

2019 No. 1367

MAGISTRATES' COURTS, ENGLAND AND WALES

PROCEDURE

The Magistrates' Courts (Amendment) Rules 2019

Made - - - at 1.00 p.m. on 21st October 2019

Laid before Parliament at 5.00 p.m. on 21st October 2019

Coming into force - - 1st January 2020

The Lord Chief Justice, with the concurrence of the Lord Chancellor, makes the following Rules in exercise of the powers conferred by sections 144 and 145(1)(b) of the Magistrates' Courts Act 1980(a):

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Magistrates' Courts (Amendment) Rules 2019 and come into force on 1st January 2020.

(2) In these Rules—

- (a) “the 1981 Rules” means the Magistrates' Courts Rules 1981(b); and
- (b) a rule referred to by number alone means the rule so numbered in the 1981 Rules.

Amendment of the 1981 Rules

2. The 1981 Rules are amended in accordance with rules 3 to 10 of these Rules.

Amendment of rule 2

3. In rule 2(1) (interpretation), after the definition of “the Act of 1998” insert—

““business day” means any day other than—

- (a) a Saturday, Sunday, Christmas Day or Good Friday; or
- (b) a bank holiday under the Banking and Financial Dealings Act 1971(c), in England and Wales;”.

(a) 1980 c. 43. Section 144 has been amended by section 109(1) and (3) and paragraphs 245(1), (2), (5) of Schedule 8 and Schedule 10 to the Courts Act 2003; section 15(1) and paragraphs 99, 102(1), (2), (3)(a), (3)(b), (4) and (6) of Schedule 4 to the Constitutional Reform Act 2005; section 208(1) and paragraphs 42, 43(b) of Schedule 21 to the Legal Services Act 2007; Article 3(2) and paragraphs 1(1), (2) to (6) of Schedule 2 to SI 2012/2398 and section 17(6) and paragraphs 39, 52 and 99 of Schedule 10 to the Crime and Courts Act 2013.

(b) S.I. 1981/552. Relevant amendments were made by S.I. 1993/1183, S.I. 2000/3361, S.I. 2003/423, S.I. 2003/1236, S.I. 2005/2930 and S.I. 2014/600.

(c) 1971 c. 80.

Amendment of rule 57A

4. In rule 57A (payment of money in bank or building society account in satisfaction of confiscation order), in paragraph (4), for “rule—” to the end substitute “rule, “confiscation order” has the meaning given to it by section 88(6) of the Proceeds of Crime Act 2002(a).”.

Substitution of rule 95

5. For rule 95 (warrant to be signed) substitute—

“Form of warrants issued by magistrates’ courts

95.—(1) A warrant of arrest must identify—

- (a) each person to whom it is directed;
- (b) the person against whom it was issued;
- (c) the reason for its issue;
- (d) the ground in relation to which it was issued;
- (e) the court that issued it; and
- (f) the court office for the court that issued it.

(2) Except where any enactment provides otherwise, a warrant issued by a magistrates’ court need not bear the name of the justice or other person issuing it, provided that the designated officer has recorded the name of that justice or other person.”.

Amendment of rule 96

6. In rule 96 (warrant of arrest), omit paragraph (2).

Substitution of rule 98

7. For rule 98 (form of summons) substitute—

“Form of summons

98.—(1) A summons requiring a person to appear before a magistrates’ court may be issued in respect of more than one information or complaint.

(2) A summons must—

- (a) state the name and address of the complainant or informant;
- (b) contain notice of when and where the person is required to attend the court;
- (c) specify each information or complaint in respect of which it is issued;
- (d) identify the name and address of the court office for the court that issued it.

(3) A summons need not bear the name of the justice or other person issuing it, provided that the designated officer has recorded the name of that justice or other person.”.

Substitution of rule 99

8. For rule 99 (service of summons, etc.) substitute—

“Service of summons

99.—(1) Subject to paragraph (7), a summons requiring a person to appear before a magistrates’ court may be served by—

(a) 2002 c. 29.

- (a) handing it to the person in person or, where the person is a corporation, to a person holding a senior position in that corporation;
- (b) posting it to the person at an address where it is reasonably believed that the person will receive it or, where the person is a corporation, the address for service in accordance with paragraph (2);
- (c) addressing it to the person and leaving it for the person at an address where it is reasonably believed that the person will receive it;
- (d) where the person has given an electronic address and has not refused to accept service at that address, sending it by electronic means to the address which the person has given;
- (e) where the person to be served is given access to an electronic address at which a document may be deposited and has not refused to accept service by the deposit of a document at that address, by depositing it at that address and making it possible for the recipient to read the document, or view or listen to its content, as the case may be, and notifying the recipient of the deposit of the document (which notice may be given by electronic means);
- (f) where the person is in custody, sending it to his or her custodian, addressed to the person;
- (g) where the person has given a document exchange (DX) box number, and has not refused to accept service by DX, addressing it to the person at that DX box number and leaving it at that document exchange;
- (h) where the person is legally represented, serving it on the person's legal representative in the same manner as it could be served on the person under subparagraphs (a), (b), (c) and (g);
- (i) where the person is legally represented and the person's legal representative has given an electronic address, sending it to that address;
- (j) where the person to be served is legally represented and the legal representative is given access to an electronic address at which a document may be deposited, by depositing it at that address and making it possible for the recipient to read the document, or view or listen to its content, as the case may be, and notifying the recipient of the deposit of the document (which notice may be given by electronic means); or
- (k) any other method specified by the court.

(2) Where the person is a corporation, the address for service under this rule is the person's principal office, and if there is no readily identifiable principal office, then any place where it carries on its activities or business.

(3) Where under any enactment other than the Act of 1980 or these Rules a summons is required to be served in any particular manner—

- (a) the summons will, if served in accordance with paragraph (1), be deemed to have been as effectively served as if served in that particular manner; and
- (b) if the summons is served in that particular manner, nothing in this rule invalidates such service.

(4) A summons served in accordance with paragraph (1) shall be deemed to have been received by the person—

- (a) if handed to the person or the person's legal representative in accordance with paragraph (1)(a) or (h), when so handed;
- (b) if sent by electronic means in accordance with paragraph (1)(d) or (i), one day after being sent;
- (c) if served in accordance with paragraph (1)(k), on a date specified by the court;
- (d) in any other case, three business days after it was posted, left, or sent in accordance with paragraph (1)(b), (c), (f) or (g),

unless something different is shown.

(5) Unless something different is shown, a document produced by a computer system for dispatch by post is to be taken as having been sent by post, or the equivalent of post, to the addressee on the third business day after the day on which it was produced.

(6) A witness summons may only be served in accordance with paragraph (1)(a), (d) or (f).

(7) This rule does not apply in relation to a judgment summons (for which rule 58 requires service on the judgment debtor personally).”.

Omission of rule 109

9. Omit rule 109 (signature of forms prescribed by rules made under the Act of 1980).

Insertion of rule 115

10. At the end of the rules insert—

“Service of orders

115.—(1) Subject to paragraph (6), in proceedings commenced by complaint, unless any enactment otherwise provides for service of an order, the designated officer for the court shall serve a copy of that order on the defendant as soon as reasonably practicable after an order or interim order has been made.

(2) The designated officer may serve the copy by—

- (a) handing it to the defendant in person or, where the defendant is a corporation, to a person holding a senior position in that corporation;
- (b) posting it to the defendant at an address where it is reasonably believed that the defendant will receive it or, where the defendant is a corporation, the address for service in accordance with paragraph (3);
- (c) where the defendant has given an electronic address and has not refused to accept service at that address, sending it by electronic means to the address which the defendant has given;
- (d) where the defendant is legally represented, serving it on the defendant’s legal representative in the same manner as it could be served on the defendant under sub-paragraphs (a), (b) and (c);
- (e) where the defendant is in custody, sending it to his or her custodian, addressed to the defendant; or
- (f) any other method specified by the court.

(3) Where the defendant is a corporation, the address for service under this rule is the defendant’s principal office, and if there is no readily identifiable principal office, then any place where it carries on its activities or business.

(4) An order served in accordance with paragraph (2) shall be deemed to have been received by the defendant—

- (a) if handed to the defendant or the defendant’s legal representative in accordance with paragraph (1)(a), when so handed;
- (b) if sent by electronic means in accordance with paragraph (1)(c) or (d), one day after being sent; or
- (c) in any other case, three business days after being posted, sent or given,

unless something different is shown.

(5) Unless something different is shown, a document produced by a computer system for dispatch by post is to be taken as having been sent by post, or the equivalent of post, to the addressee on the third business day after the day on which it was produced.

(6) This rule does not apply to liability orders.”.

Transitional provision

11.—(1) The amendments made by rules 5 to 9 of these Rules do not have effect in relation to a summons or warrant (as the case may be) issued before 1 January 2020.

(2) The amendment made by rule 10 of these Rules does not have effect in relation to an order made before 1 January 2020.

Ian Burnett
Lord Chief Justice

I agree

Chris Philp
Parliamentary Under Secretary of State
Ministry of Justice

21st October 2019

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Magistrates’ Courts Rules 1981 (“the 1981 Rules”) in relation to the form of a summons or a warrant and in relation to how a summons or an order is to be served on a person. They also make provision for interpretation and transitional provision.

Rules 3 and 4 of these Rules move the definition of “business day” from rule 57A of the 1981 Rules to rule 2 of those Rules (interpretation), so that the definition applies to any reference in the 1981 Rules to “business day”, and not just to the reference in rule 57A (the new rules inserted by rules 8 and 10 of these Rules contain references to “business day”).

Rule 5 of these Rules substitutes for rule 95 of the 1981 Rules a new rule 95 which contains provision about the form of a warrant issued by a magistrates’ court and certain information every such warrant must contain and which makes clear that a warrant is not to be signed provided that the name of the person issuing it is recorded by the designated officer. This incorporates requirements from paragraph (2) of rule 95 of the 1981 Rules, and so rule 6 of these Rules omits that paragraph.

Rule 7 of these Rules substitutes for rule 98 of the 1981 Rules and new rule 98 which contains provision about the form of a summons issued by a magistrates’ court and certain information every such summons must contain and which, similarly to the new rule 95, makes clear that a summons is not to be signed provided that the name of the person issuing it is recorded by the designated officer.

Rule 8 of the Rules substitutes for rule 99 of the 1981 Rules a new rule 99 which makes comprehensive provision for the way in which a summons issued by a magistrates’ court may be served and when it will be deemed to have been served (with the exception of a judgment summons, for which rule 58 of the 1981 Rules prescribes personal service as the only valid method of service). The amended Rules enable summonses to be served by means of communication which are now in general use but were unknown to the drafters of the original rules, including email and file-sharing.

Rule 9 of these Rules omits rule 109 of the 1981 Rules, which is rendered obsolete by the new rules 95 and 98 of the 1981 Rules.

Rule 10 of these Rules inserts at the end of the 1981 Rules a new rule 115, which makes comprehensive provision for the way in which an order made by a magistrates' court may be served and when it will be deemed to have been served. Liability orders are excluded since service has been customarily carried out by complainants.

Rule 11 of these Rules makes transitional provision, the effect of which is that the 1981 Rules as amended will apply to summonses and warrants issued, and orders made, on or after these Rules come into force.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

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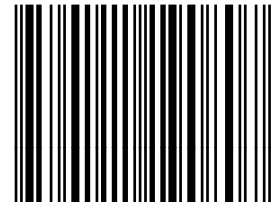
Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£6.90

UK201910211012 10/2019 19585

<http://www.legislation.gov.uk/id/uksi/2019/1367>

ISBN 978-0-11-119080-7



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