the High Court of such an order or decision.

By virtue of rule 1, these Rules come into force on 15th April 1997.