



Magistrates' Courts Act 1980

1980 CHAPTER 43

PART VII

MISCELLANEOUS AND SUPPLEMENTARY

Rules

144 Rule committee and rules of procedure.

- (1) The Lord Chancellor may appoint a rule committee for magistrates' courts, and may on the advice of or after consultation with the rule committee make rules for regulating and prescribing [^{F1} except in relation to—
 - (a) any criminal cause or matter, or
 - (b) family proceedings,]the procedure and practice to be followed in magistrates' courts and by justices' clerks [^{F2}and designated officers for magistrates' courts] .
- (2) The rule committee shall consist of the Lord Chief Justice, the President of the Family Division of the High Court, the [^{F3}Senior District Judge (Chief Magistrate)] and such number of other persons appointed by the Lord Chancellor as he may determine.
- (3) Among the members of the committee appointed by the Lord Chancellor there shall be at least
 - [^{F4}(a) one justices' clerk;
 - (b) one person who has a Supreme Court qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990); and
 - (c) one person who has been granted by an authorised body, under Part II of that Act, the right to conduct litigation in relation to all proceedings in the Supreme Court.]
- (4) The power to make rules conferred by this section shall be exercisable by statutory instrument which shall be subject to annulment by resolution of either House of Parliament.

Status: Point in time view as at 01/09/2004. This version of this cross heading contains provisions that are not valid for this point in time.

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(5) In this section the expression “justices’ clerk” means a clerk to the justices for a petty sessions area.

Textual Amendments

- F1** S. 144(1)(a)(b) and preceding words inserted (1.9.2004 for certain purposes, otherwise prosp.) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 245(2)**; S.I. 2004/2066, **art. 2(c)(xi)** (subject to art. 3)
- F2** Words in s. 144(1) substituted (1.9.2004 for specified purposes, 1.4.2005 for specified purposes, 7.10.2005 for specified purposes, 6.4.2011 in so far as not already in force) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 245(2)**; S.I. 2004/2066, art. 2(c)(xi) (with art. 3); S.I. 2005/910, art. 3(y); S.I. 2005/2744, art. 2(3) (with art. 3); S.I. 2010/2921, art. 3(b)
- F3** Words in s. 144(2) substituted (31.8.2000) by 1999 c. 22, s. 78, Sch. 11 paras. 26, **29** (with s. 107, Sch. 14 para. 7(2)); S.I. 2000/1920, **art. 3(a)**
- F4** S. 144(3)(a)(b)(c) substituted for words from “one justice's clerk” to the end by Courts and Legal Services Act 1990 (c. 41, SIF 37, 82), s. 125(3), **Sch. 18 para. 25(7)(a)**

Modifications etc. (not altering text)

- C1** S. 144 extended by Criminal Law Act 1977 (c. 45, SIF 39:1), **s. 48** (as amended by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154(1), **Sch. 7 para. 151**)
- C2** S. 144 extended by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 28, 123(6), Sch. 2 para. 4(c), **Sch. 8 para. 16**
- C3** S. 144 extended (1.7.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 82), **ss. 10(2)**; S.I. 1991/1364, art. 2, **Sch.**
- C4** S. 144 extended by Extradition Act 1989 (c. 33, SIF 48), ss. 1(3), 7(3), 14(2), **Sch. 1 para. 9(2)**
- C5** S. 144 extended (14.10.1991) by Children Act 1989 (c. 41, SIF 20), **ss. 97(1)**, 108(6) (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- C6** S. 144 amended (17.6.1992) by Child Support Act 1991 (c. 48, SIF 20), **s. 10(5)**, (with s. 9(2)); S.I. 1992/1431, **art. 2 Sch. 2**
- C7** S. 144 extended (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 20(5)(b), 101(1), **Sch. 12 para. 6** (with s. 28); S.I. 1992/333, art. 2(2), **Sch. 2**
- C8** S. 144 extended (5.11.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1972 (c. 18), **s. 18(1A)** (as inserted (5.11.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1992 (c. 56), s. 1, **Sch. 1 Pt. II para. 11**); S.I. 1993/618, **art. 2**
- S. 144 modified (2.4.2001) by 1999 c. 22, s. 14, **Sch. 3 para. 2(7)** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 3(a)(i)** (with Sch. 2 para. 2)
- C9** S. 144 extended (5.11.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1972 (c. 18), **s. 38A** (as inserted (5.11.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1992 (c. 56), s. 1, **Sch. 1 Pt. II Para. 18**); S.I. 1993/618, **art. 2**
- S. 144 extended (4.7.1996, with effect as mentioned in **s. 1** of the amending Act and S.I. 1997/682, art. 2(1)(a)) by 1996 c. 25, **s. 19(1)(a)(2)** (with s. 78(1)); S.I. 1997/682, **art. 2(1)(a)**
- S. 144 extended (4.7.1996, with effect as mentioned in **s. 1** of the amending Act and S.I. 1997/682, art. 2(1)(a)) by 1996 c. 25, **s. 19(3)** (with s. 78(1)); S.I. 1997/682, **art. 2(1)(a)**
- S. 144(1) extended (4.7.1996, with effect as mentioned in **s. 1** of the amending Act and S.I. 1997/682, art. 2(1)(a)) by 1996 c. 25, **s. 20(3)** (with s. 78(1)); S.I. 1997/682, **art. 2(1)(a)**
- S. 144(1) extended (19.6.1997) by 1997 c. 25, **ss. 44(3)**, 74(1) (with Sch. 4 para. 27)
- S. 144 extended (19.6.1997) by 1997 c. 25, **ss. 45(1)(2)**, 74(1) (with Sch. 4 para. 27)
- S. 144 extended (1.8.1998 with effect for specified purposes as mentioned in S.I. 1998/1883 and 30.9.1998 to the extent that it is not already in force as mentioned in S.I. 1998/2337) by 1998 c. 37, **s. 49(2)**; S.I. 1998/1883, **art. 2(b)** and S.I. 1998/2327, art. 3(2), **Sch. 2**

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- S. 144 extended (30.9.1998 for purposes specified in S.I. 1998/2327, **art. 2(1)(m)** and 4.1.1999 for purposes specified in S.I. 1998/2327, art. 4(2)(b), **Sch. 2**) by 1998 c. 37, s. 52(6), **Sch. 3 para. 4(5) (12)**; S.I. 1998/2327, arts. 2(1)(m), 4(2)(b), **Sch. 2**
- S. 144 extended (25.8.2000) by 2000 c. 6, **ss. 132(2)**, 168(1)
- S. 144 power to make rules extended (7.11.2002) by 2002 c. 38, **s. 141(2)** (with **Sch. 4** paras. 6-8)
- C10** S. 144(1) power to make rules extended (with modifications) (with effect as indicated in reg. 1(1) of S.I. 2002/419) by 1989 c. 33, s. 34A, **Sch. 1A** (as inserted by S.I. 2002/419, reg. 2, **Sch. 9** paras. 3, 5 (with reg. 2(2)))

VALID FROM 03/04/2006

[^{F5}144A Rules to be made if required by Lord Chancellor

- (1) This section applies if the Lord Chancellor gives the Lord Chief Justice written notice that he thinks it is expedient for rules made under section 144 to include provision that would achieve a purpose specified in the notice.
- (2) The Lord Chief Justice must make such rules as he considers necessary to achieve the specified purpose.
- (3) Those rules must be—
 - (a) made within a reasonable period after the Lord Chancellor gives notice to the Lord Chief Justice;
 - (b) made in accordance with section 144.
- (4) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.]

Textual Amendments

- F5** S. 144A inserted (3.4.2006) by **Constitutional Reform Act 2005** (c. 4), **ss. 15, 148, Sch. 4 para. 103** ; **S.I. 2006/1014, art. 2(a)**

145 Rules: supplementary provisions.

- (1) The power to make rules conferred by section 144 above shall, without prejudice to the generality of subsection (1) of that section, include power to make provision—
 - (a) as to the practice and procedure of justices in exercising functions preliminary or incidental to proceedings before a magistrates' court;
 - (b) as to the service and execution of process issued by or for the purposes of a magistrates' court, including the service and execution in England and Wales of process issued in other parts of the United Kingdom;
 - (c) as to the keeping of records of proceedings before magistrates' courts and the manner in which things done in the course of, or as preliminary or incidental to, any such proceedings, or any proceedings on appeal from a magistrates' court to the Crown Court, may be proved in any legal proceedings;

^{F6}(d)

^{F7}(e)

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- (f) ^{F8}
- (g) as to what magistrates' court shall have jurisdiction to hear any complaint;
- (h) as to the matters additional to those specified in section 53 above on complaint for which a magistrates' court shall have power to make an order with the consent of the defendant without hearing evidence;
- (i) ^{F8}
- (2) Where any Act expressly confers jurisdiction on any magistrates' court to hear a complaint, rules made under subsection (1)(g) above shall not take away that jurisdiction, but may extend it to any other magistrates' court.
- (3) Any Act passed before 16th December 1949, in so far as that Act relates to matters about which rules may be made under section 144 above, shall have effect subject to any rules so made and may be amended or repealed by the rules accordingly; but nothing in the said section shall authorise the rules to reduce the number of justices required for any purpose by any Act.
- (4) ^{F9}
- (5) Any rules, directions, forms or other instrument having effect immediately before this subsection comes into force as if contained in rules made under section 15 of the Justices of the ^{M1}Peace Act 1949 by virtue of section 15(8) of that Act (rules etc. which previously had effect under the enactments repealed by Part II of Schedule 7 to that Act) shall have effect as if contained in rules made under section 144 above.

Textual Amendments

- F6** S. 145(1)(d) repealed (1.4.1995) by 1995 c. 29, ss. 91(1), 93, Sch. 8 Pt. II para. 31, **Sch. 9 Pt. II**; S.I. 1995/685, **arts. 4(n), 8(p)**
- F7** S. 145(1)(e) repealed (4.7.1996 with effect in relation to any alleged offence in relation to which Part I of the repealing Act applies) by 1996 c. 25, ss. 65(3)(4), 80, **Sch. 5 Table 6** (with s. 78(1)); S.I. 1997/683, **art. 1(2)**
- F8** S. 145(1)(f)(i) repealed (1.9.2004) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 246(2), **Sch. 10**; S.I. 2004/2066, **art. 2(c)(xi)(d)(iv)** (subject to art. 3) (and the said s. 145(1)(f) is expressed to be repealed (prosp.) by Criminal Justice Act 2003 (c. 44), ss. 41, 332, 336, Sch. 3 para. 51(10), **Sch. 37 Pt. 4**)
- F9** S. 145(4) repealed (1.9.2004) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 246(3), **Sch. 10**; S.I. 2004/2066, **art. 2(c)(xi)(d)(iv)** (subject to art. 3)

Marginal Citations

- M1** 1949 c. 101.

[^{F10}145A] Rules: costs order against legal representative.

- (1) In any civil proceedings, a magistrates' court may disallow or (as the case may be) order the legal or other representative concerned to meet the whole of any wasted costs or such part of them as may be determined in accordance with rules.
- (2) In subsection (1), "wasted costs" means any costs incurred by a party—
- (a) as a result of any improper, unreasonable or negligent act or omission on the part of any legal or other representative or any employee of such a representative; or

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- (b) which, in the light of any such act or omission occurring after they were incurred, the court considers it is unreasonable to expect that party to pay.
- (3) In this section “legal or other representative”, in relation to any proceedings, means any person who is exercising a right of audience, or a right to conduct litigation, on behalf of any party to the proceedings.
- (4) Rules made by virtue of this section may, in particular, make provision as to the destination of any payment required to be made under the rules (including provision for the reimbursement of sums paid by the [^{F11}Legal Services Commission]).
- (5) Rules made by virtue of this section—
- (a) shall require a magistrates' court which proposes to act under the rules against a legal or other representative to allow him a reasonable opportunity to appear before it and show cause why it should not do so;
 - (b) shall provide that action may be taken under the rules either on the application of any party to the proceedings or on the motion of the court;
 - (c) shall provide that no such action shall be taken after the end of the period of six months beginning with the date on which the proceedings are disposed of by the court; and
 - (d) shall provide that a legal or other representative against whom action is taken under the rules may appeal to the Crown Court.]

Textual Amendments

F10 S. 145A inserted (1.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 82), s. 112; S.I. 1991/1883, art. 2.

F11 Words in s. 145A(4) substituted (2.4.2001) by 1999 c. 22, s. 24, Sch. 4 paras. 15, 19 (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, art. 3(a)(ii) (with Sch. 2 para. 2)

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