

1989 No. 1596 (L.15)

MAGISTRATES' COURTS

PROCEDURE

**The Magistrates' Courts (Backing of Warrants)
(Amendment) Rules 1989**

<i>Made</i> - - - -	<i>4th September 1989</i>
<i>Laid before Parliament</i>	<i>9th September 1989</i>
<i>Coming into force</i>	<i>26th September 1989</i>

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

1. These Rules may be cited as the Magistrates' Courts (Backing of Warrants) (Amendment) Rules 1989 and shall come into force on 26th September 1989.

2. The Magistrates' Courts (Backing of Warrants) Rules 1965(b) shall be amended in accordance with the provisions of the following rules.

3. There shall be inserted after rule 3(2) the following paragraph:

“(3) The clerk of a magistrates' court which refused to order a person to be delivered under section 2 of the Act but made an order in accordance with section 2A(2) of the Act releasing that person on bail, upon the chief officer of police immediately informing the court that he intended to make an application to the court to state a case for the opinion of the High Court, shall forthwith send a copy of that order to the Crown Office.”.

4. There shall be inserted after rule 5 the following rules:

“5A.—(1) Where a court refuses to make an order in relation to a person under section 2 of the Act, any application to the court under section 2A(1) of the Act to state a case for the opinion of the High Court on any question of law arising in the proceedings must be made to the court by the chief officer of police within the period of 21 days following the day on which the order was refused, unless the court grants a longer period within which the application is to be made.

(2) Such an application shall be made in writing and shall identify the question or questions of law on which the opinion of the High Court is sought.

5B. Within 21 days after receipt of an application to state a case under section 2A(1) of the Act, the clerk to the justices shall send a draft case to the applicant or his solicitor and to the person to whom the warrant relates or his solicitor and shall allow each party 21 days within which to make representations thereon; within 21 days after the latest day on which such representations may be made the court shall, after considering such

(a) 1980 c. 43; section 144 was extended by section 145 of that Act and by sections 2A (inserted by paragraph 5 of Schedule 1 to the Criminal Justice Act 1988 (c.33) and which continues to have effect by virtue of section 37(5) of the Extradition Act 1989 (c. 33)) and 8 of the Backing of Warrants (Republic of Ireland) Act 1965 (c. 45).

(b) S.I. 1965/1906.

representations and making such adjustments, if any, to the draft case as it thinks fit, state and sign the case which the clerk shall forthwith send to the applicant or his solicitor.”.

Dated 4th September 1989

Mackay of Clashfern, C.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Magistrates' Courts (Backing of Warrants) Rules 1965 (which apply only to England and Wales) in relation to appeals by way of case stated against refusals to order the delivery of persons to the Republic of Ireland under section 2A of the Backing of Warrants (Republic of Ireland) Act 1965 (inserted by Schedule 1 to the Criminal Justice Act 1988). Rule 3 of these Rules requires notice to be given to the Crown Office of the release on bail of the person concerned pending such an appeal. New rules 5A and 5B (inserted by rule 4) specify respectively a period during which an application to state a case must be made and a period during which the court must comply with such an application.

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