
STATUTORY INSTRUMENTS

1981 No. 552

The Magistrates' Courts Rules 1981

MISCELLANEOUS

Application for, and notice to be given of, order under s. 95 of, or paragraph 7 of Schedule 10 to, Road Traffic Act 1972

101.—(1) An application under section 95 of, or paragraph 7 of Schedule 10 to, the Road Traffic Act 1972 for an order removing a disqualification or disqualifications for holding or obtaining a licence shall be by complaint.

(2) The justice to whom the complaint is made shall issue a summons directed to the chief officer of police requiring him to appear before a magistrates' court acting for the petty sessions area for which the justice is acting to show cause why an order should not be made on the complaint.

(3) Where a magistrates' court makes an order under either of the provisions mentioned in paragraph (1) the court shall cause notice of the making of the order and a copy of the particulars of the order endorsed on the licence, if any, previously held by the applicant for the order to be sent to the licensing authority to which notice of the applicant's disqualification was sent.

Application for revocation of order under s.14 of Food and Drugs Act 1955

102.—(1) An application under section 14(4) of the Food and Drugs Act 1955(1) for the revocation of an order under that section disqualifying a person from using particular premises as catering premises shall be by complaint.

(2) The justice to whom the complaint is made shall issue a summons directed to the local authority upon whose application the, disqualification order was made, requiring the local authority to show cause why the disqualification should not be revoked.

Application for substitution of conditional discharge for probation

103. An application to a magistrates' court under section 11 of the Powers of Criminal Courts Act 1973 for the substitution of an order of conditional discharge for a probation order shall be by complaint.

Application for review of compensation order

104.—(1) An application under section 37 of the Powers of Criminal Courts Act 1973 for the review of a compensation order shall be by complaint.

(2) The justice to whom the complaint is made shall issue a summons directed to the person for whose benefit the compensation order was made, requiring him to show cause why the order should not be amended or revoked.

Application for alteration of maintenance agreement under s. 35 of Matrimonial Causes Act 1973

105. An application to a magistrates' court under section 35 of the Matrimonial Causes Act 1973(2) for the alteration of a maintenance agreement shall be by complaint.

Proceedings against person outside the United Kingdom on application for variation, etc. of certain maintenance and custody orders

106.—(1) The period referred to in section 24(2) of the Act of 1978 and in section 41(2A) of the Maintenance Orders (Reciprocal Enforcement) Act 1972(3) (which provide that, subject to certain conditions, a magistrates' court may, if it is satisfied that the respondent has been outside the United Kingdom during such period as may be prescribed by rules, proceed on an application made under section 20 or 21 of the said Act of 1978, section 60 of the Act of 1980 or section 9, 10, 11 or 12C(5) of the Guardianship of Minors Act 1971(4) notwithstanding that the respondent has not been served with the summons) shall be the whole of the period beginning one month before the making of the application and ending with the date of the hearing.

(2) Before proceeding in any such case as is referred to in the said section 24(2) or the said section 41(2A), the court shall be satisfied that, in addition to the matter referred to in those subsections, the applicant has taken steps to notify the respondent of the making of the application and of the time and place appointed for the hearing by—

- (a) causing a notice in writing to that effect to be delivered to the respondent; or
- (b) causing a notice in writing to that effect to be sent by post addressed to the respondent at his last known or usual place of abode or at his place of business or at such other address at which there is ground for believing that it will reach the respondent, in accordance with directions given for the purpose by a justice of the peace acting for the same petty sessions area as that of the court; or
- (c) causing a notice to that effect to be inserted in one or more newspapers, in accordance with directions given as aforesaid;

and that it is reasonable in all the circumstances to proceed in the absence of the respondent.

(3) In any such case as is referred to in the said section 24(2) or the said section 41(2A), the court shall not make the order for which the application is made unless it is satisfied that during the period of 6 months immediately preceding the making of the application the respondent was continuously outside the United Kingdom or was not in the United Kingdom on more than 30 days and that, having regard to any communication to the court in writing purporting to be from the respondent, it is reasonable in all the circumstances so to do.

(4) Paragraph (1) of rule 67 of these Rules shall apply for the purpose of proving the delivery of a written notice in pursuance of paragraph (2)(a) as it applies for the purpose of proving the service of a summons.

In relation to a solemn declaration made outside the United Kingdom, paragraph (1) of the said rule 67 as applied by this paragraph, shall have effect as if for the reference to the authorities mentioned in the said paragraph (1) there were substituted a reference to a consular officer of Her Majesty's Government in the United Kingdom or any person for the time being authorised by law, in the place where the declarant is, to administer an oath for any judicial or other legal purpose.

(5) Paragraph (2) of the said rule 67 shall apply for the purpose of proving the sending of a written notice in pursuance of paragraph (2)(b) or the insertion of a notice in a newspaper in pursuance of

(2) 1973 c. 18.

(3) 1972 c. 18; subsection (2A) of section 41 was inserted by the [Domestic Proceedings and Magistrates' Courts Act 1978 \(c. 22\)](#), section 89(2)(a) and Schedule 2, paragraph 36.

(4) 1971 c. 3; section 12C was inserted by the [Domestic Proceedings and Magistrates' Courts Act 1978](#), section 43.

paragraph (2)(c) as it applies for the purpose of proving the service of any process, provided, as respects the insertion of a notice in a newspaper, that a copy of the newspaper containing the notice is annexed to the certificate.

Application for summons to witness or warrant for his arrest

107.—(1) An application for the issue of a summons or warrant under section 97 of the Act of 1980 may be made by the applicant in person or by his counsel or solicitor.

(2) An application for the issue of such a summons may be made by delivering or sending the application in writing to the clerk to the magistrates' court for submission to a justice of the peace.

Notice of order under s.104 of Road Traffic Act 1972

108.—(1) Where a magistrates' court makes an order under section 104 of the Road Traffic Act 1972(5) that an offender shall inform the court of his date of birth or sex or both and the offender is not present in court, the clerk of the court shall serve notice in writing of the order on the offender.

(2) A notice under this rule shall be served by delivering it to the offender or by sending it to him by post in a letter addressed to him at his last known or usual place of abode.

Signature of forms prescribed by rules made under the Act of 1980

109.—(1) Subject to paragraph (2), where any form prescribed by Rules made or having effect as if made under section 144 of the Act of 1980 contains provision for signature by a justice of the peace only, the form shall have effect as if it contained provision in the alternative for signature by the clerk of a magistrates' court.

(2) This rule shall not apply to any form of warrant, other than a warrant of commitment or of distress, or to any form prescribed in the Magistrates' Courts (Forms) Rules 1981.

(5) 1972 c. 20; section 104 was amended by the [Road Traffic Act 1974 \(c. 50\)](#), section 13(1) and Schedule 3, paragraph 11.