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 Complainant Petty Sessions District of of Defendant County [Borough] of

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 ;