

2001 No. 610

**MAGISTRATES' COURTS
PROCEDURE**

The Magistrates' Courts (Amendment No. 2) Rules 2001

Made - - - - - 27th February 2001

Laid before Parliament 2nd March 2001

Coming into force - - - 1st April 2001

The Lord Chancellor, in exercise of the power conferred on him by section 144 of the Magistrates' Courts Act 1980(a), as extended by section 145 of that Act, after consultation with the Rule Committee appointed under the said section 144, hereby makes the following Rules:—

Citation, commencement and interpretation

1. These Rules may be cited as the Magistrates' Courts (Amendment No. 2) Rules 2001 and shall come into force on 1st April 2001.

Amendments to the Magistrates' Courts Rules 1981

2. The Magistrates' Courts Rules 1981(b) shall be amended in accordance with the following provisions of these Rules.

3. In rules 4B(2), 9(1) and (2), 10, 11(2), 11A(1), 15(1), 17(1) to (3), 18, 19(1) and (2), 20, 22, 25(1) and (2), 26, 27, 28(1) to (3), 29(2), 30(1) to (3), 32(2), 38, 39(2) to (6), 40, 41(4) and (6) to (10), 45(1), 46(1), 47(1), 48(1) to (3), 49, 54(3), 54(10) and (11), 55(1), (3) and (4), 56(1), 59(1) to (6), 60(2), 61, 63(1) and (2), 66(1), 66B, 69, 70(2) and (9), 73, 74(1) to (7), 75, 76(3), 77(1), 78(3), 79(1) and (2), 82, 84A(2) and (6), 86(2) and (4), 87, 89, 93, 93A(8) to (10), 93B(7)(a), 101A(1), 104(2), 104A(3), 104B(2), 108(1), 110, 111, 112, for "clerk of", in each place where it occurs, substitute "justices' chief executive for".

4. In rule 4A(4) for "clerk of" substitute "chief executive to".

5. In rules 47(2), 68, 77(2), 79(3) and 84A(3), for "the clerk" substitute "the justices' chief executive".

6. In rules 41(8), 55(1)(b), 60(2), 63(1) and 74(4), for "that clerk" substitute "that chief executive".

7. In rules 32(2), 40, 45(1), 54(10), 79(1) and (2) and 111, for "the clerk shall" substitute "the justices' chief executive shall".

8. In rule 39—

(a) in paragraph (1), before "notify in writing" insert "the justices' chief executive shall";

(a) 1980 c. 43; section 144 is amended by section 90 of, and paragraph 113 of Schedule 13 to, the Access to Justice Act 1999 (c. 22).

(b) S.I. 1981/552; the relevant amending instruments are S.I. 1982/245, 1983/523, 1984/1552, 1986/1332, 1989/300, 1989/384, 1990/336, 1992/457, 1992/729, 1992/2072, 1993/1183, 1994/1481, 1994/3154, 1995/585, 1995/2619, 1997/706, 1998/2167, 1998/3046, 1999/2756 and 2000/3361.

- (b) in paragraph (2), for “the clerk to whom” substitute “the justices’ chief executive to whom”;
 - (c) in paragraph (3), for “the clerk may” substitute “the justices’ chief executive may”;
 - (d) in paragraph (4), for “the clerk’s office” substitute “the office of the justices’ chief executive”; and
 - (e) in paragraph (6), for “the clerk shall notify” substitute “the justices’ chief executive shall notify” and for “the clerk grants” substitute “the clerk of the court grants”.
- 9.** In rule 45(1)—
- (a) for “the clerk or other appropriate officer of” substitute “the justices’ chief executive for or other appropriate officer of”; and
 - (b) for “of which he is not the clerk” substitute “for which he is not the justices’ chief executive”.
- 10.** In rule 48(2), for “if the clerk” substitute “if the justices’ chief executive”.
- 11.** In rule 57(1) and (3) for “clerk of a magistrates’ court” substitute “justices’ chief executive for a magistrates’ court” and in rule 57(2) and (4) for “clerk of the magistrates’ court”, in each place where it occurs, substitute “justices’ chief executive for the magistrates’ court”.
- 12.** In rule 59—
- (a) in paragraph (4), for “the clerk to whom” substitute “the justices’ chief executive to whom”; and
 - (b) in paragraph (5)—
 - (i) for “inform the clerk” substitute “inform the justices’ chief executive”; and
 - (ii) for “the clerk shall forthwith send” substitute “the justices’ chief executive shall forthwith send”.
- 13.** In rule 63(1), for “last-mentioned clerk” substitute “last-mentioned justices’ chief executive”.
- 14.** In rule 66(11)—
- (a) for “by the clerk or justice” substitute “by the justices’ chief executive on justice”;
 - (b) for “the clerk whose duty” substitute “the justices’ chief executive whose duty”; and
 - (c) for “the clerk shall enter” substitute “the justices’ chief executive shall enter”.
- 15.** In rule 66A for “clerk of” substitute “justices chief executive for, or clerk of,”.
- 16.** In rule 73, for “send to the clerk” substitute “send to the justices’ chief executive”.
- 17.** In rule 79(2), for “he may by notice in writing” substitute “the clerk of the magistrates’ court may by notice in writing” and after “sent to the applicant or respondent as the case may be” insert “by the justices’ chief executive”.
- 18.** In rule 86(1)(b), after “a justices’ clerk,” insert “a justices’ chief executive,”.
- 19.** In rule 92(a), for “the clerk thereof” substitute “the justices’ chief executive for that court”.
- 20.** In rule 93A(7) and (8) after “by way of written notice” insert “(served by the justices’ chief executive for the magistrates’ court)”.
- 21.** For rule 93B(3) substitute—
- “(3) Where an application has been made to a magistrates’ court under section 5B of the Bail Act 1976(a).
- (f) the clerk of that magistrates’ court shall fix a date, time and place for the hearing of the application; and
 - (g) the justices’ chief executive shall—
 - (i) give notice of the application and of the date, time and place so fixed in the prescribed form to the person affected; and
 - (ii) send a copy of the notice to the prosecutor who made the application and to any surety specified in the application.”.

(a) 1976 c. 63: section 5B was inserted by section 30 of the Criminal Justice and Public Order Act 1994 (c. 33).

- 22.** In rule 95A—
- (a) for “the clerk to the justices for that area” substitute “the justices’ chief executive for that area”; and
 - (b) for “serve upon the clerk” substitute “serve upon the justices’ chief executive”.
- 23.** In rule 101A, for paragraph (3) substitute—
- “(3) Where such an application is served on the justices’ chief executive for the court—
- (a) the clerk of the court shall fix a date and time for the hearing of the application; and
 - (b) the justices’ chief executive shall—
 - (i) serve a copy of the application on the course organiser; and
 - (ii) serve notice of the hearing on the applicant and course organiser.”.
- 24.** In rule 107(2), for “clerk to” substitute “justices’ chief executive for”.

27th February 2001

Irvine of Lairg, C.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Magistrates' Courts Rules 1981 so as to transfer the administrative functions of justices' clerks under the Rules to justices' chief executives in line with sections 90 (transfer of clerks' functions to chief executives) and 91 (accounting etc. functions of chief executives) of, and Schedule 13 to, the Access to Justice Act 1999 which implement corresponding transfers in primary legislation.

Subsection (5) of section 90 provides that, for the purposes of that section, the administrative functions of justices' clerks are all of their functions apart from those which are legal functions within the meaning given by section 48(2) of the Justices' of the Peace Act 1997 (c. 25), as substituted by section 89(1) of the 1999 Act.

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