

SCHEDULE 2

Rule 6

“Part 18

*Warrants”***Contents of this Part**

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Scope of this Part and interpretation

18.1.—(1) This Part applies to any warrant issued by a justice of the peace.

(2) Where a rule applies to some of those warrants and not others, it says so.

(3) In this Part, the “relevant person” is the person against whom the warrant is issued.

[Note. For the rules governing the issue and execution of a search warrant, see sections 15 and 16 of the Police and Criminal Evidence Act 1984(1). For those governing warrants of distress (warrants to enforce payments of fines etc.), see rule 52.8.]

(1) 1984 (c. 60); section 15 is amended by the Serious Organised Crime and Police Act 2005 (c. 15), section 113(1) and (5) to (8) and section 114(1) and (3) to (7), with effect from a date to be appointed. Section 16 was amended by the Courts Act 2003 (c. 39), Schedule 8, paragraph 281 and by the Criminal Justice Act 2003 (c. 44), section 2. It is further amended by the Serious Organised Crime and Police Act 2005 (c. 15), section 113(1) and (9) and section 114(1) and (8), with effect from a date to be appointed.

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Warrants must be signed

18.2. Every warrant under the Magistrates' Courts Act 1980(2) must be signed by the justice issuing it, unless rule 5.3 permits the justices' clerk to sign it.

Warrants issued when the court office is closed

18.3.—(1) If a warrant is issued when the court office is closed, the applicant must—

- (a) serve on the court officer any information on which that warrant is issued; and
- (b) do so within 72 hours of that warrant being issued.

(2) In this rule, the court office is the office for the local justice area in which the justice is acting when he issues the warrant.

Commitment to custody must be by warrant

18.4. A justice of the peace must issue a warrant of commitment when committing a person to—

- (a) a prison;
- (b) a young offender institution;
- (c) a remand centre;
- (d) detention at a police station under section 128(7) of the Magistrates' Courts Act 1980; or
- (e) customs detention under section 152 of the Criminal Justice Act 1988(3).

Terms of a warrant of arrest

18.5. A warrant of arrest must require the persons to whom it is directed to arrest the relevant person.

Terms of a warrant of commitment or detention: general rules

18.6.—(1) A warrant of commitment or detention must require—

- (a) the persons to whom it is directed to—
 - (i) arrest the relevant person, if he is at large,
 - (ii) take him to the prison or place specified in the warrant, and
 - (iii) deliver him with the warrant to the governor or keeper of that prison or place; and
- (b) the governor or keeper to keep the relevant person in custody at that prison or place—
 - (i) for as long as the warrant requires, or
 - (ii) until he is delivered, in accordance with the law, to the court or other proper place or person.

(2) Where the justice issuing a warrant of commitment or detention is aware that the relevant person is already detained in a prison or other place of detention, the warrant must be delivered to the governor or keeper of that prison or place.

[Note. Rule 18.6(1) does not apply to a warrant committing a person to customs detention under section 152 of the Criminal Justice Act 1988; see rule 18.7(2). Where rule 18.12 applies (place of detention), the relevant person may be taken to a prison or other place which is not specified in the warrant.]

(2) 1980 (c. 43).

(3) 1988 (c. 33); section 152 was amended by the Proceeds of Crime Act 2002 (c. 29), Schedule 11, paragraphs 1 and 17(1) and (6) and is further amended by the Drugs Act 2005 (c. 17), section 8, with effect from a date to be appointed.

Terms of a warrant committing a person to customs detention

18.7.—(1) A warrant committing a person to customs detention under section 152 of the 1988 Act must—

- (a) be directed to the officers of Her Majesty’s Revenue and Customs; and
 - (b) require those officers to keep the person committed in their custody, unless in the meantime he be otherwise delivered, in accordance with the law, to the court or other proper place or person, for a period (not exceeding 192 hours) specified in the warrant.
- (2) Rules 18.6(1), 18.10 and 18.12 do not apply where this rule applies.

Form of warrant where male aged 15 or 16 is committed

18.8.—(1) This rule applies where a male aged 15 or 16 years is remanded or committed to—

- (a) local authority accommodation, with a requirement that he be placed and kept in secure accommodation;
- (b) a remand centre; or
- (c) a prison.

(2) The court must include in the warrant of commitment a statement of any declaration that is required in connection with that remand or committal.

[Note. Section 23(4) of the Children and Young Persons Act 1969(4), as modified by section 98 of the Crime and Disorder Act 1998(5), allows a magistrates' court to remand or commit a boy, aged 15 or 16, to local authority secure accommodation, a remand centre or a prison in order to protect the public from serious harm. Section 23(4) of the 1969 Act requires the court to declare that the boy is one to whom section 23(5) of that Act, as modified by section 98(3) of the 1998 Act, applies (e.g. violent or sexual offence, history of absconding etc.).]

Information to be included in a warrant

18.9. A warrant of arrest, commitment or detention must contain the following information—

- (a) the name or a description of the relevant person; and
- (b) either—
 - (i) a statement of the offence with which the relevant person is charged,
 - (ii) a statement of the offence of which the person to be committed or detained was convicted; or
 - (iii) any other ground on which the warrant is issued.

Persons who may execute a warrant

18.10. A warrant of arrest, commitment or detention may be executed by—

- (a) the persons to whom it is directed; or
- (b) by any of the following persons, whether or not it was directed to them—
 - (i) a constable for any police area in England and Wales, acting in his own police area, and

(4) 1969 (c. 54); section 23(4) was amended by the Crime and Disorder Act 1998 (c. 37), section 97(1) and by the Extradition Act 2003 (c. 41), section 201(1) and (4).

(5) 1998 (c. 37); section 98 was amended by the Access to Justice Act 1999 (c. 22), Schedule 4, paragraph 7, by the Criminal Justice and Court Services Act 2000 (c. 43), Schedule 7, paragraphs 38 and 39 and Schedule 8 and by the Children Act 2004 (c. 31), Schedule 5, Part 4.

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- (ii) any person authorised under section 125A (civilian enforcement officers) or section 125B (approved enforcement agencies) of the Magistrates' Courts Act 1980(6).

[Note. This rule does not apply to a warrant committing a person to customs detention under section 152 of the Criminal Justice Act 1988(7); see rule 18.7(2).]

Making an arrest under a warrant

18.11.—(1) The person executing a warrant of arrest, commitment or detention must, when arresting the relevant person—

- (a) either—
- (i) show the warrant (if he has it with him) to the relevant person, or
 - (ii) tell the relevant person where the warrant is and what arrangements can be made to let that person inspect it;
- (b) explain, in ordinary language, the charge and the reason for the arrest; and
- (c) (unless he is a constable in uniform) show documentary proof of his identity.

(2) If the person executing the warrant is one of the persons referred to in rule 18.10(b)(ii) (civilian enforcement officers or approved enforcement agencies), he must also show the relevant person a written statement under section 125A(4) or section 125B(4) of the Magistrates' Courts Act 1980, as appropriate.

Place of detention

18.12.—(1) This rule applies to any warrant of commitment or detention.

(2) The person executing the warrant is required to take the relevant person to the prison or place of detention specified in the warrant.

(3) But where it is not immediately practicable to do so, or where there is some other good reason, the relevant person may be taken to any prison or place where he may be lawfully detained until such time when he can be taken to the prison or place specified in the warrant.

(4) If (and for as long as) the relevant person is detained in a place other than the one specified in the warrant, the warrant will have effect as if it specified the place where he is in fact being detained.

(5) The court must be kept informed of the prison or place where the relevant person is in fact being detained.

(6) The governor or keeper of the prison or place, to which the relevant person is delivered, must give a receipt on delivery.

[Note. This rule does not apply to a warrant committing a person to customs detention under section 152 of the Criminal Justice Act 1988(8); see rule 18.7(2).]

Duration of detention where bail is granted subject to pre-release conditions

18.13.—(1) This rule applies where a magistrates' court—

- (a) grants bail to a person subject to conditions which must be met prior to release on bail; and

(6) 1980 (c. 43); section 125A was inserted by the Access to Justice Act 1999 (c. 22), section 92. Section 125B was inserted by the Access to Justice Act 1999, section 93(2) and amended by the Courts Act 2003 (c. 39), Schedule 8, paragraph 239.

(7) 1988 (c. 33); section 152 was amended by the Proceeds of Crime Act 2002 (c. 29), Schedule 11, paragraphs 1 and 17(1) and (6) and is further amended by the Drugs Act 2005 (c. 17), section 8, with effect from a date to be appointed.

(8) 1988 (c. 33); section 152 was amended by the Proceeds of Crime Act 2002 (c. 29), Schedule 11, paragraphs 1 and 17(1) and (6) and is further amended by the Drugs Act 2005 (c. 17), section 8, with effect from a date to be appointed.

(b) commits that person to custody until those conditions are satisfied.

(2) The warrant of commitment must require the governor or keeper of the prison or place of detention to bring the relevant person to court either before or at the end of a period of 8 clear days from the date the warrant was issued, unless section 128(3A) or section 128A of the Magistrates' Courts Act 1980 applies to permit a longer period.

Validity of warrants that contain errors

18.14. A warrant of commitment or detention will not be invalidated on the ground that it contains an error, provided that the warrant—

- (a) is issued in relation to a valid—
 - (i) conviction, or
 - (ii) order requiring the relevant person to do, or to abstain from doing, something; and
- (b) it states that it is issued in relation to that conviction or order.

[Note. Section 123 of the Magistrates' Courts Act 1980 applies in relation to any error in a warrant of arrest that is issued for the purpose of securing a person's attendance at court.]

Circumstances in which a warrant will cease to have effect

18.15.—(1) A warrant issued under any of the provisions listed in paragraph (2) will cease to have effect when—

- (a) the sum in respect of which the warrant is issued (together with the costs and charges of commitment, if any) is paid to the person who is executing the warrant;
- (b) that sum is offered to, but refused by, the person who is executing the warrant; or
- (c) a receipt for that sum given by—
 - (i) the court officer for the court which issued the warrant, or
 - (ii) the charging or billing authority,is produced to the person who is executing the warrant.

(2) Those provisions are—

- (a) section 76 (warrant to enforce fines and other sums);
- (b) section 83(1) and (2) (warrant to secure attendance of offender for purposes of section 82);
- (c) section 86(4) (warrant to arrest offender following failure to appear on day fixed for means inquiry);
- (d) section 136 (committal to custody overnight at police station), of the Magistrates' Courts Act 1980.

(3) No person may execute, or continue to execute, a warrant that ceases to have effect under this rule.

Warrant endorsed for bail (record to be kept)

18.16. A person executing a warrant of arrest that is endorsed for bail under section 117 of the Magistrates' Courts Act 1980 must—

- (a) make a record stating—
 - (i) the name of the person arrested,
 - (ii) the charge and the reason for the arrest,
 - (iii) the fact that the person is to be released on bail,

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- (iv) the date, time and place at which the person is required to appear before the court, and
 - (v) any other details which he considers to be relevant; and
- (b) after making the record—
- (i) sign the record,
 - (ii) invite the person arrested to sign the record and, if they refuse, make a note of that refusal on the record,
 - (iii) make a copy of the record and give it to the person arrested, and
 - (iv) send the original record to the court officer for the court which issued the warrant.