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STATUTORY INSTRUMENTS

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**2011 No. 1709**

**The Criminal Procedure Rules 2011**

**PART 42**

**SENTENCING PROCEDURES IN SPECIAL CASES**

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*[Note. See also—*

- (a) Part 37, which contains rules about the general procedure on sentencing in a magistrates' court;*
- (b) Part 44 (Breach, revocation and amendment of community and other orders);*
- (c) Part 52 (Enforcement of fines and other orders for payment on conviction); and*
- (d) Part 55 (Road traffic penalties).]*

**Reasons for deciding not to follow a guideline or make an order**

**42.1.**—(1) This rule applies where the court decides—

- (a) not to follow a relevant sentencing guideline;
- (b) not to make, where it could—
  - (i) a reparation order (unless it passes a custodial or community sentence),
  - (ii) a compensation order, or
  - (iii) a travel restriction order;
- (c) not to order, where it could—

- (i) that a suspended sentence of imprisonment is to take effect,
- (ii) the endorsement of the defendant's driving record, or
- (iii) the defendant's disqualification from driving, for the usual minimum period or at all.

(2) The court must explain why it has not done so, when it explains the sentence that it has passed.

*[Note. See section 174(2) of the Criminal Justice Act 2003(1); section 73(8) of the Powers of Criminal Courts (Sentencing) Act 2000(2); section 130(3) of the 2000 Act(3); section 33(2) of the Criminal Justice and Police Act 2001(4); paragraph 8(3) of Schedule 12 to the 2003 Act(5); and section 47(1) of the Road Traffic Offenders Act 1988(6).*

*For the duty to explain the sentence the court has passed, see section 174(1) of the 2003 Act(7) and, in a magistrates' court, rule 37.10(9) (Procedure if the court convicts).*

*Under section 125 of the Coroners and Justice Act 2009(8), the court when sentencing must follow any relevant sentencing guideline unless satisfied that to do so would be contrary to the interests of justice.*

*For the circumstances in which the court may make—*

- (a) *a reparation or compensation order, see sections 73(9) and 130(10) of the 2000 Act;*
- (b) *a travel restriction order against a defendant convicted of drug trafficking, see sections 33 and 34 of the 2001 Act(11).]*

#### **Requirements of community sentence, etc.**

**42.2.**—(1) This rule applies where the court—

- (a) imposes a requirement in connection with—
  - (i) a community sentence,
  - (ii) a youth rehabilitation order, or
  - (iii) a suspended sentence of imprisonment; or
- (b) orders the defendant to attend meetings with a supervisor.

(2) The court officer must—

- (a) notify the defendant and, where the defendant is under 14, an appropriate adult, of—
  - (i) the requirement or requirements imposed, and

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(1) 2003 c. 44; section 174(2) was amended by section 6(2) of, and paragraphs 71 and 80(1) and (2) of Schedule 4 to, the Criminal Justice and Immigration Act 2008 (c. 4) and is further amended by section 177(1) of, and paragraphs 83 and 84 of Schedule 21 to, the Coroners and Justice Act 2009 (c. 25), with effect from a date to be appointed.

(2) 2000 c. 6.

(3) 2000 c. 6.

(4) 2001 c. 16.

(5) 2003 c. 44.

(6) 1988 c. 53.

(7) 2003 c. 44.

(8) 2009 c. 25.

(9) 2000 c. 6; section 73 was amended by section 74 of, and paragraph 4(1)(a) and (2) of Schedule 7 to, the Criminal Justice and Court Services Act 2000 (c. 43), sections 304 and 332 of, and paragraphs 90 and 106 of Schedule 32 and Part 37 of Schedule 37 to, the Criminal Justice Act 2003 (c. 44), section 64 of, and Part 4 of Schedule 5 to, the Children Act 2004 (c. 31), article 3 and paragraph 14 (1) and (14) of Schedule 1 to S.I. 2008/912 and section 6(2) of, and paragraphs 51 and 53 of Schedule 4 to, the Criminal Justice and Immigration Act 2008 (c. 4).

(10) 2000 c. 6; section 130 was amended by section 304 of, and paragraphs 90 and 117 of Schedule 32 to, the Criminal Justice Act 2003 (c. 44), section 14(1) of, and paragraph 29 of Schedule 1 to, the Fraud Act 2006 (c. 35), section 49 of, and paragraph 6(b) of Schedule 1 to, the Violent Crime Reduction Act 2006 (c. 38) and section 148(1) of, and paragraphs 40 and 46 of Schedule 26 to, the Criminal Justice and Immigration Act 2008 (c. 4).

(11) 2001 c. 16; section 33 was amended by sections 39(3) and 39(4) of the Identity Cards Act 2006 (c. 15).

- (ii) the name of the responsible officer or supervisor, and the means by which that person may be contacted; and
- (b) notify the responsible officer or supervisor, and, where the defendant is under 14, the appropriate qualifying officer (if that is not the responsible officer), of—
  - (i) the defendant's name, address and telephone number (if available),
  - (ii) the offence or offences of which the defendant was convicted, and
  - (iii) the requirement or requirements imposed.
- (3) If the court imposes an electronic monitoring requirement, the monitor of which is not the responsible officer, the court officer must—
  - (a) notify the defendant and, where the defendant is under 16, an appropriate adult, of the monitor's name, and the means by which the monitor may be contacted; and
  - (b) notify the monitor of—
    - (i) the defendant's name, address and telephone number (if available),
    - (ii) the offence or offences of which the defendant was convicted,
    - (iii) the place or places at which the defendant's presence must be monitored,
    - (iv) the period or periods during which the defendant's presence there must be monitored, and
    - (v) the responsible officer's name, and the means by which that officer may be contacted.

*[Note. See section 219(1) of the Criminal Justice Act 2003(12); paragraph 34(1) of Schedule 1 to the Criminal Justice and Immigration Act 2008(13); and section 1A(7) of the Street Offences Act 1959(14).*

*For the circumstances in which the court—*

- (a) *may pass a community sentence (defined by section 147 of the Criminal Justice Act 2003(15)), or a youth rehabilitation order (defined by section 7 of the Criminal Justice and Immigration Act 2008(16)), and for the identity and duties of responsible officers and qualifying officers, see generally—*
  - (i) *Part 12 of the 2003 Act, and*
  - (ii) *Part 1 of the 2008 Act;*
- (b) *may pass a suspended sentence of imprisonment, see section 189 of the 2003 Act(17);*
- (c) *may order the defendant to attend meetings with a supervisor; see section 1(2A) of the Street Offences Act 1959(18).*

*Under sections 190 or 215 of the 2003 Act(19), or section 1(2) of the 2008 Act(20), the court may impose an electronic monitoring requirement to secure the monitoring of the defendant's compliance with certain other requirements (for example, a curfew or an exclusion).]*

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(12) 2003 c. 44; section 219(1) was amended by article 3 of, and paragraphs 19(1) and (12) of Schedule 1 to, S.I. 2008/912.

(13) 2008 c. 4.

(14) 1959 c. 57; section 1A is inserted by section 17(1) and (3) of the Policing and Crime Act 2009 (c. 26), from a date to be appointed.

(15) 2003 c. 44; section 147 is amended by sections 6(2) and 149 of, and paragraphs 71 and 72 of Schedule 4, and Part 1 of Schedule 28 to, the Criminal Justice and Immigration Act 2008 (c. 4).

(16) 2008 c. 4.

(17) 2003 c. 44; section 189 was amended by articles 2(1) and (2), and 3(1) and (2), of S.I. 2005/643.

(18) 1959 c. 57; section 1(2A) is inserted by section 17(1) and (2) of the Policing and Crime Act 2009 (c. 26), from a date to be appointed.

(19) 2003 c. 44.

(20) 2008 c. 4.

**Notification requirements**

**42.3.**—(1) This rule applies where, on a conviction, sentence or order, legislation requires the defendant—

- (a) to notify information to the police; or
- (b) to be included in a barred list.

(2) The court must tell the defendant that such requirements apply, and under what legislation.

*[Note. For the circumstances in which a defendant is required to notify information to the police, see—*

- (a) *Part 2 of, and Schedule 3 to, the Sexual Offences Act 2003(21) (notification after conviction of a specified sexual offence for which a specified sentence is imposed);*
- (b) *Part 4 of the Counter Terrorism Act 2008(22) (notification after conviction of a specified offence of, or connected with, terrorism, for which a specified sentence is imposed).*

*For the circumstances in which a defendant will be included in a barred list, see paragraphs 1, 2, 7, 8 and 24 of Schedule 3 to the Safeguarding Vulnerable Groups Act 2006(23). See also paragraph 25 of that Schedule(24).*

*These requirements are not part of the court's sentence.]*

**Variation of sentence**

**42.4.**—(1) This rule—

- (a) applies where a magistrates' court or the Crown Court can vary or rescind a sentence or order; and
- (b) authorises the Crown Court, in addition to its other powers, to do so within the period of 56 days beginning with another defendant's acquittal or sentencing where—
  - (i) defendants are tried separately in the Crown Court on the same or related facts alleged in one or more indictments, and
  - (ii) one is sentenced before another is acquitted or sentenced.

(2) The court may exercise its power—

- (a) on application by a party; or
- (b) on its own initiative.

(3) A party who wants the court to exercise that power must—

- (a) apply in writing as soon as reasonably practicable after—
  - (i) the sentence or order that that party wants the court to vary or rescind, or
  - (ii) where paragraph (1)(b) applies, the other defendant's acquittal or sentencing;
- (b) serve the application on—
  - (i) the court officer, and
  - (ii) each other party; and

(21) 2003 c. 42; Schedule 3 was amended by article 2 of S.I. 2007/296, section 63(2) of, and paragraph 63 of Schedule 6 to, the Serious Crimes Act 2007 (c. 27), section 148(1) of, and paragraphs 53 and 58 of Schedule 26 to, the Criminal Justice and Immigration Act 2008 (c. 4) and section 177(1) of, and paragraph 62 of Schedule 21 to, the Coroners and Justice Act 2009 (c. 25). Other amendments to Schedule 3 are not relevant to these Rules.

(22) 2008 c. 28.

(23) 2006 c. 47; paragraphs 1, 2, 7 and 8 of Schedule 3 were amended by sections 81 and 89 of the Policing and Crime Act 2009 (c. 26). Paragraph 24 was amended by article 2 of S.I. 2008/3050.

(24) 2006 c. 47; paragraph 25 of Schedule 3 was amended by article 3 of S.I. 2008/3050 and section 81 of the Policing and Crime Act 2009 (c. 26).

- (c) in the application—
  - (i) explain why the sentence should be varied or rescinded,
  - (ii) specify the variation that the applicant proposes, and
  - (iii) if the application is late, explain why.
- (4) The court must not exercise its power in the defendant’s absence unless—
  - (a) the court makes a variation proposed by the defendant; or
  - (b) the defendant has had an opportunity to make representations at a hearing (whether or not the defendant in fact attends).
- (5) The court may—
  - (a) extend (even after it has expired) the time limit under paragraph (3), unless the court’s power to vary or rescind the sentence cannot be exercised; and
  - (b) allow an application to be made orally.

*[Note. Under section 142 of the Magistrates’ Courts Act 1980(25), in some cases a magistrates’ court can vary or rescind a sentence or other order that it has imposed or made, if that appears to be in the interests of justice. The power cannot be exercised if the Crown Court or the High Court has determined an appeal about that sentence or order.*

*Under section 155 of the Powers of Criminal Courts (Sentencing) Act 2000(26), the Crown Court can vary or rescind a sentence or other order that it has imposed or made. The power cannot be exercised—*

- (a) *after the period of 56 days beginning with the sentence or order (but see the note below); or*
- (b) *if an appeal or application for permission to appeal against that sentence or order has been determined.*

*Under section 155(7), Criminal Procedure Rules can extend that period of 56 days where another defendant is tried separately in the Crown Court on the same or related facts alleged in one or more indictments.]*

#### **Application to vary or discharge a compensation order**

**42.5.—**(1) This rule applies where a magistrates’ court can vary or discharge a compensation order on application by the defendant.

- (2) A defendant who wants the court to exercise that power must—
  - (a) apply in writing as soon as practicable after becoming aware of the grounds for doing so;
  - (b) serve the application on the magistrates’ court officer;
  - (c) where the compensation order was made in the Crown Court, serve a copy of the application on the Crown Court officer; and
  - (d) in the application, specify the compensation order that the defendant wants the court to vary or discharge and explain (as applicable)—
    - (i) what civil court finding shows that the injury, loss or damage was less than it had appeared to be when the order was made,
    - (ii) in what circumstances the person for whose benefit the order was made has recovered the property for the loss of which it was made,

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(25) 1980 c. 43; section 142 was amended by sections 26 and 29 of, and Schedule 3 to, the Criminal Appeal Act 1995 (c. 35).

(26) 2000 c. 6; section 155 was amended by article 3 of, and paragraphs 39 and 43 of the Schedule to, S.I. 2004/2035 and sections 47 and 149 of, and paragraph 28 (1), (2), (3) and (4) of Schedule 8 and Part 3 of Schedule 28 to, the Criminal Justice and Immigration Act 2008 (c. 4).

- (iii) why a confiscation order makes the defendant now unable to pay compensation in full, or
- (iv) in what circumstances the defendant's means have been reduced substantially and unexpectedly, and why they seem unlikely to increase for a considerable period.

(3) The court officer must serve a copy of the application on the person for whose benefit the compensation order was made.

(4) The court must not vary or discharge the compensation order unless—

- (a) the defendant, and the person for whose benefit it was made, each has had an opportunity to make representations at a hearing (whether or not either in fact attends); and
- (b) where the order was made in the Crown Court, the Crown Court has notified its consent.

*[Note. For the circumstances in which—*

- (a) *the court may make a compensation order, see section 130 of the Powers of Criminal Courts (Sentencing) Act 2000(27);*
- (b) *a magistrates' court with power to enforce such an order may vary or discharge it under the 2000 Act, see section 133(28). (Under section 133(4), where the order was made in the Crown Court, the magistrates' court must first obtain the Crown Court's consent.)]*

#### **Application to remove, revoke or suspend a disqualification or restriction**

**42.6.**—(1) This rule applies where, on application by the defendant, the court can remove, revoke or suspend a disqualification or restriction included in a sentence (except a disqualification from driving).

(2) A defendant who wants the court to exercise such a power must—

- (a) apply in writing, no earlier than the date on which the court can exercise the power;
- (b) serve the application on the court officer; and
- (c) in the application—
  - (i) specify the disqualification or restriction, and
  - (ii) explain why the defendant wants the court to remove, revoke or suspend it.

(3) The court officer must serve a copy of the application on the chief officer of police for the local justice area.

*[Note. Part 55 contains rules about disqualification from driving. See in particular rule 55.1.*

*For the circumstances in which the court may—*

- (a) *remove a disqualification from keeping a dog, see section 4(6) of the Dangerous Dogs Act 1991(29). The court may not consider an application made within 1 year of the disqualification; or, after that, within 1 year of any previous application that was refused.*
- (b) *revoke or suspend a travel restriction order against a defendant convicted of drug trafficking, see section 35 of the Criminal Justice and Police Act 2001(30). The court may not consider an application made within 2 years of the disqualification, in any case; or, after that, before a specified period has expired.]*

(27) 2000 c. 6; section 130 was amended by section 304 of, and paragraphs 90 and 117 of Schedule 32 to, the Criminal Justice Act 2003 (c. 44), section 14(1) of, and paragraph 29 of Schedule 1 to, the Fraud Act 2006 (c. 35), section 49 of, and paragraph 6(b) of Schedule 1 to, the Violent Crime Reduction Act 2006 (c. 38), and section 148(1) of, and paragraphs 40 and 46 of Schedule 26 to, the Criminal Justice and Immigration Act 2008 (c. 4).

(28) 2000 c. 6; section 133 was amended by section 456 of, and paragraphs 1 and 37(1) and (3) of Schedule 11 to, the Proceeds of Crime Act 2002 (c. 29).

(29) 1991 c. 65; section 4(6) was amended by section 109(1) of, and paragraph 353 of Schedule 8 to, the Courts Act 2003 (c. 39).

(30) 2001 c. 16; section 35 was amended by sections 39(3) of the Identity Cards Act 2006 (c. 15).

### **Application for a restitution order by the victim of a theft**

**42.7.**—(1) This rule applies where, on application by the victim of a theft, the court can order a defendant to give that person goods obtained with the proceeds of goods stolen in that theft.

(2) A person who wants the court to exercise that power if the defendant is convicted must—

- (a) apply in writing as soon as practicable (without waiting for the verdict);
- (b) serve the application on the court officer; and
- (c) in the application—
  - (i) identify the goods, and
  - (ii) explain why the applicant is entitled to them.

(3) The court officer must serve a copy of the application on each party.

(4) The court must not determine the application unless the applicant and each party has had an opportunity to make representations at a hearing (whether or not each in fact attends).

(5) The court may —

- (a) extend (even after it has expired) the time limit under paragraph (2); and
- (b) allow an application to be made orally.

*[Note. For the circumstances in which the court may order—*

- (a) *the return of stolen goods, see section 148 of the Powers of Criminal Courts (Sentencing) Act 2000(31);*
- (b) *the defendant to give the victim of the theft goods that are not themselves the stolen goods but which represent their proceeds, see section 148(2)(b) of the 2000 Act.]*

### **Requests for medical reports, etc.**

**42.8.**—(1) This rule applies where the court—

- (a) requests a medical examination of the defendant and a report; or
- (b) requires information about the arrangements that could be made for the defendant where the court is considering—
  - (i) a hospital order, or
  - (ii) a guardianship order.

(2) Unless the court otherwise directs, the court officer must, as soon as practicable, serve on each person from whom a report or information is sought a note that—

- (a) specifies the power exercised by the court;
- (b) explains why the court seeks a report or information from that person; and
- (c) sets out or summarises any relevant information available to the court.

*[Note. The court may request a medical examination of the defendant and a report in connection with—*

- (a) *section 4 of the Criminal Procedure (Insanity) Act 1964(32), under which the Crown Court may determine a defendant's fitness to plead;*

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(31) 2000 c. 6; section 148 was amended by paragraph 74(1) and (5) of Part 2 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44). The provision is in force for certain purposes, and will take effect for remaining purposes from a date to be appointed.

(32) 1964 c. 84; section 4 was substituted, together with section 4A, for section 4 as originally enacted, by section 2 of the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25), and amended by section 22 of the Domestic Violence, Crime and Victims Act 2004 (c. 28).

- (b) *section 35 of the Mental Health Act 1983(33), under which the court may order the defendant's detention in hospital to obtain a further medical report;*
- (c) *section 36 of the 1983 Act(34), under which the Crown Court may order the defendant's detention in hospital instead of in custody pending trial;*
- (d) *section 37 of the 1983 Act(35), under which the court may order the defendant's detention and treatment in hospital, or make a guardianship order, instead of disposing of the case in another way;*
- (e) *section 38 of the 1983 Act(36), under which the court may order the defendant's temporary detention and treatment in hospital instead of disposing of the case in another way;*
- (f) *section 157 of the Criminal Justice Act 2003(37), under which the court must usually obtain and consider a medical report before passing a custodial sentence if the defendant is, or appears to be, mentally disordered;*
- (g) *section 207 of the 2003 Act(38) (in the case of a defendant aged 18 or over), or section 1(1)(k) of the Criminal Justice and Immigration Act 2008(39) (in the case of a defendant who is under 18), under which the court may impose a mental health treatment requirement.*

*For the purposes of the legislation listed in (a), (d) and (e) above, the court requires the written or oral evidence of at least two registered medical practitioners, at least one of whom is approved as having special experience in the diagnosis or treatment of mental disorder. For the purposes of (b), the court requires one medical practitioner's evidence. For the purposes of (c), the court requires two medical practitioners' evidence. For the purposes of (f) and (g), the court requires the evidence of a registered medical practitioner with special experience in the diagnosis or treatment of mental disorder.*

*Under section 11 of the Powers of Criminal Courts (Sentencing) Act 2000(40), a magistrates' court may adjourn a trial to obtain medical reports.*

*Part 33 contains rules about the content of expert medical reports.*

*For the authorities from whom the court may require information about hospital treatment or guardianship, see sections 39 and 39A of the 1983 Act(41).]*

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- (33) 1983 c. 20; section 35 was amended by sections 1(4) and 10(1) and (2) of, and paragraphs 1 and 5 of Schedule 1 to, the Mental Health Act 2007 (c. 12) and section 208(1) of, and paragraphs 53 and 54 of Schedule 21 to, the Legal Services Act 2007 (c. 29).
  - (34) 1983 c. 20; section 36 was amended by sections 1(4), 5(1) and (2) and 10(1) and (3) of, and paragraphs 1 and 6 of Schedule 1 to, the Mental Health Act 2007 (c. 12).
  - (35) 1983 c. 20; section 37 was amended by Schedule 6 to, and paragraph 12 of Schedule 4 to, the Crime (Sentences) Act 1997 (c. 43), paragraph 11 of Schedule 4 to the Youth Justice and Criminal Evidence Act 1999 (c. 23), paragraph 90 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), paragraphs 37 and 38 of Schedule 32 to the Criminal Justice Act 2003 (c. 44), sections 49 and 65 of, and paragraph 2 of Schedule 1 and Schedule 5 to, the Violent Crime Reduction Act 2006 (c. 38), sections 1, 4, 10, 55 and paragraphs 1 and 7 of Schedule 1, and Part 1 of Schedule 11 to, the Mental Health Act 2007 (c. 12), and sections 6 and 149 of, and paragraph 30 of Schedule 4, and Schedule 28 to, the Criminal Justice and Immigration Act 2008 (c. 4). It is further amended by section 148 of, and paragraph 8 of Schedule 26 to the Criminal Justice and Immigration Act 2008 (c. 4), with effect from a date to be appointed.
  - (36) 1983 c. 20; section 38 was amended by section 49(1) of the Crime (Sentences) Act 1997 (c. 43), sections 1(4) and 10(1) and (5) of, and paragraphs 1 and 8 of Schedule 1 to, the Mental Health Act 2007 (c. 12) and section 208(1) of, and paragraphs 53 and 56 of Schedule 21 to, the Legal Services Act 2007 (c. 29).
  - (37) 2003 c. 44.
  - (38) 2003 c. 44; section 207 was amended by article 4(2) of, and paragraph 7 of Schedule 5 to, S.I. 2009/1182 and is further amended by article 14(a) and (b) of S.I. 2010/813.
  - (39) 2008 c. 4.
  - (40) 2000 c. 6.
  - (41) 1983 c. 20; section 39 was amended by sections 2(1) and 5(1) of, and paragraph 107(5) of Schedule 1, and Schedule 3 to, the Health Authorities Act 1995 (c. 17), section 2(5) of, and paragraphs 42 and 46 of Schedule 2 to, the National Health Service Reform and Health Care Professions Act 2002 (c. 17), section 31(1) and (2) of the Mental Health Act 2007 (c. 12) and paragraph 13(1) and (8) of article 3 of, S.I. 2007/961. Section 39A was inserted by section 27(1) of the Criminal Justice Act 1991 (c. 53).



### **Information to be supplied on admission to hospital or guardianship**

**42.9.**—(1) This rule applies where the court—

- (a) orders the defendant's detention and treatment in hospital; or
- (b) makes a guardianship order.

(2) Unless the court otherwise directs, the court officer must, as soon as practicable, serve on (as applicable) the hospital or the guardian—

- (a) a record of the court's order;
- (b) such information as the court has received that appears likely to assist in treating or otherwise dealing with the defendant, including information about—
  - (i) the defendant's mental condition,
  - (ii) the defendant's other circumstances, and
  - (iii) the circumstances of the offence.

*[Note. For the circumstances in which the court may order the defendant's detention and treatment in hospital, see sections 35(42), 36(43), 37(44), 38(45) and 44(46) of the Mental Health Act 1983. For the circumstances in which the court may make a guardianship order, see the same section 37.]*

### **Information to be supplied on committal for sentence, etc.**

**42.10.**—(1) This rule applies where a magistrates' court or the Crown Court convicts the defendant and—

- (a) commits or adjourns the case to another court—
  - (i) for sentence, or
  - (ii) for the defendant to be dealt with for breach of a deferred sentence, a conditional discharge, or a suspended sentence of imprisonment, imposed by that other court;
- (b) deals with a deferred sentence, a conditional discharge, or a suspended sentence of imprisonment, imposed by another court; or
- (c) makes an order that another court is, or may be, required to enforce.

(2) Unless the convicting court otherwise directs, the court officer must, as soon as practicable—

- (a) where paragraph (1)(a) applies, arrange the transmission from the convicting to the other court of relevant copy court records and other relevant documents, including any—
  - (i) certificate of conviction,

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(42) 1983 c. 20; section 35 was amended by sections 1(4) and 10(1) and (2) of, and paragraphs 1 and 5 of Schedule 1 to, the Mental Health Act 2007 (c. 12) and section 208(1) of, and paragraphs 53 and 54 of Schedule 21 to, the Legal Services Act 2007 (c. 29).

(43) 1983 c. 20; section 36 was amended by sections 1(4), 5(1) and (2) and 10(1) and (3) of, and paragraphs 1 and 6 of Schedule 1 to, the Mental Health Act 2007 (c. 12).

(44) 1983 c. 20; section 37 was amended by Schedule 6 and paragraph 12 of Schedule 4 to the Crime (Sentences) Act 1997 (c. 43), paragraph 11 of Schedule 4 to the Youth Justice and Criminal Evidence Act 1999 (c. 23), paragraph 90 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), paragraphs 37 and 38 of Schedule 32 to, the Criminal Justice Act 2003 (c. 44), sections 49 and 65 of, and paragraph 2 of Schedule 1 and Schedule 5 to, the Violent Crime Reduction Act 2006 (c. 38), sections 1, 4, 10, 55 and paragraphs 1 and 7 of Schedule 1, and Part 1 of Schedule 11 to, the Mental Health Act 2007 (c. 12), and sections 6 and 149 of, and paragraph 30 of Schedule 4, and Schedule 28 to, the Criminal Justice and Immigration Act 2008 (c. 4). It is further amended by section 148 of, and paragraph 8 of Schedule 26 to the Criminal Justice and Immigration Act 2008 (c. 4), with effect from a date to be appointed.

(45) 1983 c. 20; section 38 was amended by section 49(1) of the Crime (Sentences) Act 1997 (c. 43), sections 1(4) and 10(1) and (5) of, and paragraphs 1 and 8 of Schedule 1 to, the Mental Health Act 2007 (c. 12) and section 208(1) of, and paragraphs 53 and 56 of Schedule 21 to, the Legal Services Act 2007 (c. 29).

(46) 1983 c. 20; section 44 was amended by sections 10(1) and (7) and 40(3) and 55 of, and part 8 of Schedule 11 to, the Mental Health Act 2007 (c. 12).

- (ii) magistrates' court register entry,
- (iii) record relating to bail,
- (iv) note of evidence,
- (v) statement or other document introduced in evidence,
- (vi) medical or other report,
- (vii) representation order or application for such order, and
- (viii) interim driving disqualification;
- (b) where paragraph (1)(b) or (c) applies, arrange—
  - (i) the transmission from the convicting to the other court of notice of the convicting court's order, and
  - (ii) the recording of that order at the other court;
- (c) in every case, notify the defendant and, where the defendant is under 14, an appropriate adult, of the location of the other court.

[Note. For the circumstances in which—

- (a) a magistrates' court may (and in some cases must) commit the defendant to the Crown Court for sentence, see sections 3(47), 3A(48), 3B, 3C(49), 4(50), 4A(51) and 6(52) of the Powers of Criminal Courts (Sentencing) Act 2000 and section 43 of the Mental Health Act 1983(53);
- (b) a magistrates' court may adjourn the case to another magistrates' court for sentence, see section 10 of the Magistrates' Courts Act 1980(54) and section 10 of the 2000 Act(55);
- (c) a magistrates' court or the Crown Court may (and in some cases must) adjourn the case to a youth court for sentence, see section 8 of the 2000 Act(56);
- (d) a youth court may adjourn the case to a magistrates' court for sentence, see section 9 of the 2000 Act(57);
- (e) a magistrates' court may transfer a fine to be enforced to another court, see sections 89 and 90 of the 1980 Act(58).

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- (47) 2000 c. 6; section 3 is amended by section 41 of, and paragraphs 21 and 22 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44), with effect from a date to be appointed.
  - (48) 2000 c. 6; section 3A is inserted by section 41 of, and paragraphs 21 and 23 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44), with effect from a date to be appointed and has been amended by section 53 of, and paragraphs 1 and 9 of Schedule 13 to, the Criminal Justice and Immigration Act 2008 (c. 4).
  - (49) 2000 c. 6; sections 3B and 3C are to be inserted by section 41 of, and paragraphs 21 and 23 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44), with effect from a date to be appointed.
  - (50) 2000 c. 6; section 4 is amended by section 41 of, and paragraphs 21 and 24 of Schedule 3 to the Criminal Justice Act 2003 (c. 44), with effect from a date to be appointed.
  - (51) 2000 c. 6; section 4A is inserted by section 41 of, and paragraphs 21 and 25 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44), with effect from a date to be appointed.
  - (52) 2000 c. 6; section 6 was amended by sections 41, 304 and 332 of, and paragraphs 21 and 28 of Schedule 3, paragraphs 90 and 91 of Schedule 32, and Part 7 of Schedule 37 to, the Criminal Justice Act 2003 (c. 44) and it is further amended by section 332 of, and Part 9 of Schedule 37 to, the Criminal Justice Act 2003 (c. 44), with effect from a date to be appointed.
  - (53) 1983 c. 20; section 43 was amended by paragraph 91 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), and is further amended by paragraph 55 of Schedule 3 and Part 9 of Schedule 37 to, the Criminal Justice Act 2003 (c. 44), with effect from a date to be appointed.
  - (54) 1980 c. 43; section 10 was amended by section 59 of, and paragraph 1 of Schedule 9 to, the Criminal Justice Act 1982 (c. 48), section 68 of, and paragraph 6 of Schedule 8 to, the Criminal Justice Act 1991 (c. 53) and section 47 of the Crime and Disorder Act 1998 (c. 37).
  - (55) 2000 c. 6.
  - (56) 2000 c. 6; section 8 was amended by section 41 of, and paragraph 74 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44) and article 2 of, and paragraph 62 of the Schedule to, S.I. 2005/886.
  - (57) 2000 c. 6; section 9 was amended by article 2 of, and paragraph 63 of the Schedule to, S.I. 2005/886.
  - (58) 1980 c. 43; section 89 was amended by section 47 of the Criminal Justice and Public Order Act 1994 (c. 33), paragraphs 95 and 107 of Schedule 13 to the Access to Justice Act 1999 (c. 22), paragraph 225 of Schedule 8 to the Courts Act 2003 (c. 39)

*For the court's powers where it convicts a defendant who is subject to a deferred sentence, a conditional discharge, or a suspended sentence of imprisonment, imposed by another court, see sections 1C and 13 of the 2000 Act(59) and section 189 of, and Schedule 12 to, the Criminal Justice Act 2003(60).*

*Under section 140 of the 2000 Act(61), a fine imposed or other sum ordered to be paid in the Crown Court is enforceable by a magistrates' court specified in the order, or from which the case was committed or sent to the Crown Court.*

*See also section 219(3) of the 2003 Act(62); paragraph 34(3) of Schedule 1 to the Criminal Justice and Immigration Act 2008(63); and section 1A(9) of the Street Offences Act 1959(64).]*

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and articles 46 and 49 of S.I. 2006/1737. Section 90 was amended by section 47(2) of the Criminal Justice and Public Order Act 1994 (c. 33), paragraph 226 of Schedule 8 to the Courts Act 2003 (c. 39) and articles 46 and 50 of S.I. 2006/1737.

(59) 2000 c. 6; section 1C was substituted, together with sections 1, 1A, 1B and 1D, for sections 1 and 2 as originally enacted, by section 278 of, and paragraph 1 of Schedule 23 to, the Criminal Justice Act 2003 (c. 44). Section 13 was amended by article 2 of, and paragraph 64 of the Schedule to, S.I. 2005/886.

(60) 2003 c. 44; section 189 was amended by articles 2(1) and (2), and 3(1) and (2), of S.I. 2005/643.

(61) 2000 c. 6: section 140 was amended by section 41 of, and paragraph 74(1) and (4) of Schedule 3 to, the Criminal Justice Act 2003 (c. 44) and section 40(4) of, and paragraph 69 of Schedule 9 to, the Constitutional Reform Act 2005 (c. 4). It is amended by sections 74 and 75 of, and paragraphs 160 and 194 of Schedule 8 to, the Criminal Justice and Court Services Act 2000 (c. 43) and sections 41 and 332 of, and paragraphs 74(1) and (4) 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.

(62) 2003 c. 44; section 219(3) was amended by article 2 of, and paragraph 105(b) of the Schedule to, S.I. 2005/886.

(63) 2008 c. 4.

(64) 1959 c. 57; section 1A is inserted by section 17(1) and (3) of the Policing and Crime Act 2009 (c. 26), from a date to be appointed.