1976 No. 120

MAGISTRATES' COURTS

Magistrates' Courts (Amendment No. 2) Rules (Northern Ireland) 1976

Made . . . . . *2nd April* 1976

Coming into operation . . . . . *1st May* 1976

To be laid before Parliament

The Secretary of State(a) in pursuance of section 23 of the Magistrates' Courts Act (Northern Ireland) 1964(b) on the recommendation of the Magistrates' Courts Rules Committee and after consultation with the Lord Chief Justice, hereby makes the following rules:

Citation and commencement

1. These rules may be cited as the Magistrates' Courts (Amendment No. 2) Rules (Northern Ireland) 1976 and shall come into operation on 1st May 1976.

Amendment of the 1974 *rules*

2. The provisions of the Magistrates' Courts Rules (Northern Ireland) 1974(c) specified in the first column of the Schedule are hereby amended to the extent specified in the second column thereof.

Merlyn Rees
One of Her Majesty's Principal Secretaries of State

Northern Ireland Office
2nd April 1976

(a) Formerly the Minister of Home Affairs for Northern Ireland: *see* S.I. 1973/2163
(b) 1964 c. 21 (N.I.)
(c) S.R. 1974 No. 334

SCHEDULE

Amendments to Magistrates' Courts Rules (Northern Ireland) 1974

Provision amended	*Amendment*
Rule 15	After paragraph (4) there shall be inserted the following paragraphs— "(5) Where a sentence of imprisonment is imposed to run concurrently with or consecutively to a period for which a person is ordered to be returned to prison under Article 3 of the Treatment of Offenders (Northern Ireland) Order 1976 the fact shall be stated on the warrant of commitment. (6) Where the court makes an order for the return of a person to prison under that Article a warrant of commitment shall in every case be issued in pursuance of the order."
Part VII	After Rule 111 there shall be inserted the following rule— "CA. DEFERMENT OF SENTENCE *Notification of conviction before expiration of period of deferment* 111A. Where under Article 14 of the Treatment of Offenders (Northern Ireland) Order 1976 a court has deferred passing sentence on an offender and before the expiration of the period of deferment he is convicted of any offence by a magistrates' court, the clerk of petty sessions shall, if the court which deferred passing sentence on the earlier occasion was another magistrates' court give notice of the conviction to the clerk of that court and if the court which deferred passing sentence on the earlier occasion was a court of assize or county court, give notice of the conviction to the clerk of the Crown and peace."
Schedule 1	After Form 88 there shall be inserted the following forms— "FORM 88A MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964 (*Section* 115; *Rules* 14, 15 *and* 128) TREATMENT OF OFFENDERS (NORTHERN IRELAND) ORDER 1976 (*Article* 3) **Warrant of Commitment where person is ordered under Article 3(1) of the Treatment of Offenders (Northern Ireland) Order 1976 to be returned to prison** of ..... Petty Sessions District of Complainant of County [Borough] of Defendant

Provision amended	*Amendment*
	WHEREAS it appears that the Defendant was on the day of 19 , discharged from H.M. Prison at and was at that date serving a sentence of imprisonment [term of detention in a young offenders centre] which but for his discharge pursuant to prison rules would have expired on the day of 19 ; AND WHEREAS he was on the day of 19 convicted by a magistrates' court sitting for the above-named petty sessions district of the following offence(s) (being [an] offence(s) for which the court had [or would, but for section 1 of the Treatment of Offenders Act (Northern Ireland) 1968, have had] power to sentence him to imprisonment), namely:— committed on the day of 19 and the court ordered that (*state court order(s) made on conviction for offence(s)*) the court under Article 3(1) of the Treatment of Offenders (Northern Ireland) Order 1976 further ordered that the defendant be returned to prison [a young offenders centre] as from the date of the order for the following period (being a period such as is specified in Article 3(3)(*a*) of that Order), namely— THIS IS TO COMMAND YOU, to whom this Warrant is addressed to lodge the Defendant in Her Majesty's Prison at to be imprisoned there for the above period; And for this the Present Warrant shall be a sufficient Authority to all whom it may concern. Resident Magistrate [*or* Justice of the Peace] [*or* Clerk of Petty Session] This day of 19 . To the Superintendent Division

Provision amended	*Amendment*
	FORM 88B MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964 (*Section* 115; *Rules* 14, 15 *and* 128) TREATMENT OF OFFENDERS (NORTHERN IRELAND) ORDER 1976 (*Article* 3(4)) **Warrant of Commitment to [Court of Assize] [County Court] under Article 3(4) of the Treatment of Offenders (Northern Ireland) Order 1976** of Complainant } Petty Sessions District of of Defendant } County [Borough] of WHEREAS it appears that the Defendant was on the day of 19 , discharged from H.M. Prison at and was on that date serving a sentence of imprisonment [term of detention in a young offenders centre] which but for his discharge pursuant to prison rules would have expired on the day of 19 ; AND WHEREAS he was on the day of 19 convicted by a magistrates' court sitting for the above-named petty sessions district of the following offence(s) (being [an] offence(s) for which the court had [or would, but for section 1 of the Treatment of Offenders Act (Northern Ireland) 1968, have had] power to sentence him to imprisonment), namely:— AND WHEREAS the period between the date on which the court might have made an order under Article 1(1) of the Treatment of Offenders (Northern Ireland) Order 1976 and the date aforesaid on which his sentence of imprisonment [or term of detention] would have so expired exceeds twelve months. THIS IS TO COMMAND YOU, to whom this Warrant is addressed to lodge the said Defendant in H.M. Prison at in order that he may be brought before the [Court of Assize] [County Court] sitting at on the day of 19 . Resident Magistrate [*or* Justice of the Peace] [*or* Clerk of Petty Sessions] This day of 19 . To the Superintendent Division

Provision amended	*Amendment*
	FORM 88C
	MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964 (*Sections* 135, 136 *and* 137; *Rule* 135)
	TREATMENT OF OFFENDERS (NORTHERN IRELAND) ORDER 1976 (*Article* 3(4))
	Recognizance to appear at Assize [or County Court] to be dealt with for offence under Article 3(5) of the Treatment of Offenders (Northern Ireland) Order 1976
	of Complainant — Petty Sessions District of of Defendant — County [Borough] of
	WHEREAS the Defendant was on the day of 19 , discharged from H.M. Prison at and was on that date serving a sentence of imprisonment [term of detention in a young offenders centre] which but for his discharge pursuant to prison rules would have expired on the day of 19 ;
	AND WHEREAS he was on the day of 19 convicted by a magistrates' court sitting for the above-named petty sessions district of the following offence(s) (being [an] offence(s) for which the court had [or would, but for section 1 of the Treatment of Offenders Act (Northern Ireland) 1968, have had] power to sentence him to imprisonment); namely:—
	AND WHEREAS the period between the date on which the court might have made an order under Article 1(1) of the Treatment of Offenders (Northern Ireland) Order 1976 the date aforesaid on which his sentence of imprisonment [*or* term of detention] would have so expired exceeds twelve months; the Defendant, as Principal Party to this recognizance, namely:—
	(*Name of Defendant*) of (*Address*) hereby binds self to perform the following obligation, viz., to attend the next [Court of Assize] [County Court] sitting at on the day of 19 ;

Provision amended	*Amendment*
	And the said Principal Party [together with (*Name and occupation*) of (*Address*) and (*Name and occupation*) of (*Address*) the undersigned sureties] hereby acknowledge(s) [himself] [herself] [themselves] bound to forfeit to the Crown the sums following, viz:—
	The Principal Party the sum of £ [the first-named surety the sum of £ and the second-named surety the sum of £ [in case the said Principal Party fails to perform the above obligation [and in lieu of sureties the said Principal Party hereby deposits the sum of £ or other valuable security to the value of that sum] as security for performance of the said obligation].
	..... Principal Party ..... Suret .....
	Taken and acknowledged before me this day of 19 . Resident Magistrate [*or* Justice of the Peace] [*or* Clerk of Petty Sessions] [*or* Governor/Deputy Governor of Prison]

Provision amended	*Amendment*
	FORM 88D MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964 (*Rule* 8) TREATMENT OF OFFENDERS (NORTHERN IRELAND) ORDER 1976 (*Article* 5) **Complaint that person has been convicted as mentioned in Article 3(1)(*a*) of the Treatment of Offenders (Northern Ireland) Order 1976 after his discharge from prison and has not been ordered to be returned to prison or young offenders centre** of Complainant of Defendant Petty Sessions District of County [Borough] of I of say [on oath] that the Defendant was on the day of 19 discharged from HM Prison at and was at that date serving a sentence of imprisonment [term of detention in a young offenders centre] which, but for such discharge pursuant to prison rules would have expired on the day of 19 ; AND WHEREAS he was on the day of 19 convicted by a [magistrates' court] [county court] [court of assize] sitting at of the following offence(s), namely:— (being [an] offence(s) for which the court had [or would but for section 1 of the Treatment of Offenders Act (Northern Ireland) 1968 have had] power to sentence him to imprisonment) committed on the day of 19 ordered that (*state court order made on conviction for offence(s)*) the Defendant has not been ordered under Article 3 of the Treatment of Offenders (Northern Ireland) Order 1976 to be returned to prison [or a young offenders centre] and that there is no such record as is mentioned in Article 3(7) of that Order (that on consideration of his case the court made no such order). Complainant [*for* Complainant] Taken before me this day of 19 in the County [Borough] of Justice of the Peace

Provision amended	*Amendment*
	FORM 88E MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964 (*Rule* 9) TREATMENT OF OFFENDERS (NORTHERN IRELAND) ORDER 1976 (*Article* 5) **Summons upon complaint that person has been convicted as mentioned in Article 3(1)(*a*) of the Treatment of Offenders (Northern Ireland) Order 1976 after his discharge from prison and has not been ordered to be returned to prison or young offenders centre** of Complainant } Petty Sessions District of of Defendant } County [Borough] of WHEREAS a complaint has been made before me that on the day of 19 you the said Defendant were discharged from HM Prison at and were at that date serving a sentence of imprisonment [term of detention in a young offenders centre] which, but for such discharge pursuant to prison rules would have expired on the day of 19 and that on the day of 19 you were convicted by a [court of assize for the above-named County [Borough]] [*or* a county court for the county court division of in the above-named County [Borough]] [*or* magistrates' court for the above-named petty sessions district and County [Borough]] sitting at of the following offence(s), namely:— (being [an] offence(s) for which the court had [or would, but for section 1 of the Treatment of Offenders Act (Northern Ireland) 1968, have had] power to sentence you to imprisonment) committed on the day of 19 and the court ordered that (*state court order made on conviction for offence(s)*) and that you were not ordered under Article 3 of the Treatment of Offenders (Northern Ireland) Order 1976 to be returned to prison [*or* a young offenders centre] and that there is no such record as is mentioned in Article 3(7) of that Order (that on consideration of your case the court made no such order);

Provision amended	*Amendment*
	THIS IS TO COMMAND YOU to appear at [the court of assize] [*or* the county court] [*or* a court of summary jurisdiction for the above-named petty sessions district and County [Borough]] sitting at on the day of 19 at o'clock in the noon. Justice of the Peace This day of 19

Provision amended	Amendment
	FORM 88F MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964 (*Rules* 14 *and* 128) TREATMENT OF OFFENDERS (NORTHERN IRELAND) ORDER 1976 (*Article* 5) **Warrant for arrest of person who has been convicted as mentioned in Article 3(1)(*a*) of the Treatment of Offenders (Northern Ireland) Order 1976 after his discharge from prison and who has not been ordered to be returned to prison or young offenders centre** of Complainant of Defendant Petty Sessions District of County [Borough] of WHEREAS a complaint [on oath] has been made before me that on the day of 19 the said Defendant was discharged from H.M. Prison at and was at that date serving a sentence of imprisonment [term of detention in a young offenders centre] which, but for such discharge pursuant to prison rules would have expired on the day of 19 and that on the day of 19 the Defendant was convicted by a [court of assize for the above-named County [Borough]] [*or* a county court for the county court division of in the above-named County [Borough]] [*or* a magistrates' court for the above-named petty sessions district and County [Borough]] sitting at of the following offence(s), namely:— (being [an] offence(s) for which the court had [or would, but for section 1 of the Treatment of Offenders Act (Northern Ireland) 1968, have had] power to sentence the Defendant to imprisonment) committed on the day of 19 and the court ordered that (*state court order made on conviction for offence(s)*) and that the Defendant was not ordered under Article 3 of the Treatment of Offenders (Northern Ireland) Order 1976 to be returned to prison [*or* a young offenders centre] and that there is no such record as is mentioned in Article 3(7) of that Order (that on consideration of the Defendant's case the court made no such order);

Provision amended	*Amendment*
	THIS IS TO COMMAND YOU, to whom this Warrant is addressed, to arrest the said and bring him before [the court of assize] [*or* the county court] sitting at or if that court is not sitting forthwith before a magistrates' court for the above-named petty sessions district and County [Borough]. Justice of the Peace This day of 19 . To the Superintendent Division NOTE: This form may be endorsed for bail as on Form 4.

Provision amended	*Amendment*
	FORM 88G MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964 (*Rule* 9) TREATMENT OF OFFENDERS (NORTHERN IRELAND) ORDER 1976 (*Article* 14(5)) **Summons where court has deferred passing sentence on offender and proposes to sentence him on date originally specified by court** of Complainant } Petty Sessions District of of Defendant } County [Borough] of WHEREAS you were on the day of 19 convicted of the following offence(s):— by a magistrates' court for the above-named petty sessions district and the court deferred passing sentence upon you until the day of 19 ; THIS IS TO COMMAND YOU to appear for sentence before a court of summary jurisdiction for the above-named petty sessions district and County [Borough] sitting at on the day of 19 at o'clock in the noon. Resident Magistrate This day of 19 .

Provision amended	*Amendment*
	FORM 88H
	MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964 (*Rule* 9)
	TREATMENT OF OFFENDERS (NORTHERN IRELAND) ORDER 1976 (*Article* 14(5))
	Summons where court has deferred passing sentence on offender and he has been convicted before expiration of period of deferment
	of Petty Sessions District of Complainant of County [Borough] of Defendant
	WHEREAS you were on the day of 19 convicted of the following offence(s):— by a magistrates' court for the above-named petty sessions district and the court deferred passing sentence on you until the day of 19 and on the day of 19 you were convicted by a [court of assize] [county court] [magistrates' court] sitting at of the following offence(s), namely:—
	THIS IS TO COMMAND YOU to appear for sentence before a court of summary jurisdiction for the above-named petty sessions district and County [Borough] sitting at on the day of 19 at o'clock in the noon.
	Resident Magistrate
	This day of 19 .

Provision amended	*Amendment*

FORM 88I

MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964
(*Rules* 14 *and* 128)

TREATMENT OF OFFENDERS (NORTHERN IRELAND) ORDER 1976
(*Article* 14(5))

Warrant for arrest of offender where court has deferred passing sentence on him and he has been convicted before expiration of period of deferment

of

Complainant } Petty Sessions District of

of

Defendant } County [Borough] of

WHEREAS the Defendant was on the day of 19 convicted of the following offence(s):—

by a magistrates' court for the above-named petty sessions district and the court deferred passing sentence on him until the day of 19 and on the day of 19 the Defendant was convicted by a [court of assize] [county court] [magistrates' court] sitting at of the following offence(s), namely:—

THIS IS TO COMMAND YOU, to whom this Warrant is addressed, to arrest the said and bring him before a magistrates' court for the above-named County [Borough].

Resident Magistrate

This day of 19 .

To the Superintendent
Division

NOTE: This form may be endorsed for bail as on Form 4."

EXPLANATORY NOTE

(This note is not part of the rules but is intended to indicate their general purport.)

These rules amend the Magistrates' Courts Rules (Northern Ireland) 1974.

They amend Rule 15 of those rules as to the procedure for issuing warrants where an order is made under Article 3 of the Treatment of Offenders (Northern Ireland) Order 1976 and add to Schedule 1 of the 1974 Rules a number of forms to be used in relation to such an order.

A rule is added to Part VII of the 1974 Rules requiring a clerk of petty sessions to notify to a court which has deferred passing sentence under Article 14 of the 1976 Order any conviction by a magistrates' court before the expiration of the period of deferment and a number of forms are added to Schedule 1 of those rules to be used where sentence has been deferred.