
STATUTORY INSTRUMENTS

1994 No. 3154 (L.20)

MAGISTRATES' COURTS

PROCEDURE

**The Magistrates' Courts (Miscellaneous
Amendments) Rules 1994**

Made - - - - *8th December 1994*
Laid before Parliament *12th December 1994*
Coming into force - - *3rd February 1995*

The Lord Chancellor, in exercise of the power conferred upon him by section 144 of the Magistrates' Courts Act 1980(1), after consultation with the Rule Committee appointed under the said section 144, hereby makes the following Rules:

Citation and commencement

1. These rules may be cited as the Magistrates' Courts (Miscellaneous Amendments) Rules 1994 and shall come into force on 3rd February 1995.

The Magistrates' Courts Rules 1981

2. The Magistrates' Courts Rules 1981(2) shall be amended by the insertion of the following rule after rule 104A—

“Postponed determinations under the Criminal Justice Act 1988

104B.—(1) Where an application to the magistrates' court is made by the defendant or the prosecutor under section 72A(5)(a) of the Criminal Justice Act 1988(3) asking the court to exercise its powers under section 72A(4) of that Act, such an application must be made in writing and a copy thereof must be served on the prosecutor or the defendant, as the case may be.

(2) A person who is served with a copy of an application under paragraph (1) shall, within 28 days of the date of service, notify the applicant and the clerk of the magistrates'

(1) 1980 c. 43; section 144 is extended by section 145 of that Act.

(2) S.I.1981/552, relevant amending instruments are S.I. 1989/300, 1993/1183.

(3) 1988 c. 33; section 72A was inserted by section 28 of the Criminal Justice Act 1993 (c. 36).

court, in writing, whether or not he proposes to oppose the application, giving his reasons for any such opposition.

(3) After the expiry of the period referred to in paragraph (2), the court shall determine whether an application under paragraph (1) is to be dealt with—

- (a) without a hearing, or
- (b) at a hearing at which the parties may be represented.”.

The Magistrates' Courts (Detention and Forfeiture of Drug Trafficking Cash) Rules 1991

3. The Magistrates' Courts (Detention and Forfeiture of Drug Trafficking Cash) Rules 1991(4) shall be amended as follows—

- (a) after rule 9, there shall be inserted the following rule—

“Appeal against order forfeiting cash

9A.—(1) An application under section 44(4) of the Drug Trafficking Act 1994(5) for the release of cash to meet the appellant’s legal expenses shall be made in writing and shall contain the name and address of the solicitor instructed by the appellant and the amount requested to be released, together with any evidence in support of the application.

(2) A copy of the written application under paragraph (1) above shall be served by the appellant on the complainant.

(3) The clerk of the magistrates' court who receives such an application shall fix a date for the hearing of the application, shall notify the appellant thereof, and shall notify any persons to whom notice of forfeiture was given.

(4) A direction for the release of cash under section 44(4) of the Drug Trafficking Act 1994 shall be in Form F.”;

- (b) In rule 12(1), after the words “under section 26 thereof” there shall be inserted the words, “or under section 44 of the Drug Trafficking Act 1994”;
- (c) In the Schedule, at the end there shall be added the form in the Schedule to this Order.

Dated 8th December 1994

Mackay of Clashfern, C.

(4) S.I. 1991/1923.
(5) 1994 c. 37.

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SCHEDULE

Rule 3

Form F Direction for Release of Detained Cash (to meet Legal Expenses) Drug Trafficking Act 1994 s.44(4)

..... Magistrates' Court

..... Code

Date

On the application of (name of applicant)

of (address of applicant)

after hearing oral evidence from/representations from

.....

Decision. It is directed that the sum of be released to to meet the legal expenses of the applicant in connection with his appeal, in accordance with section 44 of the Drug Trafficking Act 1994.

Justice of the Peace

Justice of the Peace

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Magistrates' Courts Rules 1981 and the Magistrates' Courts (Detention and Forfeiture of Drug Trafficking Cash) Rules 1991 to govern procedures arising out of the Criminal Justice Act 1988 and the Drug Trafficking Act 1994, deriving from the Criminal Justice Act 1993.

Rule 2 amends the 1981 Rules to govern procedure to be followed where an application is made to the magistrates' court by the defendant or the prosecutor under section 72A of the Criminal Justice Act 1988. Rule 3 amends the 1991 Rules and provides for the procedure to be followed where an application is made under section 44 of the 1994 Act for the release of cash to meet an appellant's legal expenses.

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