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STATUTORY INSTRUMENTS

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**1998 No. 3046 (L. 13)**

**MAGISTRATES' COURTS**

**PROCEDURE**

**The Magistrates' Courts (Modification) Rules 1998**

*Made* - - - - *6th December 1998*  
*Laid before Parliament* *9th December 1998*  
*Coming into force* - - *4th January 1999*

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:

1. These Rules may be cited as the Magistrates' Courts (Modification) Rules 1998 and shall come into force on 4th January 1999.

2.—(1) The Magistrates' Courts Rules 1981(2) shall have effect in any area from which a person is sent for trial under section 51 of the Crime and Disorder Act 1998(3) as if they were amended as follows.

(2) In rule 2 (interpretation), after the entry relating to the Children Act 1989, there shall be inserted the words ““the Act of 1998” means the Crime and Disorder Act 1998;”.

(3) In rule 4A(1), after the words “section 97A of the Act of 1980” there shall be inserted the words “or paragraph 4 of Schedule 3 to the Act of 1998”.

(4) In rule 9, the words “or sent” shall be inserted after each mention of the word “committed”.

(5) In rule 10, the words “or sent” shall be inserted after each mention of the word “committed”.

(6) After rule 11, there shall be inserted the following:

“11A.—(1) As soon as practicable after any person is sent for trial (pursuant to section 51 of the Act of 1998), and in any event within 4 days from the date on which he is sent (not counting Saturdays, Sundays, Good Friday, Christmas Day or Bank Holidays), the clerk of the magistrates' court that sent him shall, subject to section 7 of the Prosecution of Offences

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(1) 1980 c. 43; section 144 was amended by the Courts and Legal Services Act 1990 (c. 4), section 125(3) and Schedule 18, paragraph 25; section 144 is extended by section 145 of that Act.

(2) S.I. 1981/552, amended by S.I. 1982/245, 1983/523, 1984/1552, 1985/1695 and 1944, 1986/1332, 1988/2132, 1989/300 and 384, 1990/336, 1190 and 2260, 1991/1991, 1992/457, 729 and 2072, 1993/1183, 1994/1481 and 3154, 1995/585 and 2619, 1997/706 and 1998/2167.

(3) 1998 c. 37.

Act 1985(4) (which relates to the sending of documents and things to the Director of Public Prosecutions), send to the appropriate officer of the Crown Court—

- (a) the information, if it is in writing;
- (b) the notice required by section 51(7) of the Act of 1998;
- (c) a copy of the record made in pursuance of section 5 of the Bail Act 1976(5) relating to the grant or withholding of bail in respect of the accused on the occasion of the sending;
- (d) any recognizance entered into by any person as surety for the accused together with any enlargement thereof under section 129(4) of the Act of 1980;
- (e) the names and addresses of any interpreters engaged for the defendant for the purposes of the appearance in the magistrates' court, together with any telephone numbers at which they can be readily contacted, and details of the languages or dialects in connection with which they have been so engaged;
- (f) if any person under the age of 18 is concerned in the proceedings, a statement whether the magistrates' court has given a direction under section 39 of the Children and Young Persons Act 1933(6) (prohibition of publication of certain matter in newspapers);
- (g) a copy of any legal aid order previously made in the case;
- (h) a copy of any contribution order previously made in the case under section 23 of the Legal Aid Act 1988(7);
- (i) a copy of any legal aid application previously made in the case which has been refused;
- (j) any statement of means already submitted; and
- (k) any documents relating to an appeal by the prosecution against the granting of bail.

(2) The period of 4 days specified in paragraph (5) may be extended in relation to any sending for trial for so long as the appropriate officer of the Crown Court directs, having regard to any relevant circumstances.”.

(7) In rule 93, after the word “committed”, there shall be inserted the words “or sent”.

(8) In rule 107, after the words “or 97A of the Act of 1980”, there shall be inserted the words “or paragraph 4 of Schedule 3 to the Act of 1998”.

Dated 6th December 1998

*Irvine of Lairg, C.*

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(4) 1985 c. 23.  
(5) 1976 c. 63.  
(6) 1933 c. 53.  
(7) 1988 c. 34.

## EXPLANATORY NOTE

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

These Rules make a number of modifications to the Magistrates' Courts Rules 1981 (S.I.1981/552) which are necessary in relation to the new procedure created by sections 51 and 52 of and Schedule 3 to the Crime and Disorder Act 1998 (c. 37) (no committal proceedings for indictable-only offences).

Rule 2(2), (3) and (8) modifies the 1981 Rules to make appropriate reference to the Crime and Disorder Act 1998.

Rule 2(4), (5) and (8) modifies the 1981 Rules to make appropriate references to being “sent” as opposed to “committed” for trial in the Crown Court.

Rule 2(6) provides for a new Rule 11A of the 1981 Rules so as to specify the documents which the magistrates' court must send to the Crown Court within 4 days of sending a person for trial there.