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STATUTORY INSTRUMENTS

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**1981 No. 552**

**The Magistrates' Courts Rules 1981**

CASE STATED

**Application to state case**

76.—(1) An application under section 111(1) of the Act of 1980 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**

77.—(1) Within 21 days after receipt of an application made in accordance with rule 76, the clerk of the magistrates' court whose decision is questioned shall, unless the justices refuse to state a case under section 111(5) of the Act of 1980, send a draft case in which are stated the matters required under rule 81 to the applicant or his solicitor and shall send a copy thereof to the respondent or his solicitor.

(2) Within 21 days after receipt of the draft case under paragraph (1), 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 111(5) of the Act and they are required by the High Court by order of mandamus under section 111(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 76” there were substituted the words “the date on which an order of mandamus under section 111(6) of the Act of 1980 is made”; and
- (b) the words “unless the justices refuse to state a case under section 111(5) of the Act of 1980” were omitted.

**Preparation and submission of final case**

78.—(1) Within 21 days after the latest day on which representations may be made under rule 77, 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 2 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 79.

#### **Extension of time limits**

**79.**—(1) If the clerk of a magistrates' court is unable to send to the applicant a draft case under paragraph (1) of rule 77 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 78(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 77, 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 78 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 78(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 78, 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 78(3), a statement of the delay and the reasons therefor.

#### **Service of documents**

**80.** Any document required by rules 76 to 79 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**

**81.**—(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.