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STATUTORY INSTRUMENTS

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**2011 No. 1709**

**The Criminal Procedure Rules 2011**

**PART 14**

**THE INDICTMENT**

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*[Note. See also sections 3, 4 and 5 of the Indictments Act 1915(1) and section 2 of the Administration of Justice (Miscellaneous Provisions) Act 1933(2).]*

**Service and signature of indictment**

**14.1.**—(1) The prosecutor must serve a draft indictment on the Crown Court officer not more than 28 days after—

- (a) service on the defendant and on the Crown Court officer of copies of the documents containing the evidence on which the charge or charges are based, in a case where the defendant is sent for trial;
  - (b) a High Court judge gives permission to serve a draft indictment;
  - (c) the Court of Appeal orders a retrial; or
  - (d) the committal or transfer of the defendant for trial.
- (2) The Crown Court may extend the time limit, even after it has expired.
- (3) Unless the Crown Court otherwise directs, the court officer must—
- (a) sign, and add the date of receipt on, the indictment; and
  - (b) serve a copy of the indictment on all parties.

*[Note. In some other legislation, serving a draft indictment on the Crown Court officer is described as “preferring a bill of indictment”. Under section 2(1) of the Administration of Justice*

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- (1) 1915 c. 90; section 4 was amended by section 83 of, and Part I of Schedule 10 to, the Criminal Justice Act 1948 (c. 58) and section 10 of, and Part III of Schedule 3 to, the Criminal Law Act 1967 (c. 58). Section 5 was amended by section 12 of, and paragraph 8 of Schedule 2 to, the Bail Act 1976 (c. 63), section 31 of, and Schedule 2 to, the Prosecution of Offences Act 1985 (c. 23) and section 331 of, and paragraph 40 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44).
- (2) 1933 c. 36; section 2 was amended by Part IV of Schedule 11 to, the Courts Act 1971 (c. 23), Schedule 5 to, the Supreme Court Act 1981 (c. 54), Schedule 2 to, the Prosecution of Offences Act 1985 (c. 23), paragraph 1 of Schedule 2 to, the Criminal Justice Act 1987 (c. 38), paragraph 10 of Schedule 15 to, the Criminal Justice Act 1988 (c. 33), paragraph 8 of Schedule 6 to the Criminal Justice Act 1991 (c. 53), Schedule 1 to the Statute Law (Repeals) Act 1993, paragraph 17 of Schedule 1 to the Criminal Procedure and Investigations Act 1996 (c. 25), paragraph 5 of Schedule 8 to, the Crime and Disorder Act 1998 (c. 37), paragraph 34 of Schedule 3 and Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c. 44) and paragraph 1 of the Schedule to, S.I. 2004/2035.

*(Miscellaneous Provisions) Act 1933, a draft indictment (“bill of indictment”) becomes an indictment when it is so served (“preferred”).*

*See Part 3 for the court’s general powers of case management, including power to consider applications and give directions for (among other things) the amendment of an indictment and for separate trials under section 5 of the Indictments Act 1915.*

*A magistrates’ court may send a defendant for trial in the Crown Court under section 51 or 51A of the Crime and Disorder Act 1998(3). Under section 51D of that Act(4) the magistrates’ court must notify the Crown Court of the offence or offences for which the defendant is sent for trial. Paragraph 1 of Schedule 3 to that Act(5), and The Crime and Disorder Act 1998 (Service of Prosecution Evidence) Regulations 2005(6), deal with the service of prosecution evidence in a case sent for trial.*

*The procedure for applying for the permission of a High Court judge to serve a draft indictment is in rules 6 to 10 of The Indictments (Procedure) Rules 1971. See also direction IV.35 of the Practice Direction.*

*The Court of Appeal may order a retrial under section 8 of the Criminal Appeal Act 1968(7) (on a defendant’s appeal against conviction) or under section 77 of the Criminal Justice Act 2003(8) (on a prosecutor’s application for the retrial of a serious offence after acquittal). Section 8 of the 1968 Act, and rules 41.14 and 41.15, require the arraignment of a defendant within 2 months.*

*When it comes into force, Schedule 3 to the Criminal Justice Act 2003 will abolish committal for trial under section 6 of the Magistrates’ Courts Act 1980(9), and transfer for trial under section 4 of the Criminal Justice Act 1987(10) (serious fraud cases) or under section 53 of the Criminal Justice Act 1991(11) (certain cases involving children).]*

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- (3) 1998 c. 37; section 51 is substituted by paragraphs 15 and 18 of Schedule 3 to the Criminal Justice Act 2003 (c. 44), with effect from a date to be appointed and that amendment is in force for certain purposes; S.I. 2005/950. It was amended by paragraph 1 of Schedule 11 to the Constitutional Reform Act 2005 (c. 4). Section 51A was inserted by paragraphs 15 and 18 of Schedule 3 to the Criminal Justice Act 2003 (c. 44) for certain purposes, and will be inserted for remaining purposes with effect from a date to be appointed. It was amended by section 49 of, and paragraph 5 of Schedule 1 to, the Violent Crime Reduction Act 2006 (c. 38).
- (4) 1998 c. 37; section 51D was inserted by section 41 of, and paragraphs 15 and 18 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44) and amended by section 59 of, and paragraph 1 of Schedule 11 to, the Constitutional Reform Act 2005 (c. 4). It was commenced, in part, on 4th April 2005 by article 2 of, and paragraph 29 of Schedule 1 to, S.I. 2005/950.
- (5) 1998 c. 37; paragraph 1 of Schedule 3 was amended by section 67 of, and paragraph 106 of Schedule 15 to, the Access to Justice Act 1999 (c. 22), and is further amended by paragraphs 15 and 20 of Schedule 3 to the Criminal Justice Act 2003 (c. 44), with effect from a date to be appointed.
- (6) S.I. 2005/902.
- (7) 1968 c. 19; section 8 was amended by Section 12 of, and paragraph 38 of Schedule 2 to, the Bail Act 1976 (c. 63), section 56 of, and Part IV of Schedule 11 to, the Courts Act 1971 (c. 23), section 65 of, and paragraph 36 of Schedule 3 to, the Mental Health (Amendment) Act 1982 (c. 51), section 148 of, and paragraph 23 of Schedule 4 to, the Mental Health Act 1983 (c. 20), section 43 of the Criminal Justice Act 1988 (c. 33), section 168 of, and paragraph 19 of Schedule 10 to, the Criminal Justice and Public Order Act 1994 (c. 33), section 58 of the Access to Justice Act 1999 (c. 22), sections 41 and 332 of, and paragraph 43 of Schedule 3 to, and Part 4 of Schedule 37 to, the Criminal Justice Act 2003 (c. 44) and section 32 of, and paragraph 2 of Schedule 4 to, the Mental Health Act 2007 (c. 12).
- (8) 2003 c. 44.
- (9) 1980 c. 43; section 6 was amended by section 170(1) of, and paragraphs 65 and 66 of Schedule 15 to, the Criminal Justice Act 1988 (c. 33), section 68 of, and paragraph 6(1)(a) of Schedule 8 to, the Criminal Justice Act 1991 (c. 53), paragraph 4 of Schedule 1 to the Criminal Procedure and Investigations Act 1996 (c. 25), paragraphs 95 and 96 of Schedule 13 to the Access to Justice Act 1999 (c. 22) and section 109(1) of, and paragraph 202 of Schedule 8 to, the Courts Act 2003 (c. 39), and is repealed by paragraph 51 of Schedule 3 and Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c. 44), with effect from a date to be appointed.
- (10) 1987 c. 38; section 4 was amended by section 144 of the Criminal Justice Act 1988 (c. 33), section 45 of, and paragraph 22 of Schedule 5 to, the Legal Aid Act 1988 (c. 34), paragraph 29 of Schedule 9 to the Criminal Justice and Public Order Act 1994 (c. 33), paragraph 65 of Schedule 8 to the Crime and Disorder Act 1998 (c. 37) and paragraphs 38 and 39 of Schedule 4 to the Access to Justice Act 1999 (c. 22). It is repealed by paragraph 58 of Schedule 3 and Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c. 44), with effect from a date to be appointed.
- (11) 1991 c. 53; section 53 was amended by paragraph 49 of Schedule 9 to, the Criminal Justice and Public Order Act 1994 (c. 33), paragraph 93 of Schedule 8 to, the Crime and Disorder Act 1998 (c. 37) and paragraph 47 of Schedule 4 to, the Access to Justice Act 1999 (c. 22). It is repealed by section 332 of, and Part 4 of Schedule 37 to, the Criminal Justice Act 2003 (c. 44), with effect from a date to be appointed.

## Form and content of indictment

**14.2.**—(1) An indictment must be in one of the forms set out in the Practice Direction and must contain, in a paragraph called a ‘count’—

- (a) a statement of the offence charged that—
  - (i) describes the offence in ordinary language, and
  - (ii) identifies any legislation that creates it; and
- (b) such particulars of the conduct constituting the commission of the offence as to make clear what the prosecutor alleges against the defendant.

(2) More than one incident of the commission of the offence may be included in a count if those incidents taken together amount to a course of conduct having regard to the time, place or purpose of commission.

- (3) An indictment may contain more than one count if all the offences charged—
  - (a) are founded on the same facts; or
  - (b) form or are a part of a series of offences of the same or a similar character.
- (4) The counts must be numbered consecutively.
- (5) An indictment may contain—
  - (a) any count charging substantially the same offence as one—
    - (i) specified in the notice of the offence or offences for which the defendant was sent for trial,
    - (ii) on which the defendant was committed for trial, or
    - (iii) specified in the notice of transfer given by the prosecutor; and
  - (b) any other count based on the prosecution evidence already served which the Crown Court may try.

*[Note. In certain circumstances the Crown Court may try a defendant for an offence other than one sent, committed or transferred for trial: see section 2(2) of the Administration of Justice (Miscellaneous Provisions) Act 1933 (indictable offences founded on the prosecution evidence on which the sending, committal or transfer was based) and section 40 of the Criminal Justice Act 1988(12)(specified summary offences founded on that evidence).]*

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(12) 1988 c. 33; section 40 was amended by section 4 of, and paragraph 39 of Schedule 3 to, the Road Traffic (Consequential Provisions) Act 1988 (c. 54), section 168 of, and paragraph 35 of Schedule 9 to, the Criminal Justice and Public Order Act 1994 (c. 33), section 47 of, and paragraph 34 of Schedule 1 to, the Criminal Procedure and Investigations Act 1996 (c. 25), section 119 of, and paragraph 66 of Schedule 8 to, the Crime and Disorder Act 1998 (c. 37) and section 41 of, and paragraph 60 of Schedule 3 to the Criminal Justice Act 2003 (c. 44). It is further amended by sections 41 and 332 of, and paragraph 60 of Schedule 3 and Part 4 of Schedule 37 to, the Criminal Justice Act 2003 (c. 44), with effect from a date to be appointed.