

2020 No. 284 (L. 9)

MAGISTRATES' COURTS, ENGLAND AND WALES

PROCEDURE

**The Magistrates' Courts (Functions of Authorised Persons –
Civil Proceedings) Rules 2020**

<i>Made</i> - - - -	<i>10th March 2020</i>
<i>Laid before Parliament</i>	<i>12th March 2020</i>
<i>Coming into force</i> - -	<i>6th April 2020</i>

The Lord Chief Justice, with the concurrence of the Lord Chancellor, makes the following Rules in exercise of the powers conferred by section 144 of the Magistrates' Courts Act 1980(a) and section 67B(1) of the Courts Act 2003, having taken the steps required by section 67C of the Courts Act 2003(b):

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Magistrates' Courts (Functions of Authorised Persons – Civil Proceedings) Rules 2020 and come into force on 6th April 2020.

(2) In these Rules—

- (a) “the 2003 Act” means the Courts Act 2003;
- (b) “authorised court officer” means a person authorised under section 67B(2) of the 2003 Act by the Lord Chief Justice (or the Lord Chief Justice’s nominee under section 67B(5) of that Act);
- (c) a reference to an authorised court officer who is legally qualified means an authorised court officer who has a qualification specified in regulation 2 of the Authorised Court Staff (Legal Advice Functions) Qualifications Regulations 2020(c);
- (d) references to a complaint include any civil proceedings in a magistrates’ court, and references to a complainant include the person initiating such proceedings;
- (e) “public authority” has the meaning given by section 17(6) of the Prosecution of Offences Act 1985(d).

(a) 1980 c. 43. Section 144 has been amended by section 109(1) and (3) and paragraphs 245(1), (2), (5) of Schedule 8 and Schedule 10 to the Courts Act 2003; section 15(1) and paragraphs 99, 102(1), (2), (3)(a), (3)(b), (4) and (6) of Schedule 4 to the Constitutional Reform Act 2005; section 208(1) and paragraphs 42, 43(b) of Schedule 21 to the Legal Services Act 2007; Article 3(2) and paragraphs 1(1), (2) to (6) of Schedule 2 to SI 2012/2398 and section 17(6) and paragraphs 39, 52 and 99 of Schedule 10 to the Crime and Courts Act 2013.

(b) 2003 c. 39. Sections 67B and 67C were inserted by section 3(1) of, and paragraphs 25 and 32 of the Schedule to, the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018 (c. 33).

(c) S.I. 2020/98.

(d) 1985 c. 23.

Functions of magistrates' courts exercisable by authorised court officers

2. Subject to rule 3, the functions in the Schedule may be exercised by an authorised court officer in any proceedings in a magistrates' court except in relation to a criminal cause or matter.

Exercise of functions by authorised court officers: general rules

3.—(1) No authorised court officer may—

- (a) authorise a person's committal to prison or detention;
- (b) authorise a person's arrest;
- (c) grant or withhold bail except to the extent that the Schedule allows;
- (d) make the final determination of a case, other than—
 - (i) dismissing the complaint when the complainant offers no evidence;
 - (ii) giving a complainant permission to withdraw a case;
- (e) determine the admissibility of evidence;
- (f) make an order for a party or other person to pay costs, unless that party or person agrees;
- (g) order the search, confiscation, restraint, detention or seizure of property;
- (h) determine an appeal or reference to an appeal court, or an application for permission to appeal or refer.

(2) The exercise by an authorised court officer of a function listed in the Schedule is subject to the same conditions as apply to the exercise of that function by the court or person whose function it is.

(3) Unless the context makes it clear that something different is meant, any provision in these Rules permitting the exercise of a function by an authorised court officer includes a power to decline to exercise the function.

(4) An authorised court officer who is not legally qualified may not exercise a function listed in the Schedule in a case in which a District Judge (Magistrates' Courts), a justice of the peace or an authorised court officer who is legally qualified so directs.

Burnett of Maldon, C.J.
Lord Chief Justice

I agree

Chris Philp
Parliamentary Under Secretary of State
Ministry of Justice

10th March 2020

SCHEDULE

Rule 2

FUNCTIONS OF A MAGISTRATES' COURT WHICH MAY BE EXERCISED BY AN AUTHORISED COURT OFFICER

Functions exercisable by any authorised court officer

1. An authorised court officer may—

- (a) fix, cancel or vary the date, time or place for a hearing, including a trial, or adjourn a hearing;
- (b) adjourn, remit or transfer proceedings from one local justice area to another;
- (c) determine an application to extend a time limit set by a rule or by the court, unless the effect would be—
 - (i) to affect the date of any hearing that has been fixed, including a trial; or
 - (ii) significantly to affect the progress of the case in any other way;
- (d) issue a summons at the request of a public authority;
- (e) give a complainant permission to withdraw a case;
- (f) fix the date, time and place of a hearing;
- (g) amend the local justice area or responsible officer named in an order of the court;
- (h) grant bail and remand the defendant where the defendant has previously been remanded on bail in the proceedings;
- (i) state a case for the opinion of the High Court where the decision under appeal was made by an authorised court officer;
- (j) authorise the inspection of court records pursuant to rule 66(12) of the Magistrates’ Courts Rules 1981(a);
- (k) endorse process for service in Scotland or Northern Ireland.

Functions exercisable only by an authorised court officer who is legally qualified

2. An authorised court officer who is legally qualified may (but an authorised court officer who is not legally qualified may not)—

- (a) determine an application to extend a time limit set by a rule or by the court;
- (b) give, vary or revoke directions for the conduct of proceedings, including—
 - (i) the timetable for the case;
 - (ii) the attendance of the parties;
 - (iii) the service of documents (including summaries of any legal arguments relied on by the parties);
 - (iv) the manner in which evidence is to be given, insofar as these Rules make no other provision;
- (c) actively manage the case in accordance with rule 3A of the Magistrates’ Courts Rules 1981(b);
- (d) impose a reporting restriction under section 39 of the Children and Young Persons Act 1933(c) (identity of a person under 18) where there is no objection to the order;
- (e) give permission for proceedings to be recorded;
- (f) ask a court security officer to remove a person from a courtroom;
- (g) issue a summons and give directions for its service;
- (h) dismiss a complaint where the complainant offers no evidence, provided that evidence has not been received on a previous occasion;
- (i) amend a complaint;
- (j) remand the defendant and grant bail where—
 - (i) the defendant is present; and
 - (ii) the complainant agrees to the grant of bail;

(a) S.I. 1981/552. Rule 66(12) was amended by S.I. 1992/709, article 2(1) and (3) and Schedule 1.
 (b) S.I. 1981/552. Rule 3A was inserted by S.I. 2009/3362, rules 2 and 3.
 (c) 1933 c. 12.

- (k) require a person who has made a written statement to attend before the court to give evidence;
- (l) issue a witness summons and give directions for its service;
- (m) issue a warrant of control;
- (n) extend the time for payment of a financial order (other than payment under a postponed warrant of commitment);
- (o) vary an order for the payment by instalments of a financial order (other than payment under a postponed warrant of commitment);
- (p) make an attachment of earnings order;
- (q) require the appellant to enter into a recognizance under section 114 of the Magistrates' Courts Act 1980^(a) on an application to state a case for the opinion of the High Court;
- (r) order a report to assist in the determination of a case;
- (s) make or vary an order for a party to pay costs, if both parties agree;
- (t) make or vary an order for another person to pay costs, if that person agrees;
- (u) revoke a suspended disqualification imposed under the Child Support Act 1991^(b) where the sum has been paid in full;
- (v) vary, discharge, remit, remove, revoke, review or suspend an order which an authorised court officer may make;
- (w) take a recognizance in any proceedings.

EXPLANATORY NOTE

(This note is not part of the Rules)

Section 67B of the Courts Act 2003 (c. 39) (“the 2003 Act”) provides for rules of court to be able to provide for the exercise of relevant judicial functions (as defined in section 67A of the 2003 Act) by members of court staff who have such qualifications as are required by the rules and who are authorised by the Lord Chief Justice to perform relevant judicial functions. These Rules provide for the exercise of functions in relation to civil proceedings only, and subject to certain restrictions and general provisions set out in rule 3. The functions which may be exercised by authorised court officers are set out in the Schedule to the Rules, and are in two categories – those which may be performed by any authorised court officer, and those which may be performed only by an authorised court officer who is legally qualified. This essentially mirrors the position in relation to the exercise of functions of the court by justices’ clerks and assistants to justices’ clerks prior to the abolition of those roles by the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018 (c. 33).

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.

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^(a) 1980 c. 43.
^(b) 1991 c. 48.

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