

---

STATUTORY INSTRUMENTS

---

**2015 No. 1490**

**The Criminal Procedure Rules 2015**

**PART 35**

**APPEAL TO THE HIGH COURT BY CASE STATED**

**Preparation of case stated**

**35.3.**—(1) This rule applies where the court decides to state a case for the opinion of the High Court.

(2) The court officer must serve on each party notice of—

- (a) the decision to state a case, and
- (b) any recognizance ordered by the court.

(3) Unless the court otherwise directs, not more than 21 days after the court's decision to state a case—

- (a) in a magistrates court, the court officer must serve a draft case on each party;
- (b) in the Crown Court, the applicant must serve a draft case on the court officer and each other party.

(4) The draft case must—

- (a) specify the decision in issue;
- (b) specify the question(s) of law or jurisdiction on which the opinion of the High Court will be asked;
- (c) include a succinct summary of—
  - (i) the nature and history of the proceedings,
  - (ii) the court's relevant findings of fact, and
  - (iii) the relevant contentions of the parties;
- (d) if a question is whether there was sufficient evidence on which the court reasonably could reach a finding of fact—
  - (i) specify that finding, and
  - (ii) include a summary of the evidence on which the court reached that finding.

(5) Except to the extent that paragraph (4)(d) requires, the draft case must not include an account of the evidence received by the court.

(6) A party who wants to make representations about the content of the draft case, or to propose a revised draft, must—

- (a) serve the representations, or revised draft, on—
  - (i) the court officer, and
  - (ii) each other party; and

- (b) do so not more than 21 days after service of the draft case.
- (7) The court must state the case not more than 21 days after the time for service of representations under paragraph (6) has expired.
- (8) A case stated for the opinion of the High Court must—
  - (a) comply with paragraphs (4) and (5); and
  - (b) identify—
    - (i) the court that stated it, and
    - (ii) the court office for that court.
- (9) The court officer must serve the case stated on each party.

*[Note. Under section 114 of the Magistrates' Courts Act 1980(1), a magistrates' court need not state a case until the person who applied for it has entered into a recognizance to appeal promptly to the High Court. The Crown Court has a corresponding inherent power.*

*Under section 121(6) of the 1980 Act, the magistrates' court which states a case need not include all the members of the court which took the decision questioned.*

*For the procedure on appeal to the High Court, see Part 52 of the Civil Procedure Rules 1998(2) and the associated Practice Direction.]*

---

(1) 1980 c. 43; section 114 was amended by section 90 of, and paragraphs 95 and 113 of Schedule 13 to, the Access to Justice Act 1999 (c. 22) and section 109 of, and paragraph 235 of Schedule 8 to, the Courts Act 2003 (c. 39).

(2) S.I. 1998/3132; Part 52 was inserted by S.I. 2000/221 and amended by paragraph 1 of Schedule 11 to the Constitutional Reform Act 2005 (c. 4) and S.I. 2003/2113, 2003/3361, 2006/3435, 2007/2204 and 2009/2092.