
EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Magistrates' Courts Rules 1981 ("the 1981 Rules") in relation to the form of a summons or a warrant and in relation to how a summons or an order is to be served on a person. They also make provision for interpretation and transitional provision.

Rules 3 and 4 of these Rules move the definition of "business day" from rule 57A of the 1981 Rules to rule 2 of those Rules (interpretation), so that the definition applies to any reference in the 1981 Rules to "business day", and not just to the reference in rule 57A (the new rules inserted by rules 8 and 10 of these Rules contain references to "business day").

Rule 5 of these Rules substitutes for rule 95 of the 1981 Rules a new rule 95 which contains provision about the form of a warrant issued by a magistrates' court and certain information every such warrant must contain and which makes clear that a warrant is not to be signed provided that the name of the person issuing it is recorded by the designated officer. This incorporates requirements from paragraph (2) of rule 95 of the 1981 Rules, and so rule 6 of these Rules omits that paragraph.

Rule 7 of these Rules substitutes for rule 98 of the 1981 Rules and new rule 98 which contains provision about the form of a summons issued by a magistrates' court and certain information every such summons must contain and which, similarly to the new rule 95, makes clear that a summons is not to be signed provided that the name of the person issuing it is recorded by the designated officer.

Rule 8 of the Rules substitutes for rule 99 of the 1981 Rules a new rule 99 which makes comprehensive provision for the way in which a summons issued by a magistrates' court may be served and when it will be deemed to have been served (with the exception of a judgment summons, for which rule 58 of the 1981 Rules prescribes personal service as the only valid method of service). The amended Rules enable summonses to be served by means of communication which are now in general use but were unknown to the drafters of the original rules, including email and file-sharing.

Rule 9 of these Rules omits rule 109 of the 1981 Rules, which is rendered obsolete by the new rules 95 and 98 of the 1981 Rules.

Rule 10 of these Rules inserts at the end of the 1981 Rules a new rule 115, which makes comprehensive provision for the way in which an order made by a magistrates' court may be served and when it will be deemed to have been served. Liability orders are excluded since service has been customarily carried out by complainants.

Rule 11 of these Rules makes transitional provision, the effect of which is that the 1981 Rules as amended will apply to summonses and warrants issued, and orders made, on or after these Rules come into force.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.