



Government Circular No. 63 /90

THE SUMMARY JURISDICTION ACT 1989

THE SUMMARY JURISDICTION RULES 1990

In exercise of the powers conferred on the Clerk of the Rolls by section 91 of the Summary Jurisdiction Act 1989(a), and of all other enabling powers, the following Rules are hereby made:-

*Citation, commencement and interpretation*

1. (1) These Rules may be cited as the Summary Jurisdiction Rules 1990 and shall come into operation on the 1st April 1990.

(2) In these Rules -

"the Act" means the Summary Jurisdiction Act 1989;

"court" means a court of summary jurisdiction.

*Restrictions on reporting*

2. (1) Except in a case where evidence is, with the consent of the accused, to be given in his absence under section 70(3)(b) of the Act (absence caused by ill health), a court shall, before admitting in evidence at an inquiry any written statement or taking depositions of witnesses in accordance with rule 4, explain to the accused the restrictions on reports of the inquiry imposed by section 7 of the Act, and inform him of his right to apply to the court for an order removing those restrictions.

(2) Where a court has made an order under section 7(2) of the Act removing restrictions on reports of the inquiry, the order shall be entered in the order book.

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(a) 1989 c.15

(3) Where the court adjourns the inquiry to another day, the court shall, at the beginning of any adjourned hearing, state that the order has been made.

*Committal for trial without consideration of evidence*

3. (1) This rule applies to an inquiry where the accused has an advocate acting for him (whether present in court or not) and where the court has been informed that all the evidence for the prosecution is in the form of written statements copies of which have been given to the accused.

(2) The court shall cause the charge to be written down, if that has not already been done, and read to the accused, and shall then ascertain whether he wishes -

- (a) to apply that the maker of any of the prosecution statements be required to attend before the court and give evidence;
- (b) to give evidence himself or call witnesses; or
- (c) to submit that the prosecution statements disclose insufficient evidence to put him on trial by jury for the offence with which he is charged.

(3) If the court -

- (a) is satisfied that the accused, or each of the accused, as the case may be, does not wish to take any of the steps mentioned in paragraph (2)(a), (b) and (c), or
- (b) refuses any application made under paragraph (2)(a) and is satisfied that the accused or each of the accused does not wish to take any of the steps mentioned in paragraph (2)(b) and (c),

and determines, after receiving any written statements tendered by the prosecution and the defence under section 70(4), to commit the accused for trial without consideration of the evidence, the court shall proceed in accordance with paragraph (4), and in any other case shall proceed in accordance with rule

4.

(4) The court shall then say to the accused -

"You will be committed for trial by jury, but I must warn you that at that trial you may not be permitted to give evidence of an alibi or call witnesses in support of an alibi unless you have earlier given particulars of the alibi and of the witnesses. You or your advocate may give those particulars now to the court or at any time in the next 7 days to the Attorney General.",

or words to that effect; but the court shall not be required to give this warning in any case where it appears to the court that, having regard to the nature of the offence with which the accused is charged, it is unnecessary to do so.

(5) Where the court has given to the accused the warning required by paragraph (4), the clerk of the court shall give to him written notice of the provisions of section 7 of the Evidence Act 1983(b) in the form set out in Schedule 1.

*Taking depositions of witnesses and statement of accused*

4. (1) This rule applies to an inquiry, other than an inquiry where under section 6(2) of the Act a court commits a person for trial without consideration of the evidence.

(2) The court shall cause the evidence of each witness, including the evidence of the accused, but not including any witness of his merely to his character, to be put into writing; and as soon as may be after the examination of such a witness shall cause his deposition to be read to him in the presence and hearing of the accused, and shall require the witness to sign the deposition; but where the evidence has been given in the absence of the accused under section 70(3)(b) of the Act, this shall be recorded on the deposition of the witness, and the deposition need not be read in the presence and hearing of the accused.

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(b) 1983 c.7

(3) The depositions shall be authenticated by a certificate signed by one of the examining justices.

(4) Where the accused is not represented by an advocate, before a statement made in writing by, or taken in writing from, a child is received in evidence under section 72(1) of the Act, the court shall cause the effect of that provision to be explained to the accused in ordinary language and, if the defence does not object to the application of that provision, shall inform him that he may ask questions about the circumstances in which the statement was made or taken.

(5) Any such statement which is received in evidence shall be made an exhibit.

(6) After the evidence for the prosecution (including any statements tendered under section 70(4) of the Act) has been given and after hearing any submission (if any is made), the court shall, unless it then decides not to commit for trial, cause the charge to be written down, if that has not already been done, and, if the accused is not represented by an advocate, shall read the charge to him and explain it in ordinary language.

(7) The court shall then ask the accused whether he wishes to say anything in answer to the charge and, if he is not represented by an advocate, shall before asking the question say to him -

"You will have an opportunity to give evidence on oath before us and to call witnesses. But first I am going to ask you whether you wish to say anything in answer to the charge. You need not say anything unless you wish to do so. Anything you say will be taken down and may be given in evidence at your trial. You should take no notice of any promise or threat which any person may have made to persuade you to say anything.",  
or words to that effect.

(8) Whatever the accused says in answer to the charge shall be put into writing, read over to him and signed by one of the examining justices and also, if the accused wishes, by him.

(9) The court shall then say to the accused -

"I must warn you that, if this court should commit you for trial, you may not be permitted at that trial to give evidence of an alibi or call

witnesses in support of an alibi unless you have earlier given particulars of the alibi and of the witnesses. You may give those particulars either now to the court or at any time in the next 7 days to the Attorney General.",

or words to that effect, and, if it appears to the court that the accused may not understand the meaning of the term "alibi", the court shall explain it to him; but the court shall not be required to give this warning in any case where it appears to the court that, having regard to the nature of the offence with which the accused is charged, it is unnecessary to do so.

(10) After complying with the requirements of this rule relating to the statement of the accused, and whether or not he has made a statement in answer to the charge, the court shall give him an opportunity to give evidence himself and to call witnesses.

(11) Where the accused is represented by an advocate, his advocate shall be heard on his behalf, either before or after the evidence for the defence is taken, at his discretion, and may, if the accused gives evidence himself and calls witnesses, be heard on his behalf with the leave of the court both before and after the evidence is taken; but where the court gives leave to the accused's advocate to be heard after as well as before the evidence is taken, the advocate for the prosecution shall be entitled to be heard immediately before the advocate for the accused is heard for the second time.

(12) Where the court determines to commit the accused in respect of a charge which differs from that read to him in accordance with paragraph (6), the court shall cause the new charge to be read to him.

(13) Where the court has given to the accused the warning required by paragraph (9), the clerk of the court shall give to him written notice of the provisions of section 7 of the Evidence Act 1983 in the form set out in Schedule 1.

#### *Proof of service*

5. Proof of service in accordance with section 80(5) of the Act (certificate of service) is prescribed for the purposes of the following provisions of the Act -

section 10(2)(a) (non-appearance of accused)

section 12(2)(a) (issue of warrant)

section 44(3)(a) (non-appearance of defendant in civil proceedings)

section 59(3)(b) (attendance of witness)

section 67(a) (proof of convictions).

*Certificate of conviction or order*

6. A certificate of a conviction or order of a court under section 69(1) of the Act shall be in the form set out in Schedule 2.

Rules 3(5) & 4(13)

SCHEDULE 1

*Notice of provisions of Evidence Act 1983 s.7*

PARTICULARS OF ALIBI

To A,B, of

If you wish to raise an alibi defence at your trial you should read this notice carefully, and if you intend to consult an advocate you should show it to him at once.

Section 7 of the Evidence Act 1983 provides that a defendant who is tried before a jury shall not (without the leave of the court) give evidence himself, or call witnesses in support, of an alibi unless he has given particulars of the alibi and of the witnesses as required by that section. To comply with section 7 the defendant must -

1. give notice of the particulars in the court of summary jurisdiction (the time for doing this has passed in your case) or to the Attorney General before the end of the period of 7 days from the end of the proceedings in the court of summary jurisdiction; and
2. include in the notice particulars of the alibi and the name and address of any witness whom he proposes to call in support of the alibi.

If the defendant is unable to give the name and address of a witness in the notice, he must include it in any information in his possession which might help to find the witness, and must take all reasonable steps to enable the name and address to be discovered. If the name or address of a witness was not included in the notice but the defendant subsequently discovers the name or address or other information which might help to find the witness, he must immediately give notice to the Attorney General of the name, address or other information. If the defendant is notified by the Attorney General that that a witness has not been traced by the name or at the address given by the defendant, he must forthwith give notice to the Attorney General of any information then in his possession or subsequently received by him which might help to find the witness.

Any notice required to be given by the defendant to the Attorney General as mentioned above must be in writing and delivered to him or left at his office or sent in a registered letter or by the recorded delivery service addressed to him at his office.

"Evidence in support of an alibi" means evidence tending to show that by reason of the presence of the defendant at a particular place or in a particular area at a particular time he was not, or was unlikely to have been, at the place where the offence is alleged to have been committed at the time of its alleged commission.

The address of the Attorney General is Government Offices, Buck's Road, Douglas, Isle of Man.

Clerk to the High Bailiff/Justices

Rule 6.

SCHEDULE 2

*Form of certificate of conviction or order*

In the Isle of Man

The [High Bailiff's][Magistrates'] Court at

Complainant

Defendant

I hereby certify that upon the hearing of a complaint that<sup>1</sup>  
an order was made on the <sup>2</sup> by [me] [the Justices present] against <sup>3</sup>  
of to the following effect viz.<sup>4</sup>

[High Bailiff][Justice of the Peace]

<sup>1</sup>Cause of complaint, with time and place

<sup>2</sup>Date

<sup>3</sup>Person against whom order or conviction was made

<sup>4</sup>Terms of conviction or order (and sentence, if any)

MADE this 23rd day of February 1990

  
Her Majesty's First Deemster  
and Clerk of the Rolls

EXPLANATORY NOTE

(This note is not part of the Rules.)

These Rules make provision for the procedure in committal proceedings in courts of summary jurisdiction (rules 2, 3 and 4), proof of service of summonses in certain cases (rule 5) and the form of certificate of an order or conviction (rule 6).