
STATUTORY INSTRUMENTS

1991 No. 1074 (L.6)

MAGISTRATES' COURTS

**The Magistrates' Courts (Criminal Justice
(International Co-operation)) Rules 1991**

<i>Made</i>	- - - -	<i>25th April 1991</i>
<i>Laid before Parliament</i>		<i>8th May 1991</i>
<i>Coming into force</i>	- -	<i>10th June 1991</i>

The Lord Chancellor, in exercise of the powers conferred on him by section 144 of the Magistrates' Courts Act 1980(1) as extended by section 145 of that Act and section 10 of the Criminal Justice (International Co-operation) Act 1990(2), after consultation with the Rule Committee appointed under the said section 144, hereby makes the following Rules:

Citation and commencement

1. These Rules may be cited as the Magistrates' Courts (Criminal Justice (International Co-operation)) Rules 1991 and shall come into force on 10th June 1991.

Interpretation

2. In these Rules "the Act" means the Criminal Justice (International Co-operation) Act 1990.

Service of summons or order outside the United Kingdom

3. Where a summons is issued or order is made by a magistrates' court in accordance with section 2(1) of the Act for service outside the United Kingdom it shall be sent by the justices' clerk to the Secretary of State with a view to its being served there in accordance with arrangements made by the Secretary of State.

Proof of service of summons outside the United Kingdom

4.—(1) The service on any person of a summons issued under section 2(1) of the Act may be proved in any legal proceedings by a certificate given by or on behalf of the Secretary of State.

(2) A statement in any such certificate as is mentioned in paragraph (1) above:

(1) 1980 c. 43.
(2) 1990 c. 5.

- (a) that a summons has been served;
 - (b) of the manner in which a service was effected;
 - (c) of the date upon which a summons was served,
- shall be admissible as evidence of any facts so stated.

Notice of application for letters of request

5. Notice of an application under section 3(1) (overseas evidence for use in the United Kingdom) of the Act shall be given to the justices' clerk of a magistrates' court and shall—

- (a) be made in writing, save that the court may in exceptional circumstances dispense with the need for notice;
- (b) state that the particulars of the offence which it is alleged has been committed or the grounds upon which it is suspected that an offence has been committed;
- (c) state whether proceedings in respect of the offence have been instituted or the offence is being investigated; and
- (d) include particulars of the assistance requested in the form of a draft letter of request.

Hearing of application for letters of request

6.—(1) An application under section 3(1) of the Act—

- (a) shall be heard in a petty-sessional court-house;
- (b) may be heard *ex parte*.

(2) When hearing an application under section 3(1) of the Act the court may, if it thinks it necessary in the interests of justice, direct that the public be excluded from the court.

(3) The powers conferred on a magistrates' court by the preceding paragraph shall be in addition and without prejudice to any other powers of the court to hear proceedings *in camera*.

Letters of request in urgent cases

7. Where in a case of urgency a magistrates' court sends a letter of request direct to any court or tribunal in accordance with section 3(5) of the Act, the justices' clerk shall forthwith notify the Secretary of State of this and send with the notification a copy of the letter of request.

Proceedings before a nominated court

8.—(1) In proceedings before a nominated court pursuant to a notice under section 4(2) of the Act the court may, if it thinks necessary in the interests of justice, direct that the public be excluded from the court.

(2) The powers conferred on a magistrates' court by the preceding paragraph shall be in addition and without prejudice to any other powers of the court to hear proceedings *in camera*.

Court registrar of proceedings before a nominated court

9.—(1) Where a magistrates' court receives evidence in proceedings pursuant to a notice under section 4(2) of the Act, the justices' clerk shall note in the register—

- (a) particulars of the proceedings;
- (b) without prejudice to the generality of (a) above—
 - (i) which persons with an interest in the proceedings were present;

(ii) which of the said persons were represented and by whom;

(iii) whether any of the said persons were denied the opportunity of cross-examining a witness as to any part of his testimony.

(2) Such part of the register as relates to proceedings mentioned in paragraph (1) above shall be kept in a separate book.

(3) Save as authorised by the Secretary of State, or with the leave of the court, such part of the register as relates to proceedings mentioned in paragraph (1) above shall not be open to inspection by any person.

(4) When so requested by the Secretary of State, the justices' clerk shall send to him a copy of an extract of the register as it relates to any proceedings mentioned in paragraph (1) above.

25th April 1991

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 govern the procedure to be followed by magistrates' courts in England and Wales in relation to the provisions of Part I of the Criminal Justice (international Co-operation) Act 1990. Rule 3 provides for a summons or order issued under section 2(1) of the Act (for service outside the United Kingdom) to be sent to the Secretary of State for onward transmission and rule 4 provides for the admissibility in evidence of a certificate issued by the Secretary of State stating that a summons so issued has been served, its manner and date of service. Rule 5 provides for a written notice of application to be made where a magistrates' court is to be asked to issue a letter of request, under section 3 of the Act. Rule 6 provides that the public may in the interests of justice be excluded from a hearing of an application for a letter of request. Rule 7 provides that where in urgent cases the court sends a letter of request directly to a court or tribunal outside the United Kingdom, a copy shall be sent to the Secretary of State. Rule 8 makes similar provision to rule 6 for proceedings in a nominated court under section 4(2) of the Act (taking evidence for use overseas). Rule 9 prescribes that the court register of such proceedings shall not be open to public inspection.