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STATUTORY INSTRUMENTS

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**1998 No. 3045 (L. 12)**

**CRIMINAL LAW, ENGLAND AND WALES**

**The Indictments (Procedure) (Modification) Rules 1998**

*Made* - - - - - *6th December 1998*

*Coming into force* - - - - - *4th January 1999*

The Lord Chancellor, in exercise of the power conferred upon him by section 2(6) of the Administration of Justice (Miscellaneous Provisions) Act 1933(1), hereby makes the following Rules:

1. These Rules may be cited as the Indictments (Procedure) (Modification) Rules 1998 and shall come into force on 4th January 1999.

2.—(1) The Indictments (Procedure) Rules 1971(2) shall have effect in any area from which a person is sent for trial under section 51 of the Crime and Disorder Act 1998(3) as if they were amended as follows.

(2) In rule 2—

(a) after the entry in respect of “committal proceedings”, there shall be inserted—

““sending for trial” means the sending of a person by a magistrates' court to the Crown Court for trial under section 51 of the Crime and Disorder Act 1998;”;

(b) after the entry in respect of “committal documents” (but before the proviso), after the words “tendered at any committal proceedings”, there shall be inserted:

“;

“given documents” means documents given to the Crown Court under paragraph 1 of Schedule 3 to the Crime and Disorder Act 1998 where a person is sent for trial under section 51 of that Act”; and

(c) in the proviso—

(i) after the words “committal documents”, there shall be inserted the words “or given documents”; and

(ii) after the words “Magistrates' Courts Act 1980”, there shall be inserted “or paragraph 1 of Schedule 3 to the Crime and Disorder Act 1998”.

(3) In rule 5(1), after sub-paragraph (c), there shall be inserted the following—

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(1) 1933 c. 36; section 2(6) was amended by the Courts Act 1971 (c. 23), section 56(4) and Schedule 11, Part IV.

(2) S.I. 1971/2084, amended by S.I. 1983/284, 1988/1738, 1992/2197 and 1997/11.

(3) 1998 c. 37.

“;

- (d) where a person is sent for trial under section 51 of the Crime and Disorder Act 1998, within a period of 28 days commencing with the date on which copies of the documents containing the evidence on which the charge or charges are based are served under paragraph 1 of Schedule 3 to that Act”.
- (4) In rule 8–
- (a) at the end of sub-paragraph (a), the word “and” shall be omitted; and
  - (b) after sub-paragraph (b), there shall be inserted the following:
    - “; and
    - (c) shall state whether there has been any sending for trial and any application for dismissal under paragraph 2 of Schedule 3 to the Crime and Disorder Act 1998, and the result of any such application”
- (5) In rule 9–
- (a) in paragraph (1), after the words “committal proceedings”, there shall be inserted the words “and no sending for trial”;
  - (b) in paragraph (2)–
    - (i) after the words “accused for trial,”, there shall be inserted “or there has been a sending for trial, and the charge or charges have been withdrawn or dismissed,”;
    - (ii) after the words “committal documents” (on each occasion where they appear), there shall be inserted the words “or given documents”; and
  - (c) in paragraph (3)–
    - (i) after the word “committed”, there shall be inserted the words “or sent”; and
    - (ii) after the words “committal documents” (on each occasion where they appear), there shall be inserted the words “or given documents”.

Dated 6th December 1998

*Irvine of Lairg, C.*

## EXPLANATORY NOTE

*(This note is not part of the Rules)*

These Rules make a number of modifications to the Indictments (Procedure) Rules 1971 (S.I.1971/2084) which are necessary in relation to the new procedure created by sections 51 and 52 of and Schedule 3 to the Crime and Disorder Act 1998 (c. 37) (no committal proceedings for indictable-only offences).

Rule 2(2) modifies rule 2 of the 1971 Rules to include definitions relevant to the new procedure.

Rule 2(3) modifies rule 5 of the 1971 Rules so that a bill of indictment shall be preferred within 28 days of the service of the prosecution case.

Rule 2(4) and (5) modifies rules 8 and 9 of the 1971 Rules to make appropriate reference to the new procedure in relation to applications to the High Court for voluntary bills of indictment.