
STATUTORY INSTRUMENTS

1997 No. 704 (L. 10)

**MAGISTRATES' COURTS
PROCEDURE**

**The Magistrates' Courts (Criminal Procedure and
Investigations Act 1996) (Confidentiality) Rules 1997**

<i>Made</i>	- - - -	<i>10th March 1997</i>
<i>Laid before Parliament</i>		<i>11th March 1997</i>
<i>Coming into force</i>	- -	<i>1st April 1997</i>

The Lord Chancellor, in exercise of the powers conferred upon him by section 144, as extended by section 145, of the Magistrates' Courts Act 1980⁽¹⁾ and section 19 of the Criminal Procedure and Investigations Act 1996⁽²⁾, and after consultation with the Rule Committee appointed under the said section 144, hereby makes the following Rules:

1.—(1) These Rules may be cited as the Magistrates' Courts (Criminal Procedure and Investigations Act 1996) (Confidentiality) Rules 1997 and shall come into force on 1st April 1997.

(2) In these Rules—

“the Act of 1996” means the Criminal Procedure and Investigations Act 1996;

“the applicant” in any rule means the applicant in relation to an application to which that rule applies; and

“the prosecutor” means the prosecutor in the proceedings which are referred to in rule 2(3)(a).

2.—(1) This rule applies to an application under section 17(4) of the Act of 1996.

(2) An application to which this rule applies shall be made by notice in writing to the clerk of the magistrates' court which conducted or is conducting the proceedings for whose purposes the applicant was given, or allowed to inspect, the object to which the application relates.

(3) The notice of an application to which this rule applies shall—

(a) specify the object which the applicant seeks to use or disclose and the proceedings for whose purposes he was given, or allowed to inspect, it;

(1) 1980 c. 43; section 144 was amended by paragraph 25(1) and (7) of Schedule 18 to the Courts and Legal Services Act 1990 (c. 41) and there are amendments to section 145 which are not relevant to these Rules.

(2) 1996 c. 25.

- (b) where the applicant seeks to use or disclose any information recorded in the object specified in pursuance of sub-paragraph (a) above, specify that information;
- (c) specify the reason why the applicant seeks permission to use or disclose the object specified in pursuance of sub-paragraph (a) above or any information specified in pursuance of sub-paragraph (b) above;
- (d) describe any proceedings in connection with which the applicant seeks to use or disclose the object or information referred to in sub-paragraph (c) above; and
- (e) specify the name and address of any person to whom the applicant seeks to disclose the object or information referred to in sub-paragraph (c) above.

(4) On receipt of an application to which this rule applies the clerk of the court shall fix a date and time for the hearing of the application.

(5) The clerk of the court shall give the applicant and the prosecutor at least 28 days' notice of the date fixed in pursuance of paragraph (4) above and shall at the same time send to the prosecutor a copy of the notice given to him in pursuance of paragraph (2) above.

(6) Where the prosecutor has reason to believe that a person may claim to have an interest in the object specified in a notice of application in pursuance of paragraph (3)(a) above, or in any information so specified in pursuance of paragraph (3)(b) above, he shall, as soon as reasonably practicable after receipt of a copy of that notice under paragraph (5) above, send a copy of the notice to that person and inform him of the date fixed in pursuance of paragraph (4) above.

3.—(1) This rule applies to an application under section 17(6)(b) of the Act of 1996.

(2) An application to which this rule applies shall be made by notice in writing to the clerk referred to in rule 2 not less than 7 days before the date fixed in pursuance of rule 2(4).

(3) The applicant shall at the same time send to the person whose application under section 17(4) of the Act of 1996 is concerned a copy of the notice given in pursuance of paragraph (2) above.

4.—(1) Where no application to which rule 3 applies is made in accordance with paragraph (2) of that rule, the court shall consider whether the application under section 17(4) of the Act of 1996 may be determined without hearing representations from the accused, the prosecutor or any person claiming to have an interest in the object or information to which the application relates, and may so determine it if the court thinks fit.

(2) Where an application to which rule 2 applies is determined without hearing any such representations the clerk of the court shall give notice in writing to the person who made the application and to the prosecutor of any order made under section 17(4) of the Act of 1996 or, as the case may be, that no such order has been made.

5.—(1) This rule applies to proceedings in a magistrates' court to deal with a contempt of court under section 18 of the Act of 1996.

(2) In its application to proceedings to which this rule applies, the Magistrates' Courts Act 1980 ("the Act") shall have effect subject to the modifications contained in the following provisions of this rule (being provisions equivalent to those in Schedule 3 to the Contempt of Court Act 1981⁽³⁾ subject to modifications which the Lord Chancellor considers appropriate after consultation with the rule committee for magistrates' courts).

(3) Where proceedings to which this rule applies are taken of the court's own motion the provisions of the Act listed in paragraph (4) below shall apply as if a complaint had been made against the person against whom the proceedings are taken and subject to the modifications specified in paragraphs (5) and (6) below.

(3) 1981 c. 49.

- (4) The provisions referred to in paragraph (3) above are—
- (a) section 51 (issue of summons);
 - (b) section 53(1) and (2) (procedure on hearing);
 - (c) section 54 (adjournment);
 - (d) section 55 (non-appearance of defendant);
 - (e) section 97(1) (summons to witness);
 - (f) section 101 (onus of proving exceptions etc.);
 - (g) section 121(1) and (3)(a) (constitution and place of sitting of court); and
 - (h) section 123 (defect in process).
- (5) In section 55—
- (a) in subsection (1) for the words “the complainant appears but the defendant does not” there shall be substituted the words “the defendant does not appear”; and
 - (b) in subsection (2) the words “if the complaint has been substantiated on oath, and” shall be omitted.
- (6) In section 123, in subsections (1) and (2) the words “adduced on behalf of the prosecutor or complainant” shall be omitted.
- (7) Where proceedings to which this rule applies are taken by way of complaint for an order—
- (a) section 127 of the Act (limitation of time) shall not apply to the complaint;
 - (b) the complaint may be made by the prosecutor or by any other person claiming to have an interest in the object, or in any information recorded in an object, the use or disclosure of which is alleged to contravene section 17 of the Act of 1996; and
 - (c) the complaint shall be made to the clerk of the magistrates' court which conducted or is conducting the proceedings for whose purposes the object mentioned in sub-paragraph (b) above was given or inspected.

Dated 10th March 1997

Mackay of Clashfern , C.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules provide for the practice and procedure to be followed in magistrates' courts in relation to—

- (a) proceedings to deal with a contempt of court under section 18 of the Criminal Procedure and Investigations Act 1996 (“the 1996 Act”);
- (b) applications under sections 17(4) and (6)(b) and 18(6) of the 1996 Act; and
- (c) orders under sections 17(4) and 18(4) and (7) of the 1996 Act.