

2003 No. 423 (L. 9)

**MAGISTRATES' COURTS, ENGLAND AND WALES
PROCEDURE**

The Magistrates' Courts (Amendment) Rules 2003

<i>Made</i> - - - - -	<i>20th February 2003</i>
<i>Laid before Parliament</i>	<i>27th February 2003</i>
<i>Coming into force</i> - - -	<i>24th March 2003</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 the said section 144, hereby makes the following Rules:

Citation and Commencement

1. These Rules may be cited as the Magistrates' Courts (Amendment) Rules 2003 and shall come into force on 24th March 2003.

Magistrates' Courts Rules 1981

2.—(1) The Magistrates' Courts Rules 1981(b) are amended as follows.

(2) After rule 57, there is inserted—

“Payment of money in bank or building society account in satisfaction of confiscation order

57A.—(1) An order under section 67 of the Proceeds of Crime Act 2002(c) requiring a bank or building society to pay money to a justices' chief executive (“a payment order”) shall—

- (a) be directed to the bank or building society in respect of which the payment order is made;
- (b) name the person against whom the confiscation order has been made;
- (c) state the amount which remains to be paid under the confiscation order;
- (d) state the name and address of the branch at which the account in which the money ordered to be paid is held and the sort code of that branch, if the sort code is known;
- (e) state the name in which the account in which the money ordered to be paid is held and the account number of that account, if the account number is known;
- (f) state the amount which the bank or building society is required to pay to the justices' chief executive under the payment order;
- (g) give the name and address of the justices' chief executive to whom payment is to be made; and

(a) 1980 c. 43.

(b) S.I. 1981/552, as amended.

(c) 2002 c. 29.

(h) require the bank or building society to make payment within a period of 7 days beginning on the day on which the payment order is made, unless it appears to the court that a longer or shorter period would be appropriate in the particular circumstances.

(2) The payment order shall be served on the bank or building society in respect of which it is made by leaving it at, or sending it by first class post to, the principal office of the bank or building society.

(3) A payment order which is served by first class post shall, unless the contrary is proved, be deemed to have been served on the second business day after posting.

(4) In this rule—

(a) “business day” means any day other than—

(i) a Saturday, Sunday, Christmas Day or Good Friday; or

(ii) a bank holiday under the Banking and Financial Dealings Act 1971(a), in England and Wales;

(b) “confiscation order” has the meaning given to it by section 88(6) of the Proceeds of Crime Act 2002.”

Magistrates’ Courts (Forms) Rules 1981

3.—(1) The Magistrates’ Courts (Forms) Rules 1981(b) are amended as follows.

(2) In Schedule 2, after the form numbered 63, there is inserted the form numbered 63A in the Schedule to these Rules.

Irvine of Lairg, C.

20th February 2003

(a) 1971 c. 80.

(b) S.I. 1981/553, as amended.

THE SCHEDULE

FORM 63A

Rule 3

Order requiring bank or building society to make payment to justices' chief executive in respect of confiscation order (Proceeds of Crime Act 2002, s 67; MC Rules 1981 r 57A)

..... Magistrates' Court (Code)

Date:

To (name of bank or building society):

Address of principal office of bank or building society:

..... (subject of confiscation order) was on (date) at Crown Court ordered to pay a confiscation order of £..... The period allowed for payment under section 11 of the Proceeds of Crime Act 2002 has ended and the following sum is still outstanding (insert amount).

Direction: You, (name of bank or building society) are hereby ordered to pay the sum of £, to the justices' chief executive of the magistrates' court, being money held in an account in the name of (account number) at your branch at (sort code) which—

- (a) is the subject of a restraint order; and
- (b) (delete as appropriate)—
 - (i) is held in the above account with you maintained by, the subject of the confiscation order.
 - (ii) was seized from, the subject of the confiscation order, by a constable and is held in the above account with you maintained by the police force.
 - (iii) was seized from, the subject of the confiscation order, by a customs officer and is held in the above account with you maintained by the Commissioners of Customs and Excise.

You must make payment before the end of the period of 7 days beginning on the date of this order/....., the time ordered by the court (insert date ordered by court, if different and delete as appropriate).

If you fail to comply with this order you may be ordered to pay a penalty of up to £5,000 under section 67(6) of the Proceeds of Crime Act 2002.

..... Justice of the Peace

..... (or by Order of the Court, Clerk of the Court)

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules insert a new rule into the Magistrates' Courts Rules 1981 and a new form into the Magistrates' Courts (Forms) Rules 1981. The new rule and form are intended to deal with the situation where a magistrates' court makes an order under section 67 of the Proceeds of Crime Act 2002 requiring a bank or building society to pay money held in an account maintained with the bank or building society to a justices' chief executive in satisfaction of a confiscation order.

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