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STATUTORY INSTRUMENTS

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**1998 No. 2167 (L.7)**

**MAGISTRATES' COURTS**

**PROCEDURE**

**The Magistrates' Courts (Miscellaneous  
Amendments) Rules 1998**

*Made* - - - - - *27 August 1998*  
*Laid before Parliament* *3rd September 1998*  
*Coming into force* - - - *30th September 1998*

The Lord Chancellor, in exercise of the power conferred upon him by section 144 of the Magistrates' Courts Act 1980(1), after consultation with the Rule Committee appointed under the said section 144 and with justices of the peace and justices' clerks for the areas specified in rule 3(4) below, hereby makes the following Rules:

**Citation and commencement**

1.—(1) These Rules may be cited as the Magistrates' Courts (Miscellaneous Amendments) Rules 1998.

(2) These Rules shall come into force on 30th September 1998.

**The Youth Courts (Constitution) Rules 1954**

2.—(1) The Youth Courts (Constitution) Rules 1954(2) shall be amended as follows.

(2) In rule 12, for paragraphs (1) to (3) there shall be substituted the following paragraphs:

“(1) Subject to the following provisions of these Rules, each youth court shall consist of either:

(a) a stipendiary magistrate sitting alone; or

(b) not more than three justices who shall include a man and a woman.

(2) If at any sitting of a youth court other than one constituted in accordance with paragraph (1)(a) of this rule no man or no woman is available owing to circumstances

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(1) 1980 c. 43; section 144 is extended by sections 145 and 146 of that Act, by section 45 of the Justices of the Peace Act 1997 (c. 25) and by section 49 of the Crime and Disorder Act 1998 (c. 37).  
(2) S.I.1954/711; relevant amendments are made by S.I. 1976/1505, 1979/952, 1983/675, 1991/2099, section 70 of the Criminal Justice Act 1991 (c. 53) and S.I. 1996/577 and 1996/3068.

unforeseen when the justices to sit were chosen under rule 11 of these Rules, or if the only man or woman present cannot properly sit as a member of the court, and in any such case the other members of the panel present think it inexpedient in the interests of justice for there to be an adjournment, the court may be constituted without a man or, as the case may be, without a woman.”.

(3) In rule 13(1), after the words “paragraphs (1A) or (2) of this rule” there shall be inserted the words “or where the youth court is constituted in accordance with rule 12(1)(a) of these Rules”.

### **The Justices' Clerks Rules 1970**

**3.—(1)** The Justices' Clerks Rules 1970(3) shall be amended in accordance with paragraph (2) below; and shall have effect in the areas specified in paragraph (4) below as if they were amended in accordance with paragraph (3) below.

(2) After rule 4 there shall be added the following rule:

“**5.** The powers authorised to be exercised by a justices' clerk at an early administrative hearing under section 50 of the Crime and Disorder Act 1998 shall be treated for the purposes of rule 4 above as if they were things specified in the Schedule to these Rules.”.

(3) In the Schedule:

(a) paragraph 4(2) shall be revoked; and

(b) after paragraph 18 there shall be added the following paragraphs:

“**19.** The extending of bail on the same conditions as those (if any) previously imposed, or, with the consent of the prosecutor and the accused, the imposing or varying of conditions of bail.

**20.** The marking of an information as withdrawn.

**21.** The dismissing of an information, or the discharging of an accused in respect of an information, where no evidence is offered by the prosecution.

**22.** The making of an order for the payment of defence costs out of central funds.

**23.** The requesting of a pre-sentence report following a plea of guilty.

**24.** The requesting of a medical report and, for that purpose, the remand of the accused on bail on the same conditions as those (if any) previously imposed, or, with the consent of the prosecutor and the accused, on other conditions.

**25.** The remitting of an offender to another court for sentence.

**26.** Where a person has been granted police bail to appear at a magistrates' court, the appointing of an earlier time for his appearance.

**27.** Where a case is to be tried on indictment, the granting of representation under Part V of the Legal Aid Act 1988 for purposes of the proceedings in the Crown Court.

**28.** Where an accused has been convicted of an offence, the making of an order for him to produce his driving licence.

**29.** The giving, variation or revocation of directions for the conduct of a criminal trial, including directions as to the following matters, namely—

(a) the timetable for the proceedings;

(b) the attendance of the parties;

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(3) S.I. 1970/231, amended by S.I. 1975/300, 1976/1767, 1978/754, 1983/527, 1991/1395, 1991/1991, 1993/1183, 1994/1481 and 1997/710.

(c) the service of documents (including summaries of any legal arguments relied on by the parties);

(d) the manner in which evidence is to be given.

**30.** With the consent of the parties, the giving, variation or revocation of orders for separate or joint trials in the case of two or more accused or two or more informations.”.

(4) The areas referred to in paragraph (1) above are:

(a) the petty sessions areas of Bromley, Croydon and Sutton; and

(b) the petty sessional divisions of Aberconwy; Arfon; Blackburn, Darwen and Ribble Valley; Burnley and Pendle; Colwyn; Corby; Daventry; Dyffryn Clwyd; Eifionydd and Pwllheli; Gateshead; Kettering; Meirionnydd; Newcastle-under-Lyme and Pirehill North; Newcastle-upon-Tyne; Northampton; Rhuddlan; Staffordshire Moorlands; Stoke-on-Trent; Towcester; Welling borough; and Ynys Mon/Anglesey.

### **The Magistrates' Courts Rules 1981**

4.—(1) The Magistrates' Courts Rules 1981(4) shall be amended as follows.

(2) In rule 28 (notification of discharge of probation order or order for conditional discharge) the following amendments shall be made:

(a) in paragraph (1A):

(i) for the words “section 11 of the Powers of Criminal Courts Act 1973” there shall be substituted the words “paragraph 8A of Schedule 2 to the Criminal Justice Act 1991”; and

(ii) sub-paragraph (b) and the word “or” preceding it shall be omitted;

(b) in paragraph (2):

(i) for the words “the said Act of 1973” there shall be substituted the words “the Powers of Criminal Courts Act 1973”; and

(ii) for the words “or Schedule 2 to the Criminal Justice Act 1991” there shall be substituted the words “, Schedule 2 to the Criminal Justice Act 1991 or Schedule 5 to the Crime and Disorder Act 1998”; and

(c) for paragraph (4) there shall be substituted the following paragraph:

“(4) In this rule “community order” has the same meaning as in Part I of the Criminal Justice Act 1991.”.

(3) Rule 103 shall be revoked.

(4) After rule 113 there shall be added the following rule:

#### *“Applications for variation or discharge of orders under the Crime and Disorder Act 1998*

**114.** An application for variation or discharge of any of the following orders shall be by complaint:

(a) a parenting order, under section 9(5) of the Crime and Disorder Act 1998;

(b) a child safety order, under section 12(4) of that Act;

(c) a reparation order, under paragraph 2 of Schedule 5 to that Act;

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

(d) an action plan order, under that paragraph.”.

**The Magistrates' Courts (Children and Young Persons) Rules 1992**

**5.**—(1) The Magistrates' Courts (Children and Young Persons) Rules 1992(**5**) shall be amended as follows.

(2) In rule 4(2), after sub-paragraph (c), there shall be inserted the following words:

“, or

(d) Schedule 5 to the Crime and Disorder Act 1998 (enforcement etc. of reparation and action plan order).”.

Dated 27th August 1998

*Irvine of Lairg, C.*

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## EXPLANATORY NOTE

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

These Rules make a number of amendments to the Youth Courts (Constitution) Rules 1954, the Justices' Clerks Rules 1970, the Magistrates' Courts Rules 1981 and the Magistrates' Courts (Children and Young Persons) Rules 1992 which are necessary or desirable in connection with certain provisions in the Crime and Disorder Act 1998 (c. 37).

Rule 2 amends the 1954 Rules to extend the circumstances in which a stipendiary magistrate for an area other than a metropolitan area can sit alone in a youth court. This amendment complements a similar amendment in respect of metropolitan areas in section 48 of the 1998 Act.

Rule 3 amends the Justices' Clerks Rules 1970 by adding to the functions of a single justice which may be exercised by a justices' clerk or certain persons appointed to assist a justices' clerk. Parts of this rule are only brought into force in the areas listed in rule 3(4).

Rule 4 amends the Magistrates' Courts Rules 1981 by providing that applications for parenting, child safety, action plan and reparation orders to be varied or discharged shall be by complaint. Rule 4 also makes a number of minor amendments to the 1981 Rules.

Rule 5 amends the Magistrates' Courts (Children and Young Persons) Rules 1992 to provide that Part II of those Rules applies to proceedings for the enforcement of action plan and reparation orders under Schedule 5 to the 1998 Act.

The amendments come into force on 30th September 1998.