
 STATUTORY INSTRUMENTS

1975 No. 518 (L.8)
MAGISTRATES' COURTS
PROCEDURE
The Magistrates' Courts (Amendment) (No. 2) Rules 1975

<i>Made</i>	- - -	<i>25th March 1975</i>
<i>Laid before Parliament</i>		<i>7th April 1975</i>
<i>Coming into Operation</i>		<i>1st June 1975</i>

The Lord Chancellor, in exercise of the power conferred on him by section 15 of the Justices of the Peace Act 1949(a), as extended by section 122 of the Magistrates' Courts Act 1952(b), after consultation with the Rule Committee appointed under the said section 15, hereby makes the following Rules:—

1. These Rules may be cited as the Magistrates' Courts (Amendment) (No. 2) Rules 1975 and shall come into operation on 1st June 1975.

2. For rules 65 to 68 of the Magistrates' Courts Rules 1968(c), as amended (d), there shall be substituted the following rules:—

"Application to state case

65.—(1) An application under section 87(1) of the Act shall be made in writing and signed by or on behalf of the applicant and shall identify the question or questions of law or jurisdiction on which the opinion of the High Court is sought.

(2) Where one of the questions on which the opinion of the High Court is sought is whether there was evidence on which the magistrates' court could come to its decision, the particular finding of fact made by the magistrates' court which it is claimed cannot be supported by the evidence before the magistrates' court shall be specified in such application.

(3) Any such application shall be sent to the clerk of the magistrates' court whose decision is questioned.

Consideration of draft case

65A.—(1) Within twenty-one days after receipt of an application made in accordance with rule 65 of these Rules, the clerk of the magistrates' court whose decision is questioned shall, unless the justices refuse to state a case under section 87(5) of the Act, send a draft case in which are stated the

(a) 1949 c. 101

(b) 1952 c. 55.

(c) S.I. 1968/1920 (1968 III, p.5175).

(d) There are no relevant amendments.

matters required under rule 68 to the applicant or his solicitor and shall send a copy thereof to the respondent or his solicitor.

(2) Within twenty-one days after receipt of the draft case under paragraph (1) of this rule, each party may make representations thereon. Any such representations shall be in writing and signed by or on behalf of the party making them and shall be sent to the clerk.

(3) Where the justices refuse to state a case under section 87(5) of the Act and they are required by the High Court by order of mandamus under section 87(6) to do so, this rule shall apply as if in paragraph (1)—

(a) for the words “receipt of an application made in accordance with rule 65 of these Rules” there were substituted the words “the date on which an order of mandamus under section 87(6) of the Act is made”; and

(b) the words “unless the justices refuse to state a case under section 87(5) of the Act” were omitted.

Preparation and submission of final case

66.—(1) Within twenty-one days after the latest day on which representations may be made under rule 65A of these Rules, the justices whose decision is questioned shall make such adjustments, if any, to the draft case prepared for the purposes of that rule as they think fit, after considering any such representations, and shall state and sign the case.

(2) A case may be stated on behalf of the justices whose decision is questioned by any two or more of them and may, if the justices so direct, be signed on their behalf by their clerk.

(3) Forthwith after the case has been stated and signed the clerk of the court shall send it to the applicant or his solicitor, together with any statement required by rule 67 of these Rules.

Extension of time limits

67.—(1) If the clerk of a magistrates' court is unable to send to the applicant a draft case under paragraph (1) of rule 65A of these Rules within the time required by that paragraph, he shall do so as soon as practicable thereafter and the provisions of that rule shall apply accordingly; but in that event the clerk shall attach to the draft case, and to the final case when it is sent to the applicant or his solicitor under rule 66(3), a statement of the delay and the reasons therefor.

(2) If the clerk of a magistrates' court receives an application in writing from or on behalf of the applicant or the respondent for an extension of the time within which representations on the draft case may be made under paragraph (2) of rule 65A of these Rules, together with reasons in writing therefor, he may by notice in writing sent to the applicant or respondent as the case may be extend the time and the provisions of that paragraph and of rule 66 shall apply accordingly; but in that event the clerk shall attach to the final case, when it is sent to the applicant or his solicitor under rule 66(3), a statement of the extension and the reasons therefor.

(3) If the justices are unable to state a case within the time required by paragraph (1) of rule 66 of these Rules, they shall do so as soon as practicable thereafter and the provisions of that rule shall apply accordingly; but in that event the clerk shall attach to the final case, when it is sent to the applicant or his solicitor under rule 66(3), a statement of the delay and the reasons therefor.

Service of documents

67A. Any document required by rules 65 to 67 of these Rules to be sent to any person shall either be delivered to him or be sent by post in a registered letter or by recorded delivery service and, if sent by post to an applicant or respondent, shall be addressed to him at his last known or usual place of abode.

Content of case

68.—(1) A case stated by the magistrates' court shall state the facts found by the court and the question or questions of law or jurisdiction on which the opinion of the High Court is sought.

(2) Where one of the questions on which the opinion of the High Court is sought is whether there was evidence on which the magistrates' court could come to its decision, the particular finding of fact which it is claimed cannot be supported by the evidence before the magistrates' court shall be specified in the case.

(3) Unless one of the questions on which the opinion of the High Court is sought is whether there was evidence on which the magistrates' court could come to its decision, the case shall not contain a statement of evidence."

Dated 25th March 1975.

Elwyn-Jones, C.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules substitute new provisions, in place of rules 65 to 68 of the Magistrates' Courts Rules 1968, for the procedure to be followed in relation to applications to a magistrates' court under section 87(1) of the Magistrates' Courts Act 1952 for a case to be stated for the opinion of the High Court on a question of law or jurisdiction.

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