

2009 No. 3362 (L. 30)

MAGISTRATES' COURTS, ENGLAND AND WALES

The Magistrates' Courts (Amendment) Rules 2009

Made - - - - - *15th December 2009*

Laid before Parliament *22nd December 2009*

Coming into force - - - *5th April 2010*

The Lord Chief Justice makes the following Rules under sections 144(1) and 145(1) of the Magistrates' Courts Act 1980(a).

In accordance with section 144 of the Magistrates' Courts Act 1980 he has consulted with the rule committee appointed under that section and makes these Rules with the concurrence of the Lord Chancellor:

Citation and commencement

1. These Rules may be cited as the Magistrates' Courts (Amendment) Rules 2009, and come into force on 5 April 2010.

Amendment to the Magistrates' Courts Rules 1981

2. The Magistrates' Courts Rules 1981(b) are amended as follows.

3. After rule 3 insert—

“3A.—Case management

(1) The court must actively manage the case. That includes—

- (a) the early identification of the real issues;
- (b) the early identification of the needs of witnesses;
- (c) achieving certainty as to what must be done, by whom and when, in particular by the early setting of a timetable for the progress of the case;
- (d) monitoring the progress of the case and compliance with directions;
- (e) ensuring that evidence, whether disputed or not, is presented in the shortest and clearest way;
- (f) discouraging delay, dealing with as many aspects of the case as possible on the same occasion and avoiding unnecessary hearings;
- (g) encouraging the participants to co-operate in the progression of the case; and

(a) 1980 c.43. Section 144(1) was amended by the Constitutional Reform Act 2005 (c.4), section 15(1) and paragraphs 99 and 102(1) and 102(3)(a) and 102(3)(b) of Schedule 4, and by the Courts Act 2003 (c.39), section 109(1) and paragraphs 245(1) and 245(2) of Schedule 8.

(b) S.I. 1981/552, to which there are amendments not relevant to these Rules.

- (h) making use of technology.
- (2) The court must actively manage the case by giving any direction appropriate to the needs of that case as early as possible.
- (3) Each party must—
 - (a) actively assist the court in managing the case without, or if necessary with, a direction; and
 - (b) apply for a direction if needed to assist with the management of the case.
- (4) At the beginning of the case each party must, unless the court otherwise directs—
 - (a) nominate an individual responsible for progressing that case; and
 - (b) tell other parties and the court who he is and how to contact him.
- (5) In fulfilling its duty under paragraphs (1) and (2), the court must where appropriate—
 - (a) nominate a court officer responsible for progressing the case; and
 - (b) make sure the parties know who he is and how to contact him.
- (6) In this rule a person nominated under paragraphs (4) and (5) is called a case progression officer. A case progression officer must—
 - (a) monitor compliance with directions;
 - (b) make sure that the court is kept informed of events that may affect the progress of that case;
 - (c) make sure that he can be contacted promptly about the case during ordinary business hours;
 - (d) act promptly and reasonably in response to communications about the case; and
 - (e) if he will be unavailable, appoint a substitute to fulfil his duties and inform the other case progression officers
- (7) In fulfilling its duty under paragraph (2) actively to manage the case the court may give any direction and take any step unless that direction or step would be inconsistent with legislation, including these Rules. In particular, the court may—
 - (a) nominate a magistrate, justices' clerk or assistant to a justices' clerk to manage the case;
 - (b) give a direction on its own initiative or on application by a party;
 - (c) ask or allow a party to propose a direction;
 - (d) for the purpose of giving directions, receive applications and representations by letter, by telephone or by any other means of electronic communication, and conduct a hearing by such means;
 - (e) give a direction without a hearing;
 - (f) fix, postpone, bring forward, extend or cancel a hearing;
 - (g) shorten or extend (even after it has expired) a time limit fixed by a direction;
 - (h) require that issues in the case should be determined separately, and decide in what order they will be determined; and
 - (i) specify the consequences of failing to comply with a direction.
- (8) Any power to give a direction under this rule includes a power to vary or revoke that direction.
- (9) A party may apply to vary a direction if—
 - (a) the court gave it without a hearing;
 - (b) the court gave it at a hearing in that party's absence; or
 - (c) circumstances have changed.
- (10) A party who applies to vary a direction must—

- (a) apply as soon as practicable after becoming aware of the grounds for doing so; and
 - (b) give as much notice to the other parties as the nature and urgency of the application permits.
- (11) The parties may agree to vary a time limit fixed by a direction, but only if—
- (a) the variation will not—
 - (i) affect the date of any hearing that has been fixed, or
 - (ii) significantly affect the progress of the case in any other way; and
 - (b) the court has not prohibited variation by agreement.
- (12) The court’s case progression officer must refer any agreement by the parties to vary a time limit under paragraph (11) to the court if he doubts the condition in paragraph (11) is satisfied.
- (13) At every hearing, if a case cannot be concluded there and then the court must give directions so that it can be concluded at the next hearing or as soon as possible after that.
- (14) At every hearing the court must, where relevant—
- (a) if a party is absent, decide whether to proceed nonetheless;
 - (b) set, follow or revise a timetable for the progress of the case, which may include a timetable for any hearing;
 - (c) in giving directions, ensure continuity in relation to the court and to the parties’ representatives where that is appropriate and practicable; and
 - (d) where a direction has not been complied with, find out why, identify who was responsible, and take appropriate action.
- (15) In fulfilling his duty under paragraph (3) actively to assist the court in managing the case, each party must—
- (a) comply with directions given by the court;
 - (b) take every reasonable step to make sure that that party’s witnesses will attend when they are needed;
 - (c) make appropriate arrangements to present any written or other material; and
 - (d) promptly inform the court and the other parties of anything that may—
 - (i) affect the date or duration of any hearing, or
 - (ii) significantly affect the progress of the case in any other way.
- (16) The court may require a party to give a certificate of readiness.
- (17) In order to manage the case—
- (a) the court must establish, with the active assistance of the parties, what disputed issues they intend to explore; and
 - (b) the court may require a party to identify—
 - (i) which witnesses will give oral evidence,
 - (ii) the order in which those witnesses will give their evidence;
 - (iii) whether that party requires an order compelling the attendance of a witness;
 - (iv) what arrangements are desirable to facilitate the giving of evidence by a witness;
 - (v) what arrangements are desirable to facilitate the participation of any other person;
 - (vi) what written evidence that party intends to introduce;
 - (vii) what other material, if any, that party intends to make available to the court in the presentation of the case;
 - (viii) whether that party intends to raise any point of law that could affect the conduct of the case; and

- (ix) what timetable that party proposes and expects to follow.
(18) The court must make available to the parties a record of directions given.”

15th December 2009

Judge, C.J.

I agree

Signed on the authority of the Lord Chancellor

Bridget Prentice
Parliamentary Under Secretary of State
Ministry of Justice

14th December 2009

EXPLANATORY NOTE

(This note is not part of the Order)

These Rules come into force on 5 April 2010. They amend the Magistrates' Courts Rules 1981. Rule 3 inserts a new rule 3A, giving magistrates' courts explicit case management powers in relation to civil proceedings. These powers are substantially the same as those that can be exercised in criminal proceedings under Part 3 of the Criminal Procedure Rules 2005.

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