



## PRACTICE DIRECTION No. 4/2019

### **Criminal Procedure – Remand Warrants where defendant found unfit to plead – Committal Warrants where defendant found to be not guilty by reason of insanity**

1. By sections 48 and 122(2) of the Criminal Procedure Code (“the Code”), persons who are found to be unfit to plead are described as “*of unsound mind and incapable of making (his or her) defence*” or as “*insane and unfit to stand trial*”. Such persons are awaiting trial as defendants and, where not released on bail into the custody of a guardian in keeping with section 48(2), are remanded by the Court on report to the Governor, pending fitness to stand trial. The Governor may then order the defendant to be detained in any hospital or other place appointed which will usually be Her Majesty’s Prison [(Northward or Fairbanks) as the case may be] because there is, for the time being, no other facility available.

It is therefore required that warrants for remand of such defendants suitably describe their condition by specifying the basis upon which they are remanded.

Accordingly, a warrant for remand of such a defendant shall specify, in keeping with section 48(3) of the Code, that “*the defendant has been found by the Court to be unfit to stand trial and is remanded to Her Majesty’s Prison [(Northward or Fairbanks) as the case may be] until further order of the Court or until discharged by order of the Governor*”.

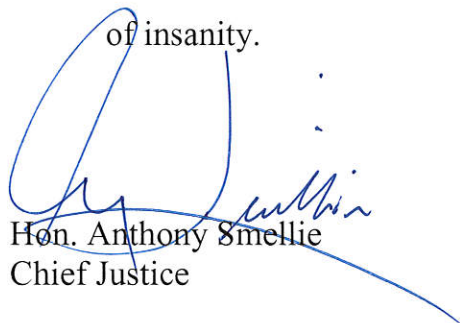
In keeping with section 50 of the Code, the proceedings may be later resumed by the direction of the Court.

2. Similar concerns attend the committal of persons who have been found not guilty by reason of insanity pursuant to section 158 and are to be remanded pursuant to section 159 of the Code.

Section 159(1) provides that the Court shall order such persons to be conveyed to any hospital or other place for the time being appointed under any law to be a mental hospital and for the reception of criminally insane persons, there to be kept until discharged by the Governor. For the time being, the place appointed is Her Majesty's Prison Northward [(or Fairbanks as the case might be)].

Accordingly, a warrant for committal of such a person shall specify that "*he/she has been found to be not guilty by reason of insanity and shall be conveyed to Her Majesty's Prison Northward [(or Fairbanks)] as the place for the time being appointed for the reception of criminally insane persons there to be kept until discharged by order of the Governor*".

3. This Practice Direction will be revised and reissued once another place is appointed for the reception of persons who are found to be unfit to plead or not guilty by reason of insanity.



Hon. Anthony Smellie  
Chief Justice

October 21, 2019