

1965. No. 231

[C]

MAGISTRATES' COURTS RULES

RULES, DATED 8TH NOVEMBER, 1965, MADE BY THE MINISTER OF HOME AFFAIRS UNDER SECTION 23 OF THE MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964 AND SECTION 8 OF THE BACKING OF WARRANTS (REPUBLIC OF IRELAND) ACT 1965.

I, the Right Honourable Robert William Brian McConnell, Minister of Home Affairs for Northern Ireland, in exercise of the powers conferred on me by section 23 of the Magistrates' Courts Act (Northern Ireland) 1964(a) and section 8 of the Backing of Warrants (Republic of Ireland) Act 1965(b), do hereby, upon the recommendation of the Magistrates' Courts Rules Committee appointed under the said section 23 and after consultation with the Lord Chief Justice of Northern Ireland, make the following Rules:—

Forms

1.—(1) The forms contained in the Schedule to these Rules or forms to the like effect may be used in connection with proceedings in Magistrates' Courts under the Act.

(2) Where a requirement is imposed by the Act for the use of a prescribed form, and an appropriate form is contained in the Schedule to these Rules, that form or a form to the like effect shall be used.

Consent to surrender earlier than is otherwise permitted

2.—(1) A notice given under section 3(1)(a) of the Act (consent to surrender earlier than is otherwise permitted) shall be signed in the presence of a Justice of the Peace or Clerk of Petty Sessions.

(2) Any such notice given by a person in custody shall be delivered to the Governor of the prison in whose custody he is.

(3) If a person on bail gives such notice, he shall deliver it to, or send it by post in a registered letter or by recorded delivery service addressed to, the member of the Royal Ulster Constabulary in charge of the Constabulary Station specified in his recognizance.

(4) Any such notice shall—

(a) state that the person giving the notice understands that, unless he consents to earlier removal, he cannot be delivered up into the custody of a member of the police force of the Republic until the expiration of a period of fifteen days beginning with the date on which the court ordered such delivery;

(b) be attached to the warrant ordering the surrender of that person.

Persons remanded on bail

3.—(1) The person taking the recognizance of a person remanded on bail under section 2(1) or 4(3) of the Act shall furnish a copy of the recognizance to the member of the Royal Ulster Constabulary in charge of the Constabulary Station specified in the recognizance and to the person bound thereby.

(a) 1964. c. 21 (N.I.).

(b) 1965. c. 45.

(2) The Clerk of Petty Sessions for the Petty Sessions District of the Magistrates' Court which ordered a person to be surrendered and remanded him on bail shall deliver to, or send by post in a registered letter or by recorded delivery service addressed to, the member of the Royal Ulster Constabulary in charge of the Constabulary Station specified in the recognizance the warrant ordering the person to be surrendered.

Disposal of Republic Warrants

4.—(1) The Clerk of Petty Sessions for the Petty Sessions District of the Magistrates' Court which ordered a person to be surrendered shall deliver to, or send by post in a registered letter or by recorded delivery service addressed to,

- (a) if he is remanded in custody under section 5(1)(a) of the Act, the prison Governor to whose custody he is committed,
- (b) if he is remanded on bail under section 5(1)(b) of the Act, the member of the Royal Ulster Constabulary in charge of the Constabulary Station specified in the recognizance,
- (c) if he is committed to the custody of a constable pending the taking from him of a recognizance under section 5(1) of the Act, the member of the Royal Ulster Constabulary in charge of the Constabulary Station specified in the warrant of commitment,

the warrant of arrest issued by a judicial authority in the Republic and endorsed in accordance with section 1 of the Act.

(2) The Governor or member of the Royal Ulster Constabulary to whom the said warrant of arrest is delivered or sent shall arrange for it to be given to the member of the police force of the Republic into whose custody the person is delivered when the person is so delivered.

Proof of service

5. A notice of the issue of a summons in the Republic and the copy of the summons which have under section 1(2)(a) of the Act to be served personally upon a person who has failed to appear in answer to such summons shall be served by a member of the Royal Ulster Constabulary and proof of service may be given in the same manner as proof of service of a summons issued in Northern Ireland.

Verification of documents

6.—(1) A document purporting to be a warrant issued by a judicial authority in the Republic shall, for the purposes of section 7(a) of the Act, be verified by a certificate purporting to be signed by a judicial authority, a clerk of a court or a member of the police force of the Republic and certifying that the document is a warrant and is signed by a judge or justice of a court or peace commissioner.

(2) A document purporting to be a copy of a summons issued by a judicial authority in the Republic shall, for the purposes of the said section 7(a), be verified by a certificate purporting to be signed by a judicial authority, a clerk of a court or a member of the police force of the Republic and certifying that the document is a true copy of such a summons.

(3) A deposition purporting to have been made in the Republic, or affidavit or written statement purporting to have been sworn therein, shall, for the purposes of section 7(c) of the Act, be verified by a certificate purporting to be signed by the person before whom it was sworn and certifying that it was so sworn.

Interpretation

7. In these Rules—

“the Act” means the Backing of Warrants (Republic of Ireland) Act 1965;

a reference to a member of the Royal Ulster Constabulary shall include a reference to a member of the Ulster Special Constabulary on duty with the Royal Ulster Constabulary;

a reference to a person ordered to be surrendered means a reference to a person ordered by a Magistrates' Court to be delivered into the custody of a member of the police force of the Republic under section 2(1) of the Act; and cognate expressions shall be construed accordingly;

“the Republic” means the Republic of Ireland.

Citation and Commencement

8. These Rules may be cited as the Magistrates' Courts (Backing of Warrants from the Republic of Ireland) Rules (Northern Ireland) 1965 and shall come into operation on 15th November, 1965.

Dated 8th November, 1965.

R. W. B. McConnell,
Minister of Home Affairs
for Northern Ireland.

SCHEDULE

Forms

1

Endorsement of warrant of arrest (Backing of Warrants (Republic of Ireland) Act 1965, s.1(1).)

I, the undersigned, a justice of the peace for the County [Borough] of _____, being satisfied that this Warrant may be endorsed under section 1 of the Backing of Warrants (Republic of Ireland) Act 1965, hereby authorise all members of the Royal Ulster Constabulary to execute this Warrant in Northern Ireland by bringing before a Magistrates' Court for the said County [Borough] the said

Justice of the Peace for the
[County] [Borough] aforesaid.

Dated the _____ day of _____, 19 _____

2

Consent to earlier return (Backing of Warrants (Republic of Ireland) Act 1965, s.3(1)(a).)

Whereas on the _____ day of _____, 19 _____, the Magistrates' Court sitting at _____ ordered that I should be delivered into the custody of a member of the police force of the Republic of Ireland:

And whereas I understand that, unless I consent to an earlier removal, I cannot be so delivered until the expiration of the period of fifteen days beginning with the date on which the order was made:

Now, therefore, I give notice that I consent to my earlier removal before the said period of fifteen days has expired.

Signed

This form was signed by the above-mentioned person in my presence on the _____ day of _____, 19 _____

Justice of the Peace for the
County [Borough] of
[or Clerk of Petty Sessions]

Provisional warrant of arrest (Backing of Warrants (Republic of Ireland) Act 1965, s.4.)

{ Petty Sessions District of
County [Borough] of

Whereas a member of the Royal Ulster Constabulary has stated on oath that he has reason to believe that a Warrant has been issued by a judicial authority in the Republic of Ireland for the arrest of (hereinafter called the Defendant) who is accused [or convicted] of an indictable offence against the laws of the Republic but that the Warrant is not yet in his possession; [and the Warrant issued by the said authority in respect of the offence of which the Defendant was convicted was issued to enable him to be [brought before a Court in the said Republic for sentence in respect of the conviction] [taken to a place where he is to undergo imprisonment under a sentence imposed by a Court of the said Republic, not being imprisonment in default of payment of a fine or other sum]] and that he has received a request made on grounds of urgency by a member of the police force of the Republic holding the rank of Inspector or above for the issue in the United Kingdom of a Warrant for the Defendant's arrest; and that he has reason to believe that the Defendant is within the County [Borough] aforesaid:

This is to command you, to whom this Warrant is addressed, to arrest the Defendant within five days after the date of the issue of this Warrant and to bring him/her as soon as practicable before a Magistrates' Court of the said County [Borough].

Justice of the Peace for
the said County [Borough].

This day of , 19

To the District Inspector of the Royal Ulster Constabulary
at and to all other members of the Royal
Ulster Constabulary to whom this Warrant may be delivered for
execution.

NOTE: This Warrant is not authority for the making of an arrest more than five days after the date of its issue.

Warrant of commitment of person ordered to be delivered up (Backing of Warrants (Republic of Ireland) Act 1965, s.5(1)(a).)

{ Petty Sessions District of
County [Borough] of

Whereas (hereinafter called the Defendant) was brought this day before the Magistrates' Court sitting at pursuant to a Warrant for his arrest endorsed in accordance with section 1 of the Backing of Warrants (Republic of Ireland) Act 1965:

And the Court having ordered that he/she should be delivered at some convenient point of departure from Northern Ireland into the custody of a member of the police force of the Republic of Ireland and be remanded in custody until so delivered:

This is to command you, to whom this Warrant is addressed, to convey the Defendant to the prison at and there deliver him/her to the Governor thereof, together with this Warrant; and you, the Governor of the said prison, to receive him/her into your custody and keep him/her until he/she shall be duly conveyed to some convenient point of departure from Northern Ireland in accordance with this Warrant or otherwise delivered in due course of law; and to convey the Defendant, after the expiration of the period of fifteen days from the date of this order if no application has been made by him/her or on his/her behalf for a writ of habeas corpus or after he/she has consented to be delivered up into the custody of the police force of the Republic of Ireland before the expiration of the said period, from the said prison to some convenient point of departure from Northern Ireland and there deliver him/her into the custody of a member of the police force of the Republic of Ireland.

This day of , 19. Resident Magistrate.

To the District Inspector of the Royal Ulster Constabulary at and to all other members of the Royal Ulster Constabulary to whom this Warrant may be delivered for execution.

Warrant of commitment awaiting Republican warrant (Backing of Warrants (Republic of Ireland) Act 1965, ss.4(3), 5(1)(a))

{ Petty Sessions District of
County [Borough] of

Whereas (hereinafter called the Defendant) was brought this day before the Magistrates' Court sitting at pursuant to a provisional Warrant of arrest issued under section 4 of the Backing of Warrants (Republic of Ireland) Act 1965:

And the Warrant of arrest issued in respect of him/her in the Republic of Ireland and endorsed in accordance with section 1 of the said Act not having been produced to the Court:

You, to whom this Warrant is addressed, are hereby commanded to convey the Defendant to the prison at [or Constabulary Station at] and there deliver him/her to the Governor [or member of the Royal Ulster Constabulary in charge] thereof, together with this Warrant; and you, the Governor of the said prison [or member of the Royal Ulster Constabulary in charge of the said Constabulary Station] to receive him/her into your custody and keep him/her until the day of 19 , and on that day to convey him/her at the hour of in the noon before the [said] Magistrates' Court [sitting at] to be further dealt with according to law.

Resident Magistrate.

This day of , 19

To the District Inspector of the Royal Ulster Constabulary at and to all other members of the Royal Ulster Constabulary to whom this Warrant may be delivered for execution.

Warrant of Commitment: recognizance to be taken later (Backing of Warrants (Republic of Ireland) Act 1965, s.5(1).)

{ Petty Sessions District of
County [Borough] of

Whereas (hereinafter called the Defendant) was brought this day before the Magistrates' Court sitting at pursuant to a Warrant for his/her arrest endorsed in accordance with section 1 [or provisional warrant of arrest issued under section 4] of the Backing of Warrants (Republic of Ireland) Act 1965;

And the Court having ordered that the Defendant should be delivered at some convenient point of departure from Northern Ireland into the custody of a member of the police force of the Republic of Ireland and be remanded on bail;

[or and the warrant of arrest issued in respect of the Defendant in the Republic of Ireland and endorsed in accordance with section 1 of the said Act not having been produced to the Court, the Court having ordered that he/she be remanded on bail;]

And the Court having fixed the amount of the Defendant's recognizance:

You, to whom this Warrant is addressed, are hereby commanded to convey the Defendant to the Constabulary Station at and there deliver him/her to the member of the Royal Ulster Constabulary in charge thereof, together with this Warrant; and you, the said member of the Royal Ulster Constabulary, to receive him/her into your custody and unless he/she shall have been bailed in the meantime to keep him/her until he/she shall be duly conveyed to some convenient point of departure from Northern Ireland in accordance with this Warrant or otherwise delivered in due course of law; and you, to whom this Warrant is addressed, and the said member of the Royal Ulster Constabulary or one or more of you, to convey the Defendant, after the expiration of the period of fifteen days from the date of this order if no application has been made by him/her or on his/her behalf for a writ of habeas corpus or after he/she has consented, to be delivered up into the custody of the police force of the Republic of Ireland before the expiration of the said period, from the said Constabulary Station to some convenient point of departure from Northern Ireland and there deliver him/her into the custody of a member of the police force of the Republic of Ireland [or until the day of , 19 , and on that day to convey him/her at the hour of in the noon before the [said] Magistrates' Court [sitting at] to be further dealt with according to law].

Resident Magistrate.

This day of , 19

To the District Inspector of the Royal Ulster Constabulary at and to all members of the Royal Ulster Constabulary to whom this Warrant may be delivered for execution.
(Endorsement)

I hereby consent to the said Defendant being bailed by Recognizance(s) h self in the sum of [with sureties to the sum of each] [or accompanied by the deposit of the sum of or other valuable security to the value of that sum in lieu of sureties].

Resident Magistrate.

Recognizance (Backing of Warrants (Republic of Ireland) Act 1965, s.5(1)(b), (2).)

{ Petty Sessions District of
County [Borough] of

Whereas has been remanded by a Magistrates' Court of the said County [Borough] under section [2(1)] [or 4(3)] of the Backing of Warrants (Republic of Ireland) Act 1965, the undersigned

(name and occupation) of in the County [Borough] of, the Principal Party to this Recognizance, hereby binds h self to perform the following obligation, viz, to surrender h self into the custody of the member of the Royal Ulster Constabulary in charge of the Constabulary Station at the time mentioned in a notice in writing served on him/her by or on behalf of that member of the said Constabulary:

And the said Principal Party [together with (name and occupation) of in the County [Borough] of and (name and occupation) of in the County [Borough] of the undersigned sureties] hereby acknowledge bound to forfeit to the Crown the sums following, viz:—

The said Principal Party the sum of pounds [and the said sureties the sum of pounds each] in case the 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 the performance of the said obligation].

..... Principal Party.
..... } Sureties.
..... }

Taken before me this day of ; 19

Resident Magistrate
[or Justice of the Peace]
[or Clerk of Petty Sessions]
[or Governor/Deputy Governor of Prison].

I order the sum of to be levied off the property of the said [and the sum of off the property of each of the said sureties] [and the [sum of] deposited as security in lieu of sureties be forfeited].

This day of , 19 Resident Magistrate.

Notice to person bound by recognizance that he is required to surrender to the member of the Royal Ulster Constabulary in charge of a Constabulary Station (Backing of Warrants (Republic of Ireland) Act 1965, s.5(2).)

Take NOTICE that you in accordance with the recognizance into which you entered on the _____ day of _____, 19____, are required to surrender yourself into the custody of the member of the Royal Ulster Constabulary in charge of the Constabulary Station at _____ at _____ o'clock in the _____ noon on the _____ day of _____, 19____.

Signed [on behalf of] the member of the Royal Ulster Constabulary in charge of the said Constabulary Station.

Dated this _____ day of _____, 19____.

Warrant of delivery up of person bailed (Backing of Warrants (Republic of Ireland) Act 1965, ss.2(1), 5.)

{ Petty Sessions District of
County [Borough] of

Whereas the Magistrates' Court sitting at _____ ordered on the _____ day of _____, 19____, that (hereinafter called the Defendant) should be delivered at some convenient point of departure from Northern Ireland into the custody of a member of the police force of the Republic of Ireland and be remanded on bail in accordance with section 5 of the Backing of Warrants (Republic of Ireland) Act 1965:

This is to command you, to whom this Warrant is addressed, to convey the Defendant at the end of the period of his/her remand to some convenient point of departure from Northern Ireland and there deliver him/her into the custody of a member of the police force of the Republic of Ireland.

This _____ day of _____, 19____ Resident Magistrate.

To the District Inspector of the Royal Ulster Constabulary at _____ and to all other members of the Royal Ulster Constabulary to whom this Warrant may be delivered for execution.

Warrant of arrest on failure to surrender to bail (Backing of Warrants (Republic of Ireland) Act 1965, s.5(4).)

{ Petty Sessions District of
County [Borough] of

Whereas _____ (hereinafter called the Defendant) was on the _____ day of _____, 19____, ordered by the Magistrates' Court sitting at _____ to be delivered at some convenient point of departure from Northern Ireland into the custody of a member of the police force of the Republic of Ireland [or brought before the Magistrates' Court sitting at _____ pursuant to a provisional Warrant of arrest issued under section 4 of the Backing of Warrants (Republic of Ireland) Act 1965]:

And the Defendant was released, in pursuance of section 5 of the Backing of Warrants (Republic of Ireland) Act 1965, upon a recognizance conditioned for his/her surrender to the member of the Royal Ulster Constabulary in charge of the _____ Constabulary Station on the _____ day of _____, 19____, at the hour of _____ in the _____ noon:

And, in breach of the said recognizance, the Defendant has failed to surrender as aforesaid:

This is to command you, to whom this Warrant is addressed, to bring the Defendant before the member of the Royal Ulster Constabulary in charge of the Constabulary Station forthwith.

This _____ day of _____, 19____, _____ Resident Magistrate.

To the District Inspector of the Royal Ulster Constabulary at _____ and to all other members of the Royal Ulster Constabulary to whom this Warrant may be delivered for execution.

EXPLANATORY NOTE

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

Rule 1 prescribes the forms to be used under the Backing of Warrants (Republic of Ireland) Act 1965. Rules 2, 3 and 4 lay down the procedure for dealing with the notice of consent to surrender under section 3(1)(a) of that Act earlier than is otherwise permitted, the recognizance of a person remanded on bail, the order authorising the surrender of a person, and the Warrant of arrest. Rule 5 deals with proof of service of documents in Northern Ireland. Rule 6 prescribes how documents emanating from the Republic of Ireland are to be verified.