

A GUIDE TO THE MAGISTRATES' COURTS (AMENDMENT) RULES 2019 (S.I. 2019/1367)

Where to find the new Rules

The Magistrates' Courts (Amendment) Rules 2019 are at this address:

http://www.legislation.gov.uk/ukxi/2019/1367/pdfs/ukxi_20191367_en.pdf

When the Rules come into force, the changes they make will appear at this address, too:

<https://www.justice.gov.uk/courts/procedure-rules/other-procedure-rules-for-magistrates-courts-and-the-crown-court>

What the new Rules are for

The new Rules amend the Magistrates' Courts Rules 1981. These rules govern civil proceedings in magistrates' courts. They:

- Remove the requirement for signatures on summonses and warrants
- Prescribe the form of warrants of arrest
- Prescribe the form of summonses
- Amend the rules on service of summonses to permit modern methods of communication such as email or cloud access
- Introduce a new rule on service of orders, other than liability orders.
- Specify the time at which service of summonses and orders is deemed to take place

When the new rules come into force

The rules come into force on Wednesday 1st January 2020.

What is in the new Rules

Removing the requirement for signatures on summonses, warrants, and other orders

A summons is the usual method of commencing a civil case in magistrates' courts, although other methods apply in some types of proceedings. Summonses are also used in criminal proceedings in magistrates' courts, although other methods, such as arrest and charge, or requisition, are available to public prosecutors. A person bringing civil proceedings (a 'complainant') makes a formal 'complaint' to the court, asking the court to issue a summons. The summons is usually prepared and served by the complainant. Traditionally all summonses were signed with the name of the judge, magistrate or justices' legal adviser issuing them, but this requirement was removed in 2010 in criminal proceedings.

Rule 7 dispenses with the requirement for a signature provided the court office keeps a record of issue. Complainants will no longer need to affix the name of the issuing officer on the summons.

Warrants are court orders requiring a third party to compel a person to go either to court or to prison. Rule 5 dispenses with the requirement that warrants are signed, subject to any statutory requirement for a signature. Again, there must be a record of the person issuing the warrant.

Finally, rule 9 removes rule 109 of the Magistrates' Courts Rules, which set out rules for signatures on prescribed court forms, particularly allowing them to be signed by a court officer. Rule 109 was already of limited effect, since most court forms were deprescribed in 2001 and all but four of the remainder ceased to be of effect following the adoption of the Criminal Procedure Rules. The four remaining comprise three forms of complaint, which are

only necessary if the court issues a 'first instance' warrant, and a stated case. The effect is to require these documents to be signed by the justices. However, it is settled law that signatures can be made other than in wet ink, for example electronically or by a stamp.

Prescribing the form of summonses

Rule 7 also changes the requirements for summonses.

The rule specifying that a summons can contain more than one complaint has been simplified.

Some obvious formalities have been specified for the first time, for example that the name of the complainant appears on the summons. Others have been preserved from the previous form of the Rule, for example the requirement to include the date and place of the hearing.

For the first time, a summons must include the name and address of the court office dealing with the case. This ensures that defendants can contact the court if necessary, even if the office is not in the same building as the courthouse.

Prescribing the form of warrants of arrest

Rule 5 makes similar changes are made to the form of warrants, in addition requiring them to show the name of the person to be detained and the name of the person assigned to execute the warrant. This expands and replaces Rule 96(2) which Rule 6 removes.

Amending the rules on service of summonses

The Rules before amendment required summonses to be served only by post, or by handing to the defendant, or leaving at their last known address. This lags far behind the Criminal Procedure Rules and the Civil Procedure Rules which apply in other civil courts, which allow methods of communication developed since 1981. Rule 8 expands the methods of service to add service by email, document repository, document exchange, service on a legal representative and, where the defendant is in prison, on the governor. In addition, where all these methods are unsuitable or unsuccessful, the court can specify other means of service, for example by text message or through a third party.

Rule 8 also sets out the time in which a summons will be deemed to have been served by each method.

Finally, Rule 8 sets out exceptions to the rules on service in relation to witness summonses and judgement summonses.

A new rule on service of orders

Rule 10 inserts a new Rule specifying that the court officer must serve a court order and setting out the methods of service. There was previously no provision in the Rules for service of orders. In the main, the method of service is prescribed in the legislation creating the order. That means that this Rule will only apply where service is not already prescribed. It is hoped that where new orders are created, they will use this provision, removing the need for a further set of rules on service.

The Rule does not apply to liability orders, for example in council tax enforcement. Complainants will continue to notify defendants in these cases.